

The End(s) of Human Rights and the Humanities

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'Ambitious to restore the splendour of the purple, Frederick I, the Emperor Barbarossa invaded the republics of Lombardy with the arts of a statesman, the valour of a soldier and the cruelty of a tyrant. The recent discovery of Roman law, had renewed the science most favourable to despotism. And the doctors of law of Bologna proclaimed the emperor the absolute master of the lives and properties of his subjects.' This is how Gibbon described Barbarossa's attack on the Italian cities in his magisterial history of the Roman Empire.

This is a strange story. Between the eleventh and twelfth centuries the War of Investitures had dominated Europe. Barbarossa's re-assertion of the Holy Roman Empire was a defining moment in the development of modern Europe in the relationship between church and state and the creation of the European University. In 1158, four eminent professors and doctors of law, Bulgaro, Martino, Jacopo and Ugo di Porta Ravegnana - members of the school established here in Bologna by the great glossator Irnerius - were invited to appear at the Diet of Roncaglia by the Emperor. They were asked to advise on the relation between Imperial Law and local legal and political institutions particularly those of the powerful Lombard cities. The co-operation was beneficial for both parties: The jurists, trained in the imperialism of the Justinian code, drew up a list of regalia or regulations, favouring the Emperor against local claims with one dissenting voice that of Martino. They demonstrated, with detailed commentary, that Roman Law was supreme law, and its authority rested with the empire not the cities.

The emperor's gain was legal recognition. The reward of the jurists was an *Authentica Habita*, a decree later seen as the foundation act of Bologna, the oldest University in Europe. This grant of privilege had 3 elements: Each scholar could choose to recognise the jurisdiction of his Professor in all matters affecting him. Secondly, the *Authentica*, granted everyone who travelled for the sake of study, imperial protection on their way and during their stay at the place of learning, a privilege later extended to the student's return journey as well as to exemption from all tolls, duties and customs for students and their servants (this is the beginning of the duty free now it is being phased out, academics should claim that they have historical claim to it). Finally, it prohibited the use of reprisals against students, a common and strongly resented practice under which if an English student, for example, left Bologna without paying his debts, the Bolognesi could recoup their money from other English students.

This was a seminal moment in European academic history. Bologna started as a Law School but developed out of the " Liberal Arts" which flourished here early in the eleventh century. Grammar and rhetoric were taught as well as dictamen the art of composition. The first University brought together the study of law with what we now call the humanities. Later theology, music mathematics were added to the curriculum. The fame of the professors drew to Bologna students from Italy and from every part of Europe. Their number at the beginning of the thirteenth century was 10,000 Bologna was the first Univesrity trying to attract foreing student. The University became known as the "Mater studiorum", and its motto, "Bononia docet", Bologna teaches, was its proud claim.

What does the Authentic Habita, Bologna I teach to Bologna II or the Sequel, the Bologna process? First Internal jurisdiction that is academic freedom and academic asylum, absence of external interventions. The university is based on the absolute freedom to question publicly and to declare freely what research and knowledge tell us about truth. Thought must be unconditioned, indeed though is the experience of the unconditional, of asking about everything, including the value of questioning itself as well as the value of truth. This is even more crucial today when truth has multiplied into many truths. If Bologna was the mother of study, the European University remains the mother of truth.

The only precondition of knowledge and truth is protection from external threats and reprisals. But this protection has never been there fully de facto and de jure. The doctors and students of Bologna acquired their academic rights, by accepting the claims of Empire and Emperor. This is where we must take a certain distance from Bologna's history and side with the dissident, Martino. Truth and the University have always been struggling with power. The University must oppose as much as it can power, including state, economic and media power, the power of ideologies and religions. It must remain the place of unconditional resistance to powers of dogmatism, domination and oppression. But this is an impossible demand: the very possibility of the University is based on this impossible distancing from power. this impossibility makes the University possible. The mother of study, the mother of truth, Bologna I is always to come, always in the future, a future that opens the present.

Unconditionality of knowledge and truth, resistance to the powers that lays siege on the way to knowledge and impose reprisals on its practitioners. We know of many instances of attacks on Universities and reprisals against academics today, particularly in the United

States, where the University has become again fragile and impotent against the demands of the various powers.

