

Soul-like Law

On the joint essence of rights between human beings, animals, and robots

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Abstract:

What is that thing in human beings, animals, and robots to which legal rights accrue? It seems that right is a soul-like notion rather than a spiritual concept or a bodily one. We hardly perceive or even introspect the spirit of the things, and there is a lost ring between the rights of live matters and the rights of dead bodies of the objects. However, the soul is not a body-free concept like the spirit and not a body-oriented notion as solid objects; it is an interval between the terrestrial body and the celestial spirit. We can adequately introspect and even perceive the presence of the soul when we are suffering bodily pain. The article introduces the eyes as the objective criterion for the soul. So, every soul-like creature with both eyes, like a sentient animal, has human-like rights. I mean by the eyes the exact organ that we patently see on the face of the creature and utterly perceive that it is watching us. Therefore, the embryo in the twelfth week, whose eyes have been completed, has to be considered a competent person to hold legal rights. Moreover, an animal and even a robot whose look at a human being is obviously perceived as a human-like look have at least the right not to be annoyed.

Key Words:

eyes, rights, spirit, body, soul, animal, embryo, robot, common sense

1. ...That is the question

Some legal legislative texts recognize the birth of a human as the beginning of his competence to rights (Article 956 of the Iranian civil code). However, the damage to the embryo before the birth is a sufficient cause for civil responsibility and criminal punishment, and the will for this unborn existence is legally binding. So, it seems that a human being is legally venerable even before his birth as if he is a complete human. However, the birth of a human has always been through a well-known process: the intercourse between husband and wife, and birth of the child through natural childbirth. When the cesarean section appeared, nobody doubted the humanity of Rostam or Julius Caesar whose births were through this method as in the story and history. It had been absolutely accepted that the children born by this surgical procedure have to be undoubtedly considered human beings precisely as the children born by natural parturition. Nevertheless, when other bizarre birth methods emerged, a question was broached for the first time: does the child born by artificial insemination or sperm donation have all rights acquired by ordinary men and women? Nowadays, cloning and the invention of human-like robots have put lawyers in a legal check; the problem here is how these intelligent beings could be really or legally considered human and given the same rights other ordinary men and women have.¹ Are they a kind of reality in the universe or a sort of untrue metaphor in the multiverse? The philosophical intricacy inherited in the concept of reason as in Descartes and Kant's theory has caused the spirit, as an equivalent to universal reason, to be the keystone of right in the opinion of some jurists. The others following Merleau Ponty or Pierre Bourdieu's embodiment theory emphasize the human body as the very phenomenon that deserves rights. This article seeks a plain answer to these hard questions by finding the soul of the phenomenon to which we desire to accrue rights. The answer is that if we can speak of the soul of such a being, then we can consider him/her/it an entity that deserves rights. However, the soul is hardly approachable and maybe the critics assimilate it to the spirit in their ambiguity. Therefore, the eyes have been propounded as an objective signifier of the invisible soul. If there is a production process of human beings in the production line of a factory, we could talk about their legal rights as other human persons provided that we could maintain that they all have the soul. So, to be a human or not to be a human is not a complicated legal problem; to have a soul and eyes or not to have a soul and eyes, that is the question.²

¹. For a classic debate on the robots' problem see: Mortimer Adler, *The Difference of Man and the Difference It Makes*, Fordham University Press, 1967, p. 240.

². See: Hassan Jafaritarbar, *Toward the Window of the Eyes*, Legal Researches Review, Shahid Beheshti University, n. 62, summer 2013, pp. 131-161.

2. It is considered a human

Our question is on human rights not on his existence. If we are not the creator of the human, we are the establisher of his rights at least in the opinion of many philosophers. A certain human being is factual and concrete, whereas his rights are completely subjective and abstract. In other words, A as an existent is really existent in the real universe, while the rights of A are completely abstract i.e. A's conventional rights are what are metaphorically assumed to be its rights. Hence, a human being is an existent who really eats, drinks, sleeps, and breeds but his right to eat, drink, sleep, and breed is a subjective concept constructed by others. We hardly recognize the reality of the existence of humankind, while we likely understand the entitled entities because we are the creator of the concept of entitlement. In other words, sometimes we ask: who is a man as an authentic existence, and sometimes our question is: who is to be considered a man to be granted the rights we discovered for a man. Therefore, it is a fact that a certain man who is standing here is according to law a person, while his personhood is wholly a fiction and presumption. Accordingly, not only the legal personality of a corporate entity is a concept supposed by the human legislature, but also the real personality of a man and woman is completely a subjective and non-real concept supposed by law.

