

## THE RATIONALITY OF HUMAN RIGHTS: BETWEEN THE LEGAL SYSTEM AND HUMAN SCIENCES

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**Abstract.-** This paper aims at thinking about how Human Rights influence the knowledge-power relations, by allowing both the objectivation and subjectivation of man, and by emphasizing the relationship they bear to the role of government, which is to conduct the conducts of the population. The course notes from the College de France delivered by Michel Foucault between 1975 and 1978 are taken as a reference to write the present work.

It is possible to say that, thought of as helpers of the system of disciplinary power and as a technique able to group a shapeless mass of people, Human Rights meet the requirements that enable the government to take care of its population in the best possible way, or – at least – to know some aspects of its dynamics in biological terms. In order to analyze what types of subjectivities are promoted from a previously established objectivity, it is necessary to know the mechanisms and the logic, the tactics and the techniques with which power operates in this society. It is likewise necessary to know the characteristic features that power has in relation to situations where subjects are involved in intrinsic movements of the population.

Human Rights organizations start their action right where there is an event, either individual or collective. Obviously, this is a series directly linked to the international and national legal discourses, which triggers the knowledge (*savoir*) about man, about this collectivity.

There are certain situations characteristic of society which allow thinking and analyzing the ways in which a subject could have been inserted into the games of truth as an object, that is to say, in relationships where there is a kind of “game of truth”. This is exactly when objectivation and subjectivation are possible –the moment man is determined to observe himself as a space and mastery of knowledge (*savoir*), and also as the making of things.

Human sciences have enriched the aspects mentioned in the previous paragraphs; they have “oxygenated” the relations of disciplinary power, oppression, surveillance, medicalization, education, and politics (in general). Human Rights have operated in a coercive way towards the penitentiary, medical and judicial knowledge (*savoir*). Human Rights add air when the relationships are about to collapse. Do not only they promote subjectivity and political activity, but also make power relations dynamic.

**Key words.-** *Human Rights, Universal Declaration, Discipline, Biopolitics, Biopower, Governmentality, Human Sciences, Subjectivation, Objectivation.*

### **A mediating biopower: some dialogical Human Sciences**

This paper aims at thinking about how Human Rights influence the knowledge-power relations, by allowing both the objectivation and subjectivation of man, and by emphasizing the relationship they bear to the role of government, which is to conduct the conducts of the population. During the 1976 course, “Society Must Be Defended”, Foucault starts analyzing the genealogy of power, and takes population as a “hinge”. And he does so when population enters life, but at a mass level, at the political stage. The interest to know about how human beings move in terms of the species (i.e. population) is added to the importance

of individualizing man through the knowledge (savoir) of a particular discipline. This year Foucault starts sketching what he understands as “Biopolitics” by defining it as “a new technology aimed at the multiplicity of man, not as an individual body, but as a global mass affected by a set of processes that are characteristic of life, such as birth, death, production, sickness, etc”. *“It is not an individualizing, but a massification exercise, that is not aimed at man/body, but rather at man/species. After the anatomopolitics of the human body, we do not see, at the end of the XVIII Century, the emergence of an anatomopolitics anymore, but of what I would term a biopolitics of the human species.”* (Foucault, 1976). Biopolitics has to do with a set of processes linked to a whole mass of population that is seen as a political, as well as a scientific and political, and biological and power problem.

Biopolitics has the function of regulating the random nature of population, as well as those movements that make collective phenomena possible – which are only visible through its economic and political effects, and which have a considerable length. The concept of power is thus enlarged from the technological point of view. On the one hand, it is a disciplinary technique; on the other, it is a life technique that reorganizes its own mass effects, where the bodies are relocated in the biological processes as a whole. In this way, a new situation arises among these technologies: it is what Foucault calls “Biopower”.

It is possible to say that, thought of as helpers of the system of disciplinary power and as a technique able to group a shapeless mass of people, Human Rights meet the requirements that enable the government to take care of its population in the best possible way, or – at least – to know some aspects of its dynamics in biological terms. But it is more than this. Like Human Rights, sexuality has been important for many reasons, but particularly because seen as “a bodily behavior, it is in the orbit of a disciplinary, individualizing control, in the form of permanent surveillance; it is associated to, and has effects on - due to its procreating consequences – a wide range of biological processes that are concerned with this multiple unit called population. Thus, sexuality is associated to discipline, but also to regulation” (Foucault, 1976a); Human Rights have exactly the same function, even by including and cooperating with discipline and with the regulation of sexuality. Medicine, Psychiatry, Psychology, Education, the judicial apparatuses, and the social controls are to discipline and regulation what Human Rights are to politics and social balance (regulation) when the latter stands for the economically excluded, the unspeakable, and the politically uncomfortable rather than the alienated, the sick, the incapable, the abnormal, the dangerous, and the lacking.

