

# Utopía y Praxis Latinoamericana

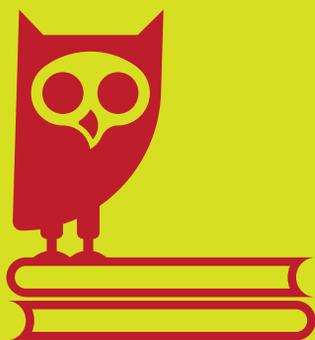
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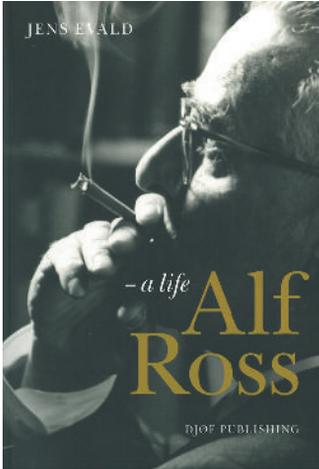
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## Alf Ross – a life

### ***A scientific approach to life***

On 14<sup>th</sup> July 1923 Alf Ross wrote a letter to his future wife, Else-Merete Helweg-Larsen, who was studying in Germany. The letter contained deliberations about the journey that he was about to undertake as part of his studies. His problem was his doctoral thesis. Alf Ross burned to study philosophy and philosophy of law, but found it difficult to get a handle on the subject.

'In a way I am tempted by a subject in the philosophy of law because it is there that great thoughts, a philosophy of life, can be found and one does not just suffocate in details. But such a study has never been written in Denmark. It would, literally speaking, be a new passion here. Will anybody read it? It does not "lead" to anything either. Do I dare? Can I? Am I strong enough?' wrote Alf Ross.

Else-Merete helped to focus Alf Ross' mind by assuring him that the philosophy of law was where he would best formulate a scientific philosophy of life. On 22<sup>nd</sup> July 1923 she wrote: 'Isn't a subject in the philosophy of law the best way for you to clarify your philosophy of life? So work for the idea and don't work because you want a result in the shape of a job at the university. Maybe you are better equipped for a detailed doctoral thesis, but if you really have some new, big, bold thoughts then you must also dare to present them. Strong enough Alf? Of course you are strong enough!' she wrote. It was more than a casual remark, for ever since the couple met on 27<sup>th</sup> January 1921 she had been the sounding-board for Alf Ross' detailed expositions of philosophical questions.

Alf Ross embarked on his journey in September 1923 and he and his wife would later stay in Paris, Vienna, London and Berlin. On 20<sup>th</sup> November 1923, while Alf Ross was still alone in Paris, he wrote to Else-Merete Helweg-Larsen: 'You once said something that has struck me as being very true and even though it was about myself it had not dawned on me. Namely that I, through the study of the philosophy of law, would work through my own philosophy of life. That is very true and it is that which presently gives me great satisfaction, even though the amount related to law is meagre. But how could you know? Is it something somebody told you or is it your own instinctive knowledge?'

This was the correspondence in which Alf Ross, for the first time, considered his scientific philosophy of life, which over the years developed into a mirror image of his academic philosophy, which, simply put, rested on a foundation of anti-metaphysics and a strong conviction that logic must be applied in all thinking.

The scientific philosophy of life is the source or the key for an understanding of Alf Ross' actions, both as an academic and as a husband and family man. The scientific philosophy of life was his fundamental norm, his existential starting-point, which provided direction in his life and upon which he based his views and his theories. The scientific philosophy of life became a fundamental trait in Alf Ross' life and it became his private 'normative ideology' and therefore also a yardstick for his life, both academically and privately.

Academically, it meant that Alf Ross signed himself over to science, like Dr. Faustus signed himself over to the devil. 'Up until now this has been the foundation: that I felt that whatever life sends my way I have loved one thing above all else on this earth, without deceit and without consideration, giving it all my effort and sacrificing my health to it – my science,' wrote Alf Ross in 1935.<sup>1</sup> 'It is an illusion to lay plans that presuppose that I have lots of time for comfy family life,' he added in 1957. Ross had an endless faith in the authority of science, its explanations and its infallibility. 'Throughout my studies I have felt this more and more behind all the detail: to penetrate and virtually face the very riddle of our life,' he wrote to Else-Merete Helweg-Larsen on 11th November 1923. Later in life this almost limitless respect for science as authority made some American reviewers characterise Alf Ross' philosophical thinking as 'scientism'.

