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Human Rights and Methodological Anxieties: A Critical Essay

Luca Bonadiman*

Abstract

The field of human rights research has been described as either lacking adequate methods or failing to pay due attention to methodological aspects. The present paper aims at contributing to the emerging debate. After a brief introduction, the paper places the problem within a broader frame, to then engage with four themes. First, it challenges the fantasy of academic and methodological neutrality. Second, it disputes the existence of any objective method, as opposed to a subjective style. Third, it suggests methodological concerns in the field of human rights fail to recognise that human rights are first and foremost a movement and not an academic discipline. Fourth, it describes human rights as product, object, and terrain of and for contention. On such bases, it concludes with the proposition of adopting human rights as counter-disciplinary practice.

Keywords: *Human Rights, Method, Critique, Counter-Disciplinarity*

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Introduction

The ever-growing importance and pervasive reach of human rights have raised questions as to the role of research in respect to human rights, as well as the place of human rights in academia. In both cases, there is an underlying problem concerning method and methodology. The field of human rights research has been described as either lacking adequate methods (Andreassen et al. 2017) or failing to pay due attention to methodological aspects (Coomans et al. 2010). Articulated in six sections, the present paper aims at contributing to the emerging debate by discussing four partly intertwined, but overall distinct themes. The foreground for these arguments is outlined in the first section. The paper then engages with the four themes, as it follows. First, it challenges the fantasy of academic and methodological neutrality, as well as the culture of expertise they reflect. Second, it disputes the existence of any objective method, as opposed to a subjective style, for there are always a broad set of circumstances that affect both the choice and application of any alleged method. Third, it suggests methodological concerns in the field of human rights fail to recognise that human rights are first and foremost a movement and not an academic discipline. The relevant point at stake is that establishing human rights as proper academic discipline with its methodological toolbox implies shifting power over those who set and police the disciplinary boundaries. Fourth, it describes human rights as product, object, and terrain of and for contention. Although all fields of knowledge are the terrain of struggles, human rights carry much broader implications for society at large. In reaching its conclusions, the paper advances one possible way of defusing the problem of method in relation to human rights. The underlying idea is to deploy human rights as counter-disciplinary practice.

There is one preliminary issue worth unpacking. Usually, this is the part of the paper in which the author explains his/her method. However, is there any method for engaging with the problem of method? Every academic discipline has its ultimate foundations in some philosophical discourse. In turn, method expresses the particular politics embedded within a given discipline. In the present context, the question at hand is hardly of any philosophical relevance, but it lends itself to a polemical intervention (Rancière 2009). Therefore, in addressing and problematizing these four themes, the paper itself aspires to be a polemical intervention within the existing discourse rather than the results of some formal application of this or that method to the problem at hand. In place of any methodology, the present work adopts a subjective style that finds its main sensitivity in the theme of power. It does not go as far as 'replacing the conventions of

formalism or pathos with a radically personalising language' (Koskenniemi 1999, 352), but it does not claim either neutrality or objectivity. The only distinctive element is a persistent scepticism.

1. Methodological Troubles in the Human Rights Paradise

Although they may not enjoy the same enthusiasm and support they have witnessed from the 1970s all the way to the 1990s, human rights are virtually everywhere and restlessly expanding their reach and influence¹. The 1990s may have marked the peak of euphoria about and around human rights (Goodale 2013). One reason for that is that the sudden and largely unexpected end of the Cold War was, more or less correctly, partly tributed to the Helsinki Accords and their human rights clauses (Thomas 1999, 2001). The Vienna Conference on Human Rights brought the long wave of women emancipation to formal accomplishment, recognising women rights as human rights. Unprecedented economic wellbeing was seen, or at least presented, as direct result of democratic institutions, good governance, and thus (Western) human rights. In the wake of such and other transformations and enthusiasm, the approaching third Millennium endowed human rights with a sense of redemptive force for the world. Such enchantment was short-lived though. The new Millennium has indeed brought some considerable frustrations. It has shown that human rights can be as important as they are dangerous. They can be an emancipatory vocabulary, but also an effective disciplining tool: it depends (Kennedy 2002, 2004, 2012; O'Neill 2005). They can serve belligerent projects (Ignatieff 2001, 2005) and inform imperial imaginaries (Douzinas 2007). Such examples may highlight how, although human rights as such are still contested and hardly universal in either appreciation or application, they have nonetheless risen to be a universal language (Boutros Boutros-Ghali 2005).

Human rights are today a problematically ubiquitous language serving the most diverse projects. The convenience of deploying the human rights language is to be found in the fact that human rights have turned into the almost exclusive ground for distinguishing good from evil. From a certain angle, it seems one cannot *not* embrace human rights because they are *the good*. Human rights are indeed a language of persuasion and, in that, they must exercise a certain degree of moral appeal (Tasioulas 2007, 75). In

¹ Although there have been sporadic engagements with the issue (International Fiscal Association 1988; Tiley 1998; Kofler et al. 2011) without significant follow-ups, it seems human rights are finally making it within the realm of taxation (e.g., Beckett 2017 and note the upcoming edited book by Philip Alston on the subject).

turn, the moral force of human rights casts an aura of religiosity over them (Malachuck 2010; Féron 2014) demanding or even commanding devotion. Peculiarly, human rights seem to endow those who support and promote them with a special aura of moral primacy, perhaps turning human rights in the new standard of civilisation (Donnelly 1998). Partly paraphrasing Samuel Moyn, ideally born as voice of resistance, human rights today appear not only an instrument of the powerful (Moyn 2010, 227) to dress their respective ambitions into some morally appealing and thus legitimate project, but more problematically an orthodoxy in itself, an expression of power. This might explain the (terrifying) gap between the reality of human rights and their discourse: while the promises of human rights remain largely unfulfilled, especially in the context of economic, social, and cultural rights, the human rights language and discourse are incredibly powerful².

