Whenever ‘humanism’ is stated …

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Whenever ‘humanism’ is stated or ‘humanity’ is meant, there seems to be a systematic focus on a condition of rights, while reference is made to their painful acquisition implying a fragility and a privilege of possession, as if, at times, they are absent or abused, and to directions and technologies to re-establish a comprehensive social equilibrium underpinned by not only the acknowledgement of rights, their normative and ethical enhancement, but also their application in law.

And if we are *injected* with such rights it is because we are born *in* rights and by virtue of this event we are endowed with such rights. We are *not* born *with* rights. And if this is to mean that at a different historical period we were *not* born in ‘humanity’, such an understanding is correct: ‘humanism’ is recent – some will say ‘modern’. Or is it yet to come?

The claim that ‘humanism’ is recent may rest on an alleged (historical) evolution of thought and knowledge: a progressive intelligent or designed shift from homosapiens to homohumanitas. It would appear that Westphalia marks this shift.

Yet such a shift may not mean replacement: rationality has not disappeared at the profit of ‘humanity’, for the latter has been enabled by the former in its *homo* dimension: if we are *all* rational, we are *all* equal; and if we are *all* equal, we are *all* endowed with rights because we are *all* rational.

Thus ‘humanism’ *cannot* be the result of intelligent progress for there are no sufficient grounds for concluding that prior to Westphalia equity was *not* on societal agendas – or political agendas, in the sense of social arrangements. Even less of a designed progress, for the origin of equity lost: if Adam and Eve are the origin, equity antedates them!

If so, ‘humanism’ may be the result of an opportunity, a moment of intensity, of turbulence that allows and disallows societal variables to signify in language a concern, expressed by some but not necessarily by all. Put otherwise, humanist concerns for equity might *not* have found expression: only rational concerns would have been. Thus, if progress is the realization of a virtual that is included in the actual as that which is, the virtual needs certain conditions to become: if such conditions are not met, the virtual is not realized. And such conditions are intense societal events.

Here follows that if ‘humanism’ is recent because of particular social conditions, equity is not. Indeed, if equity is about setting up a social arrangement that privileges the lack of societal privileges by equalizing power asymmetries and differences, equity is but the purpose of law *regardless* of the prevailing social conditions for the expression of such law, even though law may be found to be inequitable.

But if Westphalia as an intense societal event has changed the locus of societal enunciation by linking equity with 'humanity', it has also highlighted another move: let the law speak and no longer the person. If it was the person who used to express concern for equity, now it is the law: the person no longer has the right to express such a concern even if the expression of a concern is a right. But if the law speaks, it does not think even if the law is the result of thinking.

So here we stand in equality: we are *all* endowed with unalienable rights; it is not you *and* I who are endowed with such rights but *us*, since *we* are in equality where a 'you' and an 'I' are no longer different for fear that *either* you *or* I might have more rights. Thus, if *neither* you *nor* I can have lesser rights or rights of a lesser quality or kind, and since the middle is excluded, *we* are equally *subjected* to such rights: *we* have *identical* rights. Put otherwise, rights provide us with an equal identity. Rights equalize.

But if charters embody identical rights and equal identities by stressing the individuality of persons and the respect of such a secluded domain, such an undivided self is nowhere to be found, for such a self is amalgamated in an undifferentiated legally equitable mass. In removing the self, charters emphasize the individuality of law, the non-exceptional. And when non-exception is the rule, law has the right to remove, exceptionally, such rights. If we have rights so does the law. But the law can remove our rights; no one from the law.

And if charters are premised on autonomy, it is not to emphasize the self controlling such law, for there is nothing to control or decide upon: subjection to rights does not require control. Rather, it is to stress the self-sustenance of the decision of the law. In removing the self, law begets law.

Having identical rights, having equal access to such rights, if at all, may, nevertheless, not imply their equal application: having the right to *soupe populaire* does not tell us how much of this soup we may have the right to: some may have the right to more than others. But law can say that we should all be granted an equal quantity of soup. And here is the rub: if it is required to give an equal quantity of soup to all it might be necessary to give some more than others, not because of their natural constitution, but their social contract.

If the law is individual, it divides unequally because in balancing out difference to grant equal access, law seeks to remove differential treatment for such treatment is deemed un-equitable, whereas such treatment is, in fact, about addressing different needs arising from social arrangements that law has brought about.

Respect for difference is about addressing the distance that relates us with the law. Although law speaks, does not know how to address difference for …

… equity has steamrolled difference by staging a coup to impose legal imperialism.