

**THE PROTECTION OF THE HUMAN BEING: THE VALUES AND
FUNDAMENTAL RIGHTS OF ALL MEN AS INHABITANTS AND AS
COHABITANTS IN THE WORLD**

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The farewell to modernity is made very evident by the progressive abandonment of the dichotomies that characterized it: subject and object, body and mind, public sphere and private one. One of these is the opposition and heterogeneity between the world of necessity, nonhuman nature, and the world of freedom, human nature. Between the one and the other there is nothing in common and the very concept of 'nature', which seems to connect them, is clearly equivocal. But in any case the idea that the appeal to nature can constitute a basis for claiming rights is ruled out. Nonhuman nature has no rights and the human being has them precisely insofar as he or she distances himself or herself from nature.¹ Against nonhuman nature man has attributed to himself an absolute and sovereign right, that is to say one without moral limits. The Kantian maxim of man as an *end* has been accompanied by that of nature as a *means* and spirituality has been made a privilege rather than a responsibility. Even in the 1948 *Universal Declaration of Human Rights* there is no trace of a specific right for the environment and the implicit presupposition is the exclusion from the recognition of rights of everything that is not human. And nevertheless, today more and more frequently people resort to «nonhuman nature» as an argument for legitimating the application of new rights, whether of man or of nonhuman beings, such as animals, plants and even inanimate nature. This new situation imposes a general re-examination of the relationships between man and the world in which he lives. The perspectives of modernity are now clearly inadequate, and nevertheless their influence continues to be felt and is one of the causes of the contradictions of our time.

The rights of human freedom are growing more and more, but at the same time there are also developing those that we can call «the rights of necessity», which are instead a limit to human freedom and the power of man over the world. It is no longer true that the only limit to man's freedom is that of the other man. Now we also have to reckon with non-freedom, i.e., with nonhuman nature. The appeal to human nature is more and more ineffective as a limit to rights, but the appeal to respect for nonhuman nature is an argument that contemporary men take more and more into consideration and not always merely for utilitarian reasons. It is this paradoxical situation that needs to be explained and which can only be overcome with a new alliance between man and nature, that is to say with new self-understanding of the human being.

Indeed, it is evident that we cannot ask nonhuman animals or inanimate beings to reconsider their way of relating to one another and to man. The issue is inevitably always an *anthropological issue*.

Every perception of nature as a nonhuman world is always related to the perception that man has of himself. We can only define the nonhuman in relation to the human. This is a limit that we cannot escape from and that also applies to *Deep Ecology*, that is to say to the extreme wing of the ecological movement, which postulates a psychological transformation of the subject towards trans-personal awareness. Identification through awareness with the biotic community is a broader way to perceive the self and its relationship with otherness, whereby taking care of other beings is not perceived as different from taking care of oneself.²

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1 Cf. N. Bobbio, *Natura e diritto*, in "Civiltà delle macchine", 4-14 (1974).

2. A. Naess, *Self-Realization: An Ecological Approach to Being in the World*, in "The Trumpeter", 35-42 (1987).

We can reject *anthropocentrism* but not *the anthropological point of view*. Our way of thinking of nature is irremediably 'human.' Ecological thought too is produced by men and certainly not by nonhuman nature, as some exponents would have us believe. The fact is that in every manifestation of ours we cannot help being 'human' and this makes it impossible to eliminate from ethics, politics and law the question of «human nature», as some would like to do. Today the capital issue is once more that of the role that the concept of 'nature' has in the self-understanding of the human person. Before being outside us, nature is inside us. First of all we are natural beings among the other natural beings in the world.

