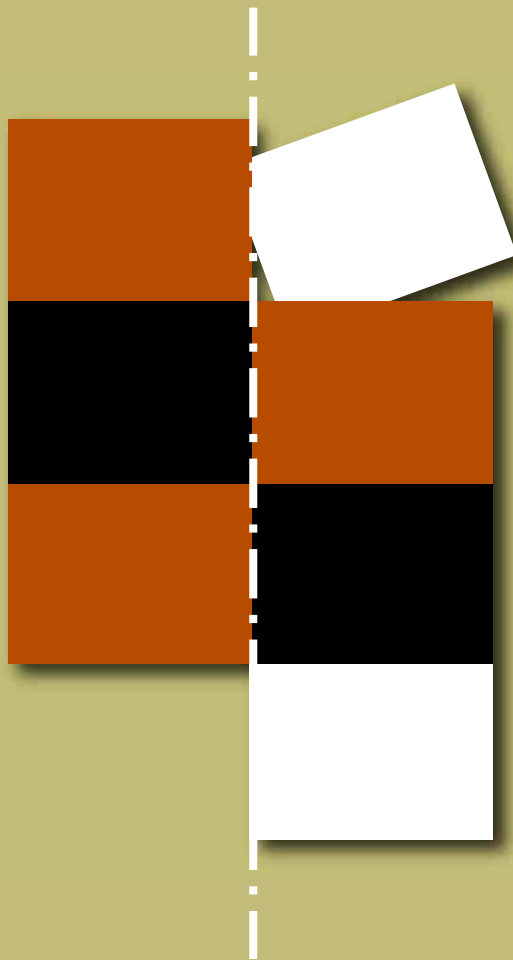


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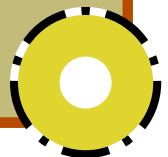
# HUMAN RIGHTS

IN TRANSITIONAL TIMES

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**IN TRANSITIONAL TIMES**  
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### Human Rights in Transitional Times

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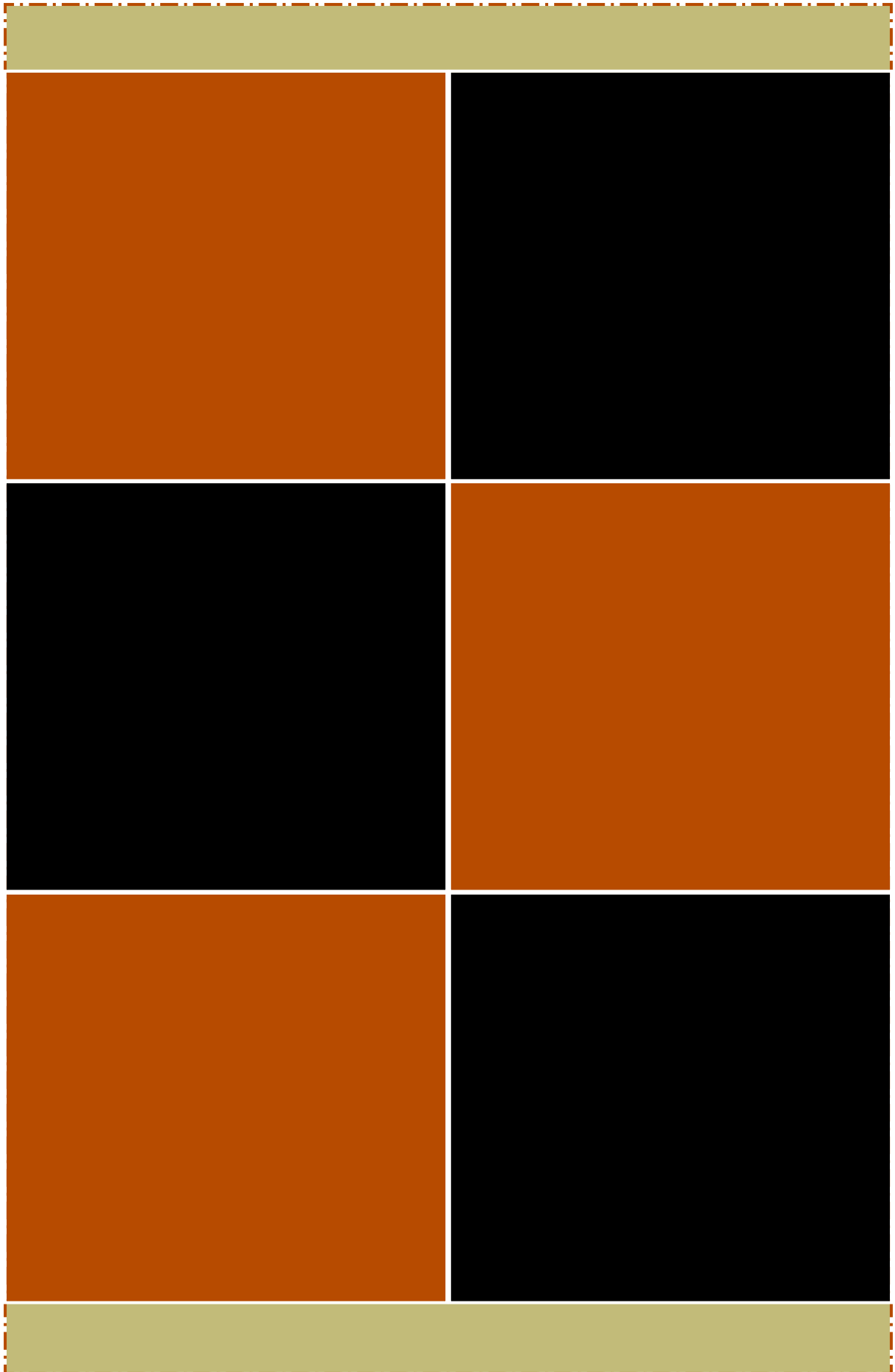


## ACRONYMS



<b>AIS</b>	ARMEE ISLAMIQUE DU SALUT
<b>ARPANET</b>	ADVANCED RESEARCH PROJECTS AGENCY NETWORK
<b>BRIC</b>	BRAZIL, RUSSIA, INDIA, CHINA
<b>CBA</b>	COMMUNITY-BASED APPROACH
<b>CESCR</b>	UNITED NATION'S COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS
<b>CODEH</b>	COMMITTEE FOR THE DEFENCE OF HUMAN RIGHTS IN HONDURAS
<b>CR</b>	CONVENTION ON THE RIGHTS OF THE CHILD
<b>CSHRS</b>	CHINA SOCIETY FOR HUMAN RIGHTS STUDIES
<b>ECOSOC</b>	UNITED NATIONS ECONOMIC AND SOCIAL COUNCIL
<b>EE</b>	ENVIRONMENTAL EDUCATION
<b>EF</b>	EDUCATION FOR ALL
<b>ESD</b>	EDUCATION FOR SUSTAINABLE DEVELOPMENT
<b>EU</b>	EUROPEAN UNION
<b>EXO</b>	EXPORTING ORIENTED ECONOMIES
<b>FDI</b>	FOREIGN DIRECT INVESTMENT
<b>FFS</b>	FRONT DES FORCES SOCIALISTES
<b>FIS</b>	FRONT ISLAMISTE DU SALUT
<b>FLN</b>	FRONT DE LIBERATION NATIONALE
<b>GIA</b>	GROUPE ISLAMISTE ARME
<b>GOP</b>	GOOD OLD PARTY
<b>ICCPR</b>	INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS
<b>ICESCR</b>	INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS
<b>ICHRP</b>	INTERNATIONAL COUNCIL ON HUMAN RIGHTS POLICY
<b>ICRC</b>	INTERNATIONAL COMMITTEE OF THE RED CROSS
<b>ICT</b>	INFORMATION AND COMMUNICATIONS TECHNOLOGIE
<b>IDPS</b>	INTERNALLY DISPLACED PERSONS
<b>ILO</b>	INTERNATIONAL LABOUR ORGANIZATION
<b>JET</b>	JEUNESSE ELECTRONIQUE DE TIZI-OUZOU
<b>JSK</b>	JEUNESSE SPORTIVE DE KABYLIE
<b>MIA</b>	MOUVEMENT ISLAMISTE ARME
<b>MIT</b>	MASSACHUSETTS INSTITUTE OF TECHNOLOGY
<b>MOOC</b>	MASSIVE OPEN ONLINE COURSE
<b>NAC</b>	NEW AMERICAN CENTURY
<b>NIST</b>	NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY
<b>OCW</b>	OPEN COURSE WARE
<b>ODL</b>	OPEN AND DISTANCE LEARNING
<b>OHCHR</b>	HIGHER COMMISSIONER FOR HUMAN RIGHTS
<b>OPEC</b>	ORGANIZATION OF THE PETROLEUM EXPORTING COUNTRIES
<b>PRC</b>	POPULAR REPUBLIC OF CHINA
<b>RSD</b>	REFUGEE STATUS DETERMINATION
<b>SEZ</b>	SPECIAL ECONOMIC ZONES
<b>SR</b>	SELF-REGULATION
<b>TNC</b>	TRANS-NATIONAL COMPANY
<b>UDHR</b>	UNIVERSAL DECLARATION OF HUMAN RIGHTS
<b>UN</b>	UNITED NATIONS
<b>UNCED</b>	UNITED NATIONS CONFERENCE ON ENVIRONMENT AND DEVELOPMENT
<b>UNESCO</b>	UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION
<b>UNHCR</b>	UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES
<b>UNICEF</b>	UNITED NATIONS INTERNATIONAL CHILDREN'S EMERGENCY FUND
<b>WCED</b>	WORLD COMMISSION ON ENVIRONMENT AND DEVELOPMENT
<b>WTO</b>	WORLD TRADE ORGANIZATION







## INTRODUCTION

BETHANY HESS



HUMAN RIGHTS HAS LONG BEEN SEEN AS A CONTENTIOUS SUBJECT WITH MOST OF ITS INITIATIVES WRITTEN OFF

as impossible tasks. Its forerunners were often criticized as dreamers of improbable utopian societies, trying to create fantasy in a world ruled by a destructive and all-powerful human nature. Advocates required a naïve sense of positivity, and an un-daunting commitment to a better future that contradicted the accepted perception of world relations found in realist ideology<sup>1</sup>. Even after the United Nations Universal Declaration of Human Rights<sup>2</sup>, hostility extended to the creation of the Millennial Development Goals (MDGs) for 2015 with its plan to reduce poverty internationally. Poverty reduction was meant to create the economic environment necessary for full enjoyment of human rights. MDGs and its objectives were seen as of an impossible magnitude<sup>3</sup>. Today, these goals still retain debate, as viewpoints on implementation and the requirements needed for achievement continue to differ. A common example of this disagreement is seen in the scholarly debate of Easterly and Sachs. Sachs, an American economist who holds an advisory position in the United Nations, has argued that increased financial support is contingent for successful poverty reduction in certain geographic locations where foreign investment is limited<sup>4</sup>. Easterly, also an American economist, specializing in economic development, has argued for an increase in the participation of stakeholders in creating and implementing all developmental projects, stressing the importance of individual ownership for effective oversight<sup>5</sup>.

Although the majority of these critiques may seem cold hearted and of a pessimistic mindset, some maintain arguments founded in reality. For one, the MDGs with its objective date of 2015 have not been accomplished to their expected extent with some goals taking precedence over others; their designated deadline has already been surpassed, making full realization of this failure evident. In other circumstances, individuals and UN member states hold entirely different attitudes and opinions towards what constitute as human rights, fracturing a united, protective wing meant to secure these norms within the collective level so that they could be enforced and accepted at the governmental and individual level<sup>6</sup>.

Despite all this negativity, there have been several advancements in human rights. There has been the establishment of institutions that aim to protect individuals from violations, and the codifying of terminology and processes used to admonish states and individuals identified as human rights violators. David Kennedy, a faculty professor at Harvard specializing in international law, praises human rights advancements, stating that 'a complex institutional practice has grown up in the shadow of those pronouncements to promote, defend, interpret, elaborate, implement, enforce, and simply honor them'<sup>7</sup>. However, the scholar further warns that there are two possible deficiencies that may emerge from current human rights advocacy: a 'disenchantment' fostered by the over estimation in and reliance on the abilities of current human rights instruments along with the agreed upon norms; and an over evaluation of human rights in a pragmatic form which prevents the spreading of its further awareness<sup>8</sup>. In maintaining these conditions in mind, it remains possible to continue the humanist drive.

While positivity remains for further advancements in human rights founded on a new humanitarian order, these developments leave much wanting for individuals that slip through human rights protection standards. Some individual rights remain violated because they do not fit into an accepted category of violations while others are the result of states inability to provide. In several cases, something is missing that is preventing successful human rights endeavours, or perhaps something altogether is needed that will further human rights and its advancements.

Quite possibly, what is currently missing from human rights agendas, its absence having stifled further progression, is a globally accepted form of enduring change. A change from a perspective that holds tightly to a malfunctioning outdated paradigm, and a change to a perspective that holds all of humanity of equal importance, sharing a stake in the future development of the world. This latter perspective has increased in influence over the years, manifesting itself as an international norm in the Universal Declaration of Human Rights, but it has yet to usurp the power of destructive policies in each of the UN member states. Change in itself is a difficult task, requiring individuals to recognize its necessity before the process can begin. For this recognition of need, an individual must first be willing to entertain notions adverse to one's own conjecture, to understand he may not maintain all authority on a particular subject, and must be willing to search for information that will aid in complete understanding. Milton Rokeach, a social psychologist that taught in several American universities in the 20th century, stated in his study

on attitude change that ‘if expressing an opinion is a form of behavior, then expressing a changed opinion is also a form of behavior, thus, a changed opinion must also be a function of the two attitudes previously discussed – attitude-toward-object and attitude-toward-situation’<sup>9</sup>. Rokeach followed this observation by making a connection between opinion change and behaviour change, showing that statistical data indicates behavioural change may follow opinion change<sup>10</sup>.

This idea of change can apply to the mindset of states as they consist of represented societies or individual political powers. A change in idea or opinion may facilitate a change in action or policies. Yet, one must consider this statement with the words of the philosopher Foucault, knowing that ‘It is not ideas that guide the world. But it is precisely because the world does have ideas (and because it continuously produces lots of them) that the world is not passively led by those who direct it or by those who would like to teach everyone what to think’<sup>11</sup>. It is in this light that the importance of the individual and their own personal ideas is reiterated, knowing that the political powers should only serve as representatives. Altogether, the opinion of the collective on what suffices as a good political and economic paradigm must continue to change, replaced with an emerging idea founded on the understanding of individual’s needs and determinants of success. All states within the international community must fully adopt new ideas related to human rights, and in so doing, commit to policy changes that will make individual’s full realization and potential possible. A change in behaviour towards human rights should be manifested through collaboration as well as individual state’s acceptance of responsibility. The UN member states must adhere to a sense of community in which it is understood that they are all interconnected and therefore, interdependent on each other for human rights advancement. They must unite in conviction, furthering humanitarian agendas that will sustain their most important commodities: people, society, and culture. It is this understanding that comprises the material presented in this publication.

Furthermore, the following articles present innovative ideas for unsolved dilemmas. They mean to address present issues in furthering human rights, and are in keeping with the goals and objectives of the Spanda Foundation, sharing its passion and desire to create a better world order through the recognition of individual’s rights, contributing ‘to the achievement of a higher individual and collective state of consciousness’<sup>12</sup>. The proposed recommendations and opinions are inspired by various philosophers, cultures, and religious principles. The articles in their entirety aim to educate and inspire, conveying knowledge and information collected through scholarly research and data analyses. In all, the articles act as a resource for the bettering of human life.

The collection first starts off with an explanation of human rights and the legality measures used to protect them. It then continues to the clarification of the discourse on human rights infringements, uncovering the debate that encompasses such subjects, and addresses such issues in which the neglecting of human rights can be seen as state dereliction. The following articles in the collection then provide a historical context on the world powers’ changing state economies, explaining how the politics associated with free markets and trade often resulted in producing hypocritical and blind policies that allowed clear human rights violations. Moreover, alternative solutions to these destructive policies and reigning market economies which caused major human rights downfalls are provided with the respect that their consideration can aid in the creation of new policies. Education is marked in importance, lack of which leaves individuals incapable of advancement, a factor that is commonly caused by inaccessible teaching facilities and institutions of higher education. Precedence is then given to the topic of asylum seekers and refugees, and the reasons behind the international community’s reluctance in providing these individuals residence. All these topics then introduce an evaluation of cultural rights. Cultural rights and its importance to regional development are presented in a case study of the Kabyle, an indigenous people located in the northern regions of Africa who have continually fought against cultural oppression.

In reading these articles, one is able to connect with the writers’ passion for others, possessing humanitarian hearts, interested in the betterment of less fortunate individuals. Embroidered with a characteristic that yearns for knowledge, they gathered information and expert opinions of those in their field, promoting global citizenship and collective responsibility in a world system of interdependence. Calling the international community into action, they advocate initiatives of reciprocity, reminding all that it is no longer possible to neglect the consequences of the past. Change must occur, a change that will include the betterment of all the world’s inhabitants, adopting an understanding best portrayed by James Russell Lowell, a poet of the 19th Century who expressed his disdain for slavery in his literary works:

*... For mankind are one in spirit, and an instinct bears along, Round the earth’s electric circle, the swift flash of right or wrong; Whether conscious or unconscious, yet Humanity’s vast frame Though its ocean-sundered fibres feels the gush of joy or shame; – In the gain or loss of one race all the rest have equal claim...*

J. R. LOWELL, *The Present Crisis*. ♦



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<sup>1</sup> Korab-Karpowicz 2013.

<sup>2</sup> For information on the Universal Declaration of Human Rights, see the Office of the High Commissioner for Human Rights website, *United Nations: Human Rights* <<http://bit.ly/1MPWDVz>>.

<sup>3</sup> For complete list of UN Millennial Goals, see UN Development Programme website. <<http://bit.ly/1HW1Qpe>>

<sup>4</sup> Sachs 2005, “Can Extreme Poverty Be Eliminated?": 58-61.

<sup>5</sup> Easterly 2006: § 1: 10-17.

<sup>6</sup> For more on the critiques of the UN MDGs, see Fehling, Nelson, and Venkatapuram 2013, “Limitations of the Millennium Development Goals: A Literature Review”: 1109-1122.

<sup>7</sup> Kennedy 2012, “The international human rights regime: still part of the problem?": 19-20.

<sup>8</sup> *Ibidem*: 24-28.

<sup>9</sup> Rokeach 1966, *Attitude Change and Behavioral Change*: 534.

<sup>10</sup> *Ibidem*: 548.

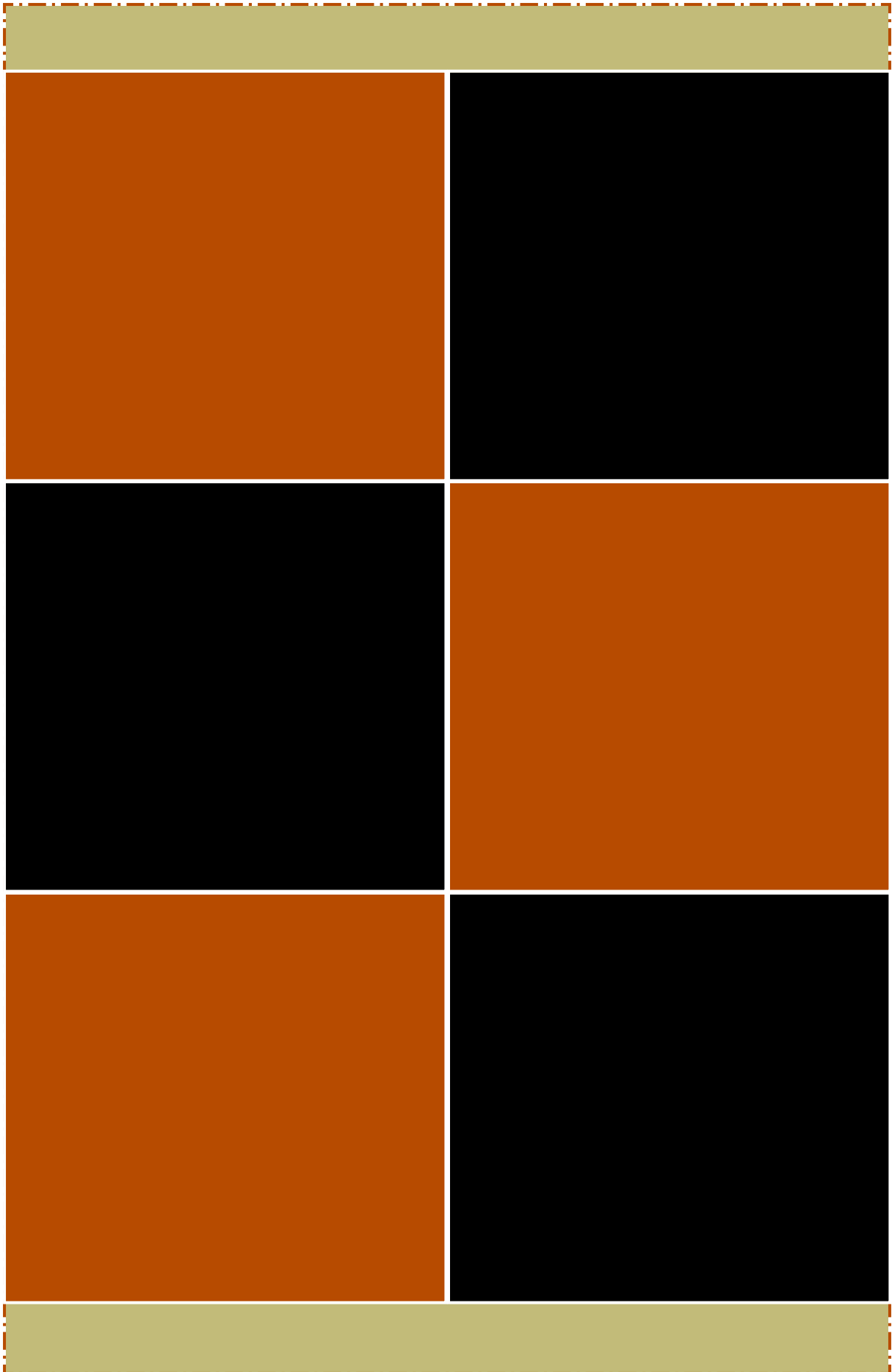
<sup>11</sup> Kelly 2009, 130.

<sup>12</sup> Spanda Foundation’s Mandate and Objectives

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THE CONCEPT OF HUMAN RIGHTS EMERGED AS A RESULT OF EVOLVING PHILOSOPHICAL, POLITICAL AND CULTURAL events which are connected to social and democratic traditions of several countries and ethnicities.

*Droits de l'homme, derechos humanos, Menschenrechte*, or the Rights of Man – are fundamental rights and freedoms which a person is inherently entitled to simply because a person is a human being<sup>1</sup>. These rights are universal in that they belong to everybody regardless of an individual's race, nationality, culture, sex, age, colour, language, beliefs or behaviour. The whole of mankind is equally entitled to 'indivisible, inalienable and interdependent' human rights without any form of discrimination. In the contemporary world, human rights are universal in the sense that 'they are almost universally' accepted and adhered to as 'international human right norms, and charges of human rights violations are among the strongest complaints that can be made in international relations'<sup>2</sup>.

The phrase 'human rights' was first coined in the French *Déclaration des Droits de l'Homme et du Citoyen* in 1789. Thomas Paine<sup>3</sup> further translated the expression *Droits de l'homme* into English in his publication *Rights of Man* (1791) and subsequently, Henry David Thoreau<sup>4</sup> expanded the concept in his classical treatise *Civil Disobedience* which inspired such acclaimed men as Leo Tolstoy, Mahatma Gandhi, and Martin Luther King to develop their own ideas on non-violent resistance to unethical government actions.

Historically speaking, scholars often trace the origin of contemporary human rights to the international system put in place by the Peace of Westphalia (1648)<sup>5</sup>. The provisions put in place by the Peace of Westphalia limited sovereign rights through collective guarantee of religious toleration. The centrality given to this precept of 'tolerance' should not be underestimated since it represented a compelling necessity for rulers at the dawn of the Modern era.

Despite these historical provisions of religious tolerance, the human rights movement in general is comparatively of recent origin. The modern Institutes of international human rights emerged from the ruins of World War II along with the adoption of the Universal Declaration of Human Rights (UDHR) in 1948<sup>6</sup>. The original purpose of these human rights initiatives were to condemn the Nazi regime as an aberration, reintroduce morality to the world and limit the worst excesses of the modern society. The term itself, 'Human Rights', was used for the first time in the Preamble of the United Nation's Charter and within some of its articles on the 26 of June 1945.

In human rights literature, many scholars attempt to classify and interpret who or what, counts as 'human' and how the word 'rights' could be better defined and accepted. It is thought that the first ideas of humanity emerged during Western humanism, when the Enlightenment period conferred human beings a special status in which they were to be regarded as 'superior to superstition, divine revelation or emotion above nature'<sup>7</sup>. Thus, the centrality of mankind became the most relevant philosophical and ethical argument in place of the revelation of God's will. The humanist tradition provided a prototypical idea of a human being which all individuals were expected to emulate. This idea classified and characterized humans as being 'white, European, adult male, able-bodied, of above-average intelligence and with a high level of education'<sup>8</sup>.

Moreover, during conflicts and wars of the past, enemies were often subjected to a process of 'dehumanization' in which they were depicted as 'sub-human', or even as beings that did not fully qualify to the standards held in the established form of human rights. Races dissimilar to the 'primordial' Aryans were literally classified as 'sub-human'. Furthermore, people with intellectual disabilities, brain damage or grave insanities were referred to as 'vegetables', and people with extreme antisocial attitude or wild hostility towards society, were regarded as 'animals' because they were seen as too far from the 'standards of humanity.' In the same way, the western European phenomenon of colonialism and imperialism introduced dehumanization tactics in order to diminish the rights of indigenous people of Africa, Asia, the Americas and Australasia. Altogether, the indigenous were perceived as less than fully human. Under a wondrous Eurocentric egotism, the colonialists treated natives with disdain and arrogance. Colonists held to the belief that natives were less worthy of human rights and were unimportant compared to other races, especially that of the 'white man'.

Conversely from the defining of human, the word 'Rights' focuses on the moral and political virtue and entitlement of the right holder. It stands apart from any preconceived notion meant to define and separate human beings. Rights advocates agree in defining a right as a justified claim that imposes duties or responsibilities on their

addressees or duty-bearers. Conceived as a standard of conduct, this sense of rectitude in relation to human beings refers to the duty-bearer's special title in which he is charged to guard and allow for the enjoyment of rights. The duties associated with human rights often require actions involving respect, protection, facilitation, and provision. Rights focuses on a freedom, protection, status, or benefit for the right-holders. A human rights norm might exist as 'a shared norm of actual human moralities, a justified moral norm supported by strong reasons, a legal right at the national level or a legal right within international law'<sup>9</sup>.

#### HISTORICAL ORIGINS

As a progressing social phenomenon, the concept of human rights has been constantly expanding throughout the ages alongside the historical evolution of human civilization. The primary forerunner of society can be traced to the ancient southern Mesopotamia, where the first city-states in world history appeared. To establish justice throughout the Mesopotamian kingdoms, Hammurabi, the Sumerian King of Babylonia, issued in 1750 BC, a legal code, often cited by historians as the first example of a written codification of laws<sup>10</sup>. It contained references to individual rights, the position of women, marriage, divorce, inheritance, contracts, wages, and labour conditions. Importantly, the Hammurabi's code valued the right to life and it also epitomized the principle known as *Lex Talionis*<sup>11</sup>, the law of retributive justice, in which punishment corresponds directly to the crime. This law is better known as the concept of 'an eye for an eye and a tooth for a tooth'.

Among other historic texts containing the earliest references to human attitude and behaviour in the ancient world, is the Hebrew Torah's Ten Commandments<sup>12</sup>. These Hebrew laws required individuals to respect and to adhere to duties for the protection of life and property of strangers and neighbours; the asylum tradition in churches and synagogues and the principle that one is innocent until proven guilty also originated in Jewish law. Later on, Christians and Muslims would found their ethics on these same Hebrew Scriptures. In addition to the Ten Commandments, the Old Testament provided the Proverbs and Ecclesiastes, and other documents, which contributed to a history of good behaviour and evolving human rights.

The oldest scriptures of Hinduism, the *Four Vedas*<sup>13</sup> were also composed, containing precepts for human rights. Insisting on equality and respect for human dignity, they initiated a spiritual precedent found in later religions. In China during the centuries 551-479 BC, Confucius established his own moral and political philosophy. Confucius' teachings, which are collected in the *Analects*, relied on the highest virtue *jen* as the principle of benevolence meaning 'to love all man'. Confucius enclosed this principle within the sentence 'Do unto others what you wish to do unto yourself'<sup>14</sup>. Jesus Christ's 'Sermon on the Mount' along with other scriptures of his teachings, are key religious texts of the early first millennium in Western tradition. Jesus incensed religious leaders with his own standards of human rights by denouncing hypocrisy, healing the sick, and treating women, foreigners, and the poor with dignity. Originating in the seventh century, the 114 *surahs*<sup>15</sup> of the Qu'ran extended a religious tradition of tolerance. Together, the Vedas, the Babylonian Code of Hammurabi, the Old Testament, the Quran, and the *Analects* of Confucius, these five texts make up the oldest resources available that attempt to deal with questions of people's duties, rights, and responsibilities.

As an emerging legal phenomenon, human rights originated from the ideas of natural law and natural rights. The natural law doctrine, began from the idea that humans, by their own nature, anywhere and at anytime, have rights that are previous and primary to the ones assigned by the society, and they are admitted by the natural law<sup>16</sup>. The earliest classical sources of the idea of rights can be traced to philosophers of ancient Greece: Socrates, Plato, and Aristotle<sup>17</sup>. Socrates was the first to promote the idea that human beings need to free themselves from the influence of emotions in order to have better control over their lives and thoroughly reason. Plato had an important contribution to the development of the conception of necessity of a universal and eternal set of rules regarding human beings. Also, Plato was one of the earliest to advocate a universal standard of ethical conduct, emphasizing individual virtue for the benefit of each other. He endorsed the idea that in the realm of ethics exist abstract, eternal and universal truths as parts of an 'unchanging natural order'. As a consequence, divergent ethical values originated from human nature and existence that were perceived as objective principles, not classifiable as right or wrong. In addition, in investigating the system of Virtue Ethics, Aristotle identified in human nature the capacity to reason and to exercise rational choice. Therefore, he expanded the classical Greek concept of *Eudaimonia*<sup>18</sup>, with that of rational activity which, in accordance with the right to action, would have led to the 'well-being' or 'human flourishing' of the individual. The Stoics also believed in Aristotle's prominence on the exercise of rational abilities, and developed their own theory in which the natural law, the law of nature, is the law of human nature, and that this law is reason. It was in this form that the Roman lawyer Cicero transmitted the idea of natural law from Ancient Greece to the Roman world. The Romans therefore adopted a system of *humanitas*<sup>19</sup>, modelled on the Greek *philanthropia*, which focused on a refined and educated society with the main purpose of rejecting outward violence toward any other human being. During the Medieval period, the idea of natural law became a central topic in philosophical



and theological debates. Thomas Aquinas defined law as ‘an ordinance of reason directed towards the common good and promulgated by the one who has the care of the community’<sup>20</sup>. In this sense, the natural law was a command or a directive that was reasonable and should be directed for the common good, and not used for the private interest of man. Later, when the medieval time period began, human rights started to be conceived as a result of agreements between the ruler and his subjects under public law.

Further changes to the understanding of rights appeared during the Reformation and Renaissance time frame. During this period, the sovereignty of individual conscience and humanism were accentuated, and as a result, this led to a significant reflection of thinking in regards to natural law and natural rights. For an example, there is the work of the Dutch philosopher Hugo De Groot<sup>21</sup> who emphasized the problem of developing a moral and legal framework to govern peaceful relations between modern nation states, in an international system based on the principles of natural law. These principles found their origin in human nature and human rationality, and provided universal standards for assessing the positive laws of all nation states. The principles also provided standards for arbitrating international conflict. Altogether, during this evolution of thought and ideas, human rights acquired the nature of being ‘positive’ because they were included in the fundamental laws of modern states, even though they remained enclosed within the territories of each respective country.

In relation to the development of human rights ideology, the Enlightenment movement was decisive. The European wars of religion and the civil wars of 17th century England gave rise to the philosophy of liberalism, and belief in human rights became a central concern of European intellectual culture later during the 18th century. In an attempt to replace human reason for divine revelation as the key to human understanding, Enlightenment thinkers elaborated very important theories that redefined rights in universal terms. Several Enlightenment writers and philosophers gave a significant contribution to the analysis of the real world through scientific observation and classification. Locke, for instance, introduced the idea of natural rights in relation to a ‘state of nature’<sup>22</sup> where men are free, equal, and independent. With this concept, Locke developed a comprehensive concept of natural rights consisting of life, liberty and property. Kant<sup>23</sup> claimed that human beings have an intrinsic value absent in inanimate objects and tried to formulate a foundational principle of morality. This was to be the first principle of ethics from which all other principles could be derived. Afterwards, Montesquieu formulated in *About the spirit of laws*<sup>24</sup> the idea of instituting a reign of laws which would belong to all people who were both authors of and obedient to their own dispositions. He also provided the idea of a society in which all components would be equal and similar in dignity; he asserted that ‘people gave up their natural independence in order to submit to civil laws’<sup>25</sup>. Jean-Jacques Rousseau further elaborated this concept to the extent that he included an assertion of how the sovereign was to derive his power and how the citizens should attain their rights through the establishment of a ‘social contract’<sup>26</sup>. According to Rousseau’s understanding of society, each individual has a particular will that points to his own interest, and the sovereign expresses the ‘general will’ that aims for the common good. Therefore, law should be placed above people and not among man so that everyone has equal access to rights. In this way, theories of natural rights became very close to the new and revolutionary political ideas of government responsibility, accountability and popular sovereignty. Thus, government powers began to be limited by fundamental rights of human life, liberty and wellbeing. With the beginning of the Eighteenth century and during the following decades, human rights experienced a new phase of internationalization in which, for the first time, greater importance was given to two fundamental rights that had often been previously ignored. These two fundamental rights were namely the principles of equality and non-discrimination.

Despite the fact that several theoretical approaches have treated human rights differently with each perspective, it is relevant to consider that their main origins are rooted in the real nature of human beings and thus, human rights belong to the sphere of natural law.

Furthermore, the concepts of natural law, natural rights and universalism were extensively developed during the eighteenth century, and these concepts provided the intellectual background that influenced the French revolution.

#### FIRST LEGAL INSTRUMENTS FOR PROTECTION

There are several charters codifying rights and freedoms that have been drawn up in the past, which are the former instruments for the protection of human rights. In 539 BC, the first king of Persia, Cyrus the Great<sup>27</sup> conquered the city of Babylon and issued the Cyrus cylinder. Its purpose was to declare freedom of speech and of religious beliefs, abolish slavery and establish racial equality for the citizens of the empire. This document is translated into all six official languages of the United Nations, and it has now been recognized as the world’s first charter of human rights. A declaration for religious tolerance on an egalitarian basis can be found in the 33 inscriptions of *Edicts of Ashoka*<sup>28</sup> of 272-231 BC which was promulgated by the Emperor of the Mauryan ancient dynasty during his reign. It emphasized goodness, kindness, generosity and tolerance in public policy. The edicts described the first wide expansion of Buddhism, his moral and religious precepts, and his social and animal welfare programme.

Prophet Muhammad in *The Constitution of Medina*<sup>29</sup> (Charter of Medina) that was drafted after 622 AD, was a formal agreement between himself and all the other tribes and families of Yathrib. The agreement included Muslims, Jews, Christians and pagans, and Muhammad incorporated both Arabic and Mosaic laws and customs of the time into his divine divulgements to protect religious freedom, ensure women greater autonomy, and end ethnic segregation policies.

Widely considered as one of the most important legal documents in the development of modern democracy, the Magna Carta or 'Great Charter,' (1215) was a contract between King John of England and his subjects. For the first time, an English king recognized the rights of his people by establishing a list of rights to limit abuses from the authoritative power, and in order to ensure protection from heavy taxation. It is hypothesized that the Magna Carta was the first document in the world to provide precise measures of protection of individual freedoms. The Charter enumerates the privileges granted to the Church of England, to the city of London, merchants and dignitaries of the feudal regime. For example, the Charter ensured that subjects would not have their property unlawfully seized (Article 31), and it protected the safe passage of people in and out of the country, as stated in Article 42: "It shall be lawful in future for anyone to leave our kingdom and to return, safe and secure by land and water, except for a short period in time of war, on grounds of public policy-reserving always the allegiance due to us"<sup>30</sup>.

While the concept of internationally protected human rights did not properly appear until the twentieth century, specific human rights issues emerged during the seventeenth century. A recorded milestone in the development of human rights was established in the *Petition of Right*, produced in 1628 by the English Parliament. The English Parliament had sent this petition to Charles I as a statement of civil liberties. Initiated by Sir Edward Coke, the text sets out the traditional rights of English citizens and its representatives with the respect of Parliament and the freedom of people. In the modern age, the concept of law aims to be *jus* which stands in for the idea of law conceived as *lex*. In other words, the the modern age concept of law aims to establish specific rules that lay down the legal framework of each ordered community.

Further legal documents include, the Articles of the Treaties of Peace, signed in Westphalia (1648). The Treaties of Peace ended the Thirty Years War between Protestant and Catholic areas of Europe, and as a result of their influence, the Treaties are often cited as the beginning of the nation-state system and promulgation of modern international law. It contained significant declarations and among these some provisions on religious liberty that today compose parts of human rights law<sup>31</sup>.

In terms of geo-strategy, a similar example is provided by the antislavery movement of the late eighteenth and early nineteenth centuries, and in the series of great power interventions that occurred during the Ottoman Empire of the late nineteenth century which were emplaced in order to protect religious minorities. Another example is the Congress of Berlin of 1878. This Congress established the principle of religious freedom. The principle was adopted as a condition in response to demands for government recognition of new and legitimate states<sup>32</sup>. This data seems to suggest that German transcendentalism was converting to religious liberalism by increasing political laicism<sup>33</sup> a few decades before the Nazi drift. The proposed explanation for this conversion is the cultural and philosophical vivacity of the region; together, these two factors became the driving force of change<sup>34</sup>. The centrality of these concepts was then destined to move gradually toward Paris after the Franco-Prussian conflicts (1870s). However, this fact should not be forgotten since it has merit in that it posed the first focus on Human's transcendental origin.

Other documents that deserve mentioning include *The Bill of Rights* (1689), which was accompanied by the *Habeas Corpus Act* (1679). These acts are some of the basic documents of the un-codified British constitution; they were enacted to condemn the sovereignty of the divine right, replacing it with national sovereignty. The acts were designed to ensure individual freedom and the maintaining of personal safety as had already been enunciated in the *Petition of Rights*. Sequent acts, specifically relating to human rights, soon followed. These acts include the 'Declarations' which were adopted during the end of the Eighteenth century. The First of these acts was the *Virginia Declaration of Rights*, made on June 12, 1776. This was followed by the *American Declaration of Independence* in July, 1776. Both American Declarations were influenced by natural law. The Virginia Declaration stated that '*all men are by nature equally free and independent and have certain inherent rights*'<sup>35</sup>. The Declaration of Independence stated that the Creator endowed these rights, and that they were inalienable. It further defined what these rights were, determining them to be the right to life, liberty, and the pursuit of happiness. In whole, the Declaration of Independence showed what rights violations the British monarch had perpetrated against Americans, and it determined that acceptable forms of government 'derived their just powers from the consent of the governed'.

Philosophically, the Declarations advanced prior theoretical ideas of individual rights, the right of revolution and the nature of national sovereignty. These concepts became widely adopted by the Americans, and were then spread internationally. The ideas then came to influence parts of Europe, inciting the French Revolution. On September 17, 1787, the members of the Constitutional Convention signed the *American United States Constitution* in the city of Philadelphia. This text is the oldest written national constitution still in use, and it established the United States federal system of government that exists today. The first ten amendments to the Constitution,



known as the *Bill of Rights*, came into effect on December 15, 1791. These amendments limited the powers of the federal government of the United States in order to provide immunities for individual, citizen, or visitor's rights within American territories. Also, the Bill of Rights established the protection of the freedom of speech, freedom of religion, the freedom of assembly, and the freedom to petition. Among the legal protections the Bill of rights granted, they prohibit Congress from producing any law in respect to the establishment of religion, and prohibit the federal government from depriving any person of life, liberty or property without due process of law.

Eventually, International Rights changed from its historical nature of bilateral national agreement to a transnational collection of norms accepted by multiple actors. The nature of this change emerged from the French capital. In 1789, the French representatives of the Third Estate, organized as a National Assembly. This assembly arose during the storming of the Bastille in order to abolish the absolute monarchy and its powers, and also, to establish the first French Republic through a written constitution. 'The French Declaration on the Rights of Man and the Citizen'<sup>36</sup> (*La Déclaration des Droits de l'Homme et du Citoyen* in French) was adopted on August 26, 1789. This declaration majorly impacted the development of liberty and democracy in Europe and worldwide. The natural and imprescriptible rights of Man, inspired by Christian ideology and the philosophy of the Enlightenment, were listed in article 2 of the Declaration that proclaimed that all citizens were to be guaranteed the rights of 'liberty, property, security, and resistance to oppression.' The Declaration also delineated that 'Liberty consists of the power to do whatever is not injurious to others; thus the enjoyment of the natural rights of every man has for its limits only those that assure other members of society the enjoyment of those same rights; such limits may be determined only by law'.

In 1864, sixteen European countries and several American states took part in a diplomatic conference in Geneva with the purpose of safeguarding human rights of wounded soldiers and wartime prisoners. Specifically, they were concerned about the safety of civilians in and around war-zones and sick military personnel. The meeting produced the Geneva Conventions<sup>37</sup> (1864 and 1949) that was comprised of four treaties and three additional protocols. These treaties and protocols were the result of Henry Dunant, the founder of the International Committee of the Red Cross. Henry Dunant intended to establish these standards of international law to ensure the humanitarian treatment during times of war.

On the basis of the principle of equality promulgated by the French Declaration of 1789, several more constitutions were enacted during the 19th Century. Among these were The Constitution of the Kingdom of Belgium (1831), The Declaration of the Rights of Liberia (1847), The Constitution of the United States of Mexico (1917) and The German Constitution of Weimar (1919). All these additional and legal instruments contained not only classic rights, but also introduced economic and social rights, and articles that assigned responsibilities to the government in the fields of employment, welfare, public health, and education.

Altogether, the revolutionary phase of Human Rights legacy properly began with significant contributions of presidents Woodrow Wilson and Franklin D. Roosevelt's<sup>38</sup>. Together, the two contributed to the cause of human rights and human dignity. During the second decade of the twentieth century, Wilson revived the principles of the Declaration of Independence (1776) with the hopes of establishing a world of peace through democracy and the solidifying of fundamental people's freedoms. After the end of World War I, he created a program for peace, harmony and goodwill, through the formulation of the 'Fourteen Point Address' that was delivered on January 18, 1918. In this Address, he emphasized the right of self-determination through the following statement: 'that in determining all such questions of sovereignty the interests of the population concerned must have equal weight with the equitable claims of the government whose title is to be determined'. During the World War II, Roosevelt presented in a message to Congress on January 6, 1941, the concept of 'Four Freedoms'— freedom of speech, freedom of worship, freedom from want and freedom from fear— as fundamental principles, without which an individual would not be able to express himself and demand his rights from the government. Roosevelt not only propagated the doctrine of human rights, but also actively faced the menace of poverty, unemployment, hunger and starvation.

Furthermore, the previous legal actions indicated the desire of various national players to impose an order over an undisciplined scenario, but if a major shift in human rights legality is to be located, the Covenant drafted by the League of Nations (1919) should be considered its locus. The Covenant itself, is monumentally defined by the first trans-governmental oath that included non-European signers<sup>39</sup>. Undoubtedly, its content omitted important references to human rights<sup>40</sup> (the Japanese failed to insert a provision for the recognition of the racial equality represents an enlightening example)<sup>41</sup>; it was the League that prompted the Constitution of the International Labour Organization to be drafted in the Paris Peace Conference, and the ratification of the so called post-war 'minorities treaties'<sup>42</sup>. The last treaties provided international guarantees for basic civil and political rights, as well as social and economic 'rights of national minorities in Central, Eastern Europe, and the Balkans'<sup>43</sup>. Moreover, despite its general recognized failure in stabilizing international balance, it should be remembered that it was under the League's direction that the *Fédération Internationale des Droits de l'Homme* was established in Paris (1922) which began a campaign of advocating for the framing of an authoritative world declaration or bill of human rights; this again occurred in the French metropolis where the *Académie Diplomatique Internationale*, was founded by an international group

of lawyers in 1926. It was in this forum that an election of a commission occurred in order to draft an international declaration of human rights<sup>44</sup>. This produced a corpus of key sources for the Declaration of the International Rights of Man that was published by the Institute of International Law in New York in 1929. This declaration had a broad influence among jurists in the 1930s and consequently, in the composition of the 1948 declaration<sup>45</sup>.