Privately, it meant that throughout his life Alf Ross tried to solve even his marital and emotional problems through his scientific philosophy of life. He was not always successful. It also meant that it was often difficult for Else-Merete Ross and their children to discuss questions to which Alf Ross was convinced that he had the answer. And Else-Merete Ross, throughout her life, expressed the view that she felt intellectually inferior to, in her phrase, the 'brain man' Alf Ross. The scientific philosophy of life is therefore also one of the keys to understanding the marriage of Alf and Else-Merete Ross and why it periodically reached breaking-point. 'All happy families look alike, but the unhappy family is always unhappy in its own way,' wrote Tolstoy. The Ross family was not an unhappy family, but Alf and Else-Merete Ross were not always happy together.

## ***Law student***

Alf Ross was born 12th June 1899 in Copenhagen and his father Carl Christian Ross made a career for himself in the Ministry of Finance, firstly as an office assistant and later as a clerk. However he advanced no further, which made him very bitter. Alf Ross' father suffered with recurring depression, an illness that he passed on to his son.

Alf Ross graduated from school in July 1917 having specialised in maths and sciences, and he received top marks in all subjects. After school he enrolled as a student of engineering, but in 1918 he joined the university to study law. In 1922 Alf Ross finished his studies with an outstanding result, which astounded his fellow students. However he was not well liked: he was too condescending. Not only did Alf Ross smile when he did well but he also smiled when others performed badly. That upset his fellow students. In his diary Alf Ross wrote: 'There is something exciting about walking with growling hyenas'.

It was a common thing for law students at the Copenhagen Faculty of Law to travel to other European universities and most professors and other university lecturers had undertaken such journeys. In 1924-1926 Alf and his wife Else-Merete Ross travelled to Paris, Vienna, London and Berlin. Meeting the legal philosopher and professor of international law Hans Kelsen in Vienna in 1924 was a defining moment for Alf Ross. Another encounter in 1925 was also to be of great significance. The Rosses met the Swedes

Gunnar and Alva Myrdal in London in 1925. Gunnar Myrdal was later to become MP of the Swedish Parliament and professor of economy was to influence Alf Ross' academic approach in various ways, but his main impact was in guiding Ross towards a political alignment with the Social Democrat party. When Alf Ross returned to Denmark in early summer 1926 he brought with him his completed thesis. However, the Alf Ross who returned home was deeply plagued by illness. Alf Ross had been working so hard that he had developed a stomach ulcer. Things were to go from bad to worse when his thesis was rejected by the University of Copenhagen in 1927. One of the members of the evaluation committee was the conservative professor of law Frederik Vinding Kruse, and from that time onwards Alf Ross and Vinding Kruse were mortal enemies.

### ***Struggling years and the World War***

In the years 1927-1929 Alf Ross struggled to find his feet both academically and privately. When his thesis was rejected Alf Ross had a nervous breakdown and only gradually recovered.

With the help from Gunnar Myrdal Alf Ross got in contact with Axel Hägerström, the Professor of Philosophy at Uppsala University. In the autumn of 1928 Alf Ross went to Uppsala to study under the direction of Hägerström and to achieve a Swedish doctoral degree, which he achieved in 1929.

His Swedish doctorate only secured Alf Ross the job of teaching assistant at the Faculty of Law in Copenhagen. He had to begin again, and submitted his thesis in 1933. Once again, Frederik Vinding Kruse was part of the evaluation committee and, to tell the truth, it was a close-run thing whether the thesis would be accepted for defence. Gunnar Myrdal wrote to Copenhagen University complaining about the unacceptable treatment to which Alf Ross had been subject, in Myrdal's estimation. Myrdal's letter may have had little or no significance, but it demonstrated that the story could not be contained within the walls of the University of Copenhagen. In 1934 Alf Ross was given his doctorate and in 1935 he became a docent. He had now gained a foothold at the Faculty of Law.

