

Law, literature and cinema: an essay on dystopic movies

Direito, literatura e cinema: um ensaio sobre filmes distópicos

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Abstract

Based on five paradigmatic novels – and their respective film adaptations – presenting dystopic future societies where law presents itself as a mere instrument of control and social planning, without any ethical-humanist foundation, the present paper intends to discuss the relations between power, law, ideology and control of consciences. In the first section, of historical-theoretical character, the juridical-philosophical meanings of the words “utopia” and “dystopia” in literature and philosophy are analyzed. The second section contains the synopses and data of the books and their respective dystopian movies, *1984*, *Brave New World*, *Fahrenheit 451*, *A clockwork orange* and *A scanner darkly*. These are used in the third section, that has a critical nature, in order to support and illustrate the analysis of present society and its juridical alienating project. The article concludes with a reflection on the need to humanize juridical orders.

Key words: utopia, dystopia, literature, cinema and law, contemporaneity, critique.

Resumo

Com base em cinco obras cinematográficas paradigmáticas que apresentam sociedades futuras distópicas e nas quais o direito se mostra enquanto simples instrumento de controle social, sem qualquer fundamentação ético-humanista, o presente artigo pretende refletir sobre as relações entre poder, direito, ideologia e controle das consciências. Na primeira seção, de caráter histórico-teórico, examina-se o sentido jurídico-filosófico dos termos “utopia” e “distopia” na literatura e na filosofia. Na segunda seção, são apresentadas as sinopses e os dados dos filmes distópicos – *1984*, *Admirável mundo novo*, *Fahrenheit 451*, *Laranja mecânica* e *O homem duplo* – que serão utilizados na terceira seção, de feição crítica, para fundamentar e ilustrar a análise da sociedade atual e de seu projeto jurídico alienante, concluindo-se o trabalho com uma reflexão sobre a necessidade de humanização das ordens jurídicas.

Palavras-chave: Utopia, distopia, literatura, cinema e direito, contemporaneidade, crítica.

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Utopia and dystopia

“Utopia” is an iterant term in Political Philosophy which claims to evoke a sort of ideal society. Made up of two Greek terms, *ou* (οὐ, a Greek prefix of negation) and *tópos* (τόπος, literally: place), it designates, therefore, a non-place, meaning the excellent society that, because of that very excellence, does not exist in the real world. According to Antônio Houaiss (2001), the term was first used in the Portuguese language in a work published in 1671, in the city of Lisbon, and had the curious title of *School of truths open to the Princes in Italian language, by Father Luiz Juglares, from the Society of Jesus, and translated accessible to all in the Portuguese language by D. Antonio Alvares da Cunha* [Escola das verdades aberta aos Príncipeps na lingua italiana, por o Pe. Luiz Juglares da Companhia de Jesu, e patente a todos na Portugueza por D. Antonio Alvares da Cunha].² In the *Dictionnaire de l'Académie*, from 1798, the term assumes a clear political-juridical content, since it defines a “*plan de gouvernement imaginaire*”. However, long before this definition, the word “utopia” had become famous because of its creator, Thomas Morus, an English humanist who lived at the end of the 15th and the beginning of the 16th century and, in his homonymous work, presented the political project of the isle of Utopia, whose inhabitants enjoyed an egalitarian, liberal and fair juridical system (Morus, 2004).³ Besides Morus, the Italian philosopher Tommaso Campanella, author of *The city of the sun*, from 1623, and the English philosopher Francis Bacon, author of the technical-scientific utopia *The new Atlantis* (posthumously published in 1627), were also great utopians of modernity. In the contemporary era, the Marxist position stands out among others, since for them utopias are unrealizable because they are not connected to the concrete structural conditions of society, and that is the reason why they shouldn't be considered. In contrast, Karl Mannheim and Ernst Bloch believe in the transformative potential of utopias, which are able to feed a desire for social changes and then to offer *alternative* ways to the actual political-juridical organization. According to Mannheim, utopia is seen as unreachable only for a particular social structure. This is actually a revolutionary ideology which aims at transcending the historical situation and, through the effective action of