Thereafter, the human rights movement was set back by the Great Depression (1931), and then it strongly re-emerged during World War II, in part because it was believed that the war could have been avoided if there had been effective international mechanisms to identify and sanction violations of human rights in Nazi Germany.

In Roosevelt's America, there was already a certain preoccupation with the lack of an 'Universal chart,' that could be worldly accepted; in this sense the wartime Anglo-American treaty, 'Atlantic Charter' (1941), the American Law Institute's draft of an international bill of rights, 'Statement of Essential Human Rights' (1944) and the 'Declaration of the United Nations' (January 1942), issued by the US and UK and subsequently adhered to by all of the wartime allies in 1945, were subsequently drafted. Progressively, these documents represent the shared understanding of the time which was: the need for an universal standard. In response to the European, geopolitical situation in mid-1941, the representatives of China, Great Britain, the USSR and the United States met for a conference at Dumbarton Oaks. It was there that four principal bodies were established to constitute a world organization that would promote international peace and security. This organization would later be known as the United Nations. On April 25, 1945, the representatives of fifty nations and several nongovernment organizations attended the United Nations Conference on International Organization in the city of San Francisco, during which they drafted the United Nations Charter. It was during this conference that President Harry Truman advocated the elaboration of an international declaration of rights, acceptable to all countries, which would protect future generations from the 'scourge of war' and promote the 'fundamental human rights' and 'dignity and worth of the human person.'

#### FROM THE UNIVERSAL DECLARATION OF HUMAN RIGHTS TO NOWADAYS

The Declaration was commissioned in 1946 while the first Drafting Committee entrusted the Economic and Social Council (ECOSOC) with the responsibility of immediately creating 'commissions in economic and social fields and for the promotion of human rights' (Article 68)<sup>46</sup>. The Commission on Human Rights was chaired by Eleanor Roosevelt, while Charles Malik served as *rappporteur* and John Humphrey as Secretary. John Humphrey was responsible for national research and structure, and the main editor of the Chart was René Cassin, who was awarded the Nobel Peace Prize in 1968 for his great contribution in structuring and drafting of the Universal Declaration of Human Rights. Cassin included in the draft's first two articles the basic principles of dignity, liberty, equality, and brotherhood, and then followed these successively with the rights pertaining to individuals; rights of individuals in relation to each other and to groups; spiritual, public and political rights; and economic, social and cultural rights. Although the Commission on Human Rights completed its work on the Declaration of Human Rights on June 1948, the final draft of the document was constantly subject to significant revision and change. In the Palais de Chaillot, after a long session, the Universal Declaration of Human Rights was finally adopted by the General Assembly on 10 December 1948, with the abstention of the Eastern Bloc, Apartheid South Africa and Saudi Arabia. The final version of the Declaration created a strong issue for some of the states in relation to the greater emphasis of economic and social rights, especially for the Soviet Union and its allies who were afraid that signing the Declaration, and thus endorsing its enunciation of civil and political rights, would provide an instrument for the Western powers to interfere in Soviet domestic political affairs<sup>47</sup>.

Although The Universal Declaration of Human Rights (UDHR) is a non-binding resolution, it serves as the cornerstone of the modern human rights movement. Conceived as a common standard of achievement for all peoples and all nations<sup>48</sup>, it represents the universal recognition that basic rights and fundamental freedoms are inherent to all human beings, inalienable and equally applicable to everyone, and that everyone is born free and equal in dignity and rights<sup>49</sup>.

International treaties and customary law form the mainstay of international human rights law while other instruments, such as declarations, guidelines and principles adopted at the international level contribute to its understanding, implementation and development. By becoming parties to international treaties, States assume obligations and duties under international law. These obligations for the States are to respect, to protect and to fulfil human rights. Besides this form of adopted obligations, the United Nations system has several agencies and courts, independent of its human rights treaties, for the protection of human rights abuses. Three notable agencies within the UN are: the High Commissioner for Human Rights (OHCHR), which serves as a full-time advocate for human rights within the UN; the Human Rights Council, which addresses gross human rights violations; and the Security Council, which has the authority to impose diplomatic and economic sanctions, sponsor peacekeeping missions, and authorize military interventions in cases of human rights emergencies.

## CLASSIFICATION

Between the late nineteenth and early twentieth century and after the rise of the labour movement in Europe, the Soviet Union developed a concept of human rights that differed from the notion of rights mainly adopted in Western legal tradition<sup>50</sup>. Western legal theory focused on the so-called ‘negative’ rights, which established for each person a zone of non-interference from the government. The Soviet system, instead, emphasized that society as a whole, rather than individuals, is entitled to ‘positive’ rights which are to be benefited by all and derived from the assistance of the government through a process of providing certain guarantees to the social community<sup>51</sup>. Identifying positive and negative obligations, formalized the earliest classification of ‘classic’ and ‘social’ rights. However, such classifications were not further contemplated in contemporary international law. In the spirit of identifying social obligations, the Kremlin in Moscow claimed that there was urgency for such economic and social rights in contrast with the major weight that civil and political rights were given by the Western block. To accommodate the ideological division between those countries who believed in the importance of social rights and those who did not, or who thought that social rights could not be enforced in the same way as civil and political rights, the Commission ultimately decided to create two separate treaties<sup>52</sup>. In 1966, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) were adopted by the United Nations. Together, the two Covenants made the rights contained in the Universal Declaration of Human Rights (UDHR) binding on all states that had signed the treaty, creating human rights law. These Covenants, embodying the UDHR rights, were not approved by the General Assembly until 1966 and only received enough ratification to become operative a decade later in 1976<sup>53</sup>. Both Covenants are the core of today’s human rights system; along with the UDHR, they are referred to as the International Bill of Rights<sup>54</sup>. The addition of the legal Covenants reflects a sharp distinction between two categories of human rights: civil and political versus economic, social and cultural. Despite the establishment of these two categories of rights, preference was still given to civil and political rights, assuming they were of greater juridical validity and applicability than the others. During the following decades, several declarations which included the 1993 Vienna Declaration and Programme of Action, the Declaration of the European Union of 21 July, 1986 and the recently adopted Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (ICESCR, 2008) were ratified. These declarations attempted to set up fair and equal treatment of both categories of human rights, insisting on the indivisibility and interdependency of all rights. In modern terminology human rights are usually divided into three generations of rights. Inspired by the three major watchwords of the French Revolution, *Liberté*, *Égalité* and *Fraternité*, Karel Vasak originally proposed the criteria of classification at the International Institute of Human Rights in Strasbourg (1979)<sup>55</sup>. The first generation of ‘Civil and political rights’ refers to traditional civil and political liberties prominent in Western liberal democracies, such as freedom from torture, freedom of religion, expression, assembly and association, the right to life, the right to a fair trial, the right to privacy, the right to vote and the right not to be discriminated against. ‘Economic, social and cultural rights’ is the second, more recent generation of rights. Some examples of these rights are: the right to work and the fair conditions of employment, the right to form and join trade unions, the right to social security, the right to food, the right to physical and mental health, the right to education and the right to take part in cultural life. The last and third generation of ‘solidarity or group rights’ claimed from the late 1950s onwards<sup>56</sup>, are distinguished from the other two categories of human rights in that its realization relied not only upon the affirmative and negative duties of the state, but also upon the behaviour of each individual: ‘[Third Generation Rights] [...] may be both invoked against the state and demanded of it; but above all (and herein lies their essential characteristic) they can be realized only through the concerted efforts of all actors on the social scene: the individual, the state, public and private bodies and the international community<sup>57</sup>’.

Rights of the third category reflect the emergence of nationalism that occurred in the developing world during the 1960s and ‘70s and the ‘revolution of rising expectations’. This was characterized by the demand of global redistribution of power, wealth, and other important values or capabilities<sup>58</sup>. The increase of values included the right to political, economic, social, and cultural self-determination, the right to development, the right to participate in and benefit from ‘the common heritage of mankind’, the right to peace, and a right to a clean and healthy environment, and the right to humanitarian disaster relief.

## IDEOLOGICAL EXPLORATION OF MODERN AND CONTEMPORARY

*No matter where it came from but where it will bring us*, F. D. Roosevelt to Winston Churchill, 1943.

The aforementioned chronology demonstrates ‘how human rights became self-evident<sup>59</sup> in the latter half of the eighteenth century. Proceeding from this understanding, it is now important to examine how their inner logic functioned within the international community. In order to proceed from analyzing the outside of human rights to that which is considered inward, it is imperative to understand what appeared as ‘accessory theories’ in relation to the establishment of human rights. This study will then be followed by a review of what was classified as ‘necessary theories<sup>60</sup>. According to Hunt, the universal ideal of human rights depends on two fundamentals: human beings being

characterized as autonomous individuals capable of exercising both moral judgments and empathy<sup>61</sup>. On one hand, this approach appeals to a certain universalistic vision of the 'human', on the other hand it seems paradoxically permeated by individualistic relativism for its emphasis on the 'individual perception of the other'. At the basis of this apparent contrast lies the discourse. Namely, which concept of 'human' is more eligible, among Christian, Jewish, Muslim, and the less mentioned Confucian tradition. The theories used till today do not highlight any shared points, but rather they attempt to flatten out all differences. The theories have been contextualized to a point that a great part of the intellectual world was subtracted. These processes occurred during the generated discussions, and were impart due to the partial participation of some contributors that were 'Late Comers' of the process, such as the URSS. The impact of these absences should be considered along with the German, Italian and Japanese political drifts, and the enduring Colonial conditions of the time, which enslaved a great number of countries.

Scholars have found that the conception of Human Rights during the first part of the Twentieth Century moved through a rugged terrain. Human Rights had to maneuver through unstable political conditions imposed by the First World War, and the outcomes of a precedent disputation now famous in international studies<sup>62</sup>. The debate on Idealism of the Twenties and Thirties<sup>63</sup> attempted to relegate the ideology into oblivion, but instead, the debate reevaluated the human rights ideas to a positive vision in which a single human being was classified as '[an entity] almost otherworldly, far from the religiousness, a key engine of the Humanity mechanism'<sup>64</sup>.

Despite this instance of advancement, it is important to note that the Human Rights movement did not 'fall asleep' for almost two decades. This assumption has been widely spread, and is an oversimplified notion that can be proven wrong. Instead, it is proper to point out the fact that the discourse de-sacralised itself, and then it was re-articulated into an understandable method. This method became known as the 'Freedom Discourse.'

As Burgers stated, what had been the ideas around the 'essential freedom' did not disappear but temporary morphed due to the totalitarian shifts of both fascist and communist into liberal or resistance movements during the 1930s<sup>65</sup>. So the path toward the UDHR did not vanished but adapted itself. The Human Rights conception temporarily detoured through a period where it was 'expressed mostly in terms of freedom and democracy, and almost never in a reassertion of the human rights idea itself'<sup>66</sup>. The civil movement, like the Dutch 'Unity Through Democracy' or the British 'Association for Education in Citizenship' movements that were both founded in 1937, acted like a think-tank for liberal ideas, canalizing a great number of prominent figures. Evidence of this metamorphosing process can be seen in the publication of *Freedom: Its Meaning* (1940). This book consists of a collection of essays written by the following thinkers: Charles Beard, Henri Bergson, Benedetto Croce, Albert Einstein, Harold Laski, Thomas Mann, Jacques Maritain, Bertrand Russell and A. N. Whitehead. The contiguity existing between the publication and Human Rights is never expressly mentioned within the text. Instead, its verification is proved by the 1947's UNESCO appointment of the same group of thinkers. The thinkers were appointed so that they could be questioned 'on the theoretical problems of the human rights concept'<sup>67</sup>. The answers UNESCO received were partly published in 1949 into a comparable volume. Within this volume, we find scholars such as Benedetto Croce, Harold Laski and Jacques Maritain, explicitly speculating about human rights' definition.

During the preparation of the volume, E. H. Carr chaired the commission of experts. In the years previous to the volume's publication on the conditions for peace, the American scholar did not see human rights as a necessary prerequisite<sup>68</sup>. From analyzing sources, both historical and philosophical, the pivotal role assigned to Human Rights in their configuration of guarantees, strictly came from the francophone thinkers<sup>69</sup>. This suggests that the 'European peace' and the international conception of peace were inextricably bound together<sup>70</sup>. This however, may be interpreted as a direct consequence of the centrality of the French capital as it was influentially at an International and Institutional, as well as, Cultural and Artistic level. In addition to Jacques Maritain, René Cassin and Denis De Rougemont were two major figures who contributed to producing a new attitude towards peace and human rights<sup>71</sup>. René Cassin had experience as a Public Servant, being initially a jurist and then a lawyer; he was then French Appointed to the League of Nations. Denis De Rougemont, who is significantly less mentioned, was a Swiss philosopher, partisan and politician. Rougemont advocated a 'new political approach outside the time-worn framework of the existing political parties', an approach based on the value of the human person which was opposed to all forms of totalitarianism. This approach distinguishes between individual and state, and creates a bi-univocal relation of respect for legality that leads to morality and justice. Because of these illuminist influences, the idea of 'Personalism,' is incredibly close to 'Humanism'<sup>72</sup> as it is explained by Maritain in *Freedom: Its meaning*. However, these two terms still remained too political and thin for defining human rights, especially when compared to the ones used by H. G. Wells. Importantly, it was Wells's understanding that ascribed him with the merit of setting the 'first focus on a pertinent Human Right's Idea'<sup>73</sup>.

Wells's proposal can be partially analyzed in his letter that was published in *The Times*<sup>74</sup>. According to Wells's vision, an International Chart would be an institutional response to a 'crises in the history of our communities'<sup>75</sup>. The writer explicitly compared the Second World War chaos with the chaos present during the drafting of the Magna Carta and Bills of Rights that are considered to be the 'compass of social order.' In conclusion, a text was



created that contained these new ideas and understandings, and it proposed a first version of the *Declaration of Rights*<sup>76</sup>. This text was composed by the commission of eminent thinkers, and was arranged by Wells himself<sup>77</sup>. Despite this, not all of the text is easily understood. The content of the Articles<sup>78</sup> are extremely vague. Essentially, the Articles reports on a conception of the 'Human' based on Christian doctrine<sup>79</sup>. The most complex part, at least from a theoretical perspective, is where the text deals essentially with judgmental and precautionary imprisonment. This text missed the conception of subjects (as object of the law) and ruler (as applier of the law) as was analyzed in the francophone's sources. Moreover, this British approach appeared to be drastically intertwined with Religiousness, and thus deprived the 'Moral Laicism' of the francophone despite the fact that it had Constitutionalist roots. Nevertheless, it is interesting to note that, if compared to other relative sources of theoretical frame of Human Rights concepts, Wells's positions are more drastically fought for or acclaimed. Furthermore, the Declaration was translated into an extraordinary number of languages, including Chinese, Japanese, Zulu and Yoruba, a treatment not shared by other mentioned sources. It critically held the front page in Mussolini's *Popolo d'Italia*, and was attacked for a solid week on Goebbels' radio.

Also, Wells's proposal received a positive response during Roosevelt's administration. It cut from previous attempts for institutional recognition to a straightforward approach, addressing governance and a network of human relations that connected the composition committee with the masses. The research showed an incredible relevance of civil action in two different historical moments of mass empowerment: the one, an outgrowth from the basin of disobedience toward the Nazi's catastrophe, the second, the Civil Rights' movement that occurred in the 1960s.

With this in mind, it is important to consider the ecological crisis that increases every day as a result of the evolution of contemporary society, a process which continues to challenge us to elaborate, in a new perspective, our lifestyles and relationships as they pertain to human beings and natural entities.

Ultimately, the idea of human rights at this historical moment should be conceived as an indissoluble association with the concept of community development that is conceived as 'a way of thinking, and as a philosophy of practice, rather than merely a process for building stronger communities'<sup>80</sup>. Since it is only in society that we can accomplish our full humanity, community development becomes an essential component necessary for the enabling of human rights full realization. It is also a multidimensional process of global participation in which employees, teachers, children, scholars and businessmen can jointly contribute to significant benefits within social, economic, political, cultural, environmental and spiritual development.

Therefore, both human rights and community development are powerful ideals necessary for the procurement of relevant contributions to progressive politics and to movements for social change in the Twenty-First Century.

In the Enlightenment humanist tradition, human rights directly related to human beings who were individuals separated from the rest of the natural world. Now, some writers adopt a more green or ecological perception of life, and consequently, have been disputing the long-established supremacy of the Western anthropocentric evaluation of human rights. In connection to these current disputes, Robin Eckersley proposed in one of her books 'The Green State: Rethinking Democracy and Sovereignty' (2004). This book provides a 'critical political ecology' paradigm that emphasizes human beings interconnection with other species, and how a Green democratic state should be created that would act as a gatekeeper of the global and international legal order<sup>81</sup>. According to this progressive perspective, the idea of humanity should not only be valued in individual terms but rather as a whole human collective<sup>82</sup>.

#### GROSS ATROCITIES AND HUMAN RIGHTS VIOLATIONS IN THE CONTEMPORARY ERA

Although the development of human rights has increased the general global welfare through the establishment of guidelines on how human beings should be treated and their dignity protected, violations of these rights continue to regularly occur. As a result, there is a need for additional measures for that will aid in the implementation and enforcement of human rights. As revealed earlier in this paper, the atrocities committed by Nazi Germany during the World War II gave rise to the establishment of new measures as an attempt to guarantee the safeguarding of people worldwide, and led to the international community's vow of 'never again' and never will they allow such grave atrocities to be perpetrated<sup>83</sup>. With the establishment of the traditional sense of human rights through various international treaties, violations of these rights became more identifiable and better understood through a process of theorization. For instance, the abuse of human dignity and wellbeing occurs for a series of expected reasons; analyzing these reasons leads to the development of several opposing and often contradicting theories that strive to explain precisely why these violations transpire. Most of the theories explain the eruption of violent conflicts, mass killings, civil wars, and violence, as a response to human rights violations. According to these explanations, the conflicts emerge or intensify as violations grow in severity, a process which corresponds with a series of phases<sup>84</sup>. Prior to mentioning some of the extensively accepted theories related to human rights violations, it is important to first define the general understanding of what are human rights violations.

Human rights violations can consist of several different forms, and may range anywhere in the spectrum of severity. Furthermore, the topics addressed in human rights violations are multifold: they can be social, political, economic, and/or religious. The most severe infringements include torture, degrading treatment, ethnic cleansing, genocide, forced disappearances or migration, crimes against humanity, forced starvation, and war crimes<sup>85</sup>. In each of these cases, the moral dignities that individuals are entitled to are swept away, resulting in grave physical and/or emotional harm. In many of the above-mentioned examples, individuals are deprived of their freedoms, of their basic necessities, of their moral worth, and sometimes of their lives<sup>86</sup>. McCormick and Mitchell claim that repression of human rights should be an umbrella term, as it includes several different types of violations<sup>87</sup>. As such, human rights violations can be less systematic and severe in the sense of causing limited physical and emotional harm, or even to that of no casualties that can range from unequal pay for the same job, discrimination based on several factors including race, ethnicity, gender, and/or religion, limited access to education or health care, inadequate political representation, and poverty<sup>88</sup>. The mentioned violations may not be as gross as genocide. However, these violations abuse the individual in their freedom to strive and achieve self-fulfilment, and it is these violations that often lead to more immense breaches of human rights<sup>89</sup>. Each of these violations increase the risk of violence and spirals of conflict that can erupt in or between states. Consequently, it is crucial to understand why human rights violations occur.

Two main theories that attempt to explain the causes of conflict and subsequently, human rights violations, are the competing explanations of grievances versus greed. The theory of grievances attributes the core causes of conflict to unjust and unequal treatment of various groups within a society or nation-state. Thus as a precondition for grievance, there must be social cleavages within the country, resulting in a dominant majority group and a minority group<sup>90</sup>. When one group is favoured against another and receives more benefits in society, it causes outrage amongst the less fortunate, causing them to rebel which often leads to bloody civil wars. When applying the idea of grievances to human rights violations instead of internal conflict and warfare, it is illuminated that in situations where the society is divided into different groups with opposing identities, one group is likely to have more power which it is unwilling to share with the other. The less powerful group will consequently feel like their human rights are being violated, and as a result, they will feel obligated to take action in order to change their social dynamics<sup>91</sup>. In short, human rights violations are caused by objective social exclusion<sup>92</sup>. The final outcome of this exclusion is often followed by the crossing of a violation threshold by the excluded party, which produces more severe human rights infringements<sup>93</sup>.

Greed, on the other hand, focuses on economic motivation for conflict instead of issues revolving around identity. Collier argues that conflict is caused by the feasibility of predation<sup>94</sup>. In regards to civil war, Collier claims that people will join rebel organizations in order to gain benefits that are determined through a process of cost-effect analyses. In many situations, rebels will engage in violence or war in order to advance their position in society. Advancement is manifested in the gaining of political or military power<sup>95</sup>. Moreover, rebels also profit from warfare through commodity extortion. Commodity extortion occurs when rebel forces use a system that allows them to gain control of primary commodities and valuable natural resources, such as diamonds, timber, cacao, etc. When translating greed theory to human rights violations, it is apparent that groups or governments may resort to violence and human rights abuses as a means to reach self-interest objectives. Therefore, violations of human dignity will occur because the abusers are greedy<sup>96</sup>. By denying others the opportunity to gain political representation or receive economic benefits from natural resources, rebels can maintain all profits to themselves, and in order to maintain this monopoly of resources or gain even more power, rebel forces may commit human rights violations that are progressively more severe.

The greed versus grievance debate on the causes of conflict elucidates that human rights violations can occur for a series of reasons that are dependent on the internal make-up of a society. Despite the understanding of the connection between greed and grievance with human rights violations, there are other theories that attempt to explain occurring breaches of human rights. Some of these theories build upon the frameworks of the previously mentioned explanations, and thus, have similarities to the greed or grievance theory models. Valentino examines and explains several of these theories in order to investigate and analyze the influencing factors behind mass killings<sup>97</sup>. In understanding that Valentino's analysis of mass killings fits into a category of human rights violations, these theories can be adapted to help explain why human rights violations occur.

The first theoretical approach addressed by Valentino is the plural society theory, which defines the role of social cleavages in inciting violence. In this theory, similar to the grievance model, the precondition for violations is the establishment of deep divisions amongst several groups within a society. The social cleavages typically consist of intense ethnic, religious, cultural or class divisions between members of society. The divisions are accompanied by observable, committed discrimination, and political or economic exclusion, which causes both distrust and hatred to form amongst groups, as one is often more privileged than the other(s)<sup>98</sup>. An alternate theory emphasizes the importance and role that the dehumanizing of individuals has on groups whose rights have been deprived. The dehumanization process is particularly essential when committing gross atrocities, such as mass murder, genocide,

or torture, because the perpetrator often finds it difficult to violate the rights of another if that person is not seen as inferior<sup>99</sup>. Thus, by classifying another as 'less than human', the process of crossing the moral threshold and engaging in human rights violations is significantly more tolerable than if the recipients are seen as equal in status to oneself. Moreover, dehumanization in combination with social cleavages, likely leads to intergroup violence and the erosion of moral responsibility towards the other<sup>100</sup>. Although these theories specifically regard massacres, it is crucial to acknowledge that before violence erupts, there are typically violations of economic, political and social rights in less extreme forms. It is these violations that make leeway for mass violence. The theory therefore suggests that smaller human rights violations spiral and cause greater violations to occur as a responsive action<sup>101</sup>. The initial violations can be attributed to the greed or grievance models mentioned earlier, in which violations occur either because one group is greedy and refuses to share power and resources, or because one group is feeling that they have been treated unfairly and unjustly, being deprived of various factors they feel entitled to.

The second prominent group of explanations for massacres consist of national crises which are wars, revolutions, severe economic hardship and other national catastrophes<sup>102</sup>. Like before, this approach is used to explain why human rights violations occur rather than mass killings. The theoretical approach postulates that human rights violations arise after a national crisis hits the country, and are caused by either scapegoating or the rise of new political opportunities that have been generated by the crisis. The scapegoat theory combines sociological factors with psychological phenomenon, claiming that when a state experiences a crisis of any form, the causes or consequential suffering is blamed on a powerless majority or a minority group. The blame is placed on a particular group as a coping method that allows the inflicted to deal with the difficult life conditions. It is the result of people's psychological needs to understand why something terrible has happened along with a desire to be assured that the problems were not the result of their own actions, but rather the result of the actions of others<sup>103</sup>. Cleavages within societies enhance scapegoating possibilities due to the fact that cleavages within a nation divide and separate groups by several identities. Hence, in some cases human rights violations occur as a result of a crisis. These are cases in which people abuse those that they have already determined as being the other due to the societal cleavages, and consequently see them as being responsible for the grim time period<sup>104</sup>. On the other hand, the political opportunity theory asserts that in the face of crisis, elites take advantage of the opportunity to advance their position in society. As such, the political opportunity theory is similar to and builds upon the greed theory model. Events such as wars, revolutions or economic crisis provides the incentive and opportunity for small groups to attempt to take control of the military or government, and they will resort to human rights violations to do so<sup>105</sup>.

The third theoretical approach attributes human rights violations to the form of governance within a society. Rummel established 'the power principle', which proclaims that the more powerful a government is, the more it will act upon the wishes and desires of the elite, and the less it will hesitate to abuse the rights of individuals domestically or abroad through warfare<sup>106</sup>. Democracies are regarded the most peaceful and respectful of their own civilians' human rights, because individuals are directly elected and represent the people. However, it is crucial to note that democracies are less respectful of the wellbeing of foreign civilians when engaging in warfare abroad, a process which was seen during the colonial times<sup>107</sup>. Moreover, human rights violations often occur by authoritarian or autocratic regimes that limit the fundamental freedoms of their population, and they often invoke violence to maintain power and control.

In sum, there is a wide range of theories that explain why human rights violations in the contemporary age are perpetrated. Although most of the approaches create theories to examine and understand the causes of genocide, civil war, or massacres, they also, as demonstrated, elucidate why violations in general occur. In most cases of gross atrocities, less severe human rights violations, such as nonlethal discriminations and unequal opportunities or representation, occur, and then in turn, set the path for violence. Thus, the successful implementation of human rights are jeopardized by greed or grievance in the population, the societal makeup of a country, the existence of deep cleavages, dehumanization, national crises that provoke scapegoating or create opportunities for political elites to gain power, and the type of governmental system in place. Consequently, understanding human rights violations is essential for increasing the effectiveness of protecting the welfare of civilians worldwide in the future. The following papers will address human rights violations as they pertain to a range of topics. These topics will include economics, religion, asylum policies, and education. ♦

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<sup>1</sup> OHCHR 1996-2015, *What are human rights?*

<sup>2</sup> Pravin 2010, *Human Rights Year Book 2010*: 35.

<sup>3</sup> Gies 2014, *Mediating Human Rights: Media, Culture and the Human Rights Act*: 39.

<sup>4</sup> Human Rights Web 1997, *A Short History of the Human Rights Movement*.

<sup>5</sup> Gross 1948, *The Peace of Westphalia, 1648-194*: 21-22.

- <sup>6</sup> Beltz 2014, *The idea of Human Rights*: 14.
- <sup>7</sup> Ife 2009, *Human Rights from below: Achieving Rights Through Community Development*: 2.
- <sup>8</sup> *Ibidem*.
- <sup>9</sup> The Stanford Encyclopedia of Philosophy 2014, *The General Idea of Human Rights*.
- <sup>10</sup> Peace Resource Center, *Introduction To Human Rights Education*.
- <sup>11</sup> Mark 2011, *Hammurabi*.
- <sup>12</sup> Encyclopedia Judaica <sup>2008</sup>, *Rights, Human*.
- <sup>13</sup> From the Hamurrabi to the to the Patriot Act 2010, *A History of Human Rights*.
- <sup>14</sup> *Ibidem*.
- <sup>15</sup> *Ibidem*.
- <sup>16</sup> Eugen, *Evolution of the Human Rights Concept*.
- <sup>17</sup> Boeree 2009, *The Ancient Greeks: Socrates, Plato and Aristotle*.
- <sup>18</sup> Gallager 2010, *Aristotle's Definition of Eudaimonia*.
- <sup>19</sup> From the Hamurrabi to the to the Patriot Act, op.cit.
- <sup>20</sup> Omoregbe 2007, *A Simplified History of Western Philosophy: Ancient and Medieval Philosophy*: 154.
- <sup>21</sup> Vizard 2000, *Antecedents of the idea of human rights: A survey of perspectives*.
- <sup>22</sup> Locke 1824, *The Works of John Locke in Nine Volumes*.
- <sup>23</sup> Paton 1948, *Kant, I. Groundwork of the Metaphysics of Morals. The Moral Law*.
- <sup>24</sup> De Montesquieu 2005, *De l'esprit de lex*: 20.
- <sup>25</sup> *Ibidem*.
- <sup>26</sup> Cole 1782, Translation of Rousseau, J.J. *The Social Contract*.
- <sup>27</sup> United For Human Rights 2008-2015, *A Brief History of Human Rights*.
- <sup>28</sup> Human Rights Evolution <sup>2009</sup>, *Edicts of Ashoka*.
- <sup>29</sup> The Constitution of Medina 2015, *The Constitution of Medina: The First Written Constitution of Human History*.
- <sup>30</sup> Ishay 2007, *The Human Rights Reader: Major Political Essays, Speeches, and Documents from Ancient Time*: 483.
- <sup>31</sup> Shelton 2009, *An introduction to the history of international Human Rights Law*.
- <sup>32</sup> This recognition represented the essentially 'the right to not being involved in any conflict without the proper procedure.' Brownlie 1998, *Principles of Public International Law*: 568-73.
- <sup>33</sup> Over the obvious link to Kantian Ethic one should not forget the further development in this direction ascribable to Wittgenstein's relation between Ethics and Justice. Penco 2006, *Etica e giustificazione: Wittgenstein e l'influenza di Moore* in Carcaterra 2006, *Le ragioni del conoscere e dell'agire. Scritti in onore di Rosaria Egidì*: 3-5.
- <sup>34</sup> Colletti 2008, *Lezioni Tedesche: Con Kant, Alla Ricerca di Un'etica Laica*.
- <sup>35</sup> The U.S. National Archives & Record Administration 2015, *The Virginia Declaration of Rights*.
- <sup>36</sup> Lillian Goldman Law Library 2008, *The French Declaration of the Rights of Man and Citizen*.
- <sup>37</sup> International Human Rights Protection Council, *Universal Declaration of Human Rights*.
- <sup>38</sup> Gupta 1998, *Dynamics of Human Rights in the US Foreign Policy*: 60.
- <sup>39</sup> Sobel 1994, *The League of Nations Covenant and the United Nations Charter: An Analysis of Two International Constitutions*: 176-78.
- <sup>40</sup> Beltz: 15.
- <sup>41</sup> Burkman 2009, *Japan and the League of Nations. Empire and World Order 1914-1938*: 142-144.
- <sup>42</sup> Burgers 1992, *The Road to San Francisco*: 455.
- <sup>43</sup> *Ibidem*: 450.
- <sup>44</sup> *Ibidem*: 455.
- <sup>45</sup> *Ibidem*: 450-456.
- <sup>46</sup> The Task Force - Celebrating Eleanor Roosevelt 2008, *Eleonore Roosevelt and The International Declaration of Human Rights*.
- <sup>47</sup> Normand and Zaidi 2008, *Human Rights at the UN: The Political History of Universal Justice*: 177-198.
- <sup>48</sup> Fact Sheet No. 2 (Rev. 1) The International Bill of Human Rights 1996, *The Universal Declaration of Human Rights*.
- <sup>49</sup> *Ibidem*.
- <sup>50</sup> Craven 1995, *The International Covenant on Economic, Social and Cultural Rights: A Perspective on its Development*: 8.
- <sup>51</sup> Weselowsky 2001, *USSR Breakup: Historian Explains Phenomenon Of 'Soviet Nostalgia'*.
- <sup>52</sup> The Stanford Encyclopedia of Philosophy 2014, *Human Rights*.
- <sup>53</sup> Arora 2010, *Political Science For Civil Services Main Examination*.
- <sup>54</sup> OHCHR 1996-2015, *United Nations Human Rights*.
- <sup>55</sup> Gomez 2007, *Politics in Malaysia: The Malay Dimension*: 51.
- <sup>56</sup> Rosas and Scheinin 1999, *Categories and beneficiaries of human rights* in Hanski and Suksi 1999, *An Introduction to the International Protection of Human Rights: A Textbook*.
- <sup>57</sup> Lynch 1997, *Human Rights, Environment, and Economic Development: Existing and Emerging Standards in International Law and Global Society*.
- <sup>58</sup> Claude and Weston 2006, *Human Rights in the World Community Issues and Action*: 10-77.
- <sup>59</sup> Hunt 2007, *Inventing Human Rights: A History*: 12.
- <sup>60</sup> The dichotomous codification has become progressively employed in philosophical framing, especially in contemporary intercultural hermeneutics: Yasuaki 1999, *Toward an International Approach To Human Rights* in Bauer and Bell 1999, *The East Asian Challenge for Human Rights*: 119-21.
- <sup>61</sup> Hunt: 13-18; cfr. Kennedy 2010, *Peace & Change* (35) 1: 178.
- <sup>62</sup> Kennedy: 179-183.
- <sup>63</sup> Ashworth 2002, *Did the Realist-Idealist Great Debate Really Happen? A Revisionist History of International Relations*: 33.



<sup>64</sup> Brownlie 1998, *Principles of Public International Law* cfr. Ashworth, *ibidem*: 33-36. The quote is often ascribed to Woodrow Willson, the source seems to be a League of Nation verbal, it is not precisely reported by both the authors.

<sup>65</sup> Burgers: 460.

<sup>66</sup> *Ibidem*.

<sup>67</sup> *Ibidem*: 462.

<sup>68</sup> Carr 1942, *Conditions of Peace*. The whole text should be considered, but especially the pages: I-XIV; 112-131.

<sup>69</sup> Hermon 1991, *The Promotion of Human Rights: René Cassin's Contribution to the Promotion of Peace*: 3-4.

<sup>70</sup> *Ibidem*: 4-9.

<sup>71</sup> Hunt 2007, *Inventing Human Rights: A History*: 18; cfr. Burgers, *ibidem*: 463.

<sup>72</sup> Ashen 1940, *Freedom: Its Meaning* : 638-673; for a deeper analysis about the political thought of the thinker: Maritain 1944, *Principes d'une politique humaniste* and about de Rougemont's Idea of Persona should be considered the whole introduction of *Politique de la Personne* (1934).

<sup>73</sup> Yasuaki, *ibidem*: 122.

<sup>74</sup> Wells 1939, *New York Times 1939 World's Fair Section*.

<sup>75</sup> *Ibidem*.

<sup>76</sup> *Ibidem*.

<sup>77</sup> Among them should be remembered at least Norman Angell (1933 Nobel Peace Prize), Margaret Bondfield (a Labour politician), John Orr (more famous for chairing the FAO after the end of the War) and Viscount Sankey (House of Lord President and well-known legal expert). The last especially have seen attributed the paternity of the bill.

<sup>78</sup> Wells 194, *The Rights of Man or What are We Fighting For?*: 80-83.

<sup>79</sup> *Ibidem*: 2-17. In the Introduction Wells directly affirm Christian influence as central in drafting the bill.

<sup>80</sup> Ife 2009, *op.cit.*: 29.

<sup>81</sup> Eckersley 2004, *The Green State: Rethinking Democracy and Sovereignty*.

<sup>82</sup> Eckersley 1992, *Environmentalism and Political Theory*.

<sup>83</sup> Agbakwa 2005, *Genocidal politics and racialization of intervention: from Rwanda to Darfur and beyond*: 514.

<sup>84</sup> Hoefnagels 1977, *Political Violence and Peace Research*: 31.

<sup>85</sup> Smeulers & Grünfeld 2011, *International Crimes and Other Gross Human Rights Violations*: 31.

<sup>86</sup> Staub 2006, *Reconciliation after genocide, mass killing, or intractable conflict*: 871.

<sup>87</sup> McCormick & Mitchell 1997, *Human rights violations, umbrella concepts, and empirical analysis*: 512.

<sup>88</sup> Smeulers & Grünfeld 2011, *Idem*: 22.

<sup>89</sup> Staub 1999, *The roots of evil*: 181.

<sup>90</sup> Regan & Norton 2005, *Greed, grievance, and mobilization in civil wars*: 322.

<sup>91</sup> *Ibidem*: 321.

<sup>92</sup> Collier, Hoeffler, & Rohner 2009, *Beyond greed and grievance*: 6.

<sup>93</sup> Thoms & Ron 2007, *Do human rights violations cause internal conflict?*: 675.

<sup>94</sup> Collier 2006, *Economic causes of civil conflict and their implications for policy*: 3.

<sup>95</sup> *Ibidem* 16.

<sup>96</sup> Collier, Hoeffler, & Rohner: 11.

<sup>97</sup> Valentino 2000, *Final solutions: the causes of mass killing and genocide*.

<sup>98</sup> *Ibidem*: 8-9.

<sup>99</sup> Bastian & Haslam 2010, *Excluded from humanity*: 107.

<sup>100</sup> Valentino: 9.

<sup>101</sup> Thoms & *Ibidem*.

<sup>102</sup> Valentino: 13-14.

<sup>103</sup> *Ibidem*: 14.

<sup>104</sup> *Ibidem*.

<sup>105</sup> *Ibidem*: 17-18.

<sup>106</sup> Rummel 1997, *Death by government*.

<sup>107</sup> Valentino: 19.

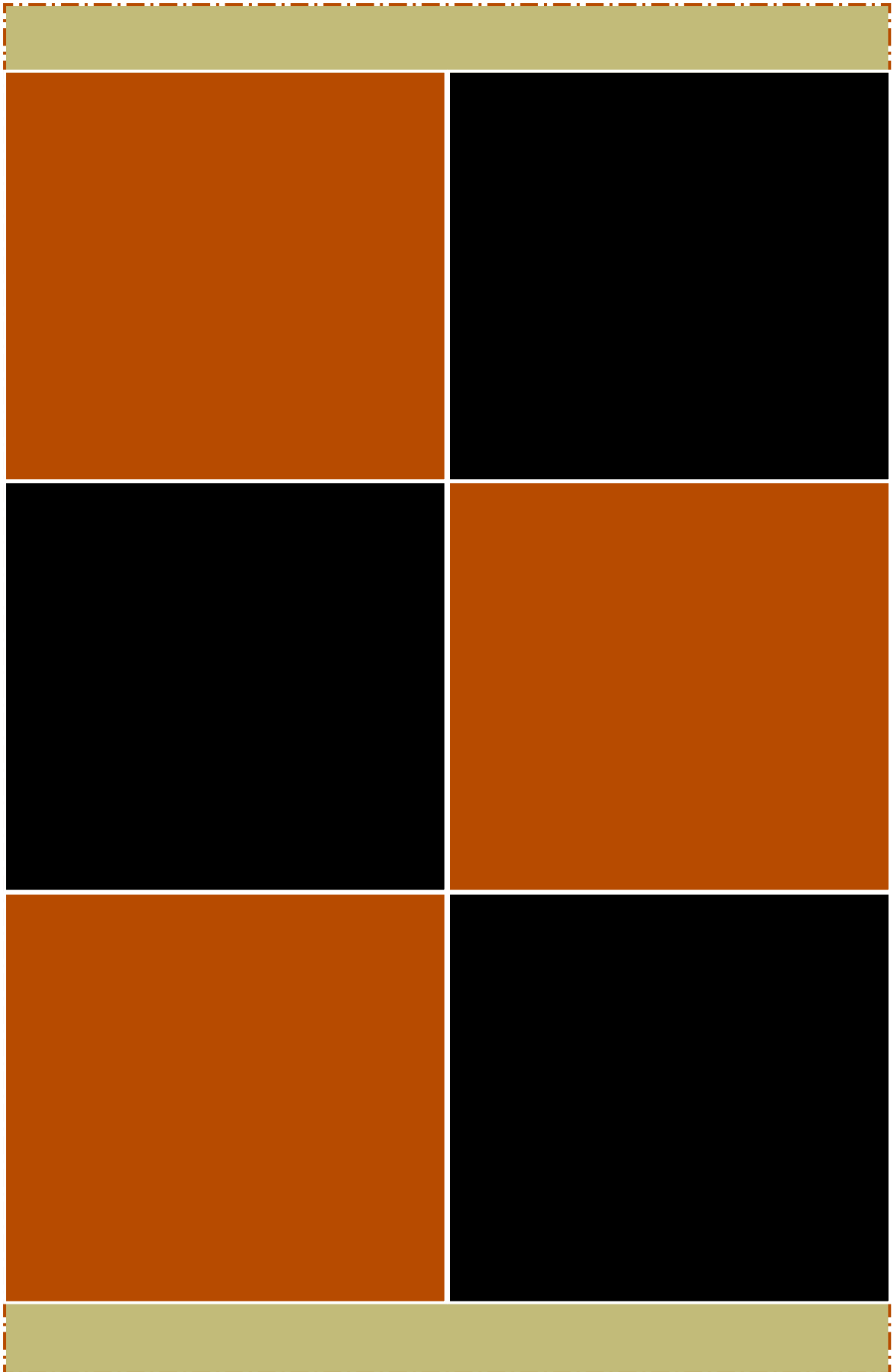
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## EDUCATION AS A UNIVERSAL HUMAN NEED

STEFANIA TORALDO



*As long as you live, keep learning how to live, SENECA.*



AN INDIVIDUAL, A SOCIETY, A NATION AND THE WORLD IN ITS ENTIRETY FLOURISH FROM A SYSTEM OF TEACHING, training and learning. This system leads to an acquisition of knowledge, experience and skills necessary to live in a global, cultural and social environment<sup>1</sup>. Universally embraced under the label of ‘education’, this process is estimated to be a fundamental aspect of mankind. An aspect that favours the physical, aesthetic, intellectual, and ethical integration of the individual into a civilized and valued society<sup>2</sup>.

Properly, the educational process occurs as a tension between two simultaneous and complementary functions. The first function assures continuity through the dissemination of what is already known, and the second, fosters creativity and enthusiasm to explore, search, and make sense of the unknown.

The idea of education can only be considered in relation to the psychological phenomenon of learning, which influences human thinking, feeling, and action. The term itself is derived from the Latin words *educare* (‘to rear’ or ‘to foster’) and *educere* (‘to draw out’ or ‘develop’), concepts that emphasize the process and its impact on the individual<sup>3</sup>.

Traditionally, learning has been associated with two distinctive phases: an initial moment that concerns basic learning needs committed to the transitional time between childhood and adolescence, and a subsequent phase of adulthood, working life, and retirement<sup>4</sup>. The World Education Report 2000<sup>5</sup>, in its perspective involving individual and global training, has proposed the idea of learning as a chance ‘of the whole lifetime’; this means that acquiring knowledge is a continuous lifelong pursuit for the improvement of skills and competences<sup>6</sup>. To ensure a lifelong learning for all, a completely free and compulsory basic education is required. This idea is confirmed in the Muscat Agreement<sup>7</sup>, adopted during the last Global EFA Meeting<sup>8</sup>, stating that universal primary and compulsory quality education remains a prerequisite for the creation of a global educated citizenship of equal opportunity<sup>9</sup>. In a holistic view of education, a lifelong programme not only points to individual development, but rather aims to implement a learning society<sup>10</sup> that experiences formal, non-formal, and informal education. When people usually think of education, they generally visualize it as a classical formal system adopted in schools and universities, structured on rigid and organized curriculum of content and methodology.

However, simply visiting a museum, watching TV programmes, reading journals and magazines, playing didactic games, or attending lectures and conferences are examples of how education can occur outside the traditional formal setting<sup>11</sup>. Now, the advancement and use of Information and Communications Technologies (ITC) to support teaching and learning programmes, is increasingly promoting the development of an informal alternative system modelled on ‘open and distance learning’ (ODL). Open education is defined as a learning experience that confers the learner a high degree of flexibility in the choice of what, when, where, and how to study<sup>12</sup>. Distance education is the employment of specific instructional techniques, resources, and media in order to facilitate learning and teaching at different times and places<sup>13</sup>. Depending on geographical and cultural contexts, non-formal education may cover educational programmes that impart both adult literacy and basic education for out-of-school children; it can also provide general knowledge that allow people to acquire helpful life and work skills.