This very short genealogy is meant to better trace the possible reasons behind the ever-growing academic interest towards human rights. For instance, subsequent 'waves' or generations of human rights have progressively broadened the scope of human rights (Alston 1982, 1988), thus involving or attracting the interest of more disciplines and researchers. Although it is still unclear whether their expansion has caused a weakening or erosion of their legal efficacy, it is fair to say human rights have been enjoying growing political, institutional, and social importance, with the set of privileges that comes with it. One such privilege is to mobilise resources, for which human rights have also attracted an increasing number of scholars from the most diverse disciplines to devote strategic attention to what was originally a predominantly legal phenomenon (e.g., Henkin 1990). This would beg the question as of whether the sudden interest towards human rights was genuine or rather the product of institutional incentives. Furthermore, the political power of human rights has incentivised different private and public actors and institutions to engage in more human rights research, too. Part of their engagement may derive from the need to fulfil specific obligations, but it could also hint to the instrumentalisation of human rights for institutional or political projects. Perhaps, the attention human rights enjoy is purely the reflection of their social relevance. In any case, the range of research is increasingly vast: anthropology, ethnography, sociology, economy, and so forth. However, it would seem that most scholarship ultimately relies or adapts its methodological toolbox to human rights, rather than dismissing

² It is indeed curious (and appalling) to witness the new rise of populist and nationalist movements throughout the West, as if they were some form of resistance against a power - often identified under the loose category of neoliberalism - operating through financial markets but speaking through the language of human rights (Alston 2017; Moyn 2018).

its disciplinary blindfolds to construct something *ad hoc*. In that, human rights are seen as either object or variable of the study or eventual target of contestation. Hence, there might be a case for claiming that human rights research lacks its own method.

Human rights are no ordinary object of study though. They carry important consequences for individuals and society. Therefore, one might feel that conducting research in the field of human rights is or should be part of the broader effort for turning them into reality. And if the end is the realisation of human rights, method is only a mean towards that very end. Does human rights scholarship have a problem with method? Some scholars argue so: 'human rights scholarship is regularly criticised for its lack of attention to methodology' (Coomans et al. 2010, 180). More generally, in the field of human rights, proper methodology is allegedly missing (*idem*). Such complain turns into an open accusation: the feeling is that, for those engaging with human rights within academic institutions, human rights themselves are more of an agenda than the actual object of diligent studies. Hence, 'this approach confuses scholarships with activism' (*idem*, 182). And while in most disciplines the underlying rule governing scholarly work is to test models and challenge the common sense, the opposite is true for human rights, for which 'it often appears to be regarded as an achievement to document findings that support conventional wisdom. In other words, there appears to be a marked absence of *internal* critical reflection among human rights scholars' (*idem*, 183). Therefore, the *sort* of problem ascribed to human rights scholars may not be the complete absence of methodology, but rather a lack of methodological rigor, which consequently compromises the validity of their research: 'If a researcher does not carefully explain the method, the validity of the outcome of a research project cannot be assessed by others' (*idem*, 184).

These claims are not (entirely) without merit. However, one could feel that such views equally manifest a lack of internal critique. Method, as well as human rights, are presented in seemingly unproblematic and straightforward ways. It might be true that human rights do not have their methodological toolbox, but should they have any? *Cui bono*? It might also be that existing methodologies are somewhat inadequate, but this would imply that there is some standard of reference as to what amounts to adequate. The rising doubt then is not about what standards, but whose standards. There is finally room for questioning whether researchers either handle allegedly valid methods correctly or rigorously enough, but such considerations seem inscribed into an increasingly problematic culture of expertise. In the following sections, the present paper engages and problematises four major themes with the aspiration of exposing in greater granularity the constellation of complexities characterising the issue of method as applied to human rights. The scope

is not to be exhaustive, but rather to better question the imaginaries upon which some claims and assumptions are made.

2. The Fantasy of Neutrality in a World of Politics

The last decades have been characterised, among other things, by the rise of technical expertise, particularly in the international realm. Human rights are an integral part of what could be seen as the culture of expertise or, as some polemically posed it, its tyranny (Easterly 2013). Recently though, the culture of expertise has increasingly come under scrutiny and attack (Kennedy 2016). But while the culture of expertise is revelling into crisis, the emerging point of view in the discussion about human rights and method is precisely that of detached experts addressing the problem of method as if it was merely technical and, in that, something neutral, too. Method is thus conceived in opposition to an alleged activism, which more clearly holds some political agenda. This tension, I suggest, is largely artificial: since the time of Max Weber, it has been known that no research is neutral. For neutrality is a polemical term aiming at producing a strategic advantage on a subtle moral ground. Indeed, neutrality is a relative concept, as it identifies a position that is available only in relation to other position. However, it remains itself a position, a specifically tactical one³. It follows that neutrality is no refuge from its alleged opposite, but just as political.

To the extent academic knowledge adopts method to qualify itself as valid, as opposed to other forms of knowledge thus downgraded (e.g., religious knowledge), not only method implies or conceals agendas, but it is itself an agenda. In very general terms, one could think that the agenda in question is about the advancement of science and scientific knowledge. In the common sense, method is the *scientific* way to knowledge (Heidegger 1982, 74). And there is little doubt modernity marks the triumph of sciences in the life and development of society. Yet 'it is not the victory of science that distinguishes our [times], but the victory of scientific method over science' (Nietzsche 1968, 261). In other words, the victory of sciences becomes the hegemony of method: 'method, especially in today's modern scientific thought, is not a mere instrument serving sciences; rather, it has pressed the sciences into its own service' (Heidegger 1982, 74). In the contemporary academic setting, such hegemony is manifested in the part no 'respectable' discipline is immune from the scientific anxiety, which ultimately translates into methodological obsessions.

³ This critique to the concept of neutrality can be found, as applied to international politics and public international law, in the work of the controversial jurist Carl Schmitt (1988, 255).

To the extent method provides ‘a set of problems, intellectual tools, a language’ with the aim of purging the analysis from ‘subjective idiosyncrasies, political preferences, or layman prejudices’ (Koskenniemi 1999, 353), one may have the impression that method is imagined as some mechanical grinder through which a raw and confused reality is processed and turned into valid knowledge. Thus, speaking in the vest of experts, the technical aspect is about operating the grinder correctly or, more precisely, *rigorously*. It is (moral) rigor – not merely the ‘traditional’ value-free stance of the researcher – to secure the qualitative outcome of scholarly work (Landman 2016, 4). The embedded idea seems to be that science is rigorous because method is exact. The objection to that is that although ‘every science is rigorous, not every science is “*exact science*”. (...) [If] “exact” is taken in the sense of calculated, measured, and determined numerically, then exactness is a character of a *method itself* and is not merely a way of applying method’ (Heidegger 2012, 117). That is, a particular way of understanding method produces the illusion of exactness and thus of both neutrality and objectivity. Hence, the grinder is supposed to magically bridge the gap between the realm of ‘ought’ and that of ‘is’ (Landman 2016, 5, 19), somewhat filtering out whatever impurity to let the factual reality transpire. And such gap is ideally filled through empirical research (Landman 2002, 2004).