The human rights granted to both real and supposed persons are wholly abstract and conventional institutions, while human beings are entirely concrete and objective entities. Some particular legal systems in the history of law did not consider any human right for the enslaved people, albeit they reckoned the enslaved people human beings. Now, we are reversely searching for a non-human being to give him the same human rights. The reality of humankind is a subject matter of theoretical and formal rationality in scientific and philosophical argumentations. However, the right of humankind is a subject of practical rationality in dialogical argumentations of law and ethics. The question here is that: is it possible to grant human rights to an existent supposed as a phenomenon entitling human rights? A biologist or a philosopher may put the chromosome or the reason as a recognizer of the reality of mankind, but a jurisprudent intends to differentiate between human and non-human from the perspective of a practical rationality. Accordingly, the lawyers contemplate naming an existent human to grant him human rights, although the biologists and philosophers do not scientifically consider that existent a human being.

3. Body, Mind, Soul, and Spirit

What existent does entitle the rights or what is considered legally a person to be entitled to the rights? Some answers conduce to the spirit as the core of rights, while some other answers culminate in the body as its center. I prefer the soul as the best subject to which the rights accrue. Soul as a faculty in human beings and some organisms makes them aware of themselves without the need to any information from the outside of their existence. There are four dimensions claimed to be recognized in a human or in an animal: body, mind, soul, and spirit. The body is the concrete material structure of an existent especially of an animal or a human being. The mind is that element of an organism, animal, or human

being that makes it able to become aware of the information given from the external universe out of its existence. Hence, an animal and a human being have the mind because they have the ability to become aware of their peripheral events by the signals sent from the outside. However, the mind has not been normally admitted for solid and inanimate bodies because they are not able to be aware of the world although they have an objective body. The soul or *psyche* is that part of the mind able to be aware of itself without the need to any information advised from the outer.³ Thus, this is the soul part of a human being that feels pleasure or sadness, and experiences hope or despair because he does not need to be noticed of this kind of information via others. The spirit is the controversial and non-physical part of a person to which everyone joins after his death. The difference between soul and spirit is that while every animal or human may have its especial soul allocated to that and differs from the other's soul, the spirit is single and unique in which all the creatures are shared. The tendencies, wills, and wishes of one's soul are contrary to or even opposed to other's wills and wishes, although the unified spirit of the world is single and held in common by all the existents. Spirit is the natural ally of reason in the belief of Socrates⁴ and both reason and spirit are also interchangeable in the opinion of some Iranian Islamic philosophers like Shahab al-Din Suhrawardi (1154-1191).

4. The spiritual and embodied right

Many Islamic penal codes state a penalty for offenses to the body attends the spirit (Iranian penal code, Articles 306, 556, 716, and 720). It seems that this attitude to the relation between body and spirit is under the influence of some mythical idea in the philosophy and teleology that considers the spirit as the essence of human being and the actual place of his rights. This archaic idea has been reflected in Kant's philosophy that since animals are not rational, we do not have any direct ethical obligation toward them.⁵ Moreover, it seems that his philosophy allows entrapping the wild animals by deceiving them because they are lacking the rationality. The problem with this idea, apart from the affinity between mind and reason, is that it may conduce to the refusal of rights for the existent seems devoid of reason and spirit. According to the mysticism of Rumi (decd. 1273) if human being is human being, it is merely because of his wisdom not because of his visible body, bone and

³. Of course this is a strict interpretation of the word soul. The soul and spirit are used interchangeably in so many texts; for example, see: Paola Cavalieri, The Animal Debate, in: Peter Singer, *In Defense of Animals*, Blackwell Publishing, 2006, p. 55.