You recall that the first study was that of law. But to teach law as an art and as the sister of theology, as what we call today the Humanities, meant to open it to justice, to a double justice: one within the law its procedures and remedies and rights and another higher law or justice to which the whole of law is held to account. The University and specifically the Humanities remain still the conscience of our societies. The question of human, of what is proper to the human, on which humanism the humanities and human rights are based, is becoming again crucial in the questioning of our societies and the resistance to power we have called the European University.

Here on the question of the human the humanities and human rights come together, they both have the same end. Let me state 5 maxims, what are the ends, the nature and effects of humanities and human rights today.

The end of human rights is to resist public and private domination and oppression. When they lose that end their use comes to an end. Ideals start their careers in conflict with the police. They end when they call in the police and the air force for their protection. An angel protected by the police, that's how ideals die.

1. Human rights do not belong to humans. They construct humans.
2. Universalism and cultural relativism, rather than being fatal enemies are dependent on one another. When they define the human essence without remainder they are equally murderous.
3. In postmodern societies, human rights are the legalisation and publicisation of individual desire.
4. Human rights and sovereignty or ethics and power, the two opposing principles which permeate the international and domestic law of human rights, are two sides of the same coin.
5. Human rights and humanitarianism are today the ideology of a new emerging Empire.

1.

But who or what is the human of human rights, the humanities and humanitarianism?

Even if we had the answer, when does the existence of a human being (and its associated rights) begin and when does it end? What about fetuses, children, the mentally or terminally ill, clones and genetically engineered? Are they fully human, entitled to all the rights that belong to humanity, or are they only partially human, since their rights are severely restricted? What about animals? The animal rights movement, from deep ecology and anti-vivisection militancy to its gentler green versions, has placed the legal differentiation between human and animal firmly on the political agenda and has drafted a number of bills of animal entitlements. Important philosophical and ontological questions are involved here. How did we arrive at the concept of human nature and humanity?

The concept of humanity is an invention of modernity. Both Athens and Rome had citizens but not 'men', in the sense of members of the human species. Free men were Athenians or Spartans, Romans or Carthaginians, but not persons; they were Greeks or barbarians but not humans. The word *humanitas* appeared for the first time in the Roman Republic. It was a translation of *paideia*, the Greek word for education, and meant *eruditio et institutio in bonas artes*.¹ The Romans inherited the idea of humanity from Hellenistic philosophy, in particular Stoicism, and used it to distinguish between the *homo humanus*, the educated Roman, and *homo barbarus*. The first humanism was the result of the encounter between Greek and Roman civilisation, and the early modern humanism of the Italian Renaissance retained the two characteristics of nostalgia for a lost past and for exclusion of others who are not equal to this Edenic period. It was presented as a return to Greek and Roman prototypes and was aimed at the barbarism of medieval scholasticism and the gothic north.

A different conception of *humanitas* emerged in Christian theology, superbly captured in the Pauline assertion that there is no Greek or Jew, free man or slave. All men are equally part of spiritual humanity which is juxtaposed to the deity. They can all be saved through God's plan of salvation. Universal equality — albeit of a spiritual character — a concept unknown to the classics, entered the world stage. But the religious grounding of humanity was undermined by the liberal political philosophies of the 18th century. The foundation of humanity was transferred from God to (human) nature. By the end of the 18th century, the concept of 'man' came into existence and soon became the absolute and inalienable value around which the whole world revolved. Humanity, man as species existence, entered the historical stage as the peculiar combination of classical and Christian metaphysics.

¹ Erudition and training in morals and the arts.

For humanism, there is a universal essence of man and this essence is the attribute of each individual who is the real subject.² As species existence, man appears without differentiation or distinction in his nakedness and simplicity, united with all others in an empty nature deprived of substantive characteristics except for his free will, reason and soul — the universal elements of human essence. This is the man of the rights of man, someone without history, desires or needs, an abstraction that has as little humanity as possible, since he has jettisoned all those traits and qualities that build human identity. A minimum of humanity is what allows man to claim autonomy, moral responsibility and legal subjectivity. At the same time, he who enjoyed the ‘rights of man’ was a man all too man — a well-off, heterosexual, white male — who condenses the abstract dignity of humanity and the real prerogatives of belonging to the community of the powerful. Indeed, one could write the history of human rights as the ongoing and always failing struggle to close the gap between the abstract man and the concrete citizen; to add flesh, blood and sex to the pale outline of the ‘human’.