Stressing the human person and his or her dignity has led to gradual movement away from nature and from the very biological and ontological bases of human life. Sartre, for instance, sees man as absolute freedom, without essence and without being, as pure finite transcendence. The fact that man has an external appearance, the fact that he not only sees but is also seen, turns him into an object and is lethal for his freedom. For this reason «hell is the others». Others' gazes are cold scientific gazes, being seen as an objective phenomenon³, but for this very reason being sucked into the determinism and functionalism of the laws of nature.⁴

The fact that man has to hide his natural being in order to reaffirm his freedom has produced a conception of the person entirely independent of his corporeity. This has happily been called *personism* and is at once the negation of the moral importance of nature as such and the possibility of attributing the characteristics of the person to nonhuman forms of corporeity. The fact is that if human corporeity is no longer the sign of the person, there is no longer any reason to distinguish man from other natural beings and there is no reason to deny other beings qualification as 'people.' So one wonders whether animals too are 'people' and whether the artificial intelligences of the future will also become 'people.' This is legitimate on condition that being a person means being a conscious and acting subject wholly devoid of identity and quality. The connection between the self and its bodily and psychological endowment is considered as entirely accidental. Its perceptions, its passions and its abilities are 'its', but are not the self. I am a suit to put on or take off at will. In future it will be possible to package mental states and to transfer them from person to person. It will thus be possible to have the same feelings as another person and to perceive in the same way as another perceives. But in reality these mental states have no identity, they are subjectless perceptions, a «feeling felt» that travels around the world. Thus Parfit's affirmation will take on its full meaning: killing a man is bad, but killing a person is even worse.⁵

Human corporeity becomes an object to dominate and manipulate like other natural bodies. All this is rightly denounced by *biopolitics*, which highlights the extent to which political power is addressed to governing life and vital processes, from their most elementary movements to the more complex ones of the emotions, the passions, sensibility and affectivity. As Hobbes observed, he who has power over human life has power over man. In this way pervasive control of human life in a biological sense can cohabit with the disembodied extolment of human dignity. Nevertheless, if the correct reaction were to aim at or lead to freeing oneself of the very concept of person identified as the cause of the destruction of nature and life, with it we would also lose the basis making it possible to denounce the dominating and oppressive character of man's power over human bodies.

3. Cf. now J. Rosen, *The Unwanted Gaze. The Destruction of Privacy in America*, (Random House, New York 2000)

4. Cf. R. Spaemann, *Das Natürliche und das Vernünftige. Essays zur Anthropologie*, (Piper, München 1987)

5. Cf. F. Viola, *La custodia della persona umana nell'era tecnologica*, in M.M. Rossi e T. Rossi (eds), *Persona Humana, Imago Dei et Christi in Historia*, 51-68 (Angelicum U. P., Roma 2002).

The exploitation of the biological aspects, of the vital and sensorial functions of the human being in the name of a *philosophy of the impersonal*, in a controversy with the possessive anthropocentrism of people, is possible only because there are people in the world. The impersonal is always an experience proper to the person. If there were no people, not even values would exist, since they require someone capable of value judgments. There would certainly be beings to appreciate, but no one to appreciate them, and so 'values' would not exist strictly speaking.

For something to have value, two conditions are necessary: this 'something' has to be identifiable as a determined entity and there must be 'someone' capable of appraising. The very notion of 'value' requires it, because *something has a value for someone*. If there is no subjectivity able to evaluate, nothing really has 'value.'⁶

The ecological ideology and the biopolitical one, despite themselves require an elevated sense of the human person, a strictly oblatinal sense (*usque ad contemptum sui*). In this outlook it can be stated that all contemporary animalist and ecological thought is a hymn to the human person and to his or her capacity to get in the other's clothes to the point of disappearing. Who says, indeed, that the ecosystem has value in itself? And who can ever affirm that animals have intrinsic value except the person? Behind the most generous and altruistic expressions of *Deep Ecology* – which goes so far as to challenge the very presence of man on earth if it is prejudicial for the equilibrium of the ecosystem – one clearly glimpses the impress of the person in his or her noblest manifestations.

Now the human mystery is really this, that is to say how this being, concerned with self-preservation, rich in insatiable drives and desires, can be a person, that is to say capable of impartial knowledge and of benevolent love and solidarity. How is it possible that this natural being marked by the fear of death can look at the other to the extent of losing himself or herself in the other? For this reason people have tried to separate the person from animality and from the sentient and desiring subjectivity itself. But de-subjectivization of the person makes the human subject impersonal and the very person no longer identifiable and responsible.