⁴. See: Rachel Singpurwalla, Why Spirit is the Natural Ally of Reason, in: Brad Inwood, *Oxford Philosophy in Ancient Philosophy*, vol. XLIV, Oxford University Press, 2013, p. 41.

⁵. see: John J. Callanan, and Lucy Allais, *Kant and Animals*, Oxford University Press, 2020, p. 3.

skin.⁶ Najm al-Din Razi (1177-1256), in his book *Mersad ol-Ebaad*, says you cannot ever find a nethermost abyss lower than a human body.⁷ This idea is highly susceptible not to admit rights for three sorts of living: first, a man who believes in a subject matter that the political authorities consider heretic, absurd and irrational. Second, a human being with a more minor degree of intelligence like the persons with infancy, insanity and lunacy. Third, the animals which are strongly considered unwise and irrational creatures.

Some other thinkers, avoiding the above triple doubts, believe that this is the human body that is the center of rights.⁸ Maybe this is the core of the theories like sociology of the body, the theory of embodiment and embodied cognition in the opinion of Merleau Ponty, Pierre Bourdieu, Paul Ferdinand Schilder, and Michel Foucault. Foucault concentrated on the relation between politics and the body, and Bourdieu believes that we do not have a body; we are nothing but the body. The pathology of this idea is that it may consider the fetus and embryo as a creature that does not deserve rights because their body is not objectively complete before birth.

5. Besouled right

Soul or psyche is the association of body and spirit. Maybe someone considers the body a thing of inferior quality and the spirit, contrary to the soma, a noble essence of humanity. Oppositely, a thinker may believe in the nobility of soma and the baseness of spirit. However, the soul is precisely a limbo between the duality of body and spirit. By the soul, we feel our emotions, enjoy and suffer and it has thoroughly both beauties and defects of spirit and body. The soul is human being with all his virtues and evils, and this is the reason why the soul in Persian literature is a synonym for life.⁹ Saadi (1210-1291), quoting from Ferdowsi (decd. 1025), says: do not annoy even an ant that carries the grain because it has soul, and its sweet life is pleasant. The materialization of the soul, unlike the spirit, needs extremely to the body, and without bodies we could not talk about souls. Besides, although the embryo before the fourth month after its coagulation has not yet been infused with the spirit in Islamic sharia, it possesses the soul and deserves to have some human rights. Rights are for souls; the solid body of a stone does not abide by the rights, and the spirit has a limited sphere for admitting the rights. Hence, the rights are soul-oriented rather than

⁶. Rumi, *Masnavi*, edited by: Reynold A. Nicholson, Mowla publication, 1988, book 2.

⁷. Najm al-Din Razi, *Mersad ol-Ebaad*, edited by: Muhammad Amin Riyahi, scientific and cultural publication, 1986, p. 66.

⁸. See generally for the body and technology: Chris Fowler, *the Archaeology of Personhood*, Routledge, 2004, p. 22.

⁹. For the suffering of animals see: Elizabeth Tyson, *Licensing Laws and Animal Welfare*, Palgrave Macmillan, 2021, p. 17

spiritual or material. Having the rights is the utmost wish of a living existent, and this is the soul in which the wishes appear.

Since the soul, unlike the spirit, is not body free, it could be recognized more objectively than the spirit. Now, if we could achieve it by presenting an objective criterion for it, then the best criterion would be selected from the human bodies and limbs. Human limbs, despite their dispersion, have an incommensurable unity and contiguity caused by an embodied essence called soul. As Saadi says in his famous poem of Bani Adam: all human beings are members of a unique body; this means that if time afflicts a limb with pain, other limbs will no longer remain painless. It appears that we can sincerely apprehend the real meaning of the soul despite the complexity of its concept. It has been said chiefly that a fetus before the completion of the fourth month has not yet any spirit, while we can easily say that it is totally ensouled; it has life and soul due to the fact that it has limbs and is actively fluttering in the mother's uterus. However, is it possible to introduce a bodily criterion for the soul? The argumentation in this field is heavily rhetorical because this is the common sense that may help us here to recognize the center of rights.