Within the realm of this regulating function, -which can be graphically represented by means of those indicators proper of population, such as birth and death rates, sickness rates, emigration and immigration rates, literacy and urbanization rates (Disappearances rate in the case of Argentina, and immigration rate in the case of Spain) - it is necessary to know the mechanisms and the logic, the tactics and the techniques with which power operates in this society in order to analyze what types of subjectivities are promoted from the point of view of previously established objectivities; this is to be done by differentiating said objectivities from those subjectivities that take place straightaway, and that arise with the purpose of searching for their own subjectivity, which is neither formed nor labeled yet. It is likewise necessary to

know the characteristic features that power has in relation to situations where subjects are involved in intrinsic movements of the population.

From this viewpoint, the different disciplines, together with biopolitics, provide the technology and the mechanisms which allow knowing about the characteristic movements of population, thus making it possible to determine a "rate of normality" in every aspect. *"The first and most important aspect of the disciplinary normalization is not the normal and the abnormal, but the norm itself. Due to the prescriptive character of the norm in relation to the normal, the fact that the disciplinary normalization range from the norm to the differentiation – which happens with the disciplinary techniques – has to do with a process of normativisation, rather than with one of normalization"* (Foucault, 1978). It seems that knowledge - the kind of knowledge that Human Rights can provide – is not used to normalize, but rather to open up the way that allows many individuals walk through the path of social recognition whenever a subject or a community is not absorbed by disciplinary regulation.

Because of these reasons, it is possible to claim that *"modern society is a society in an orthogonal articulation, the norm of individuals' discipline, and the norm of regulation of the population"* (Castro, 2004). The norm is the element circulating between the disciplinary and regulating factors. And it is the Biopower that has taken responsibility for body and life, or in other words, for life and its two easily described aspects: the individual body and population.

There are certain situations characteristic of society which allow thinking and analyzing the ways in which a subject could have been inserted into the games of truth as an object, that is to say, in relationships where there is a kind of "game of truth". This is exactly when objectivation and subjectivation are possible –the moment man is determined to observe himself as a space and mastery of knowledge (savoir), and also as the making of things.

In agreement with this line of thought, we could think that Human Rights -as long as they are not enforced, and as they arise as the result of the different demands from the judicial field, the diverse organisms, and the social claims among others – would be -to name just a few possibilities- a knowledge technique which would allow the record and regulation of population and of government management, as well as an element in the different disciplines.

As Universal Declaration, Human Rights have their origin in the way violence has been exercised throughout time, by man, and towards man; but they also have their origin in the order of Western culture, which is proper of their civilization. Thus, Human Rights can now be considered a part of the utopia one wishes to achieve. Utopia is here understood as the space one can possibly reach, or the experience one can go through by following the dictates of reason.

It can be stated that Human Rights arise from a political matrix, and that they join to Law as a "law" or in other words, as a code knowledge that produces representations, consciousness. At the height of the classic period, Human Rights would then produce more knowledge about this consciousness and its representations. However, in the context of modernity, Human Rights make political and humanitarian actions, as well as power mechanisms possible, "Where there is power, there is resistance" (Foucault, 1976).

There can be no relation of power without freedom of action. When relationships are saturated (master-slave) there is no relation of "power". That is why in the legal, as well as in the discursive, and in the disciplinary fields, freedom is highly pleaded for. We can observe this in the punitive system, where one of the final stages in the penalty is parole, which "normalizes the individual" by means of a form of knowledge (savoir), it subjectivizes the individual to make his "return" to society possible. We can also observe this in the way medicines are administered to people suffering from mental disorders: they receive drugs between their active and relax states. This is done so with the purpose of keeping them at bay, and allowing them to perform basic life functions, such as sleeping, eating, resting, working and speaking. This can also be observed in the social circles where basic needs cannot be covered. Besides the above mentioned actions, there is a social assistance-like help whose function is to provide people with access to food, housing, emotional support, legal counseling, and the extrajudicial system. This type of assistance is aimed at maintaining people's needs in various modes and from multiple points of view, though not in an integral and complete way; this is carried out by what is known as "social workers". In the relations of power there is a space where one can see and say, a space where any man can arise and where any of us can be.