The right to education, a privilege that each human being is entitled to as defined by the European Court of Human Rights<sup>14</sup>, is in a narrower sense, a formal teaching and instruction comprising of primary, secondary, and higher education within specialized institutions. In a broader sense, education concerns the transmission of cultural, religious, and philosophical values held by different types of society to younger generations. The main international legal instruments that protect the right to education are: the Universal Declaration of Human Rights (Art. 26), the European Convention on Human Rights and Fundamental Freedoms (Art. 2 of the First Protocol), the UNESCO Convention against Discrimination in Education, and the International Covenant on Economic, Social and Cultural Rights (Art.s 13 and 14)<sup>15</sup>. The Universal Declaration of Human Rights, besides affirming the right to education, states that education should be free and compulsory at least in the elementary and fundamental levels<sup>16</sup>. Secondary education, both technical and vocational, should be made available and accessible to all by every appropriate means; while higher education should be equally accessible to all on the basis of merit. The fulfilment of the right to education may be evaluated in the ‘4 As’ framework<sup>17</sup>, developed by Katarina Tomasevski<sup>18</sup> former UN Special Rapporteur on the Right to Education, which asserts that meaningful education should exhibit in all forms and all levels, the interrelated and essential features of availability, accessibility, acceptance, and adaptability<sup>19</sup>.

The right to education ‘epitomizes the indivisibility and interdependence of all human rights’<sup>20</sup>; it helps in identifying a sense of human dignity, self-respect, and social responsibility required to understand, promote, and protect all other human rights in a meaningful and dignified manner. Thus, not only is it a primary means of transmitting values to next generations and, therefore, a precondition for individual development, but is also a welfare necessity<sup>21</sup> demanded to satisfy personal needs in a society as a whole. Moreover, it is *a sine qua non* for the social and political role in the community, and for the fulfilment of public and democratic responsibilities. On this basis, Donnelly and Howard (1988) define the right to education as ‘an empowerment right of enormous liberating potential’<sup>22</sup>.

Traditionally included among the ‘economic, social and cultural’ rights, the right to education requires states to invest financial and technical resources in planning and assuring primary, secondary, and higher education for all<sup>23</sup>. In addition, education is regarded as a ‘liberal’ right in order to safeguard free education against state authority and avoid institutional imposition of intellectual and social conformity. Thus, the right to education embodies both a social and freedom aspect<sup>24</sup>, entailing therefore, positive and negative duties. It places an obligation on a series of ‘duty bearers’, such as government and non-governmental organizations, financial institutions, the private business, and local or religious communities, who bear different forms of responsibilities towards the rights-holders which are first and foremost children, regardless of their nationality, gender, sex, religion, and ethnicity<sup>25</sup>.

Among the duty-bearers are states, parents, and educators; these three are the main agents in advocating the primary obligatory level of education. Families and societies play a leading role in the effective fulfilment of the right of education. Parents may choose from the most adequate schools for their children, and states are asked to promote international co-operation in the field of education. Teachers are expected to understand and address the needs of students using various pedagogical models and strategies. Even though the right to education entails a formal universal validity, it is not universally accepted, nor factually realized by many countries. In many developing countries, the lack of adequate educational infrastructures, the deficiency of trained educational figures, and limited familiar budgets hinder the provision of equal opportunities in education, even at the primary level.

Sub-Saharan Africa, Central and Eastern Asia<sup>26</sup>, as well as Latin America and the Caribbean<sup>27</sup> are areas with millions<sup>28</sup> of uneducated children and illiterate youths and adults. Selowsky (1981) identifies malnutrition, lack of sanitation, low levels of psychological motivation, and other environmental deficits as supplementary obstacles to the achievement of the universal aim for education<sup>29</sup>.

#### EDUCATION IN THE 21 CENTURY

Nowadays, schools and universities across the globe are under pressure to revise their education systems and make their states more competitive. Informal, formal, and non-formal educational activities, including teaching and learning, have been increasingly oriented towards the market-driven practices and approaches of the global society<sup>30</sup>. Strategies along the lines of ‘marketization’, ‘privatization’, and ‘decentralization’ have since long been adopted to redefine the notions of schools, teachers, pedagogy, and student<sup>31</sup>.

Modern schools are experiencing a phase of privatization. In this way, schools become simply another corporate asset in the open market<sup>32</sup>. Students are being educated to become global consumers rather than thoughtful and critical citizens. Under the influence of market-based pedagogies, the purpose of schooling is finalised to train educators and learners to fulfil the need of global human capital<sup>33</sup>. What is lost in the new global approach to schooling is ‘creating creative and independent thought and inquiry, challenging perceived beliefs, exploring new horizons and forgetting external constraints’<sup>34</sup>. Rather than merely providing pedagogy of high-test scores through traditional texts and memorization trainings, new teaching methods should educate students to understand and critically reflect on the emerging social and economic paradigms.

Hence, educators should include in their professional service all contemporary issues such as the conservation of the environment, the outcomes of globalization, the widespread threat of corporate culture on public schools, the main obstacles to the realization of a welfare system, and the sharp disparities between developed and developing countries.

Creating a well informed society, requires the engagement of motivated intellectual practices in educational projects, establishing new forms of collaboration among teachers, artists, writers, journalists, policy makers, the academia, and all other social stakeholders. If new spaces of dialogue and critical exchange are created and new learning tools are used, it is then that education will become a fundamental common good.

#### LEARNING FOR ALL, ANYWHERE, ANYTIME THROUGH ICT TOOLS

Understanding how to learn and how to implement new information is desirable knowledge for both children and adults.

In recent times, the use of technological tools in learning has been widely implemented as a possible solution for the provision of universal and equal access to education. Moving under new global pressures from vendors, parents, businesses, and technology advocates, the idea behind educational technology is to provide every classroom with a wide range of Information and Communication Technologies (ICT s) that will aid in the learning process. ICT is comprised



of innovative e-learning superstructures of various tools, including broadcast media, audio-visual processing, wireless networks, and intelligent building transmission systems<sup>35</sup>. Applied from elementary to higher education<sup>36</sup>, ICT opens a whole world of lifelong upgrading and professional development by providing rapid and highly interactive actions across national and international borders. With the premise that education technology allows learning in a non traditional setting, ICT is an alternative solution to the formal education paradigm where adequate schooling services cannot be provided, or in cases where individuals cannot attend regular courses. It can foster a broader learning process through the interaction, connection, and collaboration of students, schools, and teachers.

However, to globally benefit from educational technology, it is necessary to first spread information on ICT and its potentials, allowing states to develop a holistic approach to education that can take place through asynchronous multimedia distance learning services<sup>37</sup>. States should also provide the needed services, ICT infrastructures, and pupils; teachers and technical school staff should then be trained to powerfully use the technology<sup>38</sup>.

Teacher quality is one of the key factors in determining the participation of children in schooling and in promoting their personal development. If supported and trained to integrate technology into their classroom and curricula, teachers could be significantly empowered with new knowledge and skills<sup>39</sup>. In these terms, distance education and Information and Communication Technologies (ICT) are potential instruments that can constantly improve teacher professionalism and the implementation of quality information teachers convey to their pupils.

Expanding open learning education through the use of ICT also offers adult learners more opportunities to study and implement personal learning themselves. If compared to traditional learners, adults are often limited by several time restrictions because of less flexible working hours or different family responsibilities. The ICT educational format will allow adult learners to voluntarily decide how to manage their free time and choose how to invest it in more suitable moments of learning activities. Since technology has increasingly influenced communication patterns and ways of thinking, contemporary mass media and information devices can also widely inform people of contemporary issues, including globalization outcomes, and environmental challenges. Nevertheless, the effective implementation of ICT depends on how they are introduced in the educational systems, and on how teachers and technical school staff are trained to efficiently use them. Success is also dependent on the quality of communication infrastructure and ICT services provided through government financial support.

Over recent years, there has been a relevant change in the adoption of Internet technologies all over the world. Within the movement towards open education, new paradigms, including Massive Open Online Course (MOOC) and Open Courseware (OCW), are becoming very popular. Introduced in 2008, MOOCs are a relatively recent phenomenon that aim to open up education and provide free access to university level education without demographic, economic, and geographical constraints<sup>40</sup>; the OCW movement began to receive validity only with the launch of MIT Open Courseware at the Massachusetts Institute of Technology (MIT). Altogether, OCW is a free and open digital publication of high quality educational materials, organized with courses that 'enhance human learning worldwide by the availability of a web of knowledge'<sup>41</sup>.

A growing number of institutions have been experimenting with MOOCs to offer online courses on the Internet. Universities and colleges are configuring more flexible and accessible courses to provide new academic delivery models; private investors as well, are investing in the idea to use technological utilities in order to build their brands and compete in the education market. Therefore, MOOCs and OCWs provide great opportunities for both non-traditional forms of private and public teaching approaches, and especially, for its implementation in Higher Education (HE) methodology<sup>42</sup>. The contribution of Open Distance Learning (ODL) in developed countries, if compared with the outcomes registered in the developing ones, is considerably higher.

Due to the costs involved in procuring, adopting, and maintaining ICT infrastructures, the developing countries, differing from their western developed counterparts, have been left behind in the technological advancement process. Many businesses, organisations, and academic infrastructures do not have an established ICT network, and therefore, they are unable to benefit from the competitive and performance advantages offered by ICTs in education<sup>43</sup>. To face the following impediments and to fill the technological gap between developed and developing countries, the adoption of cloud computing innovation is seen as a possible solution. Cloud computing and its flexible operational model has emerged as a new computing paradigm that will revolutionised the way people buy and use computing equipment and services. It can be a real alternative in providing a platform for developing country firms and organisations that will bridge the digital divide, making them competitive in the global arena. The concept of cloud computing can be traced back to 1969 when Leonard Kleinrock<sup>44</sup>, who was the chief scientist of the original Advanced Research Projects Agency Network (ARPANET), stated that as computer networks develop and become more sophisticated, they will probably become computer utilities like other utilities such as gas, water, and electricity.

The National Institute of Standards and Technology (NIST) then offered in 2011, a revised definition of the concept, claiming that cloud computing was a model for enabling ubiquitous, convenient, on-demand network access to a shared pool of configurable computing resources including networks, servers, storage, applications, and services which can be rapidly provisioned and released with minimal management effort or service provider interaction<sup>45</sup>.

Without the initial capital investment required, cloud computing allows businesses, schools and universities around the world to harness the power of high performing ICT systems. Nonetheless, ICTs in developing countries can only be achieved through an integrated approach that requires a broadened awareness of this new paradigm and its adoption. Governments must develop policies to support innovative technologies and communication infrastructures. Also, decision makers within government agencies and private enterprises must provide the required resources and funding in order to ensure the success of such projects.

#### SUSTAINABLE EDUCATION

*Many small people, who do many small things in many small places, can change the face of the world.* Writing on the Berlin Wall. In a world that is rapidly experiencing deep human and environmental imbalances, the broader and driving idea of Education for Sustainable Development (ESD)<sup>46</sup> related to the concept of Sustainable Development has vividly emerged. Several labels have been proposed for the concept of Education in ESD including ‘education for a sustainable future’, ‘sustainability education’, and even ‘education for a sustainable world order’. The prepositional use of ‘for’ advises that education should be in favour of some specific and undisputed issues concerning sustainability. These sustainability issues include: cultural identities, social and environmental harmony, cultural diversity, respect and tensions between intrinsic, and instrumental values<sup>47</sup>. At the international level, the first declaration to promote environmental education in teaching and training was produced by the Intergovernmental Conference on Environmental Education in Tbilisi (1977)<sup>48</sup>. Progressively, the idea of Education for Sustainable Development (ESD) arose out of the Brundtland Report of the World Commission on Environment and Development (1987)<sup>49</sup>, and further, during the 1992 Earth Summit in Rio de Janeiro, while leaders and groups around the world encouraged thought about the bio-diversity of ecosystems, the interactions between people, living species and environments, both at governmental and non-government levels. At the World Summit on Sustainable Development in 2002, governments agreed to ‘integrate sustainable development into education systems at all levels of education in order to promote education as a key agent for change’<sup>50</sup>. Broader than the idea of Environmental Education (EE), which narrowly focuses on environmental protection, natural resource management, and the conservation of nature, ESD calls for the adoption of a holistic, integrated, and interdisciplinary approach<sup>51</sup>. Rather than argue over the best term to adopt, what imperative remains is to provide a common understanding of ESD’s value. As the ecological regime embraces the priority for a sustainable economic growth and the need for a sustainable human development, *in primis*, education needs to be sustainable in itself. Education requires that it build on its inner constituency and converge its own centripetal drives toward the centrifugal sustainable impulses of development.

The United Nations Educational, Scientific, and Cultural Organization (UNESCO, 1995a) confirms that the aim of sustainable development is the ultimate goal of ‘Man’s’ relation with the environment<sup>52</sup>. To fulfil this aim, universities, cultural associations, multinational companies, NGOs and governments should reorient education towards a ‘social learning system’ of global understanding, awareness, and training. It is important not to ‘transmit’ unsustainable practices from one generation to another but to learn from the past through an examination of probable and possible futures<sup>53</sup>. In cultural terms, leaders and professional educators need to develop ESD in a trans-disciplinary manner<sup>54</sup>; this entails restructuring academic curricula, and including basic knowledge of natural sciences, social sciences, and the humanities. As a consequence, modern educators are trying to provide ESD courses of study, especially in primary and secondary level of teaching that focus not only on biology, chemistry, hydrology, geology, but also art, history, and literature; among the environmental disciplines, particular attention should be given to Geography<sup>55</sup>, one of the most important vehicles for transmitting environmental education content (Stimpson, 1992)<sup>56</sup>.

In higher education, teaching Sustainability means an enlightened normative consisting of ethical and spiritual concerns directly related to humankind behaviour and responsibility. As a primary source of knowledge, universities play a decisive role in forming professional leadership within categories of development. Engineers, chemists, geographers, biologists and many other specialized figures are fundamental actors in creating a future green environment. Furthermore, sustainability needs a clear and common reference language to convey environmental issues<sup>57</sup>. Any environment is as much a cultural as a personal product of the mind, ‘it can be natural, constructed or imagined: it can be an artefact, a utopia or a fantasy’<sup>58</sup>. For some people, an ‘environment’ can be exactly what appears to his or her rational eyes, and for others, it is a source for scientific investigation or even an aesthetic invention that stimulates imagination and creativity.

Nobody yet knows how to best sustain the earth’s ecosystems. In fact, it is unlikely that there will be one single right perspective or best holistic approach developed to sustain the planet. However, some attempts to provide a better rendering of the concept of the ‘environment’ are indeed, very helpful. Lucie Sauvé<sup>59</sup> gave a great contribution to the creating of a combination of six complementary types of environments, which actually represent ‘pure’ and natural space, a biophysical environment, a ‘resource’, ‘collective heritage’, and a ‘place to live’ for human, social, cultural, and historical heritages<sup>60</sup>.



Disseminating reliable educational information on environmental issues and providing multidisciplinary *corsus studiorum*, financial and governmental support, along with a shared definition of the concept of environment are prerequisites to implementing an effective ESD. People should extend their boundaries of concern to critically think and reflect on their own values and beliefs, but in order to achieve behaviour change, it is necessary to first start with each individual attitude. Psychological findings bring evidence that habitual behaviours, the nature of intentions, and Self-Regulation (SR) depletion can induce behavioural change (Stern, 2000)<sup>61</sup>. ‘The more personal and specific our intentions are, the more likely they are to influence our behaviour’<sup>62</sup>. In the current social environment, acting in an environmentally-responsible manner is often difficult, both individually and socially.

Considering that intentions have a stronger impact on behaviour, people should start by thinking that even a personal, single effort will make a great difference in their life. Individuals should learn how to change their behaviour, understand how to perceive and control their actions, and plan alternative conducts for depleted times. Given the difficulty of changing our attitudes, ESD programmes can help in developing strategies and personal management plans that potentially support individual change initiatives. To act in a pro-environmental manner, motivation is needed, and to be motivated, real effects should be detected. Knowledge of ecological processes influence hearts and minds, but tangible changes are more efficient than changeable ideas. ♦

<sup>1</sup> The Free Dictionary 2013-2015, *Education*.

<sup>2</sup> Parankimalil 2012, *Meaning, Aims and Nature of Education*.

<sup>3</sup> Parliamentary Commissioner for the Environment (PCE) 2004, *See Change: Learning and education for sustainability*.

<sup>4</sup> Delors 1996, *Learning: The Treasure Within, Report to UNESCO of the International Commission on Education for the Twenty-first Century*: 99100.

<sup>5</sup> The World Education Report 2000, *The Right to Education: Towards education for all throughout life*.

<sup>6</sup> *Ibidem*.

<sup>7</sup> The Muscat Agreement 2014, *Global Education For All Meeting (EFA)*.

<sup>8</sup> UNESCO 2015, *Global EFA Meeting (GEM)*.

<sup>9</sup> Fyfe 2005, *Compulsory Education and Child Labour: Historical Lessons, Contemporary Challenges and Future Directions*.

<sup>10</sup> Watson 2003, *Lifelong Learning in Australia*: 5.

<sup>11</sup> Dib 1987, *Formal, Non-Formal and Informal Education: Concepts/Applicability*.

<sup>12</sup> UNESCO 2015, *Open and Distance Learning*.

<sup>13</sup> *Ibidem*.

<sup>14</sup> Cosans 1982, *United Kingdom, Judgement of 25 February 1982*.

<sup>15</sup> UNESDOC Database 2015.

<sup>16</sup> Beiter 2005, *The Protection of The Right to Education by International Law*: 40.

<sup>17</sup> Right to Education Project 2013, *What are the 4 As ?*

<sup>18</sup> *Ibidem*.

<sup>19</sup> *Ibidem*.

<sup>20</sup> Committee on Economic, Social and Cultural Rights 1999, (General Comment 11) *Plans of action for primary education*.

<sup>21</sup> UNESCO 2000, *Education for All: An Achievable Vision*.

<sup>22</sup> Donnelly and Howard 1988, *Assessing National Human Rights Performance: A Theoretical Framework* : 214-248, in Beiter 2005.

<sup>23</sup> The social aspect of the right to education is contained in art. 26(1) of the Universal Declaration of Human Rights (1948), art. 28 of the Convention on the Rights of the Child (1989) and art. 4 of the Convention against Discrimination in Education (1960). Beiter 2005, op.cit.: 43.

<sup>24</sup> Coomans, *Identifying the Key Elements of the Right to Education: A Focus on Its Core Content*.

<sup>25</sup> Right to Education Project 2013, *What are the 4 As ?*

<sup>26</sup> Humanium 2015, *The Right to Education : Situation of children's right to education worldwide*. 22.1 million children and adolescents in Latin America and the Caribbean are not in school or are at serious risk of dropping out. UNESCO 2015, *Media Services*.

<sup>27</sup> Sub-Saharan Africa is the most affected area with over 32 million children of primary school age remaining uneducated. Central and Eastern Asia, as well as the Pacific, are also severely affected by this problem with more than 27 million uneducated children.

<sup>28</sup> Tarrow 2014, *Human Rights & Education*.

<sup>29</sup> Mok 2006, *Education Reform and Education Policy in East Asia*: 13.

<sup>30</sup> Giroux 2012, *Can Democratic Education Survive in a Neoliberal Society?*

<sup>31</sup> Goldberg 2012, *The Taxing Terms of the GOP Plan Invite Class Carnage*.

<sup>32</sup> Glenn 2010, *Public Higher Education Is Eroding From All Sides*.

<sup>33</sup> Chomsky 2011, *Public Education Under Massive Corporate Assault*.

<sup>34</sup> Haddad and Draxler 2002, *Technologies for education*.

<sup>35</sup> Tongkaw. *Multi perspective integrations Information and Communication Technologies (ICTs) in higher education in developing countries: case study Thailand*: 1467-1472.

<sup>36</sup> Hepp, Hinostroza, Laval and Rehbein 2004, *Technology in Schools: Education, ICT and the Knowledge Society*.

<sup>37</sup> Hammarberg 2006, *Commissioner for Human Rights, Council of Europe, on World Teachers' Day*.

<sup>38</sup> *Ibidem*.

<sup>39</sup> Yuan and Powell 2013, *MOOCs and Open Education: Implications for Higher Education*.

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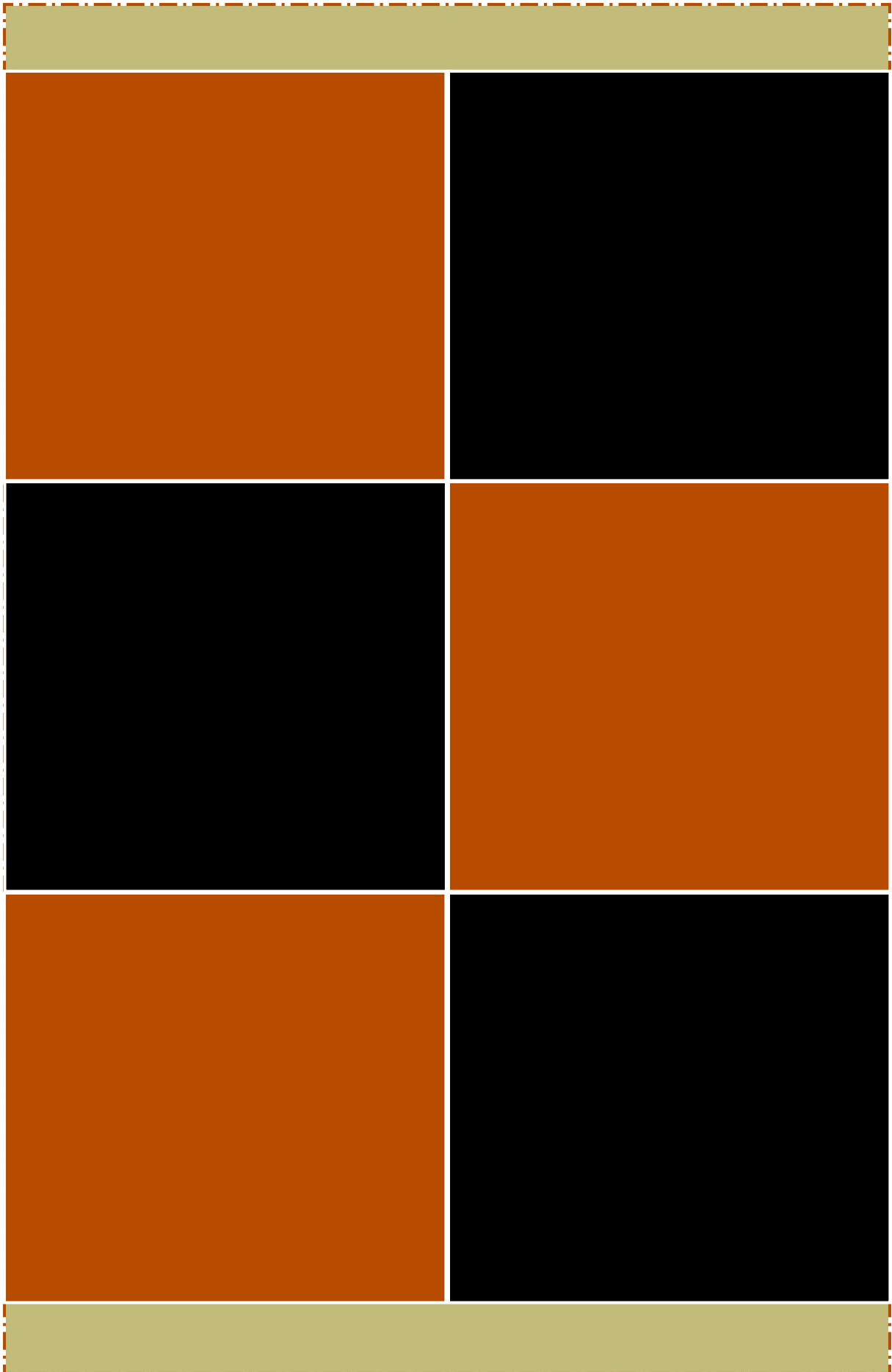
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# NEO-LIBERAL POLICIES AND HUMAN RIGHTS

ARNALDO ANDREA ANGIULLI



## A COMPLICATE RELATION: WHAT HAPPENED BETWEEN NEO-LIBERAL AND HUMAN RIGHTS?

**I**N THE LAST PART OF 2015, THE POLITICAL DISCUSSION HAS BEEN PERVADED BY THE CONCEPTS OF 'REAGANIAN hedonism' and 'Thatcherian Measures'. Particularly in the Anglo-Saxon setting, the post-industrial world is again calling upon their historical leaders who rescued western society from drowning in its last great economic recession. Distinctively, the cry for help proceeds from that segment of the population 'outrageously' defined as bourgeois, and are now referred to as 'the vanishing middle class'. So strong is the global ideological bewilderment that to the small section of the howling mass invoking their leaders, a broader part of an awakening population is respondent, as if, at last, they collectively understand that hedonism consumes & enacts measures of labour exploitation in a practice that was once cheered in the Eighties, and that it means nothing less than their own final destruction. Such *non-ideals* became the cornerstone of the so-called neo-liberal ideology<sup>1</sup>, which, in turn, is considered at the same time a 'positive feature of any democracy'<sup>2</sup> and the 'monster that keeps in hostage the world'<sup>3</sup>.

In the last three decades the global community experienced a series of imaginative political arrangements in order to implement policies broadly related to the neo-liberal paradigm. Their quality, in terms of social mobility, income brackets integration and wealth gap reduction, were unprecedented until the struggling that occurred in the last economic crisis. The ultimate flow of publications by excellent academics<sup>4</sup> point to a systemic social paralysis, while presently, the economic world is signifying that neo-liberalism is 'the hegemonic response to the crisis of the Ford-Keynesian paradigm'<sup>5</sup>. The agenda of countries still suffering from financial difficulties or bogged down in investment uncertainty, validates decisions to keep pursuing the whole range of neo-liberal goals, bluntly unquestioning their consistency with human rights.

From a purely human point of view – in its Gadamerian and neo-Humanistic meaning – there is currently a powerful reflux of elements and ideas pertaining to economic advancement that are considered naïve by the human rights school of the late Seventies. Nowadays, human rights and their institution are less influential compared to their position in the beginning of the Eighties. The world is experiencing an 'economic decadence paired with ethical relativity': an excessive moral flexibility coupled with the most rigid political inter-relativity. It recalls *Homo Sacer* 'striding between [...] "human condition"' – with its inherent state of *homo laborans* – [...] and *sovereignty*<sup>6</sup>, here intended as the capacity to decide on its own *state of exception*. In addition, 'the present time seems to suggest there is *no sovereign* power exercisable by each individual in terms of naked life (*nuda vita*) [...]'<sup>7</sup>, at least not as intended by the Universal Declaration of the Human Rights (UDHR). According to Agamben, *Nuda vita* is the primordial feature that all humanity shares; not only is it an inalienable quality, but rather a bio-political product. Its dual nature is derived from the distinction between *Bios* and *Zoé* – βίος, life as experience; ζωή, life as quality – inaugurated by the Hellenic thinkers such as Plato in the *Philebus* and Aristotle in the *Nicomachean Ethics*<sup>8</sup>, and eventually exploded by Foucault's *bio-politic*. Our current institutions are, as in Classical works *deus ex machina*, never really experiencing life but only participating to *zoé* as 'game-changing entity'. In fact, the main feature 'naked life' brings in, is the need to be cultivated; the philosopher found in this paucity the reason behind the moral drift – on a negative spectre, one could underline that the post-war Heidegger also believed Nazism to be the first political venture to make 'life a *product*, managing it on behalf of the individual'<sup>9</sup>. In these hectic times and on the ambiguous similarity with a too recent past, Spanda bases the centrality of this study.

Moreover, the recent low economic recovery has features still unclear. In terms of prospective, some argue about the consequences of the last oil drop on green technology and the Seventies nostalgic speculation of a new oil shock<sup>10</sup>. Regarding its legitimacy, it should be said that the oil price decrease is arbitrarily decided by a limited group of oligarchs whose regimes have been repeatedly judged for human rights violations<sup>11</sup>. The new acclaimed currencies-oil exchange rate may not result favourably for importing countries as it is designed for the exporting ones, and the trade scales are almost never in pair<sup>12</sup>. Actually, these rates are still bent on the side of low-skilled manufacturer countries, especially when made in the absence of adequate labour regulation<sup>13</sup>. The growth also hid the miscounted data of a new inflating digital bubble blown up by emigrational capital oriented toward booming sectors<sup>14</sup>, a capital drawn by an amorphous, dubious and incongruous pool of investments. A full list of all the weak points of this unsustainable growth would take up too much literary space in this paper. However, unlisted among these weak points is the eradication of poverty as a priority at neither the national nor supranational level.



The International Council on Human Rights Policy (ICHRP) bulletin (2010)<sup>15</sup> correctly indicated the reason behind the 2008-2009 crisis – a traumatizing event for more generations – and attempted to advise the world’s top economic governors on the matter<sup>16</sup>: still one of the most thrilling evidence available. The ICHR considered the economic turbulence caused by excessive liberalization and privatization beside the overall absence of the State in its normative function of the economic dynamics. As a matter of fact, in the last decades, many human rights advocates called for a stronger regulation of the ‘neo-liberal paradigm’ and Universal Declaration of Human Rights.

In the bulletin, the Council of 64 economists officially appointed to the task, co-signed a frontal attack on the neo-liberal per se. It is well known how Krugman Nobel for Economy in 2008, impacted the glass behind neo-liberalism, hiding as a sledgehammer, and crucially worked in its favour. But there is more. Not much in terms of codification or recommendation – the Council’s remarks are watering Krugman’s positions – but definitely in terms of an international human rights institution legitimating, better de-legitimizing the neo-liberal paradigm.

The controversial, as much unfruitful, relationship of neo-liberal theories and human rights stalled the development of the latter<sup>17</sup>. In particular, both the incest between different capitals as well as the bindings of political and high finance as agent or cause – according to the degree of ‘voluntariness’ analysed – against international stability, are objects of deep studies<sup>18</sup>.

#### REAGANISM AND THATCHERISM AND THEIR STAINLESS TROJAN HORSE: FREEDOM

Contemporary EU and US political leaders became so used to the neo-liberal idea of politics that it was almost taken for granted. Here lies the reason and the importance of pointing to the first elements illuminated by two politicians embodying neo-liberalism, Margaret Thatcher and Ronald Reagan. Nowadays, political action in free world countries aspire exclusively to climb on these politicians’ shoulders. However it would be inane to limit only those two characters as the last epochal change, the expedient is indeed instrumental to the speculation. It may be of value to the pertinence of these figures, around whom an iconic temple to the neo-liberal ideology has been built, to single out the relevance of their neo-liberal bearing, than just their personal embodiment.

The neo-liberal conservative triumph is not simply an analysable process. Naomi Klein<sup>19</sup> detonated the naïve conviction that free market triumphed democratically in the global era. Exposing the dynamics, the origin of funding and the puppet strings that backed the world changes and geo-strategic crises of the last decades, she pointed to the ‘story of how America’s ‘free market’ policies came to dominate the world through exploitation of disaster-shocked people and countries.’<sup>20</sup>

The law promulgated at the peak of disorder in the first Iraq conflict that handed to Shell and British Petroleum the country’s vast oil reserve<sup>21</sup>; this was followed by the immediate ‘War on Terror’ that started on September 11, in which the Bush Administration quietly out-sourced military operations to Halliburton and Blackwater – now notorious for infamous consequences and human rights violations<sup>22</sup>; the definitive privatization of school and hospital in New Orleans after Hurricane Katrina<sup>23</sup>; and all alike cases are mere examples of ‘the shock doctrine’: the use of public’s panic following disastrous collective shocks, by the elites to keep control through the imposition of economic shock therapy.

Nevertheless, when the first two shocks did not convince the erasing of resistance, a third more powerful physical shock was used: the electro-shock in the prison cell or the Taser gun on the streets<sup>24</sup>. The dynamics surrounding the disaster of capitalism – a synonym of neo-liberalism intended to rapid-fire corporate reengineering of societies still reeling from shock – did not begin with September 11. Instead, its origin dates back to the University of Chicago lead by Milton Friedman in the Seventies, who educated and was followed by a majority of American political neo-conservatives and neo-liberals. Shocking links are drawn between the economic policy of ‘shock and awe’ warfare and the covered Fifties’ CIA-funded experiments in electroshock and sensory deprivation, referenced in the torture manuals used in Guantanamo, another relevant violation<sup>25</sup>.

Probably, the most astonishing proof provided by Klein – along with a great number of scholars – is ‘the deliberate use of the shock doctrine.’ Following the application of this ‘recurring pattern’ in our contemporary history, analysis shows that if taken with riveting detail, numerous tragic events of the recent past have been triggered, creating platforms for the shock doctrine. Among which include: Pinochet’s coup in Chile (1973); Falklands War (1982); Tiananmen Square Massacre (1989); the collapse of the Soviet Union (1991); and the Asian Financial crisis (1997). In our time, given the concerted way of economic and cultural stretching by the ‘new-right’, it is worth investigating the neo-liberal attitude towards human rights.

In research<sup>26</sup>, if the pillar of neo-liberal economic ideology is ascribed to Milton Friedman and the Chicago Boys, the politically equivalent is Ronald Reagan and his following Administration<sup>27</sup>. Reagan’s European double, Margaret Thatcher, described his success in terms of a conservative revolution: ‘These objectives were the recovery of the American economy through tax cuts, the revival of American power by means of a defence build-up, and the reassertion of American self-confidence. Ronald Reagan succeeded in attaining these objectives because

he not only advocated them, in a sense, but he embodied them. He was a buoyant, self-confident, good-natured American who had raised from poverty to the White House – the American dream in action – and who was not shy about using American power or exercising American leadership in the Atlantic alliance.<sup>28</sup>

Therefore, the first goal ‘to achieve’ for the President-to-be, wrote Thatcher, was a ‘common ground [...] a broad connection with different segments of population’ in the American electorate, and what ‘can value more than chance to do or become what you always intimately desired?’<sup>29</sup> The ‘American dream in Action’ made room in his ideology for a timeless classic in the Anglo-Saxon and European tradition: Freedom.

The principle of ‘freedom’ has been the central discourse in promoting neo-liberalism. Appeals to the UDHR almost became a trend in UK and US politics during the Eighties, in particular after the Soviet invasion of Afghanistan<sup>30</sup>. What was really changing, if compared to the previous administrations, was the approach itself towards human rights and their institution during the very first moments of the so called ‘conservative (counter) revolution’<sup>31</sup>, which, undoubtedly, despite the multitude of actors in the international arena, was ‘in the US where is to search its real locus.’<sup>32</sup>

The quality and quantity of concerns regarding human rights in American foreign policy had been a central topic during the 1980 election campaign. As a candidate, Reagan had already connected himself to Jeane Kirkpatrick, ‘with her widely publicized view that Carter’s moralist human rights policy had been detrimental to American strategic interests,’ and whom he later selected as the US’ permanent representative to the United Nations<sup>33</sup>.

Kirkpatrick became (in)famous through her doctrine, formally introduced by the publication of her essay ‘Dictatorship and double-standards’, and its implicit contention that ‘totalitarian’ Marxist regimes should be treated differently than ‘authoritarian’ dictatorships of the right, which were said to be less repressive, more susceptible to change ‘and better for American interests.’<sup>34</sup> In her writing, she essentially advised, ‘No problem of American foreign policy is more urgent than that of formulating a morally and strategically acceptable, and politically realistic, programme for dealing with non-democratic governments who are threatened by Soviet-sponsored subversion.’<sup>35</sup> In only ten pages she destroyed an almost century-old tradition of US’ universal exaltation of democracy with the legitimacy of ‘any other than communist’ governance.

As a matter of fact, under Carter’s presidency new conditionalities were imposed in order to receive military and economic help; using his human rights policy in an proactive and concerted way, he was able to drive out the regime of Anastasio Somoza in Nicaragua<sup>36</sup>. The following ‘loose’ of the country – or even its ‘give away’ – had a strong impact on the presidential election. Reagan’s promise was incremental reduction of the ‘international mean’ in favour of a ‘national way’<sup>37</sup>. This promise was maintained in 1984 with US withdrawing from UNESCO<sup>38</sup>.

But, while in geo-strategic terms, actions delayed. Reagan’s administration seemed to have been committed to ‘picking up the pieces of a human rights policy [...] [and] tried very hard to dismantle in [its] first days.’<sup>39</sup> One of the President’s earliest moves was to raise Ernest Lefever – who referred to the promotion of human rights abroad as ‘not responsibility of the US’ – to chair as assistant Secretary of state for human rights and humanitarian affairs. The reaction was strenuous. At the inception of its first mandate, political and civil human rights advocates steeled themselves for a fight with the newly elected.

After the first half of the Eighties, neo-liberalism became a political reality around the world. Coups as the Chilean or multiple Argentineans, inaugurated yet a new flow of extreme right dictatorship justified by the theories of ‘double standards’<sup>40</sup>. The political scenarios drastically changed. Human rights matters as deployed by Carter had an appreciable effect on the Administration’s policies toward El Salvador, South Africa, Turkey, South Korea, Poland and the Soviet Union, among others. It looked as in the early eighties, Friedman’s followers ‘were facing the prospect that their revolution, less than a decade old, could not survive a new populist wave.’<sup>41</sup> During the second part of Reagan’s mandate, in February 1986, the Philippine president Ferdinand Marcos and Jean-Claude Duvalier of Haiti, both with horrifying human rights records and close relations with America, were driven out of office with Washington having some involvement. President Reagan, following an official statement to Congress, demanded credit for these events and invoked ‘in the name of human rights’ it is necessary to ‘oppose tyranny in whatever form, whether of the left or the right.’<sup>42</sup>

The public response was mixed. Some critics saw the statement as a cynical attempt to disguise the President’s appeal for support and funding for the Nicaraguan *contras*. Others, including the President’s national security adviser John Poindexter, claimed that the statement contained ‘nothing new.’ A third part saluted it as an inversion of the Reagan Administration’s adherence to the so-called Kirkpatrick doctrine<sup>43</sup>, but data shows something different.

Truthfully, never as Reagan has any US President been so discontinuous in its political attitude toward a topic so relevant. In some countries floating in the Soviet bloc such as Cuba, the Administration smartly promoted the cause of human rights, and denounced openly the occurrence of violations<sup>44</sup>. In other countries more aligned to the US, such as Chile, Argentina, El Salvador and Honduras, the Administration punctually wasted its chances by refusing proofs of violation, and even accused human rights organizations of manipulating real facts<sup>45</sup>. It is fair to say that this commodification of human rights matters is a broader neo-liberal political tendency for any political argument.

In February 1988, Holly Burkhalter openly exposed American policy in a speech before the UN Subcommittee on Human Rights and the International Organizations of the Committee on Foreign Affairs: 'One theme which emerges from the analysis of human rights policies around the world is that the Reagan Administration has a too narrow view of democracy, and has missed opportunities to support and protect the rule of law and those civilian institutions which are required for real democracy to flourish: an independent judiciary, a free press, functioning trade unions, opposition political parties.'

Haiti, if considered in the light of the 1988 statement, provides an exemplary illustration of this approach: after the creation of its office in February 1986, the *Conseil National de Gouvernement* (CNG) which was the interim military junta, became the architect of gross human rights abuses and failed to establish order among police and armed forces. After June of the same year, the junta tried to suppress the civilian-run electoral process – in violation of the constitution as well as the UDHR – and in November, the military 'passively tolerated machine-gun and firebomb attacks on the civilian electoral council.'<sup>46</sup> The Reagan Administration remained committed to siding with the military government, in a naïve conviction that it was preferable to a 'social democratic' Haiti in spite of its repeated criminal actions<sup>47</sup>. The deposition of Duvalier was not symbolic, but definitively not enough. The failure to denounce the fictional elections of January 17th, and the refusal to publicly admonish the following Manigat Government to conduct proper elections in accordance with the Haitian constitution 'have been a great disservice to the future of democracy in that country.'<sup>48</sup> It is historically relevant that this is the first public accuse from a UN high personnel to what has been analysed by Klein as a neo-liberal pattern.

At the same time, China became the 'most favoured nation' by the United States<sup>49</sup>. Here again, the Reagan Administration regrettably failed to denounce attacks on persons or institutions with which it disagreed, or with whom its allies disagreed. As an example, in the first months of 1988 two human rights advocates in Taiwan were sentenced to ten and eleven years imprisonment because the charter of their organization, the Formosan Political Prisoners Association, advocated the independence of Taiwan. The draconian sentences for the peaceful expression of a political view, albeit one with which neither the US nor the government of Taiwan agrees, was 'a tremendous setback for human rights in Taiwan, and deserved to be condemned.'<sup>50</sup>

In Tibet, the executive branch smoothed the harshness of the Popular Republic of China (PRC) in suppressing the dissents in Lhasa, and even backed China's efforts to restore its authority in Tibet. Evidence shows that just a few days after the violent suppression of demonstrations in October 1988<sup>51</sup>, the Administration criticized the US Senate for failing to acknowledge 'significant changes' by China, which had led to an improvement in human rights in Tibet<sup>52</sup>, as the territorial and the political belonging of Tibet justified cultural and physical violence. This, in Burkhalter words 'was an inappropriate signal to send at a tense moment in Tibet.'

Another important characteristic of the Administration, but from the Thatcher cabinet, was the refusal to acknowledge abuses against those in disagreement – as is the case of labour unionists in El Salvador. In her biography, Margaret Thatcher explains how Richard Schifter, Reagan's UN Secretary, justified the 'Administration's failure to take up the Americas Watch petition on worker rights in El Salvador before the US Trade Representative on the grounds that the victims were guerrilla sympathizers.'<sup>53</sup> This controversial stance seemed to invite attacks against activist labour unions and peasant associations, and definitively played a disservice to the cause of human rights<sup>54</sup>.

'The Administration's support for human rights monitors around the world has been similarly distorted by ideology.' With this conclusive statement the commission chaired by Burkhalter hardly exposed the 'protection of human rights monitors – whatever their political views – should be a high priority of governments, and should be the particular cause of the Human Rights Bureau.' Practically, Reagan's Administration had been recognized to quickly denounce certain human rights monitors who condemned abuses by governments allied to the US.

One particularly vivid example of the Administration's selective support of human rights monitors is the case of Ramon Custodio, the president of the Committee for the Defence of Human Rights in Honduras (CODEH). Dr Custodio had responsibly documented abuses by the Honduran armed forces and by the Nicaraguan *contras* against Honduran civilians, at his own great personal risk. The US Ambassador in Tegucigalpa and State Department officials in Washington regularly denounced Custodio as a 'communist' and brushed aside reports of threats against him and other CODEH members. Such an attitude deprived CODEH of the international protection it needed and deserved, and invited attacks upon the group. CODEH's vulnerability can be seen in the assassination of its Vice President, Miguel Pavon, on January 14, 1988. Pavon was a leading witness before the Inter-American Court in a landmark case brought by the Inter-American Commission on Human Rights against the Government of Honduras for gross violations of human rights.

UN Subcommittee on Human Rights and the International Organizations of the Committee on Foreign Affairs may be remembered to have backed a harsh criticism in 1980, precisely in response to the appointment of Lefever. These attacks may be the reason for more cautious behaviour from other openly neo-liberal leaders.

Reagan equivalent in the UK, and more generally in Europe, was Margaret Thatcher. The friendship that bonded the two served 'the iron lady' as a free pass to the Falkland war<sup>55</sup>, originally supported by US on Buenos Aires'



side – especially through the connections with the ruling military junta in Argentina<sup>56</sup>. Recent historical findings cast a shadow on the previous beliefs of the dynamics that brought out the conflict; an increasing number of criticism points to Thatcher's strategy to regain consensus through a 'Falkland shock.'<sup>57</sup> She believed that only total victory would save her reputation – menaced at home and abroad – and no compromise that rewarded aggression could be tolerated<sup>58</sup>. Yet, it was clear to her that she needed to proceed by the book. Being herself a lawyer, she meticulously followed UN procedure, always citing its resolutions in her speeches<sup>59</sup>. When she was told not to shoot down enemy civilian planes on intelligence watch, she did not do so. There were none at the moment of the dodgy dossiers and browbeaten lawyers of Tony Blair's Iraq war. But there are now.

But the Falklands recently returned in media interests, documenting Argentinean reaction to the unveiling of the Thatcher statue<sup>60</sup> on the island, but more centrally focusing on the debate of human rights abuses committed by the British during the conflict. Across the Atlantic, Thatcher was attempted an English version of Friedmanism by championing what has become known as 'the ownership society.' In 1979, she used the slogan 'Labour isn't working,' but by 1982, the number of unemployed doubled under her watch, as had the inflation rate<sup>61</sup>. She tried to take on the coal miners, one of the most powerful unions in the country, and failed. After three years in office, Thatcher saw her personal approval-rating drop to only 25 percent. General approval for her government as a whole sunk to 18 percent<sup>62</sup>. This made her realize – she personally wrote to Hayek, the first theorizer of economic liberalism – 'that the radical and highly profitable policies of the Chicago School couldn't survive in a democratic system [...] seen the mixed composition of representer.'<sup>63</sup>

Then the Falkland broke up. About the relative unimportance of the archipelago, Argentine famous writer Jorge Luis Borges mordaciously described the land dispute as 'a fight between two bald men over a comb.'<sup>64</sup> At the news that Argentina placed its flag on a cue in Falklands, Thatcher recognized a last hope of revolt for her political fortunes and immediately went into battle mode. Until this point, she had manifested only scorn for the financial demand that the Falklands and similar 'ex-colonies' placed on government coffers<sup>65</sup>. She had cut all kinds of grants to the islands and 'announced major cutbacks to the navy, including the armed ships that guarded the Falklands'<sup>66</sup> – moves read by the Argentine generals as clear indications that Britain was ready to cede the territory. One of Thatcher's biographers characterized her Falklands policy as 'practically an invitation to Argentina to invade.'<sup>67</sup>

Thatcher, – with 255 British soldiers against 655 Argentines – fighting for her political future, succeeded spectacularly. Not much later was the Falklands victory, and the prime minister was heralded as a war hero: her mockery.

