

The Chart of Human Rights and the Chart of Transdisciplinarity

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Abstract

If the proclamation of the human rights was the first effort to obtain a better life and less dependent on chance, it is necessary to move to the next level in order for things to evolve. A second effort is required at the level of humanity, which effort must obviously be different, although in the same direction. A possible answer to this need might be the Chart of transdisciplinarity – a chart similar to the chart of human rights in purpose, but different in approach. We could say that if the Proclamations of human rights concerned the rights of the exterior being, the Chart of transdisciplinarity concerns the rights of the interior being.

Keywords

human rights, transdisciplinarity, human being

Our contemporary life has nowadays a concept of unquestionable weight – the concept of human rights.

Without detailing the origin and history of this concept, idea, we will limit ourselves to several considerations on its current condition.

Firstly, human rights are a transdisciplinary concept. As long as society is characterized by diversity, by various kinds of people, multiple communities, true smaller worlds, different and foreign to each other, with their own rules, laws, features, but at the same time variously connected to each other, the idea of rights valid and recognized in all these communities, in all these worlds, appears as transdisciplinary in nature. If we imagine the multitude of the existing human communities, grouped according to any given criterion, then we can say that human rights cross such communities and are at the same time between communities, applicable to any human being who does not belong to a community and beyond them applicable to any possible human being, considered in abstracto. Given the ambition of its universality, we can notice the nature of mediation of the notion of human rights, mediation between persons, nations, cultures, an innate skill of secret middle third.

Secondly, human rights exist at level different from the common subjective rights. An interesting feature of the existence of a right is its operation. In a community, the existence of a right is not necessarily acknowledged by all its

members, but by most of them in order for such right to be lawfully acknowledged by the punishment of the state which supports it, while at the level of the community of communities, not all members acknowledge, at present, human rights. There is, however, a majority which does it and a force of coercion which tends to protect them and even impose them. Thus, we are entitled to talk about their lawful unquestionable existence despite the communities which do not recognize them.

If we study the analogy between the mechanism triggering the inter-state existence of a right and the mechanism triggering its intra-state existence, we can observe that, related to human rights, nations behave as singular individual. Human rights exist because a large enough number of communities has acknowledged them. Therefore, human rights do not seem rights at the level of the individual from a community, but are rather rights of the level of humanity itself. If an individual is a level of Reality and humanity, in its entirety, is another level of Reality, then human rights exist today at the level of Reality of the entire humanity.

The amplitude of human rights related to any subject right of any individual should not necessarily astonish as long as the rights at individual level are circumstantial – if an individual, member of a community, has a subjective right based on the relations circumstantially determined in such community and their rights depends on the dynamics of such relations, a human right depends on nothing else but the capacity of human being, human being as constituent of humanity. In a physical wording, human rights are more general laws than the common subjective rights.

Thirdly, in assessing their rights, the human being is usually seen as an indivisible whole. It is, nevertheless, easily noticed that a human being exists, in at least, two universes – an interior and an exterior one. This dialectics gives rise to a series of questions: which is the border between the two, how one influences the other and if both need rights?

A human's interior reality is, indeed, part of the external reality of another human being. But, to evaluate a human being only in terms of their exterior universe means a distinct separation of the Subject from the Object, if not of the Subject become Object. In transdisciplinary terms, the world of the interior and exterior human being must be a world where both Subject and Object exist, a world which understands how the two universes interact.

A subjective right has been defined as the power of each individual to pretend that their faculties, skills and powers are not restricted or, as long as they are not restricted by the law, to be not only respected, undisturbed by others or by

the society through its authorities, but to be, when embodied in creative will of relations with others, supported by the society through its authorities in order to achieve the outcomes of the established relations. Differently stated, it has been said that power or the prerogative recognized by the objective right of the holders of such right, as active subjects of the legal relation, to ask passive subjects to do or not do something (to do or abstain from a deed) using, if needed, the coercive apparatus of the state¹.

Starting from the various definitions of the literature, we can say that a right is a possibility, a liberty of the human being, acknowledged and unrestricted by the law, to ask other people or from the others (individuals or organizations of different forms), and sometimes using the authority's coercive force, to do or abstain from an action:

In conclusion, for a human being to have a right, the following must be observed:

1. The human being must behave a certain way.
2. The human being must be able to ask other people to have a certain conduct related to their own conduct.
3. The human being must be able to call on a coercive force is the claim on their conduct is not respected.