Can there ever be knowledge without a subject that knows or love without a subject that loves? And can there ever be human knowledge and human love without vital and sensorial functions? When Pascal said that man infinitely transcends man, he did not in the least mean this going beyond man as a negation of the natural base of man. Besides, Thomas Aquinas had observed that this capacity for going beyond is based on and made possible by the very teleological constitution of human nature, which, opening the doors of freedom to nature, does not ensure its exercise with that necessity with which the stars move. Impartial knowledge and love for benevolence are therefore opportunities given to nature through man, who is responsible for their exercise. They could never be mere natural necessities without annihilating themselves.

If we now look at nonhuman nature or at what was once seen as the kingdom of necessity⁷ we easily realize how much the human perception of it has changed.

As long as man was unable to modify the order of nonhuman nature, the latter appeared to him as *necessary*, that is to say as a set of physical and biological laws that could not be violated without lapsing into chaos. This necessity was endowed with moral value only

6. For this reason the utilitarian ethic rejects the notion of value. Therefore I judge inconsistent the utilitarian justification of animal rights. Cf., for instance, V. Pocar, *Gli animali non umani. Per una sociologia dei diritti*, (Laterza, Roma-Bari 1998)

insofar as it was interpreted as divine will. But modern science does not need this *hypothesis* and hence in its eyes this necessity was completely without ethical meaning. But once technology has shown the possibility of modifying and even replacing the order of the nature, we wonder whether it is *right* or not to safeguard this order. It then begins to make sense to wonder whether this 'necessity', having become unnecessary, is to be respected and to what extent. Indeed, insofar as the 'necessity' is linked to the impossibility of choosing and the lack of alternatives, it is totally outside ethical problems. But it now appears clear that the order of the world is contingent, that it has been formed through long processes of selection, that human life participates in this history of nature and is inseparably linked to all other natural beings.

The fact that nature has become one of the possible orders of being because of the manipulatory power of man also has to be reconciled with the irreversibility of technological action, already stressed by Hans Jonas. Here we are face to face with double frailty: science does not succeed in foreseeing all the possible effects of technological action and technology is unable to restore what it has destroyed. *The helplessness of the experts* – as Fritjof Capra has observed – is a characteristic sign of the crisis of contemporary civilization. We can transform the world to our liking, but we cannot backtrack. All this confers particular value on the order of nature. It is something that is given to us, which we can destroy and cannot reproduce.

It also needs to be observed that such problems cannot be limited to moral or human good. In this connection, wondering whether and why nature needs to be protected also implies an ontological issue, which the ancient philosophers considered "ontological goodness", that is to say reflecting on the intrinsic goodness of nature, on nature as value in itself.

From all this we have to infer that nonhuman nature can no longer be simplistically thought of in the category of the necessary «factual datum». If we can tamper with the order of nature, then we have to ask ourselves whether and why we have to respect it as it is; that is to say, it constitutes a limit to the exercise of our rights, and we have to ask ourselves whether we have the duty to safeguard those bonds that a history of contingency has interwoven between living beings.

So we can affirm that the history of human freedom and of that of nature now tend to meet together in some way: the former becomes aware of its biological bases and of its bonds with an incarnate subjectivity, and the latter, through the possibility of being or not being different from what it is, becomes the object of choice and value that are not only ontological but also moral.

If we now ask ourselves what impact this interconnection between man and nature has on the way of conceiving human rights, first of all we have to recognize that the issue of rights is not a priority, but derives from that of values. Rights, the way of conceiving them and practising them, reveal the way of conceiving and seeing the underlying values and their ordering.

