
A Personalistic Approach to Human Rights: Shifting Prevailing Philosophical Assumptions

*Un enfoque personalista de los derechos humanos:
cambiando los supuestos filosóficos predominantes*

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Abstract: The aim of this article is to analyze the prevailing philosophical presuppositions in human rights interpretations and how they provide a reductionist and partial vision of the human person and of rationality. This paradigm excludes the experiences and moral concerns of a significant segment of the global population and avoids engaging with the underlying claims behind human rights debates. In response to such a situation, this paper will introduce a personalistic philosophical approach to human rights as an alternative capable of explaining how the concept of 'person', as a relational self, can enrich the prevailing rationality in International Human Rights Law. The research suggests that looking at inter-subjective relationships, meaning, and an enlarged concept of 'human experiences' can provide a deeper understanding of the human person and it can help to frame human rights discussions in more diversified and inclusive terms.

Keywords: human rights; pluralism; personalism; cultural diversity; liberalism; autonomy.

Resumen: El objetivo de este artículo es analizar las presuposiciones filosóficas predominantes en las interpretaciones de los derechos humanos y cómo éstas han brindado una visión reduccionista y parcial del ser humano y del concepto de racionalidad. Este paradigma excluye las experiencias y las inquietudes morales de un segmento significativo de la población global, y también evita abordar las demandas subyacentes detrás de los debates sobre derechos humanos. En respuesta a esta situación, este artículo introducirá un enfoque filosófico personalista como una alternativa capaz de explicar de qué manera el concepto de 'persona', como un ser relacional, puede enriquecer la racionalidad predominante en el Derecho Internacional de los Derechos Humanos. Esta investigación sugiere que prestando atención a las relaciones intersubjetivas, a los significados, y a un concepto más amplio de 'experiencias humanas', se puede proveer una comprensión más profunda sobre la persona humana y se ayuda a formular discusiones sobre derechos humanos en términos más diversos e inclusivos.

Palabras clave: derechos humanos; pluralismo; personalismo; diversidad cultural; liberalismo; autonomía.

I. INTRODUCTION

Modern reasoning and philosophy have numerous different branches, but there are some common features that can be perceived among all of them, especially in Western academic literature. Its main characteristics derive from an instrumental, univocal, decontextualized, and self-proclaimed neutral reason, which can be perceived in one way or another in con-

temporary legal theories.¹ This form of reasoning is unavoidably accompanied by anthropological assumptions of an isolated individual whose objective is to preserve and affirm his unencumbered autonomy through human rights instruments.² This vision has greatly permeated human rights discourses and is deeply embedded in this sector, as will be seen in the second section of this article.

The aforementioned background leads to a human rights interpretation that no longer protects the dignity of the person, but is instead used to satisfy preferences that fit the paradigm and to avoid deeper debates about underlying claims. This situation can be particularly seen in controversial topics, where a pluralistic debate about different assumptions and conceptions of justice are left out of the public discussion in order to deploy an instrumental arsenal of rights talk.³ Moreover, the anthropological presuppositions of this vision do not correspond to the needs and experiences of all human beings.⁴ Consequently, legal and political reasoning in human rights debates only represents a selected group of philosophical and moral perspectives, rather than a wide spectrum of diverse theories. This approach can be perceived in the interpretative reasoning used by regional human rights courts. They usually rely on liberal categories of neutrality and autonomy as the main goal of the human rights project, even though no human rights instrument sets this aim.⁵

In order to address this problem, the present article will explore a less known philosophical school, which adopts different anthropological premises:

¹ This paradigm is especially reflected in liberal approaches: DWORKIN, R., *Taking Rights Seriously*, Duckworth, London, 2009; DWORKIN, R., *Life's Dominion: An Argument about Abortion, Euthanasia, and Individual Freedom*, HarperCollins, London, 1993; RAZ, J., *The Morality of Freedom*, Clarendon Press, Oxford, 2009; RAWLS, J., *The Law of Peoples*, Harvard University Press, Cambridge, 2000; GRIFFIN, J., *On Human Rights*, Oxford University Press, New York, 2008. Such approach is still prevailing in more nuanced ones, like in KYMLICKA, W., *Multicultural Citizenship*, Clarendon Press, Oxford, 2003.

² The phrase is taken from Michael Sandel's idea of the unencumbered self: SANDEL, M., «The Procedural Republic and the Unencumbered Self», *Political Theory*, vol. 12, n. 1 (1984), p. 81.

³ See the criticism of this manner of approaching social issues in: MACINTYRE, A., *Whose Justice? Which Rationality?*, University of Notre Dame Press, Notre Dame, 1988. For a criticism of how rights talk has undermined political debate in the United States, see generally GLENDON, M., *Rights Talk: The Impoverishment of Political Discourse*, The Free Press, New York, 1991.

⁴ See *infra* section 2 of this article.

⁵ As a leading human rights scholar Asbjørn Eide recalls, the idea of atomistic individualism «is alien to the Universal Declaration», in EIDE, A., «Interdependence and Indivisibility of Human Rights», in *Human Rights in Education, Science and Culture: Legal Developments and Challenges*, Ashgate, Aldershot, 2007, pp. 27.

personalism. This movement was developed in the 1950s as an alternative to materialistic, individualistic, collectivistic, and totalitarian ideas. Its main ideas are two: to start from the human being in his concrete existence (living everyday concerns); and the human person as a relational being who flourishes with and through other people. At present there are very few works that elaborate on personalism's potential for the human rights field.⁶

The aim of this proposal is to broaden the terms of human rights debates, in order to rethink aspects of legal reasoning that have been excluded from prevailing schemas of thought, and which go beyond what instrumental reason is able to grasp. Thus, using some concepts provided by the movement of personalism, this article will analyze how the notion of 'person' as a relational being can enlarge the current notion of rationality in International Human Rights Law.

II. PREVAILING PHILOSOPHICAL OUTLOOK IN HUMAN RIGHTS INTERPRETATIONS

To step into the field of International Human Rights Law is to enter into a world that has created a system with its own language, institutions, aspirations, and standards. But what is the basis of this machinery? Although modern philosophy is not just *one* single philosophy,⁷ there are some common characteristics that permeate the contemporary legal mentality, mostly in the West.

The prevailing view(s) on human rights is based on philosophical presuppositions that are part of different variations of liberalism.⁸ This set of unsaid assumptions has deeply influenced the way in which international actors have looked at, thought about, and interpreted human rights. Moreover, these ideological foundations rely on a determined vision of the human being

⁶ WILLIAMS, T., *Who Is My Neighbor? Personalism and the Foundations of Human Rights*, University of Notre Dame Press, Notre Dame, 2005; GUERRA LÓPEZ, R., *Afirmar a La Persona Por Sí Misma: La Dignidad Como Fundamento de Los Derechos de La Persona*, Comisión Nacional de Derechos Humanos, Ciudad de México, 2003; LEARY, V., «Postliberal Strands in Western Human Rights Theory: Personalist-Communitarian Perspectives», in *Human Rights in Cross-Cultural Perspectives: A Quest for Consensus*, University of Pennsylvania Press, Philadelphia, 1995.

⁷ For further information on modernity's multiple philosophical streams in comparison to classical ones, see VILLEY, M., *La formation de la pensée juridique moderne*, Cain, Paris, 2013.

⁸ Cf. *supra* note 1.

and reason, establishing where irrationality begins, and therefore, how to be rational. The conception that a human rights actor has of these topics is extremely important, because the whole legal argumentation will be permeated by such silently underlying ideas. Taking these thoughts into consideration, the following non-exhaustive list of elements are the premises that sustain the prevailing notion of the human being and rationality in the human rights sector:

Materialism: since the Enlightenment, philosophy has considered materialism as its point of departure. ‘Materialism means that physics can offer us a reading of human life, by opening us to the profound analogies between the operations of beings at all levels’.⁹ Not only does materialism deny metaphysics, meaning the possibility to study the nature and existence of the being (by rejecting it, it is in fact taking a metaphysical position), it also proposes a mechanical and deterministic ontology of reality. It places morality and freedom in the realm of necessity. Therefore, transcendence of matter is refused to the human being, and with it, the irreducibility of the person and the spiritual¹⁰ dimensions of reality. The narrowing of metaphysics to physical nature entails ‘the restrictions on what counts as rational justification’.¹¹ For example, this vision can be perceived in the way freedom of conscience and religion has been interpreted in the European Court of Human Rights (ECtHR), mostly in terms of ‘accommodating competing interests’ and safeguarding pluralism in liberal terms.¹² In this view, freedom does not protect an internal sphere of liberty that is essential for moral discernment.¹³

Dichotomies: modern reason disassociates and opposes categories that in reality are in relations of complementarity. Its epistemology relies on a binary

⁹ TAYLOR, C., *Sources of the Self: The Making of the Modern Identity*, Cambridge University Press, Cambridge, 1989, p. 325.

