Nythamar de Oliveira, Marek Hrubec,
Emil Sobottka, Giovani Saavedra (eds.)

Justice and Recognition
On Axel Honneth and Critical Theory

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Acknowledgements

Professor Axel Honneth's theory of recognition and his significant contributions to a Critical social theory have been widely read and studied in many parts of the world. One of the strong receptions has been in Latin America, where a Critical Theory of the Frankfurt School has been very influential since the 1960s and 1970s, when emancipatory grassroots movements and protests against military rule took place all over the subcontinent.

The Fourth International Symposium on Justice, which was held at Porto Alegre, Brazil, brought together researchers, teachers and students from graduate programs in philosophy, legal sciences, social sciences and humanities from Brazil and other Latin American and European countries to discuss ongoing struggles for social justice and recognition in times of crisis and globalization, but also of attempts for more inclusive participation and democratization. Thanks to the decisive support of Brazilian federal research agencies (CAPES and CNPq) and the Goethe Institute at Porto Alegre, the fourth edition of the symposium on justice was launched with a view toward discussing the theory of social recognition of Professor Axel Honneth, whose reception and analysis in Brazil and other Latin American countries has already resulted in intense dialogue with colleagues in Europe and the Americas. The event featured fifteen presentations of seminal works with the participation of Axel Honneth, who also presented two lectures and debated with fellow Brazilian colleagues and foreign guests, besides over twenty contributing papers read by researchers in thematic sessions during three days. This volume contains the major contributions to the symposium, including the two papers delivered by Axel Honneth.

The book is a result of the co-operation of colleagues from Porto Alegre and Prague, Czech Republic, where one of the relevant conferences on Critical Theory has taken place in the Institute of Philosophy at the Czech Academy of Sciences every year since 1993. Axel Honneth was one of the conference directors for many years, and has been honorary director till now. On this basis, we will also continue in this co-operation between Latin America and Europe in the future.

We thank especially Axel Honneth for the inspiration and for many friendly discussions and continual cooperation during the last years. We are grateful to all our colleagues who contributed their chapters of the

book, all colleagues who made important commentaries in various discussions, and our institutions which supported our work: the Pontifical Catholic University (PUCRS) in Porto Alegre and the Centre of Global Studies, a joint centre of the Institute of Philosophy at the Academy of Sciences of the Czech Republic and Charles University in Prague. And of course, we appreciate the work of all the people responsible for the administrative process of the publication of the book as well.

The editors

Introduction

Nythamar de Oliveira, Marek Hrubec,
Emil Sobottka and Giovani Saavedra

Justice is an important theme which has been studied for thousands years and is highly important today as well. Critical theorists have been aware of both injustice in practice and the serious deficits in social research of injustice which have been made by various traditional and contemporary studies. Critical theory also makes it possible to develop an alternative description of the society and normative articulation of the required state of society. However, it can be done in various ways. In this book, we offer essays focusing on a connection between injustice and misrecognition, respectively justice and recognition (*Anerkennung*).

Such a formulation of the issue of justice and recognition is closely linked with Axel Honneth as a critical theorist who mostly contributed to philosophical and social scientific research on recognition. As is well known, Honneth is a Professor of Social Philosophy and current Director of the Institute for Social Research (*Institut für Sozialforschung*) at the University of Frankfurt, and primarily one of the most relevant exponents of the third generation of the Frankfurt School.[1]

Honneth has followed the main constitutive motives of the Frankfurt School worked out by the first generation of critical theorists, and, at the same time, he shares a critique of its monological paradigm of work in favor of an intersubjective turn initiated especially by the second generation. However, he considers an intersubjective paradigm of communicative action too narrow, and addresses, not just the issues of

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[1] Axel Honneth was born in 1949. He studied philosophy, sociology and German literature in Bonn and Bochum. He studied post-gradual studies at Freie Universität in Berlin where he defended his dissertation in 1982. He was a scientific assistant there from 1977 to 1982 as well. Then, he worked with Jürgen Habermas at Max-Planck-Institute for Social Sciences in Starnberg from 1982 to 1983 and at Goethe-Universität in Frankfurt am Main from 1983 to 1989. Later, he was professor of philosophy at the University of Konstanz from 1991 to 1992, and professor of political philosophy at Freie Universität in Berlin from 1992 to 1996. Since 1996, he is professor of social philosophy at Goethe-Universität in Frankfurt am Main where he is also Director of the Institute for Social Research since 2001. Now he is also professor for the humanities at Columbia University in New York.

communication, but also of other aspects of life which he articulates by means of a broader concept of mutual recognition among individuals in the community. It is connected with the replacement of a consensual concept of communication by a conflictual concept of struggle for recognition, which well co-responds to the original ideas of the Critical theory formulated by their founders and other social critics. Thus, his own contribution is formulated as a conflictual paradigm of social recognition within an intersubjective model. However, he also tries to integrate positive moments of earlier paradigms, including a reactualization of Hegel's philosophy.

Honneth has developed an original normative – specifically moral – theory of struggle for recognition which is based on identification of specific kinds of misrecognition connected to social pathologies and injustice, mainly in the paradoxes of capitalist modernization.[2] Step by step, he has formulated a complex conception of the moral grammar of social conflicts both in the synchronic and diachronic ways, in the long-term historical development of three spheres of social recognition,[3] which stimulated many discussions, not only within Critical theory.[4]

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[2] See especially his two main works: *Kampf um Anerkennung. Zur moralischen Grammatik sozialer Konflikte*. Frankfurt/M., Suhrkamp 1994 (in English: *Struggle for Recognition. The Moral Grammar of Social Conflicts*. Cambridge, Cambridge University Press 1995); *Das Recht der Freiheit. Grundriß einer demokratischen Sittlichkeit*. Frankfurt/M., Suhrkamp 2011 (in English: *Freedom's Right. The Social Foundations of Democratic Life*. Columbia University Press 2014).

[3] Concerning his other works, see mainly: *Social Action and Human Nature*, with Hans Joas. Cambridge University Press, 1988; *The Critique of Power: Reflective Stages in a Critical Social Theory*. MIT Press 1991; *The Fragmented World of the Social: Essays in Social and Political Philosophy*. SUNY Press 1995; *Redistribution or Recognition?: A Political-Philosophical Exchange*, with Nancy Fraser. Verso 2003; *Reification: A Recognition-Theoretical View*. Oxford University Press 2007; *Disrespect: The Normative Foundations of Critical Theory*. Polity Press 2007; *Pathologies of Reason: On the Legacy of Critical Theory*. 2009; *The Pathologies of Individual Freedom: Hegel's Social Theory*. 2010; *The I in We: Studies in the Theory of Recognition*. Polity 2012.

[4] See, for example: Thompson, S., *The Political Theory of Recognition. A Critical Introduction*. Polity 2006; Van den Brink, B., and Owen, D., *Recognition and Power: Axel Honneth and the Tradition of Critical Social Theory*. Cambridge University Press 2007; Deranty, J.-P., *Beyond Communication: A Critical Study of Axel Honneth's Social Philosophy*. Brill 2009; Schmidt am Busch, H.-Ch., and Zurn, Ch. (eds.), *The Philosophy of Recognition. Historical*

The authors of this book "Justice and Recognition: Axel Honneth and Critical Theory" approach Honneth's theory in several ways. What they have in common is that most of them, first, reconstruct his theory and, then, analyse problems implicated in it. While some of them make an internal critique and write their arguments within his theory, others transcend it, either in favour of further development of his theory or moving beyond its orbit. Nevertheless, all of them consider his theory a great challenge that is worth of serious attention and deep analyses.

The book is divided into four parts. The first three are related directly to Honneth's theory and its themes. The last one situates the discussions on his theory into the broader framework, which has been relevant as the background for these debates. Specifically, the first part of the book focuses on an articulation of social recognition and its specific practical contexts which situate the issue in the struggles for social justice. The second and third parts are opened by recent important articles written by Axel Honneth. His first article illuminates basic characteristics of justice and recognition at a domestic level in relation to the deficits of dominant liberal theory of justice, i.e. a procedural approach linked to misunderstanding of legal issues. Then, his second article brings light on the theme of recognition between states and, in this way, it offers a closer look on contemporary issues beyond the boundaries of a state. Similarly, while the second part of this book explores recognition and connects it with legal issues and legal in/justice, the third part deals with mis/recognition in international and global justice. All the parts of the book together attempt to show and evaluate what the contributions of Honneth's theory of social recognition and its relation to justice are. The book as the whole contributes to the current theoretical discussions on justice at domestic and global levels, and presents the significant role of recognition in them.

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and Contemporary Perspectives. Lexington Books 2009; Huttunen, R., *Habermas, Honneth and Education*. Lambert Academic Publishing 2009; Hrubec, M. (ed.), *Etika sociálních konfliktů. Axel Honneth a kritická teorie uznání* (*The Ethics of Social Conflicts. Axel Honneth and a Critical Theory of Recognition*). Filosofia 2012; Basaure, M., Reemtsma, J. P., Willing, R. (ed.), *Erneuerung der Kritik. Axel Honneth im Gespräch.* Frankfurt/M., Campus 2009.

(I) Articulation of social recognition

As already briefly indicated, the first part of the book focuses on an
articulation of social recognition. Such a formulation is based, first,
in the broader social and political context, including the important
effects of May 1968 on arguments in fields of philosophy and social
science, specifically in a critical theory of society. Then, the articulation
is specified by focusing on the concept of recognition, especially as
formulated by Axel Honneth. The concept is analysed in relation to a
critique of social pathologies and struggles for self-respect and affirm-
ative action in the learning processes of modern societies. It opens a
space, not only for social philosophy and theory in general, but also
for comparative arguments from phenomenological perspectives, and
also from ontological historical philosophical standpoints.

This part of the book starts with a chapter written by Eduardo Bittar.
In his article "Recognition and the right to difference: Critical Theory,
diversity and the human rights culture", he formulates a philosophical
concept and justification of human diversity in the human rights cul-
ture, explaining the recent transformations of society, and reaffirming
the commitment to a pluralist ethics and a democratic spirit. The cate-
gory of recognition works as a philosophical basis for the justification
of the right to difference in this context. From the perspective of a
Critical theory, Bittar shows that it is possible to pursue recognition
of both the pluralistic forms of life and humanity at the same time.

Nythamar de Oliveira argues in his paper on "Affirmative Action,
Recognition, Self-Respect: Axel Honneth and the Phenomenological
Deficit of Critical Theory" that, while liberal, redistributive views seek
to correct and compensate for past injustice, by resorting to compensa-
tory procedural arguments for corrective justice, the recognition-based
arguments tend to promote, by means of struggles for recognition and
social movements, a society free from prejudice and social misrecogni-
tion. In developing democratic societies such as Brazil, Axel Honneth's
contribution to the ongoing debates on affirmative action can be evoked
so as to confirm that the dialectics of recognition do not merely seek
a theoretical solution to the structural and economic inequalities that
constitute some of their worst social pathologies but points also to
practices of self-respect and subjectivation that defy all technologies of
social control, as pointed out in a similar way in Foucault's critique of

power. Thus, the phenomenological deficit of Critical theory consists in recasting the critique of power with a view to unveiling life-worldly practices that resist systemic domination.

Emil Sobottka, in his chapter "Recognition and Learning Processes in Modern Societies", reconstructs Honneth's theory of recognition in a series of his texts in order to point out that struggles for recognition are disputes in learning processes in a reproduction of society. Sobottka explains that Honneth succeeded in his articulation of a normative standpoint but has not finished an integration of necessary mediations which can connect social theory, on the one side, and practical political struggles for recognition on the other. A concept of learning processes is the means by which this gap can be bridged, especially in link to potential functions that are inherent in modern social movements. The common idea of social theory and political struggles for recognition is that individuals and social groups identify with specific values by learning processes in the complex relations of mutual recognition.

The chapter written by Rodrigo Nunes, "Honneth and Lacan on the Limits of Recognition", analyses similarities and differences between writings of Jacques Lacan and Axel Honneth. Different approaches of the authors are summed up by the analyses of their ideas of language, and the ideas of ego or subject respectively. It has its consequences in their evaluation of the concept of recognition. Nunnes explains that both authors make successful attempts to overcome Hegel's paradigm of consciousness in intersubjective ways. While Honneth follows Hegel and reinterprets his social philosophy in order to build his own theory of social recognition, Lacan is more fixed to the paradigm of language. While he stresses the importance of the role of language and its mediation and influence on intersubjective relations, Honneth explains intersubjective relations and related mediations in his broader concept of a struggle for social recognition.

Eduardo Luft's essay "Deflationary Ontology and Objective Ethics: In search of the ontological assumptions of the theory of recognition" seeks to contribute to the attempts of reactualization of Hegel's *Philosophy of Right* which was proposed by Axel Honneth. He does it rather indirectly, as it is not so concerned about the particular themes of *Philosophy of Right* but rather about spelling out ontological preconditions of reactualization, especially from the point of the history of

philosophy. It goes back from the social philosophy of the social struggle for recognition to ontological issues, and focuses not just on Hegel but also on Plato, Leibniz and other classical authors. It offers analyses of the detailed arguments within the framework of the history of ideas.

(II) Recognition in legal justice

The second part of the book continues in an exploration of recognition by dealing with legal issues and legal justice. Axel Honneth's paper on "The Fabric of Justice: On the Limits of Proceduralism" shows the reasons of distance between political practice and contemporary philosophical theories of justice. He makes a criticism of the dominant liberal theory of justice, mainly of a proceduralist scheme. He explains, first of all, that the intrinsic material of social justice should consist not only of redistribution of goods but also, and foremost, of commonly shared social relations that are critically composed of morally expressed practices. The recognition in these practices defines moral patterns of treating the other human beings. This starting point has its methodological consequences in relation to a concept of justice. It means, in the second step, instead of constructing normative procedures fixed on the state that would deduce the specific content of justice, we should prefer reconstructing the social practices in order to be informed about how to respect justice. The third step takes us to a normative counter-proposal, to a pluralisation of the concept of justice. It includes a set of relevant principles of justice according to the historically accepted forms of social relations in struggles for recognition.

The theme "Between Civil Society and State: Considerations on Axel Honneth's critical theory of justice" is developed in Hans-Georg Flickinger's chapter. The author comments on Honneth's critique of proceduralism but attempts to work out a specification of an all-comprehensive legal arrangement of social relations and institutions which is in opposition of the thesis that there is a clear differentiation between the legal and pre-legal spheres of recognition, respective of justice. This dynamic of juridification shows a liberal legal colonization of originally non-legal social spheres, family, for example, and also overlaps these spheres beyond their original space of action. These arguments contrib-

ute to productive tensions between proceduralist and critical-theoretical conceptions of justice, especially as to Honneth's proposal.

Analyses of the contemporary debates on the harm principles and the good from the point of view of a social and legal conception of recognition are the topic of the next chapter of the book. Fabio Roberto D'Avila and Giovanni Agostini Saavedra offer their paper "Legal Good and Recognition: A Study in Axel Honneth's Social Theory" which contributes especially to the thematic area which Honneth studied in his earlier work. While he later changed his focus, the authors of the chapter bring more light on the importance of legal sanction in relation to legal contempt, misrecognition and injustice. In this way, they also revitalize Hegel's and Durkheim's legal ideas. They explain how Honneth's normative theory can be enriched by existential and other aspects of legal good.

Alessandro Pinzani's essay "Recognition, individual autonomy, and basic income" deals with the question of how a state-granted minimal income is a necessary basis for attaining an elementary level of individual autonomy and developing capabilities which make an improvement of the quality of their life possible. As a theoretical background for his analysis, Pinzani uses Honneth's theory of recognition and examines capability approach and a concept of independency. A minimal income, as mentioned also in the Brazilian example, aims both at guaranteeing the survival of the extremely poor and at enabling these people to develop their real autonomy, together with other state projects such as education, medical assistance, etc. The author says that the social and political inclusion of millions of people is closely linked to such programs in threshold countries and poor countries as well.

The article by Vitor Blotta, Wilson Levy, and Brunela Vieira De Vincenzi "Recognition and Transitional Justice in Brazil: a critical theory approach on reasons for a truth commission on the dictatorial regime of 1964–1985" raise theoretical and practical arguments in favour of public discussion and potential justification of the institutional enactment of a truth commission on the Brazilian dictatorial regime pursued from the '60s to the '80s. The authors state that Honneth's theory of recognition is an important renewal of critical theory, and it intends to be a new paradigm of Critical social theory, including an incorporation of the potential of the older models. To reach the theme of transitional justice in Brazil, they analyse the issues by the means of his theory: the

right to truth and memory in relation with moral reflections; a kind of truth commission concerning symbolic accountability or criminal indictment; a potential of the need of political update after thirty years after the enactment of the Amnesty law.

(III) Recognition in international and global justice

The chapters of the previous part of the book reminded us of the importance of the legal sphere of recognition and its internal and external contradictions linked to misrecognition and injustice. Because some dimensions of legal recognition are in the centre of attention in this part of the book as well, the discussion continues even if from a different point of view and also in relation to other relevant spheres and levels of recognition.

In his second article in this book, "Recognition Between States: On the Moral Substrate of International Relations," Axel Honneth argues that it cannot be taken for granted that individual states have got their recognition when once they received it, as is usually assumed by the mainstream theories of international relations. Not only developing unrecognized or misrecognized states strive for recognition because all states are always dependent of the political reaction of other states that may offer international recognition of their existence and identity. In this context, Honneth critically examines Hegel's concept of recognition in relation to interstate interdependence. First, he offers a description of the role of recognition in relations between states in order to articulate appropriate conceptual approaches to interstate conflicts. Then, he moves to normative moral considerations and explanations of this turn in relations between states from the point of view of struggles for moral, political and legal kinds of recognition. By this original exposition, he illuminates international connections between states on the background of differences and similarities shared with their domestic relations of recognition.

Marek Hrubec offers a reconstruction and interpretation of Honneth's conception of recognition between states in his chapter "Interstate Recognition and Its Global Overcoming: Extra-territorial Recognition", and then shows various possibilities and limits of its development on the boundaries of its theoretical framework at the transnational and

global levels. He presents deficits of conceptions of interstate recognition in the contemporary context of transnational and global interactions and their deetatizational consequences. He prefers the diachronic dynamic of struggles for recognition that contain the developmental tendencies from national and international relations, on the one side, to the transnational and global interactions, on the other. However, he stresses that it is not possible to mechanically transfer Honneth's local and national spheres of recognition at the transnational and global, cosmopolitan levels. As the solution, Hrubec offers a concept of extra-territorial recognition and an explanation of the ambivalent issues of the global state in order to overcome the West-centric international interactions in favour of both national and global, cosmopolitan justice in its social and intercultural aspects.

The study "Towards a Cosmopolitan Theory of Recognition between States" written by Frédéric Vandenberghe also joins the analyses of potential global, cosmopolitan theory of recognition. It analyses Honneth's theory of recognition in general and also specifically in link with relations between states but does not support its move from Habermas's communicative action to recognition. It prefers analysis of recognition within the framework of the previous communicative conception. From this perspective, it suggests defending a cosmopolitan perspective that would be able to reflect that communities create a single world community with a planetary consciousness today. While it defends an idea of community, at the same time, it prefers the more Kantian standpoint with a priority of rights over values. However, the author also stresses that it is important to open a question of social ontology in order to address the issue of collective subjectivities in general and in the world space as well.

(IV) Justice and recognition within a theoretical context

The last part of the book brings about the discussion of the previous book parts into a broader context of analyses of other authors, and tries to offer challenges to Honneth's theory in this manner. Because we know that his theory was also significantly developed in this way over the years, we include papers with such challenging issues here.

Luiz Bernardo Araújo recalls and redefines the complex debate on Rawls and Habermas in practical philosophy in his chapter "Rawls and Habermas on Justice and Pluralism", and illuminates a discussion on settling principles of justice under conditions of pluralism. It shows the sources of the debate on the theme of the priority of right over the good in relations to Habermas's discourse theory, including the topic of procedural neutrality. Regarding these themes, it deals with possible ways to justify an autonomous model of political justice in the pluralistic societal context, and uses the potential of the concept of rational acceptability here.

In his paper on "Deliberative Democracy and Public Reason", Kenneth Baynes re-examines Habermas's later political and legal theory of facts and norms, and related conceptions of deliberative politics and procedural democracy in light of deliberative theories by other relevant authors. He aims to explore their differences and common points, and consider also a role of consensus and the limits of deliberative democracy itself. Within this prepared conceptual landscape, the author investigates the idea of public reason, including McCarthy's dispute with Habermas, for example, and interventions of the idea of public reason into practice.

Two different concepts on the meaning of "rights" are explained in Marco Antônio Azevedo's essay "Rights as Entitlements and Rights as Claims". Rights are considered here either relations between two terms (specifically someone and a good) or relations between three terms (an individual, a person and something or an action). Then rights can be seen as moral or legal entitlements, that is, with moral or legal bounds of person to goods. Human rights can be interpreted as entitlements of persons to important goods against governments. However, the author explains that rights in a proper sense should be considered claims because they are in fact real claims and not just aspirations to real rights. It is connected in a correlative way with actual right-bearers and an actual duty bearer. Azevedo intends to conclude in favour of the concept of claims over that of entitlements.

The last chapter of the book points to another important constitutive debate which includes an implication that rights should be complementary to other spheres of life, especially everyday life in general. In his article "Social Movements and Lifeworld: Making sense of subjective interpretation", Hermilio Santos reminds us of the critical aspects of

a phenomenological perspective and its contribution to a conception of lifeworld. People are socially shaped by never-ending redefinitions of differences and similarities of their related others in the context of lifeworld, and in relation to frameworks of relevance and typification. The author also stresses the relevance of the analyses of lifeworld in the contemporary world, especially in "peripheral" societies of Latin America.

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The aim of this book is to contribute to the analyses of justice and recognition by paying homage to Honneth's critical theory of recognition. Because his theory is a significant theoretical contribution, the analyses offered by the chapters of the book not only relate to his theory but also address the themes of justice and recognition in general in relevant ways. We hope that the book will bring about fruitful reflection and stimulate other discussions on the topic and the development of a Critical Theory. The issues of misrecognition and injustice should be addressed, as they are at the centre of struggles for recognition and social justice in many local and global contexts. From this point of view, it is relevant as well that the editors of the book, thanks to their own macro-regional backgrounds, give the book its specific social and intercultural characteristics which reflect not only Western European but also Latin American and Central European perspectives.

I

Articulation of Social Recognition

Recognition and the Right to Difference:
Critical Theory, Diversity
and the Human Rights Culture

Eduardo C. B. Bittar

1. The rupture of May 1968:
social pluralism and the emergence of the struggle
for the recognition of difference

Recent transformations in contemporary society have given way to requalify the meaning of several experiences in the fields of culture, behavior, politics and law. This reflection, which includes from recent history the analysis of the effects of May 1968 on the agenda of the reflexive perceptions of the change in philosophical categories, and its absorption by the political-juridical life, is the one that highlights the importance of the public sphere for the construction of new social identities, for the struggle for rights is a historical struggle. However, in the domain of legal dogmatics, and even in the history of law, the mark of May '68 is rarely identified as the epicenter of a process of juridical significance. Despite that, the boldness of the student movements, and their capacity to mobilize public attention toward relevant problems in that context can be seen as a rupture of considerable importance to the transformations of contemporary societies. Not for what really happened in May 68, but for what it has symbolically passed on. The fracture that occurred this year finally consolidates the sensation of a modernity crisis.

The dialectic of enlightment is a mark in this sense as, since the 1940s, it has already identified the "discontents of civilization" working within modern archetypes; it is not only upon light that modernity is fed, but on a dialectic of light and shadow. The Frankfurt School, since its first generation, not only captures and describes, the barbarity of war and genocide, but is also capable of pointing out the state of sociological forms and the values of post-war society which harnessed the student protest revolts held throughout 1968, in many countries, especially France and Germany. [1] Since then, the opening of the contemporary philosophical and sociological debates concerning the idea of "post-modernity"; one of the great theoretical inheritances of this period will be precisely the impossibility of ignoring the meaning of this expression in social sciences after this date. In this sense, even the

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[1] On this point, see Jay, M., *A imaginação dialética: história da Escola de Frankfurt e do Instituto de Pesquisas Sociais* [The dialectical imagination], trans. Vera Ribeiro, Contraponto, Rio de Janeiro 2008, p. 10 ff.

present notion of law is indebted to May '68 in terms of its actual conformation, which is why one cannot think of the categories of justice outside this historical framework of comprehension.

In this sense, May of 1968 can be considered a historical moment in the breakdown of behavior patterns, of struggle against family authority, demands for change in the standard regulations of the academy, the strengthening of the claim toward a radicalization of political liberty, minority rights, redefinition of the political role of aesthetics, redefinition of the role of morals towards ethical pluralism, the struggle for re-democratization and for the recognition of difference, the strengthening of the libertarian struggle for an organized civil society – questions which, in several of their meanings, have resulted in very concrete accomplishments in the domain of culture and human and social relations. Aside from that, it is undeniable that the present wording of the democratic Brazilian Federal Constitution of 1988 owes much to these struggles. The "Citizen Constitution", which also incorporates the legacy of human dignity of the individual from the Universal Declaration of Human Rights of 1948 represents, in our context, a stronghold of struggles for the extensive guarantee of liberty, and thus reflects the achievements of the twenty years that preceded its promulgation.

In this context, it becomes more legitimate to think about the recognition of differences and of the peculiarity of minorities (African-Americans, women, the handicapped, the "landless" [...]), than to consider the generic presupposition of the equality of all (people, citizens). Most recently, the concept of equality casts a shadow over the possibility of recognizing the singularity of each and every individual. In the broader context of the reformulation of *Kritische Theorie*, inherited from constructions provided by the studies of Horkheimer and Adorno, Marcuse and Habermas, it is in the thought of Axel Honneth where a broad basis can be found, through the category of recognition (*Anerkennung*), in a re-visitation of the young Hegel's thought, for the justification of the logic of the *right to difference*.[2]

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[2] On this theme, see Honneth, A., *Disrespect: the normative foundations of Critical Theory*, Polity, Cambridge 2008; Honneth, A., *Sofrimento de indeterminação: uma reatualização da filosofia do direito de Hegel*, Editora Singular, Esfera Pública, São Paulo 2007; *Luta por reconhecimento: a gramática moral dos conflitos sociais*, Editora 34, São Paulo 2003.

2. The right to difference and the interpretation of human dignity

The right to difference is, within the culture of law, an amplification in asserting the forms of struggle for recognition. The elastic extension of the concept of law to also encompass the idea of the right to difference consolidates the ambition of differentiation within modern societies, which tend to produce homogenization and standardization. It is in a reactive form, thus, that the struggle for difference is inscribed dialectically on the side of the identity of an interrupted struggle for equality.

Therefore, the right to difference is distinct from the right to equality. It is clear that the mere decree of universal equality in the face of the law doesn't guarantee the possibility of concretization of the sheer recognition in social life. It is also acknowledged that this version of equality is made false by the liberal presupposition that justice as equality towards the law is sufficient to provoke equilibrium in the intersubjective relations. Honneth's studies acknowledge that the notion of dignity, beyond the recognition of legal equality, is also in a recognition of difference. When addressing the problems surrounding the concept of dignity's origin, Honneth precisely identifies that

> [...] a not inconsiderable part of the honor principles, organized according to the social layer, guaranteed up to then to the individual in terms of the social esteem migrates to the reformed juridical relation, on which it reaches universal validity with the concept of human dignity; in the modern catalogs of fundamental rights, it is guaranteed to all men, in equal measure, a legal protection of their social reputation [...][3]

If the semantic and internal contours of the term dignity absorb the idea of honor, originating from the pre-modern tradition, honor refers to distinction rather than what is common, – that which is rare, proper and singular: "[...] a person can only feel valuable when she knows herself recognized in realizations which she precisely does not share in

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[3] Honneth, A., *Luta por reconhecimento: a gramática moral dos conflitos sociais*, op. cit., p. 204.

a non-distinct manner with all the others".[4] That is why the struggle for dignity presently finds the quality to concretize(realize) itself in the dynamics of the demands for recognition and particularity, for framing itself within a struggle for differentiation, relative to a modernity which produces the homogeneous.

It is exactly this profile of resistance, especially in the last three decades, that has motivated the actions of social movements, bringing new color to this debate by claiming with main focus the rupture of equality in law as a form and standard of social treatment. When formulating integration policies that consider the principle of *difference*, they are also inscribing the logic of inequality as an important normative standard for the construction of justice, in the sense that "[...] equality and inequality are constructive values of justice. What is *unique* cannot be compared or classified and, obviously, unique entities can be equal or unequal from each other".[5] Therefore, the contemporary discourse about justice has eagerly strived over the treatment of differences. Based on Honneth's studies, it is Habermas who affirms in *Between Facts and Norms*:

> The concrete conditions of recognition, sealed by a legitimate legal order, always result from a "struggle for recognition"; and this struggle is motivated by the suffering and by the indignation against a concrete contempt. A. Honneth shows that it is necessary to articulate experiences which result from attacks towards human dignity to confer credibility to the aspects under which, in the respective context, that which is equal has to be treated in an equal form and that which is different has to be treated in a different form.[6]

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[4] Ibid.

[5] Heller, A., Féher, F., *A condição política pós-moderna*, Civilização Brasileira, Rio de Janeiro 1998, p. 174. In another part of the work: "The question that may rise is that we have not included the principle 'to everyone according to their needs' among the ideas of justice. We excluded it very deliberately because, in the contrary to the common belief, this principle *is not* an idea of justice. On the contrary, this principle takes us *beyond* justice. As all people are unique, they cannot be equalized, hence the satisfaction of everyone's needs cannot be based on a comparison and classification." (Ibid., p. 175.)

[6] Habermas, J., *Direito e democracia: entre facticidade e validade*, Tempo Brasileiro, Rio de Janeiro 2003, pp. 168–169.

This makes all the difference in the domain of discussion over human rights, and it is curious to notice how the abstract universalism from the natural law tradition has been opening ground to a more concrete and historical view of human rights, which hence contemplates the conception of a philosophical anthropology over which it can ground its basis. This became visible in Brazil, last year (2008), when celebrating 60 years since the Universal Declaration of Human Rights (1948). The right to difference has this particular tone – that it is possible that we are *equal in difference*; this was the slogan adopted by the Federal Government's Special Secretary of Human Rights (SEDH) in Brazil. It is clear, thus, that this idea has influenced the way of understanding and practicing human rights towards a larger threshold that leads to relativism. It has become difficult to be *indifferent to the right to difference*, that which protects the human condition in its multiple expressions, and the only way of recognizing how human beings live and suffer concretely, so there can be a possibility of implementation and a more precise direction for human rights policies.

The right to difference is based on the idea that all are different among each other; and, accordingly, this is to be human in its singularity. So as "human nature" can be conceptualized, one must respect the singularities. This is makes necessary for one to acknowledge the *complexity* of *diversity*,[7] which is the most concrete characteristic of "human nature", opening space for the recognition of the Indian, the African-American, the homosexual woman, the child, the craftsman, the intellectual, the banker, the handicapped, the spiritualist, the catholic, the protestant... and this is because we all have "something in common", and this "something in common" has to do with the equal possibility of us being responsible for having respect towards the other, and therefore, considered members of the community of those who

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[7] Not for another reason, the most recent human rights norms already register and enshrine this logic as a form of concretization of human rights, having as example what can be read in the Preamble of the United Nations Declaration on Indigenous People (2007): "*Affirming* that the indigenous people are equal to all other peoples and recognizing at the same time the *right of all peoples to be different*, to consider themselves *deferent* and to be respected as such", and "*Affirming as well* that all the peoples contribute to the *diversity* and the wealth of civilizations and cultures, which constitute common patrimony of humanity" (highlights not from the original. Free translation from the Portuguese version).

exercise their rights, in the concrete measure of their own conditions. It is imperative, thus, that contemporary societies be able to promote and allow the equal access to recognition, and having it as the influx point of an organized community of citizens.

3. The aesthetic perception of difference: the anthropological justification of otherness

The best form of respect towards the human condition is to guarantee the recognition of preserving a place for the other's *difference*. There is not the *otherness* without *diversity* (ethnic diversity, cultural, ideological, aesthetic...),[8] and this is a conclusion which invites us to practice a de-centered world view, the only way to the intersubjective exchange. The dilution the self-centered look is one of the effects of the approximation process between the categories of justice and beauty.

And here particularly, the aesthetic theory has contributions to make. And this is because the aesthetic practices overflows with signification. If well-observed, art comes to be an invitation to an *other-ization*, of a look around, and to sense other faces, other forms, other interpretations, other visions, other logics. As art, thus, has much to say about humans – those who have already passed and those who are still among us – it says something about taste, dissonance, about tendencies, wills... There are tendencies, schools, movements, styles, cultures, methods, forms, logics [all of them always in the plural], when it comes to art. The Brazilian samba of Adoniran Barbosa is as much art as the Portuguese fado, and as much as the illuminist sonatas for clavier and strings. Therefore, there isn't a universal art; there isn't a unified global art, only that produced by imposition of the cultural industry as an anti-democratic form of

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[8] Diversity here is not only the diversity of the peoples, but the diversity of what takes place in the same social group, in a society or culture: "Indeed, the problem of diversity is not raised only by cultures which have reciprocal relations; it also exists in the midst of every society, in all groups which constitute it: casts, classes, professional or confessional domains etc. develop certain differences to which each group attributes an immense importance." (Lévi-Strauss, C., *Antropologia estrutural dois*, Tempo Brasileiro, Rio de Janeiro 1993, p. 332.)

standardization in taste.[9] That is why art says something; what it says, will not silence: it says that we are profoundly different from the other, and says also, in a thundering tone, that there is a lot of beauty inside the differences. Reading beauty in the differences of the other's art is to open one's self to the contribution that each one is capable of, bringing in the projection of forms to beauty and, therefore, to existence.