The above mentioned spaces have profited from the contributions made by the Human Sciences. The latter have oxygenated the disciplinary relations of power, oppression, surveillance, medicalization, education and politics (in general). Human Rights have operated in a coercive way towards the penitentiary, medical and judicial knowledge. Human Rights add air when the relationships are about to collapse. Do not only they promote subjectivity and political activity, but also make power relations dynamic; they provide the possibility of opening up spaces and times in order to make relations of power possible, and to make them happen thanks to the possibility for something new - like knowledge (savoir) and discourses - to emerge.

In Foucault's view, the field of Human Sciences - as well as the field of Psychology, Sociology, the Theory of Myths, and Literature - is located in the space limited by the relations that exist among the so-called *exact sciences*, the empirical sciences, and the analytical of finitude. It can be stated that this domain of inter-relations forms a trihedron of knowledge (savoir) that can be called *modern episteme*. "Each domain is linked to the other two. Thus, the mathematical, linguistic, biological, and human models originate in *the space related to the exact sciences (whose ideal is the deductive and linear concatenation of evident propositions arising from axioms)* and the empirical ones. *We can find all the efforts of formalism between Mathematics and the analytical of finitude (where man appears as an object of knowledge and a subject of knowledge - savoir); but it is between the analytical of finitude and the empirical sciences (like Economics, Biology, and Linguistics) that we find the philosophies thematizing the objects of such sciences as a priori goals of life, alienation, etc.*" (Castro, 2004).

What constitutes the field of Human Sciences is the space between these interrelations, as well as the way in which these sciences are placed in relation to each domain. That is to say that the field that exists between the empirical sciences and analytical of the finitude will be limited by all the analyses of life,

work, and speech, as well as by those that allow man to know what work, life and speech are. Each interrelation has a corresponding form of knowledge (savoir) in each relation.

Foucault uses two models to explain the difficulty that Human Sciences face regarding their “possitivity” and the relations originating among them, as well as their representations. One of them is the constitutive model, which can be defined as the categories through which it is possible to build an object as a group of phenomena. Foucault takes the concept of *function* and *norm* from biological phenomena, the idea of conflict and rule from Economics, and the concept of signification and system from Philology. At this point, we wonder what the contribution that Human Sciences make to the rights of man is. Or, in other words, what is it that Human Rights ties most in this field of interrelation, since they operate at the discourse, work, life and speech levels. All the articles considered in the 1948 Declaration of Vienna come from these three aspects. What is more, a proliferation phenomenon is produced. Instead of including everything within a field by setting clear limits of domain, said phenomenon develops new lines of interrelation, and opens a new path through which the first three domains – those making up the modern episteme – will be able to interact with new tools. The effect resulting from the development of human rights, or the human rights seen as a consequence of the new tools than man finds, creates and uses in his relation with work speaks about this centrifugal movement, of this interrelation game, of this trihedron.

The field of the Human Sciences contributes with this proliferation of knowledge and techniques, of discourses and tools, and it cooperates in the centrifugal movement of our episteme. It also oxygenates the relations between the different elements. Human Rights are one more element of Human Sciences, but they are also part of other fields. Consequently, Human Sciences are something more than a science itself; they can, at the same time, speak about human rights at all levels. “Identity, subjection, inner self: the individualization of the western man happened at the cost of subjectivity during the long millennium of the Christian pastoral. By subjectivizing. It is necessary to turn oneself into a subject so as to be an individual (all the meanings of the word “subject”). Strong wish for individuality ...” (op. cit.)

Foucault points out that where there is power, there is resistance to it: “... *Power and resistance face each other with changing, moving and multiple tactics whose logic is the strategic and bellicose one proper of fights, rather than the regulated and coded one proper of Law and sovereignty. The power relation between power and resistance lies in the strategic form of the fight – which would have to be analyzed – rather than in the legal form of sovereignty.*” (Foucault, 1976). However, assuming that “... *resistance comes first as long as the relations of power remain intact in the diagram, resistances are necessarily part of a direct relationship with the outside, where the diagrams come from. For this reason, on a social field, more than making strategies, resistance resists, and the idea of the outside is an idea belonging to resistance.*” (Deleuze, 1986).