'Iron Lady' went from being an insult to a high praise<sup>68</sup>. Also her poll numbers similarly transformed. Thatcher's personal approval rating raised from the initial 25 percent to an impressive 59 at the end of the battle<sup>69</sup>, producing a decisive effect on her following re-election.

Again in power, she could invest her consensus to resolve the national quest, or as she claimed: 'We had to fight the enemy without in the Falklands and now we have to fight the enemy within, which is much more difficult but just as dangerous to liberty.'<sup>70</sup> By the 'enemy within', she intended to tackle the labour unions. Trading her enormous consent, she started the very corporatist revolution she had told Hayek was impossible before the war. In less than a month, the provision actuated by Tory's governance, and used more than 3,000 police officers as infiltrators and undercover agitators<sup>71</sup>. Through a series of measures strongly in disagreement with the liberal conception of freedom – as well as intended by British Constitution and by the UDHR – infiltration, phones' bugging, informers and monitoring of attended pub and bars: this also was a victory.

By 1985, hunger-striking workers could not hold out any longer, and as a result, 966 people were fired<sup>72</sup>. This sent a clear message to others through an almost Maoist conception, that '*Punish one, educate one hundred*'. Thatcher went through the wall and broke the coal miners, showing it would be suicidal for less relevant unions producing unnecessary goods and services to take on her new economic order<sup>73</sup>. Likewise, in a few months after his taking office, Ronald Reagan sent his response to a strike conducted by air-traffic controllers. By not showing up to work, they had 'forfeited their jobs and will be terminated,' Reagan said. He then fired 11,400 of the country's most essential workers in a single blow – a shock from which the US labour movement has yet to fully recover<sup>74</sup>. These manoeuvres were as a moon-shot from the Sixties and Seventies for working policies of both countries, especially in the light of their 'signatory' status on Resolution 377 in which working conditions in the home labour market were considered 'augmentative'<sup>75</sup>.

Altogether, Thatcherism will probably pass more silently through the alley of human rights history compared to Reaganism, but not with a minor complicity in the creation of a contemporary degenerated pattern. The Iron Lady primed neo-liberal idea not in economic terms, but in the moral decadency. Conservative by nature, her governance not simply between 1984 and 1988, privatized among others British Telecom, British Airport Authority, British Airways, British Gas, and British Steel (while it sold its shares in British Petroleum), and legitimized with her personal network a series of far right dictatorships in the whole world. On this last point, it must be recognized that Reagan's politics differed slightly from Thatcher's. The shift started with the cited 1986 Reagan statement, and it became particularly evident during the Chilean Plebiscite in 1988 while the US slowly but manifestly sided with Alwyn<sup>76</sup>.

Instead, throughout the Eighties, Thatcher's government backed the Iraq war against Iran, funnelling weapons and equipment to Saddam Hussein in contravention of both international law and British policy, all the way up until Saddam's invasion of Kuwait, while US stopped their support in 1985<sup>77</sup>. Ms Thatcher even sent Christmas cards to both Saddam and the Libyan leader, Muammar Qaddafi in 1981<sup>78</sup>.

During her first trip to Israel in 1965, not more than two decades from the Nakba, and while Palestinians were still under martial law, Thatcher spoke of Israeli agenda and praised 'their sense of purpose and complete dedication, their pioneer spirit, and their realism.' She later advocated that Palestinian self-determination be realized within the context of 'some kind of federation with Jordan,' which she judged 'the best and most acceptable solution.'<sup>79</sup>

In 1986, Thatcher said of Golda Meir, who not only denied the Palestinian right of return but also the existence of Palestinians in general, 'I greatly admired her. I greatly admired her as a war leader. I greatly admired her tremendous courage. I greatly admired her as a pioneer. I greatly admired her as a great human being, warm, thoughtful, kind, for all her fellow citizens and for human kind in the world as a whole.'<sup>80</sup> This is just the tip of the iceberg: Nima Shirazi, editor of *Muftah's* Iran, in occasion of the hardly criticized demonstration for her decease, published a striking article that included Thatcher's record in keeping personal relations with dictators<sup>81</sup>.

Probably, the most patent criminal action committed by Thatcher was her strong support of Augusto Pinochet, continuing even after he was deposed. As mentioned by Burkhalter, Pinochet's crimes were shouted out by American and Chilean human rights watchers; despite that, the Iron Lady never subtracted her support. Her defence of the dictator was constant, even when his unspeakably brutal regime of torture and repression came to light<sup>82</sup>. Lastly, she visited Pinochet in 1999 during his house arrest in England, affirming that her country 'owed' him 'a great debt' for his help during the Falklands War<sup>83</sup>. She concluded addressing to such a slayer, 'I'm also very much aware that it is you who brought democracy to Chile.'<sup>84</sup>

To underline her dubious idea of 'democracy' while never mentioning his appalling human rights record, Thatcher expressed her 'outrage at the callous and unjust treatment' of Pinochet in a speech that October at the Conservative Party Conference. Thatcher defined Pinochet as 'this country's only political prisoner,' and she hailed him as Britain's 'true friend in our time of need' while advocating his merits to be '[he] who stopped the communists taking Chile.'<sup>85</sup> In 2000, upon Pinochet's release and his return to Chile – for which she fought unflinchingly – Thatcher sent him a gift, condemned his detention in England as 'a great injustice' and wished the deposed dictator and his family 'all good wishes for a peaceful and secure future.'<sup>86</sup> When Pinochet died six years later, Thatcher said she was 'deeply saddened' by his passing<sup>87</sup>.

Afterwards, Robin Harris, in his role as former official of Thatcher's administration, wrote that Thatcher 'took a positive view of Pinochet's 17 years in power' and 'would not have spoken up for him if she had believed him a monster. She could not judge the merits of every allegation. But, clearly, the legal case against him was weak and the motivation of those involved suspect.' 'To tell the truth, a great part of the evidences brought against Pinochet were deeply documented, and it was exactly through UK and American support that these documents were ignored<sup>88</sup>. Harris similarly praised Pinochet for '[leaving] behind a stable democracy,' concluding that 'Margaret Thatcher has nothing to be ashamed of in defending Augusto Pinochet, when others refused to do so' and that Pinochet 'was lucky to find such a champion.'<sup>89</sup>

Other similar 'champion[s]' for Thatcher were: General Muhammad Zia-ul-Haq who retained power in Pakistan for a decade<sup>90</sup>; Egyptian dictatorship of Hosni Mubarak<sup>91</sup>; genocidal Indonesian dictator Suharto<sup>92</sup>; her 'business pal' King Fahd of Saudi Arabia, who bought more than GBP 83 billion from the UK Army, signing the greatest of all time Britain export deal<sup>93</sup>; and the Shah of Iran, Mohammad Reza Pahlavi, who she praised as 'one of the world's most far-sighted statesmen, whose experience is unrivalled'<sup>94</sup> while he was already openly accused of being a ferocious human rights abuser and an increasingly well-known popular protest against him was going on precisely during her stay in April 1979<sup>95</sup>.

The Reagan and Thatcher patterns present coherence in describing most of political actions of today. As an example, Barack Obama in the season of 2011-12, bought back consent from Americans by a show of strategic competency – the presumed killing of Osama bin Laden and the semi-retire of troops from Afghanistan<sup>96</sup> – making him a Thatcherist figure with Nixonian rhetoric; an Obama 'by the book', but with a marginal interest in the real geo-strategy of the region. With that, the president actually showed muscle to the US electorate, and also fixed the relation with the international organizations still involved in the area willing to fine his governance through the UN<sup>97</sup>. Just a year later, the first US Afro-American president was unable to replicate the Thatcher manoeuvre, and thus selected a more Reagan approach in response to the 'Occupy Wall Street' movement. The event – with its demonstrated concerted use of violence and improper suppression – was poorly depicted from the inside by mainstream medias as seen in the astonishing work *Suppressing Protest: Human Rights Violations in the U.S. Response to Occupy Wall Street*<sup>98</sup>.

Thatcher's use of human rights remained selective, but more generally free to any reference to the United Nation charter, if not instrumentally for its own national agenda – the Falkland example is enlightening. From

the socio-political point of view, she consolidated through her friendships a series of bloody dictators that meant the configuration of a new econo-centric diplomacy that would be followed by John Major, Tony Blair as well as other contemporary European leaders<sup>99</sup>. Reagan's selective approach is today linkable to a desire to end the longest conflict of the last century, namely the Cold War; thus despite the point made by Kirkpatrick, their action self-figured in the international set with an apparent world governance logic. Even withdrawing any precedent beliefs concerning the two politicians, both leaders failed in a long-term analysis. Their authoritarian styles meant not only the cancellation of socialism – without the erasing of the 'class struggle' recently taking back centrality for the increased income gap<sup>100</sup> – as much as the erasing of social-economic ideas, subtracting thus an important noetic basin on which societies could now make full use.

#### NEO-LIBERAL VS. NEOLIBERAL: HERMENEUTIC PARADOX

A common conception that neo-liberalism aims in five lines of analysis – 'glory, oh glory to the "simplification"'<sup>101</sup> – to explain the dynamics of both continuity and change in the following ideas: the flexibility of neo-liberalism's core principles, the (self-perceived) low gaps between neo-liberal rhetoric and reality, the strength of neo-liberal discourse in debates, the power of interests in the strategic use of ideas, and the force of institutions in the embedding of neo-liberal thought.

In Aihwa Ong's *Neoliberalism as Exception: Mutations in Citizenship and Sovereignty* the author underlines and structures her research corpus into a coherent whole worth to be deepened since the core of the argument opposes her previous view of neoliberalism as an economic doctrine aiming to limit the action of governments; seeking the maximization of the profit for the richest part of society; and, at its worst, forming predatory capitalism with particularly adverse effects on the global South. Ong maintains that neo-liberalism can instead be analysed as an extraordinarily malleable technology of governance – thus 'fitting', a word dear for Neo-Darwinism and 'technical', a term so close to Institutionalism – that is taken up in different ways by different regimes, be they authoritarian, democratic, or communist. This suggests that East and Southeast Asian states are making 'exceptions' to their usual practices of governing in order to position themselves to better engage and compete in the global economy. In non-western contexts, neoliberalism rarely articulates sovereign rule and regimes of citizenship, formulating a constellation of mutually constitutive relationships not reducible to one or the other. Figuring not only as a new mode of *intra*-state political organization – not *inter* – neoliberalism – with a small 'n' and in one word – is architect of a re-qualification of any relationship between 'governing and the governed, power and knowledge, and sovereignty and territoriality.'<sup>102</sup>

The most significant point of Ong's argument is where she explains the new rapport 'between government and knowledge through which governing activities are recast as non-political and non-ideological problems that need technical solutions.'<sup>103</sup> In her vision the greatest production in this couple of knowledge and power, is the mobilization toward 'optimization'. She tries to demonstrate that a variety of neoliberal strategies of governing are sole 're-engineering political spaces and populations,' that can be ultimately summarized in the two neoliberal optimizing technologies: 'technologies of subjectivity,' relying on an array of knowledge and export systems; and technologies of subjection, informing political strategies that differentially regulate populations for optimal productivity, including by means of such regulations as 'fortressization' of urban space, the control of travel and the recruitment of certain kind of actors to growth hubs<sup>104</sup>.

Undoubtedly, it is true that during the neo-liberal age – the socio-economic one, the one in two words – never before the Deleuze *culture migrationelle*, the universal nature of 'Knowledge' embodied in the civil and social activities non ascribable to any limited *ethno-cultural* group was growing; and it is also true that during this era, for the first time in a series of technocrats that they were raised in a specific key role. However, it should not be forgotten that the greatest support of a 'universal' or 'holistic' approach to knowledge came straight out of the Constructivist school – in particular the French one – which was strongly connoted by Marxist inspiration, and that generally, the works of 'experts' that have brought poor outcomes have seen their distance with the masses of reality<sup>105</sup>.

Ong's ideas regarding the 'technology of subjectivity' indicates an elevate of ingenuity. 'If happened that capital acts [...] it should act for [its] own interest' boomed Friedman in 1977. The 'fortressisation', as Ong intends it, is not an outcome of neo-liberal policies, but rather it emerged from the social response that human capital, forced to enter the neo-liberal ranks, and was trying to give at its best a social locus with the instinct of adaptability. The intra-urban aspect of neo-liberalism has been at the centre of the emeritus studies. David Harvey demonstrated that the outcomes of the last three-decades in terms of building, locative and associative criteria were disastrous<sup>106</sup>. To make simple a very articulated and deep study, it is prudent to say that in his view the last phase of Capitalism re-created an economic and cultural segregation inter and within classes, freezing social mobility by controlling physical mobility, and it silenced voices in favour of a given community through an instrumental partitioning remuneration<sup>107</sup>.

Probably one of Ong's most firm points is where she approvingly cites Nikolas Rose's argument on the proliferation of techniques used to rebuild the social space and citizen subjects. In her point she states that since the neoliberal logic requires such subjects to be free, self-managing and self-enterprising individuals in different spheres of everyday life, are granted a better individual involvement in self-improving<sup>108</sup>. Robert Kisala, scholar of the new-religion wave in post-industrial Japan, also underlines this feature of 'self-improvement as key to improve the world'<sup>109</sup>. Ong positively conjugate this neo-liberal idea of investment in techniques for economic globalization with a moral calculus that is more or less worthy subjects, practices, lifestyles and visions of the good. This *ethical* project has been studied by a number of scholars occupied with both the turn to neo-universalisms – like the concerns of human rights – and with the return of the sacred found within modernity – or as argued by Buruma when in defining 'West' as 'against modernity'<sup>110</sup>.

Ong argues that an ethnographic perspective reveals specific alignments of market rationality, sovereignty and citizenship that mutually constitute 'distinctive milieus of labour and life at the edge of emergence.'<sup>111</sup> She quietly accepts the 'emergence' and doesn't seem willing to connect it with its neo-liberal root in its negative terms, such as creation of slums, devastating environmental impact or commuting human capital. Instead, she points to the new literacy record in history, and associates it with the free-movement of capital, and thus knowledge through the example of the relationship between Islamic corporate modernity and women's rights in Malaysia, or as she wrote an 'Islam vision of transnational virtue'<sup>112</sup>. In strict economic terms, Ong gave her plaudit to China's creation of special economic zones (SEZs) within its socialist economy and saw it as 'global neo-liberal success' without considering any pre-existing cultural substrate – a bizarre approach by an anthropologist.

China's example is relativised at the light of the fact that the concept of *laissez-faire* market was considered by all Chinese dynasties, in connection with Tao's *Wu wei*<sup>113</sup>, and even that the 'compass among modern capitalist thinker,' Adam Smith, may have been influenced by such ideas<sup>113</sup>. Moreover, it is generally accepted that the Chinese process is far from being liberal or neo-liberal now in 2015. The state control on all first necessity goods prices renewed in Autumn 2014<sup>114</sup>, and the plan 'Out 2040'<sup>115</sup> is more than illustrative of this understanding. Undoubtedly, a renewed thought should be spent on the action of Nixon's Administration, embodied in Kissinger, in the Ping-Pong diplomatic season, but it should not to be forgotten that a Republican Administration was never as far from Friedman's vision of economy as Nixon's<sup>116</sup>. 'We are all Keynesians now'<sup>117</sup> and 'I am now a Keynesian in economics'<sup>118</sup> the president had famously proclaimed<sup>119</sup>. Friedman would never fully recover from this wound, and he would later describe Nixon as 'the most socialist of the presidents of the United States in the 20th century.'<sup>120</sup>

It is undeniable that there is a deep connection between the contemporary world issues and the political hegemonic ideology (or non-ideology) of the last five decades, as much as important improvements made during this period. In general, Ong's analysis is legitimated by a real on-going development in some of the issues where benefit was made from the erasing of ideological limits among countries – first of all, education and health care. The recent demographic peak and new alphabetization records are connected with the contemporary NGOs work at transnational level. A more critical spirit would suggest that normally, their action settled in extreme poor or war torn scenarios, being activated by 'expansive market rationality'.

Furthermore, Ong's misses the opportunity to frame a much needed full-scale research on the possible incongruous agendas of the 'neo-liberal' – intended as predatory, individualistic and '*market centred*' economic doctrine – and 'neoliberal' as an open minded, communitarian and *market oriented* ideology which codified in a culture the melt down of all barriers. This analysis could have been achieved by a specific approach made up of case studies with the aseptic use of 'world's data'. Historically speaking, as much as Reagan's and Thatcher's policies exemplify the 'pure neo-liberal mind', the fall of the Berlin Wall or Mandela's marches across forbidden neighbourhoods could have been our time of 'pure neoliberal action'. This division between mind and action has never been as desirable as it is today.

## CONCLUSION

This research shows a distrust of the contemporary belief about the applicability and the usability of the main instrument of human rights – the UDHR – and its coherence with the most recent policies, generally neo-liberal. Particularly, as Ong's study showed, there are positive elements to keep in mind taking a stock of the whole social, economic and cultural phenomenon. To day as in the Sixties, human rights advocates are found more frequently among the civic society and less in governors, but this feature is not new. What looks new instead, is their depiction by the mainstream media in a very negative and often subversive way, but this trend is intended to fail. Also, it is true that what happened during the Eighties to the Burkhalter, happens today to great human rights defender such as Ken O'Keefe, whose actions remain isolated, but no longer unheard. It is in this transversal approach – prioritizing the 'human' character over the 'rights' – that humanity finds hopes to escalate its inner spiral path toward *nuda vita* human wholeness. The question that is actually generated in many parts of human universal common thought, to use Krishnamurti's logic, is when will a proper response to contemporary degenerated policies, and



broadly to capitalism, receive the proper space in the international mainstream media. It is clear that already in the Seventies – a time that Agamben considers the real foundation of *homo sacer*<sup>21</sup> – the establishment, aware of its limits, tried to take over human rights advocacy. Reagan and Thatcher – or at least their top brasses – were aware of violations to the sacral dimension of existence through their priestly actions of bio-politic.

The *homo oeconomicus* posits itself in antithesis to the *sacer* enforcing the dichotomies Life and Death, Start and Conclusion. Many cheer ‘neo-liberalism is death’, and as Ong suggests, ‘long life to neoliberalism!’ – provided that it focus on the term *homo*, paying no attention to what word will follow it. ♦

<sup>1</sup> The work is here proposing a separation between ideal and empirical manifestation of the culture generated in the Eighties. Where others (e.g. Radetzki 2008) used to distinguish between Reganian and Thatcherian policies, I will refer to them as neo-liberal without any peculiar difference. The paper will follow the tendency in considering ‘neo-liberal’ as the socio-economic sphere and ‘Neoliberal’ as non-ideological movement appealing to the individual freedom of every being.

<sup>2</sup> Friedman 1951, *Neo-liberism and its prospect*: 91. In effect, Friedman foretold right, by 1983.

<sup>3</sup> Sematinger & Echeverria 2014, “Monsters and a Critique of Everyday Neoliberalism: an interview with David Mc Nally”, *New Politics*, July 4, 2014.

<sup>4</sup> Duménil & Lévy 2011, *Crisis of Neo-liberalism*: 8.

<sup>5</sup> *Ibidem*: 9.

<sup>6</sup> Agamben 1991, *Homo Sacer*: 6-8; 9; 15. In particular the concept of ‘extended sovereignty’ is derived from Carl Schmitt (1924).

<sup>7</sup> *Ibidem*: 3-4; 14. In the first reference, Agamben explains the concept of *Nuda Vita* as the product of the two variants in life: existence and experience; their interrelation will determine the universal value associated to the individual.

<sup>8</sup> *Ibidem*: 5.

<sup>9</sup> *Ibidem*: 169.

<sup>10</sup> Borromeo, ‘Cycling is a green activity but finding sustainable, ethical cycling gear is hard’, *The Guardian*, Wednesday July 23, 2014.

<sup>11</sup> Syrian Network for Human Rights, “The Syrian Regime Has Killed 9427 people between UN Security Council Resolutions 2139 and 2165”, *Syrian Network for Human Rights*, June 16, 2015.

<sup>12</sup> European Central Bank 2015, *Harmonised Competitiveness Indicators*, May 2015.

<sup>13</sup> Boeri, Helpie & Macis 2008, *Labour Regulations in Developing Countries*: 19.

<sup>14</sup> Radetzki explains first in her paper (2006) and then in her manual (2008) how the centrality of the digital mechanism influenced the new era ‘market velocity’. With ‘digital bubble’ as here intended, the goal is to expand this concept to the point that the general idea of ‘safeness’ incorporated in the hi-tech and software engineering market, an idea that is in fact wrong. In the last 18 years information technology has lived the strongest shrink in the history in terms of economic diversity passing from the over twelve thousands enterprises and developing agencies to an impressive two hundred eighty-four, a total decrease of the 17% on the redistributive scale per employee and the strongest financialization never registered.

<sup>15</sup> *Ibidem*: 5.

<sup>16</sup> *Ibidem*.

<sup>17</sup> The Quoted bibliography may furnish a clear example but for further information see: Babb (2013) Radice (2011).

<sup>18</sup> Harvey 2001, *Crisis of Capitalism*: 1-7.

<sup>19</sup> Klein 2007, *The Shock Doctrine*: 12

<sup>20</sup> *New York Times*, Contemporary Dynamics and “Shock Doctrine”.

<sup>21</sup> Saad-Filho 2011, *Crisis in Neoliberalism or Crisis of Neo-Liberalism*: 247.

<sup>22</sup> Glanz & Tavernise, “Security Firm Faces Criminal Charges in Iraq” *The New York Times*, September 23, 2007.

<sup>23</sup> Pelosi, “Katrina Response a Scandal of Incompetence and Cronyism” *California Chronicle*, February 8, 2006.

<sup>24</sup> Klein, *Op. Cit.*: 19.

<sup>25</sup> Kfir, *The impact of New Right on the Reagan Administration: Kirkpatrick & UNESCO as Test Case*: 199.

<sup>26</sup> *Ibidem*: 193.

<sup>27</sup> Staff Writer (2005). “Communist party paper cites Bush ‘negligence’ over Katrina.” *Forbes*. September 8, 2005.

<sup>28</sup> Thatcher 1993. *Downing Street Years*: 330.

<sup>29</sup> *Ibidem*: 28.

<sup>30</sup> Giffard 1989, *UNESCO and the Media*. London: Longman: 1-3.

<sup>31</sup> Undoubtedly other neo-liberal germs were already present before the Reagan era. Thatcher in the UK and especially Chile after 1973 served as guinea-pig for demonstrating elites in the US, in the word of Saad-Filho, ‘how effective neo-liberalism would have been for their revenues’.

<sup>32</sup> Dumenil Levy 2011, *Op. Cit.*: 12.

<sup>33</sup> Jacoby, “The Reagan Turnaround in Human Rights”, *Foreign Affairs*, June 1, 1986.

<sup>34</sup> *Ibidem*.

<sup>35</sup> Jeane Kirkpatrick, “Dictatorship and Double standard”, *Commentary Magazine*, 11/01/79.

<sup>36</sup> Walker 2003, *Nicaragua: Living in the Shadow of the Eagle*: 19-20.

<sup>37</sup> Documentary: *Ronald Reagan, Speeches and Policies, Creation of republican myth*: min 19:21: cfr. Reagan (2011), Ronald Reagan in Quotation (Compiled by David B. Frost): 32.

<sup>38</sup> Kfir 1999: 200.

<sup>39</sup> Jacoby, “Reagan Turnaround in Human Rights”, *Foreign Affairs*, June 1, 1986.

<sup>40</sup> *Ibidem*.

<sup>41</sup> Klein 2007: 136.

- <sup>42</sup> Reagan (2011): 83.
- <sup>43</sup> Jacoby 1986, *Op. Cit.*
- <sup>44</sup> Holly Burkhalter 1988, *Human Rights Watch The Reagan Administration's*, Human Rights Record (1988).
- <sup>45</sup> *Ibidem.*
- <sup>46</sup> *Ibidem.*
- <sup>47</sup> Giffard 1989, *Op. Cit.*: 11.
- <sup>48</sup> *Ibidem.*
- <sup>49</sup> Mazzei & Volpi 2013, *Asia al Centro*: 184.
- <sup>50</sup> Burkhalter 1988, *Op. Cit.*.
- <sup>51</sup> On the setback of Cultural Revolution see: Curt Kraus, Richard. *The Cultural Revolution*
- <sup>52</sup> Giffard 1989, *Op. Cit.*: 13.
- <sup>53</sup> Abrams (Assistant Secretary of State for Human Rights and Humanitarian Affairs Washington), "Us Criticism of Chile on Human Rights", *The New York Times*, Dec. 14, 1984.
- <sup>54</sup> There is an incredible bibliography on the sums of neo-liberal action in Latin America. Roxane Dunbar-Oritz report "Blood on the Border: A Memoir of the Contra War" the full version of Burkhalter speech: 143: 'Moreover, the Administration's refusal to accept the Americas Watch's well-documented labour rights petition on El Salvador is a clear violation of Section so: (b) (c) of the Trade Act. In fact, the Salvadoran government has harshly suppressed labour and peasant organizing activities by pro-government, antigovernment, and nonaligned unions.'
- <sup>55</sup> Margaret Thatcher personally wrote in her biography *Downing Street Years* (1993), about the first encounter with, at that time only Governor, Ronald Reagan: 'I had met Governor Reagan twice before when I was Leader of the Opposition. I had been immediately struck by his warmth, charm and complete lack of affectation – qualities which never altered in the years of leadership that lay ahead. Above all, I knew that I was talking to someone who instinctively felt and thought as I did; not just about policies but about a philosophy of government, a view of human nature, all the high ideals and values which lie – or ought to lie – beneath any politician's ambition to lead his country.'
- <sup>56</sup> Giffard 1989, *Op. cit.*: 20.
- <sup>57</sup> *Ibidem*: 21.
- <sup>58</sup> Kfir 1989, *Op. Cit.*: 19.
- <sup>59</sup> Campbell 2007, *Margaret Thatcher: The Iron Lady*, vol. 2: 128.
- <sup>60</sup> Kfir 1989, *Op. Cit.*: 19.
- <sup>61</sup> Campbell 2007, *Op. Cit.* vol. 1: 17.
- <sup>62</sup> Klein 2007, *Op. Cit.*: 135.
- <sup>63</sup> Benn 1994, *The End of an Era: Diaries 1980-90*: 202.
- <sup>64</sup> Klein 2007, *Op. Cit.*: 136.
- <sup>65</sup> *Ibidem*: 137; cfr. Benn 1994: 206.
- <sup>66</sup> Campbell 2007, vol. 2: 128-129.
- <sup>67</sup> *Ibidem.*
- <sup>68</sup> Deming 1979, "Britain's Iron Lady," *Newsweek*, May 14, 1979 via: Perspective Monde, May 3, 1979; Jefferys 2002, *Finest & Darkest Hours*: 226.
- <sup>69</sup> Thatcher 1993, *Op. Cit.*: 143.
- <sup>70</sup> Deming 1979.
- <sup>71</sup> Milne, "During the miners' strike, Thatcher's secret state was the real enemy within" *The Guardian*, Friday 3, October 2014.
- <sup>72</sup> Milne 2004, *The Enemy Within: Thatcher's Secret War against the Miners*: 41
- <sup>73</sup> Klein: 138.
- <sup>74</sup> Klein: 139; cfr. Warren Brown, "U.S. Rules Out Rehiring Striking Air Controllers," *Washington Post*, August 7, 1981; Steve Twomey, "Reunion Marks 10 Years Outside the Tower," *Washington Post*, August 2, 1991.
- <sup>75</sup> "Uniting for Peace" resolution of November 1950 [resolution 377 (V)] , the Assembly may consider the matter immediately and recommend to its Members collective measures, internal and external, to maintain or restore international peace and security (See "Special sessions and emergency special sessions").
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- <sup>78</sup> The Guardian's Press Association, "Thatcher's 1981 Christmas card list included Gaddafi and Saddam", *The Guardian*, Saturday 17, March 2012.
- <sup>79</sup> Thatcher 1986, "Press Conference ending visit to Israel", *Margaret Thatcher Foundation*, 27 May 1986 (TU).
- <sup>80</sup> Thatcher 1986, "Speech at dinner given by Israeli Prime Minister (Shimon Peres)", *Margaret Thatcher Foundation*, 25, May 1986 (SU).
- <sup>81</sup> Shirazi 2013, "Thatcher and her Dictator Friends," *Muftab* (Iran), 4, November 2013.
- <sup>82</sup> Osborne, "Augusto Pinochet 1915-2006: He took his crimes to the grave" *Independent*, Dec 11, 2006.
- <sup>83</sup> The Pinochet File, "Thatcher stands by Pinochet", *BBC* (UK), March 26, 1999.
- <sup>84</sup> *Ibidem.*
- <sup>85</sup> Thatcher 1999, "Speech on Pinochet at the Conservative Party Conference", *Margaret Thatcher Foundation*, Oct. 6, 1999.
- <sup>86</sup> Margaret Thatcher, Letter to Pinochet (congratulations on release) *Margaret Thatcher Foundation*, March 2, 2000.
- <sup>87</sup> Osborne 2006, *Op. Cit.*
- <sup>88</sup> Roxane Dunbar-Oritz report "Blood on the Border: A Memoir of the Contra War" (the full version of Burkhalter's speech): 129.
- <sup>89</sup> Harris, "Thatcher always honoured Britain's debt to Pinochet", *The Telegraph*, 13, Dec. 2006.
- <sup>90</sup> Wisniewski, "When Margaret Thatcher Invaded Afghanistan," *Radio Free Europe Radio Liberty*, 4, Sept. 2013.
- <sup>91</sup> Gardham, "1981 files: Hosni Mubarak was 'free of corruption' but 'don't mention the Welsh in-laws' memo warned," *The Telegraph*, Dec. 30, 2011.
- <sup>92</sup> Dibley 1998, "Suharto, war criminal", *Inside Indonesia*, 55, Jul-Sep 1998.



- <sup>93</sup> The deal was largely the result of Thatcher's own lobbying initiative on behalf of the British defense industry and weapons manufacturers and, ever since its signing, allegations of corruption, fraud and bribery have abounded. The declassified files may be surprising if considered Thatcher's personal involvement in the selling. The Guardian Digital Archive 2014.
- <sup>94</sup> Thatcher 1978, "Speech to Irano-British Chamber of Commerce", *Margaret Thatcher Foundation*, Apr. 29, 1978.
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- <sup>100</sup> Richards "The west talks about a new cold war. For Russians it has already started", *The Guardian*, Thursday 14, May 2015.
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- <sup>102</sup> Ong 2006, *Neoliberal as exception*: 3
- <sup>103</sup> *Ibidem*: 4.
- <sup>104</sup> *Ibidem*.
- <sup>105</sup> Alan Greenspan was chairing the US Federal Reserve since Reagan's Administration through the whole of Clinton's and end of George W. Bush's; Time Staff Writer 2014, "25 People to Blame for the Financial Crisis", *Time*. Papademos was first Governor Bank of Greece and later Vice-President of European Central Bank, right when Greek economy was kept together by a whisker. Sotiris, "Greece: From Despair to Resistance: Test Site for Neoliberal Social Engineering", *Global Research*, 14, February 2012. Essentially, these examples, conjunct with the point made by Signorelli, and can help denote the neo-liberal proselytes of its 'non-ideological' nature. Signorelli 2015, "Il soggetto dell'economia. Il governo degli uomini nell'epoca del neoliberismo", Public Lecture.
- <sup>106</sup> Harvey 2001, *Spaces of Capital*: 8.
- <sup>107</sup> *Ibidem*: 34-49.
- <sup>108</sup> Ong, *Op. Cit.*: 14
- <sup>109</sup> Kisala 2004, *Prophets of Peace*: 194.
- <sup>110</sup> Buruma 2002, *Orientalism*: 44.
- <sup>111</sup> Ong, *Op. Cit.*: 25
- <sup>112</sup> *Ibidem*: 22
- <sup>113</sup> Mazzei e Volpi, *Asia al Centro*:169.
- <sup>114</sup> China Gov. Ministry of Defence, 2010's Bulletin: 128.
- <sup>115</sup> *Ibidem*: 135
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- <sup>120</sup> Interview with Milton Friedman conducted 1, Oct. 2000, for *Commanding Heights: The Battle for the World Economy*, www.pbs.org.
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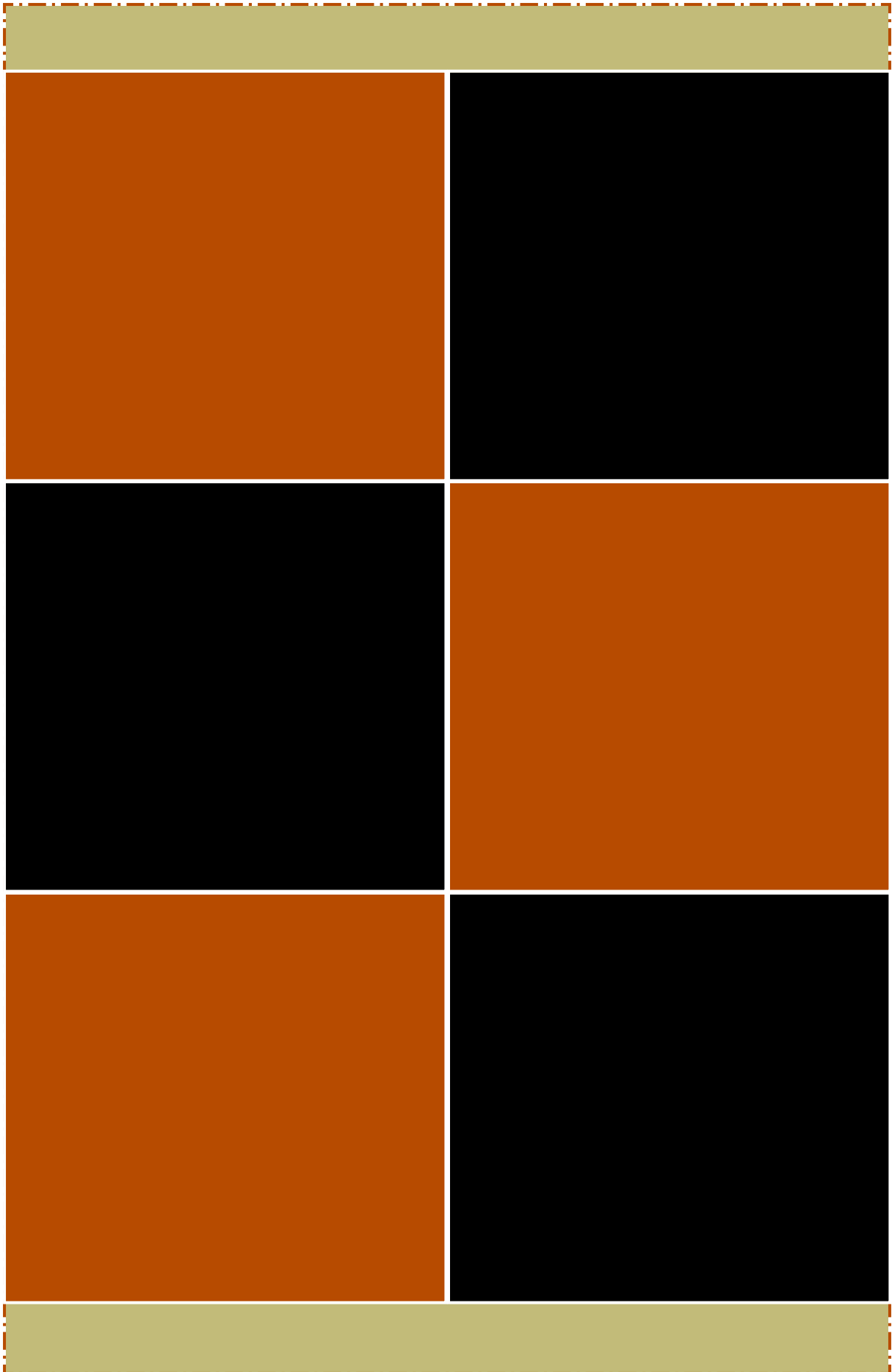
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# BRINGING DOWN THE NATIONAL FORTRESSES: A NEW PARADIGM FOR ASYLUM-SEEKER AND REFUGEE PROTECTION

FABIO DI DONATO



## INTRODUCTION

**P**EOPLE HAVE CONSTANTLY BEEN ON THE MOVE, SPONTANEOUSLY OR FORCIBLY DRIVEN TO LEAVE THEIR countries. AS A consequence, this process has always involved two actors: the migrants and the destination countries, the latter often idealized as safe havens. Although forced migrant protection issues are nowadays placed at the centre of political debates, it is worth remembering that these issues represent highly sensitive topics that emerged from Greek history where people fled the country to avoid political persecution. At that time, a degree of infrastructure already existed for asylum seekers. The infrastructure had the purpose of providing fleeing people with sanctuary and protection. Nonetheless, there was no automatic acceptance of all individuals, some being regularly questioned regarding their reasons for fleeing<sup>1</sup>. Whereas during the Roman times, this sort of protection had just temporary validity for Roman citizens who had broken the laws<sup>2</sup>. Beyond these historical antecedents, one significant step made in this arena was the Peace of Westphalia, which put an end to the Thirty Years War<sup>3</sup>. The treaty concretely recognized the so-called *ius migrandi*, ensuring a safe sanctuary for all individuals fleeing from religious persecution<sup>4</sup>.

Over time, however, the population pressure exercised by individuals looking for safer places to live became more complex and difficult to handle. The first serious challenge the international community faced was the forced migration of Jews, gypsies and political dissidents (mainly from Nazi Germany) during the World War II. Nowadays, due to systemic change originated by globalization and the increase of human rights abuse all over the world, the problems surrounding migration have broadened in complexity. In particular, the social geography of forced immigrants has changed immensely: in the past, most emigrants were from Europe, whereas nowadays, they come from Asia and Africa. After the so-called Arab Spring revolutions, the socio-political situation of some states like Libya and Syria increasingly worsened<sup>5</sup>. With the ensuing collapse of several authoritarian regimes, the situation caused large voids of power that have been exploited by extremist groups who exercise violence against civilians. This activity is apparent in available evidence of systematic abuse of human rights, particularly towards children and women<sup>6</sup>, causality that gives migration from these countries a strong boost.

In a world rapidly experiencing the abolishment of borders from an economic point of view, we are currently assisting an increase in multiplication of policies aimed at limiting the freedom of movement. Physical barriers such as the Israeli-Palestinian, the Mexico-American, the India-Bengalese walls are the most 'concrete' proofs of limiting policies<sup>7</sup>. In present time, though, the creation of 'virtual barriers' has become the praxis, and has increasingly been fed by political, economic and cultural considerations and misconceptions. National interests have become the priority within the paradoxically-interconnected world, where the expectations of the individuals fleeing high threat areas in their home countries are often attended by crude reality. New challenges to face. New barriers to climb.

## ESCAPING GENERALIZATIONS: ECONOMIC MIGRANTS, ASYLUM-SEEKERS, REFUGEES, AND THE INTERNATIONAL PROTECTION REGIME

In order to avoid dangerous generalizations, it is necessary to clarify within the complex universe of migrants the difference between the terms 'economic migrant', 'asylum seeker' and 'refugee', terms that are often used interchangeably.

Economic migrants are, at a basic level, those who voluntarily leave their own countries aspiring better standards of living. In this case, the relationship between the individual and the state, in the so-called social contract postulated by Hobbes, is intact to a certain extent and it has not been severed in an explicit way, such as in the case of persecution. Even though pinning down fixed definitions of such broad concepts is difficult, there have been attempts to define the term 'refugee', such as was carried out by the Convention of Refugees in 1951. Unlike migrants, refugees experience the rupture of the individual/state contract and they cannot imagine going back to their countries of origin because of an inadequacy or the brutality of the state<sup>8</sup>. A refugee is defined as someone 'owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, belonging to a particular social group or political opinion, who is outside of the country of his nationality, and is unable to, or owing to such fear, is unwilling to avail himself of the protection of that country'<sup>9</sup>. In a mere juridical sense, refugees are those who have their application for international protection approved. On the contrary, asylum seekers are those who fled their home country as a result of policies of persecution, and are therefore, applying for international protection<sup>10</sup>. The concept 'asylum-seeker' is



subjugated to debate amongst scholars: some of them consider it a necessary distinction in the already complex umbrella of ‘migrants universe’, others claim that this concept has been exploited, particularly by Western countries, as a legal instrument that attempts to limit forced migrant flow<sup>11</sup>.

Furthermore, the notion of ‘well-founded fear’ is also controversial: on which basis should the well-founded fear be certified? To solve this complex situation, the concept of ‘very well-founded fear’ has been centred on two elements: a subjective and an objective element, translating in the necessity for the ‘state of fear’ to be supported by some provable events. Under these conditions, few individuals actually meet the requirements, or they are considered acceptable in the light of international protection, which makes the situation much more complex. The narrow definition of ‘refugee’ carries the risk of not being granted adequate protection, and can result in unavailability for people who need asylum the most. Moreover, the approach used by the RSD – the process of evaluating the requests of the applicants for international protection (by governments or the UNHCR) – seems to be inefficient. Usually, the well-foundedness of requests is determined after a series of questions asked by the RSD. This adopted approach is mainly positivist, ‘reduc[ing] individuals to figures, while assuming they can and should provide objective, “truthful”, clear accounts of facts which can be evaluated in a scientific manner’<sup>12</sup>.

From a legal point of view, asylum-seeker and refugee protection shows a clear-cut interconnection between international refugee law, international human rights law and international humanitarian law. The first instrument setting forth international principles is the Universal Declaration of Human Rights; article 14(1) grants the right to sanctuary to those fleeing from persecution<sup>13</sup>. Notwithstanding, while the Declaration remains with unquestionable importance, it still maintains the following undeniable shortcoming: above all, the lack of specification about whose duty it is to apply the right of sanctuary<sup>14</sup>. In addition to the UDHR (a non-binding agreement), international protection principles were set up in the Convention relating to the Status of Refugees in 1951 which binded the ratifying countries. This agreement provided a definition for refugee, stressing the importance of the ‘well-founded fear’ of persecution in his/her own homeland, and making it a prerequisite for an asylum-seeker before being recognized as a refugee. Beyond setting out which criteria an individual should meet to be considered as such (excluding, for instance, war criminals), the Convention also set up minimum standards of rights, regarding juridical status, welfare provision, administrative assistance<sup>15</sup>. Having been conceived during the massive migration flows after the World War II, the Convention originally limited in ‘temporal effectiveness’, was only applied to European refugees from before the first of January 1951. During the following decades though, the unexpected increase in refugee flows brought the international community to allege an additional Protocol (in 1967) that removed temporal and geographical restrictions<sup>16</sup>, thus expanding the scope of the legal instrument.

Needless to say, the problem with the Convention lies in the different historical context during which it was drafted and the reality it has to face nowadays, showing undeniable difficulty in adaptation to the changed reality. For instance, there is no reference to the so-called IDPs, who are individuals seeking sanctuary within the borders of their country of origins because they are not able to cross the national borders. Within the current international protection system, the claim to be recognized as a refugee left to those beyond their own national border<sup>17</sup>.

Despite this, it is worth mentioning that where the international refugee protection law is silent, human rights law has proved itself a valid complementary source of protection for forcibly displaced migrants, forcing nation-states to respect and apply policies in accordance with more than a single international regime<sup>18</sup>. The topic cannot be considered apart from the human rights field: forced migrants, routinely facing human rights violations, are entitled to all rights spelled out in the UDHR and in the huge wide corpus of international treaties including, for instance, the basic right to life, the right to nationality, and the right to freedom of movement<sup>19</sup>.

In addition to the two above-mentioned international instruments, asylum-seekers and IDPs – most of which are displaced as an outcome of international or armed conflicts – are also provided with protection under international humanitarian law, as in the case of the Geneva Conventions of 1949 on the Protection of War Victims and the additional Protocol of 1977. The Fourth Geneva Convention includes two provisions that clearly benefit refugees, maintaining that they should not be considered ‘enemy aliens exclusively on the basis of their nationality de jure of an enemy State [...]’ (art. 44) and that they ‘shall not be arrested, prosecuted, convicted or deported from the occupied territory’ (art. 70)<sup>20</sup>.