Certainly aesthetics, as a form of expression, when saying something about us, allows us to contemplate ourselves, that is, its role is to take us to ourselves, so we can know ourselves, know our internal emotions, behavior patterns, personality traces, virtues and vices, skills and competencies, genius and revolt, romanticism or idealism. Profusion of tendencies, styles and tastes obliges us to recognize that there is no aesthetic pattern. If there isn't an aesthetic pattern, or an obligatory pattern to measure beautiful/ hideous (the hideous can be beautiful and the beautiful can be hideous), then, the aesthetic consciousness brings us the consciousness of *diversity*. According to Pablo Picasso, one might say that: "art is the lie that allows us to know the truth". In the philosophical domain, what it makes us know is that we are not equal. Moreover, one must emphasize this point: we cannot be *equalized*, not even by the *social planification*, and neither by the *capitalist standardization* that forges the unidimensional man[10] under the risk that we lose ourselves *from* ourselves, from our self-identity, of our sentiments, talents and absolutely singular perspectives, those of which are proper of the individual, existential and historical human condition.

These significations have to be interpreted and reconstructed, especially when one, parting from a critical aesthetic theory, seeks to reveal the proximities between the five letters which compose the term *taste* and those which compose the term *just*, at least in the Portuguese and

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[9] "As later explained Adorno, the expression cultural industry has been chosen by Horkheimer and himself in *Dialectics of Enlightment*, for its anti-populist connotations. The Frankfurt School criticized the mass culture, not for it being democratic, but especially for not being so. The conception of popular culture, they affirmed, was ideological; the cultural industry offered a false culture, not spontaneous and reified, and not the true thing." (Jay, M., *A imaginação dialética: história da Escola de Frankfurt e do Instituto de Pesquisas Sociais*, op. cit., p. 277.)

[10] On the theme, see Marcuse, H., *A ideologia da sociedade industrial: o homem unidimensional*, Zahar, Rio de Janeiro 1973, p. 10 ff.

English languages. One of these significations of the aesthetic practices is that *dissent* is an element of social life. Dissent, which also manifests itself through several forms, as the will for different things, the taste of different things, for one's own wills, diverse normative judgments, as forms of apprehending the social and human dissonant threads. Dissent is an unavoidable element of social life and should be absorbed by political practices, otherwise one might despise the valuable transformations brought about by the recent and historical struggles of May '68, in Paris as well as in Frankfurt.[11] This historical moment and its social results have restored in the social environment the possibility of another reading of Nietzsche for whom: "It is in the possession that the difference between men is revealed with most vigor. And this difference manifests itself in the diversity of their value judgments, in the fact that they are different and do not have the same opinion about certain values".[12]

In this sense, this is what aesthetics makes us notice: the *difference* of the other, even though we would like to find just the *equality*, and equality which makes us common as being humans, for example.[13] Democratic, free and open is the world where the dance, the cult, the tradition, the spiritual ecstasy, the common knowledge, the science, the cultural forms, the popular folklore have their place. This is also a world where the love for the *non-similar* is possible, a transit which embracethe otherness by the striking power of aesthetics and the communicative interlude promoted by the symbolic language of art. It is from Adorno that comes the affirmation according to which "Love is the capacity of noticing the similar in the *non-similar*" (highlight not from the original).[14] Love of the various styles as love of the several cultural initiatives, and as love of the various anthropological identi-

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[11] In this matter, see Bittar, E. C. B., *O direito na pós-modernidade e reflexões frankfurtianas*, Forense Universitária, Rio de Janeiro 2009, p. 10 ff.

[12] Nietzsche, F., *Além do bem e do mal*: *prelúdio de uma filosofia do futuro*, WVC, São Paulo 2001, p. 129.

[13] On the immense variety of cultures which forms a great frame of human diversity, Lévi-Strauss states: "A first finding imposes itself: the diversity of human cultures is, in fact in the present, in fact and also righteous in the past, much greater and richer than all that which from them we can come to know." (Lévi-Strauss, C., *Antropologia estrutural dois,* op. cit., p. 331.)

[14] Adorno, T. W., *Minima moralia*, Edições 70, Lisboa 2001, p. 196.

ties, forms and manifestations of humanity is a love towards the actual human condition as is shown to the human eyes, no more nor less.

In the center of all this concern is the problem of how the look constitutes itself to see the other. This means to think and act in a way that considers the other, not as strange or foreign, as being alienated from the practices of myself, but as an autonomous entity, constituted in the midst of practices which are peculiar and unique and, for that, as valid as myself. The question of the look towards the other and the question of the interpretation of the other's culture cross each other to arrive at the debate over ethnocentrism and its forms of expression. According to Richard Rowland, the ethnocentrism "[...] the tendency to consider the culture of one's own people as the measure of all things – is a temptation that must be avoided".[15]

All speak in favor of the estrangement; the language, the clothes, the practices, the wisdom, the creeds, the identities, the tastes, the eating habits, the moral standards. The differences are frightening, from the misunderstandings they produce, and from the point of view of a psycho-social reaction, generate fear and exclusion. However, and still with Rowland, "One must not consider inferior that which is only different".[16] The refusal of ethnocentrism is an effort of civilization, for a primary impulse also conducts us towards the non-acceptance of the other. This shows the actuality of Claude Lévi-Strauss' classical study, *Race et histoire*, as an effort of conducting an anthropological look towards the cultivation of difference and a respect towards the identity of the other.[17] The refusal of ethnocentrism is part of an effort in favor of human dignity and its idea as a value of encounter among peoples and of the existing differences among persons.

A socialized society with these preoccupations cultivates the necessary spirit for the exercise of the democratic pluralism, which overrides the modern ordering and totalitarian homogeneity, for which is valid the deadly solution of Auschwitz as place for the conversion of the in-

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[15] Rowland, R., *Antropologia, história e diferença: alguns aspectos*, Afrontamento, Porto 1997, p. 7.

[16] Ibid., p. 8.

[17] "The *lócus classicus* of this anthropological refusal of ethnocentrism is the known essay from Claude Lévi-Strauss, *Race et históire*." (Ibid.)

convertible – from Jew to non-Jew, that is, from Jew to ashes and dust. The democratic effort, in an Adornian reading, is the effort of no-return, or the libidinous effort toward the refusal of a setback produced by Auschwitz.[18] And this is so because the dissemination of the unilateralist seed and the taste for an only doctrine can only end up in the affirmation of the political forms of profound disrespect for the diverse.

4. Love and recognition: the ethics of care and the human rights culture

Human dignity, for its natural complexity, demands a series of cautions. Considering in the expression "human dignity" the principle which meta-formats and adjusts law with a group of affirmative demands of the human condition, one might say, along with Erich Fromm, that a human rights-centered culture is a culture which signs positively towards the direction of the eroticiation of the world,[19] to biophilia and to tolerance, denying the modern paths of biopolitics and the extermination of the other as a form of achieving the same emancipatory projects.[20]

The critical revisionism of modernity implicates this, the conscience of the necessity of a place for love in the interlude of social relations,

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[18] "Among Freud's intuitions, which really also reach the domain of culture and sociology, one of the most profound, in my view, is the one in which civilization engenders by itself the anti-civilizational and reinforces it permanently. In his works *Civilization and Its Discontents* and *Group Psychology and the Analysis of the Ego* deserve a greater dissemination, precisely in relation to Auschwitz. If barbarity is in itself a principle of civilization, then the struggle against it has something of despair" (Adorno, T. W., *Palavras e Sinais*, op. cit., p. 105.)

[19] "The eroticized world is a world where Eros has been dismissed from being connected with the specific genital impulses. It is a world that shows itself as an emanation of the principle of life." (Doria, F. A., *Marcuse*, Paz e Terra, Rio de Janeiro 1983, p. 202.)

[20] Fromm's warning is of notorious importance in inspiring the thought of tolerance: "[...] From the paradoxal logic point of view, the emphasis is not on thought, but on action. This attitude has several other consequences. Firstly, it leads to the *tolerance* which we find in Indian and Chinese religious development. If the correct thought is not the supreme truth, nor the way to salvation, there ar no reasons to combat others whose thought has come to different formulations. This tolerance is beautifully expressed in the

which opens the field for reflection over the care of one's self as ethics and the care for the other as an expression of active responsibility, along with Erich Fromm.[21] Love, indeed, as the first form of belonging to the world, has to do with this contact, in principle established in the motherly embrace and provider of the first hour of existence. It is exactly in a psychoanalytic orientation , based on Freud, Mead and Winnicott's studies, that Axel Honneth realizes the actuality of the young Hegel, to affirm:

> For Hegel, love represents the first step of reciprocal recognition, for in its concretization the subjects confirm themselves mutually in the concrete nature of their needs, recognizing themselves hence as needy beings; in the reciprocal experience of loving dedication, both subjects know each other united in the fact that they are, in the needy state, dependent on the respective other.[22]

The lacking, the perception of total dependency, is what marks the first slight of contact with the world.

However, aside from this need, love presupposes a second movement in order to be concretized as recognition, which is, beyond the proximity, the distance.

> Once this experience has to be mutual in relation to love, recognition means here the double process of a simultaneous liberation and an emotional connection with the other person; not a cognitive respect but an affirmation of autonomy, accompanied or even supported by dedication; it is what is aimed when one speaks of the recognition as a constitutive element of love.[23]

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story of several men who were asked to describe an elephant in the dark. One of them, touching his trunk, said: "this animal is like a water tube"; the other, touching the ear, said: 'this animal seems like a fan'; a third, touching the legs, described an animal like a pilar [...]" (Fromm, E., *A arte de amar*, Martins Fontes, São Paulo 2006, p. 98.)

[21] "[...] She feels responsible for her kind, as much as she feels responsible for herself [...]" (Ibid., p. 35.)

[22] Honneth, A., *Luta por reconhecimento: a gramática moral dos conflitos sociais*, op. cit., p. 160.

[23] Ibid., p. 178.

The care of the one who loves is the care of one who is close when it is needed to be close, and from one who does not interfere when it is necessary not to interfere.

The ethics of care is based on the strategy of love, and for that, it must be apprehended as basis for the development of a culture of human rights. This does not mean, and this warning follows Honneth's line of thought, that it is possible for one to extend love to all, for love is developed within a small group of human bonds. This also does not mean that the culture of law must orientate and base itself according to the difficult logic of love, of when does and doesn't occur. Actually, to sustain the justification of the development of a human rights culture on the basis of an ethics of care means to extend the tactics and strategies of love's actions to the field of public policies and forms of distribution of rights. Love promotes life, and this character is proper of the biophilic logic, for "[...] aside from the element of action, the active character of love becomes evident in the fact that is always implies certain basic elements, common to all forms of love. They are *care*, *responsibility*, *respect and knowledge* [...]"[24] In this sense, love and law also gain an inseparable kinship.

In this perspective, the harnessing of these values is of fundamental importance for the development of a genuine form of social interaction in which, indeed, one can speak of democracy and human rights exactly because *ego* and *alter* have been put in the center of the technical preoccupations of progress, economy and politics. It is also about thinking of the enhancement of democracy and the human rights culture on the basis of a wide-rangeing connection between the social practices and to an ethics of care, where the feminine plays a determining role.[25]

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[24] Ibid., p. 33.

[25] "[...] In this sense, the *anima*, the democracy archetype, through its attributes, especially of inventivness and emotionality, may emerge as catalyzing agent of the transformation of the judges to attend this collective need. In all of his work, Byington has stressed the importance, in the collective psyche, of democracy, understood as a process of free interaction between the polarities towards the *whole* (the people-government, for example) without enabling an identification with one side of either polarity. For the author, the values of democracy will only be reached in the dynamism of the otherness (that is, under the rule of the archetype *animus/anima*) [...]" (Prado, L. R. de Almeida, *O juiz e a emoção: aspectos da lógica da decisão judicial* Millenium, Campinas 2003, p. 93.)

If there are not human rights without respect – the respect means here the capacity of loving and letting the loved one develop integrally, without dominating, castrating, or manipulating; an ethics of care exhales respect, because it cultivates the power of affection as a way of "looking with attention" (*respiecere*).[26] That is why the education and the methodology of (and for) human rights must prepare for mutual living with diversity, on the basis of dialogue and respect, turned toward the otherness, as a form of social solidarity practice rested over tolerance.

In fact, in this sense, the biophiliabiophilia as a direction for the education on human rights incentivize the accumulation and the production of social and reflexive efforts, in active and theoretical perspectives, in the sense of the proliferation of the conditions for the cultivation and pro-active development of the concretizing dimensions of human dignity. The active character of the politics of love necessarily involves a pro-active attitude towards the world which, among other things, pronounces itself over barbarity, repels injustice, repulses itself with inequality, promotes the culture of non-violence and indignifies itself with human suffering. Therefore, a human rights culture must involve tactics of erotic energy whose pulse is gathering favor of biophilia and the politics of love, that which is conjunctive and not disruptive.[27]

The care towards the human condition expresses the need for us to cultivate an open spirit that is an incentive of the principle of life (eros), care for the respect towards the multiplicity of faces and tastes, talents and hearts, body forms and styles, thoughts and skills, abilities and limitations, looks and perspectives, vices and virtues, attractions and visions, empathies and antipathies, tendencies, readings and wills.

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[26] "[...] The responsibility could deteriorate easily in denomination and eagerness for possession, if not for the third component of love, the *respect*. Respect is not fear and reverential fear; it notes, as the etymological root of the word (*respiecere* = to look with attention), the capacity of seeing a person for what she is, of having consciousness of her individuality. Respect means the preoccupation that the other grows and develops as he is [...]" (Fromm, E., *A arte de amar,* op. cit., p. 35.)

[27] "[...] Love is an activity, not a passive affection; it is a "maintenance of one's self connected", it isn't a simple 'fall'. In a general form, the active character of love can be described affirming that love is especially *to give*, and not to receive [...]" (Ibid., p. 28.)

In this sense, as states Nietzsche, in *Beyond Good and Evil*: "Living is wanting to be different from Nature, to form value judgments, preferring, being unjust, limited, wanting to be different!"[28]

Where there isn't a tolerant spirit, comprehension and dialogue, there stands imposition, castration, limitation, restriction, determination. The results of this process can only be hate, competition, rebellion, elimination, oppression and totalitarianism. Love and affection distinguish themselves from these forms of expression of the oppressive spirit, exactly because they enable the existence of the other as other. And this is because love for the same is simply narcissistic love, that is, it is not love but self-contemplation of one's self. The acceptance of diversity follows the path towards the construction of the love script, as a practice of the giving of one's self and comfort to the other as different, for love for the other as the same is simply selfishness disguised as love.

Therefore, true love doesn't practice either the gnashing judgment or the severe critique, not even the maintenance of tradition for tradition, or exercise the acid and excluding look towards the otherness, those of which are the great germinal responsible elements for provoking suffering.[29] Love is the only language capable of making heterosexual parents deal with homosexual daughters and sons, as well as for a mother to keep loving her incarcerated son who confessed his crime. Not for another reason, the philosophical thought of Axel Honneth considers the categories of love, law and solidarity to be the three fundamental bases for the construction of the recognition of the other and, for that reason, the three pillars of the constitution of the necessary intersubjectivity for the construction of social bonds. Without these, suffering appears as the matrix of social struggles and injustices.[30]

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[28] Nietzsche, F., *Além do bem e do mal*, op. cit., p. 27.

[29] On the theme, see Honneth, A., *Sofrimento de indeterminação: uma reatualização da filosofia do direito de Hegel*, op. cit.

[30] Honneth, A., *Luta por reconhecimento: a gramática moral dos conflitos sociais*, op. cit., pp. 155–212.

Conclusions

This investigation endeavors a movement towards the affirmation and philosophical justification of human diversity. In dialogue with references from anthropology, it also reiterates the commitment of the political construction of a non-authoritarian form of the look, fundamental value for the construction of the democratic spirit. It works the notion of dignity as being capable of encompassing in its core the ideas of equality and difference. It identifies that the idea that in a culture of human rights centered in an ethics of pluralism and diversity shall cultivate: democratic openness, acceptance of otherness, multiple forms of expression, inclusion of minorities, protection of the diversity of social language games, ethical-anthropological porosity, social and cultural sensibility. From this line of analysis, it becomes possible to affirm that, in a human rights culture based on diversity, a form of guaranteeing that the look over the human being can detach itself from the category of universality, and reach the recognition of humanity such as it presents itself materially and historically, as individuality. In this sense, the impact of the culture of diversity and pluralism speaks of the idea of human dignity as a central factor of justification and legitimation of a human rights culture, where the diverse forms of human convergences can structure themselves in founding practices of democratic, pluralistic, dialogical, open and tolerant forms of shared life.

References[31]

Adorno, Theodor W., *Minima moralia*, trans. Artur Morão, Edições 70, Lisboa 2001.

Adorno, Theodor W., *Indústria cultural* [Cultural Industry], trans. Julia Elisabeth Levy (et al), Paz e Terra, São Paulo 2002.

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[31] The translations of the references here presented are free translations from Portuguese.

Adorno, Theodor W., *Teoria estética* [Aesthetical Theory], trans. Artur Morão, Edições 70, Lisboa 2006.

Adorno, Theodor W., Horkheimer, Max, *Dialética do esclarecimento* [The Dialectics of Enlightment], trans. Guido Antonio de Almeida, Jorge Zahar, Rio de Janeiro 1985.

Bittar, Eduardo C. B., *O direito na pós-modernidade e reflexões frankfurtianas* [Law in post-modernity and frankfurtian reflections], 2nd ed., Forense Universitária, Rio de Janeiro 2009.

Bittar, Eduardo C. B., "Filosofia crítica e filosofia do direito: por uma filosofia social do direito" [Critical philosophy and philosophy of law: for a social philosophy of law], in: *Revista Cult*, São Paulo, Dossiê Filosofia do Direito: o que foi, e o que é que será?", 10, 2007, 112, pp. 53–55.

Barzotto, Luiz Fernando, "Pessoa e reconhecimento: uma análise estrutural da dignidade da pessoa humana" [Person and recognition: a structural analysis of the human dignity], in: *Revista Brasileira de Filosofia*, São Paulo, v. 232, pp. 78–106, 2009.

Candé, Roland de, *História universal da música* [Universal history of music], trans. Eduardo Brandão, Martins Fontes, São Paulo 1994, v. 01.

Candé, Roland de, *História universal da música* [Universal history of music], trans. Eduardo Brandão, Martins Fontes, São Paulo 1994, v. 02.

Carvalho, José Jorge de, *O olhar etnográfico e a voz subalterna* [The ethnografic look and the subaltern voice] Departamento de Antropologia da Unb, 261, Série Antropologia, Brasília 1999.

Doria, Francisco Antonio, *Marcuse*, 3rd ed., Paz e Terra, Rio de Janeiro 1983.

Eco, Umberto, *História da beleza* [History of beauty], trans. Eliana Aguiar, Record, Rio de Janeiro 2007.

Eco, Umberto, *História da feiúra* [History of Uglyness], trans. Eliana Aguiar, Record, Rio de Janeiro 2007.

Foucault, Michel, "A ética do cuidado de si como prática da liberdade" [The ethics of oneself's care as practice of liberty], in: Ética, sexualidade, política, Ditos e escritos (V), trans. Elisa Monteira; Inês Autran Dourado Barbosa, Forense Universitária, Rio de Janeiro 2004.

Freud, Sigmund, "Além do princípio de prazer" [Beyond the principle of pleasure], in: *Obras completas*, v. XVIII, Imago, Rio de Janeiro 1999, pp. 17–75.

Freud, Sigmund, *Omal-estar na civilização* [The civilization and its discontents], trans. José Octávio de Aguiar Abreu, Imago, Rio de Janeiro 1997.

Fromm, Erich, *A arte de amar* [The art of love], trans. Eduardo Brandão, Martins Fontes, São Paulo 2006.

Fromm, Erich, *Anatomia da destrutividade humana* [Anatomy and human destructivity], 2nd ed., trans. Maço Aurélio de Moura Matos, Guanabara, Rio de Janeiro 1987.

Fromm, Erich, *La revolución de la esperanza* [The revolution of hope], trans. Daniel Jiménez Catillejo, Fondo de Cultura Económica, México 2003.

Gianotti, José Arthur, "Moralidade pública e moralidade privada", in: Ética [Ethics] (Adauto Novaes org.), Companhia das Letras; Secretaria Municipal de Cultura, São Paulo 1992, pp. 239–245.

Giovannetti, Marcio de Freitas, "O sujeito e a lei" [The subject and the law], in: Giselle Groeninga, Rodrigo da Cunha Pereira (eds.), *Direito de família e psicanálise: rumo a uma nova epistemologia* [Family law and psychoanalysis: towards a new epistemology], Imago, Rio de Janeiro 2003, pp. 43–53.

Häberle, Peter, "A dignidade humana e a democracia pluralista – seu nexo interno" [Human dignity and pluralist democracy], in: Ingo Wolfgang Sarlet, *Direitos fundamentais, informática e comunicação*, Livraria do Advogado, Porto Alegre 2007, pp. 11–28.

Habermas, Jürgen, *A inclusão do outro: estudos de teoria política* [The inclusion of the other: political theory studies], trans. George Spencer, Paulo Astor Soethe, Loyola, São Paulo 2002.

Habermas, Jürgen, *Consciência moral e agir comunicativo* [Moral consciousness and communicative action], trans. Guido A. de Almeida, Tempo Brasileiro, Rio de Janeiro 1989.

Habermas, Jürgen, *Direito e democracia: entre facticidade e validade* [Between Facts and Norms], v. I. 2nd ed., trans. Flávio Beno Siebeneichler, Tempo Brasileiro, Rio de Janeiro 2003.

Habermas, Jürgen, *Direito e democracia: entre facticidade e validade* [Between Facts and Norms], v. II. 2nd ed., trans. Flávio Beno Siebeneichler, Tempo Brasileiro, Rio de Janeiro 2003.

Heller, Agnes, Féher, Ferenc, *A condição política pós-moderna* [The post-modern condition], trans. Marcos Santarrita, Civilização Brasileira, Rio de Janeiro 1998.

Honneth, Axel, *Luta por reconhecimento: a gramática moral dos conflitos sociais* [Struggle for Recognition: the moral grammatics of social conflicts], trans. Luiz Repa, Editora 34, São Paulo 2003.

Honneth, Axel, *Justiça e liberdade comunicativa: reflexões em conexão com Hegel* [Justice and communicative freedom: reflections in connection with Hegel], in: *Revista Brasileira de Estudos Políticos*, Belo Horizonte, Universidade Federal de Minas Gerais, n. 89, jan./jun. 2004, pp. 101–120.

Honneth, Axel, *Sofrimento de indeterminação: uma reatualização da filosofia do direito de Hegel* [Suffering of indetermination: an reactualization of Hegel's philosophy of law], trans. Rúrion Soares Melo, Editora Singular, Esfera Pública, São Paulo 2007.

Honneth, Axel, *Disrespect: the normative foundations of Critical Theory*, Polity, Cambridge 2008.

Horkheimer, Max, *Eclipse da razão* [The eclipse of reason], trans. Sebastião Uchoa Leite, Centauro, São Paulo 2002.

Jay, Martin, *A imaginação dialética: história da Escola de Frankfurt e do Instituto de Pesquisas Sociais* [The dialectical imagination], trans. Vera Ribeiro, Contraponto, Rio de Janeiro 2008.

Lévi-Strauss, Claude, *Tristes trópicos* [Three tropics], trans. Rosa Freire D'Aguiar, Companhia das Letras, São Paulo 1996.

Lévi-Strauss, Claude, *Antropologia estrutural dois* [Structural Anthropology II], 4th ed., trans. Maria do Carmo Pandolfo, Tempo Brasileiro, Rio de Janeiro 1993.

Lyotard, Jean-François, *A condição pós-moderna* [The post-modern condition], 2nd ed., trans. José Bragança de Miranda, Gradiva, Lisboa 1989.

Marcuse, Herbert, *A ideologia da sociedade industrial: o homem unidimensional*, trans. G. Rebuá, Zahar, Rio de Janeiro 1973.

Marcuse, Herbert, *A grande recusa hoje* [The great refusal today], trans. Isabel Loureiro, Robespierre de Oliveira, Vozes, Rio de Janeiro 1999.

Marcuse, Herbert, *Eros e civilização: uma interpretação filosófica do pensamento de Freud* [Eros and civilization], trans. Álvaro Cabral, 8th ed., LTC, Rio de Janeiro 1999.

Marcuse, Herbert, *A dimensão estética* [The aesthetic dimension], trans. Maria Elisabete Costa, Edições 70, Lisboa 2007.

Matos, Olgária C. F., *A Escola de Frankfurt: luzes e sombras do iluminismo* [The Frankfurt School: light and shadows of enlightment], 2nd ed., Moderna, São Paulo 2005.

Melo, Eduardo Rezende, *Nietzsche e a justiça: crítica e transvaloração* [Nietzsche and Justice: critique and transvalue judgment], Perspectiva – FAPESP, São Paulo 2004.

Nietzsche, Friedrich W., *Além do bem e do mal*: *prel*údio de uma filosofia do futuro [Beyond good and evil: prelude to a philosophy of the future], trans. Armando Amado Júnior, WVC, São Paulo 2001.

Prado, Lídia Reis de Almeida, *O juiz e a emoção: aspectos da lógica da decisão judicial* [The judge and the emotion: aspects of the logics of judicial decision], 2nd ed., Millenium, Campinas 2003.

Rowland, Robert, *Antropologia, história e diferença: alguns aspectos* [Anthropology and difference: some aspects], 3rd ed., Afrontamento, Porto 1997.

Saavedra, Giovanni A., *Hermenêutica constitucional, democracia e reconhecimento* [Constitutional hermeneutics, democracy and recognition], in: *Revista Brasileira de Direito Constitucional*, São Paulo 2006, v. 07, pp. 265–291.

Affirmative Action, Recogniton, Self-Respect: Axel Honneth and the Phenomenological Deficit of Critical Theory

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1

From the standpoint of what Foucault called "biopolitics",[1] affirmative action (AA) may be fairly defined as an institutional technology of social control that seeks to rectify past injustice and to obtain a situation closer to an ideal of equal opportunity by policies aimed at a historically, socio-politically non-dominant group (typically, minority groups and women of all races), especially intended to promote fair access to education or employment. For the sake of elucidating the normative claims of this paper, I shall confine myself to the usage of AA as it seeks to rectify racial inequalities in Brazil, particularly in educational policies, even though I believe that similar arguments might be offered to make a case against gender and other social, economic inequalities as well. I am thus confined to a social philosophical approach to the problem of normativity in liberal, egalitarian policymaking, as I assume from the outset that public policies refer to decision-making processes that involve not only governmental power (esp. legislators and judicial decisions) but also civil society institutions broadly conceived, so as to comprise the public sphere, public opinion, social movements, trade unions, voluntary associations, NGOs, and numerous activities of individuals and interest groups. Since I am particularly interested in the social ethos and lifeworldly relationships in a given democratic political culture, I am assuming that the lifeworld (Lebenswelt) stands overall for the horizon of socially, culturally sedimented linguistic meanings that make up the background environment of competences, practices, and attitudes shared by social actors.[2] The problematic relationship between systems and lifeworld lies, therefore, at the bottom of the normative grounds of social criticism, just as the basic ideas of cooperation and competition have determined social philosophical approaches to political theory. Following Habermas and Honneth's criticisms of systemic

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[1] Foucault, M., "Governmentality", in: G. Burchell, C. Gordon & P. Miller (eds.), *The Foucault Effect: Studies in Governmentality*, Harvester Wheatsheaf 1991; "The Birth of Biopolitics", in: *Michel Foucault, Ethics: Subjectivity and Truth*, ed. by P. Rabinow, The New Press, New York 1997; Honneth, A., *The Critique of Power: Reflective Stages in a Critical Social Social Theory*, trans. K. Baynes, MIT Press, Cambridge, Mass. 1991, p. 169.

[2] Habermas, J., *The Theory of Communicative Action II: Lifeworld and System*, trans. T. McCarthy, Beacon Press, Boston 1989, p 119 ff.

power, I propose to recast AA as a systemic technique of intersubjective recognition and redistributive justice which cannot ultimately be separated from its correlated lifeworldly techniques of self-esteem, self-care, and self-understanding. My contention here is that Honneth's theory of recognition successfully revisits Habermas's critique of Foucault's genealogy of power so as to address what I have dubbed "the phenomenological deficit of critical theory" (*das phänomenologische Defizit der Kritischen Theorie*), inherent in the Frankfurt School's attempt at a dialectic of enlightenment that breaks away from the demonization of the technological, instrumental domination of nature. An upshot of such a self-understanding of our modern condition is that the globalized, transnational phenomenon of juridification (*Verrechtlichung*) turns out to be an interesting instance of systemic-lifeworldly technologies that resist demonization as they contribute to accounting for the normative grounds of a critical theory of society at the same time that they function as efficient procedures of "reflective equilibrium" (in Rawlsian terminology) or as *dispositifs*, in the Foucaultian sense of technologies of power, at once reifying and breaking through a "linguistically generated intersubjectivity".[3] Axel Honneth's critique of the sociological and normative deficits of critical theory has been decisive for a more engaged, down-to-earth commitment towards the implementation of the very egalitarian, liberal, and communitarian ideals of self-respect, freedom, justice, and solidarity that such different authors as Rawls, Habermas, Foucault, and Fraser have stood for, even though stemming from somewhat opposing standpoints. Honneth's recasting of Foucault's power struggles for self-recognition (variously formulated as techniques of self-control, social and moral technologies) makes furthermore self-identity possible through the three forms of self-confidence, self-respect, and self-esteem in an intersubjective account of recognition.[4]

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[3] Ibid., p. 297.

[4] Honneth, A., *The Struggle for Recognition: The Moral Grammar of Social Conflict*, trans. Joel Anderson, MIT Press, Cambridge, Mass. 1996, chapter 5.

2

Much of what has been published and discussed about affirmative action is based upon personal opinions, feelings, and myths relating to ethnicity, gender, class, and other social constructs. When dealing with the social policies of AA we are often thinking of overcoming different forms of social prejudice, mostly unconscious or subtly embedded in our lifeworld. In itself, the act of discriminating is an epistemic category meant to differentiate, to discern, to judge how one thing differs from another on the basis of some rational criterion. Now, prejudice may be defined as discrimination based on irrelevant grounds (social, racial or sexual). In conceptual terms, identity and difference are to be articulated in social ontological categories such as egalitarianism and diversity. As will be argued towards the end of this paper, I think that ontological commitments in social philosophy cannot be ultimately separated from the correlated conceptions of subjectivity and language. According to Mosley, AA arguments must thus focus on the attempt to render the semantic fields of "race" or "gender" relevant to basic opportunities. Such arguments tend to be utilitarian, as they refer to distributive justice, minimizing subordination and maximizing social utility.[5] For Pojman, we must attend to the difference between Weak Affirmative Action and Strong Affirmative Action: the latter is defined as preferential treatment, discriminating in favor of members of underrepresented groups (often treated unjustly or marginalized in the past), while the former simply seeks to promote equal opportunity to the goods and offices of a society. According to Pojman, since two wrongs don't make a right, he concludes that Strong Affirmative Action is both racist and sexist, and defends Weak Affirmative Action to encourage minorities to strive for excellence in all areas of life (esp. education, public offices, employment), so as to avoid reverse discrimination.[6] Some of the most known AA policies are: preferential hiring, nontraditional casting, quotas, minority scholarships, equal opportunities for underrepresented groups, and even

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[5] Mosley, A., Capaldi, N. (eds.), *Affirmative Action: Social Justice or Unfair Preference?*, Rowman & Littlefield 1997, p. 53.

[6] Pojman, L., "The Case Against Strong Affirmative Action", in: W. Shaw (ed.) *Personal and Social Morality*, 4th ed., Wadsworth Publishing Co. 1998.

"reverse discrimination," depending on the semantic, social context. This is certainly a rather simplified account of a complex issue, which I only evoke here in order to explore the social philosophical implications of policymaking procedures, as they were initially implemented in the US, especially against the background of the publication of Rawls's *A Theory of Justice* in 1971. We may think of seminal papers by Thomas Nagel and Judith Jarvis Thomson in 1973, as the ongoing debates in the United States supporting and opposing affirmative action have shown the highly complex problem of social integration in a pluralist democracy that takes diversity seriously. According to recent research at Yale University, the largest beneficiaries of affirmative action to date in the US are Caucasian women, although white males may as well be said to have benefitted through bailouts, draft deferments, legacy admission into top universities, etc. At any rate, both backward-looking and forward-looking justifications of affirmative action, whether they tend to be more or less deontological or utilitarian, seem to require some substantive approach to racial and cultural identity, as shown by different arguments developed by moral thinkers such as Albert Mosley, Louis Pojman, and Robert Fullinwider.[7] The classical opposition of US conservative and "liberal" positions respectively against and for AA eventually gave way to a liberal-communitarian debate, following different receptions of Rawls, Habermas, and Honneth's works on justice, inclusion, and recognition. While liberal, redistributive views seek to correct and compensate for past injustice, by resorting to compensatory procedural, arguments for corrective justice, the recognition-based, communitarian arguments tend to promote by means of social movements and struggles for recognition a society free from prejudice and disrespect.[8] In developing democratic societies such as Brazil, Axel Honneth's contribution to this debate has been evoked, as over against Nancy Fraser's redistributive account, just to confirm that the dialectics of recognition is far from accounting for the structural and economic inequalities that constitute some of the worst social pathologies, as shown in recent articles by Sérgio

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[7] Thomson, J. J., "Preferential Hiring", in: M. Cohen, T. Nagel and T. Scanlon (eds.), *Equality and Preferential Treatment*, Princeton University Press 1977.