Although in theory ‘no single method is “better” than others’ (Andreassen et al. 2017, 4), empirical research has grown hegemonic in many disciplines. Allegedly, ‘there is no single, preferred research method, nor is there a typical preferred method for carrying out research in the field of human rights’ (Coomans et al. 2010, 184), but discussing method in the context of human rights research increasingly means discussing *empirical* methods (*inter alia*, Landman 2002, 2004, 2016; Rosga and Satterthwaithe 2009; Langford and Fukuda-Parr 2012). There seems to be an implicit belief that numbers, formulas, and tables are more likely to transparently show the ‘real world’ and establish that factuality that words fail to adequately capture. One relevant aspect of such fantasy is to see words as always bearing some meaning, as if words were the cause and not the expression of a world where there are not facts, but just interpretations (Nietzsche 1968, 267). In turn, numbers would be neutral. Perhaps so, but then numbers produce the distorting effect of neutralising the particular reality they are trying to explain and reflect⁴.

⁴ One notable example of any such neutralisation is to be found in the very democratic process, for which voting neutralises any political voice or instance through a countable number. And while the democratic process is meant to secure formal equality, it actually poses the power in those who operate the counting according to their particular formula.

Is (empirical) method the luring promise of objectivity and factuality in the age of radical indeterminacy? I would argue that most scenarios involving empirical research struggle both in constructing data and in interpreting them. For academic works becomes split into two main groups: those who construct and organise data, and those who deconstruct and contest them. As a consequence, there is greater margin for an arbitrary use of allegedly neutral knowledge. This is not the sole consequence. The uncertainty implies that one should ultimately devote far more time and work to the method rather than the argument he/she was wishing to make. The struggle shifts from substance to form, creating power in the hands of self-proclaimed guardians, who can qualify or disqualify knowledge on supposedly technical ground (Merry 2011, 88). Such formalism (which is synonymous of rationalism) displays a deceptive objectivity absolving decision-makers from responsibility (Bauman 1989, 155). It echoes a flipped Kantian reason, for which objectivity derives from the premise that any given choice or decision is made as anyone else in that exact position would allegedly choose or decide - hence the universality, making the decision objective and the decider neutral.

The image one could oppose to the detached researcher operating through rigorous technical methods for extracting and translating raw data into disposable knowledge is that of a world of struggles in which processes and knowledge are nowhere neutral, but instead aiming at creating and allocating power by either concentrating or dispersing it. Either way, processes are strategic and therefore linked to individual or collective projects attempting to establish their structures as something 'natural' (i.e., objective and neutral). Although such end is occasionally attained through force, the main *modus operandi* is based on the creation of always new vocabularies of persuasion. And persuasion works predominantly at the moral and psychological levels. Power is articulated and constructed on the basis of vocabularies and the experts who can dispose of them (Kennedy 2016, 135-167). For example, law is nothing 'natural': it is an invention, a technology, and a social phenomenon. The existence of law depends on the people who ultimately produce the supposed effects of the law on the basis of shared assumptions, converging objectives, and common practices. Law is presented as being general (i.e., objective) and abstract (i.e., neutral), but it is hardly so. Precisely because is neither one nor the other, it becomes necessary to establish rituals and procedures through which any such impression is induced. At the same times, such procedures exercise control over the performative power of the vocabulary in use. That is, the use and interpretation of law is often part of broader projects in which there are winners and losers, people who gain power and people who lose it.

In their respective realms, human rights and method constitute strategies of discursive persuasion for disciplining other subjects in embracing and

abiding to given worldviews together with their embedded rules and power distribution. The stress over compliance to allegedly neutral rules trumps or forecloses the question about the legitimacy and fairness of that underlying worldview. The claim of neutrality goes hand in hand with the aspiration towards universality that both human rights and method equally share. It is no coincidence that, historically, the two notions of universality and neutrality emerge at the exact same time (Schmitt 2013, 58). The deployment of the idea of universality is strategic for those who wish to incept hegemonic regimes for cheap, transcending every reasoned argument. To rephrase one famous riddle: those who act in the name of universality want to cheat.⁵ Universality is strategic in concealing the interests linked to one particular point of view. Appealing to universality serves the end of presenting facts, rules, and procedures in neutral and objective terms. Yet, while objectivity although desirable remains an impossible ideal, neutrality is an agenda carrying a specific politics.

Even if the researcher was nothing more than a camera neutrally recording whatever is in front of him/her, the fact remains that such camera is pointed in some direction. Method is indeed about observing and showing things. *Some* things in *some* ways. What to show and how to show it decides on the validity of a given reality. Method is supposedly meant to explain how one decides to observe one thing instead of another, why to put that thing in relation to others, to justify the chosen angle, to argue about the relevance of every such preference, etc. However, in observing things there is an irreducible projection of the set of cultural assumptions, categories, and beliefs of he/she who is observing. For example, is there any such thing as migrants or indigenous peoples? For whom do they exist and why? At the same time, showing things implies that others remain on the side, perhaps in the background, and at times even concealed, whether consciously or unconsciously. Where is the spotlight and why? Every such decision or preference, every technique and the way of enforcing it, ultimately constitute the politics of academic production (Kendall 2016). Therefore, method is not just nothing neutral, but it is hardly objective either. And to oppose method to activism, as if the latter had an agenda while the former did not, is incorrect. Method *is* an agenda, has agendas, and reflects agendas⁶.

⁵ The original phrase reads: 'Here one is reminded of a somewhat modified expression of Prudhon's: whoever invokes humanity wants to cheat' (Schmitt 2007, 54).

⁶ Academia is a highly competitive and often brutal environment (Bourdieu 1988). Some scholars may advance exploiting the social relevance and leaning more towards ideological predicament than rigorous method, while others may fight for making methodological rigor the key for what is academically worth counting in evaluating one's work, but it is an equally ideological stance, just of a different kind. That is to say, some may have the myth of human rights, other the myth of method, but both are equally myths.

3. The Supermarket of Method versus the Artisan of Style

Method is the allegedly neutral instrument that scientific research adopts to achieve objective knowledge. It represents the strife towards objectivity, for which it requires to decrease or eventually remove the impact and interference of subjective factors, deemed undesirable. Hence, some functions of method are to expose how and on what basis one decides on the relevance of the theme at hand, how and why to observe one thing instead of another, why and what variable to place in relation to others. Method is also supposed to justify the relevance of every such preference. Perhaps, the whole point of explaining one's method is only about the falsifiability of his/her theory (Popper 1962, 36). But no matter how detailed and self-reflective a given methodology can possibly be, it may eventually grant the credibility of the researcher, his/her honesty, but definitively not ensure any satisfactory degree of objectivity in either the research or its findings. Therefore, the extensive articulation of one's approach should allow to better contrast different perspectives so to reduce the degree of more or less effectively concealed subjectivity. For objectivity is an ideal we can possibly aspire to, but neither achieve nor assume. Contrasting different approaches may require making the subjective and contingent aspects of any given research more visible, not less so.