As stated², to understand what someone's right is, we must absolutely relate this idea to the idea of someone else's obligation. In other words, whatever a person is allowed must correspond to what is restricted or banned to other people and, therefore, what such persons are compelled to do or not to do. The connection between individual freedom and the others' freedom is obvious: the border of individual freedom is the others' freedom. It is not freedom in the meaning of an actual freedom, respectively a mere natural possibility – sociological, biological or psychological, substantiated by the inexorable laws of an interior or exterior world³, but freedom in the juridical respect.

It has been asserted, however, that it is impossible to conceive such elementary relation between right and obligation without some social reality, namely an undetermined number of persons identically subjected to it if the actual circumstances are identical, as in physics, the properties of a body are in a

¹ Please see Gheorghe Beleiu, *Drept civil român*, Casa de editură și presă „Șansa”, București, 1993, p. 75.

² Please see Mircea Djuvara, *Despre ideea de drept subiectiv* în *Eseuri de filosofie a dreptului*, Editura Trei, 1997, p. 101.

³ *Ibidem*, p. 101 și urm.

necessary relation with all the universe's phenomena – a mere relation whatsoever cannot be determined between two phenomena as we cannot think of such phenomena, but in relation to an indefinite multiplicity of phenomena that serve as reference system⁴. Any subjective right is substantiated on a complex of social relations and, in their absence, any juridical statement would be meaningless. It implies the being of a society and, therefore, of a significantly large number of social relations, involved and systematized among them⁵. Thus, a new correlation is made with the bootstrap principle, of self-consistence and self-organization of systems.

Moreover, rights and obligations can form parameters of juridical identification of law subject, of humans. It has been pointed out that, just as in the classical physics, where objects border each other on purpose, by means of applications of the ideas of time and space, each having a shape and period determining and separating them, equally, in law, individuals separate themselves from other based on their rights and obligations – thus, they can be determined legally and can distinguish themselves⁶. As regards human rights, we have the same rights for everybody and, therefore, the same obligations for everybody. Differently worded, in terms of human rights, all people are equally identified. They fairly draw the line between individual and general freedom. In terms of the logic of the middle third, the antagonism between freedom and equality is necessarily reconciled through a third component (perhaps solidarity, perhaps another value expressed by human rights), which would release a society captured in the “Wheel of Anxiety” (Jakob Böhme) and would lead it towards true progress. Because, although due to the subordination inherent to any type of society, resources cannot be distributed equally or meritocratically, the distribution of external resources remain a function of chance, both between states and individuals, but the use of such resources is no longer chance only, as long as it comprises the possibility to choose, more or less consciously.

Besides, what distinguishes between mere power and a right is exactly its moral dimension. “The purpose of the right's existence is the achievement of good and justice in the social life and not the consecration of self-will, which is identical to the destruction of social order. There is not a right without certain ethics and when such ethics is considered decidedly unjust, it ceases being a right and remains

⁴ *Ibidem*, p. 107.

⁵ *Ibidem*, p. 109.

⁶ *Ibidem*, p. 117.

only imposed material power. A right cannot be imagined without an ethical ideal of justice and morality”.⁷

The goal of the notion of human rights is asserted in the preamble of the Universal Statement of Human Rights⁸ : freedom, justice and world peace, as major, fundamental values of the human being, social progress and better living standards. Therefore, the idea of law cannot be conceived without the idea of value. But what is a value? Is there value without the internal consideration of subject? Is there value without interior universe?

The right as phenomenon seems thus as bridge between Subject and Object and located in the area of the Middle Third.

Starting from the definition of Celsus regarding rights – art is what is good and fair (*ius est ars boni et aequi*), justice, as general situation of rights’ exercise by all, appears as path to acquittal. Fairness is, thus, a conciliatory situation, acquittal is achieved either by bearing some tension, by the conciliation of a conflict and such conflict seems, abstractly, the conflict between individual freedom and the others’ freedom, between the self-good and the others’ good.

Modern morals acknowledges individual freedom and advocates the requirement on the rational consent between self-good and the good of others⁹ or, in the words of a lawmaker, the borders of individual freedom are where the exercise of your subjective right does not restrict the other’s exercise of their subjective rights.

In disciplinary terms, the agreement between self-good and the others’ good is not a rational agreement, but rather a strictly necessary contradiction.

Antagonism is friction between individual freedom, as possibility of the individual to express themselves and to meet their needs and equality as possibility for all other individuals to express themselves and to meet their needs. Using the trivalent logics of the middle third, consecrated by Ștefan Lupașcu, such friction becomes more than mere friction, resulting into the victory of the strongest force of that moment in a constant confrontation, by disclosing the third secret element comprising both states in a creative reconciliation. The secret middle third could be named fraternity, chanted by the French revolutionary movements, or could have

⁷ *Ibidem*, p. 10.