¹⁰ Here the term *spiritual* is used in a broad sense, to include all aspects of reality that transcend or cannot be completely understood through merely empirical examinations.

¹¹ SHWEDER, R., «Moral Realism without the Ethnocentrism: Is It Just a List of Empty Truisms?», in *Human Rights with Modesty: The Problem of Universalism*, Nijhoff Publishers, Leiden, 2004, p. 80.

¹² ECtHR, *Bayatyan v. Armenia*, Appl. no. 23459/03, Judgment of 7 July 2011, at 40-41. All ECtHR decisions are available at <<http://hudoc.echr.coe.int/>> [20 November 2019].

¹³ For an interesting opinion on freedom of conscience in this deeper sense see the partially dissenting opinions of Judges Vučinić and De Gaetano in ECtHR, *Eweida and other v. The United Kingdom*, Appl. nos. 48420/10, 59842/10, 51671/10 and 36516/10, Judgement of 27 May 2013.

and univocal logic,¹⁴ influenced by Hegelian dialectics of contradiction.¹⁵ For example, individual and society, facts and law, theory and practice, religion and reason, objective and subjective, will and reason, among others. As a result, it is easy to lose the whole picture, to miss the relationships and the complexity of reality, and to end up reducing the human world to one side or the other of this divisive and artificial outlook.¹⁶ The impact of such dichotomies can be seen in the framing of human rights issues as a confrontation between the individual and the society. This situation becomes more evident in matters where the relational dimension of certain human rights is unavoidable, like the case of cultural rights.¹⁷

The lonely individual: in consonance with this way of thinking, human beings are viewed under the prism of the priority of autonomy, as separated and completely independent individuals.¹⁸ The basis of this idea is a self-centered being whose self-affirmation is materialized without considering any further circumstances.¹⁹ It is ‘the individual *qua* individual who reasons’²⁰. The individual is a *tabula rasa*, therefore, he exists without prior attachments as a ‘*dieu souverain au cœur d’une liberté sans direction ni mesure, tournant d’abord vers la méfiance, le calcul et la revendication; des institutions réduites à assurer le non-empiètement de ces égoïsmes*’.²¹ Such presuppositions nurture defensive attitudes and mistrust towards others.²² The way in which the individual interacts with society and the state is ‘in more or less contractarian terms, as associations for the fuller unfolding of human potential,

¹⁴ PAPAUX, A. and WYLER, E., *L’etique du droit international*, Presses Universitaires de France, Paris, 1997, p. 17.

¹⁵ This way of thinking proves it is unbearable in contrast to the lived reality, in the arguments provided by critical studies, like in the work of KOSKENNIEMI, M., «The Politics of International Law: 20 Years Later», *European Journal of International Law*, vol. 20, n. 1 (2009).

¹⁶ See MARITAIN, J., *Man and the State*, The University of Chicago Press, Chicago, 1971, p. 142.

¹⁷ See some reflection on this issue in MENDE, J., *A Human Right to Culture and Identity? The Challenge of Group Rights*, Rowman & Littlefield, London, 2016; and STAMATOPOULOU, E., *Cultural Rights in International Law: Article 27 of the Universal Declaration of Human Rights and Beyond*, Martinus Nihjoff, The Hague, 2007.

¹⁸ GLENDON, *Rights Talk*, *op. cit.*, p. 91.

¹⁹ DE LA TORRE RANGEL, J., *Tradicón Iberoamericana de derechos humanos*, Porrúa, Mexico City, 2014, p. 16. Original in Spanish: «una afirmación racional del yo frente al otro y sin entrañar circunstancias históricas».

²⁰ MACINTYRE, *Whose Justice? Which Rationality?*, p. 339.

²¹ MOUNIER, E., *Le personalisme*, Presses Universitaires de France, Paris, 1949, p. 34.

²² *Idem.*

through the exercise and enjoyment of human rights'.²³ His exchanges remain outside himself, he has only preferences or interests, but the notions of common good and objective reality disappear. The way of framing human rights as a 'clash of interests' is an illustrative example of this underlying vision of the lonely individual.²⁴

Neutrality: this term is considered in at least two interrelated senses, one axiological and the other teleological. First, if the individual is an abstract concept with no bounds to culture, religion, or history, then his will is liberated from axiological constraints. This situation is perceived in the state's approach to moral questions; and in the argument that citizens can only participate in public affairs without *thick* conceptions about the self.²⁵ On the other hand, the individual should be able to decide his own ends without interferences of any kind. For this individual believes that teleological paradigms:

'By imposing on some the values of others, such theories fail to respect persons as free and independent selves, capable of choosing their own purposes and ends. So the freely choosing self and the neutral state go hand in hand: It is precisely because we are free and independent selves that we need a framework of rights that is neutral among ends, that refuses to take sides in moral and religious controversies'.²⁶

It follows that in order to allocate different *interests*, the state should refrain from defining the good:

'The liberal state does not justify its actions by reference to some public ranking of the intrinsic worth of different ways of life, for there is no public ranking to refer to'.²⁷

For example, this idea can be seen in how the ECtHR uses the concept of state's neutrality or the principle of secularism when dealing with freedom

²³ DONNELLY, J., *Universal Human Rights in Theory and Practice*, Cornell University Press, London, 1989, p. 803.

²⁴ Cf. *supra* note 12 and 13.

²⁵ SANDEL, M., *Justice: What's the Right Thing to do?*, Farrar, Straus and Giroux, New York, 2010, p. 248.

²⁶ *Ibid.*, p. 216.

²⁷ KYMLICKA, W., *Contemporary Political Philosophy: An Introduction*, Clarendon Press, New York, 1990, p. 218.

of religion, even at the expense of considerably limiting or even suppressing this human right.²⁸

The supremacy of the will: this feature refers to the departure point of legal reasoning, which is the individual's interests affirmed by action. With the elimination of teleological and axiological elements, the bridge between theoretical and practical reason is broken, disregarding the former and over-exalting the latter. This step is the beginning of the definition of autonomy and agency as the main values to be pursued. Nevertheless, when there is nothing intermediary between will and action, it provokes 'the transformation of first-person expressions of desires themselves, without further qualifications, into statements of reason for action, into premises for practical reason'.²⁹ Two things should be remarked. First, within this scope, the meaning of freedom is reduced to dichotomist positive (to realize one's choices) and negative (absence of constraints) liberties.³⁰ Second, once the will is deprived of substantial content, the idea of dignity becomes equivalent to the liberal concept of autonomy. Consequently, human dignity is measured in accordance with the *degree* of material-individual liberty; and rights are understood as *prerogatives* to satisfy desires. What justice and law can protect, in this panorama, is the possibility of deciding itself; not specific legally protected and valuable goods for the flourishing of everyone's human dignity.

A reductionist concept of reason: uprooting the individual resulted in an immense substantial loss in the field of reasoning. As Hannah Arendt stated, 'reality and human reason have parted company'.³¹ The following are some of the characteristics of this reduced model of rationality: (1) reason becomes instrumental and procedural. For in order to 'give primacy to the agent's own desires or his will, while still wanting to give value to practical reason, you have to redefine this in procedural terms'.³² Reason becomes 'calculative; it can assess truths of facts and mathematical relations but nothing more. In the realm of practice, therefore, it can speak only of means. About ends it must be silent'.³³ Accord-

²⁸ See ECtHR, *Lautsi v. Italy*, Appl. no. 30814/06, 18 March 2011; and ECtHR, *Leyla Şahin v. Turkey*, Appl. no. 44774/98, Judgement of 1 November 2005.

²⁹ MACINTYRE, *Whose Justice? Whose Rationality?*, *op. cit.*, p. 338.

³⁰ See the comparison of this approach with broader notions of freedom in Weigel, George, «Two Ideas of Freedom», *Ethics and Public Policy Center*, <<https://eppc.org/publications/two-ideas-of-freedom/>>, 2001 (30 October 2019).

³¹ ARENDT, H., *The Human Condition*, The University of Chicago Press, Chicago, 1998, p. 300.

³² *Ibid.*, p. 86.