#### THE SECURITIZATION OF MIGRATION: ‘THE THREAT’ OF FORCED MIGRANTS

The magnitude and the complexity posed by huge flows of asylum-seekers and refugees constitutes a very delicate issue, since it affects not only the ‘forced migrants’ but also the destination countries, demanding prompt responses to a humanitarian crises. These responses have not always been as expected (particularly in the last decade). Instead one has been able to witness an upsurge of political, economic, cultural misconceptions and manipulations that create further obstacles for forced migrants and their acceptance in host countries. The three arguments (political, economic and cultural) together, have been and still are in the hands of politicians in the position of



shaping public opinion, and are capable of feeding fear of the Other while distracting people from domestic issues of pivotal importance, such as housing shortages, increasing crime rates, and unemployment. Consequently, the dangerous mixture of misconstructions, xenophobia, cultural apprehension have been at the very basis of asylum-seekers and refugees human rights violations in the form of unlawful detention, restrictive measures, forcible return to highly-dangerous countries, and racist aggression.

Because of the influx of asylum seekers due to the worsening situation in the Middle East and North Africa, Europe has strengthened its almost impenetrable 'fortress'<sup>21</sup>, in order to keep asylum-seekers (but also economic migrants) out of their borders. A new image of the asylum-seeker has been shaped and exploited for political purposes, and forced migrants are to be portrayed as a threat to national security, a burden on national and local economies, and a risk for mythic cultural homogeneity.

Certainly, the asylum-seeker emergency is not related exclusively to Europe; in fact, it is becoming a more urgent issue than ever before as it increasingly moves towards developing countries. The intensification of human rights violations is correlated with an increased number of individuals seeking international protection in unstable regions, not being able to financially afford long journeys towards the 'welcoming Europe'. The most worrying aspect of these flows lies in the incapability of most of the developing countries to respond efficiently to both their citizens' needs and newcomers' demands, which then can result in an increase of violence and internal clashes. The occurrence of this difficult situation was well grasped in 2010 by the tenth United Nations High Commissioner for Refugees, Guterres, when he underlined the necessity of balancing the so-defined burden of forced migrants that was disproportionately carried by Third World countries<sup>22</sup>. To give a very meaningful example, Pakistan is currently the largest hosting country of refugees, mainly offering international protection to displaced persons from Afghanistan<sup>23</sup>, most of whom are 'falling through the cracks of social services departments'<sup>24</sup> due to the economic difficulties within the host society. Another striking example can be illustrated by South-East Asia which is not immune to the current emergency, as these states receive persecuted Rohingya Muslims from Myanmar. The harsh policies of persecution adopted by the Burmese government towards this minority (forced to flee its country of origin since 1982) represent a crucial issue on the topic, showing that the heavy strain has consequences on the capabilities of neighbouring countries, mainly Bangladesh, in hosting huge flows of asylum-seekers<sup>25</sup>. Furthermore, other regions such as South-America are currently experiencing growing pressure from unstable countries such as Colombia, a war-torn country since the late 1970s, from which the biggest number of asylum-seekers originate. In this case, the high number of refugees force developing countries like Venezuela to face new challenges when already challenged by their own social issues<sup>26</sup>.

Political speculation on the topic represents one of the most common issues within the boundaries of nation-states, in particular in the Western arena. Entire campaigns and speech rhetoric have been at the centre of political debates: above all, the idea of 'the criminalization' of the asylum seeker has been widespread particularly after 9/11 with its association with the so-called securitization of migration<sup>27</sup>. From that moment onwards, the criminalization trend of asylum seekers has increased in an unprecedented manner, and the spectre of terrorism has become more concerning than ever<sup>28</sup>. The so-called 'clash of civilization', postulated by Huntington, has been used as a political tool to justify conservative policies. As a result, a general trend in stricter border control policies has emerged, showing a less common willingness to allow Others to cross national borders and an adoption of detention policies in the case of undocumented individuals. However, strict border control and restrictive immigration practices have not acted as deterrents, limiting immigration flow. On the contrary, they have given a strong boost to smuggling systems that are always actively in search of new routes and ways of entry into destination countries, thus enhancing the risk of humanitarian tragedies. A striking example of the dichotomy 'forced migration/security' is provided by Israel; most Eritrean and Sudanese asylum-seekers converge there because of the geographical proximity. During the last few years, just two applications (out of thousands) were accepted. All other claimants for international protection are currently held in detention camps without having gone through the proper legal process. One of the camps is in the desert of Negev, far away from Israel's main cities<sup>29</sup>. 'This practice is illegal under the conditions of the 1951 Convention Relating to the Status of Refugees, which forbids countries from detaining asylum seekers whose applications for refugee status have not already been reviewed and rejected'<sup>30</sup>. In particular, the 'Prevention of Infiltration Law', which came into force in the 1950s to avoid the return of the refugees after the creation of the State of Israel in 1948, was vigorously re-applied to applicants for asylum protection since 2008<sup>31</sup>. From that moment onwards, the label 'infiltrators' has been strongly used to describe asylum-seekers and refugees, thus shaping public opinion on the matter and creating wider divisions between insiders and outsiders while stressing their potential 'dangerousness' in relation to national security or public peace<sup>32</sup>.

Economic arguments have also played a big role in creating obstacles to accepting migrant newcomers. Following the spiral of the economic crisis, a shift occurred from permissive migration policies to those that are more controlled. Mainly within economies experiencing an economic downturn, national citizens' interests have started to be considered top-priority issues in the internal market. Under these conditions, the forced migrants are perceived as competitors to

local citizens, often basing their socio-economic claims on illegitimate information. One of these claims is as follows: 'Scarcity makes immigrants and asylum-seekers rivals to national citizens in the labour market and competitors in the distribution of social goods<sup>33</sup>. Contemporarily, similar and more worrying concerns have arisen within developing countries. In the economies struggling to ensure the minimum socio-economic standards, the newcomers are perceived as a threat to the economic stability and its survival. A vivid example is represented by Lebanon, which is facing a very critical situation since one third of its entire population is made up of forced migrants. In this context, within a crisis spiral which has costed the Lebanese economy 7.5 billions of dollars<sup>34</sup>, there has been an exacerbation of all societal and inter-communal vulnerabilities that were already present in its territory.

#### HUMAN BEINGS... 'CULTURAL BEINGS'?

##### THE CULTURAL ANXIETY AND THE DIVIDE BETWEEN INSIDERS AND OUTSIDERS

Beyond the form of 'political security' and 'welfare exclusivism', cultural arguments have also played a consistent role in mobilizing security rhetoric related to forced migration. The asylum-seekers are described as strangers, which embody the Otherness and challenge the myth that is cultural homogeneity. According to the recipient people, migrants have started to represent two sides of the coin: on one side, the 'constitutive others', helping to shape national identities, following the idea that identity is defined through differences; on the other side, a threat to 'an entire system of classification'<sup>35</sup>. In this regard, culture appears to be losing its original multi-dimensional and pluralistic nature, and is instead, becoming unidirectional and exclusivist in a way that the Other is stereotyped and considered as not fitting into a specific thread of culture. According to Golubovic, this conception has laid fertile ground for the expression of various fundamentalisms (nationalist fundamentalism and cultural fundamentalism, for instance), 'which is why both individuals and communities are compelled to constitute their identities on the loyalties to one or the other kind of fundamentalist ideologies [...]'<sup>36</sup>.

From a legal point of view, the creation of the label refugee grants international protection to those who meet some necessary requirements; it also shows something different in the anthropological sense: refugees embody people uprooted from their own homelands, deprived of a sense of belonging, showing a sort of rupture with their nation-state. Alongside the concept of the territorialisation of cultures, for instance, the stress of this idea is on the several points of communality within a given territory, and within that territory individual identity is somehow shaped. Asylum-seekers and refugees fall out of this relation<sup>37</sup>.

In an era dominated by increasingly blurred borders, cultural and ethnical issues have become more important than ever. On such delicate and pressing topics, nation-states seem to have regained strength, and from a cultural point of view, a group needs to define itself in contrast to the Other in order to distinguish the similar from the dissimilar.

Along with the increasing categorization of cultures, the idea of the Other has started to be associated with the 'perilous Otherness', and when 'cultural and national identities are conceived in territorialized terms, uprootedness also threatens to denature and spoil these'<sup>38</sup>. In a cultural anxious environment, there is a strong differentiation between the 'cultural similar', characterized by shared values and understandings of the world, and the 'cultural dissimilar', considered to be the one capable of 'corrupting' the linearity and homogeneity of a given culture<sup>39</sup>.

It is possible to affirm then, that after the end of biological racism as a pivotal idea in scientific and political arenas, a new predominant idea of cultural essentialism has arose. By this term, the major focus falls on the relativity of every culture, and the necessity of preserving a certain degree of homogeneity, carrying the idea of a culture as 'an "extended family" representing one language, one culture, one people and one national character, which should at all costs avoid dilution and loss of its internal coherence'<sup>40</sup>. In summary, 'That essentialism underpins systems of categorization in multicultural societies [...] Ethnic, cultural, national, and often religious identities and stereotypes are frequently conflated in the labeling of populations, though in different ways. Whereas in Africa, for example, ethnicity is rarely associated with nationality, it is in Europe, and is frequently the basis for the identification of the Others, including migrant'<sup>41</sup>. Following the analysis of Baumann, who tried to identify the different challenges posed by the slippery concept of multiculturalism and give an overview of the essentialist cultural concept, culture seems to be conceived as a common heritage through which it is possible to discern what is right and what is wrong, between 'Us' and 'Them'<sup>42</sup>.

Another trend, particularly in Europe, defines the concept of culture in fixed features, shifting from the idea of a fluid culture to the one of 'cultural boxes' that are intrinsically different from one another. Under this paradigm, an important alteration of the concept of 'human being' (entailing the idea of equality in itself) has occurred, and is replaced by the concept of 'cultural being' (stressing the differences between all the individuals)<sup>43</sup>.

The restructuring of political debates about migration through the lens of cultural differences has turned out to be very problematic and risky, giving right-wing parties stronger visibility and strength. The fear of losing identity and not having precise standards of culture, has brought individuals to consider every kind of Otherness as perilous and something deviant from the 'normal' course of things. Due to the culture of 'Othering', individuals

who do not belong to the familiar universe can only serve the purpose of exclusion through a process of widening differences and raising mistrust towards the 'unknown'.

This binary opposition (Us-Them) has facilitated the ever-occurring denial of individuals seeking international asylum, access to various countries. Instead, asylum seekers experience their own criminalization and illegitimate detention. In order to reduce the possibility of human rights abuses, 'cultural relativism', usually leading to conflict and to human rights abuses in the light of cultural practices<sup>44</sup>, should be replaced by 'cultural sensitivity', characterized by open-mindedness towards unknown cultures. The introjections of this concept would make the attachment of political manipulations and speculations of people's way of thinking more difficult; this could lead to a rise of sensitivity in all cultures. Therefore, a key-prerequisite to creating a positive environment for the asylum-seekers and refugees requires a major commitment from the media in fostering balanced information and solidarity, boosting a deeper knowledge of the situation that forced migrants flee their countries of origin. As a result, the cultural anxiety would be replaced by cultural integration (and the ensuing socio-economic integration), facilitated through a different sense of belonging. Multicultural spaces would be created, emplacing new cultural bridges. Then, the division between Us and Them would become increasingly thinner and thinner.

#### THE COLLECTIVIZATION OF RESPONSIBILITIES AND THE POSSIBLE STEPS TOWARDS ASYLUM-SEEKERS AND REFUGEES PROTECTION: A SUSTAINABLE WAY

Before any improvement in the forced migration arena is achieved, a serious 'political effort' from governments to make consistent changes is required and of primary importance. A deep governmental commitment is, for instance, provided by Sweden, and it is considered to be among the most welcoming countries of Europe for asylum-seekers (mostly coming from Syria)<sup>45</sup>. In this country the acceptance and ensuing integration of asylum-seekers and refugees has proven to be positive from several points of view, and the approach to the emergency has been strongly constructive. Once the forced migrants manage to reach Swedish borders, they are granted permanent protection and an appointed attorney to legally represent the ones in need<sup>46</sup>. Unique to this case is the provision for permanent residency of asylum-seekers after the request of evaluation for sanctuary has been processed: permanent solutions are preferred over temporary ones, providing forced migrants new perspectives and new visions for their future<sup>47</sup>. On the contrary, temporary solutions give the idea of temporary responses, which results in weak efforts from governments in dealing with asylum-seekers

Undoubtedly, the Swedish model cannot be generalized so that it can be applied to all other states, whether European or not, because each country varies in the amount of asylum-seeker applications, national capabilities, and resources. While it is unrealistic to expect all the countries to contribute to the same extent as each other in implementing efficient policies, a common commitment based on the paradigm of common but differentiated responsibilities<sup>48</sup> is possible. Heavy strains put on a single national reality can cause an increase in human rights violations, and may exacerbate already present internal clashes. Italy and Jordan illustrate two striking examples. The former is facing a very critical and challenging situation in the Mediterranean area because of its proximity to the North African shores and the huge smuggling system originating from the war-torn countries, particularly from Libya. The latter has increasingly restricted the number of asylum-seekers granted refuge as the country lacks the economic capacity to effectively take them in<sup>49</sup>, and because of the recent instability in the region largely caused by the Syrian crisis.

In order to reduce the possibility of clashes between host communities and forced migrants, it is important to acknowledge that forced migration is not a national phenomenon but a global one. Being aware of the differences of each specific state, an important turning point in the protection of the asylum-seekers may be represented by a principle of collectivized responsibility. The coordination of policies involving all the countries might well serve the scope of 'sharing the burden'<sup>50</sup>, potentially implementable when coping with the asylum-seekers and refugees. In this regard, policy coordination could definitely lead to a less-worrisome burden on nation-state capabilities, showing a strong commitment to hold common responsibilities. Before any implementation though, a sustainable policy to the current humanitarian crisis would require a deeper understanding of the forced migrants situation, showing an inclusive approach at all levels: not just economic-, human rights- or ecological-centered. In particular, the burden-sharing should not involve solely financial means, with capital flows from richer countries to poorer ones, because the neo-liberalist approach would again prove itself to be insufficient in overcoming international problems<sup>51</sup>. A mere economic approach would ignore many other fundamental variables, such as 'the fact that where large numbers of refugees are received in areas of acute poverty or escalating civil conflict, the effects can be highly destabilizing'<sup>52</sup>. A broader awareness from the international governmental actors would certainly bring a radical change and would lead to a more constructive and preemptive policy, without constituting a mere response to humanitarian catastrophes<sup>53</sup>. While there seems to be little prospect of fully eradicating the root causes of forced migration in the short and medium term, it has to be acknowledged that a common commitment in enhancing the inter-state cooperation could lead to concrete improvements in responding to the current humanitarian crisis of asylum-seekers.

Indeed, for those who have international protection already granted (refugees), the discourse is slightly different and the implementable strategies differ from those concerning asylum-seekers. Steps towards a sustainable approach in this arena have already been made by the UNHCR, and has tried to create viable and efficient alternatives to refugee camps that are usually considered as exacerbating the division between the host communities and forced migrants. The specific terminology used by the UN Refugees agency is the one of 'durable solutions', linking it to the idea of creating a positive, more inclusive environment, thereby laying the basis for the integration of these individuals within the local contexts<sup>54</sup>.

In the absence of a durable solution, the refugees will keep voicing their great frustration. For a long time the CBA has been considered as an end, rather than a means, as in the Buthanese Refugee Camps in Nepal, considered as one of the most efficient programmes organized by the UNHCR<sup>55</sup>. Adopting a service-delivery culture, with the stress on care and maintenance of refugee camps and not on local economies, usually leads to excessive pressures on single economies, thus raising intra-societal clashes. Therefore, a desirable increase in human rights conditions and economic conditions for the refugees should be accompanied by a development in local infrastructures. If not, the increase in demand of services would strain offer services, causing a frustration of the expectations. As maintained by Samuel Huntington in the 1960s, social mobilization coped with lack of economic development results in social frustration, which turns to request of political participation when combined with lack of mobility opportunities. In the end, if there are no infrastructures that can intake the requests of political participation, there will be a situation of political instability<sup>56</sup>. This kind of situation has been witnessed by Mungha, the individual who studied the situation of the Buthanese refugee camps and underlined that a major access to the education channels, combined with a lack of employment opportunities, was responsible for raising the levels of frustration of refugees which in turn creates a higher possibility of one being involved in Maoist terrorist groups<sup>57</sup>. As underlined by UNHCR, 'restrictions on employment and the right to move beyond the confines of the camps deprive long-staying refugees of the freedom to pursue normal lives and to become productive members of their new societies'<sup>58</sup>, introjecting a past sense of powerlessness due to permanent paternalist approaches.

Moreover, adopting a different and sustainable approach would mean possessing a deeper awareness of the current and specific situation (case-to-case approach), and not a narrow focus on refugee empowerment, ruling out the local markets feature. As pointed out by the International Rescue Committee regarding the South Sudanese refugees, humanitarian agencies should be aware of the host communities, working simultaneously with them and the refugees, thereby establishing a balanced situation in which access to services would be available indiscriminately<sup>59</sup>.

Another possible step towards a sustainable approach may be a policy of refugee camp limitations. Beyond the considerable amount of public expenditure from host governments in maintaining these sites<sup>60</sup>, in certain cases, encampment policies cause the *ghettoization* of these detached realities, usually leading to an increase in the divide between the local and foreign people, representing an obstacle to integration. While it would be impossible to phase out refugee camps due to considerable country differences, an alternative to the camps – when adoptable – may be useful for ushering in a new era in development and community empowerment for refugees. By continuously relying on external sources of financing, the possibilities for forced migrants to have a positive impact on the local community and achieve means for their own self-development are reduced significantly. A good example of a sustainable approach to the question of forced migrants is provided by Uganda, which managed to face the challenges posed by huge flows of South Sudanese individuals, particularly after 2013 (in numbers of 123.000 according to the International Rescue Committee)<sup>61</sup>. According to the Committee 'The approach includes allocating land to refugees for cultivation, providing (limited) opportunities for employment and supporting education and training opportunities'<sup>62</sup>. Most meaningfully, Uganda never adopted an encampment policy, therefore enhancing the possibility of integration for refugees within the host community, similar to the process within the education system. The UNHCR stated in a report that these 'Refugees stay in settlements or move to wherever they wish to settle (although permission of the settlement commander is required)<sup>63</sup>. In this regard, the Ugandan case shows how refugees can generate benefits for their host communities and nations, but their contribution to the host societies can only be fulfilled if their socio-economic rights are ensured.

In order to efficiently bring about meaningful changes to the current crisis, there is a necessity to build new partnerships entailing a high-degree of collaboration and mobilization on international, regional, national, municipal and local levels. Multifaceted emergencies require multifold responses, and necessitate a combination of top-down and bottom-up approaches. Governments cannot expect the humanitarian actors to cope with the huge amount of asylum-seekers and refugees present in different countries; this realization being the reason why a deeper commitment to an integrated approach and not just a fragmented policy is altogether necessary<sup>63</sup>. The discussion of the situation in different *fora* (governmental, humanitarian, and developmental) shows a compartmentalized approach that cannot be considered sufficient for a global-scale crisis. Being sustainable in this sense would mean laying the basis for a positive and important commitment from all three fields. Consequently to this integrated approach, the short-run achievements would result in the stabilization of the current situation and in the



softening of potential destructive consequences that a huge amount of asylum-seekers or the presence of refugees might cause, while the long-term achievement would result in a reduction of migration flows<sup>64</sup>.

From an international point of view, important steps may be taken in order to apply some positive changes to the legal framework for the protection of refugees, acknowledging the shortcomings in the 1951 Convention. In particular, a mechanism conceived in order to reduce the gap between developed and developing countries. Most developing countries lament burden-sharing, claiming that it has primarily rested on their fragile economies and environmental conditions, threatening their already unstable social and political situations, and risking total collapse.

At the regional level, the new European plan proposed by the European Commission seems to be promising. It is meant to counter the dangers migrants face when travelling the Mediterranean in an effort to reach the EU border. The purpose of the plan is to emphasize the importance of collective responsibility, and do so by setting up quota targets on the number of refugees that each EU member state must meet based on its hosting capabilities. Furthermore, a shared responsibility is placed on the member states for funding the necessary coastal services required for effectively implementing the proposal. This example illustrates a communal effort by European countries to challenge the smuggling system that costs thousands of lives<sup>65</sup>.

From the national, municipal and local point of view, Turkey shows a good example of an integrated approach. This country is among the most involved countries in facing the challenges posed by the huge flows of asylum-seekers and numbers of refugees, due to its geographical proximity to war-torn Syria. Joint programmes between World Food Programme and the Turkish Red Crescent have been conceived, as well as communitarian efforts by the Turkish government and local NGO, Danish Refugee, committed to the registration of refugees outside of camps<sup>66</sup>.

#### THE WAY AHEAD? TOWARDS A CONVERGENCE OF INTERPRETATION

A long-term and lasting solution can only happen on a broader scale: hence, a reform of the international system would represent the very first important turning point in this direction. It must be acknowledged, for instance, that while the right to leave the country has been recognized in the international protection regime, the right to enter in any country is not present. Moreover, three types of actors are usually involved in the process of leaving a country: the asylum-seeker (a potential refugee), the country of origin and the country of destination. Within this triangle, the asylum-seekers and the refugees (the right-bearers), find themselves in the weakest position, between two states (in some cases the country of origin corresponds to a failed state) and their access to protection is obstructed 'by the fact that no single international organization has the mandate to intervene on their behalf'<sup>67</sup>.

The acceptance of foreigners on domestic soil remains a national prerogative, still showing a high margin of manoeuvre for nation-states, which hold the option to accept foreigners within national borders or not. It follows that, within the current international regime, one of the biggest obstacles in ushering in a new era has to be found in the wide discretionary power that single states currently retain. Notwithstanding the undeniable validity of the 1951 Convention, it must be underlined that its interpretation varies from state to state, and every state has its own method and criteria to identify vulnerable groups, taking on significant responsibility for identification and protection<sup>68</sup>. Certainly, the new dynamics followed by global markets have resulted in the creation of transnational institutions – as well as the institutionalization of humanitarian supra-state regimes that imposed constraints on other states – but this is overtly not enough, considering that domestic sovereignty still constitutes a priority in the international *fora*.

The individualized consideration and application of international rules is proof of a historical moment in which several states relinquished part of their economic capacities, opening up the market according to neoliberal agenda. Yet, states showed themselves more reluctant to accepting asylum-seekers and refugees, strictly controlling the movement of people across the borders<sup>69</sup>.

Together, with a constructive policy change from the international community, there needs to be a redefinition of the 1951 Convention, increasingly considered as inappropriate in adapting to different historical moments. Such a process would expand the possibility for safeguarding forced migrants in a more concrete way. A valid reform should particularly insist on the duties of nation-states, far from being embodied solely in the *non-refoulement* obligations enlisted in Art. 33 of the Convention, which prohibits expulsion of individuals when there is an actual threat against their lives. Neither the Convention nor the Protocol mention possible duties of nation-states towards refugees beyond the principle of *non-refoulement*. The same discourse applies to regional instruments, particularly the American and African ones, in which every right provision is set up maintaining great respect of state sovereignty<sup>70</sup>: the so-called 'rights versus responsibilities' dilemma<sup>71</sup>. Several provisions are about the potential rights of refugees, but it is not overtly clear what implementation method should be adopted by each ratifying country.

In the current world, the creation of an international court which could bind States to limit their domestic sovereignty is not practical. On the contrary, what may be possible is the creation of a supervisory juridical apparatus – with an ongoing interpretative apparatus capable of adapting to the changing realities consisting of juridical

experts not involved in any political activity – in order to discuss the possibility of making the interpretation of the Convention more consistent. The supervisory role can not be taken upon by the UNHCR, in light of the undeniable financial dependence of the UN Agency on member States. Moreover, if the creation of a juridical body seems to be implementable, the possibility of it delivering binding judgments does not seem forthcoming, due to the above-mentioned centrality of nation-states in the current international system. Nevertheless, the opinions expressed by juridical experts from an efficient and independent body might gradually earn a normative and political influence, thus leading to an acceptable degree in convergence of interpretations. Concrete steps in this direction would certainly provide more of a possibility of implementing a burden-sharing mechanism: until then, interpretation of the Convention will vary so widely among states that the mechanism of collectivized responsibility and burden-sharing would not be able to be efficiently implemented.

In an ideal world, a system based on ‘reasonable social behaviour’, obligations and commitments to other human beings across the borders would be grounded in ‘one’s sense of shared identity of human being’. Although the idea of an international original position – a position where all human beings are entitled to the same rights – approached by Rawls in ‘A Theory of Justice’<sup>72</sup>, embodies a path for a new and deeper awareness of asylum-seekers and refugees and appears morally attractive, it has been shown that the pressure placed on a single state adopting this ideology can create clashes and obstacles to integration. Nevertheless, the only way to exit this global *impasse* lies in a comprehensive approach at all levels, including *realpolitik* considerations, which ensures maximum efficiency and the mitigation of risk factors that further humanitarian tragedies. ♦

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<sup>1</sup> Bow 2014, *The Ancient Origins of Asylum*.

<sup>2</sup> *Ibidem*.

<sup>3</sup> The war which struck Europe from 1618 to 1648, and started as a religious conflict between the Protestant States and the Catholic ones, then evolved into a more widespread conflict between France and Habsburg for European domination.

<sup>4</sup> Kaplan 2010, *Religious Conflict and the Practise of Toleration in Early Modern Europe*: 160.

<sup>5</sup> See, for example, Migration Policy Center, *Migration after the Arab Spring*: 1-22.

<sup>6</sup> Grimes 2014, ‘Asylum-seeking Women and Children are treated like Dangerous Criminals When They Arrive’.

<sup>7</sup> Reece 2012, Why Build a Border Wall?, in *NACLA* Fall 2012.

<sup>8</sup> Oschinsky 2005, *Asylum, Immigration and Statehood: a Philosophical Perspective*: 7

<sup>9</sup> UNHCR, *op.cit.*: art. A.1(2).

<sup>10</sup> Witthaker 2006, *Asylum Seekers and Refugees in the Contemporary World*: 6.

<sup>11</sup> Kushner 2010, *Meaning Nothing but Good: ethics, history and asylum-seeker phobia in Britain*: 265.

<sup>12</sup> Nourpanah 2011, *The Ethics of Refugee Aid, Éthique et économique/Ethics and Economics*.

<sup>13</sup> The art. 14(1) of the UDHR affirms that ‘Everyone has the right to seek and to enjoy in other countries asylum from persecution’.

<sup>14</sup> Boed, 1994, *The State of the Right of Asylum in International Law*: 9.

<sup>15</sup> See UNHCR, *Convention and Protocol Relating to the Status of Refugees*: 20-30.

<sup>16</sup> *Ibidem*.

<sup>17</sup> The numbers of IDPs are constantly increasing, and according to data collected by UNHCR in 2013, they reached the peak of 28 million all over the world. See Jastram & Achiron, *Refugee Protection: A Guide to International Refugee Law*: 26. For data regarding IDPs see UNHCR website at <<http://bit.ly/1JwloUI>>.

<sup>18</sup> Cantor 2015, *Reframing Relationships: Revisiting the Procedural Standards for Refugee Status Determination in Light of Recent Human Rights Treaty Body Jurisprudence*: 80.

<sup>19</sup> For an analysis of the relationship see, for example, Clark & Crépeau 1999, *Mainstreaming Refugee Rights: the 1951 Convention and International Human Rights Law*: 389-410.

<sup>20</sup> For the original text of the Convention (IV) relative to the Protection of Civilian Persons in Time of War (1949), see ICRC, *Treaties and State Parties to Such Treaties*, <http://bit.ly/1Bnnkhk>.

<sup>21</sup> For further information about the ‘fortress of Europe’ see generally Amnesty International 2014, *The Human Cost of Fortress Europe: Human Rights Violations Against Migrants and Refugees at Europe’s Borders*.

<sup>22</sup> Menadue, Keski-Nummi & Gauthier 2011, *A New Approach: Breaking the Stalemate on Refugees and Asylum-Seekers*: 12.

<sup>23</sup> UNHCR 2014, *Global Mid-Year Trends 2014*: 5.

<sup>24</sup> *The Express Tribune* 2013, *Refugee Problem*.

<sup>25</sup> Refugees International, *Bangladesh*.

<sup>26</sup> For an overview of the South American problem see White 2012, *A pillar of protection: solidarity resettlement for refugees in Latin America*.

<sup>27</sup> Huysmans 2000, European Union and the Securitization of Migration: 766.

<sup>28</sup> *Ibidem*.

<sup>29</sup> Livne 2014, *When it comes to asylum-seekers Israel has forgotten its origins*.

<sup>30</sup> Meixler 2012, *Stories from South Tel Aviv: The Plight of African asylum-seekers in Israel*.

<sup>31</sup> African Refugee Development Center (ARDC) 2015, *Refugees in Israel*.

<sup>32</sup> Human Rights Watch 2014, *Make Their Lives Miserable*: 24.



- <sup>33</sup> *Ibidem*.
- <sup>34</sup> Brosnan & Meral, *op. cit.*
- <sup>35</sup> Karner 2007, *Ethnicity and Everyday Life (The New Sociology)*: 152.
- <sup>36</sup> Golubovic 2011, *An Anthropological Conceptualisation of Identity*: 38.
- <sup>37</sup> Malkki 1992, *National Geographic: The Rooting of People and the Territorialization of National Identity among Scholars and Refugees*: 34.
- <sup>38</sup> *Ibidem*. cit.: 34.
- <sup>39</sup> Huysmans 2008, *The Politics of Insecurity: Fear, Migration and Asylum in the EU*: 51.
- <sup>40</sup> Parekh 2000, *Rethinking Multiculturalism: Cultural Diversity and Political Theory*: 71.
- <sup>41</sup> Grillo 2003, *Cultural Essentialism and Cultural Anxiety*: 165.
- <sup>42</sup> Baumann 1999, *The Multicultural Riddle: Rethinking National, Ethnic and Religious Identities*: 25.
- <sup>43</sup> *Ibidem*.
- <sup>44</sup> Runzo & Martin, 2014. *Human Rights and Responsibilities in the World Religions*: 86.
- <sup>45</sup> For a detailed overview see Unhcr 2015, *Unhcr subregional operations profile. Northern, Western, Central and Southern Europe: Sweden*.
- <sup>46</sup> Grant 2014, *How Sweden Treats Refugees*.
- <sup>47</sup> Brenner 2013, *Sweden's refugee policy set high standards*.
- <sup>48</sup> The concept of common but differentiated responsibility has been coined in international environmental law, underlining that, although all states share a common commitment to a healthy environment, they have played different roles in environmental degradation and differ in capacities meant to tackle climate change. See Edith Brown Weiss, *International Environmental Law: Contemporary Issues and the Emergence of a New World Order*, 81 GEO. L.J. 675 (1993).
- <sup>49</sup> UNHCR 2015, *Country Operation File: Jordan*.
- <sup>50</sup> It was in the Preamble of the 1951 Convention that the term 'burden' was introduced: 'considering that the grant of asylum may place unduly heavy burdens on certain countries'. For a historical overview of the concept see generally Boswell 2003, *Burden-sharing in the New Age of Immigration*.
- <sup>51</sup> See p. 31 *et segg.* in this volume.
- <sup>52</sup> *Ibidem*.
- <sup>53</sup> *The Guardian* 2015, *700 Migrants Feared Dead in Mediterranean Shipwreck*. In this specific case, the rise in the budget of the operation Triton, a programme designed to patrol the waters near Europe by the EU (from around 3 to an estimated 9 million euros per month) have been well seen by the international community, which has applauded the apparent deeper commitment of Europe in the face of the current emergency. Nonetheless, looking through less naïve lenses, it is clear that there has been no big change in policies. Since 9 million per month made up the initial budget for Operation Mare Nostrum, the more efficient search-and-rescue operation was only used for a short time before being substituted by the less effective Operation Triton.
- <sup>54</sup> Kreuzer 2010, *Innovation and Sustainable Development in Refugee Camps. Concrete Action: Twin-pit ventilated improved pit-latrines and large ferro-cement water tank*: 88.
- <sup>55</sup> See Muggha 2005, *Distinguishing Means and Ends: The Counterintuitive Effects of UNHCR's Community Development Approach in Nepal*: 151-164.
- <sup>56</sup> Huntington 1968, *Political Order in Changing Societies*: 55.
- <sup>57</sup> Muggha 2005, *Distinguishing Means and Ends: The Counterintuitive Effects of UNHCR's Community Development Approach in Nepal*: 160-161.
- <sup>58</sup> UNHCR (2005), *Protracted Refugee Situations: the Search for Practical Solutions*: 115.
- <sup>59</sup> International Rescue Committee, *Uprooted by the Conflict: South Sudan Displacement Crisis*: 20.
- <sup>60</sup> UNHCR 2014, *Policy on Alternatives to Camps*: 3.
- <sup>61</sup> International Rescue Committee, *op. cit.*
- <sup>62</sup> Brosnan & Meral 2014, *Beyond Refugee Camps: Exploring more Sustainable Alternatives in Uganda and Lebanon*.
- <sup>63</sup> International Rescue Committee, *op.cit.*: 27.
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- <sup>65</sup> *Ibidem*.
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- <sup>68</sup> Feller 2005, *The Responsibility to Protect: Closing the Gaps in the International Protection Regime*: 286.
- <sup>69</sup> Betts 2008, *Towards a 'soft-law' framework for the protection of vulnerable migrants*: 11.
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- <sup>71</sup> Boed 1994, *The State of the Right of Asylum in International Law*: 11-12.
- <sup>72</sup> Feller 2006, *Asylum, Migration and Refugee Protection: Realities, Myths and the Promise of Things to Come*: 525.
- <sup>73</sup> More specifically, the international original position is a pre-societal and ideal condition of 'veiled ignorance' in which all individuals do not know which place they should occupy in the society to be created. See generally Rawls 1971, *A theory of Justice*.

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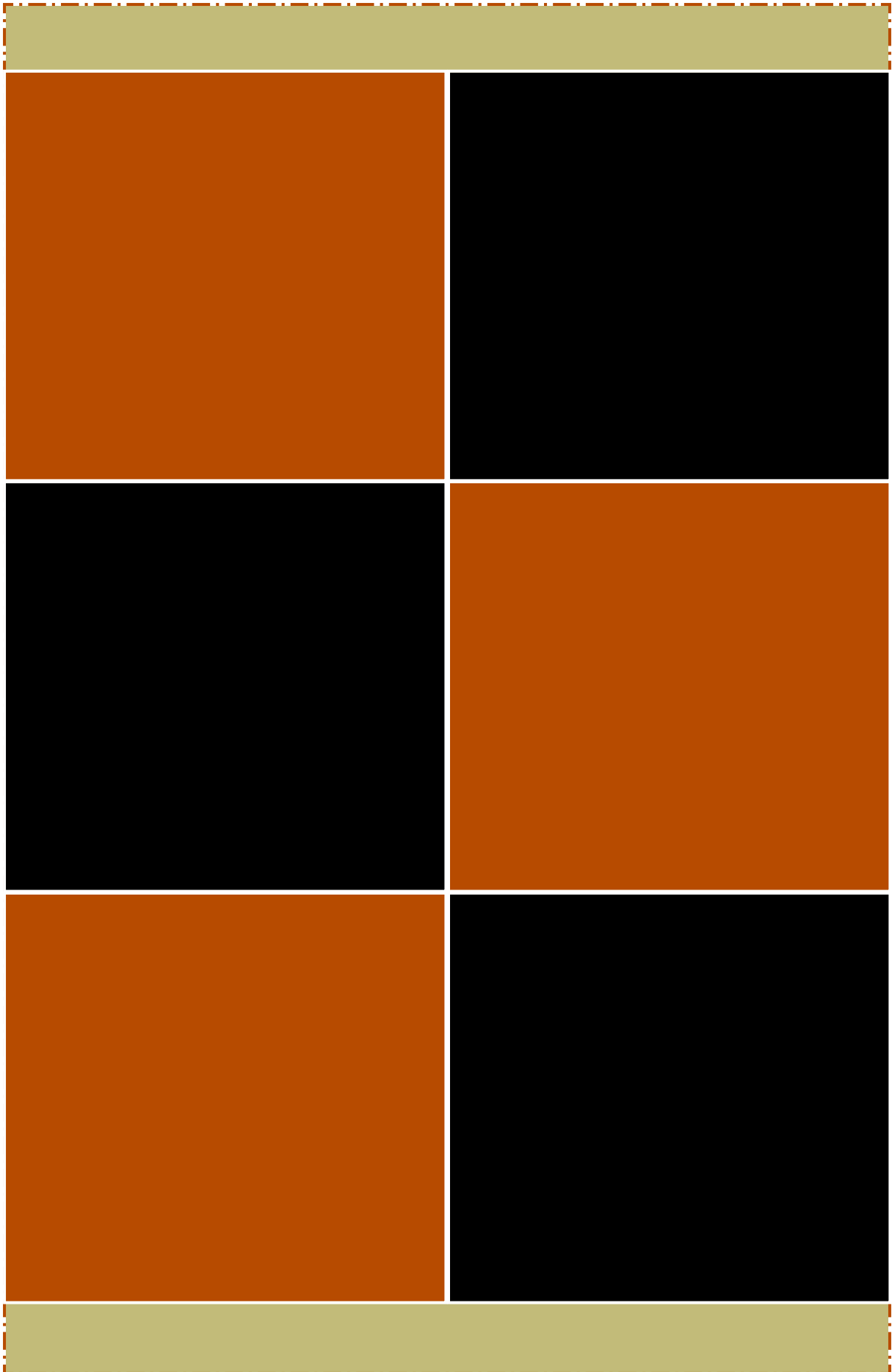
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# INTER-RELATIONAL LOGIC AND ECONOMIC HUMAN RIGHTS THE CULTURAL ISSUE AS ECONOMIC CHALLENGES

ARNALDO ANDREA ANGIULLI



*Quid non mortalia pectora cogis, Auri sacra fames!*

[Accursed thirst for gold, what dost thou not compel mortals to do?], VIRGIL, *Aeneid*, III, 56-57.



FROM ITS FIRST DRAFT THE UNIVERSAL DECLARATION OF HUMAN RIGHTS (UDHR) HAD INCLUDED AN important section dealing essentially with the right to being free from misery, and to dignify the whole of humanity on a principle of existence. This freedom should be achieved consistently through work and self-reliance according to the terms that – despite how romantically considered – are material. The following updates in the Declaration<sup>1</sup> did not alter, but instead, strengthened this essential feature. While in the last three decades human rights watchers registered a relevant development in concerns for Education and Health, Poverty is still the main topic which United Nations' Members seem uninterested, neglecting any direction proposed by the oath of

United Nations (UN)<sup>2</sup>. Despite this fact, 'Sustainable Eradication' is again proposed in the post-2015 Millennium Development Goals<sup>3</sup>.

However, in 2010's bulletin, the International Council on Human Rights Policy (ICHRP) strongly advised reforms to – for the first time since UN foundation – address economic development, but only those policies already recognized as influential<sup>4</sup>. The think-tank correctly located the real epicentre of the 2008-2009 crisis not in the shrinkage of capital, but in its polarization toward higher brackets of income existing in post-industrial economies<sup>5</sup>. In ICHRP's opinion, this was all the outcome of excessive liberalization and privatization, and not the total absence of the state's acting in its normative function within economic dynamics. This diagnosis closely resembles Duménil and Lévy's critic of Neo-liberalism; both studies have been limitedly perceived.

Among the many questions that may arise, one should ask why such a respectable source has not been mentioned in the World Bank's (WB) official reports of 2010 or 2012<sup>6</sup>, and moreover, why still in the later publication, the first of the seven recommendations for the developing market were the liberalization and the privatization of public goods<sup>7</sup>. Criticisms of any kind do not appear even in 2011's reports, but instead, a rather optimistic report notify the 'hope for imminent erasing of poverty [...] since] its incredible reduction'<sup>8</sup>. Ironically, the document never mentioned that the same year coincided with the greatest growth registered in India and China – the two alone lifted more than 20% of the world's poverty<sup>9</sup>. How the Chinese path, or more generally the Exports Oriented economies (EXO)<sup>10</sup>, have been so systematically not considered is at the centre of the most cogent argument of neo-Marxists and left-minded thinkers, and whoever contests the supremacy of 'market rationality'<sup>11</sup>. In particular, it is striking that a study never focuses on the relational rapport existing between economic growth and development of human rights with inherit cultural features.

In the same year that the China Society for Human Rights Studies (CSHRS) addressed ongoing violations – domestic and foreign – the necessity for greater involvement from the so-called BRICs called these states into action<sup>12</sup>. According to Gao's data, the group of countries perceived themselves 'ready to support [...] in a more fruitful engagements concerning United Nations' activities'. These were often due to grassroots movements, becoming a 'real political phenomenon in the whole world.'<sup>13</sup> These movements presented a renewal of civil actions fused with political activism, unmet since the late Sixties<sup>14</sup>. CSHRS's research seemed to suggest that the political involvement of these groups could give important impetus to human rights advocacy. Considering the condition in terms of human rights just a few years before – e.g. Tiananmen protester suppression – this change is astonishing. In spite of this, the ICHR was instantly respondent<sup>15</sup>, UN's headquarter relented to pick up the call of the CSHRS, or at least the sources do not reveal any proof of such attempts.

What emerged evidently, is that the reports from 2001 till 2013 never revealed an analyzing of a relationship between the economic world and civil society – or what today would be defined as grassroots movements; rather, they seem pushed in the same direction of inclusive political mediation<sup>16</sup>. Contrary, it is possible to indicate that since the early 2000s, there was almost an infinite series of references to a 'New Century' of egalitarian over race and culture on the basis of the possession of wealth, but at the same time de-naturalizing the distinctive elements possessed by a culture<sup>17</sup>. The terms suspiciously resound those used by the well-known New American Century (NAC), one of the most promiscuous package of laws billed by Bush's Administration. In the eye of Neo-conservatives and Neo-liberals (Neo-Neo)<sup>18</sup> this meant the re-codification of the American dream and its widening over the 'free world' – a process deeply discussed in post-war European academia<sup>19</sup>.



But dreams easily turn into nightmares. The exportation of ‘risk society’<sup>20</sup> in its use, had its vehicle in the Limited Liability Company, which often morphed into the Trans-national (TNC), and created through an ‘edge-of-the-brink’ business logic a new paradigm for which heinous capitalist values and individual gain over collective risk-taking actions were depicted as ‘natural.’<sup>21</sup> The EXOs and other emerging economies were not free from this phenomenon. The conception for which ‘profit’ plays as the Sun in the orbit of economic thinking, degenerated in No-Responsibility management and financial detachment from the real economy, a process that even Jake Welch – the ‘400% value increment’ General Electric’s CEO – found immoral and doomed to collapse<sup>22</sup>. Unsurprisingly, financialisation supported a significant rise in the rate of exploitation foremost seen in a corresponding decline in the wage share of national income in many countries<sup>23</sup>.

The ‘maximization of profit’ is in the long run a push towards the mismanagement of shareholder’s capital for personal drives, thus towards a downward revaluation of share values<sup>24</sup>. The ingenuity for which, if the highest brass is ‘stronger’ the whole structure is more stable, has been proved to be a rhetoric expedient on which built the legitimation for the search of ‘flexibility,’ probably the bloodiest strategy for the productive labour<sup>25</sup>. The numbers of professional shareholders consequently shrunk (and this may explain how the strong commodification of financial goods were actuated by the Reaganomics in order to fatten disposable funds)<sup>26</sup> and the decisional power was magnetized towards the higher managerial groups; thus, most of the population became gradually more excluded from the financial sector<sup>27</sup>. Their segregation may be interpreted in terms of the last subtraction of an important agent from the existing ‘social contract,’ a left oriented policy since Roosevelt’s application of the Keynesian paradigm<sup>28</sup>. From the post-war till the mid seventies, the ‘silent agreement’ between popular and managerial classes granted partial control of capital<sup>29</sup>. During the Seventies however the ‘Triple Shock’ (Volcker, Nixon and OPEC) determined the end of the Bretton Wood system, and they are now seen as the first signs of the ‘conservative revolutions,’ achieved by Ronald Reagan and Margaret Thatcher’s policies on welfare and the labour market<sup>30</sup>.