It is curious that those who most actively preach for more rigorous and better method(s) do not ultimately disclose and even less question *their* method for discussing the problem of method. They seem to be taking for granted that method is both good and necessary; they assume their intervention demands no other justification than some self-evident moral necessity, as if they already occupy a righteous position. They also pose the issue of method in fairly simplistic terms: it suggests such scholars envision the discussion as if there was some third, neutral, and objective position, whereas 'the difficulty lies in the assumption that there is some overarching standpoint, some non-methodological method, a non-political academic standard that allows that method or politics to be discussed from the outside of particular methodological or political controversies' (Koskeniemi, 1999, 352). For instance, is there any method to select method? Preliminarily evaluating some presumed factual conditions and practical considerations, 'such as the information, the financial resources, the time that is available, and the qualifications of the researcher', one is supposed to select the 'right' method for the 'right' question (Coomans et al. 2010, 184). Yet which is the meta-method to decide about the method? While for some philosophy may

work as meta-method (Langford 2017, 184),⁷ I suggest that, in many cases, the researcher is ultimately the artisan of his/her own unique style. For 'style' is the word I use to indicate the set of subjective preferences and qualities deployed in the continuous strategizing against a series of factors and challenges. Style is strategy - a strategy of intervention.

For many scholars, method is abstractly presented as a mere matter of choice: 'the method chosen for a research project should flow logically from the project's research question' (Coomans et al. 2010, 184). 'The choice of methods depends on the research question posed' (Andreassen et al. 2017, 4). The resulting image is no different than walking down the aisle of some imaginary supermarket (or 'shopping-mall') where, either mainstream or critical, quantitative or qualitative, empirical or analytical, etc., different methods 'are like brands of detergent that can be put on display alongside one another to be picked up by the consumer in accordance with his/her idiosyncratic preferences' (Koskenniemi 1999, 353). It does not require an overstretch of imagination to think of young researchers being given handbooks on methodology from which they are supposed to choose. Nonetheless, not only the choice of method is non-methodical, but method does not carry all answers either. Yet, one could act as if it did – thus concealing the range of discretionary choices operated throughout the process. One could argue that, ultimately, what researchers do is to relate with some ideal model and explain how they run it in practice, why they derogate on some particular aspects. To some, it might feel it is merely a matter of explaining how the researcher is proceeding, but such view must assume that every researcher is perfectly self-conscious, rational, and thus able of letting all relevant elements to transpire flawlessly.

The reverse may actually be true. Method is often taken as wearing lenses to either focus or highlight specific aspects, elements, or dynamics. It envisions an imaginary laboratory where it is possible to abstractly dissect the problem and take the conveniently chosen variables in isolation from every other 'corrupting' aspect. The broad margin of discretion afforded carries the danger of further corroborating and eventually endorsing one's own prejudices, while projecting them onto an allegedly factual world. Each method displays a tendency in becoming self-referential, naturalising concepts and categories taken for granted, validating one particular way of representing the world, while pretending to transparently reflect it. Instead of further enlightening the image of the world, the end-result is frequently that of creating worlds (Koskenniemi 1999, 359). Therefore, not only there is

⁷ I am taking this point from Langford, but the author is dubious as to this possibility (*cf.* fn. 72 in his text).

a sort of supermarket of methods, but the supermarket mentality reproduces itself by multiplying the number of available 'worlds' among which one can choose according to his/her sensitivity, preferences, and ideal-identity. That is, one can quite arbitrarily select which truths to believe, which 'bubble' to inhabit. Instead of bursting such 'bubbles', there is a risk that academic research will contribute to strengthen them. Some may confuse such multiplication of the offer as desirable pluralisation of knowledge. However, the supermarket of methods is not equivalent nor is a valid alternative to the pluralisation of knowledge. It decreases the ability of developing bridges between different discourses, it reduces the incentives in considering outside perspectives, and so on. The supermarket mind-set certainly diversifies the range of products, but functionally to their structural standardisation and ultimate disposability.

It seems more likely that method is the myth behind which academic work conceals the complex and often untraceable set of strategies that are far more intertwined with individual idiosyncrasies and contingencies than method. Academic research is a constant exercise in strategizing at every level, i.e., individual, institutional, research-related, and so forth. Method can hardly reflect or explain the broader set of personal ambitions and frustrations, social expectations and constraints, institutional or contextual incentives/disincentives, and so on. It does not account for how to balance between these different elements either. For example, there is a delusional belief that researchers can design and construct their method to best engage with their research question and thus more effectively tackle the problem. But material and immaterial constraints are often far more incisive in determining the method and outcome of a research than the problem or question at stake. Take for instance the increasingly precarious nature of academic work, with short-term contracts, which force scholars into curbing the ambition of their research questions, as well as to pick ready-to-use, pre-packaged methods to secure the actual feasibility of the research in terms of time and financial resources. Indeed, one other tacitly known factor is about resources and the strategizing necessary to access them. It is clear that focusing on some themes rather than others is often due to available funds. However, the impact funding can have on research can vary widely, too: someone may feel their impartiality would be excessively compromised, while others may be more malleable to adjust methods, samples, variables, etc., in ways that better satisfy the donor/investor and attract further resources. These choices can be exposed or concealed, justified in more or less convincing ways, but they are present. It is a matter of strategy.

Similarly, one could focus on themes and rely on one method rather than another in ways that are strategic. This is so both intellectually and

pragmatically. For the way current academic practice is organised, there is a structural incentive for making big and controversial claims on hot topics, eventually adjusting concepts, definitions,⁸ and methods in ways that are functional to such end. Even if the claim is stretched - or especially if that is so -, this will possibly attract critiques, which have the paradoxical effect of increasing the impact ratio of the work. One recent example of such strategy may be found in the work of Jenny Martinez on the origins of human rights. In her work, she claimed human rights have their roots in the anti-slavery movement and courts (Martinez 2008, 2012). The contested nature of the claims brought the work to international attention and contention (Moyn 2010, 84; Alston 2012-2013). The pragmatic side counts too. The researcher will strategise carefully in order to secure a career in the particular (and increasingly fierce) competition he/she is facing. For instance, one may feel that, in today's academic market, there is more interest for empirical rather than purely theoretical studies. If empirical work is more likely to reach publication, this will also influence the likelihood of a better career. Hence, it is hardly *just* a matter of choosing the best method for addressing the actual question. In other words, talking about method seems to be a way of dismissing all those other - and possibly more relevant - things we should instead address.