6. Soul as blood

In the midst of the struggle between the adherents of body and spirit for obtaining the basic criterion of humanity, some wise physicians have propounded the blood as the criterion for humanity. According to these wise men, man is the blood rather than the body or the spirit.¹⁰ The reader of such a theory will be assuredly confused because he probably understands the criterion of body or spirit for recognizing the human being, but he could hardly perceive the blood as the criterion of humanity. Why should blood be preferred to be the touchstone of humanity while it is only one of the multiple parts of the human body? Besides, human is not the only creature that has got blood. However, when we deliberate on the subjectivity of the speculative and theoretical concept of soul and the philosophy of leukemia, then we probably admit the blood theory as a justified standard for the life of men and women. We know how the blood cells are our life resource so that as long as these cells are in existence, the human being exists and as soon as the body lacks blood cells, he no longer exists. So, it is not so strange to introduce red blood as the essence of humanity precisely like the "green blood of chlorophyll"¹¹ which is the substance of plants.

It seems that the blood for these thinkers was the best symbol for the soul because of the firm mythical and religious relationship between the two¹² to the extent that some signifier

¹⁰ . Nasir al-Din al-Tousi, *Talkhis al-Muhassal*, by Abdollah Nourani, McGill and Tehran University Press, 1981, p. 379 quoted from Fakhr al-Din al-Razi. I hereby thank Dr. Asghar Dadbeh who reminded me of the blood theory of humanity.

¹¹ . It is a metaphor used by Iranian poet Ahmad Shamlou (decd. 2000).

¹² . see: Crawford Howell Toy, *Introduction to the History of Religions*, Harvard University, 1913, p. 12.

words for both soul and blood in Persian and Arabic languages are etymologically the same (*nafs, nefas*). This is the case with the soul especially when it has been claimed that its room is in the heart. Human's reason lies in his brain and it is the power by which he knows the world. However, soul is a spiritual ability of human being for desiring the world, and this soul is equivalent to the heart and its tendencies. In the Iranian ancient book *Yaadgaar-e Bozorgmehr*, the advices of Bozorgmehr (dec. 580) it seems that the soul is translated to *jahesh*¹³ (mutation) which also reminds the heartbeat.

Now, if we can recognize the reality of the existence of a man by his blood, is it possible to understand his personhood by his eyes? Is it possible to put the eyes as the most severe criterion of a human being's soul especially in the new world? Many new phenomena like artificial intelligence undoubtedly do not get any blood, but it is likely to say that they have a manifest sense of joy and sorrow that all could be represented by the state of their eyes. These statements are totally based on some abductive reasoning not a deductive or inductive argumentation; we mean by the abductive inference the reason yields a plausible conclusion but does not positively verify it. It is merely an abduction that the soul is the perceptive faculty of suffering and pleasure and these feelings leak out to the eyes.

7. soul as eyes

It seems that there are shreds of evidence in human culture considering the face as the conspicuous characteristic of the soul. The relation between the words person and persona is a good justification for this characteristic as the persona was etymologically the mask on the face of the actors who are all the persons. This is seemingly the case with what Giorgio Agamben narrates about the Auschwitz-afflicted prisoners when the jailors called them *figuren* not human, body nor corps.¹⁴

Moreover, chapter 6 of the first epistle to Corinthians in the New Testament asks: do you not know that your body is a temple of Holy Spirit in you, and then commends that glorify God in your body. Tracing the New Testament, there is a quotation in Islamic mysticism that states that God created Adam like his face. In Islamic sharia, the fetus before having the spirit is called the face (*sourat* or *qurrah*),¹⁵ and it is commonsensically evident that the most notable limb on the face is the eye. Furthermore, the word pupil in many languages like English, Persian, and Arabic refers etymologically to the word people. Is there a

¹³. Op.cit. P. 62.

¹⁴. Giorgio Agamben, *Remnants of Auschwitz*, translated by Mojtaba Golmohammadi, Bidgol publishing co., 2017, p. 58. Figuren means the figure but etymologically relates to the word figura which sometimes mean the face.

¹⁵. Ahmad ibn Muhammad Ardabili, *Majma al-faedah va al-borhan*, vol. 14, p. 324, and Toussi, *al-khelaaf*, vol. 5, p. 292 and 294, and Toussi, *al- Mabsout*, vol. 2, p. 150.

necessary connection between eyes, soul and right? Nevertheless, my claim is that who possesses a hominid eye possesses the right.