social groups, reaching a level of social organization that the existing political-juridical institutions do not allow for (Mannheim, 1968).⁴ Aldo Maffey thinks that utopias are projections of desires not totally satisfied in particular historical situations, just like the gardens and oases that appear in *A thousand and one nights* of the Arabs stranded in the desert. Nevertheless, these projections will take on the status of political utopias only if they present an ideal to be realized by an organization in community which offers definitive solutions to the socioeconomic problems, supposing that the political utopian always refers to the best realizable world, not to the best world conceived of in a fanciful way, as the writers do (Maffey, 2000, p. 1285-1286). In reality, the many political utopias constitute an unrestricted bet on the power of human rationality, which, allied to the idea of progress, typical of the Age of Enlightenment, would be able to guarantee to human societies fairer ways of social organization.

Still, there are political-juridical dystopias too. The Greek prefix *dys* (δυσ-) means “sick”, “ill”, “abnormal”. According to a suggestion by François Ost, shown in his analysis of the sources of the legal imagery contained in the works of Franz Kafka (Ost, 2005, p. 373-382), dystopias would be upside down utopias, that is to say, bad utopias, imaginary societies where the conditions of existence are much worse than those of real societies. It seems that the term “dystopia” was first used in 1868 by Greg Webber and John Stuart Mill in a speech at Britain's Parliament.⁵

The role played by law in dystopias is always outstanding, presenting itself as an eminently technical order, whose single role consists of guaranteeing the perpetuation of social domination. It's even unnecessary to explain that dystopic societies are characterized by the lack of rights and fundamental guarantees. They are usually highly authoritarian or totalitarian. The main victim sacrificed on the altar of the still fictitious dystopic States is undoubtedly freedom. To better understand dystopia, let's take the words of O'Brien, member of IngSoc (English Socialism, in newspeak), the single party that governs Oceania, the State imagined by George Orwell in his novel *1984*:

Do you begin to see, then, what kind of world we are creating? It is the exact opposite of the stupid hedonis-

² Data taken from *Dicionário eletrônico Houaiss da língua portuguesa*.

³ The first edition is from 1516 and its complete title in Latin is *Libellus vere aureus, nec minus salutaris quam festivus de optimo reipublicae statu deque nova insula Utopia*.

⁴ The first edition was published in 1929.

⁵ “It is, perhaps, too complimentary to call them Utopians, they ought rather to be called dys-topians, or caco-topians. What is commonly called Utopian is something too good to be practicable; but what they appear to favour is too bad to be practicable” (*Oxford English Dictionary*).

tic Utopias that the old reformers imagined. A world of fear and treachery is torment, a world of trampling and being trampled upon, a world which will grow not less but *more* merciless as it refines itself. Progress in our world will be progress towards more pain. The old civilizations claimed that they were founded on love or justice. Ours is founded upon hatred. In our world there will be no emotions except fear, rage, triumph, and self-abasement. Everything else we shall destroy, everything. Already we are breaking down the habits of thought which have survived from before the Revolution. We have cut the links between child and parent, and between man and man, and between man and woman. No one dares trust a wife or a child or a friend any longer. But in the future there will be no wives and no friends. Children will be taken from their mothers at birth, as one takes eggs from a hen. The sex instinct will be eradicated. Procreation will be an annual formality like the renewal of a ration card. We shall abolish the orgasm. Our neurologists are at work upon it now. There will be no loyalty, except loyalty towards the Party. There will be no love, except the love of Big Brother. There will be no laughter, except the laugh of triumph over a defeated enemy. There will be no art, no literature, no science. When we are omnipotent we shall have no more need of science. There will be no distinction between beauty and ugliness. There will be no curiosity, no enjoyment of the process of life. All competing pleasures will be destroyed. But always – do not forget this, Winston – always there will be the intoxication of power, constantly increasing and constantly growing subtler. Always, at every moment, there will be the thrill of victory, the sensation of trampling on an enemy who is helpless. If you want a picture of the future, imagine a boot stamping on a human face – for ever.