Implied within all such considerations is one's relation to knowledge and its scope(s). Research is a rather ubiquitous label that can cover a vast range of different contexts. There are businesses, national agencies, non-governmental organisations, even private individuals on their spare time, all conducting research or contributing to research. Academia is not the sole place of knowledge. In turn, knowledge is not one-dimensional. One can regard knowledge in many different ways. For example, one can distinguish between so-called fundamental knowledge as opposed to policy (or advocacy) oriented knowledge (Bourdieu 1995). Amnesty International or Human Rights Watch have missions and their research, as well as the way they conduct research, is functional to it. Institutions such as UNICEF, UN Women, UNDP, etc., not only have specific political mandates, but they starve and compete over funds. An important aspect of research in this context pertains to attract sufficient attention to prioritise one's specialisation and competence (*e.g.*, children, women, poors, etc.) over others in the agenda setting of the world

⁸ Samuel Moyn has risen to great fame in the field of human rights thanks to his work *The Last Utopia*. He makes a persuasive argument against romanticised accounts rooting human rights into a profound history. For Moyn, human rights are something recent that emerges only in the 1970s. But the key of such influential argument lies in the definition he takes of human rights: the liberal human rights. Different interpretations bring to different definitions, which in turn lead to deploy different methods (Pendas 2012, 96).

community. Their research is thus highly strategic: the way of collecting, selecting, and representing data (or alleged facts) will reflect some degree of institutional considerations and priorities, such as the attempt of renewing, expanding, or strengthening their respective mandates⁹.

One would expect academia to hold and preserve fundamental knowledge, but universities are everywhere coerced into market practices (Cohen 2004). The hegemony of (neoliberal) economic paradigms in our contemporary society turns knowledge into an asset. And if one produces knowledge for selling it or functionally to some other business purpose, method does not remain unaffected because one will have to strategise accordingly. Indeed, one central question is: who is the researcher addressing or trying to reach? Other academics? Institutional actors or policy makers? Philanthropists? The general public? The way to approach the problem is related to the set of expectations one aspires to meet, the audience he/she is addressing, the complex series of factors determining how one evaluates the 'right' thing to do and the 'good' thing to do, as well as how to balance between the two. Thus, in this relation means-towards-ends, identity – whether actual or purely imaginary – plays a major role.

The ramifications of understanding researchers as individuals captured within complex sets of preferences and power dynamics against which they have to strategise continuously and at every level are many more. For example, at the recent Conference on 'The Role of Human Rights Research: Current Challenges and Future Opportunities',¹⁰ Koen De Feyter has highlighted how conducting research in places like the Democratic Republic of Congo – because of the colonial past – can be significantly different if you are Belgian or not. In a similar fashion, there are endless factors that can have a significant but often invisible influence. One first example is as simple (and unfair) as the actual affiliation, for some institutions bear more prestige than others, grant more access to both people and institutions than others, but also bring more expectations and eventually either positive or negative prejudices than others. Does gender play a role? It might depend on the nature of the research, of course, but take the case of ethnographic research, which may have a great potential in human rights research (Merry 2017): suddenly all the discrimination and multiple discriminations against which human rights battle become the reality of the researcher. You may be a young woman scholar trying to investigate some networks of power in

⁹ For a more complete analysis on how human rights operate institutionally (Koskenniemi 2010).

¹⁰ The Conference was organised by the Human Rights Center of the University of Padova in Padova (Italy) and it was held on November 27th-28th, 2017.

rural China, facing the set of prejudices embedded in that place. One might find him/herself in the position of having to balance between competing factors, including the pressures coming from the ethical board or committee of the university. These and many other possible examples should further emphasise how any given researcher is ultimately a careful artisan of a very subjective and contingent style.

4. The Relevance of Invisible Differences

The overall debate about and around methods and human rights may be missing one crucial aspect: human rights are first and foremost a movement, not a discipline. Thus, they are more likely to colonise other methods and disciplines rather than constituting into a discipline themselves¹¹. Although there are countless experts and publications in such field, human rights are not an autonomous academic discipline. They are a sub-discipline, most notably a branch of either international relations or international law. Their success and diffusion have brought to greater interest from other academic areas, thus forming a field of knowledge over which an aggregate of studies find partial convergence. So far though, human rights have not developed a method or a set of methods of their own (McInerney-Lankford 2017, 38): a bit like Harlequin, they borrow bits and pieces from here and there. However, the compartmentalisation of academic knowledge and research work makes it look more like competition than cooperation. Notably, human rights' primary fabric is legal – and law has been jealously protecting its precious feud, for which 'human rights research commonly takes the international human rights legal framework as a starting point and foundation' (Andreassen, et al. 2017, 4).

Until relatively recently, human rights research remained indeed confined to the province of law and the limited scope of legal methodologies (Donnelly 1994). Such limits become particularly stringent for those scholars who believe and defend the scientificity of law, for which the main concerns are therefore about sources, norms, and interpretations, as well as the status of human rights within the broader legal order: 'if law seeks to be a scientific discipline, its methodology in identifying the pertinent sources in order to capture the applicable legal norms, and in engaging to interpretation of texts or conduct as part of that process is one and the same for all members of the legal community' (Scheinin 2017, 34)¹². However, 'a broad approach

¹¹ This has become particular evident in the field of medical research, for example (Ulrich 2017).

¹² The position of Martin Scheinin is that despite their peculiarity, human rights should be

could not accept, *a priori*, the “internationally recognised human rights norms, institutions and procedures as the principal reference points” for human rights research’ because such approach would imply a set of implicit methodological choices and definitions that are exclusionary and would thus exclude ‘bottom-up, domestic and subaltern conceptions of human rights which are object of study in various disciplines’ (Langford 2017, 171). That is, legal methodologies have a tendency to remain blind to whatever occurs before and beyond the legal realm.