8. Why the eyes?

The eyelike right theory seems almost more physiological than spiritual or metaphysical. The concept of the soul is closer to the body rather than to the spirit, as Spinoza believed that the human mind is nothing but the idea of his body.¹⁶ We have a substantial physical experience of life and soul, but the spirit is a mysterious concept admitted by some religious or mystical experiences. However, the thesis may be criticized by this question that why the eyes should be the only symptom of having a soul? We can go back and single out the sperms for such a representation, or proceed forward to the special time of the fetus when its brain is completed and choose it as the symbol of the soul. In response to this criticism, we have to point out that sperm or ovule, in an especial view, may include some significant degrees of human or animal being so as some mysticist surpassed this claim and declared that even a single sperm is completely a human. Moreover, in Islamic law, there is blood money (*diya*) equivalent to ten or twenty drachmas defined for the sperm disposed of in a voluntary or compulsory coitus interruptus. However, it seems that common sense shrinks from this exaggeration and does not believe in the human character of a pure sperm. The ancients supposed the sperm as a dead seed, but today many people know scientifically a lot about the living organism of sperm. However, they hardly consider the sperm as a legally accepted person due to a lack of something unknown about the personality and humanity. Suhrewardi likens the sperm to the vapor stating that though the vapor is genuinely the drops of water, we cannot see the water in the strict meaning of the steam. Sperm may also be considered a human, but there is a complete difference in the commonsensical perspective between the actual human as a man or woman and the potential human in a sperm. Whereas the believers in spiritual right theory had principally no objective sign for coming spirit into the fetus, they have occasionally introduced a complete body-oriented criterion for this entrance: the fetal fourth month. Now the soul-like theory of the rights proposes the eyes as the best pattern for the soul. These are the eyes, as the most bashful limbs in the body, which make the dogs closer to the human being than the insects. Furthermore, the shame inherited in the eyes makes the citizens more civilized in Erving Goffman's theory of "civil inattention". According to Goffman the brief eye contact with an approaching stranger makes us both to acknowledge their presence and to foreclose the possibility of more personal contact or conversation. Besides, in Nezami's romance of Khosrow and Shirin, when Khosrow sees the naked body of Shirin swimming in the pond, he looks away from her; another example of the association between shame,

¹⁶. Brian Magee, *The Great Philosophers: An Introduction to Western Philosophy*, Oxford University Press, 2009, p. 105

eyes and civilized love.¹⁷ Moreover, the human eyes in Dostoevsky's *Idiot* and the eyes of Pot in Sadegh Hedayat's short story of *stray dogs* are all authorizing us to conclude that this particular limb has this competence to be the symbol of the life and soul.

Of course, the establishment of one fact does not negate the unmentioned facts. So, offering the eyes as the best symbol of the soul does not mean that there is nothing else that has this ability to represent the soul. The thesis of this article is that any living being with a human-like eye is entitled to have the most fundamental human rights, especially the right to life and the right to freedom from oppression. The theory of anthropocentrism denies the extension of human morality to the universe of animals as it is illogical, impossible, and even immoral.¹⁸ Mortimer Adler believes that the equality between humans and other animals jeopardizes human dignity, and dignity is the equality of all men and women in their difference with animals.¹⁹ However, one could consider Kant's categorical imperative and issue this rule that nobody could morally change the life of a living creature to a mere mean for the others life.²⁰ I think that a living creature with visible eyes on its face should be legally seen as an essential purpose in itself not as a mean for the others.

9. Reduction of the right

The admission of the soul as the more critical sign for the right and the acceptance of the eyes as the best criterion for the soul have a semi-intuitional and psychological foundations rather than a philosophical and scientific one. This is a suggestion for giving the rights to a living being sooner and more extensive than the domains offered by actual legal texts. The suggestion is corresponding to common sense. Afdal al-Din Kashani (13th century) introduces the sixth day after fecundation as the date of creation of the soul, but it seems that common sense does not show any sympathy toward such an offer. But the eyes and the soul of the bulls encourage us to protect them from the cruelty exerted on them. The animal protectors hardly criticize the laws and ethics for not adhering to the rights of oysters, flies, or millipedes whose eyes are not evidently seen by the spectators. The mosquito may have a complicated sight system observing us perfectly but we could not vision its eyes easily and, therefore, we could not feel that we are being watched by the insect. Most people easily kill a fly whose eye could not be seen by their naked eyes, while they could not kill a cat, dog or a lizard that looks by its penetrating eyes into the eyes of

¹⁷ . I have to appreciate Neda Behsan the Ph.D. student of Persian literature at the University of Tabriz who remind me about the point in Nezami's tale.