But the persistence throughout history of the barbarians, the non-human, the ‘vermin’ and the ‘dogs’ who have populated our older and more recent concentration camps, the potential of world annihilation by humanity’s creations as well as recent developments in genetic technology and robotics indicate that even this most banal and obvious of definitions is neither definite nor conclusive. Humanity’s mastery, like God’s omnipotence, includes the ability to redefine who or what counts as human and even to destroy itself. From Aristotle’s slaves to designer babies, clones and cyborgs, the boundaries of humanity have been shifting. What history has taught us is that there is nothing sacred about any definition of humanity and nothing eternal about its scope. Humanity cannot act as the a priori normative principle and is mute in the matter of legal and moral rules. Its function lies not in a philosophical essence but in its non-essence, in the endless process of redefinition and the continuous but impossible attempt to escape fate and external determination.

From a non-essentialist perspective, human rights are highly artificial constructs, a historical accident of European intellectual and political history. The concept of rights belongs to the symbolic order of language and law, which determines their scope and reach with scant regard for ontologically solid categories, like those of man, human nature or dignity. The ‘human’ of rights and humanitarianism is what can be called a ‘floating signifier’. As a

²See Louis Althusser, *For Marx* (Ben Brewster trans, 1969 ed) 228 [trans of: *Pour Marx*]:

‘If the essence of man is to be a universal attribute, it is essential that *concrete subjects* exist as absolute givens; this implies an empiricism of the subject. If these empirical individuals are to be men, it is essential that each carries in himself the whole human essence, if not in fact, at least in principle; this implies an idealism of the *essence*. So empiricism of the subject implies idealism of the essence and vice versa’ (emphasis in original).

signifier, it is just a word, a discursive element that is neither automatically nor necessarily linked to any particular signified or meaning. On the contrary, the word 'human' is empty of all meaning and can be attached to an infinite number of signifieds. As a result, it cannot be fully and finally pinned down to any particular conception because it transcends and overdetermines them all.³ But the 'humanity' of human rights is not just an empty signifier; it carries an enormous symbolic capital, a surplus of value and dignity endowed by the revolutions and the declarations and augmented by every new struggle that adopts the rhetoric of human rights. This symbolic excess turns the 'human' into a floating signifier, into something that combatants in political, social and legal struggles want to co-opt to their cause, and explains its importance for political campaigns.

From a semiotic perspective, rights do not refer to things or other material entities in the world but are pure combinations of legal and linguistic signs, words and images, symbols and fantasies. No person, thing or relation is in principle closed to the logic of rights. Any entity open to semiotic substitution can become the subject or object of rights; any right can be extended to new areas and persons, or, conversely, withdrawn from existing ones. Civil and political rights have been extended to social and economic rights, and then to rights in culture and the environment. Individual rights have been supplemented by group, national or animal rights. The right to free speech or to annual holidays can be accompanied by a right to love, to party or to have back episodes of Star Trek shown daily. If something can be put into language, it may acquire rights and can certainly become the object of rights.

The only limits to the ceaseless expansion or contraction of rights are conventional: the effectiveness of political struggles and the limited and limiting logic of the law. Human rights struggles are symbolic and political: their immediate battleground is the meaning of words, such as 'difference' and 'equality' or 'similarity' and 'freedom', but if successful, they have ontological consequences — they radically change the constitution of the legal subject and affect peoples' lives. If we accept the psychoanalytic insight that people have no essential identities outside of those constructed in symbolic discourses and practices,⁴ a key aim of politics and of law is to fix meanings and to close identities by making the contingent, historical links between signifiers and signifieds permanent and necessary. But such attempts can succeed only partially because the work of desire never stops.

³For a use of the psychoanalytic concept of 'overdetermination' in political theory, see Ernesto Laclau and Chantal Mouffe, *Hegemony and Socialist Strategy: Towards a Radical Democratic Politics* (Winston Moore and Paul Cammack trans, 1985 ed) 97–105.

⁴The seminal text is Jacques Lacan, 'The Mirror Stage As Formative of the Function of the I As Revealed in Psychoanalytic Experience' in Jacques Lacan, *Écrits: A Selection* (Alan Sheridan trans, 2001 ed) 1.