In their turn the values, which in themselves are isolated demands, precisely because of the necessity of the individual and collective practical life must be submitted to an overall order regulating them, and therefore to some extent must be connected and harmonized and must moderate their imperious claims. The demand for a global consideration of rights is nothing but a manifestation of the ordering of values. The ordering of values, in turn, is of a

historical and cultural character, and is not unchangeable but is subject to continual revisions, at times to manipulations and ideological violence.

It must further be observed that it is not necessary that all values be translated into rights. They can do so only when they refer to subjects, who alone can be entitled to rights. Having value does not necessarily mean having rights, but can only be the basis of duties towards that which is recognised to have a value to be respected.

Every order implies an arrangement, that is to say priorities and hierarchies. Moreover, every arrangement of values has its enemies: it is not shared by everybody and there is always a minority, however small, that dissents. On account of contemporary pluralism, this dissent has continually grown inside the same political community.

Only considering western societies and speaking very approximately, we can say that one of the biggest conflicts concerns the relationship between the value of life and that of freedom. In the light of what has been said it is no longer only a matter of human life nor even in a sense of human freedom. Nonhuman nature has entered the competition for the order of values insofar as respect for it is considered a value and not simply a utilitarian means for the survival of man on earth. We have to go in search of an integrated ethical conception in which the defence of human life does not interfere with the defence of life on earth in general and in which the defence of human freedom does not lead to lack of respect for human and nonhuman life.

It needs to be recognized that contemporary reflection on the right to life is not adequately developed. The right to life is undoubtedly considered a fundamental right, but at times it is not expressly formulated in constitutions, since it is seen as a presupposition of all other rights, a preliminary condition of a foundational character. This is undoubtedly true, but it has not helped to achieve awareness of the way of understanding the value of life. Not all conceptions of life as a value in itself are acceptable.

Life cannot only be seen in a purely *biological* sense, that is to say as pure and simple physical *vitality*. Other expressions of life, such as feelings, passions and desires, reason and the spirit, would be left out. All this is a constitutive part of the life present in the world and not simply an additional quality of the biological datum. The prevalence of an exclusively biologicistic vision of life inevitably leads to a purely conservative attitude. The evil against which vitality has to defend itself is that of death. The good of vitality is maintaining itself as such as long as possible, as Thomas Hobbes wisely observed. In this way we lose the dimension of life as being open to aims to achieve, as potentiality and task, as development and risks. There would be no other values to pursue except preserving as long as possible what we already have.

We certainly have to learn something from Albert Schweitzer, and that is to say his religious respect for the universal will to live and for the universal desire to be (*reverence for life*). We can also agree with Rolston⁷ that everything that is biologically vital has moral value, but we cannot consider in the same way all forms of life without taking their complexity and potentiality into account. The ecosystem and the anthropic principle moreover strengthen the conviction of the interdependence of all forms of life present on earth. But protection that disowned their marvellous difference, reducing them all to pure and simple biological *vitality*, would not be adequate.

7. Cf. Holmes Rolston III, The Irreversibly Comatose: Respect for the Subhuman in Human Life, in 7 "Journal of Medicine and Philosophy", 342 (1982)

At the opposite pole another inadequate way of considering life as value in itself is the one that looks rather to the goods that it allows one to reach. For example, the ethic of the quality of life considers as a value only that life that possesses particular qualifications and conditions of exercise in terms of well-being, health or existential fullness. Consequently, where these conditions are seriously defective, as in disabled people or poor people or all beings that do not conform to the optimal standards of their species, then respect for and protection of these beings would no longer be justified. This would mean that life is not a value in itself, but should only be protected insofar as it makes it possible to attain certain results, which in turn are fixed by the dominant culture in utilitarian terms of success and realization. The fact is that it is a determined anthropological model of a cultural type that distinguishes individuals into normal and abnormal and does not allow one to valorise each of them on the basis of their effective existential capacities.⁸

As is well known, to the ethic of the quality of life there is opposed the ethic of the sacrality of life. This ethic maintains that only human life is 'sacred', i.e. is an absolute value, in that it is the life of a person. The person or being people is linked to humankind, and therefore human life is sacred. This conception has to be clearly understood, and above all it is necessary to beware of two deviant interpretations of it.