The distance between utopia and dystopia is small and can be just a matter of opinion. G. Kaleb states that “the utopian begins in love and finishes in terror” (Maffey, 2000, p. 1288). Once begun, utopias cannot be controlled. Many times they claim to free men or to make them happy, independently of their own will. The mission of every utopia consists of regenerating people, even if it is necessary to confront them and to impose this high destiny on them. This is the way that imperceptibly takes us from utopia to its phantasmagoric twin, to its *doppelgänger*: dystopia. Therefore, in Plato’s so praised *Republic*, for example, there is no place for individual liberty (Platão, 2001). Let’s remember that

Plato thinks that democracy is a corrupted form of government, a sufficient cause to reserve the direction of his ideal city to the wise persons, who would exercise power in an authoritarian way. Moreover, the Platonic State is similar to a sketch of the totalitarian State that the contemporary era has met, because it controls all aspects of social life, ranging from the children’s education – who would be separated from their parents since tender childhood – to the allocation of individuals to their respective occupations and professions. This would be made by “objective” criteria established by the *pólis*, and not by the personal decision made by the interested parties themselves. This is an interesting detail that portrays very well the “ideal” republic for Plato: although he recognizes the fascination that poetry exercises over the citizens, the poets should be driven out of the city. According to Plato, the exile of poetry is rationally imposed by the fact that it is not useful to the State, nor to human life (Platão, 2001, X, 595a-608b, 449-474). For a poet, the platonic *pólis* certainly would be a dystopia, not a utopia.

Even more shocking than the Platonic republic would be the ideal city for Zeno of Citium, the founder of the austere Greek stoic school.⁶ According to this author, only wise people could bear the status of citizens; the others should be reduced to the condition of slaves and treated as enemies. Informed by the ethic conceptions from cynicism – a Hellenistic philosophical current that harshly criticized the accepted standards of sociability and morality –, Zeno prohibits the construction of temples, gyms and stadiums. In the Zenonian city there wouldn’t be commerce or private property. Men and women should be dressed in the same way, displaying their bodies whenever possible. As a matter of fact, women would be shared by everyone. To the sages everything would be allowed, even prostitution, rape, incest and cannibalism. However indecent these ideas might seem, Zeno and his second successor in the Stoic school, Chrysippus, justified them rationally. More than a political-juridical project, the Zenonian republic was a provocation to the decadent Greek *pólis*, that falsely inflated itself of a glory that it did not have since the submission to Alexander and later to Rome.

However, dystopias weren’t a common literary genre in Antiquity and, obviously, neither Plato nor Zeno presented their government systems as negative reali-

⁶ Unfortunately, *The republic* of Zeno is irreparably lost. Just a few fragments from this work are left and have survived for centuries. The information we lined up were compiled by Diogenes Laertius in the 2nd century of the Christian era and is contained in his famous treaty *Lives and opinions of eminent philosophers*. Cf. Diogène Laërce (2002, VII, 32-33, 27-28). For a contemporary reading of what has come to us from *The republic* of Zeno, cf. Matos (2009, p. 262-284) and Schofield (1999).

ties. On the contrary: both in the Ancient and in the Medieval or Modern world, social utopias multiply, some of them slipping into the most fantastic and daring dreams. A foretoken of what would be the post-modern dystopias can be found in the work of Donatien Alphonse François, the Marquis of Sade, whose curious political pamphlet *One more effort, Frenchmen, if you would become republicans* (Sade, 1999) proposes an eroticized State where everybody should submit themselves to the others' sexual caprices, initiating, then, a real time of liberty, when there would be no limit to the citizen's sexual satisfaction, even if the pleasure of some of them might cost the life of the others. Sade thinks that the State must create and keep appropriated institutions for satisfying every kind of luxury, including incest, which, according to the French writer, turns the family's bond tighter and the citizens' love for their country more active. In Sade's republic there would be an absence of all kinds of religion and theism. In spite of its polemic facet, Sade's political project proves to be naïve when compared to the totalitarian nightmares engendered in the 20th century, which is particularly full of dystopias. Even if delirious, Sade's republic claimed to protect the individual from the despotic action of the State's power.⁷ Despite his reputation of being depraved and crazy, the brilliant Marquis was a real son of the 18th century, and even more of the French Revolution, which claimed to extinguish monarchical absolutism in the name of the public liberties of the citizen. If we follow closely Sade's argumentation, we will see that the revolution of customs proposed by him has a clear purpose: to prevent men's non-satisfied sexual impulses from becoming authoritarian ways to exercise political power. According to Sade, today's unsatisfied libertine is tomorrow's despot, who transfers to society his sexual frustrations under a kind of a tyrannical power. Hence, we should avoid becoming little dictators. The only way to avoid this would be to institutionalize the pleasures and all vices that accompany them. It is not necessary to say how this text of Sade pleased psychoanalysts, from Freud to Lacan.