³³ MACINTYRE, A., *After Virtue: A Study in Moral Theory*, University of Notre Dame Press, Notre Dame, 2011, p. 77.

ingly, reason is considered as a vehicle to articulate different aimless and even contradictory preferences. (2) Reason becomes homogeneous and methodological.³⁴ This lies in a univocal conception of reality, which sees the world in uniform (not universal) terms.³⁵ This can be perceived when reason ‘à l’instar de la volonté, élabore des commandements sans commensurabilité aux éthos pour un droit valable en tous lieux et temps’.³⁶ Consistently, reason would only be able to know what fits this procedural methodology. This concept of rational thinking would not rely on other tools and circumstances in order to corroborate its conclusions with reality.³⁷ (3) Reason is merely empiricist and about certainty. Only relationships of material causality are apprehended. Consequently, when something undetermined is presented it must be relegated to the realm of irrationality or subjectivity. As stressed by the Argentinian scholar Rodolfo Vigo:

‘Las características de la verdad y certeza que posibilita el saber práctico resultan indigeribles para la visión reductivista de ciencia que maneja un Kelsen, y entonces se rechaza por falta de rigor epistemológico un saber que admite: que hay conductas objetivamente mejores que otras, que reconoce que una verdad es compatible con excepciones y que debe recurrir a ponderar razones’.³⁸

A good example of this is again the way freedom of religion is framed in the ECtHR, usually seen as another preference and devoid of experiences or knowledge which may say something true about the human being.³⁹ This

³⁴ See an interesting critic of the implications of such a way of reasoning and teaching in human rights in VILLEY, M., *Le droit et les droits de l’homme*, Presses Universitaires de France, Paris, 1983.

³⁵ PAPAUX and WYLER, *op. cit.*, p. 90.

³⁶ *Ibid.*, p. 36.

³⁷ In contrast, some legal philosophers consider that interpretation requires *prudentia* and dialogue in order to accommodate general notions to the concrete case, which needs experience and confrontation of ideas, not a mathematical deductive action. Cf. MILLON-DELSOL, C., «La prudence des Anciens», in *Une prudence moderne ?*, Presses Universitaires de France, Paris, 1992; and VILLEY, M., *La Nature et la Loi : une philosophie du droit*, Editions du Cerf, Paris, 2014.

³⁸ VIGO, R., *El iusnaturalismo actual: de M. Villey a J. Finnis*, Fontanamara, Mexico City, 2007, p. 196. Translation: ‘The characteristics of truth and certainty which make practical reasoning possible, result indigestible for the reductionist vision of science manageable for a Kelsen. Therefore she rejects, because of a lack of epistemological rigor, a knowledge that admits: there are behaviors which are objectively better than others, which recognizes that a truth is compatible with exceptions and must ponder different reasons’.

³⁹ For an interesting approach on this issue see CAROZZA, P., «The Right and the Good, and the Place of Freedom of Religion in Human Rights», *Communio International Catholic Review*, vol. 40, n. 1 (2013).

situation can be illustrated in the case of *Kjeldsen, Busk Madsen and Pedersen v. Denmark* of 1976. The ECtHR embraced the conventional wisdom, that ‘there is a difference in kind between religious instruction and the sex education concerned in this case. The former of necessity disseminates tenets and not mere knowledge’.⁴⁰

Idealism: under the terms of this proposal, it refers to two related aspects: (1) considering the supremacy of the will, the departure point to engage with the world has changed from an objective perspective to a Cartesian one where ‘the pattern of the human mind itself, which assures itself of reality and certainty [is put] within a framework of mathematical formulas which are its own products’.⁴¹ Therefore, the individual is conceived as a disembodied and uprooted idea that creates himself. (2) On the other hand, it might seem contradictory at first sight that a paradigm could be materialistic and idealistic at the same time. However, idealism requires to eliminate any possibility of material transcendence as the path to introduce its ideas as reality, excluding any references to experience or to the *ethos*. In the end, both aspects are the two sides of the same coin: they disconnect their notions from reality and present this partial truth as an all-embracing theory. An interesting case of this situation can be found in discussions on universality and relativism, where universality is usually equated to abstract uniformity.⁴²

III. THE IMPACT ON INTERNATIONAL HUMAN RIGHTS LAW

The described philosophical outlook has provided the perfect terrain for a particularly reductionist vision of the human being and of public reason for heated social debates, where the only relevant thing seems to be an autonomy that ‘trumps’ everything.⁴³ The current development of the right to privacy

⁴⁰ ECtHR, *Kjeldsen, Busk Madsen and Pedersen v. Denmark*, Appl. no. 5095/71; 5920/72; 5926/72, Judgement of 7 December 1976, p. 56.

⁴¹ ARENDT, *The Human Condition*, p. 258.

⁴² For deepening on this debate see DONNELLY, J., «The Relative Universality of Human Rights», *Human Rights Quarterly*, vol. 29, n. 2 (2007); KAPLAN, S., *Human Rights in Thick and Thin Societies: Universality without Uniformity*, Cambridge University Press, Cambridge, 2018; AN-NA’IM, A. (ed.), *Human Rights in Cross-Cultural Perspectives: A Quest for Consensus*, University of Pennsylvania Press, Philadelphia, 1995; and SAJÓ, A. (ed.), *Human Rights with Modesty: the Problem of Universalism*, Nijhoff Publishers, Leiden, 2004.’

⁴³ The expression is taken from Dworkin’s notion of rights as ‘trumps’: DWORKIN, R., *Taking Rights Seriously*.

is a good example that reflects all these characteristics in case-law. Its concept of the human being is a lonely individual constituted by preferences, who in their materialization is confronted with the interests (not objective goods, not common good) of society, and who demands a neutral state in order to unquestionably affirm his desires. Mary Ann Glendon has remarked that this right has become the most absolute one of all human rights.⁴⁴ Privacy has been transformed into the public imposition of private desires. Almost all controversial human rights issues have been solved in the name of the right to privacy as a way to escape underlying debates about justice, the common good, and what kind of society people want to foster.⁴⁵

In the American context, there are the famous cases of *Griswold v. Connecticut* (1965) on contraception and *Roe v. Wade* (1973) on abortion. In the jurisprudence of the ECtHR the right to privacy has been interpreted as to specifically include 'the right to personal autonomy'.⁴⁶ It has been further extended to debates on euthanasia and assisted suicide,⁴⁷ the recognition of sex change through re-assignment surgery,⁴⁸ single-parent adoption,⁴⁹ paternity arising from *in vitro* proceedings,⁵⁰ and even the protection of privacy on internet in the transfer of child pornography.⁵¹ As sustained by Marta Cartabia, privacy in these terms has become the *passé partout* of self-proclaimed new rights that avoid an intercultural and inter-philosophical dialogue on controversial issues.⁵²

Philosophically and morally, these assumptions provide a partial and reduced vision about reason and the human being. They displace inter-personal meaning and understanding because those do not fit a procedural rationality, not because they are void and irrational. The result is that they end up framing social and moral questions based on an anthropological model which does not correspond to people's actual experiences, beliefs, and concerns.⁵³

⁴⁴ GLENDON, *Rights Talk*, *op. cit.*, chap. 3.

⁴⁵ As noticed generally in SANDEL, *Justice: What's the Right Thing to Do?*, *op. cit.*, chap. 10.

⁴⁶ ECtHR, *Evans v. The United Kingdom*, Appl. no. 6339/05, Judgment of 10 April 2007, para. 71.

⁴⁷ ECtHR, *Pretty v. The United Kingdom*, Appl. no. 2346/02, Judgment of 29 July 2002.

⁴⁸ ECtHR, *Goodwin v. The United Kingdom*, Appl. no. 28957/95, Judgment of 11 July 2002.

⁴⁹ ECtHR, *E. B. v. France*, Appl. no. 43546/02, Judgment of 29 January 2008.

⁵⁰ *Evans v The United Kingdom*.

⁵¹ ECtHR, *Benedikt v. Slovenia*, Appl. no. 62357/14, Judgment of 24 April 2018. See especially the dissenting opinion of Judge Vehabović.

⁵² CARTABIA, M., «The Age of New Rights», 03/10 *Straus Institute Working Papers*, 2010, p. 21.

⁵³ *Ibid.*, p. 32-39. For an illuminating account of these discrepancies see generally (and especially 32-39 on children's rights).