Human rights do not belong to humans, they construct humans.

2.

Today the debate about the meaning of humanity as the ground normative source is conducted between universalists and relativists. The universalist claims that cultural values and moral norms should pass a test of universal applicability and logical consistency and often concludes that if there is one moral truth but many errors, it is incumbent upon its agents to impose it on others. relativists (metaethical position), communitarians is the ethical one start from the obvious observation that values are context-bound and try to impose them on those who disagree with the oppressiveness of tradition. In Kosovo, Serbs massacred in the name of threatened community, while the allies bombed in the name of threatened humanity. Both principles, when they become absolute essences and define the meaning and value of humanity without remainder, can find everything that resists them expendable. Both positions exemplify, perhaps in different ways, the contemporary metaphysical urge: they have made an axiomatic decision as to what constitutes the essence of humanity and follow it with a stubborn disregard for opposing arguments.

The individualism of universal principles forgets that every person is a world and comes into existence in common with others, that we are all in community. Being in common is an integral part of being self: self is exposed to the other, it is posed in exteriority, the other is part of the intimacy of self. My face is 'always exposed to others, always turned toward an other and faced by him or her never facing myself.'

Indeed being in community with others is the opposite of common being or of belonging to an essential community. Most communitarians, on the other hand, define community through the commonality of tradition, history and culture, the various past crystallisations whose inescapable weight determines present possibilities. The essence of the communitarian community is often to compel or 'allow' people to find their 'essence', common 'humanity' now defined as the spirit of the nation or of the people or the leader. We have to follow traditional values and exclude what is alien and other. Community as communion accepts human rights only to the extent that they help submerge the I into the We, all the way till death, the point of 'absolute communion' with dead tradition.

From our perspective, humanity cannot act as a normative principle, nihilistic or mythological. Humanity is not a property shared. It is discernible in the incessant surprising

of the human condition and its exposure to an undecided open future. Its function lies not in a philosophical essence but in its non-essence in the endless process of re-definition and the necessary but impossible attempt to escape external determination. Humanity has no foundation and no ends, it is the definition of groundlessness.

3.

The twin aims of the Enlightenment were emancipation and self-realisation. The struggle against tyranny and dictatorship is still the first priority in many parts of the world. But in western postmodern societies, self-realisation and self-fulfilment, identity politics, be yourself be authentic to your desire have become a central aspiration of self and polity. In a society where every desire is a potential right, it is forbidden to forbid.

Human rights acknowledge the radical intersubjectivity of human identity, they involve the other and the law in the construction of self. The Hegelian tradition explains how rights are involved in the struggle for recognition and psychoanalysis adds that recognition passes through the desire of the Other, as symbolic order or as other person. The desire for integrity projects the Other as non-lacking but this gesture misfires, the other is as lacking as self. The structure of desire and lack characterise the generation of rights.

A right-claim involves two demands to the other: a specific request in relation to one aspect of the claimant's personality or status (to be left alone, not to suffer in his bodily integrity, to be treated equally) but, secondly, a much wider demand to have her whole identity recognised in its specific characteristics. In demanding recognition and love from the other person, we also ask the Big Other, the symbolic order, represented by the law, to recognise us in our identity through the other. When a person of colour claims, for example, that the rejection of a job application amounted to a denial of her human right to non-discrimination, she makes two related but relatively independent claims: the rejection amounts both to an unfair denial of the applicant's need for a job but also to the denigration of her wider identity with its integral racial component. Every right therefore links a need of a part of the body or personality with what exceeds need, the desire that the claimant is recognised and loved as a whole and complete person. Desire of the other is what remains when we deduct need from the demand

But the attainment of identity through the desire and recognition of the other fails in different ways, even in those cases where human rights are successful on the surface and succeed in legalising desire. The subject of rights tries incessantly to find in the desire of the other the missing object that will fill her lack and turn her into a whole being. But this object does not exist and cannot be possessed. The impossibility of fulfilling desire leads into ever increasing demands for recognition and every acknowledgement of right leads into a spiralling escalation of further claims. In this sense, the promise of self-realisation becomes the impossible demand to be recognised by others as non-lacking and all human rights expressions of the unattainable 'right to be loved'. Right-claims proliferate because legalised desire is insatiable. It looks as if the more rights and recognition we get, the more 'in the deepest recesses of one's egocentric fortress a voice softly but tirelessly repeats "our walls are made of plastic, our acropolis of papier-mâché."'

