

## “LAW’S LABOUR’S LOST? THE RACIAL LIMITS OF THE HUMAN RIGHTS PROGRAMME”

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FERDINAND (...)

The endeavor of this present breath may buy  
That honour which shall bate his scythe's keen edge  
And make us heirs of all eternity.  
Therefore, brave conquerors,--for so you are,  
That war against your own affections  
And the huge army of the world's desires,--  
Our late edict shall strongly stand in force:  
Navarre shall be the wonder of the world;  
Our court shall be a little Academe,  
Still and contemplative in living art.  
- William Shakespeare, *Love's Labour's Lost*, 1594-1595

In the play, King Ferdinand and his Lords pledge not to give in to ‘world’s desires’ and fail. We know why and how they fail; we know the story of their failure to keep the “little Academe’s” statutes they signed; and we also know that, at the end, they are held prisoner to another oath, an oath of love. When considering a particular moment of Law’s labour, of law as “love”: namely, the workings of human rights instruments in the global present, one cannot avoid the question of whether or not it sustains the pledge implicit in both renderings of law’s transcendent-immanent being, namely Hart’s formalization of legal positivism or Dworkin’s rewriting of law in morality. In other words, how law’s claims to universality, which enables its dual being – which, in Hegelian terms, would correspond to the moment of ‘true (or concrete) universality,’ when human (self-) consciousness and the its social institutions actualize ‘Spirit’ -, can be sustained in the global present? Is it, as earlier racial critiques of the law postulate, global legal practices and subjects, always already pre-determined by a particular group, white/Europeans’ ‘world’s desires’ -- the racial ‘affections and inclinations’ -- that undermine their pledge to universality?

When exploring the ethical limits of the human rights programme, I begin with the promise suggested in Fitzpatrick’s re-conceptualization of the concept of law, in *Modernism and the Grounds of Law*, that is, in his writing of law’s labour in ir/resolution: because “to rule it has to be able to do anything, if not everything. It cannot, then, simply secure stability and predictability but also has to do the opposite: it has to ensure that law is ever responsive to change, otherwise law will eventually cease to rule the situation which has changed around it” (71) – a statement that I read as a re-writing of law as productive violence. With alibi I move to a racial critique of human rights that engages the global present as a postcolonial scene, a social (economic, juridical, and moral) configurations that actualize a conception of universality that has never comprehended the “others of post-Enlightenment Europe.” The desire here is not so ask the formal or substantive (moral) formulation of law to shed the veil of ‘pure universality’ but explore whether and, if so, how the promise of Fitzpatrick’s reformulation of law in/as savagery can guide re-writings of the effects of earlier ethico-political ‘world’s desires’ (colonialism, slavery, etc) in the present global configuration.