An interesting perspective on this problem is provided by the anthropologist Richard Shweder and the social psychologist Jonathan Haidt. Shweder points out how such manner of reasoning

‘Contrast with how judgements of right and wrong or good or bad are understood in the moral psychology of everyday life, where they are assumed to be truth claims about a moral reality’.⁵⁴

For instance, in reality when someone expresses a moral judgement, he is not simply declaring a preference. This person is making a truth claim, which might be debatable, but is nevertheless a judgement on reality. To claim a right to something is based on a moral claim about right or wrong, not on neutrality and objectivity. The relevant issue is to acknowledge that at the core of debates there are positions about reality, good and bad, true and false, even if it is not admitted. Actually, Shweder considers that the paradigm of rationality of modern moral reasoning is not the most shared way of thinking around the world, it pertains to a ‘cosmopolitan elite’.⁵⁵

Haidt also explains how this way of reasoning is mostly predominant in Western, educated, industrialized, rich and democratic societies (he uses the acronym WEIRD) whose idea of morality is narrowed to the exaltation of autonomy.⁵⁶ He explains how in these societies other ways of reasoning about morality, which involve religious and community dimensions are generally excluded, in contrast to all other societies outside the Western world.⁵⁷ Haidt sustains that WEIRD persons are ‘the least typical, least representative people you could study if you want to make a generalization about human nature’.⁵⁸ However, there is a lack of acknowledgement of this situation in the human rights sector, for this segment of the population apparently plays an important role in setting the agenda. As described by the John Hopkins University

⁵⁴ SHWEDER, R., «Moral Realism without the Ethnocentrism: Is It Just a List of Empty Truisms?», *op. cit.*, p. 67.

⁵⁵ *Ibid.*, p. 80.

⁵⁶ HAIDT, J., *The Righteous Mind: Why Good People Are Divided by Politics and Religion*, Penguin, London, 2012, chap 5.

⁵⁷ *Ibid.*, chap 5. On further explanation on the three types of morality (autonomy, religious and community) see SHWEDER, R. *et al.*, «The ‘Big Three’ of Morality (Autonomy, Community, Divinity) and the ‘Big Three’ Explanations of Suffering», in *Morality and Health*, Routledge, New York, 1997.

⁵⁸ HAIDT, *The Righteous Mind*, *op. cit.*, p. 96.

professor of International Studies, Seth Kaplan, most people in human rights organizations and NGOs have a WEIRD mentality.⁵⁹ Kaplan claims that this group:

‘Dominates Western universities, academic literature, the social sciences, and the media; has access to more resources to participate in debates and negotiations; and plays the leading role in funding NGOs in poor countries, there is a receptive ideological climate for its ideas, which are widely disseminated and rarely challenged’.⁶⁰

Therefore, the problem with the prevailing philosophical assumptions used in the human rights field is not only with regard to its usefulness or desirability. The claim is that they do not represent the vast majority of the world’s population, for they exclude the experiences, values, needs, and ways of thinking of non-WEIRD people. On the other side, the problem is that a human rights theory which does not start with real embodied persons and from how people reason about morality will exclude dissenting opinions and will alienate people.

IV. PERSONALISM: A DIFFERENT PERSPECTIVE ON THE HUMAN PERSON

This section will provide a different perspective for human rights debates, based on the concept of ‘person’ according to personalism. It will begin with (4.1) a brief introduction to this philosophy, then it will focus on the (4.1.1) notion of ‘person’ as a relational being, and (4.2) its idea of human experience as a source for understanding.

⁵⁹ KAPLAN, S., *Human Rights in Thick and Thin Societies*, *op. cit.*, p. 7. Also see the comments on the same subject of AN-NA’IM, A., *Human Rights in Cross-Cultural Perspectives*; and MUTUA, M., *Human Rights Standards: Hegemony, Law, and Politics*, State University of New York Press, New York, 2016. Shweder adds that most human rights activists are from «liberal commercial industrialized societies and from descendants of Westernized elite populations in former colonies», in SHWEDER, R., «Moral Realism without the Ethnocentrism: Is It Just a List of Empty Truisms?», p. 84.

⁶⁰ KAPLAN, S., *Human Rights in Thick and Thin Societies*, p. 7; and see generally ZWART, T., «Balancing Yin and Yang in the International Human Rights Debate», *Collected Papers of the Sixth Beijing Forum on Human Rights*, China Society for Human Rights Studies, <http://www.china-humanrights.org/html/2014/PAPERS_1102/1096_6.html> 2014 (30 October 2019).

IV.1. *Personalism as a movement*

Personalism is not a fixed system. It is rather an open philosophical movement, whose center is the human being as a ‘person’. It

‘is not in the first place a theory of the person or a theoretical science of the person. It focuses rather on the person as subject and object of activity and thus deals fundamentally with practical and ethical questions’.⁶¹

For these reasons, it is more accurate to speak of *personalisms*.

This movement started in the middle of the twentieth century as a rebellion against totalitarianism, individualism, collectivism, idealism, and materialism. It tried to go back to the person’s concrete and daily reality. According to Emmanuel Mounier, one of its forerunners, personalism focuses on the personal universe of the human being as a creative and free being, which takes into consideration his unpredictability.⁶² On this basis, this movement does not provide definite or concrete responses, rather it proposes to embrace the importance of uncertainty, risk, and reflection as elements of the human world. This is the departure point of the present approach. Considering that the personalistic movement is very broad and for the purposes of this work, the analysis will focus on some of the characteristics of the *personalisms* of Emmanuel Mounier,⁶³ Rodrigo Guerra López,⁶⁴ Karol Wojtyła⁶⁵ and Martin Buber.⁶⁶

IV.1.1. Person as relation

The historical roots of the concept of ‘person’ are found in Ancient Greece, where the term *prosopon* (in Latin *persona*) ‘meant a mask worn by

⁶¹ WILLIAMS, T., *Who Is My Neighbor?*, *op. cit.*, p. 125.

⁶² MOUNIER, E., *Le personalisme*, *op. cit.*, p. 8.

⁶³ Mounier (1905-1950) was a French philosopher, who founded the journal *Esprit*. He is known as one of the fathers of personalism.

⁶⁴ Guerra is a Mexican contemporary philosopher, who specializes in human rights and bioethics.

⁶⁵ Wojtyła (1920-2005) was a Polish philosopher and theologian who later became Pope John Paul II.

⁶⁶ Buber (1878-1965) was an Austrian philosopher and theologian, who is famously known for his philosophy of the dialogue.

players in a drama to indicate their particular roles'.⁶⁷ The dialogical dimension of its history must be noted:

‘Prosopographic exegesis is thus an interpretation that brings to light this artistic device by making it clear that the author has created dramatic roles, dialogical roles, in order to give life to his poem or narrative’.⁶⁸

In philosophy, this notion refers to ‘the uniqueness, the incomparability and therefore irreplaceability of the individual’.⁶⁹ As the philosopher Rocco Buttiglione expresses, quoting Wojtyła:

‘The term *persona* has been coined to dignify that a man cannot be wholly contained within the concept «individual member of the species» but that there is something more to him, a particular richness and perfection in the manner of his being, which can only be brought out by the use of the word «person»’.⁷⁰

According to the philosophical works that will be presented, the human person has the following characteristics (among others): he is a spiritual and corporeal being, he is irreducible, he reveals herself through action, and he is a relational being. Each characteristic will be addressed in the following paragraphs.

In modern reasoning, the individual is reduced to materialistic and/or idealistic notions. He is a conditioned animal and/or a social construct. Personalism recognizes that the person has a deeper dimension, he is considered as a whole: in his spiritual and physical existence. In his spiritual interiority, the person discovers consciousness, which becomes self-consciousness when he is aware, first of all, of his corporeal existence. ‘*El sabernos cuerpo es un saber de sí que consiste en sabernos cuerpo-vivo-que-sabe-de-sí*’.⁷¹ The person ‘*est la seule*

⁶⁷ SMITH, J., «Person to Person – The Community and the Person», *The Personalist Forum*, vol. 8, n. 1 (1992), p. 42.

⁶⁸ RATZINGER, J., «Concerning the Notion of Person in Theology», *17 Communio: International Catholic Review*, vol. 17, n. 1 (1990), p. 441.

⁶⁹ VON BALTHASAR, H., «On the Concept of Person», *Communio: International Catholic Review*, vol. 13, Spring (1986), p. 18.

⁷⁰ BUTTIGLIONE, R., *Karol Wojtyła: The Thought of the Man Who Became Pope John Paul II*, Eerdmans, Grand Rapids, 1997, p. 88.