As institutional practice, human rights often express the imagination of the one and homogeneous world society, in which the extension of formal equality and negative freedom and the globalisation of western capitalism and consumerism will equate society with its 'ideal' picture drawn by governments and international law experts. Individually, they are the mechanism for shaping identity and life according to the dictates of the desire of the other and the trauma of a lacking self.

Human rights are fissured; they both offer limited protection against the society of desire, against the threatening state and the fearsome other, but they also express the way in which identity is arranged in shifting relations of fear and affection and care towards the other.

Rights were the metaphysical principle, which opened the distance between the ideal and the real and introduced the demands of justice in legal operations. But as we move to the age of non-political politics, the split between ideal and real, which sustained the metaphysics of modernity and gave human rights their paradoxical vitality, has been radically transformed. Bio-power abolishes the line of separation between universal and particular, human and citizen, ought and is. The two sides of the divide are collapsing into one another. They have become a zone of indifference, like our postmodern just wars which are presented as police action. Passage from one to the other retains a certain rhetorical force but little axiological significance. Law and regulation are in the process of becoming co-extensive with the natural life of society, mapping and replicating the facts of social life. Man and citizen are no longer separate, the ideal and reality are two sides of the same coin. In the field of rights, the cosmopolitan extension of the nation-state turns nationalities into citizens of a world state, making the western particular ecumenical. Conversely, imperial

expansion imbues local traditions with the normative peaks of the universal. The postmodern body has become the ubiquitous site where bio-power invests the signs of universal consumption and local sexuality. In modernity, one could be neither a consistent relativist nor a realistic universalist. In the age of Empire, one is perforce

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Each arrangement of power and sovereignty is accompanied by its own specific morality and ethics. Sovereignty and human rights are not opposed to each other; they are an integral part of all state and empire building. We will examine this principle of complementarity of power and morality first at the beginning of modernity in the 18th century and then in the new world order after 1989.

The great 18th century declarations pronounced natural rights inalienable because they were independent of governments, temporal and local factors and expressed in legal form the eternal rights of man. Yet, the French Declaration is quite categorical as to the real source of universal rights. Let us follow briefly its strict logic. Article 1 states that 'men are born and remain free and equal of right', Article 2 that 'the aim of any political association is to preserve the natural and inalienable rights of man' and Article 3 proceeds to define this association: 'The principle of all Sovereignty lies essentially with the nation.

Here we have the typical action of the performative declaration. It creates what it claims simply to announce. Rights are declared on behalf of the universal 'man', but it is the act of enunciation that creates them and that of a new type of political association, the nation and its state, to become the sovereign law-maker and secondly, of a particular 'man', the national citizen, to become the beneficiary of rights. In a paradoxical fashion, these declarations of universal principle 'perform' the foundation of local sovereignty. The progeny gave birth to its own progenitor and created him in his own image and likeness. From that point, statehood, sovereignty and territory follows a national principle. If the Declaration inaugurated modernity, it also started nationalism and all its consequences: genocides, ethnic and civil wars, ethnic cleansing, minorities, refugees, the stateless. From that point, sovereignty follows a national principle and belongs to a dual time. The constitutions introduced a historical teleology, which promised the future unification of nation and humanity. The two variants opened at the time of the Roman empire were evident: imperialism, in the Napoleonic wars in which the nation claimed to be the expression of humanity and to spread through conquest and occupation its civilising influence to the world,

and the beginnings of a new cosmopolitanism, in which slavery was abolished and colonial people were given political rights for a limited time after the Revolution. The aspiration here is that humanity will overcome national differences and conflicts in a global civil society.