Arguably, the legal angle fails to capture the complexity and multidimensionality of human rights. Consequently, great relevance and emphasis has been put on inter-disciplinary and multi-disciplinary approaches: ‘human rights constitute a natural field for interdisciplinary endeavour and methodological heterogeneity’ (Langford 2017, 161). However, interdisciplinary studies are more ideally appealing than practically feasible (Alberts 2013, 503-508). Indeed, ‘interdisciplinary scholarship is, more often than not, about imposing the vocabulary, methods, theories and idiosyncrasies of discipline A on discipline B’ (Klabbers 2009, 120). In turn, the multimethod approach appears very much like a LEGO scenario in which different blocks are put together to build something, yet without compromising the individual integrity of each method involved. The problem is that methodologies are, for a large part, self-enclosed. Granted that every research ultimately involves a combination of methods, such as quantitative and qualitative analysis, in more or less systematic ways, multimethod is more likely to result in incoherent patchworks, allowing the research to pick-and-choose so to shape the research according to his/her scopes.

Nothing prevents human rights to constitute themselves into an academic discipline, but should they? Turning human rights into a discipline may carry some undesired consequences. In first place, every discipline involves mechanisms of power, top-down forms of power. Most notably, the discipline would have to circumscribe the field of study and adopt a set of methods for policing it (McInerney-Lankford 2017, 39, 47). And who would be in charge of that? One primary positive impact of human rights is that they have served as open-ended language and thus ground for resistance, contestation, and emancipation. One may feel that human rights are about demolishing borders and not setting them. Would turning human rights into a discipline be coherent with their spirit and scope? The second problem is that one should come to define the object of its discipline. More generally, the issue at stake is the broader need to objectify individuals, peoples, their stories,

interpreted at the light of the *Vienna Convention on the Law of Treaties* (United Nations, 1969).

the suffering they might have endured, and reduce their manifold reality into either standardised language creating fixed role plays (e.g., victim-perpetrator) or empty numbers that neutralise the problem depriving it of its human dimension. Such ethical concerns (Landman 2004, 909-910) brings to question whether victims (or anyone else, for that matter) are keen in appearing like mere statistics for political use or within narratives to feed the 'publish or perish' academic circuit. If the ideal of human rights is to valorise human life and the human person, to empower them, then objectification ought to be a central problem.

Human rights should perhaps remain a movement. To many, human rights are about something deeply personal or somehow very dear. This holds true in the context of academic research as well. It is not merely about the ideological embracement of whatever human rights are taken to be, it is not just about an either direct or indirect political support for human rights. It is far subtler and at the same time more important. For people to engage with human rights means their experience have brought them to see something in human rights, their meaning, their potential. Given the relevance of what human rights ought to protect in our contemporary societies, it is virtually impossible not to have something personal at stake. The very nature of academic work relies on a set of freedoms, such as the freedom of expression, inscribed in the Decalogue of human rights. At the more personal level, if one has been subjected to or has witnessed the sort of discriminations and violations that human rights aim at possibly preventing or eventually punishing, then human rights are something almost intimate. And why should it be otherwise? A project of counter-objectification would then grant greater space to the range of sensitivities that can speak on human rights through human rights, making this very individual sensitivity the actual method - a method that aims at empowering.

Empowerment and disempowerment should be one main concern for whoever engages with human rights and human rights research. Who does any given research ultimately empower? The victim(s) – and who are the victims?¹³ The researcher? Some institution? The multiplication and expansion of research is ideally desirable, but it may also bring little or no improvement in the effectiveness or the quality of human rights and related programmes.

¹³ Take for instance the European Court of Human Rights decision to indirectly protect the rights of corporations (via shareholders' 'right to property). E.g., the case of *Bramelid and Malmstrom v. Sweden*, App. No.(s) 8588/79 and 8589/79. For an elaborated discussion, Emberland, M., *The Human Rights of Companies: Exploring the Structure of ECHR Protection*, Oxford University Press, 2006. The most recent case of this nature is the striking *OAO Neftyanaya Kompaniya Yukos v. Russia*, App. No. 14902/04 (condemning Russia to pay € 1.9 Billion to the former oil tycoon, Mr Yukos).

To the contrary, it might simply offer institutional power a broader range of data to interpret, use, and potentially misuse in a more or less arbitrary fashion¹⁴. The focus on power would further allow to move beyond deceiving macro-categories, especially the mere divide of moral categories. From this angle, one other crucial question that arises from establishing human rights as discipline pertains not to the objectification of human rights but human rights as object of studies and thus the consequent need for defining that very object (*mutatis mutandis*, Chea 2013, 55). The immediate consequence is that someone would have (or arrogate) the authority to take any such decision. Providing any actual definition may result perhaps not impossible, but at least undesirable: if at all is possible to speak of an ontology of human rights, their 'nature' is contention. Instead of refusing it, human rights scholarship should embrace it.

5. Human Rights as Ground of Contestations and Contentions

Hell is paved with good intentions. Since at least the aftermath of World War II, human rights have represented the ultimate expression of good intentions. Perhaps, *only* good intentions (Lauterpacht 1950, 296). Are human rights *just* good intentions, vague and empty promises (Hafner-Burton and Tsutsui 2005)? This question raises a much larger problem: what are human rights? There are many potential answers, but no actual definition. Human rights are a rarefied idea, which is perhaps the reason of their success: everyone can project his/her own fantasy under the cap of human rights.¹⁵ Every fantasy brings claims and, no doubts, human rights have been covering more and more issues simply because their vocabulary allows so. There are many *processes* about human rights or involving their standards. Still, standards do not replace definitions. Some suggest human rights have been the victims of their own success - although, that might really depend where one is looking and with what lenses. The pervasiveness of human rights has turned them into a universal language that wishes to speak for everything and on behalf of everyone. Despite human rights are supposed to speak for the voiceless and powerless, proclaim the (self-asserted) moral primacy of the 'good guys', they can speak also for the 'bad guys'. Far from distinguishing between good and evil, human rights have increasingly made every situation promiscuous.

¹⁴ This theme would be worth exploring more in details, but it would derail from the scope of the paper. There are, however, works that engage with the problem (Alston and Knuckey 2015).

¹⁵ *Mutatis mutandis*, the idea is taken from Berman, who thinks of international law as a realm in which different fantasies can be made to coexist (Berman 1996).