⁷¹ GUERRA LÓPEZ, R., *Afirmar a La Persona Por Sí Misma*, *op. cit.*, p. 85. Translation: ‘to know we are a body is a knowledge of oneself which consists in knowing oneself as a living-body-who-knows-about-itself’.

réalité que nous connaissons et que nous faisons en même temps du dedans.⁷² Consciousness is the door to a person's interiority: '*frente a sí misma la persona se descubre, se conoce y se tiene a sí misma*'.⁷³ It is his deepest dimension. It should be treated accordingly and not as an accidental aspect of the human person.

Self-consciousness does not imply subjectivism or idealism. When the person experiences himself as a being, he perceives it as an objective reality. In subjectivism, the mistake is to consider that the subject experiences himself as a subject, without intermediary steps, and abstracting himself from the source of experience, which is an objective being.⁷⁴ There is a distinction between 'the one who is aware of his or her own self and the self that is the locus of this awareness'.⁷⁵ These two dimensions are not separated, self-consciousness is the 'subjective content of the being and acting that is conscious, the being and acting proper to man'.⁷⁶ There is a false dichotomy which considers as objective everything that is independent of the subject and as subjective everything that refers to him. Nevertheless, in Guerra's words, '*lo máximamente objetivo es el ser de la subjetividad humana*'.⁷⁷ The person perceives 'the objective status in the subjective structure of man'.⁷⁸

The synthesis of objectivity and subjectivity in the person is a synthesis of externality and immanence,⁷⁹ not of a lonely and abstract individuality. Every human action involves this fusion, just like the work of a poet or a painter, the human being can transmit some objective reality that can only be expressed through his personal sensibility. The self-awareness of this issue allows the human being to see that there are other objective-subjectivities (persons) that also possess a deep dimension of interiority. Without this awareness about ourselves, we would remain conditioned animals, without the possibility to transcend the material world and ourselves in order to go to the encounter of the other.

Turning to the next characteristic, the person is a concrete being (not pure will) that lives situated in space and time, whose identity is discovered

⁷² MOUNIER, E., *Le personalisme*, op. cit., p. 10.

⁷³ DÍAZ, A., «La concepción de la persona en Jacques Maritain. Desde la noción de individuo a la de libertad personal», *Polis*, vol. 5, n. 15 (2006), p. 7. Translation: 'in front of herself, the person discovers herself, knows herself, and possesses herself'.

⁷⁴ WOJTYLA, K., *The Acting Person*, Reidel Publishers, Boston, 1978, p. 57.

⁷⁵ SMITH, J., «Person to Person», op. cit., p. 44.

⁷⁶ WOJTYLA, K., *The Acting Person*, op. cit., p. 33.

⁷⁷ GUERRA LÓPEZ, R., *Afirmar a La Persona Por Sí Misma*, op. cit., p. 130. Translation: 'the most objective reality is the being of human subjectivity'.

⁷⁸ WOJTYLA, K., *The Acting Person*, op. cit., p. 59.

⁷⁹ *Ibid.*, pp. 114-115.

(not exhausted) in this reality. Without this, there is the risk of fantasizing about a humanity outside real embodied persons, ‘in the face of which real humanity, in its limits and grandeur, appears to be contemptible’.⁸⁰ For this reason, personalism does not try to impose a system that deprives the person of his roots. The idea is better explained in Simone Weil’s words:

*‘Un être humain a une racine par sa participation réelle, active et naturelle à l’existence d’une collectivité qui conserve vivants certains trésors du passé et certains pressentiments d’avenir. Participation naturelle, c’est-à-dire amenée automatiquement par le lieu, la naissance, la profession, l’entourage. Chaque être humain a besoin d’avoir de multiples racines. Il a besoin de recevoir la presque totalité de sa vie morale, intellectuelle, spirituelle, par l’intermédiaire des milieux dont il fait naturellement partie’.*⁸¹

Weil considers that to ignore the human being in his circumstances provokes *le déracinement*, which occurs when the person is forced into alienation falsely presented as reality. In other words, when he *is* at home without really *being* at home. Weil explains this situation through the labor exploitation of workers at the factories in the European societies of the 1940’s:

*‘Ils [the workers] ne sont chez eux ni dans les usines, ni dans leurs logements, ni dans les partis et syndicats soi-disant faits pour eux, ni dans les lieux de plaisir, ni dans la culture intellectuelle s’ils essayent de l’assimiler’.*⁸²

When human rights provide structures which do not embrace the person’s concrete roots, they create *le déracinement*.

Considering these ideas, personalism does not accept mystified philosophical idealisms, rather it tries to link philosophy to the concrete problems

⁸⁰ BUTTIGLIONE, R., *Karol Wojtyła: The Thought of the Man Who Became Pope John Paul II*, op. cit., p. 87.

⁸¹ WEIL, S., *L’enracinement: prélude à une déclaration des devoirs envers l’être humain*, Presses Universitaires de France, Paris, 1949, p. 36. Translation: ‘a human being is rooted because of his real, active and natural participation in the existence of a collectivity that preserves alive certain treasures of the past and certain presentiments of the future. Natural participation means automatically brought by place, birth, profession, environment. Every human being needs to have multiple roots. He needs to receive almost all of his moral, intellectual and spiritual life through the intermediary of the environments he is naturally part of’.

⁸² *Ibid.*, p. 38. Translation: ‘they [the workers] are not at home in the factories, nor in their homes, nor in the parties and unions supposedly made for them, nor in the intellectual culture if they try to assimilate it’.

of the contemporary world.⁸³ For to consider each person in his concreteness corresponds to truly recognizing him in his *otherness*. However, this does not mean that the person can be reduced to this concreteness or to his differences. His uniqueness, expressed in his actions, requires a change of perception, which involves a dimension that can be partly perceived in

‘An identity of his own making that cannot be reduced to objective analysis and thus resists definition. This resistance to definition, this “irreducibility”, does not mean that the person’s subjectivity and lived experience is unknowable, but rather that we must come to know it differently’.⁸⁴

Guerra indicates that irreducibility, in Medieval philosophy, was called incommunicability: ‘*ya que la sustancia individual no comunica su ser como lo hacen los accidentes respecto de la sustancia*’.⁸⁵ In other words, the person reveals himself through his actions and characteristics, but never in a complete manner. His essence is never completely communicated, it is never totally exhausted by actions, experiments or analysis. Consequently, the person is never reduced to a member of a species, to one aspect of himself, to himself as a totality, not even to the concept of ‘person’. This irreducibility opens the possibility to transcendence, but without losing contact with reality.

The radical dimension of irreducibility refers to a characteristic of the human person that is unattainable to any instrumental use, to any political, economic, religious, cultural, or social project (including human rights). As it can be seen throughout history, every time the human being was reduced to an all-embracing definition, project or even field of knowledge, he became objectified and disposable, as in totalitarian regimes. This irreducibility becomes a safe space for the person away from any attempt to exercise complete power over him.

Within the human rights field, irreducibility provides access to universality. Singularity and concreteness become the form through which real contact with a shared dignity becomes possible. Only by recognizing human dignity in a concrete manner, one can perceive the universal value of each irreducible person. Guerra remarks: ‘*la dignidad no es una conclusión que brote deductivamente*

⁸³ MOUNIER, E., *Le personalisme*, op. cit., p. 18.

⁸⁴ WILLIAMS, T., *Who Is My Neighbor?*, op. cit., p. 134.

⁸⁵ GUERRA LÓPEZ, R., *Afirmar a La Persona Por Sí Misma*, op. cit., p. 134. Translation: ‘because the individual substance does not communicate its own being as accidents do with respect to the substance’.

de un elaborado análisis sobre la condición humana. La dignidad, como su nombre lo indica, es un principio para la vida humana'.⁸⁶ He sustains that dignity is an *appeal* to be recognized and treated precisely as a person,⁸⁷ not as something else; appeal that cannot be rejected without a personal wrongful response. Human dignity as a social construction or as autonomy implies that it is something which could be restrained in certain circumstances, modified or even suppressed. Dignity as a given fact implies that we are in front of a *presence* that is *appealing* to us; independently of whether it is agreeable, whether we pretend to ignore it, and whether it benefits us or not.