In 1938 Alf Ross was appointed Professor of International Law and in this capacity he was involved indirectly in the legal aftermath of the war. There were petty and important scores to be settled and Alf Ross settled his score with professor Frederik Vinding Kruse, whom he accused of being a Nazi. Frederik Vinding Kruse was indeed very conservative and during the German occupation Nazi representatives asked him to form a government, but Vinding Kruse declined. In the end Alf Ross' action was more an expression of a personal vendetta. In the run-up to the October 1945 election for the Danish Parliament after the end of the German occupation, Alf Ross wrote an opinion piece in the newspaper Social-Demokraten in which he declared his intention to vote for the Social Democrat party, maintaining that it was the party best suited to look after democracy. In 1946 he published the book *Why Democracy?* and Alf Ross became a personality known outside academia.

### ***Golden years***

In 1950 Alf Ross took over the teaching of jurisprudence when Frederik Vinding Kruse retired and, aged 51, he had the first opportunity to expound his ideas to his students. This was the beginning of his golden years. Ross published *On Law and Justice* in 1953, which was to influence generations of law students at Copenhagen.

In 1953 and 1954 Frederik Vinding Kruse reviewed the book and characterised Alf Ross' work as a joust with windmills, arguing that the philosophical discussion had 'an amateurish tint'. Not only that, but the book was plagued by incorrect statements and by the fact that Ross now seemed to be leaving value-nihilism and to be moving 'towards my points of view'. The problem was a familiar one: Alf Ross did not reference his sources. Alf Ross reacted and called Vinding Kruse's review an offence. Disagreement between Vinding Kruse and Alf Ross was no longer news but was solely kept alive by a lifelong enmity. The new generation of law students did not know the background of the conflict, which had now been going on for more than two decades. It was, quite simply, tiresome to witness and in 1954 a young law student, Kjeld Rasmussen, spoke out and castigated the two combatants in an article entitled 'They ought to be ashamed' in the journal *Stud. Jur.* The feud between Frederik Vinding Kruse and Alf Ross had, from time to time, shaken the walls of the Faculty of Law since 1927. In 1954 Frederik Vinding Kruse was 74 years old and Alf Ross was 55 and their feud entered its 27th year. Both the feud and the enmity and the age of the combatants argued for a burial of their argument, but it never happened. It continued until Vinding Kruse died in 1963.

During 1950-1969, Alf Ross' name became indelibly connected with the Scandinavian school of realism, which in addition to Alf Ross included the Swedish law professors Vilhelm Lundstedt and Karl Olivecrona. Alf Ross' international network was now global and both the number of books and articles that were translated into the main languages of German, English or Spanish, and the fact that Alf Ross had been a part of the world of legal philosophy before the war meant that Ross was regarded as a senior scholar and treated with respect. In Denmark, Alf Ross was establishing his name both as an author and scholar and as a frequent contributor to newspapers, in which he commented on social and general issues. He was asked for legal opinions and helped draft several bills for the government and was also consulted by other lawyers. He was paid handsomely for this work. In 1959 Alf Ross was appointed as a judge at the European Court of Human Rights, a function that he undertook until 1971. In the 1960s Alf Ross had achieved what he had dreamed about as a young man: he was recognised, wealthy and famous, both within and without the country of Denmark. It was a golden time.

## ***Autumn***

Alf Ross retired in 1969, the year of the student revolt. The student revolt was directed against research, and it was in particular the positivist idea of investigation that was criticised. Positivism emphasised objective, empirically based research and the application of logic. This had meant that standpoints based on values and ideologies had been regarded as unscientific and had been rejected. From the 1930s until 1950 Frederik Vinding Kruse defended the opinion that ideology and morals were based on science. This was the idea that Alf Ross had so ferociously fought, but now this idea was once again celebrated as the true science, dressed in the clothes of the student revolt and Marxism. The idea of science that Alf Ross had subscribed to in the 1920s had been borne by socialist academics as part of a revolt against conservative trends. In this revolt, logical positivism had been one of the weapons used to fight conservative and ideological legal science. In 1968 positivism faced an equally ferocious onslaught by an equally value-oriented and ideologically inspired ideal of science like the one defended by Frederik Vinding Kruse. Without any insight into the way in which logical positivism had interacted with political life in the 1920s, students maintained in 1968 that positivism generally was conservative and bourgeois. In

the final analysis, the ideal science of the student revolt was more close to Frederik Vinding Kruse's ideas than to those of Alf Ross. The ideal of science proposed by the student revolt was based on a solid political foundation and it crystallised in the so-called materialist theory of law.