In associating themselves with natural rights, human rights are often inscribed within a long tradition (Douzinas 2000; Koskeniemi 2018). But contemporary human rights are a relatively recent thing (Cmiel 2004). Although the basis for the human rights regime was no doubt established with the creation of the United Nations, its Charter, and the UDHR (Glendon 2001), their legal force emerged mostly in Europe and also much later. Their political relevance, it has been argued, has started only in the 1970s (Moyn 2010). It grew along a hyperbole throughout the 1980s to reach a peak of euphoria in the 1990s (Sellars 2002). More 'new' countries gained independence, peoples were liberated, minorities emancipated, freedom and equality seemed finally a concrete thing, thus the world was heading towards the New Millennium in an apparently ecstatic spirit, all thanks to the redemptive historical force of human rights. As part of this excitement, human rights were made part of an ambiguous international humanitarianism (Ignatieff 2001, 2005). The type of redemption that came was not exactly the one expected though¹⁶. This and other cases came to challenge the faith one may have posed in human rights (Pahuja 2004; Orford 2006), but the nature of faith is paradoxical: for every negative event, one is asked to hold stronger onto his/her faith (Heidegger 1998, 46). Whatever evil is only functional in strengthening goodness.

No faith is imperishable though. Indeed, the faith in human rights and their institutions trembled, and all correlated hopes promptly vanished, only few steps over the threshold of the new Millennium. New and old conflicts (re) surfaced and multiplied everywhere, for which the promises of human rights were seen not only as being failing, but also as increasingly hypocritical. Exporting liberal democracy and human rights in the name of collective security, international peace, and global justice through wars might have sounded just too much of an oxymoron. However, some could feel that the rhetorical deployment of human rights in humanitarian and military contexts constituted a misuse or even an abuse of human rights. This point is not fully without merit, but it brings back the question of what are human rights really? One relatively secure fact is that human rights have aspired to be universal and for such very reason they cannot have any precise definition or any well-defined scope. Disappointment is inevitable when an ambiguous language promises potentially everything to virtually everyone. This spirit of growing disenchantment brought to reckon with the question about the

¹⁶ Take the infamous case of *Banković and Others v. Belgium and Others* (App. No. 52207/99, [2001] ECHR 890), in which not only human rights were part of the political arguments for military intervention, but once summoned to bring accountability against alleged violations, human rights melted into the thin air of legal apologetical acrobatics.

definition. The inherent impossibility of any such definition has produced a sort of existential crisis, whose recomposition has been delegated to history.

Scholars have been engaging more and more with the history of human rights (Alston 2012-2013). Indeed, one possible hint that the euphoria about and around human rights, rampant in the 1990s, has already largely dissolved may be found not much in the many critiques (*e.g.*, Žižek 2005; Marks 2011, 2013) – which are, to some extent, almost physiological to the actual prosperity of human rights – but in the growing historical interest about them. Looking into the history of human rights may, to some, confirm that human rights have effectively become a ‘thing’ (a *real* thing!). To them, it might seem the ultimate certification of the importance human rights bear to the world. It might also be that the historical fervour investing human rights in these recent years is the effect of contagion from the ‘mother discipline’, *i.e.*, public international law, itself caught into a cathartic phase of historical reckoning (Paulus 2001; Koskenniemi 2004, 2011; De La Rasilla 2009). If that is the case, the horizon is then much gloomier (Manfredi 2013). Historiography would be a symptom of an existential crisis, for which the historical realm has become the ‘ultimate’ source of answers: what is the *true* origin of human rights? What their *true* nature and scope? So, everyone gets to express his or her view, but this results in a cacophonous chorus of diverging beliefs, as whatever history will say more about one’s biases and ideological lenses than the actual past (Slotte and Halme-Tuomisaari, 2015).

However, while scholars debate whether human rights were there since the very inception of human civilisation (Lauren 2003; Ishay 2003, 2004) or they have rather appeared in the last five minutes of our contemporary history, what slips in the background is that the discussion about history has replaced the talk about their definition. Hence, the historical gibberish slowly gets to resemble a mourning rumble. History is not merely a field of knowledge and a discipline: engaging with history is also a strategy because, through history, different projects and intellectual enterprises can try to either settle or reopen contentious issues¹⁷. Turning to history is likely to cause more problems than those it solves though (if history can solve any problem at all, Koskenniemi 2004c, 6). In a domino effect, the realm of history transforms into a dispute about further disputes. Therefore, the historical enterprise taking place in the field of human rights is more likely to intensify polemical tensions and increase their rhetorical scope rather than settling whatever argument. And perhaps it could not be and it should not be any differently.

¹⁷ This is a point that has been made in the context of the debate about the history of international law, but it can be easily imported in the field of human rights (Bandeira Galindo 2005, 558).

Thus, far from granting human rights a safer and more autonomous status, the use (and misuse) of history makes the political instrumentalisation of human rights more likely rather than not (Manfredi 2013, 5). Such polemical intensification could be beneficial because it demands to dismiss any self-referential ideological conception of human rights at the advantage of a more aware and coherent interpretation of human rights as ground of contention and contestation.

With the exception of some self-enchanted linear narratives, most histories about human rights cannot but report the set of struggles and contentions that brought to the invention or rise of human rights. Deciding whether human rights sprouted, were discovered (and thus recognised), or got invented is more a matter of interpretation than anything else. Different interpretations lead to completely different definitions and thus stories: lawyers understand human rights as set of legal tools that have been developed after World War II; politicians see human rights in terms of political tradition, thus they contend whether they emerged in the American or French Revolutions; philosophers are more concerned with the concept(s), which they find aporetic, mixing and messing up different things from different times; activists find in human rights the bulk of moral standards they wish to promote around the world, therefore they are inclined to preach human rights as something innate that has been part of human civilisations all along; of course, critics would react by saying these are all fantasies and human rights are a recent invention, a power strategy, perhaps an effective one, but still too close to moral imperialism. Each narrative identifies different actors and institutions, picking and choosing what is relevant and what is not. However, in each and every case human rights are about struggles and contentions. Far from being a threat to either their existence or validity, this shift could be vitalising for human rights, which could come to constitute a counter-disciplinary practice.

6. Conclusive Remarks: A Call for Counter-Disciplinarity

In this short essay, I have argued that human rights are the product, object, and ground for contention and contestation. Perhaps, human rights are the incidental terrain of multiple struggles that find in the language of human rights a more effective formulation. They are a movement, not an academic discipline. On such basis, I have challenged some methodological anxieties expressed in recent literature. However, this does not mean method is completely pointless (although convincing arguments have been made to support such view, Feyerabend 1993, 157-158), but it would be paradoxical that the very instrument adopted for avoiding the undesirable influence of ideologies and automatisms would turn into exactly that. A concern I have

been trying to convey is that the importance of method is perhaps polluted from unnecessary and, for certain traits, even pathological religiosity about methodology because method today has far more to do with an exercise of academic and political power than it has with the overall scope of knowledge generally and human rights specifically. It is unclear how stricter and more rigorous methods would deliver more and better human rights. One can be dubious as to the possibility that 'the accumulation of information on human rights protection in the world and the results of systematic analysis can serve as the basis for the continued development of human rights policy, advocacy, and education' (Landman 2004, 909). No doubt, this would feed existing institutions and their procedures. That is, the argument for method is more about asserting expert power with the self-attributed competence of establishing valid knowledge against non-valid one, rather than ameliorating the life of those in need.