Turning to another feature, the irreducibility of the person is manifested through his actions. 'The acting person –the person acting consciously– reveals himself as a specific synthesis of objectiveness with subjectiveness'.⁸⁸ The action becomes a '*mouvement de personnalisation*'⁸⁹, a footprint which is revealed in each personal act. To look at the action and to engage with it, allows us to understand the person in his otherness, not as a set of standards or theories. For action is not an automatic movement, it expresses consciousness and self-determination. Consequently, acting and engaging in interaction is not something that just *happens*, it is itself a personal voluntary action.⁹⁰ It is not an already accomplished task or one that derives ipso facto from coexisting in society. It is a potential ability in the personal self, but it involves '*l'effort humain pour humaniser l'humanité*'.⁹¹ That is why 'behaviorism may serve as a descriptive approach to action but not as a method of interpreting man's acting'.⁹²

Accordingly, personal action reveals the unpredictability of the person. Arendt considers action in a similar way, as the human capacity that makes us equal and different at the same time, as 'the paradoxical plurality of unique beings'.⁹³ For the human being is never wholly conditioned by the conditions of human existence in order to explain who he is.⁹⁴ Social engineering proposals that ignore plurality and unpredictability rest on the presupposition that

⁸⁶ *Ibid.*, p. 121. Translation: 'dignity is not a deductive conclusion of an elaborated analysis of the human condition. Dignity is rather a principle for human life'.

⁸⁷ *Ibid.*, p. 124.

⁸⁸ WOJTYLA, K., *The Acting Person*, *op. cit.*, p. 114.

⁸⁹ MOUNIER, E., *Le personnalisme*, *op. cit.*, p. 10.

⁹⁰ WOJTYLA, K., *The Acting Person*, *op. cit.*, p. 270.

⁹¹ MOUNIER, E., *Le personnalisme*, *op. cit.*, p. 11.

⁹² WOJTYLA, K., *The Acting Person*, *op. cit.*, p. 205.

⁹³ ARENDT, H., *The Human Condition*, *op. cit.*, p. 176.

⁹⁴ *Ibid.*, pp. 10-11.

the person can be wholly conditioned. Therefore, personalism highlights the importance of recognizing unpredictability as part of the human condition. However, this is not a characteristic of the person that operates in the vacuum. The human person lives and acts in a context where he is situated in interaction with the world and other people. In order to consider this universe, one must see the person in his relational dimension. The prevailing schema has to be changed in order 'to enter into another order of knowledge (the order of relationality)'.⁹⁵

In his relation to the common world, the person brings new actions into a pre-existing reality shared with other human beings, where actions do not occur in abstract and indifferent terms: they affect all other persons. The very comprehension of this world and interactions takes place in relational terms. This relational thinking is required in order to perceive a common reality. To consider one same reality seen from different perspectives is not the same as to argue that each viewpoint creates its own reality. For Arendt, action is only possible when there is a common space where people can speak and recognize each other:

'To live together in the world means essentially that a world of things is between those who sit around it; the world, like every in-between, relates and separated men at the same time'.⁹⁶

In modern reasoning, the common world is no longer perceived for it has been replaced by abstract subjectivities and *neutral* ideologies. Therefore, an important reference point for relationships is lacking. This absence, for Arendt:

'Resembles a spiritualistic séance, where a number of people gathered around a table might suddenly, through some magic trick, see the table vanish from their midst, so that two persons sitting opposite each other were no longer separated but also would be entirely unrelated to each other by anything tangible'.⁹⁷

Furthermore, a relationship with the common world is necessary for the person in order to recognize himself as a situated being, in contact with a context. In this sense, the person discovers that he exists *in* him, but not *by*

⁹⁵ DONATI, P., «Beyond Multiculturalism: Recognition through the Relational Reason», *Polish Sociological Review*, vol. 166 (2009), p. 172.

⁹⁶ ARENDT, H., *The Human Condition*, *op. cit.*, p. 52.

⁹⁷ *Ibid.*, p. 53.

himself. He exists *thanks* to others or *because* of others.⁹⁸ The common reality allows us to see that nobody can know himself without the participation of other persons. In this process, the other is recognized as a *presence*, rather than as a mere *being*.⁹⁹ In this interaction, we perceive ourselves as subjects and community at the same time.¹⁰⁰

Personalism rejects the false contraposition between individual and community. In individualism, the human being enters society in contractarian terms and does not see any positive features there for his own development. Totalitarianism pretends exactly the same, but in different terms.¹⁰¹ These apparently contradictory systems depart from a common ideological basis: for the former everything outside individual interests is oblivious to the person; for the latter, everything outside the collective-self is also oblivious to him. 'Both systems of thinking and proceeding have at their origin the same conception of man'¹⁰²: a person that has to be forced, that is exclusively capable of instrumental reasoning, but not of interpersonal communication. The result of these ideologies is 'alienation as draining or shifting man from his very own humanness'.¹⁰³ Both are *impersonalistic* views of the human being.

From a personalistic perspective, other human beings do not limit personal development, in fact '*elles la font être et croître*'.¹⁰⁴ The opposition between person and community is illusory, since 'in reality, it is posed in terms of reciprocal subordination and mutual implication'.¹⁰⁵ Both the person and the community complement each other: a community does not exist without a network of personal relationships, and a person cannot understand and fully develop himself without interaction with other people within a community. 'Humanity is neither possible nor comprehensible without the network of relationships of which it is a part'.¹⁰⁶ Reason itself needs to operate in a perspec-

⁹⁸ GUERRA LÓPEZ, R., *Afirmar a La Persona Por Sí Misma*, op. cit., pp. 67-70.

⁹⁹ MOUNIER, E., *Le personalisme*, op. cit., p. 49.

¹⁰⁰ GUERRA LÓPEZ, R., *Afirmar a La Persona Por Sí Misma*, op. cit., p. 74.

¹⁰¹ See EVANS, J., «Jacques Maritain's Personalism», *The Review of Politics*, vol. 14, n. 2 (1952), p. 171.

¹⁰² WOJTYŁA, K., *The Acting Person*, op. cit., p. 275.

¹⁰³ *Ibid.*, p. 297.

¹⁰⁴ MOUNIER, E., *Le personalisme*, op. cit., p. 36.

¹⁰⁵ FITZGERALD, J. and MARITAIN, J., «The Person and the Common Good», *The Review of Politics*, vol. 8, n. 4 (1946), p. 444.

¹⁰⁶ NEDELSKY, J., «Reconceiving Rights as Relationship», *Review of Constitutional Studies*, vol. 8, n. 4 (1993), p. 12.

tive of community in order to remain rational: ‘as a matter of fact, a purely “individual rationality” does not exist. Rationality cannot be a faculty operating outside social relations’.¹⁰⁷ The person can only discover his own humanity by ‘participating in the very humanness of others’.¹⁰⁸ This means that the human person discovers his being through his relations with others. In this relationship of complementarity, we discover the other, but also ourselves. It is a dialectical interaction, where both exchanges happen during the same act.

This is what was famously expressed by Martin Buber in his ‘I-Thou’ relationship. He considered that this type of relationship requires our whole being because the person is not an object, he has a real, direct and different connection with our own being as a person.¹⁰⁹ ‘To be a subject and ‘to live one’s own self as a subject’ (*se vivre soi-même*) are quite different’.¹¹⁰ Buber argues that this relationship is direct, ‘no system of ideas, no foreknowledge, and no fancy intervene between I and Thou’.¹¹¹ The other type of relationship that can be established is one of ‘I-It’, which is the kind of interaction that the human being installs with the world of things. Buber highlights: ‘without “It” man cannot live. But he who lives with “It” alone is not a man’.¹¹² This personal ‘I-Thou’ relationship involves a very special dynamic because

‘Your “I” is on the one hand what is most your own and at the same time what you have least of yourself; it is most of all not your own, because it is only from the “you” that it can exist as an “I” in the first place’.¹¹³

At some point, we recognize that we need this intersubjective community in order to be ourselves. For the person ‘*n’existe que vers autrui, elle ne se connaît que par autrui, elle ne se trouve qu’en autrui*’.¹¹⁴ This should not be confused with placing the other within our own standards. It rather involves acknowledging the other as irreducible to our own selves, and ourselves as irreducible to the perception of the other. Additionally, these relationships also require

¹⁰⁷ DONATI, P., «Beyond Multiculturalism», *op. cit.*, p. 170.

¹⁰⁸ WOJTYLA, K., *The Acting Person*, *op. cit.*, p. 294.

¹⁰⁹ BUBER, M., *I and Thou*, T. & T. Clark, Edinburg, 1937, pp. 11-17.

¹¹⁰ WOJTYLA, K., «The Person: Subject and Community», *The Review of Metaphysics*, vol. 33, n. 2 (1979), p. 279.

¹¹¹ BUBER, M., *I and Thou*, *op. cit.*, p. 11.

¹¹² *Ibid.*, p. 34.

¹¹³ RATZINGER, J., «Concerning the Notion of Person in Theology», *op. cit.*, p. 447.