[8] Fraser, N., Honneth, A., *Redistribution or Recognition? A political-philosophical exchange*, Verso, London – New York 2003.

Costa, Paulo Neves, Celi Pinto, and Ricardo Mendonça. In order to go beyond the Fraser-Honneth debate, I have sought to revisit Honneth's critique of Foucault's genealogical account of power and of Habermas's communicative action, by recasting a lifeworldly, nonreifying conception of juridification that meets social movements and identity claims stemming from grassroots practices of recognition from below. In effect, Honneth's dialectics of recognition could offer us a much more defensible diagnosis of the Brazilian symbiosis between a slave-societal ethos, an ideology of racial democracy, and a lifeworldly praxis of racial disrespect as his "critique of power" reexamines the Foucaultian, Habermasian accounts of systemic power relations. Precisely because racial inequalities and ongoing discussions on AA social policies cannot be reduced to racialized, ideological discourses, the complex problem of intersubjective and hybrid accounts of self-identity, cultural identity, miscegenation, and social constructs such as race and gender must not be dismissed as too eclectic or too subjective, as critics of postmodernist and postcolonial studies seem to purport.

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Like most representatives of "liberal" and conservative standpoints, Mosley and Pojman had clearly different ideas about how to make things more equal for all. The main difference seems to consist in that Mosley doesn't think equality means simply treating everyone equally, whereas Pojman takes equal treatment for an end result that would eliminate unjust discrimination. The term "reverse discrimination" has been used throughout most texts. The purpose of affirmative action is to open a door that was once closed. It allows people who are qualified to walk through. It increases competition from a world of work that was once white, male, heterosexual, able-bodied etc., to one that includes all people. In the US, we are often reminded that affirmative action even works for veterans! In Brazil, AA policies mainly refer to systems of preferred admissions (quotas) for racial minorities (blacks and native Brazilians), the poor and people with disabilities, and they have also been regarded as supplementing other programs of social inclusion such as conditional cash transfer and similar welfare programs. One must not overlook

that there are already quotas of up to 20% of vacancies reserved for the disabled in the civil public services. In the United States, access to the American Dream is often framed as a fair race in which the swiftest runners win. Critics say we should eliminate affirmative action because it gives some runners an unfair head start in an otherwise fair race. At the same time, many supporters of affirmative action say it is essential because some competitors are disabled and need a head start in order to compete in the race. But what if both of these perspectives miss the point about affirmative action? From this perspective, we can see that policies that promote inclusion, like affirmative action, are designed to equalize the conditions of a previously unfair race. Hence the emphasis on the Rawlsian principle of "fair equality of opportunities," combined with the basic principle of "equal liberty": just as one cannot promote universalizable ideals of justice and freedom without egalitarianism, one cannot celebrate diversity and the principle of difference (in its various social, egalitarian versions) without presupposing the fair equality of opportunities for all parties. The intuitive idea here is that all primary goods (liberty and opportunity, income and wealth, the bases of self-respect) are to be distributed equally unless an unequal distribution of any of these goods is to the advantage of the less favored.[9] We all know that there are numerous obstacles that litter the lanes of disadvantaged runners: historically, nonwhites have found their path blocked by racial discrimination; poverty creates broken lanes filled with potholes and other dangers; women find their lanes filled with impenetrable barriers; and urban youth are derailed far from the finish line by the school-to-prison pipeline. Meanwhile, those runners who aren't kept back by race, class, or gender discrimination are privileged to run a race in which their ability to compete is not impeded by unwarranted arbitrary barriers. Some runners are luckier still. They are benefited by a host of privileges such as family connections, wealth, and an array of other factors that deliver them to the finish line ahead of all the other runners without even having to break a sweat. Their lane is, in effect, a people-mover, an electrically powered lane that moves them along even when they simply assume the position of a runner while never having to actually lift a foot to propel themselves forward. To be sure, it is difficult for

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    9 Rawls, J., *A Theory of Justice*, Harvard University Press, Cambridge, Mass. 1971.

anyone to know what it feels like to be discriminated against unless it has happened to them. And yet, as Rawls himself suggested, one doesn't have to be black, a woman, Jewish or gay to take a radical stand against racism, phallocentrism, anti-Semitism or homophobia. The point here is that this is exactly why nobody should ever have to be the victim of unjust and immoral discrimination. All people should be treated equally with respect and given fair opportunity to flourish as human beings. People can thus respect each other's differences and mutually recognize themselves as individuals and as members of distinct social, interest groups. Honneth's conception of intersubjective recognition seeks precisely to move beyond the individualistic, atomistic foundation for sociality and recast Habermas's conception of individual self-formation through socialization by correcting some of the problems in the latter's lifeworld-system divide.

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Freyre's 1933 seminal book *Casa-Grande e Senzala* (ET: *The Masters and the Slaves*) has been hailed as the most representative work on Brazilian identity ever, opening up endless debates on collective self-esteem, self-understanding, and race relations in Brazil, esp. racial mixture, the quasi-romantic idealization of the mulatto (*pardo*, *moreno*), and the so-called myth of racial democracy – even though there is no occurrence of the term in this book. Beyond its immediate context of the contemporaneous discussion on regionalism versus universalism following the Modern Art Week in 1922, Freyre's analyses contributed to new, comparative readings of slavery systems and racism in the Americas. One particular upshot of the racial democracy myth is the ideology of whitening and the concomitant practice of miscegenation or race mixture, described by many scholars as the primary pillar of white supremacy in Latin America, particularly in Brazil.[10] According to Twine, the whitening ideology "was originally coined by the Brazilian elite to

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[10] Twine, F. W., *Racism in a Racial Democracy: The Maintenance of White Supremacy in Brazil*, Rutgers University Press 1997, p. 87.

reconcile theories of scientific racism with the reality of the predominantly nonwhite population of their country" toward the turn of the
19th century. Thus Afro-Brazilian children are systematically disempowered as they learn not to talk about racism, regarded as a taboo subject
for discussion with their parents and peers.[11] It was such a perverse
circle that racial democracy has been fueling for decades throughout
generations and it was only recently, especially after the end of military dictatorship in Brazil, that middle-class and the average citizen
began talking about these social pathologies. Brazilian citizens have
certainly been socialized into a racist, paternalist political culture, so
full of contradictions and shortcomings when compared to the normative, regulative ideals of the democratic, egalitarian yardstick. And yet,
this making of a political culture is only sustained to the extent that
Brazilians also produce and reproduce such a culture. The shift from
a hypocritical racial democracy towards a truly pluralist democracy
has in effect been the only way out of the elitist pseudo-liberalism of
both military and civilian calls to "modernize" Brazil. Just as the aestheticist regionalism and nationalism of the modernist movement of
the 1920s gave way to a technocratic, nationalist modernization in the
1950s and 1960s only to highlight the oligarchic, hierarchical relations
of power that made Brazil one of the most socially unequal nations of
the planet, a moral revolution from below alone can secure the rule
of law for all and call for a public, democratic distribution of primary
goods. If Brazil remains too far from a well-ordered society and public
participation in the bargain processes is still remote from vast, excluded
segments of the population, the political thrust of social movements
meets a fortiori the normative criteria of a concept of democracy that
defies and transgresses any corrupted, systemic "power that be" for the
sake of the people. The egalitarian premises in AA procedures can do
precisely that, whenever one has to be reminded that the outcast in
Brazil discover their own identity as citizens, rights-bearers or as end-
in-themselves only when they become visible in the public sphere and
get talked about in the media. Hence a radical critique of state and society is not necessarily opposed to the regulative ideals of a procedural

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[11] Ibid., p. 153.

theory of justice. In his highly original account of racial problems in Brazil, Costa has taken a critical stand against modernist, teleological accounts of racism such as those inspired by Habermas, Beck and Giddens's analyses of social pathologies, to a great extent because of the limitations of importing European patterns of modernity and identity to the Brazilian context. On the other hand, however, even though he praises postcolonial studies for being particularly useful for his own refusal to import US, binary categories of anti-racism, Costa remains skeptical about the normative deficit of Brazilian sociological contributions to this ongoing debate.[12] In another assessment of the same problem, Costa argues that the category of race, once transformed into a tool for social analysis and normative *desideratum*, leads to an incomplete, biased understanding of the Brazilian makeup, an objectifying view of social relations and eventually to a reduction of social identities to their political, instrumental dimension.[13] In order to tackle the problem of racial identity in Brazil, Mendonça recasts Habermas's discourse, communicative theory to arbitrate between Honneth's self-realization and Fraser's parity of participation guiding ideas: if it is only through interactive participation that self-realization can be ultimately thought in moral terms, one must inevitably resort to a sound socialization so that individuals are empowered to affirm themselves as social actors and take part in the effective construction of a just society, by means of free exchanges and interplays of revisable validity claims.[14] A similar argument of complementarity is offered by Pinto, albeit from a different programmatic platform. According to Pinto, distribution cannot be reduced to recognition, as this would render the question of justice void. Recognition is, moreover, a highly polysemous word and its reduction to an exclusive definition evacuates both its heuristic value for social theory and its potential for struggles for justice. Rec-

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[12] Costa, S., *Dois atlânticos: teoria social, anti-racismo, cosmopolitismo*, EDUFMG, Belo Horizonte 2006.

[13] Costa, S., "A Construção Sociológica da Raça no Brasil", *Estudos Afro-Asiáticos* 24, 2002, pp. 35–61.

[14] Mendonça, R., "Reconhecimento em debate: os modelos de Honneth e Fraser em sua relação com o legado habermasiano", *Revista de Sociologia e Política*, v. 29, 2007, pp. 169–185.

ognition qua self-recognition (self-esteem, in Honneth) and qua status (in Fraser) are not mutually exclusive, but are different moments of the same process of theoretical elaboration and political struggle, and might be regarded in many circumstances as complementary notions. Recognition as public policy and as state policy are not contingent upon the self-recognition of individual subjects, but are limited to a specific range of "remedies," to employ Fraser's terminology. On the other hand, according to Pinto, recognition as self-recognition is essential to the construction of the subject of action in social struggles. There are only "dominated" insofar as they recognize themselves as such in their struggles against "domination." There is no such a thing as feminism before the emergence of the feminist, just as there is no parity of participation prior to the self-recognized subject as an equal. Finally, both in Fraser and in Honneth, the moments of construction of situations of disrespect are absent, just as the shift from nonrecognition and misrecognition to recognition, which renders the scope of both theories quite narrow.[15] In the last analysis, the problem is whether recognition can actually function as some form of moral principle, as Honneth claims, even if he does not assume it to be taken for a foundational or unifying principle (systematically conceived, not necessarily as in a metaphysical system, since Honneth's critical reading of Hegel is clearly postmetaphysical). Honneth has in effect set up an interdisciplinary research program that accounts both for a theory of justice and for a theory of democracy: recognition is what sets democracy in motion, making it both possible and desirable, as we are always caught up in ongoing struggles for recognition. We are thus led from a dialectical appropriation of Freyre's problematic account of racial relations and the social patterns of disrespect, misrecognition, and recognition towards social policies meant to promote self-realization through the self-assertion and self-understanding of Afro-Brazilians' social struggles and their normative claims raised in these struggles. It seems that Honneth's theory of recognition becomes even more relevant for AA social policies when it is recast in light of its point of departure vis à vis Habermas's critique of Foucault's systemic techniques of power.

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[15] Pinto, C., "Nota sobre a controvérsia Fraser-Honneth informada pelo cenário brasileiro", *Lua Nova* 74, 2008, pp. 35–58.

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In his *Critique of Power*, Honneth sets out to show "that Adorno must have failed in the task of an analysis of society, since throughout his life he remained imprisoned to a totalized model of the domination of nature and was thus unable to comprehend the 'social' in societies".[16] Honneth regarded the *Dialektik der Aufklärung* as one of the most representative works for a critical self-understanding of the 20th-century *Zeitgeist*, its lifeworldly disenchantments, and social pathologies. But it is only by alluding to both Foucault and Habermas, that Honneth seeks to move beyond this modern predicament, as they propose post-Hegelian, alternative accounts in their respective opposing views of power. While Foucault rehabilitates an "action-theoretic paradigm of struggle," Habermas calls for a paradigm of "mutual understanding." Both models can be thus regarded as alternative accounts to the sociological deficits of critical theory and earlier phenomenology. My working hypothesis here is that Honneth's indebtedness to Habermas and Foucault betrays, furthermore, the other two Hs – Husserl and Heidegger – which, together with Hegel, were so decisive for the phenomenological emergence of intersubjective themes such as recognition, liberation, and alterity in postwar France. According to Honneth,[17] the kernel of Sartre's social philosophy is that "social conflicts are to be understood, above all, as disruptions in the relationships of recognition between collective actors." Sartre thus saw anti-Semitism as a form of social disrespect as he shifts away from the reciprocal reification of the ontological dualism between the *en-soi* and the *pour-soi* of his earlier phenomenological account of otherness in *L'être et le néant*. Granted, Sartre's indebtedness to the Hegelian conception of intersubjectivity took him farther beyond Husserl's solipsistic account of consciousness and Heidegger's self-deceptive conception of *Dasein*, so that his recasting of the three Hs (Hegel, Husserl, Heidegger) paved the way for his later critique of colonialism and his Marxist, liberationist theory of recognition inherent in his praise of *négritude*. As early as 1956,

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[16] Honneth, A., *The Critique of Power: Reflective Stages in a Critical Social Social Theory*, op. cit., p. xii.

[17] Honneth, A., *The Struggle for Recognition: The Moral Grammar of Social Conflict*, op. cit., p. 156.

Sartre denounced "colonialism [as] a system that infects us with its racism."[18] Honneth follows Habermas when the latter argues that Sartre's moral decisionism, like Heidegger's and Foucault's, cannot account for the normative thrust needed to carry out emancipatory struggles for recognition, even though his unmasking of imperialism and colonial power pointed to the crisis of Cold War capitalism.[19] Habermas's own theory of communicative action sought to overcome the late capitalist crisis of legitimation, without falling back in the aporias of a critique of ideology and philosophies of consciousness, on the one hand, and avoiding the pitfalls of relativism, skepticism and historicism, on the other, resulting from postmodern criticisms of modernity. Habermas thus reclaims the Kantian legacy of a normative foundation for the political sphere, at the same time that he maintains the separation of morality and legality, and the primacy of a communicative normativity regulated by rational discourse, shared by all and capable of guiding human action in democratic, pluralist societies. Political questions are to be debated, therefore, within the context of a discourse ethics, founded in the form of an argumentative, moral logic, hence both normative and universalizable. The Habermasian theory succeeds in articulating the question of normativity with the political, social question of institutionalization, in the very conception of an integrated model which differentiates the systemic world of institutions (defined by their capacity of responding to the functional demands imposed by the environment/context) from the lifeworld (*Lebenswelt*, i.e. forms of cultural, societal, and interpersonal reproduction that are integrated through the norms consensually accepted by all participants in the social world). And yet, insofar as it is conceived *both* as the precondition and starting point for a process of systemic differentiation *and* as the threatened pole of systemic imperatives leading to the colonization of the lifeworld, modern rationalization seems to fall prey to an inevitable paradox, as Habermas himself pointed out in his meticulous analyses of lifeworld and system.[20] While the rationalization of the *Lebenswelt* renders possible the differentiation

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18 Sartre, J.-P., "Le colonialisme est un système", *Les temps modernes*, 1956, n. 126.

19 Honneth, A., *The Struggle for Recognition: The Moral Grammar of Social Conflict*, op. cit., p. 159.

20 Habermas, J., *The Theory of Communicative Action II: Lifeworld and System*, op. cit.

of autonomous subsystems, opening thus the utopian horizon of a civil society in which the spheres of action formally organized constitute the foundations of the post-traditional social world of human beings (private sphere) and citizens (public sphere), it seems to dig, however, its own grave in a technological society dominated by monetarization and bureaucratization. Habermas's own solution out of this impasse consists precisely in resorting to communicative reason, as opposed to instrumental, purpose-oriented rationality (*Zweckrationalität*), so as to avoid the reifying mechanisms of the coordination of actions, social integration, and symbolic reproduction. As Albrecht Wellmer remarked, Habermas in fact reformulated the same paradox of rationalization already at work in Weber, Adorno, and Horkheimer's critical analyses of capitalism, with the important proviso that the emergence of a post-traditional rationality in modern Europe allows for "different possible constellations concerning the relationship between system and lifeworld."[21] Nevertheless, it seems that we can hardly move beyond this paradoxical, vicious circle every time we revisit the problem of normativity at stake. If on the one hand, we cannot simply square normativity with the lifeworld, as opposed to the technization of cognitive and practical relationships and the instrumental dealings of differentiated institutional systems, the paradox will simply persist, on the other hand, within any attempt at coordinating a supposedly democratic "consensual action." Hence, just as Habermas saw the same problem inherent in Rawls's contractarian "original position," Wellmer spots here the impossibility of deafeating a self-vindicating rationality, whose practical intent is anchored in lifeworldly, tacit assumptions, posited with the avoidance of performative contradictions every time one has to come across in everyday talks and dealings. The ideal speech situation functions thus like the "grammaticalness we have for the sentences of our native language"[22] – we do not even care to think about it, but it has been always already presupposed by all speakers. To be sure, as Wellmer remarked, idealized lifeworlds might strike us as nonsense or undesirable chimeras but, like Rawls's procedural devices of the well-ordered society and reflective equilibrium, they might help us in thought experiments that call into question our

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[21] Bernstein, R. J., *Habermas and Modernity*, MIT Press, Cambridge, Mass. 1985, p. 57.

[22] Rawls, J., *A Theory of Justice*, op. cit., p. 41.

intuitive, taken-for-granted notions of equality and freedom. In effect, both Rawls and Habermas follow Kant's procedural wager that no rational means-ends system can defy the irreducibility of human means to their ultimate, universalizable ends, since human dignity or humanity is to be regarded as an ultimate end in itself (*Endzweck*). In one of Habermas's earliest reflections on the relationship between technology, science, and the lifeworld in the 60s we read:

> I should like to reformulate this problem with reference to political decision-making. In what follows we shall understand "technology" to mean scientifically rationalized control of objectified processes. It refers to the system in which research and technology are coupled with feedback from the economy and administration. We shall understand "democracy" to mean the institutionally secured forms of general and public communication that deal with the practical question of how [humans] can and want to live under the objective conditions of their ever-expanding power of control. Our problem can then be stated as one of the relation between technology and democracy: how can the power of technical control be brought within the range of the consensus of acting and transacting citizens?[23]

Like Rawls and Honneth, Habermas refuses to reduce the social construction of rule-following procedures to a rational choice theory or utilitarian calculus, just as they all resist a decisionist condemnation of the technological society and its self-regulating institutions as one finds, say, in Martin Heidegger and Jacques Ellul. Like revisited versions of the Pascalian wager, Habermas's modernist creed constantly seeks to render its premises reasonably credible, as his ethical universalism engages in endless battles with infidels and believers from every hill. As one of his most sympathetic interlocutors remarked,

> Can we still, in our time, provide a rational justification for universal normative standards? Or are we faced with relativism, decisionism, or emotivism which hold that ultimate norms are arbi-

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[23] Habermas, J., *Toward a Rational Society*, Beacon Press, Boston 1970, p. 57.

trary and beyond rational warrantability? These became primary questions for Habermas. The fate – indeed, the very possibility – of human emancipation depends on giving an affirmative answer to the first question and a negative answer to the second.[24]

It seems to be fair enough to gather that Habermas has sought to rescue the normative grounds of modern liberal democracies, against the diversity of communicative, lifeworldly backgrounds, without falling back into some form of absolutism (as one finds in religious and metaphysical models) or succumbing to relativism, nihilism or historicism (as Heidegger, Foucault, and postmodernists do, according to Habermas). Hence, the technological modern predicament is not so much how to make good use of natural and social resources (as if we could simply use those things like tools) but rather how to deal responsibly and democratically with the uncoupling of systems and lifeworlds, as the latter cannot be reduced to the former. Habermas's own proposal out of the pickle is to recast the normative thrust of democracy in critical-theoretical terms, so that the satisfaction of functional needs of action systematically integrated must find its limits in the integrity of the lifeworld, i.e. in the very demands of the spheres of action which are socially, communicatively integrated.[25] Although I cannot elaborate on this question here, it is my contention that Sandel's criticisms addressed to Rawls's liberalism may as well be applied to the Habermasian attempt to articulate a Kantian proceduralism with a Hegelian-inspired view of ethical life (*Sittlichkeit*). Honneth's critique of Habermas's dualistic conception of society aims precisely at this, which might be perceived as a systemic flaw: one must go back to substantive conceptions of the good in order to account for the best procedures, even with a view to repairing injustice.[26] Honneth addresses Habermas's immanent critique as still indebted to a "philosophy of history influenced by Heideggerian Marxism," so as to unmask the anthropological blindspots of his con-

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[24] Bernstein, R. J., *Habermas and Modernity*, op. cit., p. xv.

[25] Habermas, J., *The Theory of Communicative Action I: Reason and the Rationalization of Society*, trans. Thomas McCarthy, Beacon Press, Boston 1984, p. 307.

[26] Honneth, A., *The Critique of Power: Reflective Stages in a Critical Social Social Theory*, op. cit., p. 221.

fusing accounts of systemic and lifeworldly fictions. Indeed, a similar problem lies at Habermas's procedural formulation of the ideal speech situation, which can be solved with the support of an analysis of civil society's voluntary associations that secure democratic values against the state and economic colonizations of the lifeworld. In his later formulation of his procedural model of deliberative, participatory democracy in *Faktizität und Geltung* (*Between Facts and Norms*), Habermas contends that his theory of communicative action stands as a third way between a systemic-theoretical sociology of law (such as the one advocated by Niklas Luhmann) and a liberal, universalist theory of justice (such as John Rawls's). After having developed a theory of justice *in vacuo*, says Habermas, Rawls recasts the

> old problem of how the rational project of a just society, in abstract contrast to an obtuse reality, can be realized after confidence in the dialectic of reason and revolution, played out by Hegel and Marx as a philosophy of history, has been exhausted – and only the reformist path of trial and error remains both practically available and morally reasonable.[27]

For Habermas, Rawls's problem appears as "the return of a repressed problem," insofar as it recasts the modern model of natural law (social contract) in procedural terms (original position). Nevertheless, as Dick Bernstein put it so well, we end up with an epistemic justification paradox of self-referentiality at the very uncoupling of systems and life-world:

> [Habermas] wants to do justice to the integrity of the lifeworld and social systems, and to show how each presupposes the other. We cannot understand the character of the lifeworld unless we understand the social systems that shape it, and we cannot understand social systems unless we see how they arise out of activities of social agents. The synthesis of system and lifeworld orientations is integrated with Habermas's delineation of differ-

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27 Habermas, J., *Between Facts and Norms*, trans. W. Rehg, MIT Press, Cambridge, MA 1998, p. 57.

ent forms of rationality and rationalization: systems rationality
is a type of purposive-rational rationality, lifeworld rationality is
communicative rationality.[28]

Along the same lines and reminiscent of Honneth's own assessment,
James Bohman has remarked that "Habermas's criticism of modern so-
cieties turns on the explanation of the relationship between two very
different theoretical terms: a micro-theory of rationality based on com-
municative coordination and a macro-theory of the systemic integration
of modern societies in such mechanisms as the market".[29] To be sure,
there is no clear-cut separation of lifeworld and systems rationalities,
since it is precisely because of the systemic colonization of the lifeworld
that social actors can have more and more access to its general struc-
tures and are urged to seek integration amid all complex differentiations,
with a view to attaining emancipation and understanding. Hence, to the
structural differentiation of the lifeworld in its social integration, cultur-
al reproduction and personal socialization, there must be an interactive
differentiation of the systemic institutions steered by money and power
(economy and bureaucratic administration). What is at stake, after all, is
the institutionalization of the social world, beyond traditional accounts
of society and state. Honneth has convincingly shown, however, the
impossibility of maintaining communicative reason immune from the
instrumentalization of social action in the very attempt to tackle the
paradox of the rationalization of lifeworldly relations, as anticipated by
Habermas's own account of socialization. In this sense, it seems that
one is condemned to the Foucaultian predicament of social technolo-
gies, at once systemic and lifeworldly, as the reification implicit in the
very interplay of recogniton and disrespect seems to provide us with a
good phenomenological clue to the correlation between a social on-
tology, moral grammar, and accounts of intersubjectivity. By effecting
a rapprochement between the procedural conceptions of a reflective
equilibrium (Rawls) and the lifeworld (Habermas) we can thus reenact,
as it were, a hermeneutics of normativity correlated to the facticity of
a democratic ethos inherent in a pluralist, political culture, capable of

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[28] Bernstein, R. J., *Habermas and Modernity*, op. cit., p. 20.

[29] Habermas, J., *The Philosophical Discourse of Modernity*, MIT Press, Boston 1987.

integrating systemic and pragmatic aspects of a diversity of practices and codifications (*modus vivendi*) that subscribe to an overlapping consensus, especially when dealing with universalizable claims and local action practices, such as human rights and public policies, among which AA procedures stand out as reifying and demythologizing remedies. Social philosophy can be thus recast as a correlate of a philosophy of nature that allows for sustainable technologies that effect the return of ecological themes such as home, earth, and global dwelling without romanticism or the nostalgia for a primordial reconciliation of technique and nature. Even though I won't be able to elaborate on these developments in this paper, it is my contention that Foucault's critique of a neoliberal "technological society" (to paraphrase Ellul) cannot be dismissed as a nihilistic, postmodernist threat to the unfinished project of emancipatory democratization – as Habermas insinuated in his *Philosophical Discourse of Modernity* – but may as well be integrated into a sustainable critique of the modern pathologies of 21st-century capitalism. As Nancy Fraser rightly observed, we must draw an important distiction between Foucault's empirical insights and the normative problems inherent in his writings, as we distinguish, say, Foucault's genealogical analyses of the state qua "technology of government" from the normative thrust of "new modes of governmentality" in postnational configurations of "neoliberal globalization."[30] Social technologies such as AA procedures are, therefore, revealing for the "ontological history of ourselves," bringing together interplays of knowledge and power, intersubjective and reflective accounts of self-understanding. Following Honneth's recasting of the critique of power, the phenomenological deficit of critical theory ultimately unveils communicative networks and lifeworldly practices that resist systemic domination. Thus technologies of power and techniques of the self are brought together so as to make sense of the correlation between discursive and nondiscursive practices, *epistemai* and *dispositifs*, knowledge and power relations in the intricate networks of socialization, individualization, and normalization that make up subjectivation.[31] As Foucault himself remarked,

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[30] Fraser, N., *Scales of Justice: Reimagining Political Space in a Globalizing World*, Columbia University Press, New York 2008.

[31] Foucault, M., *L'herméneutique du sujet*, Seuil – Gallimard, Paris 2001.

I think that if one wants to analyze the genealogy of the subject in Western civilization, [s]he has to take into account not only techniques of domination but also techniques of the self. Let's say: [s]he has to take into account the interaction between those two types of techniques – techniques of domination and techniques of the self. [S]he has to take into account the points where the technologies of domination of individuals over one another have recourse to processes by which the individual acts upon [her]himself. And conversely, [s]he has to take into account the points where the techniques of the self are integrated into structures of coercion and domination. The contact point, where the individuals are driven by others is tied to the way they conduct themselves, is what we can call, I think government. Governing people, in the broad meaning of the word, governing people is not a way to force people to do what the governor wants; it is always a versatile equilibrium, with complementarity and conflicts between techniques which assure coercion and processes through which the self is constructed or modified by [her]himself.[32]

References

Bernstein, Richard J., *Habermas and Modernity*, MIT Press, Cambridge, Mass. 1985.

Costa, Sérgio, *Dois atlânticos: teoria social, anti-racismo, cosmopolitismo*, EDUFMG, Belo Horizonte 2006.

Costa, Sérgio, "A Construção Sociológica da Raça no Brasil", *Estudos Afro-Asiáticos* 24, 2002, pp. 35–61.

Foucault, Michel, "Governmentality", in: Graham Burchell, Colin Gordon & Peter Miller (eds.), *The Foucault Effect: Studies in Governmentality*, Harvester Wheatsheaf 1991.

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[32] Foucault, M., "Governmentality", op. cit., p. 203 f.

Foucault, Michel, "About the Beginning of the Hermeneutics of the Self",
    edited by Mark Blasius, *Political Theory*, Vol. 21, No. 2, May 1993,
    pp. 198–227.

Foucault, Michel, "The Birth of Biopolitics", in: *Michel Foucault, Ethics:
    Subjectivity and Truth*, ed. by Paul Rabinow, The New Press, New York
    1997.

Foucault, Michel, *L'herméneutique du sujet*, Seuil – Gallimard, Paris 2001.

Fraser, Nancy, Honneth, Axel, *Redistribution or Recognition? A political-
    philosophical exchange*. Verso, London – New York 2003.

Fraser, Nancy, *Scales of Justice: Reimagining Political Space in a Globalizing World*,
    Columbia University Press, New York 2008.

Freyre, Gilberto, *Casa-Grande e Senzala*, Global Editora 2006. [1933]

Habermas, Jürgen, *The Theory of Communicative Action I: Reason and the
    Rationalization of Society*, trans. Thomas McCarthy, Beacon Press, Boston
    1984.

Habermas, Jürgen, *The Theory of Communicative Action II: Lifeworld and
    System*, trans. Thomas McCarthy, Beacon Press, Boston 1989.

Habermas, Jürgen, *The Philosophical Discourse of Modernity*, MIT Press, Boston
    1987.

Habermas, Jürgen, *Between Facts and Norms*, trans. W. Rehg, MIT Press,
    Cambridge, MA 1998.

Habermas, Jürgen, *Toward a Rational Society*, Beacon Press, Boston 1970.

Honneth, Axel, *The Critique of Power: Reflective Stages in a Critical Social Social
    Theory*, trans. Kenneth Baynes, MIT Press, Cambridge, Mass. 1991.

Honneth, Axel, *The Struggle for Recognition: The Moral Grammar of
    Social Conflict*, trans. Joel Anderson, MIT Press, Cambridge, Mass.
    1996.

Mendonça, Ricardo, "Reconhecimento em debate: os modelos de Honneth
    e Fraser em sua relação com o legado habermasiano", *Revista de Sociologia
    e Política*, v. 29, 2007, pp. 169–185.

Mosley, Albert, "Affirmative Action: Pro", in: Albert Mosley, Nicholas
    Capaldi (eds.), *Affirmative Action: Social Justice or Unfair Preference?*,
    Rowman & Littlefield 1997.

Neves, Paulo, "Luta Anti-Racista", RBCS 20, 2005, 59 outubro, pp. 81–96.

Pinto, Celi, "Nota sobre a controvérsia Fraser-Honneth informada pelo
    cenário brasileiro", *Lua Nova* 74, 2008, pp. 35–58.

Pojman, Louis, "The Case Against Strong Affirmative Action," in: William
    Shaw (ed.) *Personal and Social Morality*, 4th ed., Wadsworth Publishing Co.
    1998.

Rawls, John, *A Theory of Justice*, Harvard University Press, Cambridge, Mass. 1971.

Sartre, Jean-Paul, "Le colonialisme est un système", *Les temps modernes*, 1956, n. 126.

Thomson, Judith Jarvis, "Preferential Hiring", in: Marshall Cohen, Thomas Nagel and Thomas Scanlon (eds.), *Equality and Preferential Treatment*, Princeton University Press 1977.

Twine, France Winddance, *Racism in a Racial Democracy: The Maintenance of White Supremacy in Brazil*, Rutgers University Press 1997.

Honneth and Lacan
on the Limits of Recognition

Rodrigo Nunes

Introduction

If one single basic agreement can be found between the works of Jacques Lacan and Axel Honneth, it is well expressed in the French author's own words: "Hegel did not abandon the central function of consciousness, although he allows us to break free from it."[1] Honneth builds his theory on the idea that the Hegel of the Jena writings opens exactly this possibility which is to be abandoned in his later work; and throughout their own trajectories, both authors pursue, by means of the Hegelian theme of a dialectic of recognition, the ways in which the shortcomings of the philosophy of consciousness can be avoided in a philosophical account centered on intersubjective relations. Not only do they have a common central theme, there is also a common motivation for their theoretical explorations. The paths they follow, however, are very different, and in turn lead to very different practical consequences.

The most important of these consequences regards the limits of recognition. To assess this difference, it is important that we concentrate on how their basic assumptions differ. These can be roughly summed up as differences in their assumptions about the nature of language, and that of the ego and the subject, and that is what the first two sections of this study will concentrate on. The last section will consist of an appraisal of the two stances concerning recognition, and a short consideration of what this might represent to political thought.