It follows that part of the population mobilizes with the purpose of claiming a right to the government, or it takes a legal action against the State (which is enshrined in the Constitution under the International Adherence to the Declaration of Human Rights that the government has decided to stick to). In the context of these mobilizations and claims, whether they are collective or

individual, a question arises. We wonder how it can be possible that, even when the struggle is aimed at the State and is realized by means of legal proceedings, the most visible confrontations, or the ones seeking to produce more noticeable effects are those that are equally aimed at the rest of the population, since they are carried out through actions involving “making oneself heard or seen”. These confrontations may or may not use a means of communication, but they always involve facing a fellow citizen who can hear and see. And this way of making oneself heard and seen is somehow guaranteed by catching the fellow citizen’s attention or by limiting someone else’s right, whatever right. Interestingly, it is commonly assumed that our claim will be more effective if we prevent other people from exercising their rights. And it is likewise noteworthy the fact that we often get better results when our claim affects other sectors, even when the effects produced are due to totally different factors. Let us consider, for example, the reason underlying the blockades of streets, and national and provincial routes, the strikes organized by bus and airline services, the interruption of assistance services in hospitals; also, consider the reason why *piquets* are used as a form of protest where there are financial and bank institutions, and on bridges, which are places strategic for people’s movement; or think about the multitudinous demonstrations demanding free sexual choice. That is to say, it is necessary to analyze who face who and what these individuals face when the legal claim has no effect due to diverse reasons: when we protest, do we face the government, or our fellow citizens? Do we do this with any kind of argument we cannot easily see? These types of society’s strategic practices are influenced by History. We cannot forget the mobilization started by the so-called “Mothers of Plaza de Mayo”. These women, mothers of missing people who were abducted during the military dictatorship in Argentina, were neglected and ignored by state and private institutions that were initially created with the purpose of helping with the organization of society. Thus, with the passing of time, those mothers’ claims and charges against the Argentine State were heard abroad in view of the State’s indifference. They were the first ones “to make a lot of noise” in society, the first ones who wanted “to be seen” by society - in this case, the other society - when no state, legal, institutional, religious or political proceedings provided them with help or protection. Paradoxically, these women did not restrict the rights of any person or group; they just asked for answers that they never received. For this reason, they were called “the crazy women”.

It seems that, many times, the legal proceedings are not adequate or enough to solve a particular problem; though it is precisely this the correct, ideal or reasonable way to work it out. There are many other factors deciding or preventing these legal proceedings from starting to work; or it could be said that other factors use those legal proceedings as a support for their own specific actions.

Thus, the struggle - the claim - is set out by overlapping people’s rights: workers stop their activities, health practitioners do not provide an essential service for a particular period, and *picketers* hinder the free movement of people around the city; neither the State - due to its failure to fulfill its obligations - nor population - who protest against the State - allow free trade, or competition among business people, teachers do not give classes. These are a few examples of rights overlap in everyday life.

The aim of the previous analysis is trying to see how subjectivity is built – through multiple activities and rationalities - when the population acts under the protection of Human Rights. This subjectivity has been developing as a class struggle. It has a rationality or a particular style of practice which seeks to include all citizens in the struggle for “their” rights - for everybody’s rights -, and it consequently triggers the need to show and make oneself seen, and to meet our fellow beings' gaze. This subjectivity also shows that each individual, each sector of society can hinder others' freedom to exercise their most basic rights, such as moving freely around the city, trading, accessing health and education services, and working. Thus, it becomes evident that the aim of a particular sector is to communicate with the whole society or the one where this sector lives. However, it seemed Human Rights were more a tool to re-affirm the desire to fragment society rather than an attempt to unite it, which by the way, has already been divided. Accordingly, when basic rights are hindered, upset arises, the desire to move different sectors of society closer disappears, the function each sector has in society is set up, and the demanding sector shows its power through the negative impact its claim may have on other people, rather than through the characteristics that make it unique. We do not speak about the building of a “mutually binding” subjectivity, but rather, of a subjectivity that needs to find the proper time and place in order to mobilize other subjectivities and make these and society see what is lost, what cannot be exercised or practiced (i.e. the impossibility to move freely, work, sell, study or access public services). The individual subjectivity arises out of a group of people communicating (making themselves heard and seen) with the rest of society by preventing others to exercise their rights. This particular style of communication involves a fight for rights among citizens, when, in fact, what causes the claim originating this power relation is the State's failure to observe the law. ¿Are the subjects of a society moving closer or away one another when they think they are protected by a universal human right? We could think that an approach, a kind of uniformity is produced in a tense relationship where there is a difference between those rights that can be exercised and those that are hindered.

