

# Definition of Man: What is Left of the *Nuremberg Code*?

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All of us share the same feeling of being torn between two equally impossible attitudes, namely the absurdity of resistance and the abjectness of renunciation, that is to say a feeling of surrender to the course of events and I think that it is true that we are all more or less filled with this feeling or to revert to other terminology which I will borrow from Jacques Ellul, we all have the feeling of being swept away in a haphazard process over which we no longer have any hold. In this respect, I tend to agree with Alain Caillé, that we are at the moment experiencing a shift, a transformation, a revolution – use whichever term you prefer – such as has only happened two or three times in western history and it is true that this great shift is probably comparable, to the Renaissance, say, or the fall of the Roman Empire or possibly the Enlightenment or even the Industrial Revolution in its extent, radicality and also what is enigmatic about it that for those who are experiencing it. There is a radicality in what we are experiencing which is the source of that feeling which sometimes assails us that all resistance would not only be useless but ridiculous. I intend to deconstruct, if I may so express it, this feeling of ridicule which is paralysing us and which indeed paralyses us all the more because it is exploited day after day by talk of flux in which all desires and all ethical or political voluntarism is in general described as some kind of residual archaism.

## Three revolutions

I think that, in reality, if this feeling of ridicule sometimes brushes against us, it is because we are evolving in a way which is quite widely unforeseen. To put it another way, for ten years or so now things have moved faster than their conceptualization. Thus I offer you my own interpretation, which will perhaps help us to shed light on the problem. I think that, unlike previous important developments, we are now experiencing three revolutions at the same time, to put it simply, and though we just about know how to interpret, interrogate or criticise these three revolutions separately, we have not yet learnt how to think about them all together. And yet, the fact that they make up a system is the crux of the problem. And the difficulty, the possible effects of domination or dehumanization which we have before us, come from the combination of these three revolutions which are nevertheless individually easy enough to describe.

The first is, of course, the economic revolution which is widely connected with the collapse of communism. This is what changes the radical economic paradigm. We could call it internationalization or globalization but let us say that this first economic revolution

irrefutably carries within it the dismissal of politics. I will not go into the details of the analysis of internationalization which would lead us too far, but the possible danger of this is, of course, what might be called democratic dispossession, the fact the politics quite simply loses the capacity to act on things and act on society's choices. Politics is dispossessed in favour of impersonal and mechanical rules which are those of the market-place, for example.

The second revolution that we are experiencing is what we could call the digital revolution, which is not just the computerization of societies; this is not just the amusing aspects of the Internet, but also an ideological phenomenon, a way of reassessing, undermining and eroding concepts as fundamental as space and time. The advent of cyberspace is the emergence of a new continent towards which the majority of human activities are moving, a continent which we have so far not learnt either to tame, control, civilize or humanize.

And then the third revolution is, of course, the genetic revolution, which once more calls into question certain fundamental concepts such as, for example, our ability to intervene in the human species itself, what Pierre Legendre calls the genealogical principle, our relationship with reproduction and our relationship with the very definition of a living being.

Delving into the extensive corpus of books which have appeared on this subject, I feel frustrated by the fact that basically each one of us only deals with one aspect of this global revolution and that we do not pay enough attention to the fact that each of the aspects constantly interacts with all the others. For example, one can discuss the relevance and importance of ethical committees. It seems to me that that is not quite the whole problem. The problem is that, in reality, decisions taken by the ethical committees are generally subverted by the laws of the market-place. The questions which are raised and examined, often seriously, by the members of the ethical committees, whether it be the French, European or other ethical committees, the questions which are properly examined – even though it may be thought that this is done in a questionable manner predominantly by scientists and thus with a tendency towards scientism – the fact remains that the majority of these questions are in general decided externally, simply by considerations of profitability. Although tomorrow, if it transpires that there is a market for human cloning, humans will be cloned whatever the decisions or recommendations of the ethical committees. We have here quite a clear illustration of the fact that it is not the genetic revolution *per se* which is the problem – it does, of course, make significant promises – it is the fact that for a long time its conduct has escaped democratic reason or what used to be known as academic validation. In addition there are a number of texts which have appeared in the United States on the authentication of scientific research itself. The fact that, from now on, the majority of researchers in the field of genetics are quickly becoming businessmen in the context of their own discoveries and that, consequently, they are influenced in their research, I am not saying just in the application of their research but in the direction of their research, they are influenced by imperatives which for a long time now have been those of profitability rather than those of knowledge.