The separation between man and citizen is a main characteristic of modern law. Rights belong to humans on account of their humanity but it is only the national citizen who is the real beneficiary. The nation-state comes into existence through the exclusion of other people and nations. The modern subject reaches her humanity by acquiring political rights of citizenship, which guarantee her admission to the universal human nature by excluding from that status others. The alien is not a citizen. He does not have rights because he is not part of the state and he is a lesser human being because he is not a citizen. One is a man to greater or lesser degree because one is a citizen to a greater or lesser degree. The alien is the gap between man and citizen. In globalised world not to have citizenship to be a refugee is the worst fate. Human rights do not exist: if given on account of humanity and not membership of some intermediate group then refugees or those in Guantanamo in your detention centres and our high security prisons should have them. They have none they are bare life, the *homines sacri* of the new world order.

5

A New Empire?

If we examine the new world order from a normative and institutional perspective four central characteristics of emerge.

First, it is a moral order with a weak legal gloss, in which cosmopolitanism provides the institutional framework and humanity and human rights the just cause for war. Secondly, it concentrates overwhelming material force (economic, technological and military) and, as a result, the importance modernity has placed on the regulation of the means of conflict recedes. Third, the territorial principle, the state boundaries which circumscribed modern sovereignty is gradually and selectively abandoned and replaced by a boundless space. Finally the action against those resisting the political and economic framework of the new order takes the form of a police operation which aims to prevent, deter and punish criminal perpetrators rather than political opponents. Let me examine them briefly.

The Global moral and civic rules are the necessary companion of the universalisation of economic production and consumption, of the creation of a world capitalist system. Over that last 20 years, we have witnessed without much comment, the creation of global legal rules regulating the world economy, including rules on investment, trade, aid and intellectual property. Robert Cooper, an adviser to my government, has called it the voluntary imperialism of the global economy. 'What is needed then is a new kind of imperialism, one acceptable to a world of human rights and cosmopolitan values.' But in a chilling prediction of the recent revelations of torture, Cooper concludes that amongst ourselves we should keep the law but when operating in the jungle we must also use the laws of the jungle.

We can find parallels with the emergence of early capitalism. The legal system first developed the rules necessary for the regulation of capitalist production, including rules for the protection of property and contract and the development of legal and corporate personality. Only later did civic rules emerge, mainly with the creation of civil and political rights, which led to the creation of the modern subject and citizen. Similarly today the rules of the new voluntary imperialism are supplemented by various treaties on human rights which prepare the individual of the new orders, a world citizen, highly moralised and regulated but also highly materially differentiated despite the common rights that everyone should enjoy from Helsinki to Hanoi.

The (implicit) promise that market-led home-based economic growth will inexorably lead the South to Western economic standards is fraudulent. Historically, the Western ability to turn the protection of formal rights into a limited guarantee of material, economic and social rights was based on huge transfers from the colonies to the metropolis. While universal morality and rights now militate in favour of reverse flows, Western policies on development aid and Third World debt, indicate that this is not politically feasible. When the unbridgeability of the gap between the missionary statements on equality and dignity and the bleak reality of obscene inequality becomes apparent, human rights — rather than the elimination of war — will lead to new and uncontrollable types of tension and conflict. Spanish soldiers met the advancing Napoleonic armies, shouting 'Down with freedom!' It is not difficult to imagine people meeting the 'peacekeepers' of the New Times with cries of 'Down with human rights!'

This new lingua franca of unified ethics, semiotics and law promises perpetual peace but forgets and excludes its own founding injustice. According to the 2000 UN Development report 30,000 children die every day of malnutrition and the combined wealth of the 200 richest families is eight times as much as the combined wealth of 582 million people in the

developing world. The life expectancy in subSaharan Africa is 30 years in Europe 75. The extreme and growing injustice of global distribution is invisible to cosmopolitan law and is reduced to the sphere of the private, the natural, the inevitable. Humanitarian intervention will not confront the regime of intellectual property that condemns millions of people to death by disease nor can we imagine a moral campaign to help the Tibetans or Chechens. Despite the rhetoric of universal international law only a tiny part of the world comes under its purview and only a few problems of interest to the Great Powers are defined as crises worthy of intervention.