*“It seems to me that power must be understood, in the first instance, as the multiplicity of force relations immanent in the sphere in which they operate (...); the game, the approach, the shifts, the strategies that make them effective and whose general drawing takes the form of state apparatuses, in the formulation of laws, in the social hegemonies. The moving pedestals of force relations are the ones that incessantly lead to states of power, but always to those that are local and unstable. It happens all the time. It is necessary to be nominalist: power is the name given to a complex strategic situation in a given society.”* (Foucault, 1976). Life turns into resistance to power when power takes life as its object. In other words, life is the means through which resistance can be achieved and through which a power relation can be set out. Throwing oneself into a cause, demonstrating. These are no more than moving pedestals of social situations. It is necessary to analyze which are the factors that interplay in these types of social confrontation and overlap of rights, but that cannot clearly be seen. They are part of the strategy necessary to face problems.

Human Rights, their Universal Declaration, the protests made to claim for their observance, and the resulting abuses are within a particular society in a strategic situation; *“... but the relations of power are both intentional and non-subjective; they are crossed by a calculation; there is no power that can be exercised without a series of intentions and goals; the rationality of power is the one belonging to tactics, and it is often very explicit”*. (Foucault, 1976)

Then, it could be thought that the confrontations -not the ones that take place among the previously described social actors - that occur when a formal claim is made against the State constitute a tactic of resistance to power which takes the humanist discourse of modern society as its flag, the legal discourse as its pole, and the occupation of key spaces and domains regarding the distribution of resources as its base. *“Every strategy of confrontation hopes to turn into a relation of power, and every relation of power leads itself to turn into a winning strategy”*. (Foucault, 1976a)

In this context, it is possible to think that *“... discourses are elements or tactic blocks in the field of force relations; they can be different, and even contradictory. Discourses have to be questioned at two levels: its tactic productivity (i.e. which reciprocal effects of power and knowledge they guarantee), and its strategic integration (i.e. which situations and force relations make its use necessary)”*. (Foucault, 1976).

The intention is to sight this “diagram” of which Human Rights would be a part. *“This analysis tries to find out what is happening, how it is happening, who the actors are, what the reasons are, the procedures according to which a situation develops, and the effects this situation produces. This could be no more than the draft of a theory, not of what power is, but of power itself. It is a set of procedures, and only in this sense could we understand that the analysis of the mechanisms of power sets in motion something which could be defined as the theory of power.”* (Foucault, 1978)

We would then have to define what the disruption is, what the pressure situation of a State and its population – in a given historical formation, in a stratum- is. But before this, we would have to define what the situation underlying those discourses seen as tactic blocks is, and to analyze to what factors the Declaration of Human Rights, Human Rights, and its claims are unfailingly tied to. We may then realize that the situation is the denial and violation of Human Rights.

If the Universal Declaration - seen as a tactic for a situation that is, by definition, strategically definable - works effectively, it means the Declaration has a special place in relation to truth. So, Human Rights would have a truth value in relation to the present man. It is not the intention of this paper to highlight what the truth would be, but rather to show how the different elements making up reality are used and adjusted to obtain an effect of power. Likewise, this paper does not concentrate on emphasizing the effects of truth produced in discourse by the subject who supposedly has the knowledge to lift the ban to access the symbolic (Lacan, 1969); instead, the interest of this paper lies in analyzing the effects of power that a discredited or credited truth discourse produces on the formation of today man's subjectivity. Human Rights, seen as a tactic block in modernity, could work very well. *“Truth is made visible to knowledge through*

*“problematizations”, since problematizations only arise from practice, the practice of seeing and the practice of saying.” (Deleuze, 1986).*

It could also be thought that the Universal Declaration was a necessary – and almost unconditional - strategic movement of the Security Dispositif for which Human Rights are useful. Those Human Rights that come from the political matrix of Human Sciences, such as the new scientific-human disciplines of Biorregulation and Biopower allow rationalizing on the basis of demand records, the policies and the economies of a Government - a State - with regard to its population. In this way, it would be easy to understand why the Secretariats of Human Rights organizations - either from different states or the UN – aim at drawing statistics to show the volume and the state of poverty in a particular sector.

*“The theme of man must be analyzed from the perspective of population - considered as a correlative element of power, and as an object of knowledge. This should be done through the Human Sciences that analyze man as a living being, working individual, and speaking subject. From the point of view of the so-called human sciences of the 19th century, and as a subject of reflection for Humanism in the same century, man is no other thing than a figure of population. From the moment the counterpart of government -the art of ruling- arose, the population - or man - became to population what the subject of Law had been to the sovereign.” (Foucault, 1978).* The “diagram” would then have to be made up; only then, the “dispositif” would be found out. So, Human Rights would be to population what useful bodies were to the territory.