It's important to notice, however, that Sade's dystopia is still linked with a long European libertarian tradition, and through it the State's power over the citizens is constantly challenged. This was the keynote of the 18th century. On the other hand, the 20th century became famous by producing dystopias where the individual is totally submitted to Leviathan's authority. And what

is most frightening: recent history demonstrates and proves the technical possibility of realization of these authoritarian political-juridical dystopias, which become less and less fictitious. It could not be different: the great technological advances added to the ethical disintegration that devastates our time produced visions about the future where law has become just an instrument of domination and dehumanization. It's impossible to think of an universal society, fair and free, after the horrors of Nazi-fascist totalitarianism, which is a witness of a capacity of infinite cruelty, on a global scale, of what men can be capable of.

Bertrand Russell thinks that the contemporary mentality is not able to conceive as possible the societies dreamt of by a Morus, a Campanella or even a Marx; we have a lack of imagination – or even innocence – for that. A proof for this is that the typical product of the post-modern political-juridical deliriums – the dystopias – are nothing less than an aggravation of negative vestiges that actually exist in concrete current societies (Maffey, 2000, p. 1289). Maybe losing our creative ability, even in nightmares, is more serious than just losing our ability to dream. We are forced to face our own corrupted and dehumanized societies in a mirror – which is certainly deforming – that ultimately only shows us the point at which we will get. The difference between the world we live in and the technical-totalitarian nightmares of the novels by Aldous Huxley (*Brave new world*), George Orwell (*Nineteen eighty-four*), Ray Bradbury (*Fahrenheit 451*), Anthony Burgess (*A clockwork orange*) e Philip K. Dick (*A scanner darkly*) is just a matter of level, not of nature. Let's see what these five paradigmatic works consist of, all of them shown on the screen, today's main medium of communication.

Dystopias at cinema

Brave new world was written by Aldous Huxley in 1932, and since then it has been translated into the main languages in the world (Huxley, 2001). The book was adapted and broadcast as a series by the English station CBS in 1956. In 1998 a film for television was made, remotely based on Huxley's work. The film was directed by Leslie Libman, and had Peter Gallagher and Leonard Nimoy in the main roles. Ridley Scott prepares a cinematographic version of the book, with Leonardo DiCaprio in the cast. It certainly is the most influential modern dystopia, having only *Nineteen eighty-four* as a

⁷ For a discussion of Sade's libertarian project from the point of view of the philosophy of law, see the innovative article of Souza (2009, p. 151-156).

dignified rival. The plot of the film and book takes place in London in 2540 (632 years after Ford). What has remained from civilization is commanded in an authoritarian way by an elite of scientists. Huxley discusses ethical cases related to the development of genetic engineering and biotechnology. He also reflects about the possibility of controlling people through the use of drugs provided by the government. In 1958, the author launched *Brave new world revisited* (Huxley, 2000), a nonfiction essay where he analyses the world's situation at that time and concludes that we are increasingly closer to the dystopic future ideated by him: overpopulated, submerged in drug consumption and where the masses' obedience is based on many forms of underlying control.