⁸ The Universal Declaration of Human rights was published by the General Assembly of UNO, on December 10th, 1948. http://www.unuinfo.ro/documente_fundamentale/declaratia_drepturilor_omului/.

⁹ Andrei Marga, *Cotitura culturală- Consecințe filosofice ale tranziției*, Cluj University Press, 2004, p. 452.

other names, but, for certain “the only individual freedom that pays off is the one which does not include egoistic indifference”¹⁰.

What history proves, and not only history, is that there cannot be equalitarianism – equity cannot be equalitarianism. Equity is, thus, called on to reconcile the antagonism between freedom and equality, being the middle third which would liberate a society captured by the “wheel of anxiety” (Jakob Böhme) and would lead it towards true progress.

A directly proportional relation has been determined between the individual’s freedom and progress. As Andrei Marga noticed, the dependence of economic growth (measured per capita) on the development of individual freedoms and the emergence of freedoms from the institutional framework and the intellectual views is a direct causality relation between the individual freedom and the cultural, technical and economic development¹¹. Since individual freedom implies less restricted possibilities of expression, they lead to more intense, diverse, powerful expressions. Following our previous reasoning, we can also determine the relation between state freedom and the cultural, economic and technical development of the entire planet, which means, in the end, that the development of the planet relies on the freedom of each individual. In other words, the humanity’s progress is measured according to the possibilities of expression of the individual seem as separate unit and on that sort of society able to offer someone a high freedom of expression. The society’s interest, if it is interested in existing, developing and evolving, relies on the freedom of each individual, who contributes, thus, to a certain general inertness.

However, as shown by communities when human rights experience the most consolidated expression, their existence does not suffice to completely eliminate evil from society, evil seen as misery, exclusion, unemployment, violence and war. Something seems curiously amiss since human rights mean freedom for all its parts – both interior and exterior. A high level of freedom is required to this end, this time, an interior freedom, which would allow a human being to breach some influences in order to observe others or to breach some laws in order to observe others. It is, therefore, a matter of level of Reality of needs and, consequently, a level of Reality of the human actions.

Another point proven by history is that the equity is dynamic, always moving and we return to Plato’s words on the unlikeness between people and actions and that never any of the human enjoys rest. If justice is the circumstance

¹⁰ *Ibidem*, p. 613.

¹¹ *Ibidem*, p. 402.

which allows all people to exercise their rights, then laws are a tool of justice (the justice's valences of middle third are noticed in the operation of democracy, when it is the third power of the state), but when laws are not enough to conciliate tension and to keep pace as actuality, something else must do it. A new effort is necessary and we should get on with another type of justice or with a justice of different quality. Equity must always be contextualized. To be able to always contextualize something implies a certain stand: to hold on to a purpose – to reach equity, constant attention paid to current circumstances and making all the efforts, either as understanding, action or renunciation or altogether. In our opinion, the necessary stand in this respect is exactly the transdisciplinary attitude.

If the proclamation of human rights was the first effort to obtain a more equitable life, less dependent on chance, for all human beings, a second effort should obviously be of a different sort, but in the same direction. A possible answer to this need is the **Chart of Transdisciplinarity** itself¹²: a chart similar in purpose to the Chart of human rights, but different in its approach. We could say that if the proclamations of human rights concern the rights of the exterior being, the Chart of Transdisciplinarity concerns the rights of the interior being.

Nevertheless, its Preamble indicates that it refers to a moral contract concluded by each signatory of this *Chart* with themselves, without legal or institutional constraint. It is, thus, a different type of constraint, given that a contract is concluded between two parties and we can say *it is a contract concluded between the interior being and the exterior being*.

The contract, as the law shows, is the law of the parties, it becomes law for those concluding it. Breaching a legal rule binds the legal liability and, thus, the infringement of a law entails a certain type of liability. Since this Chart represents a law undertaken as moral obligations, it is clear that such liability also implies degrees appropriate to the laws imposing it. Consequently, we can equally speak of levels of Reality of liability, correlated to the levels of Reality of human actions. In other words, we can speak of levels of Reality of freedom.

“In our level of Reality, the individual's freedom comes with a price: the price of a difficult, tormenting decision, where the individual's will pays the most essential role”.¹³

¹² The Chart of Transdisciplinarity, signed on November 6th, 1994, can be found at the address: <http://basarab.nicolescu.perso.sfr.fr/ciret/ro/chartro.htm>.

¹³ Basarab Nicolescu, *Știința, sensul și evoluția, Eseu asupra lui Jakob Böhme*, Editura Cartea Românească, 2007, p. 146.

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