Let us now deal with Foucault’s investigations about Government, about what he calls Governmentality. As it was previously mentioned, in 1976, a new way to analyze power in terms of biopolitics started. This type analysis was developed more in detail in 1978, in *Security, Territory and Population*.

In this book, Foucault examines the “Reason of the State” or “Governmentality” by explaining that he takes population as a hinge to analyze power. He considers this as the point of departure to start dealing with how man governs himself and his fellow beings.

### **A Regulating Technology of the Government**

As we know, discipline deals with a special arrangement of space, as well as with security. *“But the first one works in an empty, artificial space that is going to be built as a whole. Security, on the other hand, is based on a series of material data. It works with the location, the drains, the isles, the air, etc. It works according to a piece of information.” “It is simply about maximizing positive elements and the idea of moving around in the best possible way; and it is also about minimizing the risky and inappropriate aspects, such as thefts and sickness, without ignoring the fact that they will disappear. Work is done both on natural data and on quantities that are relatively likely to be reduced, though never completely.” “One can speak about a technique that is fundamentally limited to the problem of security, e.g. at the bottom, to the problem of the series, an indefinite series of moving elements: movement, a particular number of cars, passers-by and thieves, and the amount of miasma; an indefinite series of elements or events that move around and take place. (Foucault, 1978).*

Human Rights organizations start their action right where there is an event, either collective or individual. It is obviously a series directly linked to the legal national and international discourse, in which knowledge about man and its collectivity is mobilized. However, this happens as a consequence of unknown factors, and leads to an unknown break or disruption of elements. Thus, there are two levels of phenomena. There is not an individual phenomenon on the one side, and a collective one on the other, but rather a whole set of individuals. *“There will be a fundamental interruption between the level relevant to the political and economic action of the government, and the level of the series, the multiplicity of individuals. The ultimate goal will be the population. The population is relevant as a goal, while the series of individuals are not. They will only be relevant as an instrument, relief, or condition to obtain something at the level of population.”* (op. cit.). At this point, the notion of population appears charged with the meaning of political subject; and it also appears with all its caesuras and complexities. It is the target at which all the mechanisms whose goal is obtain something from it are aimed. In this sense, population is regarded as a subject because it will be asked to act in a particular way, to subjectivize as a last resort.

However, population will also be allowed to build its own reality. This is another fundamental difference between discipline and a security dispositif. The first one isolates, encloses, it is protectionist, it regulates everything: space, times and bodies. It does not let anything escape. Instead, the dispositif has an integration character, it tends to broaden its responsibilities, to organize, to allow circuits grow larger. *“The security dispositif stops doing things, not everything; but there is a level of permissiveness that is essential. The role of security is to rely on details which are not considered themselves as good or bad, but rather which are regarded as necessary and inevitable processes.”* (op. cit.)

The subjectivation practices are also forms of objectivation; that is to say that they are ways in which the subject, or man, becomes an object of knowledge and power for himself and others alike. *“We would have to look for the style of power action in this style of particular action, which is neither the warrior-like nor the legal one that is the.”* *“... it is a set of action over possible actions: it incites, induces, deviates, facilitates or obstructs, broadens or limits, makes more or less possible, requires one to do something, or stops. An action over actions.”* (Foucault, 1976) Ruling involves conducting conducts. In relation to itself, the government would try to control, for example, demand and offer, profits and losses, biological or psychological illnesses, hunger and squandering, addictions and abortions, protests or order, sickness and health, knowledge or power. *“The objectivation-subjectivation styles are placed between these two central themes.”* (Castro, 2004).

Regarding governmentality, Foucault says that *“...it meets the space in-between the domination techniques imposed on others and the ones imposed on itself”* (Foucault, 1976). The study of the government of the others and oneself allows the resistance tactics to be articulated within the framework of governmentality. It also allows the subjectivity of modern man to be diagnosed. According to Foucault, the concept of Governmentality refers to the object of study of the ways of ruling. These involve the analysis of rationality styles, technical procedures and ways of implementation. *“So it is necessary to understand things well, not as the replacement of a sovereignty society by a discipline*

Comentario [G1]: En sentido legal?