¹⁸ . See: Guthrie, R.D., Anthropocentrism, in: Sterba, *Morality in Practice*, Wadsworth, 1997, p. 451.

¹⁹ . see: Lesley Rogers and Gisela Kaplan, All Animals Are Not Equal, in: Cass Sunstein, and Martha Nussbaum, *Animal Rights*, Oxford University Press, 2004, p. 175.

²⁰ . see: Paul Taylor, the ethics of Respect for Nature, in Sterba, op.cit. p. 468.

the potential killer.²¹ This is the reason why the advocates of animal rights try to endow the great apes and the chimpanzees with legal personhood. Moreover, for this reason the executioner of the sentenced to death normally blindfolds his eyes; it is not for a pity for the sentenced but for avoiding the fear of the executioner when the man gazes to him.

Maybe there is a kind of reductionism in soul-like rights because we reduced the entitlement of rights to holding the soul, and reduced holding the soul to getting the eyes. There may be a day in the future when the human will perceive the penetrating look of a fly; then new rights will surely be coming to be respected by humanity. Until that time we have to be contented with this rate of rights that accrues to the soul and the eyes because we are not yet respecting completely the soul-eyed existents. It seems that we could not collect all the facts and rights in our short time of life, but we should not lose what we can save of the facts and rights in this little opportunity. It is too soon for accruing the rights to all organisms, but it should not cause us to move on the immaculate eyes of rightful animals and human beings. For the time being, let us recognize the creature's rights with seeable eyes and, in the interim, we have to extend our legal glance and maintain the rights of insects and flies.

10. Dog is human

We do not make any difference between the terms person, human and the creature deserves the rights despite Peter Singer's theory of *personism*. According to the soul-like theory of law rights accrue to creatures we "consider" them human-like. The reason of this consideration is its soul, and the best objective standard for the soul is the eyes. So, from the perspective of the rights, there is no difference between human, animal, and person as long as they have a sensitive soul and eyes.²² It does not mean that a dog is a human being and a person in reality, but it means that we have to give a dog the rights and legal identities it needs precisely as a person and human.²³ Besides, we have endowed the corporations with legal personality they need because the right is nothing but an abstract concept created by human being.²⁴ So, we supposed that corporations have the right to own properties and enter into contracts with others. However, a corporate does not have the right of marriage or inheritance because we, the creators of the rights, did not feel its need for marriage or

²¹ . For the immorality of killing the animals see: Peter Singer, *Practical Ethics*, Cambridge University Press, 1999, p. 83.

²² . For the meaning of person see: Peter Singer, *Rethinking Life and Death*, St. Martin's Press, 1994, p. 180.

²³ . For legal identity see: Charles Foster and Jonathan Herring, *Identity, Personhood and the Law*, Springer, 2017, p, 43.

²⁴ . for legal personhood see: Visa AJ Kurki, *a Theory of Legal Personhood*, Oxford University Press, 2019.

inheritance. This is the human being who feels the necessity of the rights for him or for other parts of the world. By development of the corporate groups people may feel, once upon a time in the future, the corporations' need for motherhood, sisterhood, and heirhood. In this case, the corporations do not convert to the human in the real world but the human rights, which are all supposed by them (constructionism), are metaphorically bestowed upon the corporations. Hence, the corporations are legal persons not real persons, and this is human being who supposes the corporations as human to have some rights. This is the case with animal rights. So, soul-like law does not necessarily proscribe speciesism which assumes the human individuals as different species and morally more important than other species.²⁵