As always, the universal is placed at the service of the particular: since it is always a particular that announces the universal. History is full of examples when a particular has taken on the role of universal but in all cases the alleged universality revealed itself to be a disguised particularity, a positivity projected outwards. The enunciating particular can place itself towards the universal in two positions: either it can attach an opt-out clause and exclude itself from the applicability of the universal or it can arrogate itself the exclusive power and right to offer the correct interpretation of the universal. The opt-out clause is most apparent when the Americans denounce the universal jurisdiction of the new International Criminal Court and declare that under no circumstances will they allow American personnel to be tried by it. But they also claim the power of the sole authoritative interpreter. Guantanamo Bay camp would be designated not as prisoners of war, but would instead fall into the novel category of 'unlawful combatants'. These are the *homines sacri* of the NOW, human all too human and therefore without any human right.

This moral differentiation is supported by a second factor, overwhelming military and technological inequality. The inferior opponent is no longer seen as a *justus hostis*, but the object of suppression, normally reserved for the enemy within and savages, since there is no without no exterior to the planetary space of the New Times. Our military superiority proves our moral righteousness. Moral argument and force support each other harmoniously and in this morality/force amalgam, morality exists if it is effective and military action is moral if it succeeds.

The extensive use of technology aimed at reducing friendly casualties has been hailed as a sign of the humanisation of warfare. Technology is presented as the bloodless substitute for the absence of heroism that characterised the western warrior. But the celebration of the new humane and victimless wars conceals the strict hierarchisation of the value of life, the putative foundation of all lists of human rights. In Kosovo Afghanistan and Iraq, the bombers flew at extremely high altitudes, which put them beyond the reach of anti-aircraft

fire. The tactic was successful and the campaigns were concluded with minimum casualty. But as a result ethnic cleansing intensified in Kosovo and the high flight altitudes of the bombers increased significantly civilian 'collateral damage'. The most grotesque incident was the killing of some 75 Albanian refugees whose ragtag convoy was hit repeatedly, because tractors and trailers cannot be easily distinguished from tanks and armoured personnel carriers at an altitude of 15,000 feet.

From Homer to the last century, war introduced an element of uncertainty, the possibility that the mighty might lose. Indeed, according to Hegel, the fear of death and defeat gives war its metaphysical value, by confronting the combatants with the negativity that encircles life and helping them to rise from their everyday mundane lives towards the universal. In this sense, these zero-death campaigns are not wars but a type of hunting: one side is totally protected, while the other had no chance of effectively defending itself.

Indeed, Our wars are carried out in the form of brief and violent raids. They aim at maximum short-term destruction, creating a sense of shock and awe amongst their targets and the wider viewing public. When commentators condemn the Americans for not having a post-war strategy in Iraq, they are missing the point. The United States does not follow the traditional imperialist strategy of direct rule over colonies. Once the missiles have stopped falling and the victory secured, the local allies, the KLA in Kosovo, the Northern Alliance in Afghanistan, the various Kurdish and Shiite groups in Iraq, take over and synchronise the country with American vital interests.

The images of massive bombardment, extensive destruction and 'clinical' strikes promoted an aesthetic of wonder and bewilderment around the world. 'Shock and awe' is the politician's language for the sublime feeling. 'The sublime is not strictly speaking something which is proven or demonstrated, writes Boileau, 'but a marvel, which seizes one, strikes one, and makes one feel'. For Kant, the sublime feeling is created as a reaction to the presentation of the non-representable. The non-representable is the absolute power of destruction, the force of nihil, the nothingness.

A similar strategy emerges with torture. According to the American definition, inhuman acts that do not lead to "death or organ failure" do not constitute torture. Torture is not to inflict inhumanity on the victim, but to treat him as non-human, a dog, bare life. The public reaction to the torture pictures is highly significant. The early photos of women, notably Lynndie England, perpetrating sexual abuse shocked and titillated. The inhuman was a woman, doing what women are not supposed to do. Lynndie's pleasure created a vicarious sense of

titillation. Soon however the shock was domesticated. The internet became crowded with pictures of men and women “doing a Lynndie” and detailed instructions on how to “do a Lynndie”. It was not surprising that the publication last February of a new tranche of torture photographs from Abu Ghraib did not create a similar response. Many had an air of normality, with soldiers filling in forms or clipping their fingernails in front of hooded, naked detainees. The normality of the pictures, their continuous references to animals and dead bodies indicate that the stakes go well beyond the prison and the torture chamber walls. The American government insists that these acts are carried out for humanity’s benefit may help us here. The Americans are not wrong. But the benefit is not so much however the protection of our security but the public display of what it means to be human.. The acts were done for our sake and Lynndie is an American heroine. The extreme strategy of bio-power is precisely to demarcate the human through extreme acts of inhumanity inflicted on bare life. Again the shock and awe strategy and its banalisation, a reversal of Arendt’s thesis, evil must be banalised. The incomparably large, the hugely disproportionate, the infinite constitute the (fake) metaphysics of American power.