*society, and then by a governmental society. The result is, in fact, a governmental sovereign-discipline-management triangle whose main objective is the population, and whose fundamental mechanisms are the security dispositifs ” (Foucault, 1978).*

The law bans, discipline proscribes, and the security dispositifs do not impose a prohibition in a categorical way, even though they have elements related to interdiction and prescription. Their function is, above all, to respond to reality as it comes up by trying to annul the negative and pernicious aspects, though not completely. They limit, curb, regulate and *laissez faire*. *“This regulation in the reality element is, in my opinion, fundamental in the security dispositifs.” “Politics has to act in the element of a reality that the Physiocrats precisely call physical; and it is because of this that they call Politics Pysics, an economy is a kind of Pysics.” (Foucault, 1978)*

Now, this analysis leads us to put forward the relationship existing between Human Rights and the economic field of the political Economics, as well as the way in which this process of subjectivation arises as a relation between these two apparently very different fields.

This relation is placed, in the present world, within the framework of liberal Economics, whose maxim is “let do, let pass”. This is the legacy that the Physiocrats left. Adam Smith followed with *The Wealth of Nations* (1776), and so did Friedrich Hayek with *The Road to Serfdom* (1944). They are all heirs to David Ricardo. The liberal “let do, let pass” maxim shapes today’s subjectivity in a predominant way. That is to say that it is subjectively formed, since even when there are obligations and prohibitions, no one has the right to stop or prevent a citizen to start a particular action, no matter the purpose this may have: an economic goal, the expression of thoughts or of different art forms, the holding political meetings, the act of giving information to the rest of the citizenship, the emigration to other parts of the country, and many other socially accepted actions. Nobody can stop an action without putting people’s security and freedom at risk, not even the State. This is so because Human Rights are understood and interpreted from positivity, i.e. the permissiveness there is and there must be in order to exercise freedom, equality, dignity, the right to have a name and a nationality, the right to know one’s origin, the right to have a place to live and be able to hold political meetings, the right to work, to be paid a wage, to have holidays, access to social security services, among others.

However, it is interesting to note that when the claim for the observance of a right is made, the liberal “let do, let pass” maxim is ignored. A “piquet” is precisely an obstacle for people’s right to move around. This is what first happened in Cutral-Có, in the province of Neuquén, in 1944 due to a mass redundancy in the oil plant, YPF. This turned into a state of total socio-economic neglect that affected many families. Families in this situation are can hardly exercise the basic rights our society defends. This also happened in Guleguaychú with the conflict of Botnia cellulose plant, located in Uruguay. The Assembly of this city has no alternative but to block the bridge linking Argentina and Uruguay, which hinders the normal circulation of people and means of transportation. These actions are promoted not only to defend the right to protect the local environment, and to defend the ecological balance of a city or town, but also to make evident the pollution the cellulose pulp mill will produce in the future, which will result in Guleguaychú’s loss of important

revenues from tourism. Another similar situation has recently taken place in Alvear, province of Mendoza, where the access to San Rafael, Tunuyán and Tupungato has been blocked. In this case, there has been a cut in places which are key to the normal circulation of people, either for work reasons, for the transport of import and export goods, or of raw materials. In other words, the normal flow of circulation has been interrupted, and thus, the well-known and customary "let do, let pass" principle has also been neglected.

So, within the framework of the freedom of circulation, trade, expression, communication and information, the freedom of goods exchange, and the free flow of capitals, as well as within the framework of the physical-biological conception of life that is the circulation and maintenance of a particular amount of energy, the population, together with Non-Governmental Organizations, and Human Rights Organisms, which put into practice Human Rights, interrupt the free circulation of things. From the point of view of a liberal economic life, Human Rights have the need to act and make them respected from negativity itself. This perspective is not based on its permissiveness interruption, but rather on the interruption, though not a primary interruption of the rights that were no exercised, but rather an interruption of the circulation of other elements and products. In other words, this is about preventing other citizens to exercise their rights. A shift from the positivity of Human Rights to the negativity they carry when directed to other people is produced. In order to build subjectivity where human rights are involved, it is necessary to intervene in the others' subjectivity by touching and interrupting the relationship with each one's rights. Again, we wonder whether these actions help to strengthen the link and the social body by putting human rights at risk as a situation common to everybody, or whether it just produces that each sector of the society – sheltered by their rights - isolates even more. We could answer that, in this situation, the legal character of social relations is stressed, though not because of a criminal relation, but due to the fact that subjectivities - taken as subjects of the law that the State does not protect neither legally nor economically. A social identification supported by the legal apparatus is produced, rather than a separation or cut of the social link. This separation is seen as a difference of social classes. It supports, but not for ever. Identification is just a dimension prolonged in time, though not indefinitely. When the other factors of the identified start affecting his/her family, work, health, or tiredness at any time, but without contradicting the legal system, this identification breaks down. Unrest is therefore generated among fellow citizens.