Nineteen eighty-four, the most ambitious of George Orwell's novels, was written in 1948 and published in 1949 (Orwell, 2005). It has already been adapted three times for television and twice for cinema: in 1956, directed by Michael Anderson, and in 1984, directed by Michael Radford. A new cinematographic version has been planned, directed by Tim Robbins. The book's influence and popularity were huge in the pop culture of the 20th century. Its most well-known descendants are: (i) the movie called *Brazil* (its original title should be *1984 ½*), of 1985, directed by Terry Gilliam, which is a film that shows Brazil being controlled by a bureaucracy similar to the one that serves the Big Brother; (ii) Anthony Burgess' novel *1985* is more than a sequence: it is a homage to Orwell; (iii) and the graphic novel titled *V for vendetta*, by Allan Moore, presenting a vision of a fascist England where homosexuals, Arab and black people have been extirpated from society. This work has recently got a filmed version in a loyal adaptation by the Wachowski brothers, who are creators of another cinematographic dystopia, *Matrix*, which today is a cult film.

Fahrenheit 451 is a science fiction novel by Ray Bradbury, an uncontested master in this genre (Bradbury, 2009). Published in 1953, the work portrays a futuristic, hedonistic and anti-social America dominated by television where books are prohibited, just like every critical thought. The main character, Guy Montag, is a fireman who rebels against the system and begins to keep and read the books he should burn. The novel's curious title refers to the degree at which the paper used for printing undergoes combustion. The poetic end of the story is one of the book's highlights. It was directed by the French director François Truffaut in 1966. There are plans for a new movie directed by Frank Darabont. For him, Bradbury's work is more up to date than it had been before in the United States of America that George W. Bush gave us.

A clockwork orange, Anthony Burgess' masterpiece, was published in 1962 and filmed by Stanley Kubrick in 1971 (Burgess, 2004). The plot is set in England in the year 2017 and narrates in first person the adventures and misadventures of Alex, a young sociopath aged 15 who, after arrested, is submitted to a governmental rehabilitation program called "the Ludovico technique". This program – in fact a therapy of a Pavlovian kind – consists of a long exposition of criminals to images of extreme violence, at the same time that as they ingest drugs that cause strong nausea. At the end of the treatment, Alex is unable to watch any acts of sex or violence. Moreover, he develops aversion to classical music, which he used to love, because one of the films presented during the process of "re-education" included as its soundtrack the *Ode to joy* of Beethoven's 9th symphony.

The book and the film *A scanner darkly* were launched in Brazil with a title of doubtful taste, *The double man*. Written in 1977 by Philip K. Dick, the work portrays the futuristic California of 1994 (Dick, 2007). In Dick's apocalyptic vision, the United States of America have lost the war against drugs and suffers from an epidemic caused by the intensive use of substance D, that slowly destroys the personality and intelligence of its users. The main themes tackled refer to the problem of individual personality and to governmental control of private life, a subject that is already classical in dystopias of the 20th century. The work was adapted for cinema in 2006 by the celebrated director Richard Linklater, who produced a kind of extremely refined cartoon using the technique of rotoscope, where the film's frames serve as a basis for animation. The main role was given to Keanu Reeves, who played the character called Neo of the dystopical trilogy *Matrix*. Many of Dick's science fiction novels became successful films, like *Do androids dream of electric sheep?*, of 1968, which became a movie in 1982, under Ridley Scott's direction, with the title *Blade runner*.

Dystopias in the present

We already have a Big Brother among us that watches us – just as described by Orwell. Day by day, when turning on the TV set (precursor of omnipresent telescreens?), reading the newspapers, connecting to the web, we can see the invisible action of the Truth Ministry that in the end convinces us that War is Peace, Liberty is Slavery and Ignorance is Strength. In the same way as the moronic characters of Huxley's celebrated novel, we already consume every day our share of *soma*, the drug designed to give daily doses of cheap happiness to the