1. Language

1.1 Lacan

From Kojève, Lacan had learnt that specifically human desire arises out of a process where, from the initial (animal) perception of lacking an object for the fulfillment of a physical need, a sentiment of self is brought about; this experience is a rather problematic and somewhat

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[1] Lacan, J., *Seminaire. Livre II*, Editions du Seuil, Paris 1978, p. 74.

painful one, since it is at odds with the subject's illusion of autonomy; the satisfaction of the need takes the form of a negation of the object, so that this illusion can be restored, which in turn only leads to its being shattered again when the need returns. Thus, self-consciousness can only emerge when the desire is directed, not at an object that can be consumed, but to another desiring subject that is capable of acknowledging the first. The illusory desire for autonomy, however, remains, and this process of recognition can only be finally settled, according to Hegel/Kojève, when the illusion is given up in favour of the feeling of pertaining to a community – one that recognizes subjective freedom in the form of the legal institutions of the modern state.

This properly Hegelian solution is bypassed by the early Lacan. He sees recognition as being, as it were, immediately (as opposed to through a historical process) achieved in language. The reason for this is that language, rather than a system of representation of objects, has the form of an intersubjective pact: for me to name an object, I must be recognized as naming it by another subject, and the very act of naming something already presupposes the entire system of intersubjective agreements present in language. The analytical correlate of the abandonment of imaginary autonomy towards an understanding of the patient's place in the realm of intersubjectivity is the passage from empty to full speech.

This is a position that will change in his later work. As the ego as an illusory self-image becomes the ground of what he calls the Imaginary dimension (something we will see in the next section), language becomes problematic by the introduction of the so-called Symbolic order.

The new influence that comes into play here is that of Structuralism, particularly as it appears in the works of Levi-Strauss and Saussure. The parallel investigations of the two in the fields of anthropology and linguistics, respectively, draw Lacan's attention to a whole new set of problems. Central here is the split operated by Saussure between signifier and signified, and the emphasis on the arbitrariness of their relation. The former is not in any way determined by the latter, but rather by its relation to other signifiers, which is to say, by its location in a system of differences. That is also to say that each time it is actualized in a subject's speech, it is so in a unique manner since its capacity to signify something depends not on its intrinsic relation to the signified, but on the differences it relates to in the concrete case. To this will be added the absorption of Levi-Strauss's idea of the symbolic as the level

on which the explanation of societies must be accomplished; not only do personal and collective experiences that take place already presuppose this preexisting system that bestows them with meaning, but also, since it is only the system of a differential relation of elements, it allows for fully objective investigation to take place, avoiding the dangers of hermeneutics.

Thus, we can see how the original solution to the problem of recognition suffers a lethal blow; because speech is determined by the system of language, the intersubjective pact found in language cannot be traced back to the intentionality of the subjects, but has its ground on a preexisting system that they cannot control. Not only is the relation between signifier and signified – that of meaning itself – entirely arbitrary, but it also belongs to an order that is definitively heteronomous to the subject. Recognition is rendered ultimately impossible. The reconstruction of castration proposed by Lacan states it clearly – the phallus is the imaginary signifier that would be able to designate all signifieds and, thus, make full recognition possible; since such a signifier cannot exist, the subject must accept its loss, which marks his entry into the Symbolic order, an order which represents an imperative, a law beyond the subject's control.

1.2 Honneth

There is not much to be said about language in Honneth's work – for the plain reason that there is not much that is actually said in it. It is only against the background of the brief reconstruction of Lacan's positions sketched above that something can be teased out of it.

Of course, from the philogenetic point of view, which is an overall preoccupation for him (as shown by his successive attempts to reconstruct the "history of the species" underlying Horkheimer's, Adorno's, Foucault's and Habermas' theoretical developments in *The critique of power*, if not by the general intention in *The struggle for recognition*), to say that language is not constituted by, but rather constitutive of, intersubjective relations sounds rather non-sensical. It does not make the point raised by Lacan go away that easily, though; for even if one must assume that at a certain point in time the exchange of sounds as representing objects became a fixed system according to which the coordination of

actions was possible, the question is that ever since each individual has been born into a preexisting system, and it indeed determines, to some extent, the possible intersubjective accomplishments.

Honneth seems to espouse the same assumptions about language of the early Lacan, which are basically the standard ones in the whole of philosophy today: that it is not a system of representation of objects, as if words and objects could be necessarily tied in some way, but that it is a result of the interaction between subjects. As such, it is more than just the medium through which information is exchanged; it is also what establishes a certain relation between two subjects.

What is more important, here, is that Honneth does not depart from Hegel the way Lacan does, and maintains the original expansion of the realm of recognition into legal, political and social organization which is indeed central to his own project. The French author, having found the final resting point of the dialectic of recognition in language and leaving entirely untouched the social and political aspects of it, is obliged to deny the possibility of such a solution once his understanding of language comes under the influence of structuralism; Honneth, concentrating his version of a struggle for recognition inextricably bound with the possibility of successful individual self-formation on the very expansion into wider circles of recognition (the juridico-political and the social), leaves language unproblematized and therefore assumes it to be the fairly transparent and neutral medium (of the exchange of information and of the establishment of a relationship) Lacan disputes. Though he probably would not argue that there is some sort of limitation imposed by language on actual intersubjective relations, this does not seem to be of any particular importance for his theory, and the subject is therefore left largely unaddressed.

2. The Ego, the Subject

2.1 Lacan

Even though Lacan's preoccupations remain basically the same throughout the development of his work, not a few theoretical developments can be spotted in it; his conception of the ego, however, is one he arrives

at relatively early in his examination of the "mirror stage". This refers to a developmental stage before the beginning of articulated speech, between the ages of six and eighteenth months when a child, faced with its reflection in the mirror, gains apprehension of the body as the unity that sets itself apart from that which is other; this is where the coherent self appears for the first time, despite the fact that the child still does not have control of its movements. The most important thing in Lacan's rendering of the phenomenon is the idea, to remain central to his thought, that this coherence is as illusory as the reflected image that the child, struggling to keep its body in an upright position, can see; this is what leads him to describe

> the ego as a form of estrangement, a mirage of coherence and solidity through which the subject is seduced into misrecognition of its own truth. The mirror stage inaugurates the constitution of what Lacan describes as "the armour of an alienating identity, which will mark with its rigid structure the subject's entire mental development."[2]

Therefore, whereas the Freudian ego evolved by progressively differentiating itself from the Id, becoming the representative for the demands of external reality with the responsibility of keeping in check the urges for gratification of the latter, Lacan's is from the beginning a form of alienation; it entails a primary misrecognition (*méconnaissance*). This is the ground of what will subsequently be named the Imaginary.

The misrecognized, imaginary ego is set apart from the "true subject", the subject of desire. The account of the emergence of desire in fact would suffice to show how far Lacan is from Honneth: as soon as it develops the ability to articulate speech, the expression of a physical need by the child is both the request for a satisfaction of that need and a demand for recognition as its subject. However well the need can be satisfied, the demand for recognition can never be fully met; since the actions of the other lie behind the barrier of language – of

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2   Dews, P., *Logics of Disintegration. Post-structuralist thought and the claims of critical theory*, Verso, London 1990, p. 55.

the ultimate arbitrariness of the signifier –, the child can never be sure whether the reaction to the expression of the need was actually a token of the recognition it sought for, or simply intended to pacify the child so as to stop the disturbance brought about by the very expression of that need. Desire (*désir*) is a result of this process:

> resulting from the gap between the unconditionality of demand, and the inadequate particularity of whatever is preferred in re-ply. Through the experience of the incapacity of the object of need to function as an unequivocal signifier of love, the sub-ject is thrown back into the quest for a particular object which would satisfy the universality of the demand made manifest in language.'[3]

In turn, it is desire thus construed that gives the unconscious its order. The subject cannot simply accept the loss of the phallus – the signifier that signifies all signifieds – because this would mean its dissolution in the Symbolic order, renouncing to whatever identification he can find inside it. To say simply that every subject is in search of the phallus as its lack would also fail to explain the specific case of each subject (something that would be lethal for the analytic practice, which is what Lacan has in mind all the time). This is the point of the introduction of the *objet petit a*: the object a is what each subject substitutes for the phallus, what it represents as its lack: although it cannot be made conscious, it is what the subject is searching for in every self-represen-tation.

The relationship between the "true subject" and the ego can then be described as follows:

> the unconscious is this subject unknown to the *moi*, misrecog-nized [*méconnu*] by the *moi*. [...] the *moi* [imaginary ego] is not a *je* [subject], a partial point of view, of which a simple becoming conscious of would suffice to enlarge the perspective, would be enough for the reality that the analytic experience attempts to

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[3] Dews, P., *Logics of Disintegration. Post-structuralist thought and the claims of critical theory*, op. cit., p. 82.

grasp to be discovered. The important thing is the reciprocality that we must always bear in mind – the *moi* is not the *je*, is not an error, in the sense that the classic doctrine makes a partial truth of it. It is something else – a particular object inside the experience of the subject. Literally, the *moi* is an object – an object that fulfills a certain function that we deem here the imaginary function.[4]

2.2 Honneth: Mead and Winnicott

The core of Honneth's theory, and where it derives its normative thrust from, is the claim that identity-formation depends on practical relations-to-self that are in turn dependent on relations to others in the form of recognition; it is quite clear then, especially if he wants to avoid simply reviving Hegel's metaphysics, that he will have to refer to psychology to some extent. The two sources he draws from are chosen for no other methodological reason than that they seem to support the fundamental scheme of the Jena writings; both of them differ very importantly from Lacan's views, and it is therefore, also given the disagreeing assumptions about the nature of language, that Honneth will be lead to conclusions quite removed from Lacan's.

The first author he turns to is George Herbert Mead, who is presented as achieving a naturalization of Hegel's original metaphysical insight: the commitment to the idea of the intersubjective dimension of recognition being necessary to the formation of self-consciousness and self-identification is set free from the a teleological Aristotelian conception of the social nature of men (or the self-relation of the Spirit, in its later version) and placed in the empirical world. Honneth's study of Mead begins by highlighting precisely this point in the latter's concept of the "me":

> a subject can only acquire a consciousness of itself to the extent to which it learns to perceive its own action from the symbolically represented second-person perspective. [...] without the expe-

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[4] Lacan, J., *Seminaire. Livre II*, op. cit., p. 60.

rience of having an interaction partner react, one would not be
in a position to influence oneself – with the help of utterances
that one can perceive oneself – so as to learn one's reaction as
something produced by one's own person.[5]

The "me" has the function of making the point that the cognitive re-
lation-to-self that subjects can acquire depends on their being able to,
through the eyes of the other, as it were, place themselves in the ob-
ject-position. As a consequence of the subject moving into ever wider
circles of relations, this primary cognitive self-relation becomes a nor-
mative one, where the subject is capable of generalizing the action-ex-
pectations of a growing number of interaction partners ("generalized
other"), "to such an extent that a sense of social norms of action is
acquired" and "the abstract ability to participate in the norm-governed
interactions" is gained.[6]

Under the "me" that is made possible by recognition, there is the
"I", whose ultimate status – and that of its drives – is ultimately unclear
(and it is only natural that it should be so, because, since it cannot be
grasped in interaction as such, it cannot be brought to consciousness). It
is, however, the motor behind (at least the possibility of) social change:
it creates demands for individual recognition that, when they cannot
be met by the existing social arrangement, bring forth a demand for
the transformation of the existing "collective will" by the appeal to
a future ideal of an "expanded community of rights", and thus to an
ideal "me", a new set of expectations and duties that are intersubjec-
tively shared, and can meet more fully the demands for self-assertion of
my "I".[7]

Honneth can be quite safely presumed to take most of Mead's con-
tribution on board, since the only critique the latter receives concerns
his failure to account for the dimension of self-relation beyond the
one Honneth calls self-respect (that whose form of recognition is legal
institutions, and corresponds to moral responsibility on the part of

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[5] Honneth, A., *The struggle for recognition: the moral grammar of social conflict*, Polity Press,
Cambridge 1995, p. 75.

[6] Ibid., p. 78.

[7] Ibid., p. 83.

personality): that of self-esteem (corresponding to the positive evalua-
tion of someone's particular traits and abilities within a community of
value). Since the problem picked by Honneth here does not concern
the described model of self-identity formation, one can say that Hon-
neth in general accepts Mead's basic ideas.

The next step is the use of object-relations theory, and the work of
Donald Winnicott more specifically, to analyze the primary form of
recognition, love. The movement of recognition here begins in an early
state of "absolute dependence", a symbiosis without individual bound-
aries, where child and "mother" depend entirely on each other to have
their needs satisfied. Once this unity is broken – chiefly by the attention
of the "mother" being gradually redirected towards other things –, the
child acquires a sense of the "mother" as an external object, something
in the outer world that escapes its omnipotence. Not only that, but
the child also becomes aware of its own dependence. The new stage
that ensues is that of "relative dependence", where the child begins to
"orient personal impulses towards specific aspects of [the 'mother's']
care"[8]. Winnicott does not reduce the phase where the child reacts ag-
gressively to the "mother" to a result of the loss of omnipotence; these
attempts at destroying the "mother's" body actually serve the construc-
tive purpose of confirming here, once she survives them, as belonging
to an external, "objective" order. It is this struggle from which, in the
end, the child will get out acknowledging its dependence on the care of
an individual whose existence is entirely independent from it, and the
mother will get out recognizing the aggression as something against her
own interest and, therefore, coming from an independent person. This
new demarcation of the two individuals makes it possible for them to
acknowledge the dependence on the love of each other without having
to merge back into symbiosis.

Under this intersubjective recognition of the needs of each other,
connected to the cognitive recognition of the other's independence, a
form of self-relation becomes possible; since the child can believe the
"mother's" love to remain even when she is not there, the child can be
alone – love makes self-confidence possible. This is a pattern to return
later in life, under the form of friendship or love:

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[8] Ibid, p. 100.

It is only because the assurance of care gives the person who is
loved the strength to open up to himself or herself in a relaxed
relation-to-self that he or she can become and independent sub-
ject with whom oneness can be experienced as a mutual disso-
lution of boundaries.[9]

Honneth's acceptance of Winnicott's assumptions and conclusions
seems to be even greater than it is the case with Mead. Besides, his
introduction supplies the missing link (love) so that the other modes
of recognition introduced by Mead (a merely cognitive one, related
to problem-solving; a normative one, in the form of cognitive respect
of the other as an autonomous subject; and social esteem as the final
condition for individuation) can be supplied with a preceding one,
which brings the naturalized return to Hegel's three dimensions (love,
respect, ethical life) to a full circle.

   Assuming these are the theoretical guidelines Honneth is following
on these subjects (a very safe thing to do), our question then bears
on how these models relate to Lacan's takes on the same phenomena,
which leads us to the problem of recognition itself.

3. Recognition: Honneth and Lacan

In the end, what sets Lacan apart from the authors employed by Hon-
neth, and Honneth himself in their discussion of the subject, is exactly
the problem of recognition; and the problem here is, in the end, that of
language. His understanding of language is decisive in shaping Lacan's
concepts of the ego and the subject, and what renders recognition ul-
timately impossible for him.

   After his turn to the Saussurian and Levi-Straussian models of lan-
guage, recognition, which was always there as what pacified the strug-
gle of self-consciousness found in Hegel, becomes utterly problemat-
ic. When the subject addresses the other, the other (as opposed to *le
grand autre*, the Other) is a projection that can bring confirmation to

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[9] Ibid, p. 105.

the speaking subject in the received response; it is thus modeled on his own imaginary self-image, it is the ego. The loose game of signifier and signified applies not only to the words actually uttered, but to the response of the other as a whole (including the relationship between the two subjects that is struck by the utterance, as in Lacan's recurrent example, *You are my wife*) – therefore, whatever the new image conjured up by the other's response, it will always be a new projection, a new interpretation, and the Other, the true Other, the absolute Other, will remain forever unknown. "The concept of Other indicates the point at which 'the recognition of desire is linked with the desire for recognition', but this point has now been removed to an unattainable 'beyond'".[10]

One can observe then how Lacan's becomes an absolute external critique of Honneth's project: whereas the latter puts the very possibility of recognition, as a pre-condition for self-identity formation, as the normative basis of social struggles, the former simply denies the very possibility of it. This can be seen in the points where Lacan is at variance with Mead and Winnicott. In the first case, there is also a certain distinction within the subject, in the form of the "I" and the "me". The second has a role somewhat similar to the unconscious – as the source of drives – but it seems to be easily translatable in a "me", even if it is projected in the future. The "me" itself, the self-image the subject can have of itself through interaction, seems fairly unproblematic – it is possible for me to know the image the other has of me (the point made by Mead that an utterance affects the subject and the other in the same way at the same time cannot be emphasized enough here) and to understand his or her expectations in our interaction. It could be said that the difference here hinges on the fact that, while Lacan is concerned with recognition as such – of an image, of a role etc. – Mead's early focus is goal-oriented interaction.

In the comparison with Winnicott, what immediately springs out is the account of the origin of the unconscious: the child can never really be sure that the care given is a token of love and a recognition of it as the subject of a need. One could argue that love, as understood by Winnicott (and Honneth), is an impossibility for Lacan.

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[10] Dews, P., *Logics of Disintegration. Post-structuralist thought and the claims of critical theory*, op. cit., p. 79.

Since it is so external to the basic premises of Honneth's project, it becomes rather difficult to bring Lacan's work to a comparison with it. One is put in an either/or situation, where it is necessary to subscribe to one of two basic assumptions, primarily concerning language, but also the subject. Nevertheless, it can draw attention to some debatable points in Honneth: does he rely on too immediate a conception of the subject, in the sense that in his account of moral struggle it seems always too clear what the subject wants itself to be recognized as (an objection desire-oriented philosophies, such as Lyotard's or Deleuze's, could also raise)?

On the other hand, one could point too the ultimate lack of political and social critique, let alone normativity, on Lacan's side. If the entry in the Symbolic order is a prohibition the subject imposes on itself, and the unconscious is equaled to language, the Other that lies always beyond, and to a permanent, unfulfillable lack, gone is the tension between ego and Id (Freud), "me" and "I" (Mead), that could bring some socio-political content to the unconscious.

Here we are brought back to the beginning. Both authors indeed do find the source of their overcoming of the philosophy of consciousness in Hegel. Honneth does it by finding in intersubjective relations the tools not only to explain the development of a sense of self, but also a way to assess social struggle as being brought by the need of recognition underlying self-identity formation. Lacan, on the other hand, undermines this very possibility when he overcomes the subject by means of stressing its illusoriness (in the ego), and the ultimate opacity of language that renders all intersubjective relations and the self-representations the "true subject" searches for in the chain of signifiers unstable, and recognition impossible.

References

Borch-Jacobsen, M., *Lacan: the absolute master*, Stanford University Press, Stanford, Calif. 1991.

Dews, P., *Logics of Disintegration. Post-structuralist thought and the claims of critical theory*, Verso, London 1990.

Honneth, A., *The struggle for recognition: the moral grammar of social conflict*, Polity Press, Cambridge 1995.

Kauppinen, A., "Reason, recognition and internal critique", *Inquiry*, 45, 2002, pp. 479–498.

Kojève, A., *Introduction à la lecture de Hegel. Leçons sur la Phénomenologie de l'Esprit*, Gallimard, Paris 1975.

Lacan, J., *Seminaire. Livre II*, Editions du Seuil, Paris 1978.

Recognition and Learning Processes
in Modern Societies

Emil A. Sobottka

Axel Honneth has set himself the task of finding a new theoretical language with which the current political demands may be justified in the context of a Critical theory. This fundamentation is supposed to expose which normative expectations are, and which are not upon the different aspects of social life. Honneth defined the concept of recognition as the generative core of this language, around which he developed his approach to a theory of recognition.

In *The struggle for recognition*[1] Honneth defines recognition as an intersubjective condition of individual self-realization. As it is known, the *patterns* of recognition, these being love, rights and solidarity are there presented as preconditions for the practical self-relations, these being self-confidence, self-respect and self-esteem. Primary relationships, legal relations and the community of values (Wertegemeinschaft) correlate as *forms* of recognition. Patterns of recognition as forms of social integration correspond to emotional connections, conferring of rights and common value-orientation, on the one hand, and abuse and rape, deprivation and exclusion, humiliation and insult correspond to forms of disrespect on the other.

In order to explain the distinction between the second and the third form of recognition, the author reconstructs the internal differentiation of honour, which was the determining factor for social placement in traditional societies. In modern societies, it appears as differentiated in legal recognition and social-esteem. The recognition mediated through legal rights expresses "general characteristics of human subjects", from which the normative expectation of equal treatment is derived – even if law can not entirely cover this expectation. Contrasting the latter, social-esteem refers to "differences",[2] to skills and achievements with which the members of a society classify themselves as unequal despite the principle of equal treatment.

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[1] Honneth, A., *Kampf um Anerkennung: Zur moralischen Grammatik sozialer Konflikte*, Suhrkamp, Frankfurt am Main 2002.

[2] Ibid., pp. 199–200.

While legal recognition can be presented as plausible, being based on arguments including the mutually accorded normative expectations under law, solidarity can only difficulty be presented as a concept to express a mutual respect among the participants of a communitarian horizon of shared values. Skills, behaviour and achievements refer to very different situations, although together can hardly conceptually be linked to solidarity. Therefore it is no wonder that Honneth soon finds a replacement.

In his reply to Nancy Fraser[3] the three *patterns* of recognition are presented as differentiated *spheres* of recognition in society. Besides love and law, *achievement* is presented as the third sphere. They are resumed by the author as follows:

> In intimate relationships, marked by practices of mutual affection and concern, they are able to understand themselves as individuals with their own needs; in legal relations, which unfold along according to the model of mutually granted equal rights (and duties), they learn to understand themselves as legal persons owed the same autonomy as all other members of society; and, finally, in loose-knit social relations – in which, dominated by a one-sided interpretation of the achievement principle, there is competition for professional status – they in principle learn to understand themselves as subjects processing abilities and talents that are valuable for society.[4]

This reformulation contains two changes that will be discussed in more detail: one is that *patterns* of recognition are changed into *spheres* of recognition, and the other is that the third dimension referred to as solidarity is replaced by achievement. First, I would like to analyse if here is emerging a concept of society where the three spheres of recognition represent three forms of social relations. Then I will ask whether the change from solidarity to achievement and thus the obtained lan-

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[3] Honneth, A., "Redistribution as recognition: a responce to Nancy Fraser", in: N. Fraser – A. Honneth, *Redistribution or recognition? A political-philosophal exchange*, Verso, London 2003, pp. 110–197.

[4] Ibid., p. 168.

guage specificity also evokes a change in the theoretical access to the related social conflicts.

I begin with the question referring to the concept of society. In *The struggle for recognition*[5] Honneth mentions various examples of triparted society concepts common in social philosophy. He complements it with the observation that only Hegel and Mead referred these three "spheres of interaction" to "different patterns of mutual recognition". In the already mentioned reply to Fraser[6] patterns of recognition are no longer spoken of, but it is emphasised that there occurred a differentiation of three spheres of recognition. Therefore it seems that for Honneth the use of a tripartite division is legitimized.

The whole reconstruction of the concept of recognition suggests that Honneth derives this tripartite division from Hegel. Though for Hegel it is stated[7] that by mentioning family, civil society and the state he refers to three institutional complexes of ethical order – which without further notice cannot be seen as equal to the society. Therefore the question remains whether by referring to the differentiation into three spheres of recognition Honneth is really suggesting that three major forms of social relations are themselves being crystallized here, respectively corresponding to three areas of social life. This question is not answered explicitly, but there are strong indications that Honneth assumes that by reconstructing the process of differentiation of these three spheres of recognition, he also reconstructed the emergence of three sectors of society with their respective forms of coordinating social relations.[8]

Considering relevant literature might give the impression that in social theory we do not need more concepts or images of society.[9] Although looking for theoretical approaches that seem to be related

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[5] Honneth, A., *Kampf um Anerkennung: Zur moralischen Grammatik sozialer Konflikte*, op. cit., pp. 151–152.

[6] Honneth, A., "Redistribution as recognition: a responce to Nancy Fraser", op. cit., p. 169.

[7] Ibid., p. 170.

[8] See ibid., p. 167.

[9] See Kneer, G., *et al.* (eds.), *Soziologische Gesellschaftsbegriffe: Konzepte moderner Zeitdiagnosen*, Wilhelm Fink, München 1997.

to the approach of Honneth, Weber and Habermas best come into consideration.

About Max Weber it is often said that he had not even developed his own concept of society. In fact, he has very consistently avoided commenting on this in a detailed way. This is due to the fact of his approach being totally focused on the individual: for Weber, an individual's social action is the subject of sociology, major social formations occur as contexts that affect this action.

In his text, *Class, status, party*,[10] he asks how power is distributed in society. He draws a three-dimensional social space in which the individual assumes his social position based upon the available power it has in these three dimensions. If one looks closely, it becomes clear that for Weber these three dimensions stand for the three relevant sectors of society: economy, culture and politics; in each of them social action is guided by a specific form of goal-rationality. Thereby, a concept of society is not yet well defined, but the most important outlines of it for Weber are presented. Social action takes place within this framework and gains its sense according to the rules of the corresponding area. Although a large number of individuals might take a "joint position" from the specific composition of their power, for Weber the reasons for common action are not evoked by it. Apparently, the individual described as actor is autonomous to such an extent that the social theory does not need to be concerned with specific social problems that could affect the individual's life.

In his text *Work and interaction*, Habermas has distinguished the cultural reproduction from material reproduction, and thus made a major decision for his theory, especially for his concept of society. In his work *Theory of communicative action*,[11] he does not raise the question of the distribution of power, like Weber does, but asks about the coordination of social action, developing a concept of society which is also divided into three parts. The areas of economics and politics, which are jointly responsible for the material reproduction of society, are represented in

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[10] Weber, M., "Classe 'status', partido", in: O. G. Velho *et al.* (eds.), *Estrutura de classes e estratificação social*, Zahar, Rio de Janeiro 1981, pp. 61–83.

[11] Habermas, J., *Theorie des kommunikativen Handelns*, Suhrkamp, Frankfurt am Main 1988, 2 v.

the language of system theory, though corresponding broadly to the same sectors named by Weber. Instead of culture, perhaps Habermas uses the concept of life-world for the third ,responsible for the reproduction of cultural life. It actually is the centre of Habermas' approach and must be protected from the intrusion of the other two areas' coordinated forms of social action. Especially after some additions made by dialogue partners such as Cohen and Arato, in this theoretical approach it was more specifically shown how a common social action may arise in the form of social movements: collective interpretations of situations are perceived through the public sphere and amplified through already existing forms of cooperation, structured and designated as civil society, and transformed into mobilization for collective action. To these movements Habermas attributes the task of protecting the life-world against the invasion of forms of action coordination coming from other sectors or, if penetration of such alien forms already has occurred, they have to be rejected in order to decolonize the life-world again.

Even with the aforementioned restriction about Weber, for each of these two approaches can be found a concept of society, according to which there are basically three differentiated spheres of action in the society. In each area, power is allocated according to other criteria or social action is coordinated according to another form of rationality. These two forms of classifying social interactions according to domain-specific principles make an implicit claim to involve all socially relevant interactions. They are indeed capable of capturing economics and politics, the two key areas of the present capitalist societies, according to their own objectives, but both authors also assign a significant proportion of socially relevant action to a very heterogeneous concept – culture by Weber and life-world by Habermas.

In Honneth's approach, the situation is somewhat different. As mentioned above, it is evident that his tripartite division is derived from Hegel's conception of an ethical order. He remarks a distance because Hegel fixes his interpretation on one specific set institution of the ethical order, and thus disregards other social institutions as well as the possibility of interpenetrated influences between institutions and principles of recognition. While Honneth, as part of his project to develop a theoretical language adapted to the current social demands, increasingly speaks about three differentiated spheres of recognition, I believe that he implicitly raises the claim to capture the totality of society. E.g. when

he says[12] that "a satisfactory definition of the capitalist social order" in addition to the three spheres of recognition – "with their normative principles, subjects may associate legitimate expectations of reciprocal recognition", must take into account the "cultural values".[13]

The author prefers to speak about a type of "social order", not focusing on differentiated social action of society members, but on the recognition, or on the disappointment because of frustrated expectations of recognition, seen as legitimated, which are turned into discomfort or injustice. In other words, the claims to be recognized are addressed to "the society", but the experience of recognition, or the disappointment due to its absence is a personal experience. Maybe it is no exaggeration to see here an early expression of the growing influence of Durkheim in Honneth's approach, which found its climax recently in the *Freedom's right*.[14] Social integration becomes increasingly important; recognition is more and more expected as an achievement of the spheres of social life rather than seen as patterns of interpersonal relations. Thus, the question of justice is gradually being transformed into a question of social integration, and the risk of this turn is to devolve to the individuals the responsibility for a failed "integration". Before I can continue to discuss the impact of this perception towards a mobilization for resistance, it is necessary to detain myself a little more with a change of name for the third form of recognition.

As Honneth moves from the reconstruction of inter-subjective patterns of recognition to an attempt to "interpret the bourgeois capitalist society as an institutionalized order of recognition",[15] he calls the third form of recognition *achievement* as a substitute for *solidarity*. This formulation emphasises the fact that this form of society wants to avoid

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[12] Honneth, A., "Redistribution as recognition: a responce to Nancy Fraser", op. cit., p. 185.

[13] Ibid., p. 185.

[14] Honneth, A., *Freedom's right: the social foundations of democratic life*, Polity Books, Cambridge 2014; see Sobottka, E. A., "A liberdade individual e suas expressões institucionais", *Rev. bras. Ci. Soc.*, São Paulo, v. 27 n. 80, out. 2012, pp. 219–223; Sobottka, E. A., "Liberdade, reconhecimento e emancipação: raízes da teoria da justiça de Axel Honneth", *Sociologias*, Porto Alegre, v. 15, maio–ago. 2013, n. 33, pp. 142–168.

[15] Honneth, A., "Redistribution as recognition: a responce to Nancy Fraser", op. cit., p. 162.

the difficult task of evaluating specific human qualities; it can even abstract completely from their content, taking into account exclusively their outcome. Although skills and forms of behaviour can contribute to the outcome, they are not being evaluated as such. Honneth remarks to some extent that the maintenance of legally equal treatment can de facto legitimize inequalities.

In the context of this interpretation Honneth mentions that the new achievement principle "represented little more than part of an influential ideology insofar as it simply expressed the one-sided value horizon of those social groups which, because they possessed capital, had the means to reorganize economic reproduction".[16] The author realizes that the question here is much more than just about a tension between equality and difference, that it is not primarily a question of the possible priority of redistribution or recognition. The point here is about the social naturalization and generalization of measurement criteria. Quite different from the construct of an early state of ignorance about the actual abilities and assets, such standards are imposed by those members of society who know exactly about the resources or capabilities they and their fellow citizens have.

Honneth identifies it namely as an ideology, but does not deepen this very sensitive issue for a critical theory. He refers more generally to the influence of cultural values – and also to the possibility of these principles in some way making it available to the individual standards by which it may become aware of its situation. Especially in this context, it would seem desirable to reflect more upon the question of the dynamics of the ideological struggle about the interpretation of the situation – one that goes far beyond the measurement of achievement. Despite questioning what the true issue in the struggle for recognition at the ideological level is, it ought to be asked who the opponents in this fight are, who fights with whatever means, under what circumstances and with which aims.

R. Kreckels' book *Political Sociology*[17] could potentially help as a starting point to investigate the ideological character of the achieve-

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[16] Ibid., p. 174.

[17] Kreckel, R., *Politische Soziologie der sozialen Ungleichheit*, 3rd ed., Campus, Frankfurt am Main 2004.

ment principle, especially in capitalist societies. Besides economics and politics, however, the achievement criteria of other requirements present in everyday life also should be investigated in order to unveil their processes of naturalization. A theoretical approach in which the social dynamics of such conflicts is presented in a differentiated manner – in a structuralistic perspective – comes from Bourdieu. With his theory of fields and their internal remarked criteria, he shows how certain social groups are able to establish field-specific criteria and rules to govern the field and thus put themselves in a position, in which they will be more able to continue fulfilling the requirements than their counterparts. In his book *Distinctions*[18] the author shows how even in everyday situations, such as consumption, social groups act to favour themselves over their fellow citizens through self-imposed distinctions.

A growing generalization of these differentiation strategies leads to the situation that many people who by nature or due to their social condition are not equipped with skills according to the specific requirements of individual achievement or those who have insufficient access to the markers of social distinction perceive themselves as second category. Thus, the negative judgment of achievement is transferred to the person itself, or is recorded as such by the individual himself – thereby spreading from one life-segment to the whole subject. This creates a background consensus which, based upon certain criteria such as capabilities or potential of consumption, divides the people hierarchically, assigning to those in the lower ranks an identity that grants them a low self-esteem and low social prestige. This way, people and groups are socially displaced to the margin, pruned in the possibility of creating their own life plans and severely impaired in the possibility of realizing them – meaning, in their *autonomy*. Such situations show, how unstable the differentiation of life-spheres, that are considered to be a positive achievement of Modernity, can be: social inequalities, measured in a specific area of life on the basis of socially defined standards are extended and applied to other areas of life, and lead ultimately to an ontologized distinction between the people themselves.