The first one is the one that tends to attribute value not to life itself, but only to its most spiritual and elevated expressions. It would be an upward form of reductionism, i.e., opposite in sign to downward reductionism, towards mere biological vitality, of which we have already spoken. On the contrary, it needs to be stressed that the person sums up in himself or herself all forms of life and depends on them. In the person all life in all the variety of its possible expressions is summed up and attains fullness.

The second misunderstanding is the one proper to a purely operational or functional conception of the person. It is believed that the person is the being able to perform the functions of rationality, conscience and self-awareness, to see the good as a value in itself and not only for himself or herself and in this is superior to mere subjectivity. All this is true. There is praxis proper to the person that distinguishes it from being a subject aiming at his or her own exclusive realization. But the capacities and abilities proper to the person, like biological vitality itself, also depend on the characteristics of a species and have an ontological basis. There can be neither rationality nor freedom without human nature and there cannot be human nature without the world of life and being in general. For this reason, the person cannot be protected without at the same time protecting human life and the order of beings.

As we have seen, it is not enough to affirm the value of life, but it is also necessary to specify how one sees it. It is not only necessary to avoid all reductionism, both downward and upward. Life has a variety of forms and in all its manifestations it in some way marks a transcendence of form over matter.⁹ It is not only biological, but also psychological, intellectual and spiritual. The superior forms bear in themselves the inferior ones and cannot exist without them. This does not mean that the right to life must be recognized for all forms of life, but that towards all of them there is a moral duty of protection. This duty is precisely of people, that is to say of subjects that not only are capable of subjectivity but also of taking care of the good in itself. Only if people exist in the world are there duties.

8. Cf. M. Nussbaum, *Frontiers of Justice. Disability, Nationality, Species Membership*, (The Belknap Press of Harvard U. P., Cambridge, Mass., 2006)

9 Cf. J. Kleinig, *Valuing Life*, 57 (Princeton U.P., Princeton, N.J., 1991)

In turn the history of freedom begins in a sense in the very heart of nature, which ascends towards higher and higher degrees of indeterminacy. Jonas sees in all forms of life a certain manifestation of freedom as independence, when he affirms – actually a little rashly – that metabolism is the first form of freedom. This is an exaggeration, but nevertheless freedom requires independence of the determination of the goal. This independence takes on an ethical meaning in the person, who has the responsibility to choose his or her goal.

The subject of moral life does not only have the sense of his or her own identity, but is also in search of the impartial rules of the good. This implies a certain break with oneself, a certain capacity for separation from one's own good, and also a capacity to get into the other's shoes, that is to say to perceive the other's good as the other perceives it.

Moral life is marked by this double movement of separation and commitment. The concept of subjectivity cannot take stock of this essential aspect of moral life, because it still lays too much stress on shutting oneself up in oneself. The subject is identified through separation from the world of objects and other subjects and thus indicates a way of being in oneself marked by self-preservation and by self-awareness, that is to say by the hallmarks of the *self*. But now it is necessary to explain this tendency to *impersonate* different roles and states, to take on different identities, to change skins and precisely with this show the equality of the and in the difference.

This central characteristic of the person is not clearly understood when freedom is reduced to pure and simple autonomy. The ability to take control of one's own life, to manage it according to one's desires and will, is already sufficiently focused on by subjectivity. But the person says something more, is not only separation and not interference, but also communication and recognition of the other. The freedom of the person is not only autonomy, but also responsibility.

The person's dynamism in taking upon himself or herself the forms of life drives the person beyond humankind. The tendency to attribute rights to animals too, and even to plants and rocks, however debatable, is only explainable in the light of the person's capacity to perceive the interests of all beings. Where there is a good or a value, the person takes it as his or her own, as something to be guarded and protected to the point of identifying with it. Interpreting as an evil the suffering of living beings always requires the presence of the person, who is the sensor of having to be. Without it we would have beings that are born and die according to biological laws, but strictly speaking we could not speak either of good or of evil.