Alf Ross had an active life as a pensioner. He concerned himself with criminal law and he wrote numerous pieces. He also continued to travel, most frequently to Majorca, where he went walking in the mountains and enjoyed good Spanish wine. He corresponded with colleagues from all over the world and engaged in debate on a multitude of subjects. Else-Merete Ross' death in 1976 was a heavy blow for Alf Ross and the rest of the family. The most important thing for the couple was that they had finally become reconciled to each other. Like the elder academic lawyer that Alf Ross had become, he was honoured with both a festschrift in 1969 and Den Sandøe Ørstedske Prisedaille in 1971. Alf Ross had reached the final rung of the academic ladder, *cursus honorum*.

### ***'That was it, thank you for your attention'***

What did Alf Ross believe in? In other words, what was his credo?

'Yes, what do I believe in? I am an old man, so I ought to know, but still the question is not so easy to answer because it is not easy to know what is asked.' Thus Alf Ross began his opinion piece 'Credo', which was published in the newspaper *Weekendavisen* on 21st June 1974. In matters religious, Ross had the same idea that he had always had: namely that 'all certitude in matters religious-metaphysical is foreign to me. To think that something is true without reason is meaningless to me. We have not the least reason to believe that there is a "God" and contemplating his being, whatever it might be, quickly leads to contradictions.' In Alf Ross' own words, he had 'shaken the veil of religious dreams' from his feet and had stepped into the world with open, unafraid eyes.

But what was the backbone of Alf Ross' being? What was he in his own words, 'willing to wager his life on'? Alf Ross believed in 'the creative power of thought, imagination and will, which is expressed in the individual's effort in science, art, philosophy and politics'. Each and every one shapes his own life, 'his own person in freedom and with responsibility,' opined Ross. 'When I say freedom I mean the inner freedom, our moral self-determination, which no one can take away from us,' explained Ross. For the same reason, he believed in democracy as a form of government and hated Nazism, Communism and any other kind of authoritarian government that subjected the individual's right to speak, believe and think freely. Alf Ross believed in man's moral freedom and responsibility. 'Every choice we make, every decision we make, is our own and the blame and responsibility for it is our own.' Alf Ross argued that it was a falsehood to blame everything on society and circumstance. He was a believer in liberal economics, but not without control by society. Control was necessary because of man's endless egotism. 'I believe in man's boundless egotism – not just something big and good but as something important, a reality behind all the phrases.... Love between human beings is part of the lofty ideals that are so far removed from all reality that one must be blind to believe in it as more than a pipe dream.' He also believed in human desire for power, that is 'egotism in its essence takes the form of the pursuit of power and that means the possibility of self-expression to demonstrate your superiority and to use it to command and control the destiny of yourself and others.... Therefore I believe as little in justice as I do in love – if justice is to be understood as some kind of ideal for "an equal share of evil and good amongst all men".'

Alf Ross had kept an ampoule of morphine at home for many years. He had been given this by his friend, the doctor Erik Begtrup. Alf Ross had 'acquired what was necessary' early in life.

Alf Ross' oldest son, Strange Ross (born 1928) tells us that Alf Ross got up on the morning of 16th August 1979, but that he was in such strong pain that he could almost not get dressed. Alf Ross was aware of the fact that the cancer he had suffered of for some years had spread. In the morning he called his sister Yrsa and said, 'I am going to say goodbye to you'. The same day he wrote goodbye letters to his family and his sister. He wrote 'It is difficult to say goodbye, easy to become sentimental. They wanted to admit me to hospital but I think that it is time to put down a final full-stop.' During the day his daughter, Lone Ross (born 1933) and Strange Ross visited Alf. Alf Ross' son Ulrik Ross (born 1939) lived in USA. On the same day Alf Ross recorded a tape and wrote on the box that it was of possible use for a memorial celebration. Having read the poems, and after a short pause, Alf Ross said, 'That was it. Thank you for your attention'.

In the evening of 16th August 1979 Alf Ross injected himself with the morphine. Just as he had soberly analyzed his life, his illness and his death were carefully considered and his decision was made in accordance with his scientific approach to life.

If one were to search for Else-Merete Ross and Alf Ross' graves one would search in vain. Neither of them wished to be buried. Instead their ashes have been thrown to the winds.

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