In societies where such ideological struggles have progressed and

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[18] Bourdieu, P., *Die feinen Unterschiede: Kritik der gesellschaftlichen Urteilskraft*, 9th ed., Suhrkamp, Frankfurt am Main 1997.

have been generalized, the naturalization of social inequalities in every-day life has a similar impact on that of the figure of invisibility drawn from literature, employed by Honneth[19] in his presentation on the precedence of recognition of cognition. There is usually no open con-flict anymore; "inefficient" people are largely ignored and overlooked by the "powerful" and "voluntarily" take the place that is assigned to them – on the fringes of society.

Empirical research would be necessary to answer the question of whether and how the life situation and opportunities of the "ineffi-cient" people in poor and rich countries differ from each other. It can be assumed that the life situation of such individuals in poor countries differs very much from that of an individual who is exposed to the *paradox of capitalism* in a rich country. While the latter feels how many normative advances of the past will "be transformed into mechanisms of integration of the society under the pressure of the neoliberal de-taming of capitalism",[20] the "many normative advances" will remain largely denied to the former. In consequence, the so called new poverty as a *post festum* emergence is a specific phenomenon of rich countries. It does not affect people as a structural consequence of liberal politics restricting social rights; poverty in poor countries affects entire social groups through generations before they can participate as relevant participants in any field of social life. It seems likely that the differ-ent forms of practical self-relation will also be affected differently for both.

Honneth rightly points out that in most currently popular con-ceptions of justice, the distribution of goods builds the centre of the reflections. Similarly can be referred to the objectives of many social movements. Honneth encounters this prevailing tendency in the the-ories of justice with a conception formulated in the language of rec-ognition of individual autonomy; which is not characterized by the access to goods, but to certain intersubjective relationships, namely by relations of recognition. Although the author succeeds in justifying the

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[19] Honneth, A., *Unsichtbarkeit: Stationen einer Theorie der Intersubjetktivität*, Suhrkamp, Frankfurt am Main 2003.

[20] Hartmann, M., – Honneth, A., "Paradoxien des Kapitalismus: ein Untersuchungs-programm", *Berliner Debatte Initial* 15, 2004.

normative expectations, he has difficulties in integrating the necessary mediations capable of bridging the gap between social theory and the political struggle for recognition into his theoretical approach. I want to consider a possibility indicated by Honneth himself: the learning of recognition – and therefore I shall refer to the possible functions of social movements in modern society.

Honneth appoints that society is reproduced only when people learn to recognize their fellow citizens.[4] Even in *The struggle for Recognition* he stated: "[...] the reproduction of social life takes place under the imperative of a reciprocal recognition because the subjects only can arrive at a practical self-understanding if they learn to see themselves from the normative perspective of their interaction partners as their social addressees".[21] Similar indications of the thesis that recognition must be learned are repeated in the subsequent writings of the author. This learning process is understood as part of the process of individualization. If I have understood Honneth correctly regarding this, for him relations of recognition are always founded upon intersubjectively formed basic values that are appropriated through learning processes and advanced by the individual.

The relations of recognition are given for each individual as a normative expectation to begin with– as an expectation that he can legitimately have, but that he also has to fulfil for others. The central question is, how can he first take note of it, and then assume it as a duty for himself. The development of the child, as described by Winnicott and recorded by Honneth, is surely a basic building block of the entire learning process, but it is far from being able to describe today's highly differentiated socialization processes present in every sphere of society. And if the relations of recognition are to be the central form of social relations within the three differentiated spheres of society, as established by the theory of recognition, then this theory must reconstruct the necessary learning processes that have to take place as part of the socialization beyond the intimate relationships, through which each individual assumes the expected basic attitude of recognition for himself and lets it become a habit.

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[21] Honneth, A., *Kampf um Anerkennung: Zur moralischen Grammatik sozialer Konflikte*, op. cit., p. 148.

T. H. Marshall's classic text *Citizenship and Social Class*[22] is usually mentioned in connection with the expansion of citizenship. There are good reasons to assume that this citizenship in Marshall's conception means much more for the social relations than the recognition of individual rights.[23] So for him the general right to (school) education is the most important social right: it is presented as a means of turning people into citizens. Even if in today's school systems where there is a broad pallet of design options, it still remains one of the central institutions of socialization in modern societies. In this institution are offered to the individual competing conceptions of ethical values, which are represented in society and from which he composes his own mosaic, taking into account the current significant others. If from this process results a surplus of recognition, it cannot be answered from the theoretical work-up. Rarely, however, is the school system a place where naturalized conceptions of a given society's values are subjected to critical reflection. The main function of school is certainly to contribute to a stabilizing social integration.

Assuming that the present society has already reached a satisfactory level of justice, or adopting the perspective according to which there is a natural evolutionary process for the better, then these institutions of socialization may be sufficient. However, if one is convinced that the given conditions contradict the normative expectations to the extent that social transformation processes appear as necessary, then the question of alternative learning processes where the subjects acquire the desired values and also can develop correspondent forms of habit, rises more insistently.

Now it is very important for a critical social theory that, despite the consistent theoretical basement of the normative principles of its approach, it also questions itself as to how these principles can be relevant in the everyday lives of those who have served as a reference for building the theory. An important role in this context, appointed by Habermas and now also by Honneth, is ascribed to social movements.

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[22] Marshall, T. H., "Citizenship and social class", in: T. H. Marshall – T. Bottomore (eds.). *Citizenship and social class*, Pluto, London 1992, pp. 3–51.

[23] See Honneth, A., *Kampf um Anerkennung: Zur moralischen Grammatik sozialer Konflikte*, op. cit., p. 190.

How is this role specifically defined and how should it be played? I am convinced, that there are three tasks that social movements have to fulfill in modern societies. First, as Flickinger has already noted,[24] they can serve as an early warning system to draw attention to societal illnesses. Secondly, they can even if often only to a limited extent, provoke or prevent processes of social transformation.[25] Thirdly, they can achieve what in the movement research is described as *framing*:[26] particularly if opinion can be formed through democratic discussions in the public sphere, people learn in and through them to interpret their situations in a new way and to develop alternative projects or utopias. The framing processes seem to be an important distinction of social movements in relation to lobbying groups because they involve a change in the interpretation of the given situation. For a social theory in which the question of justice is not limited to a representation of participants interests, but has the emancipatory potential of social life as its ultimate criterion of judgement, social movements may contribute being an empirical space as both inspiration for and validation of theoretical insights.

This last task is of central importance in the context of a theory of recognition because it demonstrates a possible way of how the individual's "violation of deep-seated expectations of recognition"[27] can be reflexively processed and socially shared. It is this common interpretation of the situation[5] that enables one to reflect on the social situation and, if necessary, to mobilize for social resistance. This social learning becomes particularly important, when a critique of ideology is necessary in the form of a *reinterpretation* of the situation. If one looks closely to the goals of most contemporary social movements, their motivations

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[24] Flickinger, H.-G., "Movimentos sociais e a construção do político: Carl Schmitt", *Civitas - Revista de Ciências Sociais* 4, jan.–jun. 2004, n. 1, p. 11–28.

[25] See Raschke, J., "Sobre el concepto de movimiento social", *Zona Abierta* 69, 1994, pp. 121–134.

[26] See McAdam, D. *et al.* (eds.), *Comparative perspectives on social movements: political opportunities, mobilizing structures, and cultural framings*, Cambridge University Press, Cambridge, 1996.

[27] Honneth, A., *Kampf um Anerkennung: Zur moralischen Grammatik sozialer Konflikte*, op. cit., p. 261.

may be mainly attributed to two forms of violation of recognition expectations: either according to their interpretation social inequality is propagated under the guise of equality, or people are dismissed or discriminated because they cannot – or will not – provide exactly those achievements specified as crucial for social recognition in a relevant context. Mobilizing against that requires making new, different normative expectations plausible and applying them to the jointly shared given situation.

This could just be a supplement of the social movements to critical reflection and could contribute to bridge the gap between Critical theory and political practice.

References

Bourdieu, P., *Die feinen Unterschiede: Kritik der gesellschaftlichen Urteilskraft*, 9th ed., Suhrkamp, Frankfurt am Main 1997.

Flickinger, H.-G., "Movimentos sociais e a construção do político: Carl Schmitt", *Civitas - Revista de Ciências Sociais* 4, jan.–jun. 2004, n. 1, p. 11–28.

Habermas, J., *Theorie des kommunikativen Handelns*, Suhrkamp, Frankfurt am Main 1988, 2 v.

Habermas, J., *Die Einbeziehung des Anderen: Studien zur politischen Theorie*, 2nd ed., Suhrkamp, Frankfurt am Main 1997.

Hartmann, M., – Honneth, A., "Paradoxien des Kapitalismus: ein Untersuchungsprogramm", *Berliner Debatte Initial* 15, 2004.

Honneth, A., *Kampf um Anerkennung: Zur moralischen Grammatik sozialer Konflikte*, Suhrkamp, Frankfurt am Main 2002.

Honneth, A., "Redistribution as recognition: a responce to Nancy Fraser", in: N. Fraser – A. Honneth, *Redistribution or recognition? A political-philosophical exchange*, Verso, London 2003, pp. 110–197.

Honneth, A., *Unsichtbarkeit*: Stationen einer Theorie der Intersubjetktivität, Suhrkamp, Frankfurt am Main 2003.

Honneth, A., *Freedom's right*: the social foundations of democratic life, Polity Books, Cambridge 2014.

Kneer, G., *et al.* (eds.), *Soziologische Gesellschaftsbegriffe*: *Konzepte moderner Zeitdiagnosen*, Wilhelm Fink, München 1997.

Kreckel, R., *Politische Soziologie der sozialen Ungleichheit*, 3rd ed., Campus, Frankfurt am Main 2004.

Marshall, T. H., "Citizenship and social class", in: T. H. Marshall – T. Bottomore (eds.). *Citizenship and social class*, Pluto, London 1992, pp. 3–51.

McAdam, D. *et al.* (eds.), *Comparative perspectives on social movements*: *political opportunities, mobilizing structures, and cultural framings*, Cambridge University Press, Cambridge, 1996.

Raschke, J., "Sobre el concepto de movimiento social", *Zona Abierta* 69, 1994, pp. 121–134.

Sobottka, E. A., "A liberdade individual e suas expressões institucionais", *Rev. bras. Ci. Soc.*, São Paulo, v. 27 n. 80, out. 2012, pp. 219–223.

Sobottka, E. A., "Liberdade, reconhecimento e emancipação: raízes da teoria da justiça de Axel Honneth", *Sociologias*, Porto Alegre, v. 15, maio–ago. 2013, n. 33, pp. 142–168.

Taylor, Ch., "A política do reconhecimento", in: Ch. Taylor, *Argumentos filosóficos*, Loyola, São Paulo 2000, pp. 241–274.

Weber, M., "Classe 'status', partido", in: O. G. Velho *et al.* (eds.), *Estrutura de classes e estratificação social*, Zahar, Rio de Janeiro 1981, pp. 61–83.

Weiß, J., "Stellvertretung: Überlegungen zu einer vernachlässigten soziologischen Kathegorie", *Kölner Zeitschrift für Soziologie und Sozialpsychologie* 36, 1984, 1, pp. 43–55.

Deflationary Ontology and Objective Ethics:
In Search of the Ontological Assumptions
of the Theory of Recognition

Eduardo Luft

1. From the criticism of Hegel to the restructuring of systematic philosophy

1.1 Initial considerations

After decades during which analytic lines of thinking predominated, philosophy is undergoing a revival of interest in dialectic, specifically in the Hegelian-style dialectic[1]. The purpose of the present study is to contribute to the project of reactualization of Hegel's *Philosophy of Right* inaugurated by Axel Honneth, but this rather indirectly: my interest here is not to investigate specific topics of the *Philosophy of Right*, nor even the theory of recognition itself as proposed by Honneth, but to begin to spell out the ontological presuppositions carried by such a reactualization project. This emphasis on an ontological approach should not seem surprising since the presuppositions of the *Philosophy of Right* are strongly anchored in the dialectical metaphysics elaborated in the *Science of Logic*, whence emerge a dialectical theory of freedom (based on the self-determination of the Concept), a relational theory of ontological structures (key presupposition of the relational theory of the self which is the base of the dialectic of recognition) and a strong notion of teleology (in which Hegel's reading of the progress of freedom in the history of civilizations is anchored).

We should, however, remember the restrictions raised by Honneth himself regarding a supposed reactualization of Hegelian philosophy *in toto*. It seems difficult to reconcile the peculiar demands of contemporary thinking, right in the "post-metaphysical" era, with the strongly metaphysical orientation of Hegel's philosophical project, particularly its defense of an objective idealism of the Concept, supposedly founded ultimately on the *Science of Logic*. Honneth is emphatic on this point: "It seems to me that neither Hegel's concept of State, nor his ontological concept of spirit can in any way be reactualized today".[2]

It appears clear, however, that any contemporary attempt to reactualize the *Philosophy of Right*, must have recourse to some ontological

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[1] See, for instance, Halbig, C. – Quante, M. – Siep, L. (ed.), *Hegels Erbe*, Suhrkamp, Frankfurt am Main 2004.

[2] See Honneth, A., *Leiden an Unbestimmtheit*, Reclam, Stuttgart 2001, p. 14.

presupposition, at least if one intends to escape from the deficiencies that are specific to the varied forms of subjective idealism (in the context of the philosophies of consciousness) or intersubjective idealism (in the philosophies of language). But this in no way means to advocate an ontological approach similar to that undertaken by Hegel in his *Logic*. As we will see below, dialectic ontology does not need to be developed in the form of an objective idealism, much less does it need to carry with it the claim to an ultimately founded knowledge. Much to the contrary, maybe one of the most important factors of a revisited dialectical ontology is precisely its fallible character and its openness to dialogue with rival ontologies and with central currents of contemporary science.

1.2 The critique of Hegel and the need to restructure the dialectical system

Whatever the project of reconstruction of dialectical thinking, one must always bear in mind the objections raised by outstanding thinkers against central insights of Hegel's philosophy. If the proposal to develop philosophy from the perspective of absolute knowledge is no longer credible, if philosophical thinking must recognize its unavoidable connection with history, the task of a critical reconstruction of dialectical thinking must take into account the dilemmas that led to blind alleys in the past and must be avoided in the present. A key role in this context is played by the critique developed by late Schelling in his lectures *Zur Geschichte der neueren Philosophie*, which had a strong influence on later thinkers, becoming truly epoch-making in the history of philosophy[3]. I am thinking above all about the denunciation of a deficiency in Hegel's treatment of the concept of contingency in the *Science of Logic*, and the consequent distorted understanding of the role of the individual (and of individual freedom) in the system of philosophy[4].

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[3] See Schulz, W., *Die Vollendung des deutschen Idealismus in der Spätphilosophie Schelling*, Kohlhammer, Stuttgart – Köln 1955.

[4] See Schelling, F. W. J., *Ausgewählte Schriften*, ed. M. Frank, 6 v., 2nd ed., Suhrkamp, Frankfurt am Main 1995, vol. IV, p. 548.

In *Para uma crítica interna ao sistema de Hegel*, I tried to rearticulate Schelling's objections in the form of an immanent critique of Hegel's philosophy.[5] At the time I believed that the critiques could be satisfactorily responded to by a specific correction in the *Science of Logic*, to be more precise, of Hegel's theory of modalities,[6] according to the proposal of Carlos Cirne-Lima.[7] The categories of *relative necessity* and *contingency* should not be synthetized by the broader category of *absolute necessity*, but by a category that is able to express dialectical logicity in the form of a tenuous rationality, in the form of an oughtness. Based on this correction, contingency would take on a more productive role in the system of philosophy than that proposed by Hegel, which would ensure a full space, in the Philosophy of the Spirit, to exercise individual freedom. During the time when I performed my Doctoral research, however, it slowly became clear that the critique had a greater impact than I had previously imagined. In *As sementes da dúvida*,[8] I proposed reinforcing these two objections (deficiency in the treatment of contingency and freedom), articulating them with a third critique (inspired by Feuerbach[9]), i.e., the accusation of dogmatism, and referring them all to what I consider their common root: the awareness of the inconsistencies originating in Hegel's attempt to conceptualize dialectical processuality in the light of what I nowadays call *teleology of the unconditioned*, a constitutive mark of Concept.[10] It is due to this specific type of (immanent) teleology that the end of the dialectical becoming, seen as the fulfillment of Concept, *and* the necessary mediations which

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[5] See Luft, E., *Para uma crítica interna ao sistema de Hegel*, Edipucrs, Porto Alegre 1995.

[6] See Hegel, G. W. F., *Werke*, ed. E. Moldenhauer and K. Michel, 20 v., Suhrkamp, Frankfurt am Main 1990, vol .6, pp. 200 ff.

[7] See Cirne-Lima, C. R. V., "Analítica do dever-ser", in: C. Cirne-Lima – C. Almeida, *Nós e o absoluto*, Loyola, São Paulo 2001, p.83.

[8] See Luft, E., *As sementes da dúvida*, Mandarim, São Paulo 2001.

[9] See Feuerbach, L., *Zur Kritik der Hegelschen Philosophie*, Gesammelte Werke, ed. W. Schuffenhauer, 21 v., 3rd ed., Akademie Verlag, Berlin 1990, vol. 9.

[10] Critique is not focused now predominantly on the dialectic of the modalities, i.e., on the Doctrine of Essence, but it incides on the Hegelian theory of the Concept, i.e., on the Doctrine of Concept.

lead to this state of fulfillment, is predetermined by the Concept itself. The supposed presence of the teleology of the unconditioned would explain why, in the *Phenomenology of the Spirit*, the process of formation of consciousness necessarily flows into absolute knowledge; why in the *Science of Logic* the self-determination process of pure thinking is consummated in the ultimate foundation of the system of categories; and, finally, why the historical becoming of civilizations is fulfilled in the substantialist freedom derived from the modern State.

The response to the aforementioned objections to Hegel's dialectic, now potentiated as critiques to the very logicity of the Concept, requires breaking with the teleology of the unconditioned. Since the logicity of the Concept structures the system of philosophy as a whole, its problematization requires the global restructuring of the dialectical system. In *Sobre a coerência do mundo* I tried to discuss, in its general lines, a new project of systematic philosophy which aims at taking this restructuring requirement into account.[11] In my view the most important structural changes are the following:

a) abandoning the project of providing the ultimate foundation for knowledge, with the corresponding collapse of the dualism between phenomenal knowledge and absolute knowledge (between *Phenomenology of the Spirit* and *Science of Logic*), and advocacy of a fallibilistic epistemology;[12]

b) transformation of the inflationary metaphysics of Concept into a deflationary ontology[13] anchored in the principle of coherence;

c) collapse of the dualism between *Logic* and *Philosophy of the Real*

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[11] See Luft, E., *Sobre a coerência do mundo*, Civilização Brasileira, Rio de Janeiro 2005.

[12] For the project of an ultimate foundation [*Letztbegründung*] of knowledge, see Oliveira, M. A. de, *Sobre a fundamentação*, Edipucrs, Porto Alegre 1993, Hösle, V., "Begründungsfragen des objektiven Idealismus", in: Forum für Philosophie Bad Homburg (org.), *Philosophie und Begründung*, Suhrkamp, Frankfurt am Main 1987, pp. 212–267, and Kuhlmann, W., *Reflexive Letztbegründung: Untersuchungen zur Transzendentalpragmatik*, Alber, München 1985. For the critique of this project, see Luft, E., "Fundamentação última é viável?", in: C. Cirne-Lima – C. Almeida, *Nós e o absoluto. Festschrift em homenagem a Manfredo Araújo de Oliveira*, Loyola, São Paulo 2001.

[13] See Luft, E., "Holismus und deflationäre Ontologie", in: H. Eidam – F. Hermenau – D. De Souza (eds.), *Metaphysik und Hermeneutik*, Kassel University Press, Kassel 2004, pp. 84–97.

(*Realphilosophie*), the basic premise of Hegel's objective idealism and affirmation of ideal-realism;[14]

d) refusal of the theory of absolute progress of freedom in the history of civilizations and defense of an objective axiology in which the historical and contingent character of the webs of values that permeate human sociability is recognized.

The present article in no way claims to present in detail all these topics involved in the reformulation of dialectical philosophy. Its purpose is to spell out, as best as possible, within the limits of this text, the general lines of the deflationary ontology that results from the refusal of the teleology of the unconditioned, and some of the consequences of its adoption for the foundation of ethics (and, therefore, for the project of reactualization of Hegel's *Philosophy of Right*). However, I wish to begin by presenting a very concise version of the first of the structural changes listed above, which is decisive in clarifying the fallibilistic theoretical context in which the whole subsequent investigation of deflationary ontology moves.

1.3 Brief epistemological considerations: The collapse of dualism between / *Logic* and *Phenomenology of the Spirit*

The central presupposition of Hegel's *Phenomenology of the Spirit* is the thesis[15] that external critique is not feasible in philosophy. If there is no fixed set of references that can be used as a neutral base to resolve philosophical disputes, there is no alternative left to the contender except to enter into a frank dialogue with the opponent, beginning with the internal critique of his presuppositions. This defense of internal

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[14] The term was extracted from young Schelling and is intended to express the fact that ideality and reality are, for deflationary ontology, only two different aspects of the whole (of the universe), rather than constitutive structures of distinct ontological spheres. This topic cannot be discussed further here, although a few more detailed explanations are in the body of the text. See also Luft, E., "Considerações dialéticas sobre o sistema do dever-ser", in: A. N. de Brito (ed.), *Cirne. Sistema e objeções*, Unisinos, São Leopoldo 2009, pp. 73–86.

[15] This assumption is directly related to the diagnosis of the incoherence of Kant's project of constituting a treatise of the method, i.e., a Tribunal of Reason which can function

critique as the only legitimate form of objection to philosophical systems already surfaces in the Jena writings: "The superficial view of conflicts brings to light only the difference of the systems, but already the ancient rule 'contra negantes principia non est disputandum' allows the recognition that, when philosophical systems clash, the unity of principles is already available".[16]

One should bear in mind that the emphasis on internal critique does not mean here, in any way, defending a self-centered position, i.e., an attitude of cloistering into one's own theoretical position in the hope that the other (the partner in the dispute) will come towards our position. On the contrary, it is an invitation to an attitude of decentering, to recognizing that since there is no external standard of reference based on which the conflict can be resolved, the presuppositions from which the adversary starts are at least as legitimate as ours. One's own theoretical position, therefore, finds *legitimacy* – although not necessarily *corroboration* – by being mediated by the antagonistic perspective that emerges from the adversary, in a process whose results remain open.

The anti-foundationism implicit in this Hegelian hypothesis, however, had been mitigated by the appeal to the teleology of the unconditioned, i.e., to the idea that every philosophical dispute could be seen as a moment in the necessary becoming towards absolute knowledge (the point of denouement of the phenomenological path). Once the

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as a judge of the philosophical disputes, coming to a successful result. In other words, the *Phenomenology of the Spirit* is anchored in the collapse of the project developed in the *Critique of Pure Reason*. Any philosophy evaluated by the Kantian tribunal has an equal right to ask about the legitimacy of the *Critique of Pure Reason* itself, reinserting it into the "battlefield" of history of philosophy, i.e., into that corrosive environment, permeated by doubt, which the establishment of the tribunal should have been able to sublimate. as a judge of the philosophical disputes, coming to a successful result. In other words, the *Phenomenology of the Spirit* is anchored in the collapse of the project developed in the *Critique of Pure Reason*. Any philosophy evaluated by the Kantian tribunal has an equal right to ask about the legitimacy of the *Critique of Pure Reason* itself, reinserting it into the "battlefield" of history of philosophy, i.e., into that corrosive environment, permeated by doubt, which the establishment of the tribunal should have been able to sublimate.

[16] See Hegel, G. W. F., *Werke*, ed. E. Moldenhauer and K. Michel, 20 v., Suhrkamp, Frankfurt am Main 1990, vol. 2, p. 216.

teleology of the unconditioned is denied, the anti-foundationism is generalized: it is in the whole of intersubjective dialogue, in which the antagonistic frames of reference are questioned, that the conflict can be resolved; since there is no longer an orientation towards an ultimate end of the dialogical process, the game of conflicts and their continuous overcoming remain unconcluded, and the dialectical becoming is *potentially* extended to the infinite.

Thus, not only does the *Phenomenology* no longer lead into an absolute knowledge, but the *Logic* shows itself incapable of being freed from all presuppositions that mark its point of departure. Thinking about it to its ultimate consequences, dialectic leads to the recognition that the tension between the epistemological perspective and the ontological perspective is impossible to resolve: we intend to say the whole (*ontological perspective*), but we always do so tentatively (*epistemological perspective*). A contemporaneous project of systematic philosophy must cover and conciliate both claims: on the one hand it is necessary to reveal the ontological presuppositions of the sceptical discourse, turning the epistemological position inside out in a metaepistemology[17] that invites ontological investigation; on the other, one must provide the philosopher with the consciousness that all we have is a fallibilistic ontology and invite him to take the opposite path and to renewed dialogue with the particular sciences, submitting to the judgment of empirical knowledge and, as the ultimate horizon, to the corrosive mediation of sceptical doubt.

While going through the entire part II of this article, one must bear in mind that the ontological perspective outlined in it must be followed and supplemented by the epistemological perspective.

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[17] See Luft, E., "A Fenomenologia como metaepistemologia", *Revista eletrônica estudos hegelianos*, 2006, n. 4.

2. The ontological perspective

2.1 Two paths to the constitution of deflationary ontology

Deflationary ontology can be achieved by two paths which at first glance are independent, but ultimately turn out to be complementary routes of the same movement of deflation of classical ontology. Both paths begin with Plato's influence on Western thinking: the descending path is typically philosophical and the ascending one predominantly scientific. Let us see what this second path consists of in general lines, since the first one (the descending path) will be discussed in further detail below.

   The ascending path in turn bifurcates into two trajectories. On the one hand, it leads from Plato's theory of ideas to classical biology, and thence to its Darwinian critique; on the other, we take the direct path that goes from Platonism to Bertalanffy's systems theory; both these directions are finally unified in the theory of complex adaptive systems. Classical biology, systematized in the work *Systema Naturae* by Linnaeus in 1735, is based on a classificatory (typological) model which assumes a strong concept of species, inspired by Plato's ideas.[18] Like the ideas, the species are fixed and clearly distinct from each other. For each species a drawer is reserved in the classificatory museum (which is why classical biology is jokingly called "museum biology"). The Darwinian break affirms the contingent character of species, their historical genesis and their temporal conditioning: the regional ontology inherent to biology is deflated and, in place of the complex structure of the immutable species, the minimalist structure of the algorithm of evolution is introduced.[19] The real world is more similar to the bottom of Plato's cave, where the difference among species is diffuse and the very notion of species as an ideal type comes undone.

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[18] See. Ruffié, J., *Tratado do ser vivo*, Fragmentos, Lisboa 1988, p. 28.

[19] According to E. Beinhocker, the algorithm of evolution involves *variation, selection and replication* (of the fittest) (*The Origin of Wealth. Evolution, complexity and the radical remaking of economics*, Harvard Business School Press, Boston 2006, pp. 190–192). Later we shall see how these characteristics are integrated into an even more general formulation of the algorithm, which is then identified with the principle of coherence itself: "Only what is coherent remains determinate".

Whereas no direct influence of Plato's tradition on Darwin himself is known, as to the other ramification of the ascending path, i.e., to systems theory, something very different occurs. L. von Bertalanffy, the founder of systems theory had clearly recognized the influence of Neo-Platonic authors in his founding work, *General System Theory* (George Braziller edition, 1969), dedicated to Cusanus, Leibniz, Goethe, Aldous Huxley and Paulus von Bertalanffy; already in 1928, he had published a study on the work of Nicholas of Kues. We owe to Bertalanffy the introduction of the fundamental presuppositions of dialectical ontology in the natural sciences. Initially independent currents, Darwinism and systems theory are synthetized (synthesized?) in recent works by scientists of the Santa Fe Institute, i.e., in the *complex adaptive systems theory*. I have in mind here, above all, the name of Stuart Kauffman, who successfully applied this innovative scientific approach to biology,[20] and later to other fields of investigation such as technological evolution and cosmology.[21]

We owe physicist Lee Smolin, the partner in a continuous dialogue with Kauffman, the development of an evolutionary cosmology. Its fundamental presupposition is that the so-called "natural laws" are not immutable patterns of nature, but historically generated contingent patterns. Only the algorithm of evolution remains as a universal law. Smolin performs in cosmology the deflationary work previously done by Darwin in biology.[22] Thus deflationary ontology just follows the route of generalization of the ascending path: from a theory restricted to biology it expands until it involves cosmology itself. We find one of the most remarkable recent applications of the theory of complex

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[20] See. Kauffman, S., *The origins of order. Self-organization and selection in evolution*, Oxford University Press, Oxford 1993.

[21] See Kauffman, S., *At home in the universe. The search for the laws of self-organization and complexity*, Oxford University Press, Oxford 1995, and Kauffman, S., *Investigations*, Oxford University Press, Oxford 2000.

[22] See Smolin, L., *The life of the cosmos*, Oxford University Press, Oxford 1997. Smolin is the author of seminal works on the foundations of Physics and the search for a unified theory (which will overcome the conflict between relativistic physics and quantum physics): see Smolin, L., *Three roads to quantum gravity*, Basic Books, New York 2001, and Smolin, L., *The trouble with physics. The rise of string theory, the fall of a science e what comes next*, Houghton Mifflin Company, Boston 2006.

adaptive systems in the work by Eric Beinhocker, *The Origin of Wealth. Evolution, Complexity and the Radical Remaking of Economics*, 2006. It is ironical that the very core of dialectical thinking – relational, processual and holistic ontology that we will explicit below – now survives in the very same science that, a short while ago with the collapse of Marxism, appeared to have consummated its death, i.e., economics.

One of the greatest challenges of the ascending path is to understand that traits found in events peculiar to a given regional ontological sphere can be considered as *also* prevailing in other ontological spheres and, finally, what traits are inherent to all ontological spheres and, therefore, constitute ontology itself as such (universal ontology). There is a continuous tendency to make the mistake of attributing to the universal ontological sphere properties that apply only to the regional ontologies. We might find a crass example of this type of *fallacy of undue generalization*, for instance, in cosmological proposals inspired by versions of the systems or self-organization theory that assume the system/surroundings difference as constitutive of the very notion of system. If the identity of a system is given by its capacity to distinguish itself from a surrounding, what is only a secondary problem from the point of view, for instance, of a certain cellular theory[23] (since every cell presupposes a surrounding), becomes a contradiction in the cosmological perspective, since the universe cannot, by definition, have a surrounding.[24] In the theory of complex adaptive systems this problem disappears, since the identity of a system is not given by its difference in relation to a surrounding, but by the direction of movement of the self-organization process, by the (immanent) systemic configuration which is the attractor of the self-organization process.

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[23] Here I think, above all, about Maturana and Varela who, beginning with an approach focusing on the description/production of phenomena of cell biology, generalize their conclusions in an abstract scheme whose basic assumption is the contrast between system (organizationally closed autopoietic unit) and surrounding (determined conceptually by the general function of system *perturbation*): "the structure of the medium only triggers the structural changes of the autopoietic units (it does not determine or inform them)". (Maturana, R. H. – Varela, F., *A árvore do conhecimento*, Editorial Psy, São Paulo 1995, p. 113.)

[24] See the critique of P. Margutti Pinto ("Dialética, lógica formal e abordagem sistêmica", in: C. Cirne-Lima – L. Rohden, *Dialética e auto-organização*, Editora Unisinos, São Leopoldo 2003, p. 87).
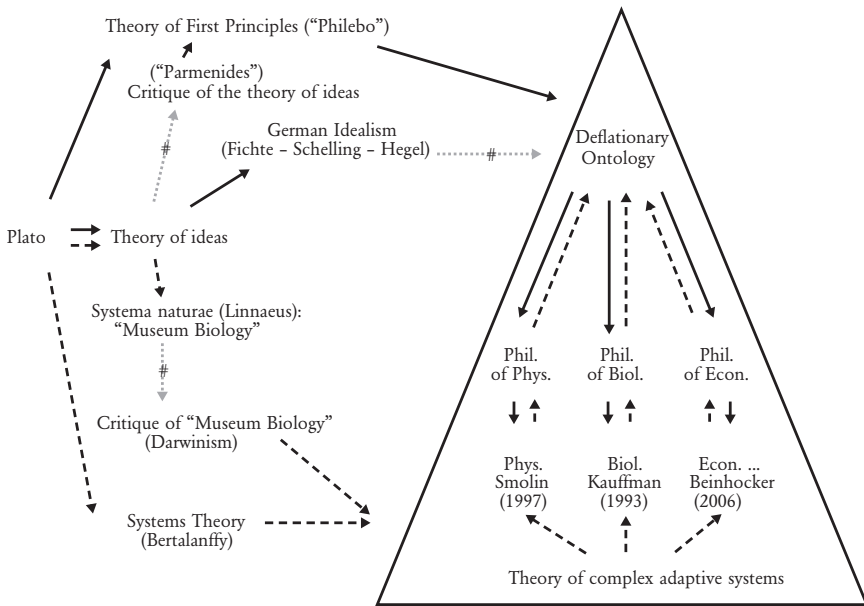
Figure 1: The two paths to constitute a deflationary ontology
(in black the descending path, in <u>dashed line in ascending path</u>)

Figure 1 (see above) illustratively presents the two paths for the constitution of deflationary ontology. Now I will discuss the development of the descending path.