It is fair to admit and yet, hard to prove that the national desire of restructuring the traditional class order from the post-industrial capital scientifically contemplated the backward movement of human rights development. The phenomenon instead, can be considered a natural outcome of neo-liberal processes<sup>31</sup>, and the ongoing of delocalization – a process engined from national capitalistic issues – with its migration of capital, definitively emphasized an unwillingness to address human rights topics. Instead, as aforementioned according to Duménil and Lévy, in the last phase capitalist classes calculated positively the creation of a ‘risk society,’ a shared economic space where ‘entrepreneurial-predatory instincts play a key role [...] [that] coherently to neo-Darwinism [...] grant the surviving of the fittest [...] able to fit in a not so “natural” capitalism.’<sup>32</sup>

Thus, for the first thirty years after the World War II, the entourage of governments did not express explicitly concerns about human rights<sup>33</sup>, and particularly topics like economic, social, and cultural power. The neo-liberal counter-revolution elements were commodified and collected under an utterly ‘open’ vision of ‘freedom,’ the ‘Greatest Freedom’ being the economic one<sup>34</sup>.

But as Matthew Arnold once said ‘Freedom [...] is a very good horse to ride, but to ride somewhere.’<sup>35</sup> The neo-liberal horse rode contemporary societies in a new level of xenophobia and Otherness, for which the class struggle is not battled within national brackets in ‘from-the-bottom-up’ logic, but horizontally and transversally among the same segments of populations from different countries<sup>36</sup>. Essentially it created a ‘battle of the haves’ based on a commandment of the Capitalism: competition.

The religion of profit erased the tradition for which ‘historically the production and consumption of commodities was basically a national affair’, and created a moral shield for delocalization; so the neo-liberal policy greatly ‘increased international trade in commodities, making possible to move production to locations which offer the lowest cost opportunities.’<sup>37</sup> Moving from their motherlands, migrational capitals delocalized at a conceptual as well material level. The struggles during the *les trentes glorieuses* were fought by lower classes on a national and international scale. In the end of the last decade, economic freedom appeared to have efficaciousness directly proportional to the measure of its values (quantified in economic capital). This opened up the question of whether the richer are ‘freer’ than others<sup>38</sup>.

These dynamics made it even harder to spot the smoky locus of Human Rights violations concerning ‘Economic, Social and Cultural Rights’. I should stress how the whole corpus of official publications edited by the United Nations never explicitly tried to focus exclusively on a single part of this construction, and more often on occasion reduced blame and consequences to a slap on the wrist<sup>39</sup>. This created a situation in which there were strong accusations of manipulation of the concept of ‘Rights’ as determined in 1948. These attacks were paradoxically sustained by two movements: a group of thinkers<sup>40</sup>, that substantially identified a whole right from the multiple codification and stressed their complementary nature; the other from scholars who showed how the conservative establishment avoided more structural change in order to avoid altering the economic order<sup>41</sup>. The most recent of critics<sup>42</sup> point to both of these movements, condemning their ‘naive vision of the international structure and [...] the pervasive as well elusive feature of Power whatever its nature may be.’<sup>43</sup>

However, all critics point together at the Neo-Neo's vision<sup>44</sup> regarding economic strategy and its relation to human rights: how can a 'Rational' neo-liberal approach propose such a naive vision of the wholeness when the essential belief of rational school is the 'vivisection' of an element as the only way of 'pure comprehension'<sup>45</sup>. In fact, consideration of this with an holistic approach shows that the issues are definitively interconnected, but it is doubtful that they can be managed altogether at once<sup>46</sup>. Instead, they can drive societies to inner and external clashes. The results of this induced friction can be determined by the outcomes and the conditions of the moments, making it understandable that the 'contemporary mismanagement has *raison d'être* for financial and political ingenuity or for ordered manipulation.'<sup>47</sup>

It was then in the post-industrial times that the 'risk society', for which the individual experiences are 'denaturalized', cloaked by the 'non-ideological' neo-liberal ideals – even the most 'natural' one, as ethno-cultural identity or sexual inclination – was 'chosen, historically contingent, learned' as simply false<sup>48</sup>. Vice versa, we are witnessing today the opposite transformation: the re-naturalization or re-evaluation of elements under the umbrella of 'natural'. All contemporary 'public issues' have become transmuted into 'natural attitudes' so as to propose a 'regulation of natural', 'cultural' or 'personal' idiosyncrasies.

Well explained at a general level, is the 'pseudo-naturalized ethno-religious conflicts [as] the form of struggle which best suits global capitalism.'<sup>49</sup> Contributing to this understanding, Žižek brilliantly analyzes how 'the age of "post-politics", when pure politics is progressively replaced by expert social administration [or so should be]... the sole remaining legitimate sources of conflict are cultural (religious) or natural (ethnic) tensions.'<sup>50</sup> One could add that the struggles conjugate themselves efficaciously in the economical 'no-border era' as conflicts *a posteriori*. Similarly, Kant states such processes are cause based only on phanta-historical differences – virtually infinite free goods with an almost infinite positive trend. 'The "evaluation" is precisely the regulation of this social promotion', the philosopher says, denoting a scheme that must fit in this process of 're-naturalization.'<sup>51</sup> According to Marx – quite ironically – in his description of 'commodity fetishism,' reports Dogberry at the end of *Capital's* Chapter 1, 'To be a well-favoured man is the gift of fortune; but to write and read comes by nature.' As Žižek suggests, its translation in 'modern twisted tongue' may be 'to be a computer expert or a successful manager is a gift of nature today, but lovely lips or eyes are a fact of culture.'<sup>52</sup>

In other words, to be a detailed analyzer of human rights is in this work a gift of fortune, a characteristic seen in the broad quantity of sources Spanda has come across; but to be impartial an analyzer, this has to be determined by a fact of culture. The object of this work is tripartite. In the first part the main goal is to point not to the economic international structure in itself, but through a comparative analysis, to the principal international theories used to elaborate data from different cultural realities: this part of the study is necessary. The second is to consider China's run. Labelled as an 'Outsider's Path' and cornered as an alternative economical process, never like in this moment has feelings of *sinophilia*<sup>G1</sup> or *sinophobia*<sup>G2</sup> been so relevant. In particular, the aim is to show that the way taken from the Asian Giant is not purely capitalistic neither socialist as often depicted, but instead that the country has favoured a pre-existing inclusive approach to any functional elements which were, since its 'economic opening', the most of the time, coherent with the UDHR. In addition, the research will consider some features of the 'Gift Economy' in other societies traditionally orbiting around western world that are now approaching a 'mixed economy.' These pure examples want to point at the fact that a greater involvement from a non-traditional economic approach is indispensable in making significant changes to the contemporary socio-economical structure.

At the root of these issues there is the evident lack of ability in contemporary post-industrial society, to requalify itself in social, cultural and economic means. Not being able to distinguish its new multicultural and polyhydric nature, social fragments are posed in contraposition from institutions themselves which, as nowadays, are deprived of their hermeneutic meanings: from *in* and *statu?re*, to put in order the things of the *res publica*.

#### TRANS-ECONOMIC RELATIONALITY. CLASSIC ECONOMIC AND CULTURE

Πάντων χρημάτων μέτρον ἐστὶν ἄνθρωπος: τῶν μὲν ὄντων ὡς ἔστιν, τῶν δὲ οὐκ ὄντων ὡς οὐκ ἔστιν.

*'Homo est mensura omnium rerum: entium ut sint, non entium ut non sint.'*

[The man is the measure of all things: the ones that are since they are, and the ones that are not since they are not.],

Protagoras fr. in Plato's.

It is important to notice how despite the evidences, there is still a relevant delay in the production of new theories that would privilege the cultural rationality more than the economic one. Today, sociologists and anthropologists<sup>53</sup> have collected field evidence on the relevance of culture on economic behaviours, and feel comfortable working on such projects. To give an example Salamon<sup>54</sup>, reports that in Illinois, despite the similarity of environmental conditions, communities inhabited by descendants of Catholics from Germany who settled in the 1840s and towns inhabited by descendants of Anglo-Saxon settlers from other region of the US, are still substantially different in their structure of land management and ownership, farming techniques, selection of crops, and families size.

The economic community just recently recognized the relevance of individual cultures and their influence on economic performance<sup>55</sup>. The flourishing corpus of publication regarding the new discipline of cultural economy<sup>56</sup>, not only is a proof in this sense, but also demonstrates that increasing attention is drawn to this field. The interest is deeply connected to the reevaluation of invariable determinants in econometric calculation; among these, the most relevant determinants are essentially considered cultural. This analysis departs from the recent discovery in cultural economy: instruments such as structural estimation in fact, has proved that a sad consuetude exists for which a group's endogenous elements are combined randomly with exogenous economic beliefs, a process that can lead to a disastrous imbalance among countries and within the countries themselves<sup>57</sup>.

Altogether, it should be noticed that 'culture' as here intended is essentially the sum of those 'aspects like religion and ethnic background that can largely be treated as invariant<sup>58</sup> over an individual's lifetime. This conception, that recalls geography and anthropology, is not instrumental nor new. Its origins can be traced back through economic history, temporarily set aside on different occasions, the last of which was the Neo-Liberal rationalism era. Anyhow, since the collapse of this hegemonic idea shook the world during the 2008 crisis, economists started searching for a new model of development while the old approach to culture was put back in use in various disciplines<sup>59</sup>.

As Guiso pointed out<sup>60</sup>, classical economists felt comfortable using cultural explanations for economic phenomena. Adam Smith viewed his *A Theory of Moral Sentiments* as an integral part to the 'Wealth of Nations', which was undeniably connected to Protestant societies. John Stuart Mill regarded cultural constraints as sometimes more important than even the pursuit of personal interest<sup>61</sup>.

Karl Marx, as usual, reverted this causality: rather than culture determining economic relations, he theorized that 'technology' determines the type of social structure which prevails and even the dominant culture of a society – thus from a hand-mill will be produced a feudal system or from the steam-mill, capitalism. In his preface to *A Contribution to the Critique of Political Economy*, Marx wrote: 'In the social production of their life, men enter into definite relations that are indispensable and independent of their will [...] The sum total of these relations of production constitutes the economic structure of society [...] the real foundation, on which rise legal and political superstructures and to which correspond definite forms of social consciousness. The mode of production of material life conditions the social, political and intellectual life process in general'<sup>62</sup>.

Max Weber treated religion as a crucial part of the development of capitalism. In his vision, any 'new order' faces immediate resistance. Weber stated that 'Economic incentives are not sufficient to motivate entrepreneurs to break apart from the pre-existing order.'<sup>63</sup> As such, Weber theorized the effect of the Protestant Reformation, claiming 'the pursuit of wealth should be regarded not merely as an advantage, but as a moral duty.'<sup>64</sup> This religious mission furnished the bourgeoisie with the moral strength they lacked to subvert the 'ancient regime' and create a new one, based on the organization of wage-earners for the purpose of economic profit. What Weber seemed to miss was the connectedness itself of trade and sociality that occurred throughout history; his vision, for example, could not explain the pre-Christian Roman Empire, one of the most flourishing trans-national and capitalist market to have ever existed.

Between Marx's view of techno-historical interdependence and Weber's moral impetus, there is the viewpoint constructed by Antonio Gramsci. As a Marxist, Gramsci recognized the role of culture in history. Gramsci argued that power is not merely a domain, but instead, it becomes a 'hegemony' when coherent with the ability to morally and intellectually influence society. Therefore, a working class can gain consensus by other social groups, and only envisions itself in their world view and system of values. 'Cultural hegemony' is the control of intellectual and material life by purely cultural means, and it is crucial to political dominance in any regime. Gramsci<sup>65</sup> considered not only economic interests but also the dominant culture in order to explain political resultant.

Karl Polanyi agreed with Weber that religion was important to the establishment of markets, but also added religion and culture as factors in limiting the excesses of the market: a meta-Keynesian view<sup>66</sup>. In a famous passage, Polanyi, Arensberg, and Pearson wrote: 'The human economy [...] is embedded and enmeshed in institutions, economic and noneconomic. The inclusion of the noneconomic is vital. For religion or government may be as important to the structure and functioning of the economy as monetary institutions or the availability of tools and machines themselves that lighten the toil of labor.'<sup>67</sup>

What appears in these scholars' perception of interconnectivity is the use of cultural variants in economic evaluation, and how these variants maintained a key role till the neo-liberal age that. These variants need to be re-codified for the theoretical framework of political and economic analysis. However, a growing number of scholars are 'turning against' not only the economic order, but also the academic thinking generally oriented toward the un-ideological approach<sup>68</sup>. Today, it is essential to develop a neutral frame theory of world economic scenarios. This neutrality should be committed to purposeful use rather than a strictly analytic one: reverting its consuetude, the international stage needs to consider every agent as unique and peculiar, while the work conditions and the wages should be un-ideologically equalized among and within countries.

The most used and notorious framing theories for which scholars of International Studies tend to consider in the scenario are the approaches codified by Wendt in 1979<sup>69</sup>. These approaches are suitable for the explanation of the ‘character’ of a given political action, and thus, a ‘vision of the world’ through which reality can be interpreted<sup>70</sup>. The ‘characters’ are extracts of thinkers’ essential thoughts and propositional pattern categories of behaviour. Despite the fact of being acknowledged as revolutionary by the academic community<sup>71</sup>, ‘Wendt’s categories’ are often accused of dangerous simplifications of philosophers’ doctrines. Their object is what we define as *prototypes of relational logic*. Since their codification<sup>72</sup>, these criterias imposed themselves as privileged instruments in the understanding of relational processes within the international community.

It is proper to consider the data that research revealed. First, that Wendt himself in his revised introduction to *Typology of Culture*, pointed to how ruling economists and policy makers were majorly focused on the ‘national’ character of this framing theory more than on the ‘Inter’ aspect<sup>73</sup>; and second, that the essential instruments theorized more than thirty years ago are applied radically to different scenarios.

The prototypes are: Hobbesian, a vision of the world in which the ‘Other’ is seen as enemy; Lockean, the ‘Other’ is a competitor in economic success; Kantian, the approach that identifies the ‘Other’ as a possible friend or partner<sup>74</sup>. To these concepts, scholars added various implementations and differentiated the original visions<sup>75</sup>. With the exclusion of the Marxist vision, no major shortcomings have been indicated by experts since their original theorization. Moreover, class struggle has been established as a logic of rivalry. This poses Marx’s theories as a branch of the Hobbesian vision<sup>76</sup>.

One single relevant exception, despite the relative low response in European and American academies, is Zhao Tingyang. The Chinese philosopher came to represent an entire group of thinkers<sup>77</sup> that saw their values rotating around different principles. Among all, harmony (*he*) guaranteed through ritual ethics (*li*) for universal cooperation, an ancient precept of the *Tianxia*<sup>78</sup>. Zhao crucially contested the ‘lack of mutual understanding’ in Wendt’s categories, and completely excluded the Kantian approach – never fully applied if not in mere economical terms through neo-liberalism – by contrast, instead incorporated the most important characteristic in Confucian vision<sup>78</sup>. As he wanted to echo the Sun Yat-sen’s division of *Wang-dao* (Way of the King) e *Ba-dao* (Way of the Hegemonic),<sup>79</sup> he identified in the principles of ‘relationality’ structural differences.

Zhao rooted this essential lack in approach back to the Eurocentric vision of the world<sup>80</sup>: societies scarcely differentiated, but fought over millennia for minor peculiarities to idealize war as ‘the continuation of politics by other means.’ The philosopher indirectly advised that following this passage of economy itself is ‘the continuation of war by other means.’ Thus exists a World War-economy where ‘co-existence means dichotomies’ as ruler-ruled, first-second or better and worst<sup>81</sup>.

On this substrate appears logic: whatever vision the Euro-American centralism produced would result not applicable for the great majority of Asia and generally for non-western/globalized human beings<sup>82</sup>. Instead, the Asian scholar identified for the majority what he called the ‘fourth culture’,<sup>83</sup> not simply inspired on Confucian values, but to that elements shared with a great part of cultures of Native North and South American, Trans-Siberian and Sub-Saharan, and others.

The approach in this theory gave emphasis to the role of community instead of individuals, and considered behaviour rather than status. Zhao urged the International community to reveal itself as such, to manifest the need for a new ‘Politic for the World’ and to override a disjointed ‘World Politic.’<sup>84</sup> Despite the fact of being an academic star in Asia, and that his publications are translated into more than twenty languages (among which Yoruba, Swahili, Hopi and Yaqui), Zhao’s approach is currently passing almost unnoticed in the Euro-American context<sup>85</sup>.

At the basis of this incapacity are reasons broadly discussed by many post-colonial scholars. Relegated in subaltern positions, the Other is inhibited to believe in its own independent cognitive power, or in Spivak’s terms ‘[he] can’t speak, because is deprived of his self if not recognized by what he defines superiors.’<sup>86</sup> In return, as Mahbubhani pointed out, this process, is associable with the long time immature actions of some countries with colonial heritage. For ‘more than five hundred years West has been dominant in one form or another. After World War II most of Asia, like much of the Third World was politically emancipated. But the process of mental emancipation, on the part of the colonizer and the colonized, is taking much more time.’<sup>87</sup> The increased ‘proximity’, now not cultural but economical – the absolute value in neo-liberal era – became ‘equality’ in its original sense of meaning of *aeque* – ‘same’ or ‘and’ – *alis* – ‘other’. Asian Countries introjected the Western image of ‘equal good society’ from post-industrial countries who are projecting back fears that are essentially an heritage of Euro-American concept of ‘conflict of neighbouring peoples’, or in Wendt words ‘are favouring a Hobbesian approach’.

However, this practice may come from a different idea of community: in ‘Asia [but as has been proved in Sub-Saharan Africa and in Native America as well<sup>88</sup>] [...] the historicization of the “Inspirational Process”<sup>89</sup> in order to achieve self-improvement is something referred as positive... vice versa in Europe and in Us the imitative principles is negatively connected with plagiarism, dilettantism and parody’, precluding any inspirational evolution. It seems proper to believe that from this different idea of the ‘other’ – meant as an inspirational source – is derived another imagine of ‘self’, incomplete



without the correct amount of 'relation-ability'. This skill neither is new, but is in the highest moral tradition of western thinkers such as Seneca, Kant, or Kohut, and more generally in Euro-American's conception of *empathy*.

What is particularly relevant can be summarized in a statement regarding the whole neo-liberal economic age, namely that it is not the state's absence, but 'that new un-empathic driving forces have developed... surpassing the capacity of the old management systems and putting new pressures on the natural social systems'<sup>90</sup>. This point indicates questions of management and the premises that allowed for emerging markets – as the Popular Republic of China (PRC) for example – to maintain its peculiar involvement between state and economy while still getting involved in human rights?

**GUANXI AND MIANZI: SOCIAL, CULTURAL AND ECONOMIC  
INSTRUMENTS OF CONFUCIAN RELATIONAL LOGIC**

不患人之不知 (Bù huàn rén zhī bù jǐ zhi) / 患不知人也 (huàn bù zhi rén yě)

[Don't worry that other people don't know you; /worry that you don't know other people], CONFUCIUS, *Analects* 1.16.

Considering the well-known connection of entrepreneurship and governance, at a general level, two points are the most important to delineate: what is today in China the most common characteristic among enterprises and what have been the state premise to allow this system.

The diverging vision of state's action and relationality emerge from the incapacity of the West to identify as Asian actors with differences between Replicate and Dominate<sup>91</sup>. The two feelings have often blurred limits. This is not in the achievement of the 'Middle Class Dream' by Asian people, where should be searched the reason for the dividing impulse, but instead, in the commodification by Euro-America of a dream in which the economic interests are masked. The oneiric experiences, as Erikson studies on Sioux stated, may be framed as virtual 'goods... produced [or commodified] on the basis of expectations... another psychological manifestation of empirical trust'<sup>92</sup> – e.g. seen the limited uses it has, Brazilian Indios never traded gold as luxury before the arrival of Portuguese; they were inclined to experience/trust/dream it as precious. The non-western societies traded their dreams expecting to receive a proper place on the international stage.

Freud's Totem and Taboo is clear regarding the 'self-trade the human practice in the mediation of dream and reality'.<sup>93</sup> Carl Jung shares this same belief. The latter's perceptions explain the decision process in a given business: 'the inner action that activate within dreams [or desire essential drive to a transaction] [...] are crucial negotiation between ideal aspiration and ideal ambition [...] while the first relay on a perception level based on my double [or my business partner], the later is based on me and the trust I can see my double assign me [...]'<sup>94</sup> Thus Jung recognized the value of human exchange as the value of ethical relations binding the two parts.

About the links of Trust and Ethics, Guiso, Sapienza and Zingales considered them as one of several variants in inter-economic efficiency<sup>95</sup>. In Confucian culture exists qualitative tools that regulate human relations recognized by foreign and national scholars<sup>96</sup>. The growth of local enterprises in China as the play of such social networks of family, clan and lineage connections, encompassed by the word *guanxi* (literally: 'relationship/connections')<sup>94</sup>, cannot be denied. The topic now is taking a central place in an ongoing flow of criticisms; if on one hand the feature often manifests itself in terms of managerial efficiency and incremental productivity, then for the other it cloaks informal and illegal practices of corruption and clientelism. Practically, while the critics account for widespread corruption in the serene social climate, they also establish the relationship as the source of success and growth for new income generating activities. However, Siu correctly pointed out that it would be immature to propose that under outward stimulus, local business architecture and entrepreneurship could redesign themselves with components that are not perceived as erroneous<sup>97</sup>. In fact, the 'deviation' has been intertwined in the particular pattern of economic growth and the market structure since the pre-Christian imperial China. Meanwhile, in Rome it was common for social networks and ethical norm, intra-partners to be treated as integral. *Guanxi* (connections) and *mianzi* (face)<sup>95</sup> are the two most prominent cultural characteristics that still have strong implications for interpersonal and inter-organizational dynamics<sup>98</sup>.

*Guanxi* can be seen as a network of interpersonal relations that permeate Chinese societies, it is an inseparable part of the Country of the Centre business environment. '*Guanxi*-oriented'<sup>99</sup> enterprises observe reduced uncertainty, minor human capital search and transaction costs, and provide usable and often multi-applicable resources as well as a higher sense of connectedness<sup>100</sup>. The Chinese people found the effectiveness of these networks when the 'germs' of entrepreneurship were rising, and before the Japanese invasion. '[The] Chinese are born exchangers', affirmed director Maxime-Robert, *a la crème* of World Bankers during a reunion in Indochina<sup>101</sup>. For foreign investors, *guanxi* relationships provide – in that time as is today – informal ways to reduce environmental uncertainty and opportunistic behaviour in case of the inevitable<sup>102</sup>. As a result, foreign entrants should mount sustained efforts to build up *guanxi* in order to give themselves a competitive edge in their search for an insider position in the China business arena. Conversely though, *Guanxi* can be a negative asset if not well managed within and between foreign and local firms<sup>103</sup>. Meanwhile, among Neo-Neo economist moves the myth that *guanxi* can



not guarantee the safeguard to competition, thought to be disproved by the flourishing – and extremely competitive – Chinese enterprise oriented toward Hi-Tech R&D<sup>104</sup>. What a great part of the observers are missing in this conception is how the relations of *guanxi* are kept, namely through *mianzi*.

*Mianzi* is as well considered almost exclusive to Chinese culture. Lockett defined it as the ‘recognition by others of an individual’s social standing and position.’<sup>105</sup> It appears in rational studies that try to point out that cultural feature do not compare to the common concept of ‘face’ in the two great European cultures – Protestant and Catholic. Differently in Chinese culture, the use of *mianzi* means not only the simple care of keeping relationships with neighbours, but mostly a project of a ‘functional’ image of self in terms of Confucian values – inextricably political and economical in their use of ethic.

It may be worth to prove the fact that *mianzi* works not only as a ‘business tool’, but essentially a regulator of most social functions and intrinsic aspects of ‘personal and interpersonal relationship development in China.’<sup>106</sup> *Mianzi* works as cushion among different steps of the Chinese social stair, and creates a more stable relationship for individuals, not only with their superior, but mostly with their peers. It is not an outside but an integrated part of *guanxi*<sup>107</sup>. To cultivate *mianzi* is to want to create a better social relation with the one next to me. It is a relationship immune to envy and resent due to the ‘redistribution of goods’ – to use a term dear to Keynesian – which rotates the perception of your action in your *guanxi*. A bad *mianzi* – an unfruitful social relationality – will mean a bad *guanxi* – an unproductive economic relationality. In any type of mediation, social or economical, it is the desire of both parts to work on a reciprocal basis in order to gain the best for self while leaving the other with affection<sup>108</sup>.

Culture is defined as shared norms, values and assumptions<sup>109</sup>. There is a large body of literature on Chinese culture<sup>110</sup> in which it is considered to be – and considered itself – different from that of the West<sup>111</sup>. Characteristics of Chinese culture, such as family orientation, *guanxi*, relational inter-dependence, face, favour and harmony are found to have an influence on contemporary relationship cultivation strategies<sup>112</sup>.

National culture can influence the development of trust<sup>113</sup>. In the context of China, developing *guanxi* and saving *mianzi* create trust between partners independently from culture. Due to uncertainties in the business environment and possible opportunistic behaviours of partners, trust is regarded today as one of the most important managerial issues of the corporate agenda<sup>114</sup>. Tsang proved that stable trust between members of the same economic conglomerate is one of the critical features in long-term successful relationships<sup>115</sup>. The potential benefits of trust include reliable and open information exchange, improved coordination and less bureaucratic cost e.g. through unified governance<sup>116</sup>. Trust between political class and entrepreneurship has to be nurtured and maintained in order to reduce risks and affordably better business controls in an unstable environmental condition<sup>117</sup>.

*Guanxi* and *mianzi*, on a broader, scale give back self-confidence to which China used in relation with other States: they developed from intra-cultural social instruments, trans-cultural inspirational tools. They are essentially two faces of the same *prototype of relational logic*. An underestimation of the role the two features in the importation of human rights concepts would be incredibly superficial.

Ironically, Rome again may serve as an obscure admonishment: since the end of World War II, till the 1992’s maxi-process ‘Manipulate’, the country’s public calling and public work systems were ruled by micro and macro corruption. Following the unmasking of the embezzlement, the elite castled in the parliament – keeping the privileges and the power to name functionary – and the engine of redistribution was destroyed. If one excludes the Italian ONG operating worldwide, it is alarming to see the data in light of the proportional decreasing economic involvements in human rights initiative<sup>118</sup>. In great part, this is ascribable to the losing of the power grip – for not say the complete abandonment – that Italy had on the control of certain international topics such as human rights<sup>119</sup>. *Guanxi* is definitively a mechanism that needs supervision, but it tightly connects governance desire – that now appear reasonable – and economic power. Here then is the importance of Chinese governance as it tries to affirm itself responsible as an economic human rights global leader.

**CHINESE ECONOMIC GROWTH AND HUMAN RIGHT  
DEVELOPMENT: BROTHERS NOT FRIENDS**

致富光荣 (*zhìfù guāngróng*) [Wealth is Honorable], DENG XIAOPING, 1979, apocryphal speech.

The decisive feature dividing Chinese from any other authoritarian state is the relevant role of governance of the economic, a function inherited from its Maoist past. It would be improper not to underpin the fact that Mao created the basis for contemporary success through a disastrous event, the de-urbanization of inland metropolis toward the cultivable lands. In that narrow social context *mianzi* and *guanxi* re-imposed themselves.

Despite defining himself a ‘Marx’s follower,’<sup>120</sup> the PRC founding father had a very different idea for the economy. He never really managed to fix China’s monetary policies, and did not care about the leverage of production – two concepts dear to his Marxist contemporaries. Mao perceived these elements as less relevant for land redistribution policies and employment rate increases by the creation of rural commons. Once this reform failed in the

monetary pressure imposed by the loan with the Soviet Union, the lands were re-elaborated in state lead enterprise-town, and were self-administrated in terms of internal divisions of labour<sup>121</sup>. It was at this moment, thus with the last days of Mao, that the new diplomacy imposed by Kissinger was inaugurated. This was the proper start of the analysis of the 'Chinese State' and its actions relevant to the internal reduction of poverty, obtaining greater responsibilities in terms of human rights. To answer the question 'What role has the state played in China's economic development?', one must keep in mind the concept of the elusive location of power. This understanding can be used as a compass, directing this short review in a most empirical direction possible. Altogether, without such form of referencing, it would be particularly hard to speculate at a normative level the broadness of the sources and material. Tradition is to base any reflections on Waltz's level of analysis – the first focused on individuals action; the second based on national policies; third cored on the international system in its wholeness – because they are the most accredited instruments of speculation in International Relations studies<sup>122</sup>.

Historically working at an individual level, the actual economic 'boom' of China is ascribed to the 'open door policy'<sup>123</sup> started in the late Seventies under the guide of the 'little helmsman'<sup>124</sup>, Deng Xiaoping. Both the greatest of Mao Zedong's projects, the Great Leap Forward and the Cultural Revolution failed in their supposed aim and 'resulted in a disruption of the Chinese economy'<sup>125</sup>. It has been hardly debated if the new economical direction drawn his health to the chaos, during the Cultural Revolution disorder<sup>126</sup>. The purge practically dragged the Popular Republic into a semi-anarchy, and also mounted for the tragic poor condition in which a great part of the population live<sup>127</sup>.

On a national level of analysis<sup>128</sup>, it is sure indeed, that the state, especially considering its administrative regional form and its connection with the local entrepreneurs – or their *guanxi* – played and still play a pivotal role in the control of the economy. On the same level, it is important to not forget the fear of loosing the grip on power that the party leaders could have felt at that time. This may have left more space for a restoration than a new revolution. The opening of the 'windows on the world' in 1979 sent a 'shock wave effect' through the country<sup>129</sup>. To give an idea of this process, the largest special economic zone (SEZ), Shenzhen, opened in 1979 and instantly experienced an unprecedented growth – arriving from the starting export income of USD 11 to 250 million for 1985 and peaking at USD 1.85 billion in 1988. As Breslin argued, this move created the basis for a 'a more beneficial environment for foreign investors [...] [and since then, export based investment has not only dominated investment into China, but has also been a major motor of Chinese export growth'. For increasing external pressure, controls were gradually adjusted to import, making it possible to enter into a relationship with the World Trade Organization (WTO). This represented a normalization of the treatment reserved for foreign direct investors and a minor number of favouritism with the domestic<sup>130</sup>. This 'normalization' probably also influenced the human rights sphere.

It can be noticed from the ratio of import rates and domestic investment in that period that the country was focusing not on growth but development – especially in the 'third sector'<sup>131</sup>. The trend was particularly positive in the last two years of President Hu Jintao – and its advocacy for 'a responsible China'<sup>132</sup> – and suggests the realization of his 'socialist harmonious society'. During that period, in fact, an infinite group of association, now well-recognized in the international network, was blooming<sup>133</sup>. The roots of the association can be traced back to the myth of globalization, propeller of the aforementioned Neo-Liberal policies that, still today call for further deregulation and de-taxation, are also promoters of rising transnational organizations<sup>134</sup>. It is essentially this phenomenon that Sideri calls 'self-elucidation of Chinese civil forces'.<sup>135</sup> President Xi inverted this tendency, and only in the last two months of 2014 were China's authorities arrested or posed in 'Administrative Detention'; more than one hundred-twenty persons were found guilty of 'civil disobedience'<sup>136</sup>. Moreover, the process was not 'concluded' – and the source seemed sadly to suggest that the flow of repression intend to continue – especially considering that 'globalization and corporate governance issues are now more intertwined than ever before'<sup>137</sup>. Wherever their interests were threatened, one would expect the authority to intervene in their favour.

Thus, it is generally recognized in China as metamorphic moment in terms of human rights, but this transformation – now deeply rooted in economical inter-connection – would have unknown effects on the international system; it is what Chin defined as 'reciprocal causation'<sup>138</sup>. In Weberian means, the desire to create 'harmony' gave Hu's China the 'moral strength' to realize mere economic growth's limits and put greater efforts on 'civil' issues – like the environment<sup>139</sup>. The connection with other international actors – a transnational *guanxi* – undoubtedly worked as an influencer in Chinese political imagination and the habits un-interrupted. Considering the 'chain-ganging', alliances formed on the premise of conflict, between the two greatest actors, US (with its lobbies) and PRC (with its elites) contemporary regression should be looked at with a certain amount of doubts; if they were able to use their influences to wreck their allies toward a more unstable scenario instead of sustaining human rights, a new wave of chaos would emerge. While most of the press today insist on geo-strategic issues, I instead underline the condition of shared hegemony in a very Gramscian mean. During the aforementioned last period of President Hu, China's world consensus rose rapidly and supported transversally the re-election of President Obama – in terms of human rights, guilty of promising more than what he actually tried to achieve. The recent shift 'toward right' of the social compromise – exemplified by the return of a political dynasty in the US presidential election – is a great proof in this sense. It is a process of expectation in which more US 'left' are thought to bend to the right, and equally, the

Chinese Communist Party elites feel free to disrespect political values historically considered 'liberal'. In the last part of 2014, President Xi's position gave more space to the 'stop policing the world' point of view – even regarding some allies with horrendous human rights records – that was ambiguously shared by Rand Paul<sup>140</sup>.

Concluding, it is clear that the Chinese governance, in order to keep together its gigantic power, played a single important role in the reform of the economic structure through the creation of almost epic and salvific leaders, taking advantage of both handwork and the housing of migrant global entrepreneurship in search of a new production strategy. In return, the process involuntarily brought other issues to the table, and particularly, the process has not faced the real challenges upcoming from its enrichment and diffusion of 'more precise democratic ideas'<sup>141</sup>. Through connections with foreign partners, many of the 'liberal' concepts are now being accepted by mainstream China. A certain 'cultural awareness' has been long discussed as a characteristic common to all types of 'Chinese-ness' – political, cultural and ethnical<sup>142</sup>; as Buckley affirmed, it is hopeful to imagine that this feeling will cause friction with new imported elements, and will consequently stimulate the creation of a new national economy and business orientation<sup>143</sup>. Definitively during the last year, important statements were made and economic actions launched. Despite this, a huge human capital remains within the country that just waits for the occasion to feel involved in this kind of activities<sup>144</sup>. This is the same people that happen to open up important issues to the mainstream news – strongly connected with the internet. The Chinese elite class should desire to not disappoint, finding that their status has finally been internationally recognized. Furthermore, it is important to remember the presence of issues such as the political corruption, environmental shallowness and democratic deficit. Particularly at the systemic level, the great sino-phobic trend – especially fomented by dubious investment plans like the one started in Myanmar or the hard criticized action in Africa<sup>145</sup> – that was recently pointed out in regards to the improper 'development' of acquired power, and the mere continuous search for economic growth that will not make the Chinese political system more free or open<sup>146</sup>. What remains is the questions of what would happen if the consistent economic development rested or what if a post-*guanxi* 'Italian scenario' occurred in the future, considering the enormous percentage of world population that the country represents. Eventuality, what may appear from these dark consequences is a passage from authoritarian to a totalitarian state; the change may be in a new form or a drastic return to Maoism, with policies proposed in the 'Out to 2040' plan<sup>147</sup>. Fortunately, today this is just a 'political promise'.

#### GIFT ECONOMY: THE WORLD MOTHERING ITSELF

*The difficulty lies, not in the new ideas, but in escaping from the old ones, which ramify, for those brought up at most of us have been, into every corner of our minds.* J.M. KEYNES, *The General Theory of Employment, Interest and Money*, 1939, New York.

In the international economic scenario, few alternatives proposed themselves with efficacy and coherence to human rights developments, an argument introduced by Mauss regarding the 'gift economy'. Modern anthropology demonstrated that such an economies origins go back to the pre-capitalistic societies throughout the world. The evidence showed in fact that the practice was used by the Iroquois in North-America, the Minangkabau in South-East Asia, the Khoekhoe in Kenya and by the Dogon in Mali through the so called '*dama* system'<sup>148</sup>.

Exchange is usually considered as the numerous ways of distributing goods and services directly related to needs. These dynamics froze all human rights developments of the last three decades. The figure of *homo aeconomicus* can be limited by its coexistence with the *homo donans*.

The main tendency is to the functioning gift economy as part of cultures that did not develop a monetary system or market economy. However, one should consider the fact that exportation through colonialism of Western cultures jeopardized Indigenous elements, causing them to diverge from tradition. For a proper understanding of the 'gift economy', it is fair to revert to the paradigm that explains the 'exchange economy'<sup>149</sup>.

In short, it represents a substantial revolution, increasing rapport while binding the obligation of giving, a system of receiving and reciprocating<sup>150</sup>. It is not easy to fully list the features that relate to a gift economy, but the essential characters are: the reciprocation – in inter-parts exchange – is delayed in time and not compulsorily instantaneous; as to oppose itself to the logic of 'money back guarantee', goods are inalienable and not exchangeable; the 'business' is of an intimate nature shared between two parts so as to imagine them as interdependent, against the absolute rational conception of capitalism, division, and intent – e.g. the non-conflicting vision of ethics and economics<sup>151</sup>; the gift economies put emphasis on the qualitative nature of the gift and not on its quantitative. Altogether, the gift economy focuses on the relation between actors and not objects.

There are important connections between mothering aspects of gift economies and the economic aspect of mothering<sup>152</sup>. Maternal gift-giving can be seen as a unilateral satisfaction of needs made necessary by the biologic dependency of children – unable to give back an equivalent of what was received. From this perspective unilateral giving and receiving is a transitive, bond-creating and communicative process, not contingent on immediate reciprocity. The inherent logic of exchange is again, opposite because of its nature, ego-oriented and ego-dependent in its relation with desire. Giving in order to receive an equivalent cancels the unilateral gift, and in place gives rise to adversarial relations – because the exchange is generally of desire and past desire (money became thus, an intensive and firm materialization of desires)<sup>153</sup>.

In mother-child rapports, there are alternative dynamics<sup>154</sup>. The structural values of ‘care’ for example, that give form to the gift paradigm, is opposed to the absolute values of the financial exchange paradigm derived from the market. Housework and childcare are non-monetary gifts exchanged in families; these actions are never really capitalized on by absolute financial criteria<sup>155</sup>. The society flows and gives in the phallogocentric society. Sadly though, the ‘neo-sexual revolution’, in order to qualify for this essential formative role, it tends to push a transgender masculinisation of productive labour forces in post-industrial societies<sup>156</sup>.

Nowadays, there are many initiatives collaterally inspired by the gift economy. These initiatives include: open source software, sources for free collective knowledge, intentional communities with income-sharing, ‘time currency’ and the so called ‘ecolutive’ movements – interestingly supported by a rising and well-trained eco-managerial class<sup>157</sup>. Their vision however, does not willingly contemplate or explicitly mention gift economy or mothering.

The gift paradigm is a radical re-visioning of many areas in the academic world. Also, it can be used to assess present policies. For example, foreign aids in the form of foreign direct investments (FDI), given with ‘strings’ attached for consuetude, are exchanges that actually drain the receiver, creating more profit for the giver. Globalization means to redirect the ‘gifts’ from underdeveloped countries to more developed ones, creating ‘gifts’ of cheaper labor, while capitalizing on previously free resources of water, mineral, and air. From this perspective, underdeveloped countries can be seen as nurturing developed countries at their own expense<sup>158</sup>. Altogether though, abundance is necessary for gift economies to function without sacrifice, and this negative aspect is followed by a second. The market establishes control by directing ‘gifts of the many to the few’, exchanging wars and waste while creating scarcity that is necessary for its own type of efficient function.

In order to explore the relationship between matriarchal societies and the gift paradigm, we need first to examine the guidelines and codes of conduct that govern relationships and communities in matriarchal societies. In this scenario, there is no private property and there are no territorial claims. The people simply have usage rights on the soil they till, or the pasture their animals graze; ‘Mother Earth’ cannot be owned or cut up in pieces<sup>159</sup>. She gives the fruits of the fields and the animals to all people, and therefore the harvest and the flocks cannot be privately owned; instead, they are shared equally. In a sense this is an unbridgeable relation that frees individuals from values of dependency. For Derrida, ‘the logic of equivalence reduces the encounter and occasion to simple reciprocation *vis-à-vis* on the principle of time-reasoning – a very industrial and Ford-Taylorist vision – wherein all things are reflected and rebounded off one another within a one-dimensionality<sup>160</sup>. This ‘one-dimensionality’ is intrinsically patriarchal and extrinsically capitalist driven<sup>161</sup>.

The women, and specifically the oldest women of the clan, the matriarchs, hold the most important goods in their hands; they are responsible for the sustenance and the protection of all clan members. The others either work the land themselves or organize the work on the land and the fruits of the fields, and the milk of the flocks are given to them to hold and distribute equitably among the community<sup>162</sup>.

Matriarchal women are managers and administrators, who organize the economy, not according to the profit principle where an individual or a small group of people benefits, but rather, the motivation behind their actions are motherliness. The profit principle is an ego-centred principle, where individuals or a small minority take advantage of the majority of people. The principle of motherliness is the opposite, where altruism reigns and the well-being of all is at the centre. It is at the same time a spiritual principle which humans take from nature. Mother Nature cares for all beings however different they may be. The same applies to the principle of motherliness: a good mother cares for all her children despite their diversity. This is similar to the Euripides ‘woman prototypes’<sup>163</sup> of which Athens’s women are described as being ‘pious bees gifting the moral know-how [ἡ ἐθική] (*ta êthikà*) [...] to Athens children [...]’. Motherliness as an ethical principle pervades all areas of a matriarchal society, and this holds true for men as well. For example, among the Minangkabau in Sumatra, if a man desires to acquire status among his peers, or even to become a representative of the clan to the outside world, the criteria is that ‘he must be like a good mother.’

Gift giving therefore, is not coincidental, but rather, an act of matriarchal societies that is hard to confine to the private sphere. It is a central feature of their *relationability* and an important tool for the regulation of social functions. In matriarchal societies, goods, nurturing, care, cultural creativity in ritual events, all circulate as gifts. These gifts are manifested in festivals which are at the core of these cultures and which drive their economies. Matriarchal societies present tendencies to celebrate festivals of the agricultural year, along with their life cycle festivals of each individual clan. These events are celebrated with the whole village or town. During these occasions, the goods and food, the services, the cares, and cultural presentations are ‘moved around’, not in the sense of exchange with the expectation of something in return, but as an unconditional gift.

The Erau Festival in Tenggara is an effective example of how Indonesian and Malaysian cultures – despite being recognized as ‘Islamists’ – kept a tighter bond with their matriarchal heritage. This clan, having a bumper crop, collects from harvest, and gives its produce away at first opportunity<sup>164</sup>. At their following festivals, the clan overextends itself by inviting everybody in the village, town, or district, and lavishly manage for visitors’ well-being, feeding them and giving them cultural presents like music, dancing, processions, rituals, which everybody



participates in according to their religious traditions. The clan hosting the festival will not withhold anything. In a patriarchal society, this would be considered suicidal behaviour and would ruin the future of the giving clan<sup>165</sup>. But in matriarchal societies, these festivals work in coherence to the maxim: 'those who have shall give.'<sup>166</sup> At the next big festival another clan, one that is by comparison better off than the rest of the community, will take on the same role. The others will be invited and gifts will be lavished upon them. Round and round the process goes in the community, and it is always the well-off clan's responsibility to host the festival<sup>167</sup>.

Fish traders of the Nachituti culture also demonstrate how the centrality of instantaneous reciprocation is moved in matriarchal gift economies. David M. Gordon<sup>168</sup> reports in his study of 'Grace Chama [...] eager to talk of her duties as a single mother, household head, and fish trader.' This thirty-nine-year-old mother of four divides her time 'between her sister's home in Lusaka and Kabuta fish camp on the south-eastern shores of Lake Mweru where her children stayed.' Gordon reports that the woman travelled hundreds of miles from Kariba and Kafue in the south of Zambia to the Luangwa Valley – in the east and Lake Mweru in the north of Tanganyika – in search of cheap fish. She would always return to sell the fish in the markets of Lusaka. Her meagre profits would be reinvested in the fish trade, with a portion saved for the upbringing and education of her children. This emphasis on the education shows 'abnegation' of 'personal desire', distrusting thus a Derrida vision. These actions are practiced despite the poor margin of profit, in fact fisher women mean the 34% of the income in the region<sup>169</sup>. Grace Chama claimed to be one of an entire class of women who pursue this arduous work and lifestyle: 'There are many women trading fish. Most of them are widows or are single, and it is the only way to make a living. A woman must do the work, maybe she has children without being married, or her husband does not work or lost his job; it is her only way for her to support the children.'<sup>170</sup>

Gordon essentially states women became fish traders through new commercial exchanges that grew out of predominantly female production spheres previously considered to be part of the 'subsistence' or 'household' economy. The women smartly connected the process with the culture substrate of the region: a matriarchal gift-oriented culture<sup>171</sup>. Interesting Gordon, he analyzed that the success of women in the fishery of the *chisense* – a small local fish – was determined by non capital-intensive activity. Since the post-colonial government initiative to urbanize population slightly favoured male human capital ready to be employed, the fishery rose among poor and lone women. If a similar process in the UN direction for economic development would be considered, certain degrees of autonomy and 'spontaneity' of economic mechanisms in a given area would be imaginable and possibly cause the gift giving phenomenon to repeat.