Let me conclude:

Human rights are the main way of doing business and acquiring friends in the globalised market place. Their cache has become both bigger and smaller. It is bigger, because notional and nominal acceptance of their norms and regulatory organs is the necessary prerequisite, the entry ticket to the world dispensation and flouting the imperial dispensation may lead to invasion and occupation. On the other hand, their importance has diminished. They are seen as an indispensable and natural part of the western landscape, something that one owns automatically, like TV sets and mobile phones. Because we produce abundantly and have so many human rights in the West, we must find markets to export them. We give second hand clothes to Oxfam to be sent to Africa and we also send them human rights. But as with our butter mountains and wine lakes, we must also ensure that the recipients of our generosity pay the right market price, lest the value of the produce gets undermined. If they do not accept our charity we will have to impose it on them. It seems to me that we are moving from the age of the military-industrial complex to that of the military-humanitarian one and this is the meaning of the New World Order.

Despite differences in content, colonialism and the human rights movement form a continuum, episodes in the same drama, which started with the great discoveries of the new world and is now carried out in the streets of Iraq: bringing civilisation to the barbarians. The claim to spread Reason and Christianity gave the western empires their sense of superiority

and their universalising impetus. The urge is still there; the ideas have been redefined but the belief in the universality of our world-view remains as strong as that of the colonialists. There is little difference between imposing reason and good governance or between proselytising for Christianity and human rights. They are both part of the cultural package of the West, aggressive and redemptive at the same time.

The 'globalisation of human rights fits a historical pattern in which all high morality comes from the west as a civilising agent against lower forms of civilisation in the rest of the world.' The westerner used to carry the white man's burden, the obligation to spread civilisation, reason, religion and law to the barbaric part of the world. If the colonial prototypes were the missionary and the colonial administrator, the post-colonial are the human rights campaigner and the NGO operative. Humanity has replaced the colonial power. The postmodern philanthropist again does not need to go to far-flung places to build clinics and missions. Globalisation has ensured that he can do that from his front room, watching TV images of desolation and atrocity and paying with his credit card.

Human rights ethics legitimises what the West already possesses; evil is what we do not possess or enjoy. But as Alain Badiou puts it, while the human is partly inhuman, she is also more than human. There is a 'superhuman or immortal dimension in the human.' We become human to the extent that we attest to a nature that while fully mortal, is not expendable and does not conform to the rules of the game. The status of victim on the other hand, 'of suffering beast, of emaciated dying individual, reduces man to his animal substructure, to his pure and simple identity as dying...neither mortality nor cruelty can define the singularity of the human within the world of the living.'⁵

We should reverse our ethical approach: it is not suffering and evil which define the good as the defence humanity puts up against its bad part. It is our positive ability to do good, our welcoming of the potential to act and change the world that must denounce evil as the toleration or promotion of the existent and not the other way around. To that extent, human rights is not what protects us from inhumanity but should what could make the human more than human. We may need to sidestep rights in favour of right.

Here we return to Bologna I and the Authentica Habita. Our responsibility today, our responsibility to Europe, in the name of Europe that committed atrocities and genocides and holocausts but which has developed the only barely acceptable social model against the

⁵ Badiou quoted in Peter Halward, Badiou: A subject to Truth (University of Minnesota Press, 2003,257)

neo-conservative neo-liberalism and the neo-communist neo-liberalism, our responsibility in the name of the European University, our responsibility to Bologna, our mother, is to revitalise the scholar's commitment to the unconditionality of knowledge and truth, the intellectual's vocation of resistance. Resistance both to the powers of state, capitalism and ideology but also those of managerialism and technocracy for its own sake or for the sake of maintaining an unjust and exploitative socio-economic and a pliant political system.

This is what the Authentica tells us:

Keep open these pathways and highways the medieval scholars took on the way to Bologna, keep opening new ones, new humanities, new laws on the way to the Bologna of the future, the Bologna to come.