inhabitants of the brave new world, numbing and immersing them in a colourful reality of futile desires and free sensations of pleasure, whereby they are turned docile and submissive to governmental domination. Talking about drugs, the pathetic, false and inefficient policy of global governments that, for the delight of a small part of the public opinion, shows us a strict, sacred and unquestionable crusade against drugs reminds us of the apocalyptic reality of *A scanner darkly*, of Philip K. Dick, a science fiction (?) novel where the government, at the same time as it combats the traffic and the use of drugs, produces and distributes them through a company whose true owner is the State. On the other hand, the State turns into addicts even its own agents of public security in a perverse system where an atmosphere of denunciation, suspicion and fear is predominant. The methods of social re-education conceived by Burgess in his novel and shown on the screen with great success by Stanley Kubrick transformed the transgressor Alex, previously interested only in rape, ultra-violence and Beethoven, into a peaceful and responsible citizen, unable to practice any act of violence, so much so that he feels nausea and faints when he tries to defend himself from the action of some criminals, old fellows from his times of *débauche*. Well, isn't this the keynote of the most "advanced" criminal justice structures of the planet, which intend to force a man to be "good" – re-socializing him, the criminalists say – to dump him in a world which continues to be "bad"?

Orwell anticipated the logic of submission and control in newspeak, a kind of universal language created in a lab. It should slowly replace oldspeak (the English) in the imaginary State of Oceania, where Orwell's dystopia is located. Newspeak would be of an extreme poverty and simplicity and is incapable of expressing any deeper thought. With the progressive imposition of this new language, people would lose the ability to think and rebel against the system because they would no longer have a linguistic means capable of expressing complex thoughts. Communication, then, would be reduced to what is barely necessary for survival. The ideal of newspeak would be to offer people an increasingly smaller number of words, whose meanings are increasingly restricted, so that it would be impossible to express meanings different from the will of the government's party. For example: the words "free" and "equal" would exist, but they would never evoke the liberty of thought or equal rights, as these subjective situations had already ceased to exist many generations ago in Oceania. It would be impossible to translate to newspeak the beginning of the American

Declaration of Independence, where it is stated that there are some rights that are inalienable, such as life, liberty and the pursuit of happiness, and that the government's role is to guarantee them, otherwise it would be toppled and replaced by another by the people, the only holder of political power. The closest translation in newspeak would be the replacement of this whole section by a single word in newspeak: thoughtcrime (Orwell, 2005, p. 299-300). Well, isn't newspeak partially present in the newspapers and mass media, which are always committed to power? In the empty speech of our political representatives and in the childish declarations of figures – like George Bush – who want to make us believe that the United States of America have the sacred mission of combating evil wherever it is, in a kind of planetary Wild West movie where Americans are the sheriffs?

In relation to culture, we have already surpassed Huxley's and Bradbury's dark dreams. These novelists imagined a future where books, because they contain subversive ideas that threaten stability and social peace, are prohibited and mercilessly destroyed by the State. Nowadays we don't need Bradbury's firemen, whose ironic paradoxical mission was not to combat fires, but to provoke them by burning books. There's no need to fear a savage like Huxley's main character, whose huge crime was to read Shakespeare in a society that had already lost the human pains and joys concentrated in the verses of the English bard. The form of domination to which we are submitted is much more subtle and efficient. We are taken to believe that culture, in broad terms, won't bring us any advantages: to have is much more important than to be and to know. To have is to own power, and economic ambitions override any consideration about ethics or aesthetics. It's not necessary to prohibit or to burn books in a society that despises them.

It's specially remarkable that in the bigger dystopias of the 20th century the taste for culture, art or science is associated to personalities who are taken as degenerated, always ready to challenge the valid social order, seen as people to be re-educated, which includes primarily the extinction of their cultural tendencies. Alex, Burgess' anti-hero, is an extremely violent sociopath who respects one single thing in his life: the music of Beethoven, the "divine Ludwig". The main character of *Nineteen eighty-four*, Winston Smith, feels displaced when faced with the culturally poor and homogenizing situations he is forced to submit to and discovers himself as a free man – and, just because of that, as a rebel against the Big Brother's authority – only when