Since man is not only a subject but also a person, responsibility enters into the world of ethics: But today the main problem is no longer that of individual responsibility, but of co-responsibility. We find ourselves faced with the responsibility that individuals have because in some way they have participated in cooperative actions producing devastating effects for the external environment or for the quality of life of future generations.¹⁰ The single person feels helpless and overwhelmed by the enormousness of this charge. At most he or she can respond to it with the «frugality» recommended by Jonas and by Naess, but he or she perceives that this cannot be enough. No one in a democratic state that is in some measure participative can escape this responsibility and pretend to be exempt from it.

Co-responsibility cannot be seen as the mere sum of individual responsibilities, but requires that individuals be considered as members of a language community and one of cooperation with worldwide extension. When we speak of the responsibilities of science and technology regarding the ecological crisis or genetic manipulation, we cannot get out of this collective action with world dimensions. We are in some measure involved in the great

¹⁰ Cf. D. Parfit, *Reasons and Persons*, (Oxford U. P., Oxford 1984)

system of responsibilities. The proof of this lies in the fact that attempts are made to create places in which this co-responsibility takes on visibility and can somehow be checked, like for instance conferences and the international treaties, which should be (but often are not) one of the manifestations of public reason.

Co-responsibility also modifies the way of thinking of intersubjective relationships. Co-responsibility unites, while individual responsibility creates a conflictive relationship. In this way we also lose the category of correspondence, which is proper to subjective right, and the concept of reciprocity is broadened. The fact is that in co-responsibility there is no equivalence between giving and receiving. If we are jointly liable for the quality of life of future generations, we cannot expect anything in exchange from them, as we do not have the right to ask those people that we have helped in need or saved from danger for any reward. For these goals the social contract is no longer of any use, because through the use of science and technology our collective actions can endanger the very biological bases of life and then we are responsible for what depends on us, even if none of us by himself or herself can be to blame for it. Not damaging others, which in the liberal ethic is the only limit to personal freedom, has now taken on gigantic proportions. With regard to the universe, the moral categories to be invoked are those of care and custody, but this links the theme of responsibility with the basic problems of metaphysics and cosmology.

In relation to the universe we have to ask ourselves if we want (and have) to safeguard that order of nature to which we ourselves belong. But this also implies our duty to safeguard the survival of the human person on earth, that is to say of the place of good and evil, of right and wrong. For this reason the issue of future generations has become central in contemporary ethics. This issue renders inadequate all our theories of rights and moral contractualism itself, because they presuppose beings that already exist. The fact is we do not know what individuals will belong to the future generations, because this depends on so many circumstances, among which the choices we make today. It could be said that all those people that will exist in future will have the right to lead a life worthy of man and that we are obliged to make this possible. However, the ethical issue does not concern only the quality of life, but also the very existence of future generations. Indeed, if we decided not to give birth to any more human beings, we would not damage anyone's quality of life. Hence our obligation not to use up the available resources and not to destroy the environment of life is closely linked to our duty to make sure that men still exist on earth. And it is precisely this duty that the ethical theories most widespread today fail to justify.

The first and most fundamental right of future generations is to exist. Our duty is to guarantee man's survival on earth. But it is not a duty oriented towards the survival of one biological species among the many, because in this case it would not be justifiable with reference to a right. It is part of our responsibility to make sure that responsibility remains present on earth. Since responsibility is an aspect of the praxis of human life, then its very survival is linked to the continuation of human existence. A world in which man has disappeared would be devoid of freedom, autonomy and responsibility. It would not only be a world less rich in values than the present one, but would also be a world deprived of the place of the perception of values, that is to say moral life. The latter needs a history built up by the succession of generations and by their solidarity in the course of time, that is to say as history of fathers, mothers and children.

Co-responsibility manifests itself in the same way as the existential ethical attitude that characterizes the anthropological statute of the person. The human community of the jointly liable protagonists is the place to which the existence of the world is entrusted for its safeguarding.