2.2 The descending path I: From Plato to Hegel

2.2.1 Dialectic as relational and holistic ontology

The descending path, the eminently philosophical path, also bifurcates into two routes that can initially be considered independent: on the one hand, it traces the influence exerted by the theory of ideas in German Idealism and then spells out the deflationary consequences of the critique of Hegel's dialectic; on the other, it goes directly from the critique of the theory of ideas, vehiculated in *Parmenides*, Plato's dialogue, to the deflationary ontological approach found in *Philebus*. Both paths

are unified in a contemporary dialectic conceived as deflationary onto-
logy.

The theory of ideas is Plato's response to the enigma of the order
present in a world that, left to its own devices, expresses the tendency
to dissolve into chaotic multiplicity, of losing itself in the indetermi-
nate. The phenomena do not submerge when facing the destructuring
power of matter (*hyle*) only because, somehow, they *participate* in the
structuring power of the idea. The doctrine of ideas thus contains a dou-
ble and paradoxical requirement: on the one hand, it assumes the split
between ideas and phenomena, both belonging to distinct ontological
spheres – the intelligible realm in which the immutability, universality
and full determination of ideas is revealed (the ordering force of the
One), and the sensible realm, in which the mutability, singularity and
indetermination of matter are shown (the disaggregating force of the
Many); on the other, it requires the bond between these ontological
spheres via the doctrine of participation. Fighting this dualism will be
the central theme of Plato's late thinking.

However, already in the theory of ideas we see the emergence of
two characteristic traits of dialectical thinking, preserved by Hegel and,
I believe, by any philosophy that considers itself dialectical: the rela-
tional and holistic character of ontology. We saw that the characteristic
of the phenomena, according to Plato, is precisely their tendency to
lose themselves in the infinite: every phenomenon is determined by its
relationship with other phenomena. Since the chain of relationships
is endless and does not find repose in any stable configuration, in any
self-structuring network of phenomena, the phenomenal logic is dis-
ruptive. Only the presence of the idea as a structuring pattern that is
not part of this infinite process of determination can prevent the sen-
sible world from being pure chaos, pure disorder. Now, we might ask,
what ensures that the ideas themselves are not submitted to the same
disruptive logic? Plato's answer is holism: like the phenomena, also
the ideas are not thematized in the context of an atomistic approach
(i.e., as beings determined already in-themselves, in their isolation from
other beings); on the contrary, ideas are only determined in their mu-
tual identification and differentiation (a topic dear to the dialectic of
supreme genres of the *Sophist* dialogue). However, differently from the
phenomena, in their co-determination ideas form nexuses of mutual
relationships, self-determined relational networks, *configurations* of ideas.

In turn, each configuration of ideas is subordinated to even more universal relational networks, and all these networks are reunified in the general and self-determining structure of the intelligible world itself, the world of ideas. Only when it is constituted as a self-determined totality can the intelligible world avoid the disruptive logic of a determination process that is lost in the infinite, typical of the phenomenal sphere.

Here is what we have learned so far from Plato: dialectical philosophy presupposes that every determination, in thinking or in being, presupposes a relationship. No being (or no *event*, as we shall see) can possess any quality (or determination) associated with itself, without being in a relationship with another being (or event). Now, if this chain of relationships were to be lost in the infinite, no determination would be possible. Thus, there cannot be any *being in itself* without the co-presence of a *being for another*, nor can this contrast exist without the presence of a network of relationships that folds back on itself (without a *being for itself*). *Relational ontology presupposes holism*.[25]

2.2.2 First approach to the inflationary tendency of metaphysical thinking: Plato's critique of the theory of ideas

We saw how Plato responds to the problem of the enigma of the presence of order in the sensible sphere, i.e., by formulating the theory of ideas, from whence two characteristic traits of dialectical ontology are extracted: its relational and holistic character. But this is not Plato's last word. In the *Parmenides* dialogue, Plato himself aims a powerful critique at the theory of ideas. One of his main objections is implicit in a question which at first sight appears naïve, directed at Socrates by the Parmenides character: "And about things that are apparently ridiculous, Socrates, such as hair, mud, dirt, or about anything minor and negligible, do you have doubts as to whether it is necessary to also affirm

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[25] This central presupposition of dialectical thinking is presented by Hegel as the result of the critical thematization of the notion of "being" in the first section of the Doctrine of Being in the *Science of Logic*; "being" is reconstructed, in its first (not yet full) truth, as "being for itself". (see Hegel, G. W. F., *Werke*, op. cit., 5, pp. 2–208).

a corresponding form for them [...]?"[26] We know that there must be a form for beautiful, good and true things, but must there also be a form for what is lowest or most insignificant in the world of phenomena?

This objection touches on a central point. The logic of the classificatory procedure typical of the theory of ideas is to assign a corresponding form to each supposed pattern found in the phenomenal realm, since what is ordered in the phenomena results precisely from their participation in a form (or idea). Hence, for each group of phenomena there must be a corresponding idea. However, if there are (potentially) infinite phenomena (or phenomenal patterns), will there also be potentially infinite ideas? If at every new group of phenomena with a same underlying organization there should be a corresponding idea that has not yet been revealed, and assuming that the process of listing new phenomena to be explained is a task without a foreseeable end, then nothing ensures that there is in fact a limited number of ideas. The tendency to the unlimited is thus transposed from the sensible world to the intelligible one, making it a mere reflection of the chaotic multiplicity that it was really meant to overcome. According to this reasoning Plato's theory appears to lead to the (potentially infinite) inflation of the intelligible sphere.

The inflationary tendency of the theory of ideas is also diagnosed in another famous objection made in *Parmenides*, and was taken up again later by Aristotle (the third man argument). The theory of *methexis* requires that the phenomena of the sensible world have something in common with ideas. However, just as having recourse to an idea should be able to explain the unity underlying the diversity of phenomena in the sensible world, only appealing to a new idea (of the second level) would be able to explain the unity underlying the diversity that pertains to the opposition between a given idea (of the first level) and the entity of the sensible world that participates in it, which would generate a new opposition and the need to postulate a new idea (of the third level), and thus to the infinite[27]. Now the difficulty concerns not the classificatory procedure used to elaborate the theory of ideas, but the assumption of a dualism between idea and phenomenon. In both cases, however, the

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[26] See Platon, *Sämtliche Werke*, ed. K. Hülser, 10 v., Insel, Frankfurt am Main 1991, vol. VII, 130 c–d.

[27] See Platon, *Sämtliche Werke*, op. cit., vol. VII, 132d–133a.

problem appears to lie in the fact that in order to elaborate the theory of ideas we need to appeal to a principle of constitution external to the intelligible sphere. In the first critique, the classificatory method appears to postulate the dependence of the procedure of forming ideas on the appeal to empirical observations: we begin with the phenomena to explain the ideas, when we should do the opposite – which is not feasible without a clear rule of formation of the intelligible sphere *previous* to the empirical research; in the second critique, the dualism between idea and phenomenon forces us to appeal to a "third idea", beyond that dichotomy (and, therefore, beyond the intelligible sphere itself) in order to explain the possibility of participation.

2.2.3 Dialectic as processual and teleological ontology: The answer of German idealists to the lack of a rule of formation of the intelligible sphere

We find a difficulty similar to that observed by Plato in his theory of ideas, i.e., the absence of an *internal* rule of formation that explains the constitution of the intelligible sphere, in German Idealism, although obviously in a different context of philosophical problematization. That is what one can gather from a brief examination of the transition from Kant to Fichte. Kant had inherited from Platonism not only the postulation of a framework of *a priori* structures (pure forms of intuition, categories and ideas) responsible for ordering the sensible sphere, but also the absence of a principle that could explain the presence of such structures, the restriction of their number, etc. In particular Reinhold had diagnosed the lack of a clear foundation for transcendental philosophy, which could free it from unexplained presuppositions. The lack of a principle to anchor a strictly progressive procedure for the *a priori* constitution of the system of pure reason, and the use of a regressive and indirect form of (transcendental) argumentation in key contexts of the *Critique of Pure Reason*[28] appear to condemn philoso-

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[28] See, for instance, the argument developed at the very beginning of the transcendental presentation of the concept of space (Kant, I., *Kritik der reinen Vernunft*, Felix Meiner, Hamburg 1990, B40–1).

phy to dependency on non-problematized assumptions of particular sciences.

Here we see a problem analogous to the one already detected in the theory of ideas: the intelligible or, in this case, transcendental sphere shows itself dependent on elements that are external to it. The response of Reinhold, followed by Fichte, is to require a strictly *a priori* derivation of the transcendental elements inherent to subjectivity, from a presupposed principle of order. In the case of Fichte, the "representations accompanied by a feeling of necessity"[29] are derived[30] from the principle of self-consciousness. The transcendental structures are engendered by necessity during the process of self-determination of the self towards the full awareness of oneself as a free subject.

Post-Kantian Platonism thus takes on its own profile with three marked innovations: 1) one begins with the assumption of an *immanent* principle of order capable of preventing the problem of the infinite regressions in the intelligible or transcendental sphere;[31] 2) the transcendental sphere has a dynamic, processual character;[32] 3) the process of engendering the transcendental structures has strongly teleological traits.

What Schelling and Hegel will do is to transform the subjective idealism of Fichte into an objective idealism: the process of self-deter-

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[29] See Fichte, J. G., *Fichtes Werke*, ed. I. H. Fichte, 11 v., Walter de Gruyter, Berlin 1971, v. 1, p. 423.

[30] Fichte speaks of a "genetic deduction" (*genetische Ableitung*) of the elements of consciousness (ibid., v. 1, p. 32).

[31] For the peculiarity of Hegel's reading of the transcendental turn in modern thinking, see Oliveira, M. A. de, *Para além da fragmentação. Pressupostos e objeções da racionalidade dialética contemporânea*, Loyola, São Paulo 2002, p. 189 ff.

[32] It should, however, be pointed out that, even emphasizing the processual character of ontology, the German idealists are not as distant from Plato as one might suppose. The Greek philosopher saw in the movement able to move itself the beginning (*arche*) of all movement in the (sensible) universe (see *Nomoi*, Platon, *Sämtliche Werke*, op. cit., v. IX, 895b). According to Gadamer, Plato "[...] sees the essence of Physis in Psyche, i.e., in the principle of self-movement that characterizes the living being" (Gadamer, H.-G., *Hans-Georg Gadamer. Gesammelte Werke*, 10 v., Tübingen 1990, v. 7, p. 423). The novelty of the German idealists is that they transfer the processual character to the intelligible or transcendental sphere itself. One might ask whether Plato might be doing something similar in the theory of the first principles of *Philebus,* although avoiding a dualistic approach. More about the theory of the first principles of *Philebus* below.

mination of subjectivity towards full self-consciousness is transformed into the process of self-determination of absolute reason towards its full self- knowledge.

2.2.4 Second approach to the inflationary tendency of metaphysical thinking: The reduction of the One to the Many

However, a quick comparison of the *Critique of Pure Reason*, a work that is marked precisely by abandoning the attempts at an entirely *a priori* construction of knowledge which were rife in classical metaphysics, with the *Science of Logic*, the work of the philosopher that V. Hösle considers, in my opinion correctly, together with Fichte and Schelling, the "most radical of aprioristic [thinkers] in the history of philosophy",[33] i.e., a quick comparison between the lean framework of the 12 categories of Kant and the vastly complex system of categories developed by Hegel in his *Logic*, shows that which is possibly the main root of inflationary ontology: the recurrent attempts in the metaphysical tradition of reducing the Many to the One, in other words, to reinterpret the underdetermined multiplicity of the phenomena as determined multiplicity in the light of a presupposed principle of order. It is this attempt that will bring with itself the notorious inflation of the ideal (or transcendental objective) sphere which we observe in the transition from the *Critique of Pure Reason* to Hegel's *Logic*.

Hegel's *Logic* deals with the logical structure of the world: the examination of the Concept in its *a priori* self-determination process has make it possible to clarify the uncountable multiplicity of the phenomena of the "empirical world", i.e., of the sphere of the *Philosophy of the Real* conceived as a manifestation of the Concept. The Many has to mirror the One. The more intense the demand for an *a priori* explanation of the world, the greater is the tendency to inflate the intelligible realm of determinations that could reflect the sensible multiplicity (when precisely the contrary was intended).[34] Until we come to the inevitable

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[33] See Hösle, V., *Hegels System*, Felix Meiner, Hamburg 1988, p. 80 note.

[34] See the permanent debate among Hegelians about which categories are part of the logic sphere and which belong to the real sphere.

conclusion: there will always be a residue left. The Many will remain untamable. The attempt to exhaust our knowledge of the world *a priori* ultimately not only becomes hostage to a vast inflation of the intelligible or transcendental sphere, but ironically, precisely there where the regression to the infinite aims at being hindered, it is inevitable to have recourse to a dualistic position – in the case of Hegel, the appeal to two beginnings in the system of philosophy,[35] a point that has been so well noted in Schelling's famous critique,[36] inaugurating the opposition between *Logic* and *Philosophy of the Real*. And here, paradoxically, we return to the enigmas of all dualism denounced in Plato's *Parmenides*, beginning a new inflationary movement: after all, what logical-ontological structure explains the duality between *Logic* and *Philosophy of the Real*?

2.3 The descending path II: The return to Plato

2.3.1 From the critique of Hegel to deflationary ontology

Our route so far, following one of the paths inaugurated by the initial bifurcation of descending dialectic, led us from Plato's theory of ideas to the *Logic* of Hegel, comprising the course of inflationary metaphysics in Western philosophy; but the Achilles heel of this tradition had already been pointed out by its main mentor, Plato. And we also owe him the formulation of an alternative. We will soon see what this alternative is. First it is necessary to show how Hegel's *Logic* can be dealt with by internal critique and how the result of this critique is the movement to deflate ontology, opening up the perspective of dialogue with Plato's alternative proposal.

Hegel's *Logic* aims at constituting the *a priori* system of categories that is the very logical-ontological structure of the Concept based on a process of self-thematization of pure thinking. Thinking thinks itself engendering categories – in the beginning the simplest one, the catego-

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[35] For an explanation of the structural deficiency of the Hegelian system which precisely results from this dilemma, see Luft, E., *As sementes da dúvida*, op. cit., pp. 196 ff.

[36] See. Schelling, F. W. J., *Ausgewählte Schriften*, op. cit., vol. 4, p. 562.

ry of "being", and raising each category to a concept with a claim to totality, to semantic autarchy. But soon it is found that each category treated presupposes another category opposed to it and is incapable of showing itself with unconditioned validity (with full semantic autarchy). From this a contradiction results between the claim to an autarchy vehiculated by the act of thinking that intends to fully capture itself and the conditional character of validity of each specific category. It is then sought to overcome the contradiction by new activities of synthesis and thematization of broader categories. The process goes on until we find the only category that is not conditioned by any other external to it, the category which structures the categorial system as a whole, the "idea". The idea, in turn, manifests in its logical constitution – by integrating and conciliating all previous categories and all acts of thinking associated with them in a unified system of thinking – the very process by which pure thinking founded itself in an ultimate manner.

It happens that the requirement for fulfillment of the Concept, inherent to the teleology of the unconditioned, is incompatible with the dynamism of dialectic itself. The dialectical dynamism feeds from the (at least) possible presence of incoherences in thinking or in being, to be overcome by a recurrent activity of synthesis. On the other hand, the supposed fulfillment of the Concept, no matter where it occurs, implies the impossibility of the rise of new incoherences. This has two major consequences:

1) Aimed at realizing an absolute end, the dialectical process condemns itself to self-annihilation;
2) Consummated in a fully self-determined totality, the process of self-justification of the Concept becomes redundant and the result is a vitiated circularity.

At the core of this incompatibility of dialectic with its own most profound presuppositions[37] is the Hegelian appeal to the teleology of the unconditioned, i.e., his attempt to conceive the dialectical processuality as oriented toward the ultimate end of its own fulfillment. The solution to the dilemma is precisely the refusal of the teleology of the unconditioned which, as we have seen previously, will cause not only the restructuring of the theory of the first principles, of dialectical ontology, but

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[37] See Luft, E., *As sementes da dúvida*, op. cit.

of the entire system of philosophy. The refusal of the teleology of the unconditioned implies: a) the denial of the assumption that the dialectical process flows into the fulfillment of the Concept; b) the denial of the thesis that development follows a course in which the end and the phases which lead to it are predetermined by the logic of the Concept.

Although the dialectical process, as in Hegel, flows into a relational and holistic ontology, there are multiple, potentially infinite ways of realizing the coherence of the whole. Since the *telos* of the dialectical process is only and alone self-coherence, the complex web of the categorial system developed in Hegel's *Logic* becomes a minimalist structure: the dialectical logicity becomes the expression only and alone of the principle of coherence: "Only what is coherent remains determinate." This process of radical reduction of complexity of the theory of first principles is a deflation, and the ontology constituted based on this reduction process is a *deflationary ontology*.

2.3.2 In a dialogue with Plato's *Philebus*

As we have seen, a certain version of Platonism was generally accepted in the long tradition of Western philosophy, staking everything on the reduction of the Many to the One. We even defined the action of thinking in terms of the following simple formula: "[...] to think is: to unite representations in consciousness".[38] We can, however, find in the very core of Plato's philosophy, the indispensable elements to open up a new possible route, or at least provide a new glimpse of the alternatives available for a relational ontology. Plato's *Philebus* will be our point of departure: in this dialogue it is not the isolated One alone that occupies the position of the principle of philosophy, rather it is the dialectic of the One and the Many: "[...] whatever is said to be consists of one and many, having in its nature limit and unlimitedness [*peras de kai apeirian*]"[39] (*Philebus*, 16c).

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[38] "Denken aber ist: Vorstellungen in einem Bewusstsein vereinigen" (Kant, I., *Prolegomena zu einer jeden künftigen Metaphysik*, Felix Meiner, Hamburg 1993, § 22).

[39] Transl. by D. Frede (Plato, CW). In Schleiermacher's version (Plato, *Complete Works*, ed. J. M. Cooper, Hackett, Indianapolis 1997, v. VIII), *peras* and *apeiron* are translated

Like every Platonic Dialogue, *Philebus* elucidates the most complex metaphysical thinking based on the simplest examples. The core of the dialogue involves the clarification of the logic of pleasure. And the logic of pleasure is the logic of infinitude, the same logic tending to disruption which, as we have already seen, characterizes the entire phenomenal realm. It is enough for us to think about the most common of desires, in how gluttony has no limits and tends to get around satiety. If this impulse to the infinite, which leads us to eat or drink to exhaustion, were not contained, the natural order of the organism would collapse. It is intelligence that leads us to limit desire, curbing the movement towards the infinite and preserving health. But what is only a simple example of the routes and misroutes of our daily *praxis* is elevated by Plato to a sample of the intimate structure of all there is or may be, i.e., of the first principles of dialectical ontology.

The essence of the world does not reside in a logic of reduction of all multiplicity to an instance of a presupposed principle of order: it is the tension between two antagonistic movements which lies in the core of the being – on the one hand, the limiting process that imposes measure and order on the world, on the other, transcending the limits, which dissipates measure and generates disorder. It is difficult to understand how to conciliate this very fundamental assertion in key contexts of Plato's late work – and very decisive in the so-called Non-Written Doctrines, centered on the opposition between the One (*hen*) and the unlimited Dyad (*aoristos dyas*) – with the classical interpretation of Plato's thinking, particularly of the theory of ideas. Konrad Gaiser even diagnoses the presence of an insurmountable dualism of principles or a "contradiction"[40] undermining any attempt at a strict systematization

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respectively as "determination" (*Bestimmung*) and "indetermination" (*Unbestimmtheit*). Frede's translation of the concepts provide, in my opinion, a better expression of the dynamic way in which Plato treats the relationship between One and Many. This does not prevent me from recognizing that there is a major reason underlying the choice of the term "indetermination" to translate "*apeiron*", as I will show further on in the text.

[40] See Gaiser, K., *Platons ungeschriebene Lehre. Studien zur systematischen und geschichtlichen Begründung der Wissenschaften in der Platonischen Schule*, 3rd ed., Klett-Cotta, Stuttgart 1998, p. 10.

of Plato's philosophy. I prefer to assume that here we have a clear sign of a change of philosophical position which can be traced along the very trajectory in which Plato's dialogues were elaborated[41] – in other words, a change of perspective which can be glimpsed in the exoteric work of Plato, without needing the support of his esoteric work (in the non-written dialogues): in this sense *Parmenides* means a break with the theory of ideas, at least with its typically dualistic version, giving rise to a deflationary movement which culminates in the minimalist theory of the first principles that we see outlined in late works such as the *Sophist* and particularly *Philebus*. The most fundamental mark of this transition is precisely the decisive thesis that the Many (and its logic of infinitude) should no longer be considered the absolute other of the One (and its limiting logic), i.e., it should no longer be defined as the mark of *hyle*, in its excluding opposition vis-à-vis *eidos* or *idea*: the One and the Many no longer oppose each other in an excluding way, but are related in an including and correlative manner, constituting the structure itself of the dialectical theory of the first principles.

2.4 Deflationary relational ontology

2.4.1 The principle of coherence

Now we have in hands the philosophical background to elaborate a project of deflationary relational ontology. The central presupposition of the dialectical ontology is the principle of coherence: "Only what is coherent remains determinate." This sentence I call first sentence. The term "coherence" comes from the Latin cohaerentia, meaning "union", "connection". The first sentence affirms that only what is "connected

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[41] Here I cannot develop the full complexity of this thesis. This would involve taking position in relation to the vastly discussed issue of the chronology of the Platonic dialogues. But it seems clear to me that we have here a strong, plausible hypothesis which should be developed in other studies. I tried to develop a first approach to this re-reading of Plato's work in "Contradição e dialética: um estudo sobre o método dialético em Platão" (Luft, E., "Contradição e dialética: um estudo sobre o método dialético em Platão", *Síntese Nova Fase*, 23, 1996, 75, pp. 455–502).

to" or "united to" remains determinate. Every determination assumes that there is a relationship. Once the relationship is undone, the determinate event vanishes. In the realm of discourse vanishing means to lose meaning: in the realm of being, to lose existence.

Incoherence is the loss of determination due to perturbation and consequent disruption of a relationship or unit of at least two events. Does the fall into the indeterminate result from the loss of determination? We can conceive of the occurrence of loss of determination in two ways: either it is the loss of a previous determination in the name of a new determination – a *transformation of determination* – or it is the pure and simple drop in the indeterminate, in the absolute absence of determinations. But the absolute absence of determinations is in contradiction to the first sentence, whose universal validity we assume by a hypothesis. Thus, every loss of determination in the part presupposes transformation of determination in the totality that surrounds it. This is another way of reaching the same conclusion as Plato, as already presented: relational ontology presupposes holism.

Thus we see that loss of determination does not lead to a drop in the indeterminate, actually meaning the transformation of determination into a whole which as a whole remains coherent to itself or self-coherent (its unity has not been destroyed). Incoherence can thus be conceived as a moment between two situations of coherence: on the one hand, the manifestation of incoherence is a parasite of a previous coherence that was disturbed and, in the end, destroyed; on the other, the consummation of this process of disturbance, of this movement towards incoherence, is the dissolution of a previous determination *and* the reaffirmation of a movement towards coherence, of a process of self-determination in a broader totality.

Every event is an element of a totality that determines itself or is this totality itself. A totality that determines itself is a system. The word "system" comes from the Greek *systema*: *syn* meaning "to unite, to bring together", and histemi meaning "to put", "to place". System is the process of giving unity to a multiplicity, engendering coherence. The principle of coherence is the intimate logicity of each and every system.

2.4.2 The dialectic of the One and the Many and the "logical space"

Every loss of determination in the part is a process of determination in a broader totality. Since it is impossible to have a drop in the indeterminate, given the universal validity of the principle of coherence, every process of determination refers in the last instance to the process of self-determination of the whole as such, i.e., of the universe itself .[42]

  The self-determination process of a system is channeled by its own mode of organization, or its own *configuration* (it is its *attractor* or its *immanent end*). The *telos* of every system is to preserve its coherence to itself, but there are multiple, *potentially* infinite[43] ways of realizing self-coherence. The principle of coherence, in its universal validity, determines the coherence of the universe with itself as a system, but *underdetermines*[44] the potentially infinite ways of performing the self-coherence of the whole

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[42] The thesis that the whole is the universe, this radical defense of a *philosophy of immanence*, assumes overcoming objective idealism and the defense of ideal-realism: all transcendence is nothing other than self-transcendence, all ideality is only a complementary aspect of reality, and the whole which is absolute actuality, the universe, contains ideality and reality as aspects of its own activity of self-determination. Due to lack of space, this thesis is simply presupposed here, but it runs parallel to the downfall of dualism between absolute knowledge and common knowledge (between *Logic* and *Phenomenology of the Spirit*). This epistemological dualism must be seen as the necessary counterpart of the ontological dualism that splits *ideality* and *reality (Logic* and *Philosophy of the Real)*, both of them anchored in the Hegelian defense of the teleology of the unconditioned, i.e., in the assumption that there must be a logic-ontological sphere of pure necessity, of absolute necessity. Deflationary ontology starts from the refusal of the teleology of the unconditioned, for the reasons already mentioned, giving rise to an ontology that considers necessity and contingency as correlative opposites inherent to the principle of coherence, as we will see below, constitutive notes of the dialectic of the One and the Many.

[43] Infinitude here must always be understood as *potential*, never as actual. The concept of actual infinitude is known to be behind the paradoxes of the set theory.

[44] Here I strictly distinguish between "underdetermination" and "indetermination": underdetermination is the property of an event whose occurrence is only one among 'n' possibilities in a limited field of possibilities of occurrence, considering the validity of a given principle of order; indetermination is the property of an event whose occurrence is only one among 'n' possibilities in an unlimited (unrestricted) field of possibilities of occurrence, considering the validity of a given principle of order. Now, an unrestricted field is no field; thus, there cannot be indetermination, but only underdetermination in

in this or that *configuration of universe*, in this or that possible world. To say that the self-referential structure of the systems is constituted by the same logic of coherence that engenders an insurmountable field of underdetermination is to state that every system is moved by an impulse of self-transcendence, by a logic that always points beyond the self-coherence that is factically given at a certain moment in time, directing itself to other possible modes of coherence with oneself.

Thus there are actual events and merely possible events. Merely possible events are *enveloped* in the configuration of an actual system. Actual events, in turn, must be possible. If their possibility is only relative, they are the *development* of what was enveloped in the configuration of a presupposed system. If their possibility is absolute, they do not presuppose any system of a superior order of which they are the development, and present themselves as absolute actuality. Only the universe is absolute actuality, and all possible worlds are enveloped in its absolute activity of self-determination.

An only possible event may be enveloped in the configuration of a system like the decisive phases of development of an embryo until the adult phase are enveloped in the genome. Human beings cannot become adults without having once been embryos. Their previous existence as embryos is a necessary condition of their being adults, which is a condition implicated in the genome. The enveloping may thus mean *implication*; and its development in a temporal series[45] in

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the universe. Determination is in turn the property of an event whose occurrence is the only possibility, considering a given principle of order. While the potentially infinite configurations of universe are gestated presupposing the validity of the principle of coherence, the field of possibilities is here originally restricted; the configurations of universe are, thus, underdetermined by the objective validity of the principle of coherence. Now we can define the concept of "contingency" as the property of an event whose occurrence is underdetermined by a given principle of order; and "necessity" as the property of an event whose occurrence is determined by the presence of a given principle of order.

[45] Implicit here is a differentiation between two notions of time. A temporal series which is implicated in a given systemic configuration presupposes a concept of time that can be "geometrized", a temporality that can be reduced to a mere dimension of space. A temporal series involved but not implicated in a given systemic configuration is *time proper*, the time of natural history and human history in its deepest sense, a time that cannot be geometrized to the precise measure in which it is not (pre) determined by an underlying principle of order.

this case will mean *explication*. But envelopment and development may mean something quite different. There are configurations that envelop the possibilities just as the wall of a property fences in its limits. It is not a matter of determining what is contained within the limits, but only of delimiting the field of possibilities for a future development. All possible worlds are enveloped, but not implicated in the absolute configuration of the universe which is the principle of coherence (or, which is the same, they are enveloped, but not implicated, in the absolute activity of self-organization of the universe). Envelopment *without implication* of all possible worlds in the principle of coherence in its very universal validity *is* the *logical space*.[46]

In order to conceptualize the logical space adequately, we must remember our dialogue with Plato's *Philebus*. We saw that the main innovation introduced in dialectical ontology by the late Plato is the elevation of the Many to a constitutive element of the very theory of first principles. This Platonic innovation contains one of the paths to

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[46] "Logical Space" is to be understood here in the logical-ontological sense: it is the space which, on the one hand, envelops all possible thoughts (= all possible forms of discourse), and on the other all possible forms of existence, presupposing the universal validity of the principle of coherence. There is a similarity, here, to the "logical space" described by Wittgenstein in his *Tractatus* (cf. *Tractatus logico-philosophicus*, Suhrkamp, Frankfurt am Main 1997, 1.13). Among the various differences, the "logical space" is treated, dialectically, not in the context of an objective idealism, but of an ideal-realism: the ideality of the possible worlds is an aspect of the universe which, in its self-transcendence movement, envelops without implicating all possible realizations of coherence with itself; more importantly: dialectic does not presuppose, in any way, any of the multiple (potentially infinite) possible formal logics. From the logical perspective, the principle of coherence only requires that, to constitute any possible syntax and (formal) semantics, one must presuppose rules (whichever they are) and operate in coherence with them, i.e., that any act of the discourse be a self-coherent discursive system or an element of a system of this kind [actually, the requirement is even looser, since there are "n" degrees of coherence, many well below the rigor required by a formal system but perfectly plausible in the context of non-formal languages, as is the case of the daily discourse itself]; from the ontological perspective, it requires that, for the existence of any possible event, it is necessary to presuppose the validity as a self-coherent system that is the event itself, or the totality of which it is part. The "logical space" thus, proves infinitely more vast than that advocated by Wittgenstein, but, curiously, on the other hand, the *actualization* of these possible worlds is subject to much more severe restrictions than those provided by the Wittgensteinian logic, i.e., it is subject to the restrictions typical of any evolutionary system, which we will explicit below.

the deflation of classical ontology, complemented by the critique of
the teleology of the unconditioned which undermines Hegel's dialec-
tic. Let us now see how the dialectic of the One and the Many can be
considered the very heart of the principle of coherence and, thus, of a
post-Hegelian dialectical ontology.

Coherence is the unity of a multiplicity, or a multiplicity in unity.
Coherence can occur at the extremes of the maximum predominance
of the One over the Many, or vice-versa. The notes of *identity*, *invari-
ance* and *determination* should be associated with the One and the notes
of *difference*, *variation* and *underdetermination* with the Many. I call the
movement towards the maximum predominance of the One over the
Many *uniformization*; the opposite movement is *diversification*. In its
self-determination process the universe moves eternally, exploring all
the potentially infinite ways of realizing the dialectic of the One and
the Many.

Let us now perform the following experiment of thinking. Let us
imagine ourselves following the movement that goes from maximum
diversification to maximum uniformization, observing the presence of
increasingly less difference and more identity, less variation and more
invariance, less underdetermination and more determination in the
universal becoming. The maximum degree of predominance of the
One over the Many would occur in the more simple configuration of
universe possible in a dynamic relational ontology: self-determination
reduced to the mere repetition of the identity[47] of the universe with
itself (A=A (rep.)). I call the configuration of universe which expresses
this state of maximum uniformization the World of Parmenides (the
realm of pure Being).

No residue of the Many appears to remain in the World of Par-
menides, it appears to be completely annihilated in pure identity, but
that is not what in fact happens. Even the repetition of the identity
of the whole is still the expression of the Principle of Coherence and,
thus, of the dialectic of the One and the Many. Here this is only one
of its most extreme manifestations, the maximum predominance of
the One over the Many. Identity with oneself supposes the differ-

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[47] The "reflex identity", according to the conceptualization of Cirne-Lima ("Analítica
do dever-ser", op. cit., p. 19).

ence between two terms in a relationship ('A' occupies the two sides in the sign of identity). Besides this minimum difference, the repetition of the identity of the world still expresses the universal *becoming* and not an impervious identity. The Being of Parmenides is not, in fact, pure Being: the Appearing inhabits it, even if downgraded to its minimalist version. The totality of the world is still an *event* and thus, variation.

Most decisively, the extreme manifestation of the predominance of the One over the Many is only one among the potentially infinite manifestations of the coherence of the whole with itself. The universe always exceeds this or that configuration of the world (considering the principle of self-transcendence) and will not take long to develop new configurations, showing that what appeared to be the realm of the purest and most absolute perfection, the realm of pure Being, actually contains the tense presence of the Appearing, which will soon reveal its strength. Any subsequent manifestation of diversity – for instance, the onset of new events, new relationships or new modes of the self-organization process beyond the redundancy of self-identity – will lead to the collapse of that minimalist systemic configuration, which reduced the universe to a radically simple system. Thus we perceive, not without a certain measure of surprise, that the static and supposedly pure realm of Being is actually a highly unstable and improbable manifestation of self-coherence.

We can now move in the opposite direction, taking the path that leads from maximum uniformization to maximum diversification. The universal becoming now goes towards the maximum realization of the predominance of the Many over the One. This process is associated, initially, with a *determined* complexification of the universe: new events and new relationships are *explicated*, determinedly unfolded from a given principle of order (a given configuration of universe). However, the mere explication of a totality of events based on a principle of order does not yet mirror the maximum predominance of diversification. Only the underdetermined variation expresses the true potency of the Many. As the universe approaches greater diversification, the less stringent mode of the self-determination process is detectable, increasingly similar to a vast disorder. Multiplicity, initially determined, more and more reveals its genuine face, i.e., as a multiplicity underdetermined by the configuration of universe (the events are no longer *implicated*

in the configuration of universe presupposed as its principle of order, and become only *enveloped* in it). The new determinations engendered by the global system (the specific world that is the issue here) are prefigured only as mere possibilities by their self-determination process. Finally, the very configurations of the world in which the universe is manifested prove less and less determined.

