

*Antonella Besussi*

### **The double nature of truth**

This comment focuses on the notion of alethic rights, showing the difficulty to formalize their normative and juridical role. As emphasized such a difficulty depends on what Franca D'Agostini rightly defines as “the double nature” of truth, both an unwaivable and unenforceable claim.

*Franca D'Agostini*

### **Alethic rights**

The aim of the article is to inquire into the idea of ‘alethic rights’ (AR), i.e. rights that involve truth, suggesting what these rights could be, in which sense they are specific rights, distinct from other fundamental rights, and how they can be preserved and safeguarded. The notion of ‘AR’ is implicit in many governmental commitments ratified by international customary or written law, but not explicitly mentioned in any official document. The expression itself, ‘AR’, is not used in human rights theory or philosophy of law. The «right to (know the) truth» has been theorized and defended, recently, in many occasions and contexts, especially with reference to the overthrowing or fall of totalitarian regimes, or in cases of manipulated and distorted electoral debates (such as in case of Berlusconi’s or Trump’s populisms). However, there is no specific treatment of AR in a detailed way and in a philosophical perspective. I try to provide an accurate account of the possibility conditions of a theory of AR not limited to the generic appeal to truthfulness or honesty (of politicians, or people working in the media), and

aware of the problems connected to the use of the conceptual function we call 'truth'. I have moved from the idea that the notion of truth is not at the basis of one simple right (the «right to know the truth»), but opens an entire field of analysis or a «system of rights», significantly including many different aspects of the associated life. Hence, I have distinguished three couples of AR, respectively related to: information, science, and culture: 1-2. The right to know the truth and the right to be in the condition of knowing the truth 3-4. The right to be considered a reliable source of truth and the right to dispose of reliable official sources of truth 5-6. The right to live in "alethic societies", where public truth is promoted and safeguarded, but there is general awareness about the importance as well as the extreme frailty of the conceptual function we call 'truth' for human life in democratic contexts.

*Alessandra Facchi*

### **Truth as a collective interest**

Assuming the truthfulness in political and institutional relations as a collective interest, this comment focuses on some implications, from the perspective of legal theory, of the statement of a general right to the truth. The author considers the conditions of its assumption as a fundamental right and discusses several aspects of the alethic rights proposed by Franca D'Agostini.

*Maurizio Ferrera*

### **The alethic spirit of liberal democracy**

In agreement with D'Agostini's argument, this note subscribes to the idea that political sphere must protect truth. Especially in democracy, truth must act as the constitutive rule of public discourse and the political process. The discussion on alethic rights helps to grasp and emphasize the importance of both points. However, the note raises some perplexity about the feasibility and effectiveness of this new class of rights and suggests to widen the reflection on other possible solutions. More specifically, these strategies could also be considered: 1) to strengthen the alethic dimension of certain existing citizenship rights; 2) to strengthen or create exogenous alethic institutions, intended as structures for the production of politically relevant knowledge inspired by "V function" as a conceptual norm (rejection of false assertions and false beliefs) and epistemological norm (search for truth as an institutional purpose); 3) create incentives that systematically link the alethic

institutions to the political ones, encouraging the latter to being receptive and responsive to the former.

*Anna Elisabetta Galeotti*

**The difficult coexistence between truth and deception**

The author acknowledges the importance of truth for individual and social life; however she doubts that a) the concept of truth that D'Agostini proposes is the right one to support the alethic rights; b) that the alethic rights are the right tool for the defense of truth. She thinks that in some cases truth is best defended by the duty of truthful information, while in other cases, the alethic right is redundant. Finally, she argues that the social and political value of truth is better understood as a regulative ideal than as a collective right.

*Andrea Spagnolo*

**Offshore law: The tension between the universality of human rights and the practice of states in the management of migration flows**

Some months ago, on the 9<sup>th</sup> of August 2016, The Guardian published an article titled "A short history of Nauru, Australia's dumping ground for refugees". That piece opens the "Pandora's box" of the treatment of refugees wishing to enter Australia, shedding lights on the harsh life's conditions they suffer. Unfortunately, this case is not isolated; indeed, it represents a widespread practice. States are more and more incline to manage migration flows outside their territories creating hotspots where asylum seekers are processed or concluding agreements to stop the fluxes of migrants in States of transit or, directly, in their States of origin. Such a practice is evidence of a shift towards an extraterritorial enforcement of law. It appears clearly that the externalisation of the management of migration flows undermines the protection of the rights of asylum seekers on several grounds. In fact, as anticipated above, the life's conditions in the hotspots are tantamount to inhumane treatments that are prohibited by international law. At the same time, the practice consisting in blocking migration fluxes in foreign States might constitutes – among the others – a violation of the principle of non-refoulement. At first glance, this might be surprising as the above-mentioned rights belong to a category of rights considered to be of a customary nature, therefore binding on all States of the international community. This could be even more surprising if compared to the jurisprudence of the European Court of Human Rights (ECHR) which is evolving toward a generous ap-

proach to the extraterritorial application of the European Convention of Human Rights (ECHR or the Convention). An approach that is likely to influence the interpretation of other human rights treaties which application is not geographically limited. The paper argues that there is a growing tension between the reach of human rights law – that aspires to universality – and the conduct of States, which is based on legal decisions that openly violate human rights law. After having presented the practice of States and the limits posed by human rights law, the conclusive argument of the paper is that more attention should be paid to the enforcement of human rights law than to expanding its reach.