



HUMAN RIGHTS, WHY AND WHAT FOR?

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Historically, "the universal declaration of human rights"¹ may have been, and indeed was, a fruit and a consequence of the "barbarous acts" that ensued the gigantic and until then unknown in such dimension "disregard and contempt for human rights" as was practised and patent in World War II. Nevertheless, "barbarous" or "barbaric" action, as far as it is possibly intelligible, has been the daily bread of humanity, a very hard and mouldy bread, indeed.

Within minute aggregates of people or within immense aggregates of people or in the form of the several combinations of possible violent relations of peoples, "barbaric acts" were and are common in a universal sense. They are common within what is sociologically designed as "family", within bigger aggregates such as neighbourhoods, districts, regions, countries, as well as between all these examples – and within what they are the symbolic paradigms of – commencing at the level of the 'family' and ending at the level of countries alliances.

Thus, "barbaric acts" are not the exclusive of barbaric peoples or barbaric individual persons, but apply transcendently to all humanity, from the individual/personal level to the alliance of countries level. If History and the remaining historiographic record can teach us anything at all, that thing is likely to be that from a certain perspective "barbaric" is synonym to "human". Given some very specific conditions, it seems that at least a great part of humanity becomes "barbaric".

Fortunately, this metamorphosis is neither universal nor necessary, which allows for some to not becoming barbaric: given the same very specific conditions

¹ Annexed to this essay.



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not all the persons present become "barbarians". Nevertheless, as was proven without doubt by too many events in WWII, in some cases, a great majority of the persons involved in such extreme situations did become "barbaric".

The answers to the "why' question" are many, all unsatisfactory. Perhaps they are all true but incomplete, being the true and complete answer the one that can synthesize all of them and some more yet uncovered.

There is one reason that is undeniable, being universal and necessary: human beings act in a "barbaric" way because they can. It is a transcendental structure of human possibility that every and any person is neither destined to act good nor to act bad. Each is necessitated to act – under penalty of cessation of being – either good or bad. It is the prerogative of the person to act either way. The lack of such a prerogative immediately eliminates the reality of the existence of the person, leaving either a corpse or a living body stripped of its personhood.

Whatever the cause, the "barbaric" action, every time it is deployed, corresponds to an act of negation of the human dignity of the persons who are thereby affected. This negative relation, that implies the annihilation of the human dignity when and wherever it exists, is not exclusive of situations like the most conspicuous that occurred during WWII or other events of a comparable magnitude, but integrates all human acts that can be described as "barbaric". It is therefore a matter that concerns all humanity considered at its most fine detail, both as each human being acting and as each of such being's acts. It is all the human action, possible and concrete, that is at stake.

Facing each possible human act is an infinite possibility of acts contributing to common good or contributing to the class of "barbaric" acts. Which kind of act does



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each human being choose when faced with the possibility or even the necessity of acting? Furthermore: does anyone believe in a third kind of possibility and reality of action, the neutral one? What does a neutral action consist of? How can a human being act without any trace of interference with others and the world in general, positive or negative? Would not that be the action of an immaterial being, something a human being is not, within the frame of an immaterial world, something ours is not?

In order to understand the negative motor of the necessity of the creation of a human rights 'magna carta', one must be able to define what "barbarism" is. Otherwise, if there is not a definition that cannot be subjectively denied or infirmed per instance by the rhetoric of State or international disputes, any and every possible accusation of "barbarism" can be disputed as not being comprehended within the limits of the definition of "barbarism" most cherished by the accused.

What is, then, "barbarism"?

One can turn one's eyes to the same historical events that originated the reaction that promoted the elaboration of the Declaration, the extreme horrors that occurred during the years that slowly dragged their existence between 1939 and 1945. What one contemplates there is paramount and paradigmatic. The depths of human malice were reached and happily dwelled in. No detail needs to be mentioned in this essay, as a matter of decorum, but some enlightening bibliography is presented.²

² Among many writings on the tragic barbarism of WWII, one can read the following with unpleasant benefit: RAJCHMAN Chil, *Treblinka. A survivor's memory 1942-43*, London, MacLehose Press, 2012; THOMPSON Julian, *Forgotten voices of Burma. The Second World*



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The lesson learned in contemplating the memory of these acts is twofold. On one hand, the direct lesson of what is observed, the facts of that "barbarism"; on the other hand, having contemplated that memory, the coming to mind of another memory, the one that manifests that those extremely horrible acts are not alone in humanity's history, but run through all of its course, comprehending all latitudes and longitudes, all times. The same conclusion presents itself: "barbarism" accompanies humanity all along, so far as one can reach in understanding.

If the horrors of WWII are the spring that made some part of the human conscience jump to an alert mode concerning "barbarism" and the need to promote human rights against "barbarism", hoping, perhaps, to avoid it, the real motive for the movement dedicated to the promotion of those rights is not a blunt but time restricted event or series of events, but the perception that "barbarism" is contemporary to humanity. All humanity.