If the elements, products, people stand still in a particular place where circulation should be normal, this may not probably be due to the fact that there are plenty of those factors in the place. If that was the reason, on the one hand, there would be no problem in exercising the most basic rights; on the second hand, the factors would circulate normally, since we all know that abundance correlates with welfare. Even when we do not want to (rationing is common in periods of shortage of goods, not during periods of wealth). Consequently, mobilizations take place due to shortage of elements, products, people, or money with the purpose of claiming for the compensation of rights by means of the interruption in the circulation of the above mentioned items. A certain amount of products are symbolically retained by interrupting circulation in an extreme way. We say symbolically because circulation is allowed afterwards. A

comparison could be set between this situation and the need to hold back something that is normally circulating (in the style of Protectionism), rather than the need to levy taxes (though they can be similar, since time is money for the financial world). This function is not fulfilled by the State under the National and International Trading Codes. Instead, it is society as a whole - protected by Human Rights - the one that symbolically does it by trying to achieve the identification of the rest of society with the demonstrators through the hindrance of both parties' right to exercise their rights.

Under the light of the situation we have previously analyzed, we could, for example, question the following: is the right to work or circulate exercised when there is a shortage of money (poor wages), hygiene, or when there is saturation, an overload of flow? Do Human Rights objectivize modern man, or do they recondition the movement of flow, or do they make the underlying imbalance lethargic – the one that lies in this modern Philosophy of Mechanical Physics or economic science? *“Political Economics is not an opinion science where there is competition between credibility and probability. The study of physical law, which amount to Calculus, decides its minimal results”. “Since the economic science is no more than the application of natural order to the government of societies, it is also constant in its principles, and as oversensitive to be proved as the most definite physical sciences.”* (Foucault, 1978)

Reality is the only fact on which and with which Politics must proceed. *“It must never be in this game of reality with itself: this is what the Physiocrats and the economists of the 17th Century implied when they said that we stay in the order of Physics, and that acting in the order of Politics is still acting in the order of nature”* (Foucault, 1978). This maxim is closely linked to the general principle of what we now call liberalism, which states a life philosophy, a subjectivity built up in the following way: one has to let things happen as they do in nature by trying not to intervene, but by regulating the game in which people do and in which things happen, pass, go by. After all, the crystallization of human rights start their legal standardization and their establishment as a knowledge (savoir) of man in England, France and the United States in the 18th Century. Just like the idea of economic (or physical) freedom is praised, the freedom of man arises as an inalienable right of human essence. It appears as a complement of the right to economic freedom, and so does the right to the freedom of movement, to choose freely a place to set up, to buy realty, and to work. This ideology has done Politics to change the way of governing, and to create new techniques of government management. *“I think there is something absolutely essential in a Physics of power, or a power thought as a physical action in the element of nature, and a power considered as a regulation which can only be realized through each person's freedom and with its support. It is not about ideology. It is a first place, and above all, a technology of power”* (op. cit.)

As we have already mentioned it, in terms of security, it is no longer about enclosing, controlling excessively, and prescribing with minimal resources, but rather it is about regulating, diminishing, setting the lowest range of possibility for damage or danger to take place in view of the fact that we cannot avoid it. It is more convenient to keep hunger, birth, death, or crime at a rate the government can handle than to try to eliminate them. Conduct conducts, this is all about. This will be the function of techniques, its objective, and its population. The strategy will be to place the dimension of truth, the game of all discourses

of knowledge able to get involved in the favourable-unfavourable relationship for a government. *“Population will be regarded as a set of processes that it is necessary to control in its natural aspects, and to do it by taking them as a starting point.”* (op. cit.)

Human Rights enable us to consider the consequences of a particular set of processes that have been allowed to flow and be, whether they are political in nature – like military dictatorships and its harmful consequences for society - , or economic – like the flight of capitals, which necessarily produce migration. Thus, Human Rights, as universal and legal tools, cover and gather those that are outside a particular level (economic or political), though not outside of society and the organization system. In this way, their own functioning serves as an indicator to regulate the movements produced at other levels. They make it possible to regulate politics and economics by acting on population, of population.

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