¹¹⁴ MOUNIER, E., *Le personalisme*, *op. cit.*, p. 36.

a temporal dimension.¹¹⁵ Human relationships are placed in time, in order to perceive interactions with past history, the present, and a common future. This dimension is especially important for human rights and their interaction with cultural backgrounds.

On the other hand, dialogue forms an essential part of the 'I-Thou' relationship.¹¹⁶ Dialogue makes an encounter possible, it helps to avoid subjective views and to admit oppositions as a necessary requirement of true participation.¹¹⁷ Dialogue is especially needed when the encounter is with someone that is outside our schemas because it is hard to grasp definitions 'whose terms structure the world in ways which are utterly different from or incompatible with our own'.¹¹⁸ As stated by the philosopher Roger Scruton, a dialogue in this sense provides a privileged space for knowledge, where the person can spontaneously express beliefs, desires, fears or aspirations. This type of encounters allows the person to engage in cognitive relationships 'in ways that bypass all the normal methods of discovery'.¹¹⁹ A dialogue provides a different epistemological position, broader than an instrumental rationality. For the other appeals to us as an invitation to go beyond ourselves, since he is another *point of view*, not a thing that is observed. This presence must be accepted and received in one's own humanness, in order to understand him and the meaning he expresses in his actions and relations.

Outside these interactions, not only the other but also *myself* remains a mystery to myself. Outside personal dialogues, there are monologues, where the speaker retains total control over the content of the topic and acts as an autonomous individual that is independent of the audience.¹²⁰ Moreover, without personal encounters '*difícilmente se puede superar un cierto cosismo que tarde o temprano deriva en una actitud de dominio instrumental en el que el poder se impone sobre la verdad*'.¹²¹ Without the said perspective, a human rights lawyer might

¹¹⁵ GUERRA LÓPEZ, R., *Afirmar a La Persona Por Sí Misma*, op. cit., p. 64.

¹¹⁶ FITZGERALD, J. and MARITAIN, J., «The Person and the Common Good», op. cit., p. 433.

¹¹⁷ WOJTYŁA, K., *The Acting Person*, op. cit., p. 287.

¹¹⁸ TAYLOR, C., *Philosophy and the Human Sciences: Philosophical Papers 2*, Cambridge University Press, Cambridge, 1985, p. 54.

¹¹⁹ SCRUTON, R., *On Human Nature*, Princeton University Press, Princeton, 2017, p. 55.

¹²⁰ See DAUENHAUER, P., «Relational Freedom», *The Review of Metaphysics*, vol. 36, n. 1 (1982), pp. 84-85.

¹²¹ GUERRA LÓPEZ, R., *Afirmar a La Persona Por Sí Misma*, op. cit., pp. 65-66. Translation: 'it is very difficult to surpass a certain reifying of the person that sooner or later will drive in an attitude of instrumental domination in which power is imposed over truth'.

think he knows everything about the human being, but he might be oblivious to the human person. Both epistemological positions (an instrumental and a personal one) establish a cognitive relationship. But each of them provides a very different outcome: the former reaches an empiric knowledge and considers humanity (in uniform terms) as the most superficial aspect of the human being. The latter attains a *personal* knowledge and perceives humanity as the most inexhaustible dimension of each concrete person.

IV.1.2. Human experience as a Source for Understanding

Human experience, in personalistic terms, provides a different rationality that includes more than instrumental and calculative tools. In order to understand this approach, this section will begin by discarding what is not human experience for personalism. It does not refer to merely empirical or procedural aspects, for they prevent understanding the meaning of ‘human experience’ because it gets lost in a procedural structure. As acknowledged by Charles Taylor when he describes the insufficiency of contemporary political science methodology:

‘From the point of view of empiricist epistemology, this set of categorical principles leaves nothing out. Both reality and the meaning it has for actors are coped with. But what it in fact cannot allow for are intersubjective meanings, that is, it cannot allow for the validity of descriptions of social reality in terms of meanings’.¹²²

Shaping experience into these categories would result in reducing it to its lowest dimension, because they suffer from axiological blindness.¹²³ Experience is not about analyzing particular aspects of the human being ‘or even some chosen structural totalities in man in a simply “phenomenal” or “behavioristic” way’.¹²⁴ Experience narrowed to data or descriptive analysis remains in a superficial schema that mostly promotes misunderstandings, partial truths, and depersonalizes the human encounter.

For the same reasons, experience cannot be reduced to the world of deconstruction nor to utilitarianism. In the vision of the former, what is im-

¹²² TAYLOR, C., *Philosophy and the Human Sciences*, *op. cit.*, pp. 31-32.

¹²³ See GUERRA LÓPEZ, R., *Afirmar a La Persona Por Sí Misma*, *op. cit.*, pp. 12 and 39.

¹²⁴ WOJTYŁA, K., «The Person: Subject and Community», *op. cit.*, p. 274.

portant is not the person, but exposing real or unreal power structures. Even though this unmasking has revealed the problems of the artificial liberal-self, it has done so at the cost of disfiguring the human person as devoid of ulterior meaning or objectiveness.¹²⁵ On the other hand, in the world of utilitarianism, experience cannot be apprehended either since it shortens community to interests, efficiency or productivity.

In personalistic terms, experience involves empirical contact with reality, but also intellectual engagement simultaneously. Experience occurs in a given pre-existing world in which the person situates himself. The ‘direct observation and consultation of reality eschews the problems of deductive reasoning by focusing on the intellectual act of intuition, or direct apprehension of reality’.¹²⁶ As mentioned above, experience starts with self-consciousness, as an experience itself: ‘the original intuition is really that of self-awareness by which one grasps values and essential meanings through unmediated experiences’.¹²⁷ It enables us to establish a relationship between ourselves and the common world, which we are knowing through experience. This is a continual process, for ‘every experience is also a primordial understanding,’ serving ‘as a point of departure for subsequent understandings and as a kind of provocation toward them’.¹²⁸ Accordingly, dichotomies and partial views of reality artificially separate the complex relationships found through experience, and can lead to oversimplifications or misunderstandings.

Now, when the personalistic experience is in relation to another person, the situation changes: ‘an ethical structure enters into play that is absent when the object of one’s action is a thing’.¹²⁹ The cognitive relation in the ‘I-Thou’ relationship is not the same as in one of ‘I-It’. Here the human being experiences himself, a world in which he is situated and interacting; and another self like himself. This other person is a being that can be known by experiencing his actions and his presence: ‘the human subject and the human self are two poles of one and the same human experience’.¹³⁰ This encounter is a direct

¹²⁵ See MARITAIN, J., «Integral Humanism and the Crisis of Modern Times», *The Review of Politics*, vol. 1, n. 1 (1939), pp. 2-3.

¹²⁶ WILLIAMS, T., *Who Is My Neighbor?*, *op. cit.*, p. 114.

¹²⁷ *Ibid.*, p. 109.

¹²⁸ SAVAGE, D., «The Centrality of Liven Experience in Wojtyła’s Account of the Person», *Roczniki Filozoficzne*, vol. LXI (2013), p. 36.

¹²⁹ WILLIAMS, T., *Who Is My Neighbor?*, *op. cit.*, p. 146.

¹³⁰ WOJTYŁA, K., «The Person: Subject and Community», *op. cit.*, p. 284.

interaction that does not create distance nor reinforce differences. Actually, our partaking in the distinctness of the other allows us to perceive the personal and analogical unity in diversity.

In a dialogical approach, we experience the commonality (not uniformity) of unique and different personal beings; and at the same time ‘the singleness of the person (...) emerges from the background of what is common’.¹³¹ It is not a simple nor immediate process because our comprehension of ourselves, the world and other persons is ‘composed of many separate moments of understanding, somewhat analogous to experience, which is also composed of many distinctive experiences’.¹³² Every experience already involves a pre-understanding that shapes our conscience and perceptions towards new experiences:

‘It is not only cognitively that man enters into the world of other men and objects and even discovers himself there as one of them: he has also as his possession all this world in the image mirrored by consciousness, which is a factor in the innermost, most personal life. For consciousness not only reflects but also interiorizes in its own specific manner what it mirrors’.¹³³

This complex process can enable us to perceive that there is a difference between *studying* the person as an *object* of research which results in ‘a quantum of knowledge contributing to what we *know* about man’;¹³⁴ and *experiencing* the person as a subject that I try to *understand* through a ‘knowledge that may be either pre-scientific or scientific and pertaining to different tendencies or domains of learning’.¹³⁵ Personal experiences look for understanding, which ‘means the same as to “grasp” the meaning of things and their inter-relations’.¹³⁶ To have experienced something does not automatically mean to understand it. Meaning requires relational thinking. The sociologist Pierpaolo Donati considers that what he calls ‘relational reason’, operates on different levels: *with* relations (to perceive the context and to acquire a horizon), *for*

¹³¹ DONATI, P., «Beyond Multiculturalism», *op. cit.*, p. 172.