Therefore, a dog that has soul and eyes is ultimately a human and also a person but only in legal meaning, not in a biological sense. This is the human beings who at last should recognize the needs and rights of the dogs exactly like the needs and rights of corporations. Moreover, this is the human beings who at last should respect the rights of the dogs exactly like his respect to other human beings or corporations. Ultimately, the courts are so effective in this respect.²⁶ It suffices to respect the dogs' life and protect them from torture, starvation, thirst but they do not need to be a manager of a company. Furthermore, the corporations do not need to the right to food but they need to be the manager of some other corporations. Admitting a single right does not lead to admitting whole rights on a slippery slope reasoning. However, if all human rights are bestowed upon a corporation or a dog, the corporations and the dogs are completely "as" human and person not human and person. Notwithstanding, if law says that dog is human, there is a latent metaphor in the structure of the expression.

11. Fundamental rights and soul

If law is soul-like, it requires the fundamental human rights to be recognized by a soul-like criterion, not by the referendum or other so-called democratic elections. The soul-like criterion of fundamental law is common sense and this is somehow perceived by the Golden Rule. In other words, democracy is not applicable to fundamental human rights and, therefore, a referendum on the legitimacy of the torture is invalid even if the majority of the voters give all permission to the authorities to operate the torture. The soul of human beings and animals does not accept the torture and no majority is entitled to alter its obscenity into elegance. Common sense, as a soul-like sense, does not allow cannibalism even if the voters select its correctness in a referendum. Jean Jacques Rousseau despises the legislative representative in the parliaments because one cannot represent anybody else

²⁵ . for speciesism see: Peter Singer, *Animal Liberation*, An Imprint of Hoper Collins Publishers, 2002, p. 185

²⁶ . See e.g., David Favre, *The Future of Animal Rights*, Edward Elgar, 2021, p. 143

to explain his wills and tendencies, just as nobody can express the other's consent to sexual intercourse. However, Rousseau ultimately accepts the generality of the legislative representative when the subject of the representation is impersonal. Although Rousseau's wording is somehow vague, it seems that it is not possible for the legislature to legislate something contrary to the fundamental rights of citizens, even though these rights are entirely considered personal. This is the case with the legal topics, legal postulates, legal principles and legal archetypes that have been historically accepted by the soul of people as their fundamental rights, not by a democratic elective process. In this manner, it seems that the territorial entity of a historical nation state as well as its mythical and historical form of government should be perceived by common sense in soul-like legal system.

The struggle on how should people behave with the human bodies after death has a comprehensive history that shows the mysterious aspect of a dead body still looking with its open eyes into the corner of the ceiling a short time after his death.²⁷ It is possible to apply Heraclitus's recommendation and throw away the corps just like the dung, or bury it, which is the subject of the tragic battle between Antigone and Creon, or believe that all these rituals are legal ways of respecting the body not moral ones.²⁸ However, the soul-like theory is anxious rightly about life, not before or after life. Therefore, if there seems to be a right for a dead body after death or an embryo before to be ensouled, this is undoubtedly because of a legal fiction. According to this legal fiction people metaphorically respect the body after death or before having the soul because of the soul it already had in the lifetime or will subsequently have after the birth. The soul is inclined to be a posthumous phenomenon that likes to be respected even after the death just like the works of a dead writer which are published after his death, or like a child born after his father's death.

Conclusion:

The article proposes the soul of an existent as the core of its rights, and the conspicuous eyes of the existent as a critical evidence for the soul. Therefore, the dogs and the fetuses in the twelfth week and the dogs and robots are all persons and even humans that are entitled to have rights. There is no difference between a human being or any other persons from the legal point of view. We decline to name the corporations without souls and eyes person not human, but we may like to name the dogs and robots with soul and eyes human. When law considers a corporation or a dog or a robot as a human, it means that these phenomenons are legal persons and even legal humans; it does not mean that they are biologically human and person. When you call a corporation person, it means that it could legally possess the human rights that you think it needs. Hence, a corporation is legally

²⁷ . See Maurice Maeterlinck's the Blue Bird and the traveling from the ceiling.

²⁸ . Agamben, *supra* note 13, at 89.

considered a person as well as a human, and this does not require the real humanity and personality of that company; this is the case with the dogs and the robots.

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