Another important reference may be seen in the Iroquois, the original inhabitants of what now is the New York State and the southern areas confining the Great Lakes. Karl Marx and Friedrich Engels, became acquainted with the social and political system of the Iroquois through the works of pioneer ethnologist Lewis Henry Morgan. Despite being politically controversial, anthropologically, Morgan believed the study of a given culture should not carry on through personal content, but by self-limiting observation. When the *Manifesto* was published in 1848, Marx and Engels wrote that the history of all existing societies had been founded in a history of class struggles. In the 1888 edition of the *Manifesto*, Engels added a note to take into account information on 'pure' societies with which he and the deceased Marx had become acquainted.

Engels inherited Marx's copious notes on Morgan's *Ancient Society*<sup>172</sup> after Marx's death in 1883, and authored *The Origin of the Family, Private Property, and the State*. In these works, he developed an interesting position on different social patterns that were 'technologically [...] less developed' but 'morally more incline to justice'. Studying Morgan's account of native societies, with the Iroquois being his cornerstone, Engels provided what he believed to be an egalitarian, classless model of society that relied on justice between the sexes. Iroquois culture had developed as what Morgan defined as a 'kinship society', a social order of siblings and familiar roles in a group. The co-founder of Communist ideal missed the commonality with Confucian societies – or more probably, he lacked any proof of similarities. As prisoners of their own times and perceptions, Marx and Engels in 1848, had yet to shed their Eurocentric notions that history had begun with patriarchal, monarchical governments. Engels in particular entitled Iroquois economic practice to be 'a functioning and coherent mechanism... able to erase capitalist recognition.' One can imagine how the discovery of societies that operated differently must have fascinated him. Having rediscovered the 'mother-right gens,' he could not contain himself: 'It has the same significance for the history of primitive society as Darwin's theory of evolution has for biology, and Marx's theory of surplus value for political economy [...] *The mother-right gens has become the pivot around which this entire science [of political economy] turns*'<sup>173</sup>.

While such an innovative proposal ended totally forgotten – especially by Marxist – it left room for a specific work. In particular, striking proposals of intra-national or intra-regional complementary currencies, control in loan's interest rates or detachment of any strings in FDI. Altogether, there were plenty of new interconnected plans for development, especially among young academics, considered non-standard. In the end, three decades of neo-liberal 'acceptable' ideas brought the world economy to the edge of the brink – with inherit consequences on society. Yet, a question remains. What would happen if new mediatory strategies were applied?



## CONCLUSION

The historical convergences that the world is going through are demanding a new type of participation in the spheres active in any social dimensions. If humanity will be able to pick up the call that 'now' –intended as our temporal condition – and 'locus' – intended as spatial conditions– have been proposed, the outcome may be of an unknown dimension in terms of change. The cultural aspect confirmed to be *summa maxima* of their rapport: their *dasein* to speak 'Heideggerian'. It is understood that our present time-space in inter-relational terms is not anymore the desire of romantic academics, but the most needed and achievable social improvement. It seems the 'mesoteric' concept – a cornerstone here at Spanda – perfectly fits this trans-cultural and flowing inter-space<sup>174</sup>. If humanity will be able to manage fruitfully the 'esoteric' as well 'essoteric' aspects implicit in any relation (thus also in the economical) there will be important chances that reach a systemic transmutation, for the first time, on different and peaceful premises.

The research demonstrated that there exists an outdated approach in framing cultural-economic issues, especially when the interdependence between the two characters is underrated. A new series of tools and framing instruments are needed in order to better highlight a culture and its specific *relational logic*. It would be proper for these to be codified by a trans-national elected think-tank of individuals, able to mediate their national and extra-national citizenship that emerges in the study and appeals to the very best of human behaviours. This is not a fancy opinion, but a totally feasible solution: just looking at the UN's expenses in the last three years can give the idea of how it is not the quantity of the funding, but rather the quality of their investments needed<sup>175</sup>. There are dozens of useless or marginally useful agencies and institutions needing restoration, some even demanding it<sup>176</sup>. To fuse a great multitude of microscopic para-governments in order to create a wholly recognized and fully authorized institute, may be to the UN bodies the right strategy to avoid extinction – the direction in which many members states decided to push the United Nations.

The Chinese case study proved that when an actor is able to conciliate economic and cultural strategy in personal terms, it is able to impose its own *relational logic* in a trade. However, it also showed also that in such authoritarian countries, the main support needed is that of the elites. The difference between Presidents Hu and Xi, in terms of consideration of human rights, seems to suggest that the latter was more oriented toward passive use of the UN's Institutes in his domestic affairs while the first preferred a more proactive approach. Nonetheless, it is alarming to see a regression in human rights especially now that China is pushing to change the international trade currency at IMF, and thus, that its internal policy will become more central in the international system.

Concluding, the research distrusted the 'TINA – *there is no alternative* – point-of-view' demonstrating that there is an almost infinite series of interesting and innovative mechanisms not even slightly considered by human rights servants. Among these appeared the 'gift economy'. This practice belonged to human societies that developed different economic rationalities. The dialogue flowing between aspects of 'matriarchal' and 'patriarchal' relationality is needed for the creation of this new social and economic order – as the most classical primitivist metaphor would suggest.

Erasing the exchange paradigm should be seen as a priority among human rights advocates hoping to decrease difference among and within countries. In particular, there is an attractive idea to remove the tedious attached strings of FDI, the practice that often tends to reduce the borrower in double inferiority: economic and moral – according to Euro-American cultures of 'debt.' The aforementioned institution could for example, have the competence to emanate binding resolution and disposition for the nature of Direct Investments, or more simply delegate the power, assigning public calling and action. ♦

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<sup>1</sup> Sees section 1 in this work.

<sup>2</sup> Human Rights Global Economy: Colloquium Report, 2011: 1-4.

<sup>3</sup> United Nation Sustainable Development Official page.

<sup>4</sup> Human Rights Global Economy: Colloquium Report, 2011: 5.

<sup>5</sup> *Ibidem*.

<sup>6</sup> World Bank, IEG Annual Report 2009: Results and Performance of the World Bank Group 2009: 101-4; cf. World Bank, IEG Annual Report 2012: Results and Performance of the World Bank Group.

<sup>7</sup> World Bank, IEG Annual Report 2012: Economic Prospective 2012: 45.

<sup>8</sup> World Bank, IEG Annual Report 2011: Results and performance of the World Bank Group 2011: 45.

<sup>9</sup> Sideri 2009, La Cina e gli Altri: 39-51.

<sup>10</sup> Breslin 2013, China and the Global Political Economy: 4.

<sup>11</sup> Wang Yongqin 2014, Demystifying the Chinese Miracle: iii.

<sup>12</sup> Gao Xinman 2012, Discussion on Human Dignity and Human Rights Protection from the Perspective of Peacekeeping (Digital Copy): 2.

- <sup>13</sup> *Ibidem*: 2.
- <sup>14</sup> Ball & Gready 2006, The no-nonsense guide to human rights: 17.
- <sup>15</sup> Scaet & Breslin 2012, China and the International Human Rights System: 3-7; 33-34.
- <sup>16</sup> Breslin 2013, China and the Global Political Economy: 84
- <sup>17</sup> Arrighi 2007, Hegemony Unraveling: 32.
- <sup>18</sup> Mazzei 2009, *Tipologie di Presidenti Statunitensi*: 42. Mazzei borrowed this definition, made of the synthesis of Neo-Liberal and Neo-Conservator, from the American newspaper, Foreign Relation, and essentially used it to indicate the Bushes' Agenda as well as a clear type of ideology now strongly supported by the Republican Party in the US.
- <sup>19</sup> Agamben 2006, *On the Limits of Violence*: 2; but originally published in *Nuovi Argomenti* (1970).
- <sup>20</sup> Beck 1983, *Risk Society: Toward a New Modernity*: i-xxi.
- <sup>21</sup> Harvey 2005, *A Brief History of Neoliberalism*: 12; 17-19. But is even more striking given a lecture by the (in)famous Milton Friedman. The Social Responsibility of Business is to Increase its Profits (*The New York Times Magazine*, September 13, 1970). In this Friedman arrives to state: 'that business has a "social conscience" and takes seriously its responsibilities for providing employment, eliminating discrimination, avoiding pollution and whatever else may be the catchwords of the contemporary crop of reformers. In fact they are—or would be if they or anyone else took them seriously—preaching pure and unadulterated socialism.'
- <sup>22</sup> Denning, 'When Will "The World's Dumbest Idea" Die?' in *Forbes*, 7/05/2013.
- <sup>23</sup> Saad-Filho 2011, *Crisis in Neoliberalism or Crisis of Neo-Liberalism*: 245.
- <sup>24</sup> Harvey 2005:18.
- <sup>25</sup> *Ibidem*.
- <sup>26</sup> Saad-Filho 2011, *Crisis in Neoliberalism or Crisis of Neo-Liberalism*: 243-244.
- <sup>27</sup> Duménil & Lévy 2004, *Neoliberal income trends*: 105-133 (especially: 110-111).
- <sup>28</sup> Duménil & Lévy 2011, *The Crisis of Neo-liberalism*: 43.
- <sup>29</sup> *Ibidem*: 44-45.
- <sup>30</sup> Saad-Filho 2011, *Idem*: 246.
- <sup>31</sup> Chomsky 1979, *Human right*: 124-125.
- <sup>32</sup> Duménil & Lévy 2011, *The Crisis of Neo-liberalism*: 56.
- <sup>33</sup> Chomsky, *Interview about Human Rights and Capitalism*.
- <sup>34</sup> Chomsky, *Human right*: 131-144; cf. Hallon, *Reagan's Way*: 281.
- <sup>35</sup> Williamson 1981, *Culture and Society*: 127.
- <sup>36</sup> Radetzki 2008, *A Handbook of Primary Commodities in the Global Economy*: 20-21.
- <sup>37</sup> *Ibidem*.
- <sup>38</sup> *Ibidem*: 24-25.
- <sup>39</sup> UN bulletin 2009. It should be noticed as well that 'The plans for poverty reduction' are even more ambiguous: the first points have always been 'Liberalization of the market,' (*Poverty Reduction Bulletins*: 1994, 1997, 1999 2007, 2009) despite the expert awareness of inherent problems sorted out from combination of frail economies and neo-liberal agenda. The Argentine experience may serve as exemplum maximum: in 1999 just a month before its default Argentina's Rating at the IMF were AA+.
- <sup>40</sup> Mazzei 2012, *Relazioni Internazionali*: 133-138.
- <sup>41</sup> *Ibidem*.
- <sup>42</sup> *Ibidem*.
- <sup>43</sup> *Ibidem*: 41
- <sup>44</sup> *Ibidem*.
- <sup>45</sup> Russel 1956 (originally 1914), *Logic and Knowledge*: I-VII. The whole book has infinite references to the 'Mathematic as Science a priori' which is opposed to Kant's phenomenal perception, origin of the Holistic approach.
- <sup>46</sup> Friedman 2008, *The Next Decade*: I-IX.
- <sup>47</sup> Chomsky 1974, *Human right*: 6; cf. Harvey 2001, *Spaces of Capital*: 8. Harvey took from Chomsky and adapted, in his more recent paper, the analysis of the neuroscientist. Harvey shows how the other elements depicted in the 1974 text had already become a reality, and thus keep using it as references in the whole of his publication.
- <sup>48</sup> Žižek 2004, *Against Human Rights*: 118.
- <sup>49</sup> *Ibidem*: 116.
- <sup>50</sup> *Ibidem*.
- <sup>51</sup> *Ibidem*: 117.
- <sup>52</sup> *Ibidem*: 119-120.
- <sup>53</sup> Richerson & Boyd 2005.
- <sup>54</sup> Guiso, Sapienza & Zingales 2006, *Does Culture affect economic incomes?*: 1.
- <sup>55</sup> *Ibidem*: 2.
- <sup>56</sup> The whole bibliography of this article may be considered as an example, but for further readings: Iannaccone's (1988), Manski's (2000), Giuliano's (2004), Barro & McCleary's (2003) articles as well Becker's (1996), Schwartz's (2004) & Richerson & Boyd's (2005) publications.
- <sup>57</sup> Tabellini, *Culture and institutions: economic development in the regions of Europe*: 20; cf. Bisin, Alberto, G. Topa & T. Verdier (2004), 'An Empirical Analysis of Religious Homogamy and Socialization in the U.S.,' *Journal of Political Economy*, 112(3), 615-64, 2004.
- <sup>58</sup> *Ibidem*: 3. The Concept of 'cultural economy' has started to indicate a broader science. For what concern the 'Creative Economics,' a more proper definition for the science that deal with the micro and macro economical processes involved in the creative market may be considered: Towse's work (2011) introduction edited by the same scholar: 2-8.
- <sup>59</sup> Stiglitz 2004, *Barcelona Agreement*.
- <sup>60</sup> Guiso, Sapienza & Zingales, *op. cit.*: 41.
- <sup>61</sup> Mill 1843, *System of Logic*: 484.
- <sup>62</sup> Marx 1859, *A Contribution to the Critique of Political Economy*: 219. Some recent interpreters of Marx caution against an excessively mechanistic interpretation of his view of the historical process, and point out that even orthodox Marxism reserves a role for culture in human

history and on economic choices. Nonetheless, after Marx the problem of two-way causality between culture and economics was clearly on the table and generated a very active debate, often with an emphasis on the interaction between culture and institutions.

- <sup>63</sup> Weber 1909, *The Protestant Ethic and the Spirit of Capitalism*: 34
- <sup>64</sup> *Ibidem*: 35
- <sup>65</sup> Gramsci 1949, *Quaderni e Scritti*: 311.
- <sup>66</sup> Polanyi, Arensberg & Pearson 1957: 14-15.
- <sup>67</sup> *Ibidem*: 250.
- <sup>68</sup> As an example: Astrid Van Weyenberg 2007. The authoress spent an incredible attack not merely contesting the framework in naive post-colonial analysis but especially the 'supposed irrelevance of any ideology' of the considered work.
- <sup>69</sup> Wendt 1969, *Typology of culture*.
- <sup>70</sup> Aurélie Lacassagne, *Cultures of Anarchy*: 1.
- <sup>71</sup> *Ibidem*.
- <sup>72</sup> *Ibidem*: 9.
- <sup>73</sup> *Ibidem* iii-iv.
- <sup>74</sup> Mazzei, *Relazioni Internazionali*: 113.
- <sup>75</sup> Aurélie Lacassagne, *op. cit.*: 4.
- <sup>76</sup> Negri 1994, *Political-ethical*: 186.
- <sup>77</sup> Zhao Tingyang 2006, *Rethinking Empire from a Chinese Concept 'All-under-Heaven'*: 33
- <sup>78</sup> *Ibidem*: 34-35.
- <sup>79</sup> Mazzei and Volpi 2013, *Asia al Centro*: 138.
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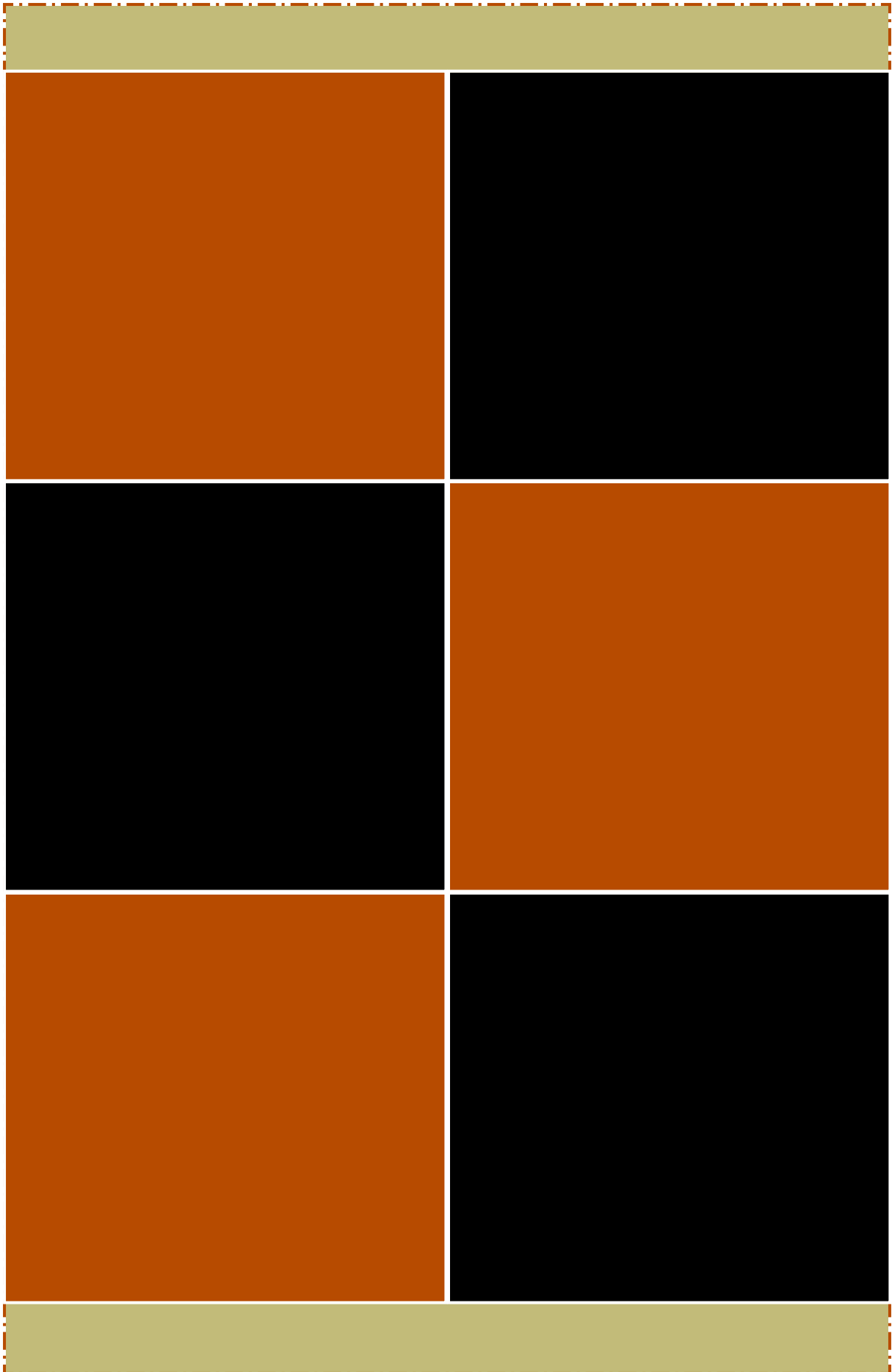


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## THE KABYLE CONFLICT: CULTURAL IDENTITY AS A HUMAN RIGHT TO ENSURE SUSTAINABLE DEVELOPMENT

MASSINE YANAT



KABYLIA IS A HISTORICAL AND ETHNOLINGUISTIC REGION OF NORTHERN ALGERIA, EAST OF ALGIERS. THE IS region is densely populated with a mountainous environment. Kabylia is surrounded by coastal plains to the west and east, to the north by the Mediterranean and the south by the Central Highlands. Devoid of overall administrative existence, it takes its name from the Kabyle population of Berber culture and traditions. Its history has made it a centre of resistance to successive conquerors, but also the support of several dynasties that placed it at the forefront of movements for the recognition of the Amazigh identity in contemporary Algeria and North Africa. Its mountainous terrain is home to a diverse ecosystem and protected by several national biodiversity parks. The development of an arboreal agriculture is limited by natural conditions. Kabylia is traditionally an important centre for craft production, and a land of emigration.

In order to understand Kabyle identity claims and violations of human rights that have occurred through history, we must study the periods of domination where the people of Kabyle faced exogenous threats. Indeed, the Kabyle are mountain people, and are by definition conducive to territorial isolation<sup>1</sup>. Human conquests and great migrations have attempted to conquer and assimilate this people by law of the plain, but until today the Kabyle identity remains strong, due to the transmission of their language and historical heritage.

### HISTORICAL BACKGROUND AND HUMAN RIGHTS VIOLATIONS FROM THE FRENCH COLONIZATION TO THE CIVIL WAR INDIGENOUS RIGHTS VIOLATION UNDER FRENCH COLONIZATION

In 1830, the French launched the conquest of Algeria. At first the expedition was directed against Algiers, but then colonizers began to occupy the entire country, Kabylia included. Several expeditions were directed against the region. Kabyle tribes fought on all fronts, from Algiers to Constantine<sup>2</sup>.

Many revolts occurred in Algeria since the beginning of the French colonization. One of the most important in its scope and its tragic outcome is the revolt of 1871. The insurrection led by Muhand At Mokran (El Mokrani)<sup>3</sup> was extended to three quarters of the country before becoming a bloody repression. After 1830, Kabyle resisted through fourteen successive campaigns. The colonial forces, led by the Maréchal Randon eventually managed to bring the region down in 1857, at the cost of brutal destruction. But the region did not resign to colonial rule. Many revolts continued to occur in response to humiliation, land confiscation, displacement of populations, and the dismantling of social organizations. In March 1871, due to the instability created by the capitulation of Sedan and the insurrectional climate in Paris, tribal confederations organized to trigger a real war against colonization<sup>4</sup>. In misery, the population was reduced, but this and famine – especially the great famine of 1857 – fuelled the continuation of the rebellion. Marshal MacMahon alerted the government on 12 June 1869: ‘The Kabyle will remain quiet as long as they do not see the possibility to drive us out of their country!’<sup>5</sup> Several months before the start of insurgency, excitement took hold of the village communities who elected the *tijmaein*<sup>6</sup> during village assemblies, despite the ban of colonial authorities<sup>7</sup>. On March 16, 1871, the insurgency was triggered. El Mokrani and El Haddad led the uprising as spiritual leaders of the Brotherhood Taremanit. Hundreds of thousands of people took part in, making the ‘Commune Kabyle’ a challenge to colonization. The uprising spread to eastern and southern countries. It lasted a total of ten months and cost the lives of more than 20,000 insurgents. Faced with such an uprising, the colonial army engaged in a merciless crackdown. The Admiral Gueydon mobilized 100,000 soldiers and a senior military device that allowed enslaving of the region in 1857<sup>8</sup>. In addition to the insurgents, the entire population was targeted. Whole villages were destroyed; families were decimated or thrown on roads of wandering by colonial barbarity. The lands were confiscated and given to new settlers. Thousands of insurgents were deported to labour camps in Cayenne or New Caledonia. There they met the Parisian Communards. Others were forcibly recruited for the campaign in Madagascar. The region was fined 36 million gold francs. The population plunged into total destitution. The Kabyle lived a tragedy, and the memory of such was transmitted from generation to generation by oral literature and poetry<sup>9</sup>.



The ambiguities, contradictions and limits characterizing the ideology of the Algerian state after national independence have led directly to the emergence of two diametrically opposed ideologies: one claiming to belong to Islam, the other to political and cultural pluralism<sup>10</sup>. Various elements of answers help us understand why Kabylia has entered a quasi-dissent position to the central government to distance itself from it ideologically. But one of the most fruitful ways to explain the limits of the influence of national socialization in Kabylia undoubtedly remains the challenge of the historical legitimacy that took advantage of those who were in power. This challenge was first expressed by the relatively high abstention (50%) during the election to chair of Ben Bella in September 15, 1963. This then took a radical form through the armed uprising of the FFS<sup>11</sup>. Although it is difficult to measure the effectiveness of an illegitimate power's action, or perceived as such, the opposition between Kabylie and the power minimized the receptivity of the Kabyle population towards its establishment. This is even truer since this opposition was based on feelings of disappointment and humiliation, characteristics that profoundly marked the Kabyle people after independence. It is in the political frustration induced by marginalization that the Kabyle people shaped their refractory character to the establishment ideology<sup>12</sup>.

ARAB DOMINATION AND REGIONAL SEGREGATION IN KABYLIA

One of the constant attitudes of those in power was ill-concealed distrust towards the Kabyle, seeing always a conspiracy<sup>13</sup>. There are many examples where someone makes the case for anti-kabylisme. In the apparatus of the State, in the business environment, in the military environment, the testimonies were all similar: they all reported a regional clientelism where Kabylia was marginalized<sup>14</sup>. This feeling of domination in the region increased among the popular classes, and marked the Kabyle cause to eventually break from the central government. This break up was marked by the police force assault (CRS units) on the University of Tizi-Ouzou in April 20, 1980. Taking the example of the restructuring of football clubs among other changes, this process was ill perceived and incited the feeling of being oppressed; all of their symbolic universe was shaken when the name of JSK (Sporting Youth of Kabylie) was changed from that of the JET (Electronic Youth of Tizi-ouzou). Suddenly, the whole purpose of the restructuring was interpreted by the Kabyle as a mere pretext to erase one element of their identity<sup>15</sup>.

THE BERBER SPRING

The Berber Spring was on one hand the result of a long process in formulating the claim of language, culture and Berber identity. On the second hand, it was a popular reaction to cultural aggression<sup>16</sup>. By its popular and unitary character, Berber Spring was for the Kabyle and for all of the Berbers, an important event at a symbolic level: April 20th, commemorated each year, and now constitutes the landmark date in their assertion of identity, culture and Berber language.

The fundamental contribution of the Kabyle Berber Spring in political history will probably remain as a junction between the Kabyle elites and the Kabyle people. Because of the legitimacy and credibility of this movement's leaders, the Algerian elites caused the Kabyle's most fruitful experiences in history. It was indeed the long and blind repression that germinated claims related to the respect for cultural rights, freedom of expression and human rights<sup>17</sup>. Through this short analysis, we have tried to report that the Kabyle people have had a specific political socialization process. This specificity has led to December 26, 1991, during which were held the parliamentary elections and massive vote of Kabylia for Democratic representation when other regions of Algeria focused on instilling Islamism<sup>18</sup>.

THE BLACK SPRING

The Black Spring (*Tafsut Taberkant*) was a series of violent disturbances and political demonstrations by Kabyle activists in the Kabylie region of Algeria in 2001. It was met by repressive police measures, and became a potent symbol of Kabyle discontent for the national government<sup>19</sup>. The protests took place against a backdrop of long-standing cultural marginalization of the Kabyle despite the fact that the most rigid government-sponsored Arabization measures of the 1960s to the 80s, had been lifted. The name 'Black Spring' alludes to events known as the Berber Spring of the 1980s, in which mainly Kabyle civil society activists challenged the ban placed on Berber culture, demanding cultural rights and democracy<sup>20</sup>.

In 2001, Algerian gendarmes arrested a young Kabyle student, Guermah Massinissa. Later, the student died inside the gendarmerie. The death provoked large-scale riots in the Kabyle region that lasted for months. President Abdelaziz Bouteflika's government claimed that the real name of Massinissa was in fact Karim, and that he was a 26 year old, jobless criminal. Several months after these statements, the government admitted that his real name was in fact Massinissa (named after the historical Berber king of ancient Algeria), and that he was an innocent high school student. The minister of the Interior Yazid Zerhouni tried to explain the misrepresentation as an incident in which he 'was badly informed'. No apologies were given to the victim's family however, and the riots did not stop. Bouteflika's government maintained that the Kabyles were being 'manipulated by a foreign

hand'. A march that brought many tens of thousands of Kabyles into the capital of Algiers, was organized by the Arouch movement, which along with the autonomist movement for the autonomy of Kabylie, sprang from the civil activism surrounding the disturbances. The demonstration was followed by confrontations between the local population of Algiers and the demonstrating Kabyles. The police sided with the 'Algérois' and State television thanked the 'inhabitants of Algiers for having defended their town from the invaders'. Since then, public marches in Algiers have been prohibited.

#### CIVIL WAR: THE OUTBREAK OF HUMAN RIGHTS VIOLATIONS AND ARMED CONFLICT AFTER 1992

The Algerian civil war ('black decade', 'decade of terrorism', and 'the Years of Fire') is the conflict between the Algerian government and the National People's Army along with various Islamist groups. It has been ongoing since 1991.

It is estimated that the conflict has cost over 60,000 lives<sup>21</sup>; other sources<sup>22</sup> put the figure at 150,000 people (with thousands of disappeared, one million displaced, tens of thousands of exiles and over twenty billion dollars in damages). The armed conflict officially ended with the victory of the government, followed by the surrender of the Islamic Salvation Army and defeat of the Armed Islamic Group (GIA) in 2002<sup>23</sup>. However, fighting still continues in some areas. The conflict began in December 1991, when the government cancelled elections immediately after the results of the first round, anticipating a victory of the Islamic Front of Salvation (FIS). The government had been fearful of losing power, anticipating the establishment of an Islamic republic. The period after the cancellation of the elections marked a new stage in the development of the conflict. The two biggest political parties, the FLN and the FFS, formed a tactical alliance to defend what remained of the democratic process while opposing the FIS. After banning the FIS, the government arrested thousands of its members<sup>24</sup>. As a result, different Islamist guerrilla groups quickly emerged, and an armed struggle against the government and its supporters began<sup>25</sup>. The power vacuum within the FIS caused by the imprisonment of its leaders led to struggles which permitted the rise of radicals, backed by armed Islamist groups. The movement began to fracture into rival organizations, the most powerful of which was the Groupe Islamique Armé (GIA), formed in 1992. The Armed Islamic Movement (MIA) was based in the mountains while the GIA was based in cities. The Islamists initially targeted the army and police, but some groups quickly attacked civilians. In 1994, while negotiations between the government and jailed FIS leaders were at their maximum, the GIA declared war on the FIS and its supporters. The MIA and various smaller groups regrouped to form the Islamic Army of Salvation (AIS), still loyal to the FIS.

It was at this time that the international dynamics of the conflict became more apparent. Many young men who had left to fight the Soviet occupation of Afghanistan in the early 1980s, began to return. They filled the space left by the imprisoned FIS leaders. They brought their experiences from exposure to guerrilla warfare, and the ideas of the Taliban. They began to use networks for the purposes of funding and recruitment, which stretched beyond Algeria<sup>26</sup>. Like the FIS, the GIA operated on both the cultural and the political fronts, seeking to impose its vision of pure Islam on Algerian society by violently eliminating Western cultural influences. In the period 1993-95, it targeted secular education, which it saw as 'undermining the jihad' by 'taming' Algerian youth. It sabotaged and destroyed some 700 schools and murdered over 200 teachers. It assassinated intellectuals, as symbols of the francophone elite because of its secular and 'Westoxicated' values. The GIA killed young women who did not wear the *hijab*. Its other targets included satellite television dishes and religious leaders with whom the members disagreed.

Initially, the Islamist groups continued the strategies they had formulated during the general strike, targeting the forces of law and order: the first major action being an ambush of police on the rue Bouzrina in the Casbah of Algiers on 10th of February 1992<sup>27</sup>. Then the targets shifted to people who were associated with the government and intellectuals who could be associated in some way with the Algerian government, France or western values, and the support or suspension of the democratic process<sup>28</sup>. Targets extended to people who dressed in certain ways, men who were clean-shaven or who wore ties, women without hijab or wore what was perceived to be western clothes. Intellectuals were targeted: victims included well-known actors and writers and the head of the Fine Art Academy. Journalists were particular targets: the International Federation of Journalists documented 90 killings during the attacks until 1999<sup>29</sup>. The attack on the independent press reached such dimensions that the independent newspapers were forced to group together in a large building near the centre of Algiers for their safety. This though, did not prevent bomb attacks.

Amnesty International reported that armed Islamist opposition groups singled out 'civil servants, wives and relatives of members of the security forces, journalists, artists, women's rights activists, newspaper and cigarette vendors, hairdressers and beauticians, and many others have been the targets of death threats'<sup>30</sup>. One of the first cases reported was Karima Belhadj, a 20-year old secretary at the Direction Générale de la Sûreté Nationale (DGSN) who was shot dead near her home in the Eucalyptus suburb of Algiers in January 1993. In February 1994, Katia Bengana a 17-year old secondary school student was shot dead near her home in Meftah (Blida). She had received death threats for refusing to wear the hijab, speaking out against such mandates<sup>31</sup>.

The depth of the crisis within the Algerian state apparatus was highlighted when a bodyguard assassinated President Boudiaf who was giving a speech in Annaba, June 1994. As the more extreme elements took control of the Islamist organisations, the insurgents attempted to isolate the Algerian government. A fatwa was issued instructing all foreigners to leave the country by the end of the year. In December 1995, an Air France airbus was hijacked at the Algiers airport and flown to France, with threats of crashing the plane into the centre of Paris. After flying to Marseille, the hijackers were overpowered, but not without loss of life<sup>32</sup>. In the course of the following year, there were a series of bombings in the Paris metro that killed eight people and wounded 200 others.

In Algeria, as the insurgents were driven out of the major cities, there were several extremely serious massacres that peaked towards the end of Ramadan in 1997<sup>33</sup>. Since 1992, over 200,000 people have been killed, others injured and whole communities traumatised by the violence. In the period of 1991-1998, violence in Algeria claimed an average of 200 victims a week. During this period, attacks on women continued in the form of abductions referred to as 'mariages de jouissance', sexual assaults and rapes. These actions reached their peak sometime between the years of 1995 and 1998. Such events particularly affected relatives within their towns<sup>34</sup>.

#### ETHNOLOGIC AND ANTHROPOLOGIC APPROACHES OF KABYLIE

##### STATUS OF THE WOMAN IN THE TRADITIONAL KABYLE FOLKLORE

In order to restore the reality of the Kabyle women's lives and especially in terms of spiritual essence, we follow the life of a 'traditional woman' in the cycle of her existence – as in many traditional societies, the relationship of humans with the environment are conditioned by a global vision of cosmic order. In the Kabyle society like in other indigenous societies, as among the Inuits for instance, there is a close analogy between the woman and the moon<sup>35</sup>. The woman represents the moon in its corporeal nature: her cycles are in unison with the lunar rhythm; her carnal union with man is represented by the marriage of the sun and moon. When a woman is pregnant, she swells like the full moon and gives birth to a child considered lunar in nature<sup>36</sup>. All her activities are associated with the different manifestations of the life of the moon in its colour, its shape, and its rhythm. Her fertility is associated with the earth: the marriage rites use the same symbols of agricultural ploughing rites. The power of breast milk is told in tales, and milk creates links of kinship similar to blood ties. It is women who transform and foster the land and production of food – the house is full of jugs, baskets, gourds, like the maternal womb – and it is the women who transmit Kabyle language and cultural values. An old woman has extensive importance as an accomplished mother and grandmother. She enlarged the village family. Now close to death, she connects her offspring to the invisible world of spirits and the spirits that surround human beings. The mysteries of creation unite women to the cyclical nature of life. Fertility in the same movement encompasses the cyclical nature of men, animals, and fields. These are strictly feminine domains that share a connection with the sacred<sup>37</sup>. All this is not new; many authors<sup>38</sup> have pointed out, about Kabyle society like many other agrarian societies, particularly in the Mediterranean area, the importance of traditional female roles and their connection with the cult of fertility.

However, it would be too simplistic to interpret all symbolism associated with the female body in a strictly materialistic way, reducing the woman to her reproductive role. What is symbolized and valued is the spiritual dimension of creative power that goes far beyond the ability to give birth to children. Traditionally, women did not feel diminished compared to men in society, because they were consciously nurtured by this knowledge as it pertained to the very foundation of their identity. Their responsibilities were worth great respect, connected to the sacredness of life and the entire universe. Only with the advent of modern society has these ideas changed, a process that gradually erased the consciousness of the sacred capacity of women as the sacred in its entirety shifted from the earthly order to that of the divine<sup>39</sup>. In the modern worldview, man is separated from his origin; he forgets his earthly roots, in pursuit of the celestial sacred. The earth becomes profane, useful as only sources of life (desecration of nature allows for it to be under control and seen as inferior), while the sky becomes creator (religious institutions take on the sacred dimension of the maternal role of women). The end result, an appearance of duality, heaven and earth as sacred and profane with man and woman<sup>40</sup>.

##### KABYLE WOMEN NOWADAYS

So in modern societies the woman is reduced to her biological reproductive role and that dissociation of wife/mother becomes a cultural highlight. Henceforth, the Kabyle woman is deprived of all ancestral knowledge. The food industry is substituted for the nurturing woman; modern medicine and the pharmaceutical industry replace the healer woman (who is now called 'witch', although one continues to seek her magic cures and fear her power). Men especially fear the magic of women because they know they have a cosmic order of power over life and thus on their manhood<sup>41</sup>. With the Arabization of the region and the settlement of a modern form of Islam (contrary to the traditional cultural maraboutic Islam), the place of the woman in society has increasingly deteriorated. There is indeed a system of domination where the Kabyle woman today seems to be inferior in rights to the Kabyle man<sup>42</sup>. This statement is especially relevant in areas where the religion has a radical form of Islam derived from the Civil War.

#### TRADITIONAL ECONOMY

The old or traditional Kabyle economy is the mode of production, exchange and consumption in force in Kabylia at the end of the nineteenth century. Explaining exhaustively the local economy is not easy to do due to two constraints: the first, is that information is theoretical, lacking methodological and detailed studies on the economic history of this mountainous region in Algeria. The second, more empirical, is inherent in the fragmentation of information and statistical data collected and reported by various authors (military, administrators, anthropologists) in the second half of the nineteenth century. Thus failing to accurately describe the workings of the traditional Kabyle economy, it should suffice to provide an overview of economy's key features<sup>43</sup>.

The local economy could be described as 'Kabyle', since it was based on endogenous human and material factors. But the availability of these factors are relative, characterized by a gross imbalance; on one side an important human density, on the other, scarce natural resources and land. On the eve of French colonization, there existed in Kabylia a food-type economy implemented in a limited space, as land was 90% mountainous. It mobilized a large workforce and operated with very limited natural resources. This production system is generally fragile because it is sensitive to natural hazards (drought and locust) and socio-political causes (conflicts and wars). A production system as this could be viable and effective only when embedded in an adequate social organization. Specifically, the mode of traditional Kabyle production was inconceivable separated from its sociological substrate: a lineage organization strongly linked to land and whose survival depended on its ability to mobilize all its resources – human and material – under the leadership of a Chief obsessed with family cohesion and group preservation<sup>44</sup>.

Agricultural practice held an important place in this socio-economic system, but could not alone be enough to meet the needs of the community. It was the centre of a myriad of other economic activities: small industries (forging, armoury, jewellery, and mills), crafts (pottery, basketry, weaving), and small businesses (souk, hawking).

The system eventually broke with the French military occupation of the 1850s, and the repression and confiscation of land in valleys and foothills during the revolts of 1857 and 1871. Altogether, these events caused the dismantling of the old Kabyle economy. From the late nineteenth century, the colonial French industry and agriculture began to recruit workers by the thousands, depriving the Kabyle economy of its main substance<sup>45</sup>.

Like other regions of Algeria, the pre-colonial Kabylia was a rural area where the land, as rare as it was, was not only essential to the production factor of economic life, but also social and cultural life. Kabyle's work processes were exercised by family groups, and there was little recourse for external labour except in the case of mutual assistance between family groups like the *Tiwizi*<sup>46</sup>. Shortly dedicated to agriculture, the Kabyle peasants strove to develop every inch of arable land; they practiced crop combinations where the tree and the grass were important, which enabled them to produce fruit (figs, acorns, grapes), oil (olive oil) and raise animals (goats, sheep, cattle). Around homes and sunken villages, all families had vegetable gardens – *timizar*<sup>47</sup> – that produced beans, potatoes, onions, and lentils. To access more agricultural space, they proceeded to create associations with landowners in the surrounding plains. This form of cooperation provided cereals (wheat and barley) in the mountain region that were the basis for their food consumption. The Kabyle peasants were first dedicated to working the land, but they also engaged in other activities necessary for the production of their livelihoods. Their versatility was seen in that 'most of the tribes and villages were making themselves objects indispensable to daily activities [...], [that] provided for the needs of the whole Kabylia and also fuelled trade with the outside'<sup>48</sup>.

#### CONTEMPORARY ECONOMY

Recent developments in the private sector in Kabylia present contradictions. On the one hand, one can observe a marked acceleration of business creation, diversification of activities with the emergence of technologically complex activities and the emergence of new types of businesses (young entrepreneurs, joint ventures with foreign partners, large private companies of international dimension). This trend is more marked in the wilaya of Bejaia, Bordj Bou Arreridj and Setif, while Tizi-Ouzou and Bouira are left behind<sup>49</sup>.

The strategy of the State towards these companies appears to be based on the assumption that it is possible to straighten and redeploy public ownership by exploiting productivity reserves. For now, the restructuring is to adjust the operating conditions to a new economic situation through downsizing, inventory reduction, and partial debt relief. Nevertheless, the companies themselves, develop genuine redeployment strategies.

Given these favourable factors, inhibitory factors yet remain strong, and do not allow the use of all potentialities. We can mention three strong inhibitory factors: constraints of access to industrial land, a rigid and heavy institutional model governing direct investment and strong financing constraints of companies for individuals or families whose financial capital surface is narrow<sup>50</sup>. This can explain the willingness to keep the Kabyle region in a state of economic under-development; for there are many reasons for the political power to keep this region in a state of economic distress. One of these is favouritism and partiality of political representatives on the national level. Indeed at every business opportunity, the decisional political force will try to implement a project in their region of origin, independently of the success of the project<sup>51</sup>. The second reason is the security of the region, as well as the presence of fundamentalist groups that stop direct investments in the local economy<sup>52</sup>.



Islam: the real backbone of the Kabyle Islam took shape with the marabout movement in the early sixteenth century. Before then, Kabylia did not present on the religious level a particular configuration that was distinct from the global North African religious context. Maraboutic Islamization is a social movement that, for the first time, involved people, ideas, and new practices, combining Islamic dogma and the local social environment<sup>53</sup>. Islam emerged due to the commitment of the Berbers to their identity and their land in its defence against the Spanish-Portuguese *reconquista*, and it is in Islam that they have sought and found part of their resistance to the Christian thrust. However, once social threat was far or at least contained, soldiers of Islam (*marabouts*) refocused their mission to the peoples of the desert and mountains (i.e., deep Berberie). What ensured sustainability and spiritual, temporal effectiveness of this movement was that it was oral and local, although adopting a scriptural and universal appearance. It was maraboutism and later, the sufi who Islamized in depth (and partially Arabized) Kabyle; they also rooted the cult of saints – and everything referring to popular religion – that allowed an escape of the rigid, narrow and cold dogma of Islamic scholars and religious texts<sup>54</sup>. It was the French colonial intrusion that gave the Marabout Brotherhood a political dimension and made maraboutism the centre of resistance, producing warriors. This radical Kabyle brotherhood provoked in return a specific colonial policy in Kabylia, marked by flight, exile and confinement of a large number of Kabyle clerics followed by a real estate policy of dispossession and a large-scale impoverishment of the region. Finally, a willingness to de-islamize the region emerged with the dispatch of on site Christian missionaries and the implementation of the secular school system of the French Third Republic<sup>55</sup>.

Christianity: colonization and evangelization, conflicting although inseparable concepts, helped set up in the last quarter of the nineteenth century a community of native Christians in Kabylia. This group of men and women was limited in quantity (a few thousand at most in the 1920s). Christianity is at the heart of paradoxes of colonization, as a difficult identity to define<sup>56</sup>.

The Kabyle conversion project is an initiative of Charles Lavigerie, Bishop of Nancy appointed to the archbishopric of Algiers in 1867. His appointment in Algiers allows him the possibility of undertaking a large-scale conversion project: that of the entire African continent. According to him, Algeria 'is but a door opened by Providence on a barbaric continent of two hundred million souls and that this was mainly the need to bring the work of the Catholic apostolate<sup>57</sup>. Upon his appointment, his interests will be in Kabylia, which holds his attention and mobilizes some of his energy. However, his official position does not allow him to act directly on the field; so instead, he has founded the Society of Missionaries of Africa, better known as the Society of White Fathers. Christian ministries such as these, were not the first religious organizations to settle in Kabylia. Indeed, Jesuit missionaries had already invested in the region during the late 1840s, and implanted a few positions with no real concrete action. These Jesuits' purpose was only to supervise the military garrisons and several dozen civilians who embarked on the colonial adventure in Kabylia. Lavigerie, in his draft to Christianize Kabylia, manipulated any colonial imagery that fuelled Kabyle myth of the late nineteenth century. His writings accentuated the supposed European origin of the Kabyle (Celtic, Germanic, or Roman) and a number of common features shared with the Europeans in order to promote assimilation. His caricature of the religious history of North Africa and statement that all Berbers acceded to Christianity in Roman times, implied that there were a whole background of traditions and Christian practices. Statistical research, published in the 1860s reinforced his view<sup>58</sup>. It was estimated that Algeria had 1.2 million Arabic-speaking Berbers, 1,000,000 of Berber Berbers and 500,000 Arabs. The Berbers were the majority and Arabs the minority. The exploitation of Lavigerie Berber's myth of assimilation based on appearances and various other experiments, were conducted by the colonial authorities, and made Kabylia a pilot region for various projects<sup>59</sup>. The region met many specific criterias needed for such projects: population density, traditional sedentary; but also changes that announced future mutations: the beginning of the emigration, traditional institutions that became obsolete because of the colonial administration, the confrontation with the market economy. Lavigerie's attempts at evangelization therefore became part of a broader colonial policy.