¹³² WOJTYŁA, K., *The Acting Person*, *op. cit.*, p. 33.

¹³³ *Ibid.*, p. 34.

¹³⁴ *Ibid.*, p. 4.

¹³⁵ *Ibidem.*

¹³⁶ *Ibid.*, p. 35.

relations (to improve them), and *in* relations (to create new ones and enrich the existing ones).¹³⁷

This type of comprehension can be applied to ‘I-Thou’ relationships, but also to communal ones. The relational terms of experience and meaning let us see into the personalistic universe reflected in a community: ‘human cultures are reflections on and in the surface of life, ways in which we understand the world of persons, and the moral framework within which persons live’.¹³⁸ This is not subjectivism, ‘but rather inter-subjective meanings, which are constitutive of the social matrix in which individuals find themselves and act’.¹³⁹ In communities

‘Inter-subjective meaning gives a people a common language to talk about social reality and a common understanding of certain norms, but only with common meanings does this common reference world contain significant common actions, celebrations, and feelings. These are objects in the world that everybody shares’.¹⁴⁰

Taylor also points out the incapacity of contemporary empirical research to look at the universe of meaning, since its own structure already excludes any reference to interpersonal relationships:

‘What the ontology of mainstream social science lacks is the notion of meaning as not simply for an individual subject; of a subject who can be a ‘we’ as well as an ‘I’. The exclusion of this possibility, of the communal, comes once again from the baleful influence of the epistemological tradition for which all knowledge has to be reconstructed from the impressions imprinted on the individual subject’.¹⁴¹

In this reduced paradigm, interpersonal meaning and experience ‘can only be interpreted within the accepted framework of our social science as a return to ideology, and hence as irrational’.¹⁴² Nevertheless, if we engage with the situation in a personal relationship, we will realize that what was

¹³⁷ DONATI, P., «Beyond Multiculturalism», *op. cit.*, p. 171.

¹³⁸ SCRUTON, R., «Scientism in the Arts and Humanities», *The New Atlantis*, vol. 40, Fall (2013), p. 43.

¹³⁹ TAYLOR, C., *Philosophy and the Human Sciences*, *op. cit.*, p. 36.

¹⁴⁰ *Ibid.*, p. 39.

¹⁴¹ *Ibid.*, p. 40.

¹⁴² *Ibid.*, p. 49.

considered *non-rational* or incompatible with reason (maybe simply because it was not reducible to instrumental reason itself) makes sense if we understand it beyond the prevailing paradigm.¹⁴³ Then a broader notion of rationality is able to grasp meaning and to see correlations.

According to all that has been explained, experience is a complex process, but not an impossible one. It requires our will and intellect. It needs a persistent engagement with reality and with the other person that we want to understand (not to analyze her as an object of curiosity). Experience is based on establishing or discovering relationships and is deeply linked to meaning and understanding. Nonetheless, much of this discovery depends on ‘an attitude that is at once emotional and appreciative’.¹⁴⁴ Taylor reaches a similar conclusion:

‘It may not just be that to understand a certain explanation one has to sharpen one’s intuitions, it may be that one has to change one’s orientation – if not in adopting another orientation, at least in living one’s own in a way which allows for greater comprehension of others’.¹⁴⁵

This particular issue can be expressed in an example given by Scruton. He explains that if we just *see* a painting, we might find a canvas with colored patches; but we can also *look* at the painting and discover Titan’s Venus of Urbino.¹⁴⁶ Both *visions* are there, actually what is *seeing* is necessary for *looking*, because the image of Venus does not emerge from a parallel reality. An empirical basis makes it accessible, but not reducible to it. Nevertheless, one perspective is deeper than the other. One perceives meaning, and the other just the surface of the situation.

This is a hard task. The personal universe needs constant engagement, while impersonal interaction does not. The latter is catchy and immediately accessible to everyone. It does not require efforts and can be easily manufactured and exported upon the false brand of freedom. However, ‘*qui refuse d’écouter l’appel, et de s’engager dans l’expérience de la vie personnelle, en perd le sens comme on perd la sensibilité d’un organe qui ne fonctionne pas*’.¹⁴⁷

¹⁴³ See MARITAIN, J., «Integral Humanism and the Crisis of Modern Times», pp. 2-4.

¹⁴⁴ WOJTYŁA, K., *The Acting Person*, *op. cit.*, p. 48.

¹⁴⁵ TAYLOR, C., *Philosophy and the Human Sciences*, *op. cit.*, p. 54.

¹⁴⁶ SCRUTON, R., «Scientism in the Arts and Humanities», *op. cit.*, pp. 40-41.

¹⁴⁷ MOUNIER, E., *Le personalisme*, *op. cit.*, p. 10.

Human rights, as embedded into the prevailing rationality, risk an impersonal implementation of legal standards that overlooks ordinary people's lives, beliefs, and context. Furthermore, dichotomies hinder understanding, because they rely on artificial separations of the human person, who is perceived as many individuals in one self, instead of one person in a network of different relationships. For instance, this situation distances the connection between the meaning people find in their daily lives and what the human rights rhetoric and interpretations establish. This problem is explained by Taylor:

‘It comes quite naturally to us to distinguish sharply between scientific study of reality and its accompanying technological spin-off, on one hand, and symbolic activity in which we try to come to terms with the world on the other. This kind of contrast is one that has developed out of our form of life. But exactly for this reason, it is probably going to be unhelpful in understanding people who are very different from us. It certainly would not help to say, for instance, (...) that the body of religious beliefs was merely expressive of certain attitudes to the contingencies of life, and not also concerned with giving an account of how things are’.¹⁴⁸

If human rights keep subscribing to the present narrative, they will uproot meaning and replace it with a void rights talk, which ‘cannot capture the complex relations between the multiple values we actually care about’.¹⁴⁹ Human rights must be part of domestic appropriation, in order to respond to people's real concerns and experiences. For only in this manner is the interaction between the universal and the concrete ‘in the *service* of universality, rather than in *opposition* to it’.¹⁵⁰

V. CONCLUSION

As has been described throughout this article, modern reasoning is based on certain unacknowledged philosophical presuppositions: materialism, dichotomist thinking, individualism, the supremacy of an unencumbered auton-

¹⁴⁸ TAYLOR, C., *Philosophy and the Human Sciences*, *op. cit.*, pp. 143-144.

¹⁴⁹ NEDELSKY, J., «Reconceiving Rights as Relationship», *op. cit.*, p. 11.

¹⁵⁰ CAROZZA, P., «My Friend is a Stranger: the Death Penalty and the Global Ius Commune of Human Rights», *Texas Law Review*, vol. 81, n. 1031 (2002), p. 1085.

omy, the idea of neutrality towards the good, and an instrumental rationality. Such philosophical assumptions create an anthropological vision about the human being and of rationality itself. Some examples of this phenomenon can be seen in the way controversial issues have been framed, under the absoluteness of the right to privacy: like abortion, assisted suicide, and single parent-adoption, among others.

As has been highlighted by recent studies on cultural and moral psychology, this way of thinking is most prevalent in WEIRD societies, which represent a very small portion of the global population. Moreover, it is highly reductionist, compared to other models of rationality that include elements related to the community or the social dimension of the human person. The problem with this situation is not its Western origin. The concern is that framing human rights issues in these terms avoids addressing the underlying claims. Furthermore, it does not recognize, nor promote, intellectual and philosophical diversity. It only considers a reduced number of moral and philosophical perspectives, while excluding the values, needs, and ways of moral reasoning that real/concrete people experience in their daily lives.

In order to expand the borders of the prevailing way of reasoning, this article has proposed a different approach, based on the premises of personalism. This philosophical movement proposes to go back to basics: to the concrete existence of the human person as a being who is more than a material subject, and who flourishes in inter-personal relationships of dialogue, mutual understanding, and meaning. Another important insight of personalism is its idea of human experience, which is not reduced to mere empiricism or emotivism. Rather it proposes broader notions of subjectivity and objectivity, and the importance to perceive reality through a dialogical engagement. All these elements can provide a rich soil to further discussions on human rights issues, to improve intellectual diversity, and to foster a discussion on human rights standards that actually incorporates all voices.

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