One could go on and on with examples which would show that each time the problem arises from the interaction of these three revolutions. Take another example: while we are legislating – with difficulty, and moreover generally outside the democratic debate, I will come back to that in just a minute – on questions such as organ donation or questions

which are now current within the context of the revision of the ethical laws of 1994 on the question of donors, etc., did you know that you can already buy organs when you want on the Internet, you can order gametes from a Californian company and in addition you can ask for a photograph of the donor to make sure that he is in good health, you will pay the California Crayoban Society, and you will pay different prices depending on whether or not the sperm donor has a high IQ.

I believe that we really have to consider these three revolutions together and extract ourselves from this type of ideological astonishment which afflicts us and which upsets me for this reason: in response to the dizzy futility of the political and of political politics, I cannot for the moment see critical thinking emerging in a coherent manner, thinking which would be able to reformulate the political aspect, that is to say to bring the political back to the fundamental questions which as I will demonstrate in just a moment are precisely those which are paradoxically escaping democratic debate.

### **The Nuremberg Code in relation to dehumanization**

Following these opening remarks, why have I suggested to you that we should reflect on the *Nuremberg Code*? It is not out of a taste for provocation or a desire to marshal in a rather grandiloquent way the spectre of Nazism as is often the case elsewhere in debates about bioethics. It is for a much simpler reason: in 1947, in the section of the Nuremberg judgement which dealt with experiments on human beings, a text was developed which it was later agreed should be called the *Nuremberg Code* and which was, in fact, a text which aimed at regulating future experiments on human guinea pigs. This is its technical aspect, but in the event, historically, and with hindsight, this text appears to us to be the latest of the official and solemn definitions of humanity.

I am leaving aside the few allusions that there have been in some of the original texts dating from the time when the ethical committees were set up: this was the first time that what constitutes the humanity of man had been defined in an official and detailed way, or what constituted what I call the principle of humanity by showing how it had been abused by the Nazis.

The *Nuremberg Code* is of course written in rather austere juridical language. All things considered, I prefer to quote a brief paragraph taken from the classic *If This Is a Man*, by Primo Levi, for everything has already been said in this book<sup>1</sup>.

I quote Primo Levi:

It is no longer just about death, but a mass of obsessive and symbolic details, all aiming to prove that Jews, gypsies and Slavs are nothing but beasts, muck, filth. Just think of the tattooing operation in Auschwitz, by which men were marked like cattle, of the journey in cattle wagons which were never opened so that the deportees (men, women and children) were forced to spend days at a time in the midst of their own excrement, of the official number instead of a name, of the fact that they did not hand out spoons (even though the warehouses in Auschwitz, when it was liberated, contained vast quantities of them), prisoners being supposed to lap up their soup like dogs, just think finally of the revolting way they used the corpses, treating them like some sort of raw material to provide gold from the teeth, hair to make cloth, ash for use as fertilizer, of the men and women reduced to the level of guinea pigs on whom drugs were tried out before they were exterminated.

What is being said here? Basically that there are five boundaries which define the humanity of man, at least, we were convinced until that moment that there were, and I would like to set out these five boundaries in a non-polemical way in order to define for you the field of battle. According to Alain Caillé we are in fact suffering deeply in our desire for resistance, we are suffering because we no longer know where the battle front is, we want to fight against the dehumanization of the world but we no longer know where the front lines are situated – quite simply, I would like to sketch out five front lines for you.

### Five front lines

According to Primo Levi and the *Nuremberg Code*, the first boundary is the one which separates man from the animals. Now then, did you know that the animal question has resurfaced today, and is not just of academic and scientific interest but crammed so full of ideology that we no longer know how to see ourselves or determine what the stakes are. Why has the animal question re-emerged?

First of all because some of the new sciences (genetics is the obvious one but I am also thinking of ethology, founded by Konrad Lorenz) have taught us things about animals which we were not aware of until today. To put it another way, our rather complacent definition of ourselves and the boundary between man and animal, this old debate which has come down through the centuries, these definitions are generally being called into question. We have learnt that animals can, to a certain extent, acquire a form of language, with up to three hundred words of sign language being learnt by the great apes. We know that quite systematic use of tools can exist, not just in higher mammals, but also in insects and birds. We know better now than in the past that there can exist animal, in inverted commas, cultures, in the sense that some populations of chimpanzees have been observed to have dietary and life-style habits which vary from region to region and which can be passed on. In short, ethology teaches us that our former distinctions between man and animal are generally obsolete and this, of course, gives rise to a well-founded ideological discourse which quite simply denies the existence of a boundary between man and animal. In modernity and post-modernity there is a fascination with the animality of man which appears to me to have been smuggled in somehow, in a certain way and has often been passed on and spread with a kind of pleasure without us quite realizing just how considerable the regressions it carries are.