I have tried to convey my reservations to the transformation of research into a mere production of numbers for institutional consumption. Such reservation extends to the increasing share of scholarly and institutional research that is adopting empirical and quantitative approaches, which ultimately demands to devote more time and attention of the way data are gathered, constructed, and interpreted rather than the core of one's argument or the problem at stake. If human rights are like 'love' ('both necessary and impossible', Koskeniemi 2001, 33), method is then more like a jealous lover who wants all the attention. To devote all of our attention to it would lead to the obvious result of formalism, where much of this thinking seems also to originate. And if 'there is no contradiction between method and substance: method *is* the substance' (Coomans et al. 2010, 184), it means that a formal method brings to empty substance. Perhaps, empty formalism is precisely the way some believe to be ensuring academic neutrality. But the idea that there could be some method through which the academic work could secure its neutrality and perhaps even settle disputes through objective facts or truths is somewhat naïve. Indeed, 'the methods of truth were not invented from motives of truth, but from motives of power, of wanting to be superior' (Nietzsche 1968, 249).

One further danger attached to formalism is to progressively erode the one most important function of methodological reflection, that is, being self-critical. A large share of scholarly work in the field of human rights self-identifies as critical, but there are significantly different ways of being critical. It is not always enough to operate marginal critics aimed at incremental amelioration: to criticise a given government for not matching internationally recognised standards in human rights protection is not much of a critical work, even if it entails criticism. It represents a fairly obvious

critique, whereas academic critique ought to be radical. For instance, are human rights always the most effective solution to every problem? Why would that be so? Part of the historico-political legacy of human rights is that they were recognised (or granted) so to foreclose any possible right to resistance, which begs the question of what is the effective long-term social 'costs' of human rights? What is the bargain? One common example regards anti-terrorist measures, for which alleged collective security is traded against individual freedoms and procedural guarantees. But there are many other less obvious instances. Take the unprecedented degree of intrusive powers in the private sphere of people and families: the protection of individual rights and the fulfilment of correlative positive obligations have broadened the legitimate competences of state authorities. Those prerogatives and technologies used for preventing and punishing (e.g.) domestic violence today could be used for some other, less socially desirable end tomorrow. Therefore, scepticism and radicalness are important because 'tomorrow's evil will not be exactly what yesterday's evil was. On the contrary (...), it will emerge as the dark side of some novel and widely supported programme to do good in some regard' (Koskeniemi 2004a, 851). What are we potentially giving up (tomorrow) in exchange for what (today)?

On these premises, I have been suggesting that scepticism and, in particular, scepticism towards power is – I suggest – the single most important aspect for human rights research. For it would pass largely unobserved, for example, how human rights have increasingly become an effective instrument at the disposal of neoliberal forces and projects (Brown 2003), as it has been aptly captured in observing its turn to criminal law (Engle 2015, 1112). Thus, scepticism allows looking at the world beyond moral categories, as the outcome of competing ambitions, projects, strategies, etc., and to better map eventual asymmetries. Human rights and methods are both involved in a world of struggles into where they seek to exercise a decisive degree of persuasion. Hence, one should be more prudent about the set of assumptions on what is good and what is not. This is all the more important today, as human rights are confronting a populist challenge that involves both human rights (Marks 2014) and the realm of expertise (Alston 2017) – and scholars are experts. In times of crisis, there is always a tendency to radicalise and double down on precepts that have progressively turned into ideological prejudices (Kennedy 2016, 32). Hence, scholars may feel that a more rigorous method is the best defence against the reactionary wave, yet to think that opposing facts or alleged truths will deter this trend is somewhat delusional.

To bring this essay to conclusion, I would argue that method is relevant in the part it ensures transparency and intellectual honesty, not – for instance – any false neutrality or alleged objectivity. Perhaps, one possible solution

to overcome the challenges of human rights research and its methodological perplexities is to understand human rights not as discipline or inter-/multi-disciplinary site, but as counter-disciplinary enterprise instead. For it may be that 'inter-disciplinarity is only possible by embracing counter-disciplinarity' (Klabbers 2010, 311). The notion of counter-disciplinarity has been first envisioned in relation to international law (Koskenniemi 2011, 19-21; Dunoff 2013). Differently from international law, human rights are not a discipline, but as part of the discipline of international law and very much like it, human rights are not only a legal and/or academic discourse, but also a practice that can vary broadly from actor to actor, from place to place, and from context to context. That is, any methodological concern with rigor would fail to acknowledge the indeterminacy and thus open-ended nature of the human rights discourse(s) and practice(s) (*idem*, 21). While disciplines would invest time and efforts for solving contradictions and secure coherence, and while inter-disciplinarity would result in some tricky oversimplification, a counter-disciplinary approach can allow contradictions to coexist - something that could contribute to an actual pluralisation of human rights knowledge.

As part of the benefits of this counter-disciplinarity, one should be able to locate arguments as well as research in the context of relevant struggles, thus contributing to making such struggles to appear more clearly. For 'counter-' aspires to bring greater emphasis and granularity as to the presence of powers, their positions and - most importantly - ambitions. It aims at engaging with the increasingly pressing issue of inequalities, for human rights are one unique tool for addressing distribution not much on some vague moral ground, but in terms of concrete allocation of resources and power by means of rights (Moyn 2018). Borrowing from David Kennedy, one could think that the refugee regime, today so relevant, is less about helping people than it is about organising and strengthening statehood in what it does best: establishing categories of discrimination between those who are included and those who are not, those who are deserving and those who are not. Consequently, one corollary of counter-disciplinarity is to dismiss the redundant bridging of 'ought' and 'is', which leads to assume current regimes are dysfunctional and our work is to describe how they fail to deliver on a set of premises and promises. What if each and every regime is already working in perfect 'efficiency'? What if they are producing is already exactly what their actual project is about? For everyone knows that free trade is not about free but regulated trade (Stiglitz 2018), refugee law is not about refugees but how to push back economic migrants, and the same goes for human rights: who is trying to do what with them, why, and how?

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