Bearing in mind both the known history of humankind and the terrible facts that occurred in WWII, evidently "barbarism" is not to be mistaken for a matter concerning merely peoples, nations, states, or whatever types of great assemblies of

war's forgotten conflict, London, Random House Group Company, Ebury Press, in association with the Imperial War Museum, 2010; GILBERT Martin, *The Holocaust. The Jewish tragedy*, London, Fontana Press, 1987; MACARTHUR Brian, *Surviving the sword. Prisoners of the Japanese 1942-45*, London, Abacus, 2005; FRIEDLANDER Henry, *The origins of the Nazi genocide. From euthanasia to the final solution*, North Carolina, University of North Carolina Press, 1995; PLATT Anthony M., O'LEARY Cecilia E., *Bloodlines. Recovering Hitler's Nuremberg Laws, from Patton's trophy to public memorial*, Boulder CO, London, Paradigm Publishers, 2006; LIFTON Robert J, *The Nazi doctors. Medical killing and the psychology of genocide*, Basic Books, 1986; KOGON Eugen, *The theory and practice of hell. The German concentration camps and the system behind them*, New York, Farrar, Straus and Giroux, 2006.



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persons, but has to be referred to human individuals in first instance, for it is not an abstraction such as "the people X" or "the State Y" that commits or has committed barbaric acts but the persons or some of the persons who not only integrate the people or the State, but, concretely create them with the whole mass of their intertwined acts.

It is to the person individually considered, though within the frame of its irreducible circumstance, that barbaric acts must be attributed. Barbaric acts as well as acts of human goodness always have a necessary individual, personal subject – an agent, an actor –, under pain of inexistence: the absence of a subject who is the doer or the maker, means no acts can exist; it is an impossibility. It is I or you or he or she the subject of barbaric acts, if there are any. Barbaric acts have an author. Whereas there is a positive human poetry of human acts, acts that contribute to the good of the other – all the others, preferably –, there is also a negative poetry of human acts, the ones that destroy either the existent reality of other beings or their irreducible possibilities.

It is the moment to ask whether any of these negative acts is not in itself a "barbarism". Is it really not barbaric an act of rape, whatever the circumstances, cultural excuses included? Is it really not barbaric to deprive someone or a whole people of food, medicine, and other evident means of subsistence? Is it really not barbaric to use human beings as slaves or near-slaves? Is it really not barbaric to use any kind of violence when adequate force is due, without abuse? The examples could be endless. These suffice.

Reading the previous lines, one may think that humanity is very little more than barbaric acts. That is not the case, and the acts that promote common good



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have to be in a greater quantity or it is very difficult to believe that humanity could have had survived. Nevertheless, it did survive. Perhaps it did do not much more than survive, but, having survived, it is evident that it is not to be mistaken for just an immense sum of barbaric acts.

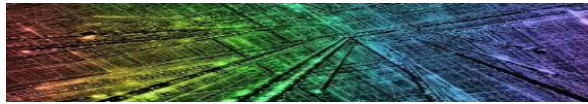
Anyhow, barbarism is a perennial possibility and a constant presence, which means that there is a risk that it may spread, as it usually does, per example, every time there is a war, mainly a war of great dimensions, as was WWII, as may happen to be other possible major wars.

Therefore, an acute attention to barbarism is paramount. Fighting using all non-violent means against it is fundamental, precisely in order to avoid having to use a quantity and quality of force in that fight that may themselves border on barbarism or even become barbaric.

The evident non-violent means of fighting barbarism is education, attempting to show and persuade people, mostly the younger, to comprehend and embrace the principles not just underlying but really building up a human world without barbaric acts. This is not an impossibility or even utopic daydreaming, but something possible, as long as each person involved assents to its necessity.

Nevertheless, one must not be blinded by misplaced goodwill, hoping for something that is highly improbable to happen, though being possible. Therefore, knowing that the probability of barbaric acts disappearing from our worldly horizon is very scarce, a necessity for something like an imperial rule of law is felt.

The sense of an imperial rule of law does not derive from any historical notion of "empire", always meaning the subservience of one people to another, of one nation or State to another, but from the notion of the necessity of having a law that



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does not derive its imperative meaning from any given historical fact, but rather from the inner logic of human reality, both individual – ethical – and trans-individual – political.

The need for an imperial rule of law, therefore, does not stem from any historic fact, per example, the Nazi form of barbarism; does not stem from a religious fact, per example, by the means of the 'god something' ordering so; does not stem from a human capricious initiative, or from any other such fact. It stems from the human possibility of wrong doing, which is part of the human possibility of acting, good or bad.

Human activity is neither necessarily good nor necessarily bad. It is possibly good and possibly bad. There is no innate protocol for human action. The protocol for human action is superposed to the possibility of and for human action. It is not natural as the latter, but cultural, artificial, product of human action as cultural action.

One could ask: which is first, the natural possibility of action or the protocol for a right action? The possibility of action is not only natural but is also transcendental: it refers itself to the whole of humanity and it does that in a necessary mode. No human being escapes it. The protocol for right action is not transcendental. It is neither universal nor necessary. Therefore, it must be "imperial", meaning that it must exist as something that exerts its rule over humanity not under a natural manner, but under a cultural manner, a special cultural manner in the form of law: a human product destined to, as a protocol form, govern, rule, human action.