To give an extreme example of this type of ideology, I shall rehearse, in a few words, the debate which arose about fifteen years ago and which you may have heard about: the famous debate initiated by Peter Singer, the Australian philosopher and advocate of deep ecology, the debate surrounding the Great Ape Project. I simply want to say to you that this debate, which had a great deal of response in the English-speaking world, is still eliciting a response here in France and is finding defenders, notably amongst the ecologists, this debate is terrifying. Have you read Peter Singer carefully? If you have not read him, then I recommend that you do. What does he say? He says, in a direct challenge to the *Nuremberg Code*, that we humans exhibit a kind of egoism in the way we reserve the privilege of human rights for ourselves but refuse those rights to animals. The Great Ape Project is a militant demand which aims to extend the declaration of human rights to

chimpanzees, gorillas and orang-utans till something better comes along. Of course it is a terrifying discourse. The codicil, dare I say, is even more terrifying since I have found this sentence calmly written by the pen of Peter Singer: 'There is less difference between a man and a great ape than there is between a sane man and a mentally handicapped man'. To put it another way, the boundary should not be drawn there, it should be drawn between a normal man and a mentally handicapped one.

This was the first field of battle, if I may call it that. The second field of battle: what does Primo Levi tell us? He says: 'There is a boundary between man and machine'. It is a significant debate which refers us to everything that is happening in the cognitive sciences. Do not think that cognitivism is free from ideological considerations, even if we cannot see them any longer. In the desire of scientism, which is actually a revival of a rather out-dated scientism, to reduce the functioning of the human brain to that of a computer, to integrate man systematically with machine, there is from my point of view an ideological approach which is worth decoding, questioning, challenging and fighting.

The third boundary: Primo Levi tells us, by alluding to the use the Nazis made of the corpses of the deportees: 'Man is not a thing'. The third boundary is the one which sets us apart from things. And yet, you know, the whole debate on the patenting of life, the whole debate about organs is actually directly concerned with whether or not a human being is a thing. As far as I am concerned, I am astonished that this significant debate has not been seized by democracy and is taking place without our knowledge. Must I remind you of the European recommendation of 1998 on patenting the human genome, that is to say in effect Europe's agreement to patenting as a result of pressure from the bio-technical lobby, and therefore to patenting of the genome to which even the Americans had not consented? Remember that this resolution had been voted by the European Council or the European Parliament, that it was to be incorporated into national law in August 2000, and that each country, for the moment, has refused but it has dropped out of the democratic debate.

Remember too that the revision of the bio-ethic laws, this very significant debate, was to have taken place in spring 2000, and that it was first put back until September and then, you know, put back until after the presidential elections. To put it another way, whilst we have important democratic elections before us, we will discuss the Trotskyist past of Monsieur Jospin, but we will not discuss whether or not human beings should be reified. There is a democratic dysfunction here, to put it bluntly, which I am astonished has not come in for greater condemnation.

I will just mention the other two boundaries which are not referred to explicitly in the *Nuremberg Code*; the first is the fact that man cannot be reduced to a collection of organs. We are not alert enough to the attacks to which psychoanalysis is subjected these days by neuroscience or purely scientific neuropsychiatry. To put it another way, we do not pay enough attention to the fact that the symbolic, that is to say what makes us human, is being quietly dismissed. In the alarm calls that Pierre Legendre<sup>2</sup> has been making for a long time now, and that are sometimes obscure, I admit, there is something which is not being heard and which seems to me to be tragically serious.

The last boundary on which I could, of course, have elaborated for some time is what may basically be called 'man in the process of disappearing'. A discourse of the renunciation of the 'I' is circulating today, a renunciation of the subject which is not the replication of Foucault's subject from twenty years ago or of postmodernity, but which is a discourse

rooted in science. The subject: the same old thing; the subject: the same old archaic thing. If you read the work of Francesco Varela (I had a lot of time for him, and he has just died), if you read certain pages, which are in my view the rantings of social biologists, like those of Dawkins on the selfish gene, that is to say they are about the fact that basically the subject is challenged to the advantage of the genes which use him merely as vehicle by which to reproduce, you will see that there exists today an exhilaration in the negation of the subject which nevertheless plays no small part in the fascination for Buddhism shown by some scientists, including Varela. And yet the theory of not-oneself seems to me to be quite tragically serious because it leaves out one central question: if there is no more man and if there is no more subject, how can we continue to talk about human rights? And if we are convinced that man is nothing more than a computer, what will we do in the future in order to explain that it is still more serious to kill a man than to switch off a computer?

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Translated from the French by Rosemary Dear

## Notes

1. Primo Levi, *Si c'est un homme (If This is a Man)*, Paris, Robert Laffont 1996. (See p.258–9 of the *Appendix*, written in 1976 for an academic edition).
2. Pierre Legendre: amongst others, *Dieu au miroir. Etude sur l'institution des Images (God in the mirror. A study of the institution of images)*, Paris, Fayard 1994.