he gets in touch with a prohibited book he was greedily looking for, *Theory and practice of oligarchical collectivism*, a kind of political-sociological essay authored by Emmanuel Goldstein, who is supposed to be the leader of resistance. On the other hand, the savage of *Brave new world* astonishes people with demonstrations of joy, affection, rage and sadness, emotions that he learned by reading Shakespeare's works. At the same time, they were really unknown and terrifying in Huxley's aseptic reality. A rapist who idolizes Beethoven? A rebel whose great crime is to read and to write? A savage who recites Victorian poetry? The message in these archetypes seems very clear: culture and wisdom are dangerous; move away from them as quickly as you can. If you want to be accepted by others, get dumb. If you don't want to be a loser, surrender yourself to the (dis)tastes of the majority. It dictates what is beautiful, good, correct and safe. The rest – Beethovens, political-sociological essays, Shakespeares etc. – is dangerous, useless stuff that interests only problematic nutjobs who, sooner or later, will surrender to the moral and social standard of decent people. This is the destiny that the extreme dehumanization of technical legal orders reserves to high intelligence. This is not surprising: true culture, which is contestatory by nature, has always generated fear, discomfort and repulse among ignorant masses inebriated by the system's small advantages, such as handouts given by the State to poor people or such as the consumer goods artificially imposed on the middle or upper class, seen as necessary things for a "normal" life: the fashionable cellphones, clothes of the season's brand, the most powerful iPod, the coolest nightclub, the most chic restaurant, depending on opinion or age. In fact, we don't have to go to the dystopic novels. It's enough to remember Goebbel's speech, Hitler's propaganda minister who confessed that he grabbed his weapon every time he heard the word "culture". And what can we say about desperate Ulrich, a character of the polyphonic *The man without qualities*, Robert Musil's greatest novel? In the thirteenth chapter of the first part of this huge encyclopedia of irony, Ulrich, a typical Austrian academic of the beginning of the 20th century, a half-nihilist, a half-Epicurean and half-mixture of these two things with nothing, gets surprised when reading a newspaper. It remarks that a certain racehorse had been classified as genial. Ulrich had already seen boxing fighters and soccer players being honored with this adjective that was previously reserved to people like Da Vinci, Mozart, Dostoevski; but the fact that now it can define a racehorse too – a company more than adequate for soccer players – seems to him a sign of the times (Musil, 2006,

p. 63). This chapter of Musil's book is set in 1913, was written in the 1920s and published in 1930, in Austria. What would Ulrich say nowadays in Brazil, where the poor and savorless cultural supplements of the most important newspapers are nothing compared with the portentous large sports section? It really is a sign of the times. Of the dystopians times.

Man's ability to do evil to his peers is infinite. This is one of our basic traits, that we reluctantly qualify as "human". However, whether if we like the dark side we have or not, we should learn to live together along each other in a reality that potentiates the best traits we have. In this context, the law plays an important role, as it can be used as a catalyst both of utopias and dystopias. The fact that nowadays the law is being used more clearly for authoritarian dystopic purposes demonstrates how we have perverted it. By its own historical substance, Western juridical experience is related to the realization of liberty as a supreme value. From the Law of the Twelve Tables of 451/450 B.C., which consolidated the Roman republic, to the Magna Charta that the feudal barons imposed on the King John of England in 1215; from the Edict of the Emperor Caracalla in 212, which extended Roman citizenship to all of the empire's inhabitants, to the American Declaration of Independence of 1776, the movement of Western law pursues the achievement of liberty, a process that finds, from the formal and material point of view, its *nec plus ultra* in the Declaration of the Rights of Man and the Citizen, in the French Revolution of 1789. Bobbio asserts that the problem of our times is not the justification of the fundamental rights – a task that basically accomplished in the Enlightenment Era –, but primarily their implementation (Bobbio, 2004). In view of this situation, it seems urgent to us to retrieve what there is of human in the law, which doesn't mean that it should be unconnected from the technical-formal demands that characterizes it as a central order of coercion. Contemporary law must free itself from the subterranean chains that involve and degrade it, reducing it to a role of supporting irresponsible political practices validating the supposedly necessary dictates of global economy. Nothing that is inherent to humans can be disregarded by the law, because it is a human instrument for solving conflicts that are equally human. The law must not lose itself as a technical self-reproduction of empty and alienating procedures. Otherwise, "liberty", "citizen" or even "rights" will be illegal words, not translatable to the newspeak of a new world that is not brave at all. Then, the path will be opened for the Big Brother, a path without return to slavery.

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