The extreme face of diversification implies the transformation of actual events into pure possibilities, instantiated by a minimalist actual systemic configuration. The maximum underdetermination occurs in a simple system, in which only the self-relationship of the whole remains determined: the World of Gorgias (the pure Appearing). But Appearing, in the pure relationship with itself, is only the counterpart of Being in the same situation, and the two opposites do no differ any more, at least not in the sense of founding antagonistic configurations of a world. Being and Appearing show themselves as what they are: aspects of one and the same configuration of universe which expresses the extreme limit at which the antagonistic routes of universal becoming coincide. We are surprised to understand that the antagonistic paths of maximum uniformization and maximum diversification converge toward one and the same center and repose provisorily therein, coinciding in one and the same configuration of universe, in one and the same world. The antagonistic movements merge, only being distinguished from the perspective of those who aim at enunciating them, taking into account the genesis of that configuration. I call this world, in which the World of Parmenides (WP) and the World of Gorgias (WG), the realms of pure Being and pure Appearing coincide, the World of Cusanus (WC).

In this brief thinking experiment, we saw unfold before us the structure itself of the logical space: the World of Parmenides and the World of Gorgias are possible worlds given the objective validity of the principle of coherence – and, therefore, of the dialectic of the One and the Many – in the process of self-organization of the universe. Situated among these extreme faces in which possibly the universal becoming manifests itself, other (potentially) infinite possible worlds unfold, forming the totality of logical space. In order to view the logical space, see Figure 2 (below). I will next discuss the World of Leibniz (WL), the attractor of the universal becoming.
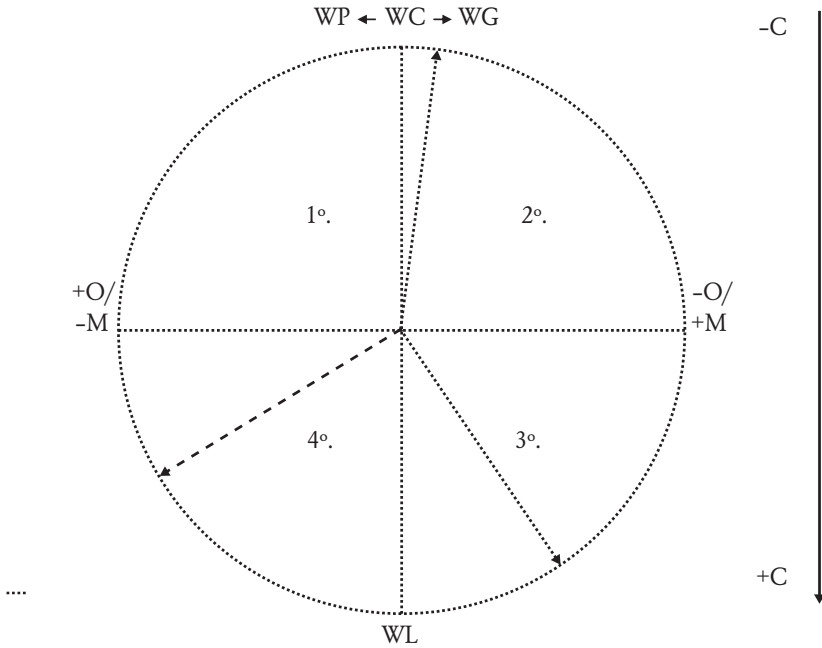
Figure 2: The "logical space": possible worlds

WC = World of Cusanus (coincidentia oppositorum)
WL = World of Leibniz (the greatest order under the greatest possible diversity)
WP = World of Parmenides (maximum unity in the smallest possible multiplicity = maximum uniformization: pure Being)
WG = World of Gorgias (maximum multiplicity in the smallest possible unity = maximum diversification: pure Appearing)
+O/−M = Indicates the predominance of the One over the Many in the worlds situated in Quadrant 4, and even more in Quadrant 1.
−O/+M = Indicates the predominance of the Many over the One in the worlds situated in Quadrant 3, and even more in Quadrant 2.

In order to understand Figure 2: Each point in the traced line of the circumference corresponds to a possible world (the traced lines inside the circumference only serve to demarcate the quadrants, which are numbered from 1 to 4). For this very reason, the figure is clearly a simplification, since there are *potentially* infinite possible worlds, and the number of points which form the circumference represented here is finite. The black arrow pointing downwards on the right of the circumference indicates that the worlds situated in the lower semi-circumference, closer, therefore, to the World of Leibniz, are more coherent (+C) with the dynamism of the universal becoming and can generate their own history (the World of Leibniz is thus the attractor of the universal becoming). The World of Parmenides is actually the World of Cusanus itself "observed" from the perspective of someone who follows the circular movement

2.4.3 Deflationary ontology and evolutionary cosmology:
The World of Leibniz as the attractor of universal becoming

At the other extreme of the logical space, on the opposite face of the World of Cusanus, therefore, is the World of Leibniz (WL). The key role that this world plays in deflationary ontology, and in the evolutionary cosmology which derives from it, can only be adequately understood by spelling out the radical asymmetry between the upper semicircumference and the lower semicircumference of the logical space: The worlds that are manifested in Quadrants 3 and 4 are more coherent with the radical dynamism that emanates from the objective validity of the principle of coherence. It has already been said that the principle of coherence determines the self-coherence of the universe, but underdetermines all the potentially infinite manners of realizing the self-coherence of the whole, i.e., the potentially infinite possible worlds. Now, those configurations of universe or those worlds which manifest themselves as extreme forms of predominance of the One over the Many, which are thus situated in Quadrant 1, are too ordered to be able to adapt to the extremely dynamic environment generated by the principle of coherence: we have already seen, for instance, that the World of Parmenides, the simple system in which the iteration of the self-identity of the whole is manifested, comes undone at the least presence of new determinations that are incompatible with it, although they are allowed, considering the preservation of the self-coherence of the universe. On the opposite side, situated in Quadrant 2, we have worlds which, on the contrary, are too unstable to remain self-coherent as specific configurations of universe and thus to generate a history of their own.

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which goes from right to left (the *uniformization* movement), following the trajectory of the blue arrows within the circle, thus beginning (near) the World of Gorgias, passing by the World of Leibniz and leading into the World of Parmenides (the blue arrow with a continuous traced line points to an actual world in which the universal becoming manifests itself still on the way to maximum uniformization); the World of Gorgias is the World of Cusanus itself "seen" from the perspective of someone who follows the opposite movement, following the circular movement which goes from left to right, from the World of Parmenides, passing by the World of Leibniz and leading into the World of Gorgias.

The attractor of universal becoming is, therefore, the place where we find configurations of universe which are able to realize a reasonably balanced proportion of the One and the Many. Flexible systems of this kind are able to receive the impact of the presence of underdetermined multiplicity without collapsing as systems and can last at least long enough to produce a certain history of their own, the formation of a stable particular configuration of world and with characteristics of its own. Flexible systems are those that can combine, in themselves, moments of identity and difference, of invariance and variation, of determination and underdetermination, without collapsing as systems. Their flexibility allows their adaptation or coherence, at least to a certain extent, to the universal becoming. If this is so, these configurations of world can then generate a very specific direction of universal becoming, a history and evolution of their own. They can generate subsystems, complexify and resist the impact of what is contingent in the universe without becoming undone. As we know, Leibniz considered that, among the "n" possible worlds at God's disposal, taking into account the validity of the principles of non-contradiction and sufficient reason, God had chosen the best one, i.e., the world that contains the "greatest order under the greatest possible variety".[48] That is why the world in which the balanced proportion of the One and the Many is manifested, the attractor of the universal becoming, is called the World of Leibniz. I do not presuppose here, on the other hand, a metaphysics of transcendence, much less the thesis that this is *the* world that manifests itself necessarily having in view the validity of the principle of coherence. The attractor of the natural becoming is not its necessary end, but a point of reference close to which worlds that are more coherent with the processuality of the whole *tend* to manifest themselves.

I thus advocate an evolutionary cosmology. The universe moves eternally in the field of all possible configurations of universe ("worlds"). In the general becoming of the universe, the configurations of universe

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[48] Leibniz says the following in § 58 of the *Monadology*: "This is the means to obtain as much variety as possible, but with the greatest order possible, i.e., the means to obtain as much perfection as possible" ["Et c'est le moien d'obtenir autant de varieté qu'il est possible, mais avec le plus grand ordre, qui se puisse, c'est à dire, c'est le moien d'obtenir autant de perfection qu'il se peut".]

coherent with the highly dynamic environment promoted by the process of self-determination of the universe as a system last longer. The preservation of the coherent forms in the historical becoming and the overcoming of incoherent forms is *natural selection*. The historical becoming of the universe, in its *tendency* towards greater coherence,[49] is *evolution*.

2.5 The descending path III: In a dialogue with the theory of the complex adaptive systems

2.5.1 Boolean networks

All of this speculative theory presented in the paragraphs above becomes somewhat more concrete when we continue our movement of descending dialectic. The relational, processual, holistic and deflationary ontology that has been outlined so far finds a formalization scheme in the Boolean networks of Stuart Kauffman. This model is an explicit example of marriage, of articulation between the two paths (ascending and descending) to reconstruct the dialectical system I referred to above (it should be recalled that the generalization of the theory of complex adaptive systems is at the inception of ascending dialectic).

In a Boolean network, the state of an event is determined by the state of other events, in a self-determination process oriented toward the preservation of the stability of the network itself. Kauffman has studied the self-organized systems in order to explain the enigmatic natural transition from the physicochemical events to the biological events proper. The Boolean networks are an abstract and idealized model[50] of self-organization processes and were initially elaborated by

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[49] See note 59.

[50] The model is idealized because it presents an extreme simplification of what in fact occurs in real autocatalytic networks, where the number of molecules involved is enormous, and their mode of interaction is much more complex. But, as Kauffman emphasizes, idealization allows making our ideas on the mode of functioning of the networks clear: "Ultimately, we have to show that the ideas captured in this way [by idealization] do not change when the idealizations are removed" (Kauffman, S., *At home in the universe*, New York, Oxford University Press, 1995, p. 75). It should be pointed out that the

Kauffman for the purpose of accounting for the way in which autocat-
alytic systems work[51] which are supposed to be at the inception of the
life phenomena.[52] The adjective "Boolean" was given in honor of the
creator of the algebra of logic, George Boole. In Boolean logic sym-
bols 1 and 0 stand, respectively, for true (T) and false (F). In the same
way as we can think about two simple sentences as contributing to the
truth or falseness of a complex sentence, we can imagine two events
contributing to the activation or inhibition of the formation process
of another event (in the case of self-catalytic networks, we can think
of two molecules contributing to the activation or inhibition of the
formation process of another molecule; in the case of neural networks,
we can think of neurons activating or inhibiting the activity of another
(other) neuron(s), etc.).

Let us suppose the existence of a complex system formed by three
events (A, B and C), each of them influenced by two other events.[53]
The result of the influence between the events is determined by a logic
that mirrors the rules of formation of the truth or falseness of complex
sentences based on the truth or falseness of the simple sentences that
compose them. Let us imagine the case of a system that begins the pro-
cess of self-determination in a situation in which the formation process
of all three events is activated (the value '1' is assigned to each event).
Let us suppose, then, that the rules of their mutual influence be the
following: the influence exerted on A follows the rule of conjunction
('e') – i.e., the formation process of A will only be (or remain) activat-
ed ('A' will receive value '1') if both other events also have an activated

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Boolean networks also have at least two restrictions that the dialectic does not need to
follow, and in fact does not follow: they presuppose the rules of bivalent logic, and these
rules are imposed on the system from outside (differently from what occurs with real
systems). Kauffman himself accepts these restrictions only for illustrative purposes. The
relational, processual and deflationary ontology implicit in the networks remains valid
even without these restrictions.

[51] Catalysts are events that can accelerate chemical reactions.

[52] "[...] a living organism is a system of chemical products that is able to catalyze its
own reproduction." (S. Kauffman, *At home in the universe*, op. cit., p. 49.) For a detailed
presentation of Kauffman's theory on the origin of life see Kauffman, S., *The origins of
order. Self-organization and selection in evolution*, op. cit., pp. 287 ff.

[53] The treatment of Boolean networks that follows is based on S. Kauffman, ibid., p. 189.
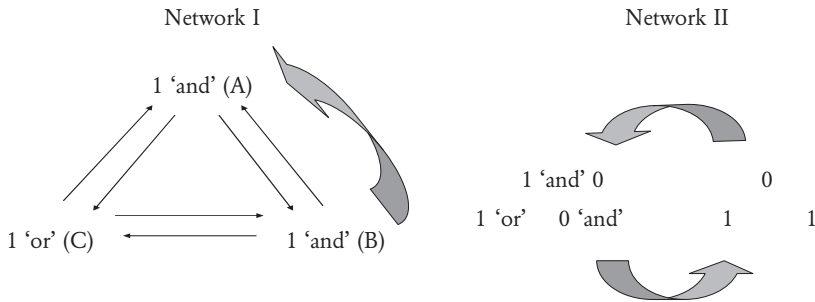
Network I   Network II

1 'and' (A)

1 'or' (C)   1 'and' (B)

1 'and' 0   0
1 'or'   0 'and'   1   1

Figure 3: Two types of Boolean network
See Kauffman, S., The origins of order, p. 189.

formation process;[54] the influence on B also follows rule 'e'; finally, the influence on C follows the disjunction rule ('or'), i.e., the forma- tion activity of C will only be inhibited ('C' will received value '0') if the formation activity of the other two events is also inhibited. These rules are transformation rules, i.e., they rule the mode of change of the state of a system from its condition expressed at time T1 to time T2. In the case mentioned, at time T1, we have the situation of a system in which all three events have an activated formation process (all receive value '1'). It follows from this that the state of the system at T2 will be exactly the same. A Boolean network of this kind is exemplified in Figure 3, Network I (the arrow indicates the situation towards which the system tends, i.e., its attractor; in the case of Network I the system reiterates its initial state).

We can thus state that the systemic configuration represented by the situation expressed at T1 is the attractor of the process of determi- nation itself and the system thus keeps completely coherent to itself at T2 – the systemic unity preserved itself during the process. Hence we have a complex system understood as a self-determining totality whose mode of behavior is the logic of coherence, expressed, however as a merely iterative movement.

The problem of this systemic configuration is its high sensitivity to any perturbation of the determinations that compose it – in this case,

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[54] In the same way in which the rule of conjunction, in formal logic, makes the com- plex sentence be true only if the simple sentences that compose it are true.

Network III

1

0   0

1   0   1 'and'

0   1   1   1   1 'or'   1 'or'

1

1   0
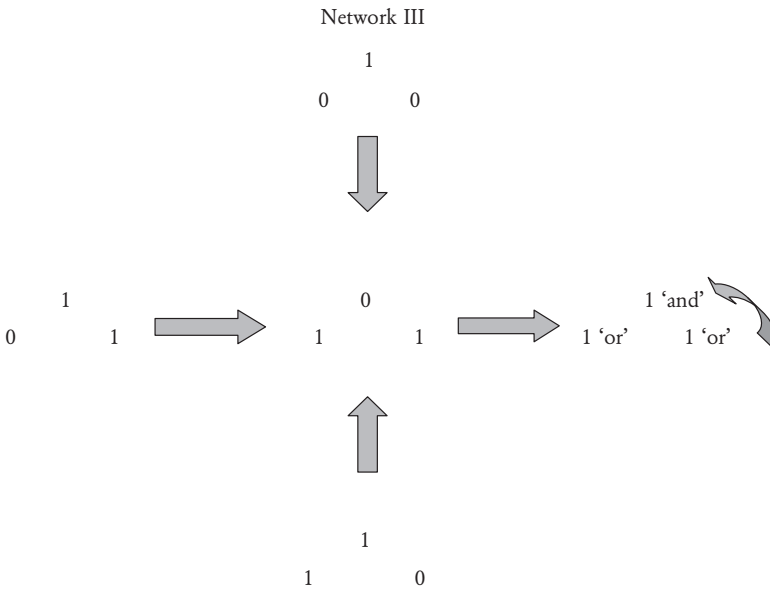
Figure 4: A flexible Boolean network (see Kauffman, S., The origins of order, p. 189.):
harmonious proportion between the One and the Many

the state of each event, corresponding to value '1' or '0', and the mode
of influence among the events, presented in the rules of transforma-
tion, since no other determination is in question here. Changing the
determinations of the events or the rules of transformation, we will find
another system with its own determination process. For instance, let
us assume that the value of B varies from 1 to 0, but that the rules of
transformation remain the same. We will thus see appear the Boolean
network exemplified in Figure 3, Network II. This is another system,
with a different attractor – in this case the permanent oscillation itself
between the two systemic configurations shown above. This means
that the small alteration provoked in the system ruled by the iterative
movement made it lose itself, modifying itself *as* a system. The high
sensitivity of Boolean networks similar to Network I is symmetrical to
the high sensitivity of worlds close to the World of Parmenides in the
"logical space" (i.e., the worlds situated in Quadrant 1 of the circum-
ference shown in Figure 2): these are systems that do not adapt well to
a dynamic environment.

Now let us analyze another case. Let us suppose a system that is also in the same initial situation described in the first example, i.e., a system formed by three events, all of them with the process of their own formation activated (thus receiving value '1'). However, in this case the rule of influence of the two other events on event B was altered, shifting from conjunction to disjunction. This system maintains its internal unity – ensured by the preservation of a same attractor toward which the process of self-determination goes – even undergoing small alterations (see Figure 4 below[55]). In other words, since the identity of a system is given by its attractor, and the attractor remains the same in all 5 configurations exposed in Network III, we have one and the same system compatible with all these possible alterations of the events that compose it and, therefore, capable of a greater adaptation to possible random changes of state (perturbations). Flexible networks of this kind tend to adapt better to a dynamic environment, underdetermined by an underlying principle of order, and they correspond in the "logical space" to those worlds close to the World of Leibniz (situated in Quadrants 3 and 4 in Figure 2).

2.5.2 Fitness Landscapes

In contrast to the natural systems conceived by classical physics, complex adaptive systems are *inherently dynamic*. They self-organize presupposing possible (underdetermined) random internal variations and remain constantly outside the situation of equilibrium. Since the potentially infinite ways of realizing self-coherence are not predetermined by the principle of coherence itself, the attractor of an adaptive system may vary over time, thus changing the *telos* of the system[56] (what I call *dynamic teleology*, as opposed to the non-dynamic teleology which we observe in Hegel's dialectic). Since the universe itself is a totality whose

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[55] See ibid.

[56] It follows that, when one says that evolution implies a "movement towards what is more coherent" or "to the fittest", one must understand the notion of progress implicit here as *dependent on the context*. Events that are coherent with themselves and with the environment at moment T1 in time will not necessarily be so as soon as the environment changes at T2.

possible global states (configurations of universe) are underdetermined by the principle of coherence, the environment in which this or that configuration of universe (this or that world) and its possible subsystems are situated is extremely dynamic.

In the specific case of the regional ontology which we find in the biological sphere, autocatalytic molecular networks (= living beings) compete with each other in the search for the fittest (the most coherent with itself and the surroundings), gestating a scenario which the theoreticians of evolution call "fitness landscape". Two complex adaptive systems are closer or farther away from each other in the fitness landscape according to their degree of structural identity; in turn, the fitter a system, the higher it is found in the landscape, forming peaks and valleys of fitness. We could now imagine two extreme landscapes: one in which the distribution of the systems is perfectly random, forming a chaotic landscape; another one in which there were a perfectly ordered landscape, with the fittest system in the center, surrounded by systems that are closer to it structurally, gradually descending to the base of the pyramid.[57]

Stuart Kauffman emphasizes that the fitness landscapes that we find in the real world are manifested in an intermediary form between these extremes: they correspond to a rough-correlated fitness landscape.[58] In this case, the systems that are nearest do not vary much among themselves, since it is more likely that small variations generate a small difference in fitness; but sometimes small variations can generate a large difference in fitness (thence the rough correlation among the systems). One should bear in mind that the fitness landscape is dynamic (because the teleology that supports it is dynamic), and changes over time, continuously altering peaks and valleys.

It is no coincidence that the fitness landscapes that really exist are similar to rough-correlated landscapes: this happens for the same reason that there is an asymmetry between the lower and upper semicircles in the logical space of the possible worlds (Figure 2). The rough-correlated fitness landscape echoes the best of worlds of Leibniz, since it reflects

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[57] See Beinhocker, E., *The Origin of Wealth. Evolution, complexity and the radical remaking of economics*, op. cit., p. 205.

[58] Ibid., p. 203.

an approach to a harmonic proportion between the One and the Many. What, however, for Leibniz was a single landscape chosen by God – the one that would bring together the greatest order under the greatest possible diversity – here is a certain ensemble of possible landscapes which render explicit the adequate balance of the One and the Many in a universe that is in principle dynamic. If the fitness landscape were extremely correlated (very ordered), any perturbation would bring it to collapse; on the other hand, if it were broadly random (very disordered), nothing in it would remain stable, and it would collapse anyhow. An ecosystem that shows itself fit to generate a certain evolutionary history in a dynamic universe should resemble a rough-correlated fitness landscape. The existence of several peaks means that, if the selective pressures are altered, the existing populations can explore these peaks in search of adaptation. The absence of complete randomness in the peaks means that the existing populations remain sufficiently stable to preserve their capacity to adapt to the prevailing scenario.

The presence of the World of Leibniz as a universal attractor, this *tendency* of the universal becoming to express itself in the form of worlds close to the World of Leibniz, and the asymmetry of the logical space derived from it, explains the difference[59] between the theory of the possible worlds based on an evolutionary model, here defended, and theories of the possible worlds which presuppose only logical laws as an ultimate restricting factor, as commonly found in contemporary analytic metaphysics:[60] the universal becoming is always subject to restrictions characteristic of evolutionary processes. This tendency of the universal becoming would explain why we live in a world permeated by evolutionary landscapes similar to rough-correlated fitness landscapes and why these landscapes tend to be selected during the course of the universal becoming.

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[59] I am grateful to Marco Antônio Oliveira Azevedo for having emphasized this point in a personal conversation.

[60] For a detailed treatment of this tradition, see Divers, J., *Possible worlds*, Routledge, London – New York 2002.

2.6 Deflationary ontology and objective axiology

2.6.1 On objective good

As I said at the beginning of this text, my intention here was mainly to spell out the ontology underlying a possible reactualization of Hegel's concept of ethics, i.e., of the *Philosophy of Right*, rather than to deal directly with this topic. I would like to end, however, by pointing to a few consequences of the adoption of deflationary ontology for ethics.

We saw that the process of self-determination of a system *is directed* at the preservation of coherence with itself, i.e., its *attractor* is its own immanent configuration (which allows identifying it as a system). The system prioritizes its own integrity (self-coherence) compared to other possible states. Prioritizing is to generate value, even when the prioritization process takes place without any presence of consciousness or mental state. Systems are thus centers that produce value. Therefore an objective axiology, an objective theory of good[61] which is at the base of ethics is derived from dialectical ontology. Since any other good presupposes the preservation of self-coherence, the latter must be considered a primary good; the other values are, in this sense, secondary goods.

Since directionality towards an end is a constitutive property of systems in general, a much broader ethical universalism that Kant's universalism and even broader that the utilitarian universalism of Peter Singer[62] emerges naturally from deflationary ontology. Whereas, for Kant, the sphere of the moral community involves all rational beings (all human beings, since they are the only known beings that have the capacity for argumentation), in the case of Singer it will involve all sentient beings. However, just as, in Singer's terminology, we can accuse those who arbitrarily restrict the moral sphere exclusively to human beings of being specieist, we can consider the dividing line that separates sentient and non-sentient beings as equally arbitrary, considering the more universal postulate of self-coherence as the primary good. The sphere of the moral community is thus expanded to involve all self-organized systems and

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[61] For an approach that is very close to this one that I develop here, see Rolston, H., *Environmental Ethics*, Temple University Press, Philadelphia 1988.

[62] See Singer, P., *Practical Ethics*, Cambridge University Press, Cambridge 1999.
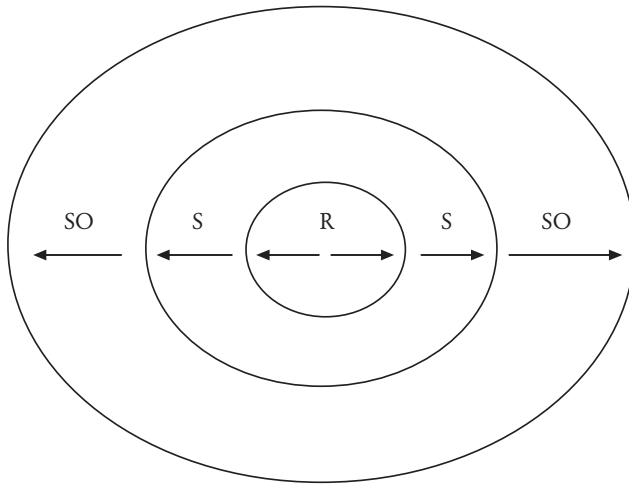
R = rational beings (= humanbeings)
S = sentient beings
SO = self-organized beings (systems)

Figure 5: The expansion of the moral community
(i.e., of the sphere of beings who deserve moral consideration)

is developed in a cosmic perspective (see Figure 5). Here we have the point of departure for the elaboration of an environmental ethics, an ethics capable of responding to the challenges of the ecological crisis.

If self-coherence is a primary good from the perspective of any self-organized system, the coherence of the universe is a very primary good, since it is the condition for the possibility of the emergence of any other primary good. The coherence of subsystems assumes the preservation of the coherence of the world of which they are part, of this specific configuration of universe in which they are situated and, further, of the self-coherence of the universe as such. However, the emergence of subsystems brings with itself conflicts among goods: whereas the multiple subsystems *diverge* from each other as they are orientated towards the preservation of their own internal coherence (and not toward the internal coherence of the other subsystems), they *converge* as moments of a common broad system which is the condition of their very subsistence.

The preservation of a given configuration of universe which contains subsystems presupposes the realization of a network of interdependence

of primary goods, of an objective axiological weft. The coherence of a world of this kind results from the well performed dialectic between the uniformizing process gestated by centers of convergence, by systems which encompass and unify the process towards self-coherence of a myriad of subsystems and the diversifying process generated by the constant production of individuations or subsystems. The coherence of the whole is the result of this axiological weaving, of this consistent weft of distinct values. Once this subtle harmony between the two antagonistic movements of the dialectic of the One and the Many is broken, the axiological network of this world comes undone, this configuration of the universe falls apart and another emerges in its place.

2.6.2 Contingency, history and freedom

Whereas the real world is permeated by an objective weft of values, only human beings are capable of discursively appropriating the knowledge about these values, of recognizing the axiological weft (partly originating in our biological history as a species, partly in our cultural history) which conditions our conduct and of exploring its contingent character, problematizing it and possibly taking up new values. Herein resides our freedom. Understanding it appropriately depends basically on a rereading of the role of contingency in constituting human historicity, a rereading that is made possible by the adoption of deflationary ontology.

In Hegel, contingency has two functions: it marks the point of departure of dialectical becoming (for instance, of the situation at the beginning of the *Logic*, characterized by the presence of presuppositions that have not yet been dialectically mediated) *and* it is the element to be annulled as the Concept advances. In a renewed dialectic, contingency is the mark of the underdetermined character of the (potentially infinite) ways of realizing self-coherence. Since dialectical processuality does not deny contingency but is fed by it, engendering moments of underdetermination both in the sphere of being and of thinking, a concept of *history* in the strong sense,[63] a natural history permeated by contingency, emerges naturally from dialectical ontology. This is a natural history permeated by contingency, which anticipates an equal-

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[63] See note 45.

ly strong reading of the concept of history of civilizations, as opposed to Hegel's model.

Thus a space is opened for an overall re-evaluation of the theory of history inherited from Hegel. Far from being the necessary manifestation of the unfolding of the spirit in the real sphere, seeking the full realization of its own rationality, the history of civilizations must be conceived as the free exploration of the multiple possibilities of realization of human potentials. The emphatic concept of history that results from deflationary ontology brings to light the contingent character of all factically given values, except for the self-coherence of the universe in its totality. Since the objective values can be revised, their discursive appropriation and possible revision by a moral community is the base for what we understand as human freedom.

It is not by chance that Hegel is often accused of having privileged the positive concept of freedom, the self-determination of the rational agent, to the detriment of its negative version, the independence of the agent from prior determinations (whether they be natural/factical or normative).[64] In fact, it is not difficult to extract from Hegel's theory of freedom and its development in the *Philosophy of Right* the idea that individuals are free as long as their rational will coincides with the necessary process of self-determination of objective reason.[65] A possible option to deal with this difficulty has been to free the ethical theory from any connection with the metaphysical presupposition of an objective reason that unfolds in history, in other words, to rethink the Philosophy of Right without appealing to ontological presuppositions (at least those typical of the *Science of Logic*).[66] We have already seen, however, that it is not possible to constitute any theory of any sphere of reality without appealing, implicitly or explicitly, to ontological presuppositions (at least if we do not want to become hostage to the dilemmas of the different forms of subjective or intersubjective idealism). On the other hand, the necessary appeal to ontological presuppositions does

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[64] See Tugendhat, E., *Vorlesungen über Ethik*, Suhrkamp, Frankfurt am Main 1993.

[65] Freedom is conceived by Hegel, in *Logic*, as the process of self-determination of the Concept raised to its full form, to its full manifestation (See Hegel, G. W. F., *Werke*, op. cit., vol. 6, p. 249).

[66] See Honneth, A., *Leiden an Unbestimmtheit*, op. cit., p. 14.

not mean, as we saw, using any aprioristic metaphysics. What I propose here is precisely to spell out, in the context of a fallibilistic approach – i.e., of an objective axiology developed from the ontological perspective, always counterbalanced by the epistemological perspective –, the ontological presuppositions of a renewed dialectical theory of freedom.

Finally, I believe that, based on deflationary ontology, it is possible to establish a negative justification of liberal democracy. Whereas the constitution of a people is conceived by Hegel as a necessary manifestation of the Concept, considering a certain phase of the development of the spirit, from now on we should understand it as a fundamental system of rules, which can, however, be revised, in the search by the individuals that make up this particular people, of one among "n" possible forms of preserving the coherence of the social tissue, of realizing human sociability. Indeed, if there is more than one possible way of realizing the coherence of the social tissue, one must grant the possibility that individuals choose the type of society in which they wish to live, considering the human potentials that they aim to develop.

Authorized translation by Hedy Lorraine Hofmann

References

Beinhocker, E., *The Origin of Wealth. Evolution, complexity and the radical remaking of economics*, Harvard Business School Press, Boston 2006.

Bertalanffy, L. von, *General System Theory*, George Braziller, New York 1969.

Bertalanffy, L. von, *Nikolaus von Kues*, G. Müller, Munich 1928.

Cirne-Lima, C. R. V., "Analítica do dever-ser", in: C. Cirne-Lima – C. Almeida, *Nós e o absoluto*, Loyola, São Paulo 2001.

Cirne-Lima, C. R. V., *Sobre a contradição*, Edipucrs, Porto Alegre 1993.

Divers, J., *Possible worlds*, Routledge, London – New York 2002.

Feuerbach, L., *Gesammelte Werke* [GW], ed. W. Schuffenhauer, 21 v., 3rd ed., Akademie Verlag, Berlin 1990.

Fichte, J. G., *Fichtes Werke* [FW], ed. I. H. Fichte, 11 v., Walter de Gruyter, Berlin 1971.

Gadamer, H.-G., *Hans-Georg Gadamer. Gesammelte Werke* [GW], 10 v., 6th ed., Tübingen 1990.

Gaiser, K., *Platons ungeschriebene Lehre. Studien zur systematischen und geschichtlichen Begründung der Wissenschaften in der Platonischen Schule*, 3rd ed., Klett-Cotta, Stuttgart 1998.

Halbig, C. – Quante, M. – Siep, L. (ed.), *Hegels Erbe*, Suhrkamp, Frankfurt am Main 2004.

Hegel, G. W. F., *Werke* [W], ed. E. Moldenhauer and K. Michel, 20 v., Suhrkamp, Frankfurt am Main 1990 (2nd ed.).

Honneth, A., *Leiden an Unbestimmtheit*, Reclam, Stuttgart 2001.

Hösle, V., *Hegels System*, Felix Meiner, Hamburg 1988.

Hösle, V., "Begründungsfragen des objektiven Idealismus", in: Forum für Philosophie Bad Homburg (org.), *Philosophie und Begründung*, Suhrkamp, Frankfurt am Main 1987, pp. 212–267.

Kant, I., *Kritik der reinen Vernunft* [KrV], 3rd ed., Felix Meiner, Hamburg 1990.

Kant, I., *Prolegomena zu einer jeden künftigen Metaphysik*, 7th ed., Felix Meiner, Hamburg 1993.

Kauffman, S., *Investigations*, Oxford University Press, Oxford 2000.

Kauffman, S., *At home in the universe. The search for the laws of self-organization and complexity*, Oxford University Press, Oxford 1995.