In this traumatized area where impoverished social and economic organization was particularly unbalanced (oral and poetic tradition reflects the suffering of the Kabyle who question the modern world) settled the missionaries of the congregation in Africa. The White Fathers were attentive witnesses of the era of transformation and upheaval. Indeed, the last quarter of the nineteenth century was in Kabylie, a defining moment that broke balance and initiated change. The school underwent constant monitoring by administrative authorities and Kabyle families. It was charity and medical assistance agencies that aided in the religious conversion of the indigenous people. Small boarding schools helped catechumenate<sup>60</sup> and convert orphans entrusted to missionary care<sup>61</sup>. However, a popular rumour, fuelled by some local administrators, slowed further converting processes. Disease and health care, especially when accompanied by healing practices, provide an efficient environment for converting individuals. Under these conditions, the conversion is an implicit way to thank and declare fidelity to the one who saved an individual from suffering, a practice similar to that of swearing allegiance. Missionaries there occupied, then, thanks to care and medicines, created an empty space in the Kabyle society. They invested themselves in a social role that was



ignored, with the exception of a few healers and ‘*rebouteuses*’<sup>62</sup> whose advice were too often ineffective. In the vast majority of cases, religious conversion occurred because of misery that affected thousands of individuals. The conversion ensured several Kabyles an ill-defined status and appellations as apostates or renegades (*m’tourni*<sup>63</sup>). Also, conversions due to conditions of extreme poverty and distress sometimes resulted in impartial adherence to Christianity and spiritual paths, making acceptance and practice of the Catholic religion sometimes problematic.

Judaism: today, it is almost absent in the region because of the 10 years of Civil War. Indeed, persecutions were recurring of dogmas differing from the traditional Sunni form of Islam. It should be noted though, that Judaism exerted its influence on various layers of the pagan world, specifically that of Mediterranean Judaism. This form of Judaism, tinged with Hellenism, was introduced in Africa by communities that settled in the continent’s ports. Some scholars, including Cumont, have attempted to explain the ideas of Judaizing stoicism, but without total success<sup>64</sup>. This leads one to consider another aspect of Jewish proselytism, which gave birth to ‘a Berber Judaism’<sup>65</sup>. The assumed connection emerged as an idea in the nineteenth century, promulgated by Mr. Simon and supported by J. Ferron through his studies on onomastic<sup>66</sup> graves of Gammarrh. The African historiographer Ibn Khaldun<sup>67</sup> claimed that the origin of the practice of Judaism by Berbers came ‘from their powerful neighbours, the Jews of Syria.’ In agreement, Simon believed that ‘probably the broad masses of rural people read and understood the Bible in its original language.’<sup>68</sup>

#### AMAZIGH LANGUAGE: STRONGEST IDENTITY MARKER

Despite the setback due to the suppression of the Berber Chair of the Faculty of Letters of Algiers in 1962 and the establishment of a linguistic and cultural policy that was anti-Berber in independent Algeria, the scientific capital and human potential enhanced during the French period. This though, did not occur without both benefits and consequences. From the 1960s, many young Kabyle in Algeria and France, sensitized by the work and positions of previous generations (mainly the writer Mouloud Mammeri<sup>69</sup>) started to study their own language in the academic world and in the frame of associations. This dual commitment gradually led to a renaissance of Kabyle written work and publications: descriptive studies within the different currents of modern linguistics (Chaker, Mettouchi, Naït-Zerrad, Allawa and many others); some of these works were orientation studies in the field of language planning: conventional notation and didactic terminology<sup>70</sup>.

Since 1990, there has been an easing of the position of the Algerian authorities towards the Berber language, a process demonstrated by the creation of the Language Departments and Amazigh Culture at the University of Tizi-Ouzou (1990) and Candel (1991). This policy allowed for the arrival of a new generation of numerous, young researchers working in Kabylia. Within a decade, the work of the new Kabyle Berber studies significantly renewed the knowledge already gathered on the Kabyle, including information related to its internal diversity<sup>71</sup>.

Kabyle Berber is the mother tongue and usual language of the vast majority of the population of Kabylia: nearly 85% of the inhabitants of the former department of Tizi-Ouzou (‘Great Kabylia’) declare that they are native Berber<sup>72</sup>. It should be stressed in this regard that many administrative divisions and redistributions of the Kabyle geolinguistic entity operated by Algeria have resulted in fragmentation of the area and its kabylophonie in at least five departments (*wilayat*). So much so that only the departments of Tizi-Ouzou and Candel can be considered almost entirely Berber; Other fragments of the Kabyle area have integrated into peripheral administrative units, including Arabic populations (Sétif, Bouira, Boumerdes). This administrative dismemberment of historical and cultural Kabylia obviously does not facilitate a berberophone population assessment in the region<sup>73</sup>.

Nevertheless, one can estimate, based on the projection of the known numbers, that there is a kabylophone population of about 5.5 million people, which includes 3 to 3.5 million living in Kabylia, the 2-2.5 million of the Diaspora in major cities of Algeria (Algiers especially) and the near million that live in France<sup>74</sup>.

In Kabylia, the Berber usage is prominent; the language is in use in everyday exchanges by villagers and individuals in urban locations. The language does not have to compete in official spaces that are accessible to the public (municipal, positions etc.). The only places in Kabylia where you can see a presence of classical Arabic are within the formal institutions, which are under direct control by the central administration of the State: schools, justice courts, police stations. Of course, in areas where there is contact between Arabic and Berber populations, Berber bilingualism / colloquial Arabic are the standard, but yet, in many cases, Arabic speakers do not learn or use Berber. The two capitals of Kabylia, Candel and Tizi-Ouzou, illustrate that there is a Berber pressure: in both cities, the old historic core of the population was Arabic; the massive rural exodus that occurred post-independence completely changed the stand of these two cities and generalized the use of the term Berber.

#### SOCIAL ANTHROPOLOGY

The Kabyle social organization, like the one that characterizes the entire Berber world, is based on two foundations: a linear order on which is built a federation system. This system involves social units included in one another: several lineages (*axerrub*, *adbrum*) makeup the village (*taddart*), several villages create tribes (*l?erc*), and these

tribes form larger groups (*Taqbilt*). This is the simplest description that can be given of the Kabyle social organization<sup>75</sup>. Nevertheless, the social order was controlled and manipulated by the French colonial administration until the Berber Spring of 1988. It was then, in the movement of April 1980, that the deep roots of the identity claimed by the Kabylia, revitalized their ‘municipal traditions’<sup>76</sup>. Altogether, it is important to note three main steps of change that occurred during this process.

*First step:* In 1980, young Berber activists (students, teachers, civil servants) militating for most of the Berber Cultural Movement (MCB) – which had just been born – invested in their villages. They started to collect work and knowledge pertaining to various fields (vocabulary, literature, herbarium confections), and above all, they ensured the establishment of the first informal Berber courses. These young political militants took part in the local economy, not directly as business managers, but their presence and activities avoided villages so that they could be transformed into museums.

*Second step:* The relative consecutive opening political earthquake of October 1988, including the new Law on Associations enabled in Kabylia two trends. The first was the birth of a very dense network of associations. Indeed, For Mohammed Kourdache ‘the association movement appropriates anthropological elements inherent to Kabyle society and articulates these elements with the identity reconstruction movement’<sup>77</sup>. The density of this associative fabric was such that the villages almost in their entirety made up their own associations. In the organization of cultural activities more often, the *djemaa*<sup>78</sup> was the indispensable interlocutor. The second trend was in the birth of ‘village committees’ that had association status. Young people ran these village committees, and renovated the version of the ancient *djemaas*. They managed an important part of village life. Unlike *djemaas*, their composition was no longer based on a lineage structure, but on skills or political affinity. In this light then, the situation of Kabyle villages became quite diverse, but each had at least one of the following three structures: *djemâa*, village committee or association.

*Third step:* During the Black Spring of 2001, these village institutions, which formed a tight grid in Kabylia, were used to support identity claims (funding of cultural activities, organization of poetic festivals, and language courses). Indeed, in times of crisis, they served as mobilization frameworks. The uprising that shook Kabylia in April 2001, gives a perfect illustration: the *djemaas* and village committees replaced political parties – notably the FFS and the RCD that were strongly established in the region. These committees organized marches, requisitioned means of transport, coordinated solidarity with the wounded (management and the purchase of medicines) and with the families of the victims, provided regular financial support to families of detainees.

The link between the identity claim and the anthropological foundation is not limited to their institutions. This claim also taps into the value system, especially in the sense of Kabyle honour. The fight for Berber culture is perceived as a challenge, a matter of honour. During the school and university boycotts in 1994-1995, a widely displayed watchword especially in Kabylia affirmed ‘tamazight of nnif: Tamazight is a matter of honour, i.e. dignity’<sup>79</sup>. Thus, the name of associations was very meaningful: the reference came from a local saint (Jeddi Abdelmalek) given to a Berber-nationalist militant (Imache, Laïmèche), continuing in its use by poets (Si Mohand Mohand Youcef and Qasi), writers (Mouloud Feraoun and Taos Amrouche) and bandits of honour (Abdoun Ahmed and Merri). The reference to these names is all the more significant because none of them, except for Feraoun Mouloud, is taught in school. The Kabyle society is indeed witnessing the ‘construction of emerging identity’<sup>80</sup>. This anthropological base in Kabylia is today, as well as language and literature, crossed by a powerful dynamic of renewal. Society as well as language respond to change and try to survive under a multiplicity of forms, a process which provides evidence of the complexity of Kabyle adaptation.

#### DEVELOPMENT ISSUES AND INDIGENOUS PEOPLE RIGHTS

Kabylia is generally regarded as a poor region of surviving emigration<sup>81</sup>. Yet natural, economic, financial, human resources exist which can generate development dynamics, as is the case in many parts of the world where wealth and jobs are created from the local potential. Why do territories of Kabylie produce no development, despite the presence of significant competitive advantages? The strictly economic analyses do not provide a satisfactory answer to this question in regards to all regions of the country, sharing the same situation.

With an unemployment rate that is nearly a third of the active population<sup>82</sup>, mainly composing of young people, and an absent state, the Kabyle must rely on themselves to create wealth and employment. The debate on local development in this region is based on a resource database: in rich countries, local development often represents a relative contribution to overall growth, while developing countries may consider it as a key to national development<sup>83</sup>. This could be the case in Kabylia, where the economic potential appears to be sufficient to establish the conditions for development. However, the currently observable endogenous socio-economic dynamics in the regions reflect, instead, a marked stagnation. The constraining factors fall within multiple, nested levels. What part can we attribute to the natural environment, i.e. ‘local knowledge, skills, self-organizing capabilities, collective behaviour’<sup>84</sup>? The observation of the regional community through its territorial, organizational and institutional components provides insights that aid in answering this question, and focus on the impact of governance modes that seem decisive.

The assessment of the economic potential and practices of Kabylia territories can take place at two levels: in terms of resources and dynamic. Two situations may prevail in terms of Local Development: a 'low' development strategy based on generic and not dedicated resources (energy, raw materials), and a 'high' development strategy based on specific or latent resources, produced by local actors with dedicated resources. These resources may include craftsmanship valued by an industrious workforce, flexible and versatile, as well as social and cultural structures that give a sense of belonging to the agents, a favourable environment for business initiatives<sup>85</sup>.

Investment research conducted by public authorities in the *wilaya* of Tizi Ouzou seems essentially involved with 'low' strategies. Indeed, in an official document of the wilaya, which lists the slots offered to investment, one can find metal deposits, forests, fisheries, water, and nature. This document does not mention many specific resources related to the 'high development' definition of Rallet. The 'high' development strategy would include craft skills particularly present in the province, as well as the expertise related to regional industrialization, vocational training, and emigration. This would also include knowledge related to traditions, regional culture, university, and socio-economic institutions.

In as far as community development, it is an elaborate form of local initiatives 'with an endogenous and solidarity tone'<sup>86</sup> that result in the mobilization of the population to take charge as was manifested in Kabylia. Led by village committees, associations, or spontaneous groups of citizens, they focused on improving the collective living environment: development of trails and village roads, water supply, and electric hook. They regarded important construction sites and took partnerships with governments that could, for example, provide materials to the village committees who themselves would ensure the realization of their projects. Local initiatives could also tackle group life problems like hygiene, health, school bus, and waste management. Today, these processes are becoming increasingly important, leading to sophisticated forms of territorial organization. As an example of this process, the Zoubga, a small mountain village in the municipality of Illiltén, has a permanent civic organization based on a rigorous concept of the rights and duties of each village member. The village possesses more or less a formalized solidarity. Networks of influence in Algeria and funding from emigration provide the village with facilities and activities, social measures without any proportions that compare its small size of its population to its economic resources<sup>87</sup>.

The vast majority of the villages of Kabylia are currently experiencing similar processes, to varying degrees, through diversified types of action<sup>88</sup>. This is an exceptional capital in terms of territorial organization that can provide a framework for more ambitious actions of local development. However, the limits of these citizen organizations should be noted. Indeed, there is no real treatment of marginalization and impoverishment, although multiple forms of solidarity sometimes occur together: community care for school expenses of needy schoolchildren, donations in cash or kind during religious events and redistribution of the collected money in holy places<sup>89</sup>.

The situation of poor development undergone by the Kabyle cannot be regarded as a curse. The analysis of the long period shows that the area has experienced periods of prosperity before colonization. Colonization ruined their manufacturing production system through long-standing migration processes; while the first years of independence, for various political and economic reasons, will complete the disintegration of social organization that was the strength and originality of the Kabyle society. The need for strong dynamics of local development is apparent, especially with the withdrawal of the state and the profound deconstruction of the traditional Kabyle society<sup>90</sup>.

Observations of local productive systems have shown all the weight of cultural and traditional factors in the construction of organization in industry. For the pre-colonial Kabylia, it seems clear that the vitality of the manufacturing production was based on an endogenous and refractory culture. Today, widespread forms of community development seen in the multitude of Kabylia villages are based on a principle of return to cultural and traditional foundations<sup>91</sup>.

#### THE REFRACTORY CULTURE<sup>92</sup>

T. and J. Berthet Palard analyzed the local economic dynamics modes related to the Vendean 'refractory' culture. This culture is distinguished, according to the authors, by geographic isolation, introversion, and antagonism of central republican and secular ideology. The ferment of the opposition with Paris is based on religion, rurality, intra-community solidarity, and opposition to the bourgeoisie. Certain features of this analysis concern the Kabylia: geographic isolation, withdrawal, sense of not recognizing themselves in the dominant culture and modes of governance that are observed on the field. What kind of social and economic dynamics can emerge from this refractory culture? In Vendée, it allowed the development of industrial districts based on a strong overlap between environment and production, particularly in the Cholet. This type of dynamic also concerned Kabylia in the past, but stopped because of historical events. Today, it seems certain that specific modes of governance and territorial organization are manifested in Kabylia. It also seems certain that 'creeping' and informal forms of industrialization are emerging, although timidly. Altogether, it is equally certain that the current processes have little in common with that of the districts in the Italian and South American clusters.

The Algerian state does not want local territories beyond its authority<sup>93</sup>. Elsewhere, the state and local authorities have evolved considerably in dealing with local issues. Decentralization, partnership or local democratic practices determine forms of governance for citizen expression. In Algeria and therefore in Kabylia, an outdated conception makes the State the unique player in local development. Municipalities and citizens continue to depend on the State for decisions that does not consult or take its own people into account. Two reasons explain the maintenance of state centralization: the political will to consolidate a threatened national unity, in the eyes of the authorities, by the particularities that include Kabyle particularism. The other reason is a will, much less noble of some state apparatuses, which aims for the conservation of power and the material benefits attached to it. The emergence of significant local development processes in Kabylia requires decentralization and the establishment of a civil society capable of extracting forms of local democracy. The various citizen protest movements experienced by the region since 1980, are part of this process.

The Algerian state does not know how to develop local territories in both its approach and practice. Public conceptions of development that are based on the idea that development is a matter of equipment and investments, do not take into account territorial specificities. The approach is functional, whereas the world is currently dominated by comprehensive approaches in terms of ‘projects’ of territorial qualification<sup>94</sup>.

The Algerian state cannot develop local territories in Kabylia. Beyond reducing its financial capacity to intervene and the difficulty of controlling the local, the State intervention is penalized in two ways: the qualification of local administration is low, causing delays, extra costs, distortion of state actions; and the weight of local elites, special interest and pressure groups who abuse the public actions and investments, is inappropriate.

THE KABYLE CONFLICT  
AND ITS CONSEQUENCES ON CONTEMPORARY SOCIETY

Sustainable development is a fundamental right, when classic forms of development tend to violate local populations and environment. The sustainable approach is more respectful of indigenous communities. Indeed, local and civil decisional processes that are anchored in a territory, guarantee the respect of the local environment and socio-cultural customs. In Kabylia, since the development policies are decided on a top-down perspective at the national level, the projects and initiatives have only few chances to succeed and are often disrespectful of the populations and social ecosystem. Therefore, the Algerian State established in Kabylia is an obsolete form of development founded on centralization, which follows the model of Northern industrialized countries post World War II. Such a development is no more relevant today, and induces a conflictive, rebellious state of mind in the indigenous people. Sustainable development seems to be the only acceptable type of development since it defines a viable form of long term territorial and human management. The improvement in governance depends on the cooperation of all stakeholders involved in the territories. By excluding local people from the decisional processes that rule their land, the Algerian State violates the Kabyle people’s rights to develop. In conclusion, a supra-local development that does not take into account local particularisms is never sustainable, but these political behaviours are facing a turning point. On 22nd September 2014, the UN adopted the resolution regarding the World Conference on Indigenous People. Algeria ratified the document. Many articles of this chart tend to follow a sustainable vision of development of territories by empowering indigenous populations. Article 3 clearly states that indigenous people should have the right to create and cooperate ‘through their own institutions’ (art. 3)<sup>95</sup>. Article 7 mentions how Nations should involve indigenous people in the decisional process that occurs at a national level through ‘consultation and cooperation’ and ‘among all sectors of society, including members of legislatures, the judiciary and the civil service’ (art. 7). Other aspects of indigenous rights – relevant to Kabylia – are mentioned in the UN document, such as the empowerment of the Youth through education (art. 15) and the respect for these people to practice freely their language and religion (art. 14).

The ratification of the document by the Algerian State is not a presage of change, since there is no possibility for the UN to enforce these articles. However, the consideration of a sustainable approach and indigenous rights could empower the Kabyle people through its spread in definition of progress that is antagonistic to the development known in the region thus far. ♦

<sup>1</sup> Lazreg 1983, *The reproduction of colonial ideology: The case of the Kabyle Berbers*: 380-395.

<sup>2</sup> Julien 1964, *Histoire de l’Algérie contemporaine. La conquête et les débuts de la colonisation (1827-1871)*: 453-500.

<sup>3</sup> Muhand At Mokran (1815-1871) was one of the principal leaders from the popular insurrections that happened in Kabylia at the end of the 19th century.



- <sup>4</sup> Moussaoui 2005, *Cheikh El Mokrani (1815-1871) Le chef de la Commune kabyle, en guerre contre la colonisation.*
- <sup>5</sup> Lavigerie 1980, *Missionnaires d'Afrique, recueil de textes et de discours:* 86-85.
- <sup>6</sup> Village Chief.
- <sup>7</sup> Martel 1976, *Note sur l'historiographie de l'insurrection algérienne de 1871:* 63-84.
- <sup>8</sup> Rinn 1891, *Histoire de l'insurrection de 1871 en Algérie:* 671.
- <sup>9</sup> Richard 1988, *Le décret Crémieux et l'insurrection de 1871 en Algérie.*
- <sup>10</sup> Harbi 1980, *Nationalisme algérien et identité berbère:* 31-37.
- <sup>11</sup> Ilikoud 2006, *FFS et RCD: partis nationaux ou partis kabyles?:* 163-182.
- <sup>12</sup> Harbi 1992, *L'interruption du processus électoral: respect ou déni de la constitution:* 145-154.
- <sup>13</sup> Mortimer 1991, *Islam and multiparty politics in Algeria:* 575-593.
- <sup>14</sup> Bouguerrouh 2002, *Territoires locaux, milieux et développement en Grande Kabylie:* 163-199.
- <sup>15</sup> Silverstein 2003, *Martyrs and patriots: Ethnic, national and transnational dimensions of Kabyle:* 87-111.
- <sup>16</sup> Chaker 1989, *La voie étroite: la revendication berbère entre culture et politique:* 281-296.
- <sup>17</sup> Chaker 2003, *La question berbère dans le Maghreb contemporain: éléments de compréhension et de prospective:* 75-77.
- <sup>18</sup> Chaker 1989, *Cit:* 281-296.
- <sup>19</sup> Dourari 2002, *'Pratiques langagières effectives et pratiques postulées en Kabylie. A la lumière des événements du "printemps noir":* 17-35.
- <sup>20</sup> Temlali 2003, *La révolte de Kabylie ou l'histoire d'un gachis:* 45.
- <sup>21</sup> Amirouche 1998, *Algeria's Islamist Revolution: The People Versus Democracy?*
- <sup>22</sup> Amnesty International 1993, *Algeria, deteriorating human rights under the state of emergency.*
- <sup>23</sup> Bouandel 2002, *Bouteflika's reforms and the question of human rights in Algeria:* 23-42.
- <sup>24</sup> Devoluy 1994, *La poudrière algérienne: histoire secrète d'une république sous influence:* 45-49.
- <sup>25</sup> Issami 1998, *L'intégrisme islamiste en Algérie de 1962 à 1988.*
- <sup>26</sup> Kepel 2000, *Jihad. L'expansion et déclin de l'islamisme.*
- <sup>27</sup> Issami 2001, *Le FIS et le terrorisme. Au coeur de l'enfer.*
- <sup>28</sup> Haroun 2001-2, *Il fallait arrêter le processus électoral.*
- <sup>29</sup> Labter 1995, *Journalistes Algériens. Entre le bâillon et les balles.*
- <sup>30</sup> Amnesty International 1997, *Algeria: Civilian population caught in a spiral of violence.*
- <sup>31</sup> *Ibidem.*
- <sup>32</sup> Ryane 1997, *Chronique de l'Impure:* 7-8.
- <sup>33</sup> Amnesty International 1997, *Algeria: Civilian population caught in a spiral of violence.*
- <sup>34</sup> Lloyd 1999, *Transnational mobilisations in contexts of violent conflict, the case of solidarity with women in Algeria.*
- <sup>35</sup> Lecestre-Rollier 2015, *Makilam, Signes et rituels magiques des femmes kabyles:* 296-299.
- <sup>36</sup> *Ibidem:* 218 -221.
- <sup>37</sup> *Ibidem:* 71-75.
- <sup>38</sup> Bourdieu 1990, *La domination masculine.*
- <sup>39</sup> Raillon 1985, *Islam et Ordre Nouveau ou l'imbroglio de la foi et de la politique:* 229-261.
- <sup>40</sup> Achour 1995, *Violence et politique en islam:* 126-127.
- <sup>41</sup> Amrane-Minne 1999, *Women and Politics in Algeria from the War of Independence to Our Day:* 62-77.
- <sup>42</sup> Entelis 1996, *International Human Rights: Islam's Friend or Foe-Algeria as an Example of the Compatibility of International Human Rights Regarding Women's Equality and Islamic Law:* 12-51.
- <sup>43</sup> Benyaou, Oussalem, Challah, Sahbi 1992, *Étude sur l'artisanat d'art traditionnel dans la wilaya de Tizi-Ouzou.*
- <sup>44</sup> Pierre 1972, *Esquisse d'une théorie de la pratique. Précédé de: trois études d'ethnologie Kabyle.*
- <sup>45</sup> Bouguerrouh, Bouteldja, Boumati, Oussalem 1992, *Les entraves au développement local: cas de la wilaya de Tizi-Ouzou .*
- <sup>46</sup> Solidarity in Kabyle.
- <sup>47</sup> Individual kitchen gardens.
- <sup>48</sup> Mahé 2001, *Histoire de la Grande Kabylie, XIXe-XXe siècles. Anthropologie historique du lien social dans les communautés villageoises.*
- <sup>49</sup> Oussalem, 2002, *Entrepreneuriat privé et développement local.*
- <sup>50</sup> Bouguerrouh, Bouteldja, Boumati, Oussalem 1992, *Les entraves au développement local: cas de la wilaya de Tizi-Ouzou.*
- <sup>51</sup> Toubal 2014, *Du favoritisme et de ses effets néfastes sur les nations .*
- <sup>52</sup> Talahite 2000, *Economie administrée, corruption et engrenage de la violence en Algérie:* 49-74.
- <sup>53</sup> Boulifa 1925, *Le Djurdjura à travers l'histoire, depuis l'antiquité jusqu'à 1830. Organisation et indépendance des Zwarwa:* 721-732.
- <sup>54</sup> Abrous 1981, *Hommes et femmes de Kabylie:* 25-30.
- <sup>55</sup> Bourdieu, Sayad 1964, *Le déracinement.*
- <sup>56</sup> Direche-Slimani 1981, *Père Blancs de Kabylie.*
- <sup>57</sup> Lavigerie 1980, *Missionnaires d'Afrique, recueil de textes et de discours.*
- <sup>58</sup> Emerit 1960, *Le problème de la conversion des musulmans d'Algérie sous le Second Empire. Le conflit entre Mac Mahon et Lavigerie.*
- <sup>59</sup> Emerit 1960, *La lutte entre les généraux et les prêtres aux débuts de l'Algérie Française.*
- <sup>60</sup> Preparatory training period for baptism.
- <sup>61</sup> Direche-Slimani 2004, *Chrétiens de Kabylie (1873-1954). Une action missionnaire dans l'Algérie coloniale:* 120-124.
- <sup>62</sup> Person claiming to heal fractures and dislocations, without being a doctor.
- <sup>63</sup> Literally the one who has turned his back.
- <sup>64</sup> Aziza 1983, *Quelques aspects de la polémique judéo-chrétienne dans l'Afrique romaine (IIe - VIe s.):* 49-56.
- <sup>65</sup> Ferron 1956, *Un hypogée juif:* 105-117.
- <sup>66</sup> Relating to the study of the history and origin of proper names.



- <sup>67</sup> Simon 1946, *Le judaïsme berbère dans l'Afrique ancienne*: 1-31.
- <sup>68</sup> Simon 1978, *Un document du syncrétisme religieux dans l'Afrique romaine*: 500-524.
- <sup>69</sup> Mammeri 1976, *Tajerrumt n tmazi?t (tantala taqbaylit)* – Mammeri 1980, *Poèmes kabyles anciens*.
- <sup>70</sup> Naït-Zerrad 2000, *Auxiliaires temporels en berbère*: 669-678.
- <sup>71</sup> Naït Zerad 2001, *Esquisse d'une classification linguistique des parlers berbères*: 391-404, 2000-2001.
- <sup>72</sup> Chaker 1997, *La Kabylie: un processus de développement linguistique autonome*: 81-100.
- <sup>73</sup> *Ibidem*: 213-220.
- <sup>74</sup> Maillard 2005, *The Muslims in France and the French model of integration*: 62-78.
- <sup>75</sup> Yacine 1988, *Izli*.
- <sup>76</sup> Mahé 1994, *Anthropologie historique de la Grande-Kabylie XIXe et XXesiècle: histoire du lien social associatif*: 47-48.
- <sup>77</sup> Kourdache 2001, *Mouvement associatif et reconstruction identitaire en Kabylie*.
- <sup>78</sup> Meeting of community leaders in North Africa and in particular in Western Sahara.
- <sup>79</sup> Abrous 1995, *Le Haut Commissariat à l'Amazighité ou les méandres d'une phagocytose*.
- <sup>80</sup> Chaker 1985, *La construction d'une identité en rupture: Langue, écriture et culture dans le domaine berbère*: 41-56.
- <sup>81</sup> Bouguermouh 2002, *Territoires locaux, milieux et développement en Grande Kabylie*: 163-199.
- <sup>82</sup> Benallaoua 2010, *Vulnérabilité, segmentation du marché du travail, et pauvreté: résultats d'une étude sur le niveau de vie des ménages en Basse Kabylie*.
- <sup>83</sup> Rallet 2011, *Ressources spécifiques et ressources génériques: une problématique pour le développement local. L'exemple d'une région tunisienne*.
- <sup>84</sup> Peyrache 1999, *La contribution de P. Aydalot à l'édification de la théorie des milieux innovateurs*.
- <sup>85</sup> Rallet, Torre 1995, *Economie spatiale et Economie industrielle*.
- <sup>86</sup> Lacroix 2012, *Transnationalisme villageois et développement: Kabyles algériens, Cbleubs marocains en France et Panjabis indiens en Grande-Bretagne*: 71-84.
- <sup>87</sup> Workshop of Regional Economy 2004, *Les entraves au développement local*.
- <sup>88</sup> Azevedo 1996, *Développement local: industrie, famille et territoire*.
- <sup>89</sup> Bandt 1994, *Du secteur informel aux sous-systèmes productifs locaux*.
- <sup>90</sup> Soulage 1994, *La place du politique dans les systèmes productifs localisés*.
- <sup>91</sup> Portier 2002, *Le 'pays': un territoire pour le développement local*: 211-217.
- <sup>92</sup> Berthet, Palard 2002, *Culture réfractaire et décollage économique*: 120-125.
- <sup>93</sup> Sahli 2009, *Produits de terroir et développement local en Algérie*: 89.
- <sup>94</sup> Demazière 1996, *Du local au global: les Initiatives pour le développement économique en Europe et en Amérique*: 96-99.
- <sup>95</sup> United Nations, General Assembly 2014: *Outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples*: Articles 3, 7, 15.

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- G1** *Wu Wei* (literally: Non-action, 無為). In the *Tao Te Ching*, Lao Tzu explains that beings (or phenomena) that are wholly in harmony with the Tao, behave in a completely natural, uncontrived way. The goal of spiritual practice for the human being is, according to Lao Tzu, the attainment of this purely natural way of behaving, as when the planets revolve around the sun. *Wu* may be translated as *not have* or *without*, but the character ideally means *void*; *Wei* may be translated as *do, act, serve as, govern, or effort*. The literal meaning of *wu wei* is 'without action', 'without effort', or 'without control', and is often included in the paradox *wei wu wei*: 'action without action' or 'effortless doing'. The practice of *wu wei* and the efficacy of *wei wu wei* are fundamental tenets in Chinese thought, and have been mostly emphasized by the Taoist school. One cannot actively pursue *wu wei*. It manifests as a result of cultivation. The Tao is a guide. Mazzei F. & Volpi, V., *La rivincita della mano visibile*: 93.
- G2** **Sinophobia** is the cultural and aesthetic tendency to hate rather than deprecate Chinese productions, the movement born in Europe in response to the sinophilia. The most strenuous criticism arrived from thinkers of the Eighteenth and Nineteenth century whom dealt with politics, Montesquieu, Hegel, and Karl Marx. Mazzei F. & Volpi, V., *La rivincita della mano visibile*. Il modello economico asiatico e l'Occidente: 118-9.
- G3** **Under the Sky** (天下). According to Zhao and others, one of the most ancient value of the Chinese elites, is literally, 'Under the Sky' (天下). The *Tianxia* represents the most important precept for the Confucian Ruler. Its principle is the higher is the Harmony (*he* 平). This the sovereign assures to all classes of people so that higher will be his own love and respect that he will receive. Zhao Tingyang, *A Political Philosophy of World*: 9.
- G4** **Guanxi** (traditional: 關係 simplified: 关系) describes the basic dynamic in personalized networks of influence, and it is a central idea in Chinese society. In Western media, the pinyin Romanization of this Chinese word is becoming more widely used instead of the two common translations – 'connections' and 'relationships' – as neither of these terms sufficiently reflects the wide cultural implications that *guanxi* describes. *Guanxi* has a major influence on the management of businesses based in China, and also those owned overseas by Chinese in Southeast Asia in what is known as the bamboo network. Gold, T., Douglas G., and David Wank, *Social Connections in China: Institutions, Culture and the Changing Nature of Guanxi*: 13.
- G5** **Mianzi** (*mianzi* 面子) literally: 'face; side; reputation; self-respect; prestige, honor; social standing'. Chinese 'face' has principally accepted Hu Hsien-chin's original distinction of a person's *mianzi*, 'social status' and *lian*, 'moral character'. Hu (1944:45) dichotomized *mianzi* as 'a reputation achieved through getting on in life, through success and ostentation' versus *lian* which 'represents the confidence of society in the integrity of ego's moral character, the loss of which makes it impossible for him to function properly within the community'. Hu Hsien Chin, 'The Chinese Concept of "Face",' *American Anthropologist* 46 (1): 45-64. ♦



## ABSTRACTS



ARNALDO ANDREA ANGIULLI - STEFANIA TORALDO  
**HISTORICAL EVOLUTION OF HUMAN RIGHTS**

The universal attempt of identifying and globally understanding human rights as fundamental, inalienable and indivisible moral norms is still a searing and challenging issue of the most recent era. Before introducing the concept of human rights as a social and cultural phenomenon, an opening focus on the etymological meaning of its definition, in the terms of 'Human' and 'Rights', is suitable. The following paper will then illustrate the historical evolution of human rights, tracing its origins in the oldest available sources that concern people's duties, rights and responsibilities in ancient and modern civilisations. A legal phenomenon, or rather, a theoretical portrait of the first international instruments for the protection of human rights and their relating atrocities and violations, is provided. Furthermore, the traditional distinction between 'classic' and 'social' rights will be implemented with an ideological exploration of human rights in a most modern and contemporary perspective. As a result, the concept of human rights in the twenty-first century appears interdependently with the idea of a new community which, in facing the current ecological crisis, is trying to delineate an alternative worldwide paradigm, where all human beings are interconnected with other species and natural entities, in a more 'green' and democratic environment.

ARNALDO ANDREA ANGIULLI  
**NEOLIBERAL POLICIES AND HUMAN RIGHTS**

The Italian anthropologist Amalia Signorelli had a recent discussion on the present misconception of the irrelevance of ideology in social behaviours and thinking. The scholar pointed out how a certain cultural dynamic is being hegemonic in the last half century, cloaked as a non-ideology and permeated of 'economic trans-valorisation of moral'. There is more generally, a great accusatory tendency ongoing against the common conception of compatibility of neo-liberalism – in its economic as well broad cultural sense – with human rights development, and some economic rights. During the post-war years of fast growth the interests of capitalistic elites were somehow limited through a tacit community of working and managerial classes; the liberal part of the latter backed by the first, furnished a decisive impetus for the Sixties and Seventies first improvements of human rights institutions. As broadly demonstrated, fracturing the civil society may be considered the greatest achievement in terms of development for neo-liberalism. The renewed social compromise with its shift towards the right altered the pre-existing social order. A new class of high wage-earners almost erased what were essentially the middle classes in a great number of post-industrial economies. After a viral crisis of global proportion that lasted almost five years, the world GDP increases slightly again. The news shows a positive recovery of every value, and hails the coming 'new time'. But mainstream news often works in a 'mysterious way', forgetting reality and the too soon, too cogent element.

Against the neo-realist discourse regarding the uselessness of an proscriptive approach, it is worth to mention Signorelli's reply combined with the Gadamerian definition of reality which is not simply 'perceived/read', but is 'meant/wrote', thus the inherit human task as a 'perfect idealizer'. It is the 'mission' of a thinker, and in a broader sense as a *Homo Sacer*, to realize this 'cognitive sacrality'. Moreover, about the narrow development possible for the contemporary realist theories, it should be said finally, after almost a century of pre-eminence among academics, that their renewing impetus is stalled in the winds of fresher and more practical de-constructivist approaches.

This work aims to investigate some of the less clear dynamics of the relation between human rights and neo-liberal guidance. Specifically, how has human rights developed along with Neoliberal engagements, particularly in the light of the most relevant political leader's actions. Also, this work aims to identify the Neoliberal attitude, showing how it has effected the new 'social compromise' of Human Rights. Concluding the research demonstrates proactive uses of neoliberal societies for development of more stable and coherent human rights agendas.

FABIO DI DONATO  
**FLEEING FROM POLITICAL, ECONOMIC AND CULTURAL ANXIETY:  
NEW PARADIGM FOR ASYLUM-SEEKERS AND REFUGEES**

Population migrations have always been part of human history since its origin. In early times, the main reasons for displacement were rooted in the outbreak of widespread famines and wars over natural resources, as well as religious persecution. Over time, the causes of forced migration have become far more complex, witnessing a growing number of ethnic and political persecutions and the ensuing rise in displacement rates all over the world. While mobility cannot be prevented, the international community should adopt new policies for a more constructive management of the phenomenon. Mass movements naturally pose a serious challenge to destination countries, but during the last decades, they have started to be perceived as a real threat for many nation-states.



After a brief overview of the international regime protecting the forced migrants and an attempt at giving content to the three often-interchanged terms of migrants, refugees and asylum-seekers, this paper will illustrate the main reasons that prevent the idea of ‘welcoming the stranger’ from being implemented in the world. Finally, analyzing the strong interconnection between migration policies and security issues, this paper will attempt to give novel suggestions and recommendations for finding a way-out of the global *impasse*, mainly by stressing the concept of collectivized responsibility and burden-sharing.

ARNALDO ANDREA ANGIULLI

#### INTER-RELATIONAL LOGIC AND ECONOMIC HUMAN RIGHTS

The greatest development that human rights had in political and institutional domestic implementations, occurred during the Civil Right Movement in the United States and the 1968’s Actions in Europe. At that time, the media coverage relied on shock provoked by the broadcasting of policemen hitting young people with their batons; meanwhile, almost unnoticed by the world, China was turning one of the bloodiest pages in its history, the Cultural Revolution. Now, current human rights standards in the region pose the question of how such a change has been possible.

The research of this paper identifies contemporary situations concerning the development of ‘Social, Cultural and Economic rights’ and proposes the feasibility of different interpretations of theories and experiences in the international arena. The introduction analyses the cultural relationship between ‘civil’ and ‘political’ spheres in terms of human rights influencers, in which each consider the other the cause of a stalemate. It follows an analysis of the main instruments used to interpret the international stage, and the focuses on the theories regarding the ‘other’, with an aim to prove that the ordinary academic tendency fails to frame the individual cultural aspect. The third and fourth complementary sections considers China, as one of the most strenuous actors in debate on the renewal of relational criteria, evaluating specific features – *mianzi* and *guanxi* – and the historical evolution of its national economy. The paper concludes by highlighting the underestimated ‘gift cultures’ with their features that served the functioning economy.

MASSINE YANAT

#### THE KABYLE CONFLICT:

#### CULTURAL IDENTITY AS A HUMAN RIGHT TO ENSURE SUSTAINABLE DEVELOPMENT

With the recent World Conference on Indigenous Peoples, the United Nations General Assembly adopted a convention that guarantees Indigenous people inalienable rights. Kabylia is an Algerian region where an indigenous ethno-linguistic minority resides; this minority is the Kabyle people. Today, the Kabyle are experiencing a level of socio-economic and urban development that is below the national average. This is due to the fact that Kabylia has been under external domination by the French during colonization and Arab nationalist ideology following the state’s independence. This paper aims to outline the correlation of past policies to crush the Kabyle culture with the current level of development. Indeed, the respect of local and territorial particularism is a human right insofar as it is the only way to reach sustainable development.

In order to demonstrate this statement, this research first focuses on the Human Rights violations and ‘cultural genocide’ that occurred in Algeria - by French colonization and Arab domination. Then, the research includes an anthropological and ethnological study of the Kabyle society to outline the traditional social organization, the beliefs system and the place of its women in society. These fields of study are relevant because they project a sustainable way to develop the region using the vernacular assets of their civil society. In the third section, this research will show that these assets can be used in the contemporary Kabyle society to enhance community development and territorial governance despite the willingness of the Algerian State to maintain a status quo.

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#### EDUCATION AS A HUMAN NEED

The educational system that consists of teaching, training and learning is an essential part of human life. It represents a vehicle that transmits cultures and values, enlightening minds and hearts and implementing skills and knowledge necessary for a more aware world. Evaluated as an ‘empowering right of liberating potential’, the right of education is fundamental in that it promotes individual development and creates a life learning society which protects all other human rights.

In a legal perspective, the right to education is defined as a social freedom right, entrusted to states and parents. Together, they are responsible for advocating primary level education for their children.

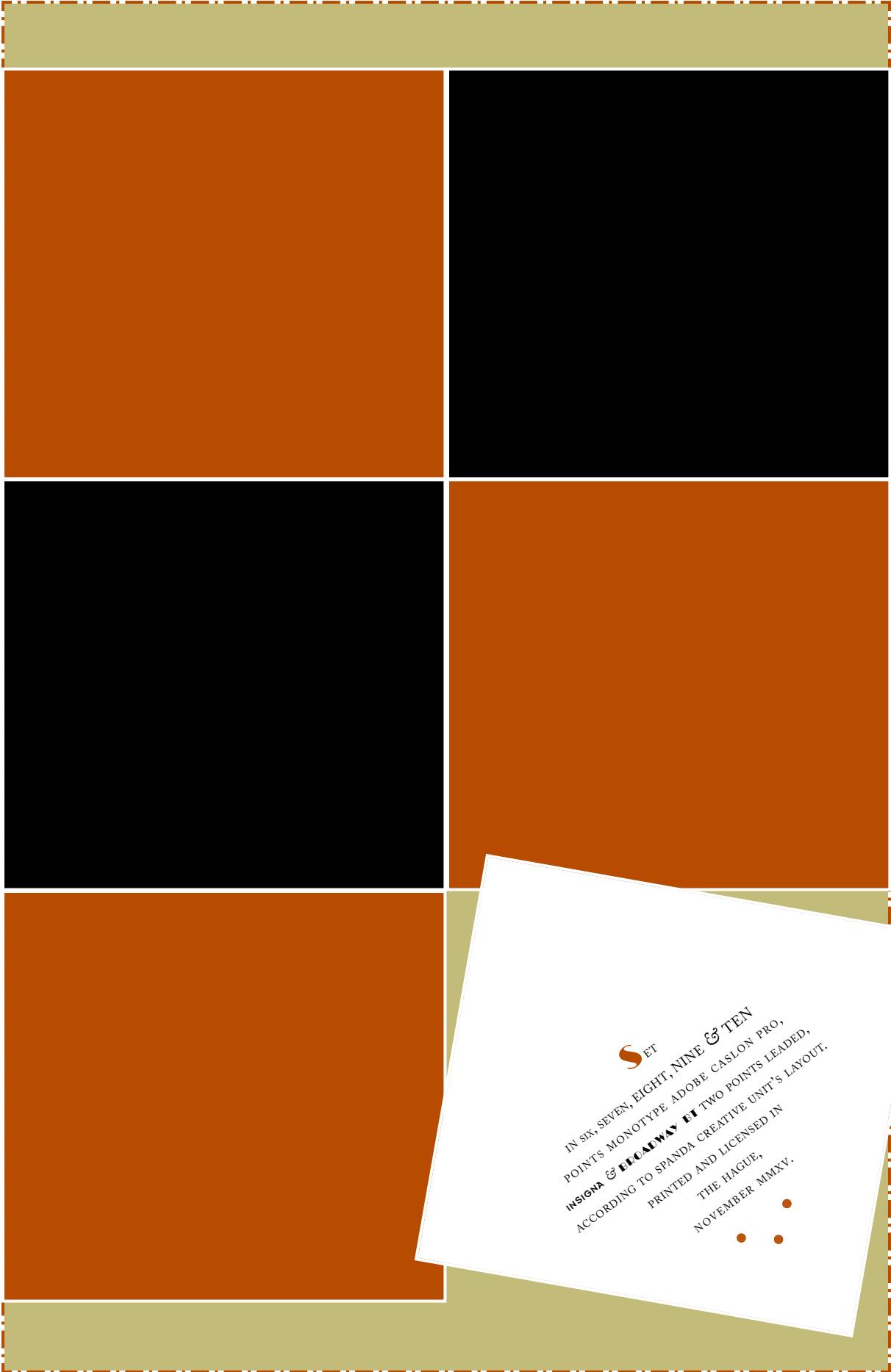
The contemporary scenario reflects how the role of teachers, students and institutions has increasingly been affected by the outcomes of globalization: the nature of knowledge itself and the methods used to convey information are progressively converging toward recent market-drivers.

The emerging Communication Technologies (ICTs) are potential instruments that can be used for rapidly providing simultaneous information through out the world. The technology can implement teacher quality and produce benefits for both private and public sectors. Furthermore, ICTs represent a solution to challenges of high-priority, the provision of universal primary and compulsory education.

The need for a holistic idea of education, embracing multidisciplinary domains, is emerging, an idea which desires adults and children to be aware of recent issues. One of these issues is the concern for sustainable development. ♦

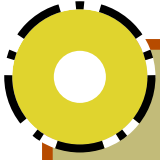






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