The inexistence of a natural anti-barbarism protocol in human beings and the necessity of preventing the occurrence of "barbarous acts" creates the necessity of



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something, with imperial force, under pain of uselessness, that can act and acts as a common and universal protocol, a literally "law-full" one which finality it is to be contrary to the tendency of practising "barbarous acts". This universal instrument is the Declaration.

Regardless all the previous considerations, the reality of an effective action promoted by the Declaration, laying aside all claims to magic action, is attainable only through a pertinent education of all the people concerned, that is, of all the persons. The failure of just one may be precisely the coming to act of the barbaric act. Such an education has to be established on the Declaration itself. It is the only viable way of promoting a form of acting that is universal, universally defending people against the danger of barbarism.

It is, of course, something of a revolution in culture, for it means that the cultural caprices with its sociological caprices and the psychological caprices concerning anthropology, religion and other regional modes of existing have to give way to what is the logical mode of universal common good.

Persons and peoples have to cease envisaging each other through their narrow and sometimes obscure perspective and commence seeing reality for what it is, without prejudice or all the means of perverse judging and handling of others with the sole aim of benefitting 'me' or 'me and my people'.

More than a revolution, the education based on the Declaration calls for a metamorphosis. A total change of peoples' way of thinking that allows for the common people to see the other human beings as human beings, in the first place, and as beings to live with, as best as possible, not as enemies to kill for the benefit of the killer, the "barbarous".



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Annex

The Universal Declaration of Human Rights

Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the realization of this pledge,

Now, therefore,

The General Assembly



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Proclaims this Universal Declaration Of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration always in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples and territories under their jurisdiction.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and security of person.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7



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All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each State.



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2. Everyone has the right to leave any country, including his own, and to return to his own.

Article 14

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.

2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

1. Everyone has the right to a nationality.

2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

2. Marriage shall be entered into only with the free and full consent of the intending spouses.

3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17

1. Everyone has the right to own property alone as well as in association with others.

2. No one shall be arbitrarily deprived of his property.

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19



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Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20

- 1. Everyone has the right to freedom of peaceful assembly and association.**
- 2. No one may be compelled to belong to an association.**

Article 21

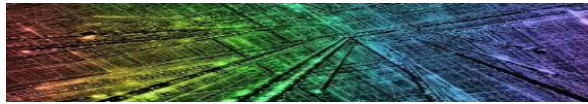
- 1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.**
- 2. Everyone has the right to equal access to public service in his country.**
- 3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.**

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for the dignity and the free development of his personality.

Article 23

- 1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.**
- 2. Everyone, without any discrimination, has the right to equal pay for equal work.**
- 3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.**



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4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27

1. Everyone has the right to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.



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2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.

2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.



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NOTA BIOGRÁFICA DO AUTOR

Américo José Pinheira Pereira licenciou-se em Filosofia pela Universidade Católica Portuguesa (Lisboa), em 1990. Obteve o grau de Mestre em Filosofia em 1997, pela mesma Universidade, com a defesa da Dissertação "A Relação entre o Acto e o Ser na obra de Louis Lavelle". Em 2006, obteve o grau de Doutor em Filosofia, também pela Universidade Católica Portuguesa, com a defesa da Dissertação "Fundamentação ontológica da ética na obra de Louis Lavelle". Actualmente, é Professor Auxiliar da Faculdade de Ciências Humanas da Universidade Católica Portuguesa. Na sua actividade docente tem leccionado nas Faculdades de Teologia e de Ciências Humanas, bem como no Instituto de Ciências da Saúde da Universidade Católica Portuguesa as disciplinas na área da História da Filosofia Antiga, Axiologia e Ética, Bioética, Ontologia, Filosofia do Trabalho e da Técnica, Filosofia da Religião, Epistemologia, Filosofia da Linguagem, Filosofia da Arte e da Técnica, Antropologia Filosófica, Antropologia Religiosa, Sócioantropologia da Saúde para além de vários seminários de especialidade nas mesmas áreas. Organizou e co-organizou mais de duas dezenas de encontros científicos. Proferiu cento e uma conferências e palestras científicas. É autor de dezassete livros, co-autor de três e tem autoria de vinte e oito capítulos bem como dois capítulos em livros de actas. Tem quarenta e cinco artigos científicos publicados em revistas científicas nacionais e estrangeiras. Tem duzentos artigos de diversa índole publicados *on-line* em publicações nacionais e internacionais. Tem ainda resenhas, artigos em dicionários e enciclopédias e traduções em várias línguas.

ABSTRACT

The constant presence of barbaric acts along the history of humanity calls for an "imperial rule of law" in order to avoid the continuation of such a tragic tradition; the Declaration of Human Rights is the basis for such a lawful empire.

KEY-WORDS

Human rights, barbarous acts, education, imperial rule of law.



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RESUMO

A presença constante de actos bárbaros ao longo da história da humanidade exige o "império do estado de direito", de modo a evitar a continuação de tão trágica tradição; a Declaração dos Direitos Humanos é a base para tal império da Lei.

Palavras-chave:

Direitos humanos, actos bárbaros, educação, império do estado de direito.