Kauffman, S., *The origins of order. Self-organization and selection in evolution*, Oxford University Press, Oxford 1993.

Kuhlmann, W., *Reflexive Letztbegründung: Untersuchungen zur Transzendentalpragmatik*, Alber, München 1985.

Leibniz, G. W. L., *Principes de la nature et de la grâce fondés en raison. Principes de la philosophie ou Monadologie*, ed. A. Robinet, 2nd ed., Press Universitaires de France, Paris 1978.

Luft, E., "Considerações dialéticas sobre o sistema do dever-ser", in: A. N. de Brito (ed.), *Cirne. Sistema e objeções*, Unisinos, São Leopoldo 2009, pp. 73–86.

Luft, E., "Sobre o lugar da *Fenomenologia do Espírito* no sistema de filosofia", *Contradictio*, v.1, pp. 83–94, 2008.

Luft, E., "A Fenomenologia como metaepistemologia", *Revista eletrônica estudos hegelianos*, 2006, n. 4.

Luft, E., *Sobre a coerência do mundo*, Civilização Brasileira, Rio de Janeiro 2005.

Luft, E., "Holismus und deflationäre Ontologie", in: H. Eidam –
        F. Hermenau – D. De Souza (eds.), *Metaphysik und Hermeneutik*, Kassel
        University Press, Kassel 2004, pp. 84–97.

Luft, E., *As sementes da dúvida*, Mandarim, São Paulo 2001.

Luft, E., "Fundamentação última é viável?", in: C. Cirne-Lima – C. Almeida,
        Nós e o absoluto. Festschrift em homenagem a Manfredo Araújo de Oliveira,
        Loyola, São Paulo 2001.

Luft, E., *Para uma crítica interna ao sistema de Hegel*, Edipucrs, Porto Alegre
        1995.

Luft, E., "Contradição e dialética: um estudo sobre o método dialético em
        Platão", *Síntese Nova Fase*, 23, 1996, 75, pp. 455–502.

Margutti Pinto, P. R., "Dialética, lógica formal e abordagem sistêmica", in:
        C. Cirne-Lima – L. Rohden, *Dialética e auto-organização*, Editora Unisinos,
        São Leopoldo 2003.

Maturana, R. H. – Varela, F., *A árvore do conhecimento*, Editorial Psy, São Paulo
        1995.

Oliveira, M. A. de, *Para além da fragmentação. Pressupostos e objeções da
        racionalidade dialética contemporânea*, Loyola, São Paulo 2002.

Oliveira, M. A. de, *Sobre a fundamentação*, Edipucrs, Porto Alegre 1993.

Plato, *Complete Works* [CW], ed. J. M. Cooper, Hackett, Indianapolis 1997.

Plato, *Sämtliche Werke* [SW], ed. K. Hülser, 10 v., Insel, Frankfurt am Main
        1991.

Rolston, H., *Environmental Ethics*, Temple University Press, Philadelphia 1988.

Ruffié, J., *Tratado do ser vivo*, Fragmentos, Lisboa 1988.

Schelling, F. W. J., *Ausgewählte Schriften* [AS], ed. M. Frank, 6 v., 2nd ed.,
        Suhrkamp, Frankfurt am Main 1995.

Schulz, W., *Die Vollendung des deutschen Idealismus in der Spätphilosophie
        Schelling*, Kohlhammer, Stuttgart – Köln 1955.

Singer, P., *Practical Ethics*, Cambridge University Press, Cambridge 1999.

Smolin, L., *The trouble with physics. The rise of string theory, the fall of a science e
        what comes next*, Houghton Mifflin Company, Boston 2006.

Smolin, L., *Three roads to quantum gravity*, Basic Books, New York 2001.

Smolin, L., *The life of the cosmos*, Oxford University Press, Oxford 1997.

Tugendhat, E., *Vorlesungen über Ethik*, Suhrkamp, Frankfurt am Main 1993.

Wittgenstein, L., *Tractatus logico-philosophicus*, 11th ed., Suhrkamp, Frankfurt am
        Main 1997.

II

Recognition in Legal Justice

The Fabric of Justice:
On the Limits of Proceduralism

Axel Honneth

Now that the debate over the relationship between liberalism and communitarism has submerged with the same suddenness with which it emerged two decades ago, the gap between philosophical theory and political praxis appears to be growing again.[1] Back when the writings of Michael Walzer, John Rawls or Charles Taylor were broadly discussed among intellectuals, political philosophy seemed to have the power to inform political praxis with theoretical ideas and clues.[2] For a brief moment, it seemed that philosophical efforts to properly define the concept of social justice had an influence on the development of political goals and programs.[3] Yet today, after the challenge of communitarism has subsided, we are faced once again with the old malaise about a disconnect between political philosophy and political action, between theory and praxis. There does appear to be a general consensus about the fact that liberal democratic societies are based on normative foundations requiring legal guarantees for the individual autonomy of all citizens. Furthermore, most would agree that these principles of legal and political equality require economic redistribution, which allows the disadvantaged to actually make use of their legally guaranteed rights. However, these general principles of social justice are without any informational value for the praxis of political representatives and social movements. When it comes to solving complex social problems, such as the challenges involved in reforming the welfare state, these widely accepted principles quickly lose their explanatory and advisory effects.

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[1] The original publication of the article in English: Honneth, A., "The Fabric of Justice: On the Limits of Proceduralism", in: A. Honneth, *The I in We. Studies in the Theory of Recognition*, Polity Press, Cambridge 2012, pp. 35–55. © Suhrkamp Verlag.

[2] Honneth, A. (ed.), *Kommunitarismus. Eine Debatte über die moralischen Grundlagen moderner Gesellschaften*, Campus, Frankfurt a. M. – New York 1992.

[3] This political relevance of political philosophy has been made most apparent by the discussions over the writings of Amitai Etzioni (*The Spirit of Community: Rights, Responsibilities and the Communitarian Agenda*, Crown, New York 1993). For an account of the political discussion in Germany, see Zahlmann, Ch. (ed.), *Kommunitarismus in der Diskussion: Eine streitbare Einführung*, Rotbuch Verlag, Berlin 1992.

This gap does not consist in a mere temporal delay between philosophical explanation and practical application, for more is needed than time, effort and persistence to transform theoretically developed principles of justice into guidelines for political action. Instead, these normative principles seem to be formulated on a level that prevents us from deriving guidelines for political action. It appears that we are constantly forced to draw on other norms that lack philosophical grounding, just to have a prospect of arriving at a "just" solution.[4]

In the face of this widening gap between philosophical theories of justice and political praxis, perhaps we should take a step back and get a clear view of the first side of this split. After all, it is certainly possible that conceptual faults in the theory are responsible for the growing detachment from political action. In what follows, I will attempt to gradually detach myself from the premises of the dominant liberal theory of justice in order to take up an external perspective, which will allow me to give this theory a critical examination. I will proceed by first developing three elements of what seems to have become a broad consensus among nearly all theories of justice. Without taking account of the many differences between individual approaches, I claim that a basic proceduralist schema, the notion of just distribution, and a certain fixation on the state combine to make up the theoretical foundation of our current theory of justice (I). Second, I will examine and question each of these three basic cornerstones, beginning with the paradigm of distribution, which I regard as the key to criticizing the other building blocks of the theory (II). Third, after I have demonstrated the dubious nature of all three theoretical elements, I can begin to draft a normative counter-proposal. I will start with question of how we should conceive of the material of social justice if the distribution of goods does not constitute a sufficient solution. I will then go on to outline a response to the other two questions that arise from the deficits of both the basic proceduralist schema as well as the fixation upon the state (III). Finally, I will make some indications about the consequences of reconceiving the theory of justice in this fashion. Here I will come back to my starting point, the relationship between a philosophical

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[4] Miller, D., *Principles of Social Justice*, Harvard University Press, Cambridge, MA, 2003, ch. 1.

theory of justice and political praxis. Obviously, the guideline for my approach will be the question of how we are to conceive of the fabric or material of social justice.

1

Nowadays there seems to be a broad consensus in philosophical circles about the premises of a theory of social justice. Although we might find scattered resistance to individual elements, most agree about the procedure of justification and its main area of applicability. Both are seen to derive from the idea that principles of justice are the expression of a common desire to grant each other equal freedom of action. Although this abstract principle appears coherent, it brings together two different theoretical complexes, each of which derives from a different definition of liberty. On the one hand, what we call social justice has its measure in the guarantee of our personal, purely individual autonomy. On the other hand, principles of justice must be conceived of as the result of a shared process of will formation dependent on intersubjective cooperation.[5] I will refer to the former element of this construction, which concerns the reciprocal granting of individual autonomy, as its "material" component. I will call the second component, which deals with the generation of principles of justice, its form principle.

The material component embodies the fact that a striving for the liberation of the individual from external impositions and personal dependencies is considered an essential achievement of liberal societies. In principle individual liberty in its modern form should have its measure in the unhindered pursuit of personally chosen aims. This new conception of liberty alters significantly the material task of justice: Whereas it once primarily consisted in assigning each person his or her place in

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[5] For a good overview of this tension at the heart of modern theories of justice, see Ladwig, B., "Freiheit," in: G. Göhler – M. Iser – I. Kerner (eds.), in: *Politische Theorie: 22 umkämpfte Begriffe zur Einführung*, VS Verlag für Sozialwissenschaften, Wiesbaden 2004, pp. 83–100, and Wellmer, A., "Models of Freedom in the Modern World," in: *Endgames: The Irreconcilable Nature of Modernity: Essays and Lectures*, MIT Press, Cambridge 1998, pp. 3–68.

the social hierarchy and ensuring a corresponding livelihood, it now consists in granting all subjects equal space to pursue their individual preferences. This formulation might sound innocent enough, but it soon gave birth to a crucial notion in our current conception of justice: Our individual liberty grows all the more, the less limits others impose on us, that is, the more independent we are of our partners in interaction. Although this liberal emphasis on individuality doesn't automatically imply the isolation of the subject, the images used to lend rhetorical support to this conception, as well as the examples used to convey it to a broader audience, suggest that social bonds can generally be regarded as limitations of individual liberty. It is through these channels that the individualistic notion of personal autonomy has seeped into modern theories of justice. This has given rise to the influential idea that creating just social conditions primarily means conceding all subjects a form of self-determination that allows them to be as independent as possible of their partners in interaction.[6] The most important consequence of this one-sided notion is a theoretical schema that we might term the "paradigm of distribution." Because dependency on others is viewed as a threat to individual liberty, liberty can only be secured if every individual possesses sufficient means to achieve his or her life plans. Accordingly, the material task of justice consists in distributing those "goods" that enable all members of society to pursue their individual preferences. At the end of this developmental process, therefore, justice is equated with "just distribution," without any consideration about whether we are justified in viewing individual liberty essentially as the use or enjoyment of goods.[7]

But before I go into the deficits of the distributional paradigm, I first want to present the other components of the current concept of justice. I have already indicated that a certain tension can be found in the most general definition of social justice, because alongside the

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[6] On the critique of this individualistic or privatistic conception of individual freedom, see Taylor, Ch., *Negative Freiheit? Zur Kritik des neuzeitlichen Individualismus*, Suhrkamp, Frankfurt a. M. 1988, Raz, J., *The Morality of Freedom*, Clarendon Press, Oxford 1986, Sandel, M., *Liberalism and the Limits of Justice*, Cambridge University Press, Cambridge 1982.

[7] As far as I know, we have yet to see a systematic critique of the distributional schema. However, see the remarks made by Young (1990, Ch. 1) and Habermas (1998).

individualistic notion of liberty it also entails an element of willing intersubjective cooperation. The procedure by which we arrive at justified principles of distribution often involves a shared process of will formation that leads to the determination of normative principles. This form principle of recent theories of justice – which can also be viewed as its constitutive proceduralism – results from considerations on the autonomy of individuals. Because the members of society are to be viewed as free and self-determined, a conception of justice mustn't seek to go over their heads in determining what counts as a just distribution of goods. Instead, these authors construct an "original situation," a social contract or similar situation of deliberation, in which hypothetical conditions of impartiality allow us to arrive at justified conclusions about distributional preferences[8] for what has now become the classic formulation). Distributional principles are therefore not determined by means of a theory, but by a consensus among those affected, arrived at through a fair and just process of deliberation. We can refer to this self-restriction as "proceduralist," because the concrete distributional schema derives from a procedure guaranteeing the consent of all involved. However, proceduralism is necessarily marked by a certain tension, because we must project specific conditions of justice onto the definition of the "original situation" to which those involved must agree. After all, the parties present in this original situation are to deliberate with each other as free and equal individuals – if indeed they are to arrive at decisions to which all can truly consent. This means that specific preconditions of liberty they are to decide upon must be determined *before* they begin to deliberate. In a certain sense, therefore, the theory must unintentionally anticipate the normative results of the procedure by positing specific conditions of autonomy.[9] And the more we conceive of this justice-producing procedure no longer as a mere thought experiment, but as a real process in the social world, the more this tension turns to conflict.[10]

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[8] See Rawls, J., *A Theory of Justice*, Harvard University Press, Cambridge 1971, ch. 3.

[9] Habermas, J., "Reconciliation through the Public Use of Reason," in: *The Inclusion of the Other: Studies in Political Theory*, MIT Press, Cambridge 1998, p. 49 ff.

[10] This is how I understand basic intention of the theory of justice that Jürgen Habermas develops in *Between Facts and Norms*. Here he understands the principles of

But here as well, I would like to put aside these concerns until I have outlined the third element of currently prevalent theories of justice, which refers to the agency or authority entrusted with implementing principles of distribution in social reality. This can entail, at one end of the spectrum, shifting all responsibility to state institutions, and at the other end, demanding that each individual be willing to apply these principles. Although it is not always clear whether more recent theories of justice intend to include non-state authorities or individual behavior in their considerations, their basic line of argumentation suggests that the only appropriate agency for the realization of justice is the democratic state. This tendency to concentrate all formative power in the state results from a combination of two considerations, both of which sound plausible on their own. On the one hand, the members of society themselves are not to be made responsible for realizing justice, because this would entail the danger of a dictatorship of virtues, an unreasonable demand for morally exemplary behavior. On the other hand, only the constitutional state is to possess the legitimate means for effectively implementing distributional measures. Current theories of justice therefore envision a moral division of labor, according to which citizens are to fashion principles of justice, while the democratically controlled state retains the sole authority to implement them.[11] The danger of such a focus on the state obviously consists in the fact that everything outside its legal jurisdiction would remain immune to demands for justice. Social spheres such as families or private companies, which for good reason are only partially penetrated by the law, cannot be drawn upon or made responsible for the implementation of justice. I will return to this point when I subject these three components of current theories of justice to a more detailed analysis.

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the modern constitutional state as institutionalized conditions enabling a democratic procedure of public self-government (Habermas, J., *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, MIT Press, Cambridge 1996). I will later refer to this intention as "historically situated proceduralism."

[11] With the very different intention of criticizing exaggerated conceptions of global justice, Thomas Nagel ("The Problem of Global Justice," *Philosophy and Public Affairs* 33, 2005, pp. 113–147) has described how liberal theories of justice concentrate all the power of ensuring justice in the democratic constitutional state.

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Until now I have only outlined some of the theoretical premises that
I regard as common to all currently dominant conceptions of justice.
Although there are certainly differences in detail, these theories agree
that the epitome of justice in modernity consists in ensuring individ-
ual autonomy. This autonomy, which thereby moves to the forefront,
is to be secured and guaranteed by providing all citizens with the basic
goods required for realizing individual life plans. The principles accord-
ing to which these goods are to be justly distributed, however, are not
to be determined by the theory itself, but by those affected. To do so,
the theory formulates a procedure – either a thought experiment or
a real act – that informs us about the principles of distribution that
participants would arrive at under fair and free conditions. The agency
entrusted with the practical implementation of these principles is the
constitutional state, which ensures their proper realization via a legit-
imate system of laws. Of course, much depends on the concrete defi-
nitions made at each individual stage. The normative shape of these
theories of justice varies greatly depending on whether the basic goods
are made up exclusively of material resources, or also include certain
capacities, on how the conditions of impartiality are determined, and
on the pattern of state activity. But again, I am not interested in par-
ticular versions of these theories, but rather in the general image they
project from a distance. The first thing that catches the eye is that the
material of justice nearly always consists of generally valued goods to
be distributed according to principles still to be determined. This pre-
supposes a consensus among the participants that they will have an
interest in these means, which are required for forming and pursuing
autonomous, freely chosen life plans.[12] For these theories, what makes
up a just social order is merely a question of what counts as a just dis-
tribution of basic goods.

At first sight, this might seem self-evident, since we do seem to owe
a part of our individual liberty to our having opportunities and means
for attaining freely chosen aims. Financial resources provide us with

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[12] Rawls, J., *A Theory of Justice*, op. cit., pp. 78 ff; Rawls, J., *Political Liberalism*, Colum-
bia University Press, New York 1993, § 4.

multiple options in our life, and a broad pallet of career offers allows us the purposeful realization of our capacities. But these formulations contain a subtle presupposition, which cannot be so easily assimilated to the schema of distributive goods. In order to perceive the possession of money as a chance for liberty, a person must have already formed a conception about goals worth pursuing. In order to regard career offers as paths for the realization of capacities, a person must already grasp some of his or her dispositions and talents as valuable and worthy of realization. None of these preconditions has the character of a determined good, for unlike "things" they cannot be "possessed," but must be acquired with great effort in and through interpersonal relationships. However, I don't yet want to present these random examples as objections, but only as a key to developing a critique of the entire schema of distribution.

The connection between these last two brief considerations consisted in the fact that goods can only be grasped as useful means for realizing individual liberty if a person is already presupposed "autonomous." This is because we cannot determine what it means to grasp financial resources or career opportunities as chances for liberty by considering the meaning of these goods themselves, but only by our respective relation to them. Therefore, even the most comprehensive and well-considered list of basic goods cannot tell us what it would mean to grant subjects conditions of personal autonomy. The real issue would always be found below the threshold of what could be formulated on such a list. Since Kant at the very latest, and probably since Rousseau, we define "autonomy" as a certain type of individual relation-to-self that allows us to be confident of our needs and beliefs, and to value our own capacities. These forms of self-respect may be articulated and represented with the aid of goods, but they cannot be acquired and maintained through them.[13] Instead we achieve autonomy along intersubjective paths, by learning to understand ourselves

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[13] The difference between the approaches of Rousseau and Kant obviously lies in the fact that only Rousseau makes the attitude of self-respect contingent on reciprocal recognition or on being respected by others (see Neuhouser's groundbreaking work on this issue – *Rousseau's Theodicy of Self-Love, Evil, Rationality, and the Drive for Recognition*, Oxford University Press, New York 2008). Kant, on the other hand, maintains that

via others' recognition as beings whose needs, beliefs and abilities are worth being realized. However, this will only be possible if at the same time we grant such recognition to those that recognize us, because in their behavior toward us we should be able to see our own value as in a mirror. Therefore, if individual autonomy is to emerge and flourish, it will require reciprocal intersubjective recognition. We do not acquire autonomy by ourselves, but only in relation to other people who are just as willing to esteem us as we must be able to esteem them.[14]

But if relations of reciprocity, and not goods, represent the conditions of autonomy, then current theories of justice completely fail to grasp the structure of justice. The paradigm of distribution they employ suggests that what ensures equal autonomy could somehow be distributed according to certain principles. This is to assume that the "material" of justice always exists in a preformed, thing-like state – something that subjects can accumulate individually. But neither can be true if we only arrive at autonomy along the path of reciprocal recognition. These relations can never be as self-contained and static as goods, nor can we consume or enjoy them individually, because they always

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this attitude is the result of individual subordination to ethical laws (see Hahn, H., *Moralische Selbstachtung*, Walter de Gruyter, Berlin – New York 2008, 52 ff.). Here I cannot go further into the subsequent theoretical development that began with Fichte.

[14] Honneth, A., *Struggle for Recognition: The Moral Grammar of Social Conflicts*, Polity Press, London 1995; Myers, D., *Self, Society, and Personal Choice*, Columbia University Press, New York 1989; Benson, P., "Taking Ownership: Authority and Voice in Autonomous Agency," in: J. Christman – J. Anderson (eds.), *Autonomy and the Challenges to Liberalism: New Essays*, Cambridge University Press Cambridge 2005, pp. 101–126.

Of course, we should mention that from the very start, Rawls introduces "social bases of self-respect" as a primary good, even "perhaps the most important primary good" (*A Theory of Justice*, op. cit., p. 386). Most likely due to the difficulties inherent in regarding conditions of self-respect as "goods" to be distributed (see Doppelt, G., "Rawls's System of Justice: A Critique from the Left," *Noûs*, 15, 1981, pp. 259–307), Rawls later states, in *Political Liberalism*, that certain other primary goods such as "equal basic rights and liberties" and "fair equality of opportunity" count among social bases of self-respect (*Political Liberalism*, op. cit., p. 82), but can no longer be viewed as primary goods. In my view, these conceptual shifts only reveal the distributional paradigm's irresolvable difficulties in making intersubjective relationships and relations of recognition into the objects of a liberal theory of justice. Nevertheless, the intellectual honesty displayed by Rawls, here and elsewhere, in dealing with a problem that he clearly was aware of is certainly admirable.

require the cooperation of other subjects. Autonomy is a relational, intersubjective entity, not a monological achievement. What helps us to acquire autonomy is not cut out of the same cloth as a good that can be distributed; it is fashioned out of living relations of reciprocal recognition that are just to the degree that they allow us to reciprocally value our needs, beliefs and abilities. Of course we can also refer to such practical intersubjectivities as "goods" in an Aristotelian sense, but then we mustn't infuse them with the economic meaning implied by the distributional schema.[15]

These objections undermine only the first cornerstone of today's dominant theories of justice. The paradigm of distribution has proven unsuitable for properly determining the material of justice in modernity. Instead of "goods" we should speak of relations of recognition; instead of "distribution" we should think of other patterns for granting justice. Before I go into more detail, I must first clarify whether this inversion has any implications for the other building blocks of modern theories of justice. Can proceduralism maintain its state-centricity, if the fabric of justice is no longer seen to consist in distributable goods but in intersubjective relations of reciprocity?

As we have seen, proceduralism is based on the idea that it is wrong to have the theory determine just principles (of distribution). Because subjects must be presupposed as partially autonomous, they themselves, or their representatives, are to be the hypothetical originators, arriving at such principles under fair and impartial conditions. But however we look at it, this construction must assume that the deliberating actors can freely dispose over the material of their decisions. What they determine and what the impartial decisions are about must be viewed as a freely formable mass, for otherwise the room for decision would be limited by external and alien conditions. It is at this point that proce-

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[15] Aristotle's "ethical" goods lack the physical extension that gave rise to the notion of "dividing up" these goods according to certain principles in order that more people, or everybody, might enjoy them. The subtle accommodation of ethical goods to material objects, thus allowing their distribution, merits its own investigation. See Scheler, M., *Formalism in Ethics and Non-Formal Ethics of Values*, Northwestern University Press, Evanston 1973, pp. 110 ff; Taylor, Ch., "The Diversity of Goods," in: *Philosophy and the Human Sciences. Philosophical Papers 2*, Cambridge University Press, Cambridge 1988, pp. 230–247.

duralism is immanently linked to the paradigm of distribution. We can only view principles of justice as the result of a fair procedure if at the same time we presuppose that the subjects can determine the material of their decisions as freely and arbitrarily as they could movable goods. In order to maintain the fictional notion that principles of justice can be created autonomously, proceduralism must define the material of justice as a disposable good. That about which we make normatively justified decisions is to be conceived of as a kind of evenly divisible mass, which we can supply to entitled subjects and groups. The idea of the distribution of goods is thus an entirely appropriate presupposition for this form of proceduralism. But if we remove this premise, that is, if we can no longer conceive of the material of justice in terms of exchangeable goods, but as reciprocal social relations, then this also affects the basic conditions of proceduralism. We can no longer picture deliberating agents as facing something that they can dispose over freely according to their own conceptions of justice. Relations of recognition, which have proven to be the decisive conditions of personal autonomy, do not consist of material that could be allocated at will. We cannot place ourselves in a position vis-à-vis these "goods" in which we are the decision-makers presiding over their just organization or even distribution.[16] These relations of recognition instead represent historically contingent forces that influence us behind our backs. To want to detach ourselves from them in order to get sight of them is entertain an illusion that is just as much an empty and idle as is the desire to shape them as we please.

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[16] Anthony Laden has claimed that Rawls' distinction between "allocative" and "distributive" justice (*A Theory of Justice*, op. cit., pp. 76 ff.) allows us to avoid these difficulties. While allocative justice only ensures a certain distribution of a given amount of goods among people with "known desires and needs," distributive justice indicates a normative principle that determines the rules under which people engage in fair cooperation and organize the fair distribution of the goods they produce. I don't see, however, how this distinction allows us to avoid the difficulty I (and others) have raised. Although Rawls states that the "correctness of the distribution is founded on the justice of the scheme of cooperation," he thereby refers to principles that determine "what is produced, how much is produced, and by what means" as well as who has what "legitimate claims" (ibid.) to the product. The material meaning of justice continues to consist in the distribution of something grasped as being fundamentally "producible."

   It appears to me that this undermines the second cornerstone of currently dominating theories of justice. As soon as distributable goods are no longer regarded as the material of justice, we can no longer conceive of the process of generating principles of justice as a fictitious procedure in some original situation. However fair, impartial and free such a procedure might be, by eliminating the distributional schema we rob the parties involved of the capacity to even conceive of a just social order as an issue of disposable resources or means. I will deal later with an alternative view, which views this deliberative procedure as a palpable occurrence within the democratic public sphere, but first I will discuss how this theoretical dismantling has affected the last remaining component of current theories of justice.

   This last cornerstone consisted in the assumption that the state alone possesses the appropriate and universally accepted means for implementing principles of justice. The state imposes from on high a distribution of basic goods – agreed upon by the social agents in their fictitious deliberations – in the form of enforceable laws. The connection between such a division of labor with the paradigm of distribution is so obvious that it hardly needs mentioning. The task of realizing justice must be left to the state, because it is the only authority that possesses the power to distribute goods needed for enabling individual autonomy. But what becomes of this state-centrism once we abandon the notion of distributional justice and replace it with the idea that relations of recognition are what primarily constitute the breeding ground and enabling condition for individual autonomy? The first problem derives from the circumstance that we owe our autonomy to our involvement in various different social relations, each of which can be thought of as irreplaceable. Alongside the democratic legal community, in which we are obligated to respect each other as free and equal citizens, we are involved in multiple forms of familial and work relations – which are becoming ever more precarious – in which we apparently acquire other facets of our self-respect.[17] But what is important at this point is the fact that only one of these forms of practical intersubjectivity can be

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[17] Honneth, A., "Redistribution as Recognition," in: N. Fraser – A. Honneth, *Redistribution or Recognition? A Political-Philosophical Exchange*, Verso, London – New York 2003, pp. 170 ff.

directly and immediately influenced by the state. Only legal relations can be conceived of as a social sphere in which the state intervenes in relations of recognition by altering the range of subjective rights and entitlements, including new social groups or declaring changed situations to be legally relevant. Therefore, in this legal sphere where we recognize each other as free and equal citizens and thereby become aware of our political autonomy, it still makes sense for us to conceive of the realization of justice as a directive activity of the state. Yet, the other spheres of reciprocal recognition are accessible to state influence only within very strict bounds. Neither in families nor in the workplace can the state simply intervene in order to improve conditions of recognition without the risk of impinging on these spheres' autonomous conditions of existence. On the other hand, these are the two spheres of action that appear especially significant in terms of promoting individual self-respect in a general and commonly understandable manner. After all, the family is the place where the emotional groundwork is laid for everything that will later make up our self-confidence, as well as our capacity to articulate needs.[18] And in the social exchange of services we can acquire the no less important capacity to view our works and our competences as valuable and socially needed[19] – both of which make up core components of our capacity to live without "shame and anxiety" (Adam Smith) and thus autonomously. But what if the democratic state only possesses highly limited means for intervening in the relations of recognition inherent in these spheres? Would we have to give up the aim of ensuring just conditions that promote autonomy just because there appear to be no other agencies of justice available?

In order to solve this difficult issue, we should draw on the decentering of the concept of power, which has occurred in the wake of Michel Foucault, and apply it to theories of justice. Whereas until recently most political scientists and sociologists were convinced that political

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[18] Honneth, A., "Between Justice and Affection: The Family as a Field of Moral Disputes", trans. John Farrell, in: A. Honneth, *Disrespect: The Normative Foundations of Critical Theory*, Polity Press, Cambridge 2007, pp. 144–162.

[19] Honneth, A., "Arbeit und Anerkennung. Versuch einer Neubestimmung," *Deutsche Zeitschrift für Philosophie* 56, 2008, 3, pp. 327–341; Myers, D., "Work and Self-Respect," in: G. Ezorsky (ed.), *Moral Rights in the Workplace*, SUNY Press, Albany 1987, pp. 18–27.

directives can only run from top to bottom via the activity of the state, we now know this is not true, because political power is maintained to a great extent through a broad and decentered network of semi-governmental, civilian organizations. If we try to make this conception fruitful for the theory of justice, we will quickly see that traditional approaches suffer from an excessive focus on the state. Because political rule is reproduced through different, loosely connected points, social justice will also be fought for and secured by many agents connected through network-like structures, all of which are found on the terrain of civil society. The institutions we find as soon as we look beyond the state's own measures consist of "pre-state" organizations, associations and collectives that work to improve conditions of recognition in the name of justice. We need only think of family-like self-help groups, trade unions, church communities or other civilian groups in order to get a picture of just how many societal agents are involved in realizing justice. The structural model for such pre-state agencies can be found in Hegel's "Corporations",[20] whose function primarily consisted in establishing the moral principle of a certain social-sphere – "civil society" – and reinforcing it in practice.[21]

Although these organizations admittedly lack the binding power that give state measures such strong potential for influencing conditions of recognition, this does not mean that pre-state networks must remain without any influence on how individual autonomy is secured and expanded. I claim that our image of justice is strongly restricted by this current state-fixation. That we cannot perceive of the activities of such civil organizations as moral interventions, nor as instances of the social promotion of justice, is the consequence of a restricted view inherent in today's dominant theories of justice.

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[20] Hegel, G. W. F., *Philosophy of Right*, trans. by T. M. Knox, Oxford University Press, Oxford 1952, §§ 250–256.

[21] On the issue of "Corporations" in Hegel. A further model for such a decentered notion of institutions of justice can be found in Durkheim's idea that morality of modern societies can only be maintained through an entire network of relatively independent, institutionalized bodies with the function of constructing justice (Durkheim, E., *Ethics and the Sociology of Morals*, trans. by Robert T. Hall, Prometheus Books, Amherst, NY 1993; Schmidt am Busch, H.-Ch., *Hegels Begriff der Arbeit*, Akademie Verlag 2002).

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Until now, I have mostly employed an approach that might best be labeled "therapeutic." I have intended to show, purely negatively, that the current dominant image of justice blinds us to its real structure and operation. We misunderstand the place that justice has in our everyday praxis if we attempt to understand it according to models of distribution and theories of original situations. In the third and last part of my lecture I will take up the alternative conceptions I have only hinted at until now and sketch the outlines of another, more appropriate, conception. If I were to outline this conception with a few key terms, I would say that, first of all, the distributional schema would have to be replaced by the involvement of all subjects in a given relationship of recognition. Second, a normative reconstruction uncovering the basic moral norms that underlie that relationship of recognition would have to replace the construction of a fictitious procedure. Third, the exclusive focus on the regulative activity of the state would be supplemented by a decentralized consideration of non-state actors and organizations. In the remainder of my essay, I want to briefly explain these three steps.

Clearly, even a counter-model must begin with the normative idea that all members of modern societies must be able to dispose over the same capacities and conditions for individual autonomy. What distinguishes this alternative conception is thus not its moral kernel, but its material implications. Everything turns upon how we understand the social promotion of autonomy, upon whose crucial role both sides agree. As long as we view liberty as something that all individuals can achieve on their own, it suffices to assume individually disposable goods to be the material of justice. With their help, the individual is capable of creating a space for the pursuit of his or her freely chosen life plans. On this account, the task of social justice in modernity consists in ensuring that each individual has an equal and sufficient share of such goods. By contrast, the alternative conception understands individual autonomy not as a monological, but as an intersubjective quantity. Individuals thus achieve self-determination by learning within relations of reciprocal recognition to view their needs, beliefs and abilities as worthy of being articulated and pursued in the public sphere. Perhaps I should mention at this point that this does not make distributional justice irrelevant. It does, however, demote it from *the* decisive princi-

ple of justice to a dependent variable in relations of recognition.[22] The alternative, intersubjective conception of autonomy transforms fundamentally the architecture of the theory of justice. This is not only true of its material, but also of its form principle and agent-relation [*Akteursbezug*], which take on a new definition as soon as we grasp individual liberty as a result of relations of recognition.

The material of justice must now be regarded as consisting in a special class of intersubjective relations in which citizens grant each other a normative status. This type of reciprocally granted justification in expecting a certain level of consideration provides the background against which subjects learn to experience themselves as deserving respect, thereby attaining autonomy. But unlike material goods, these relations of recognition can be neither generated socially nor distributed according to a given set of rules. Instead they are historically contingent structures that have taken the shape of institutional practices in which subjects are involved or from which they are excluded. Such historically given relations of recognition are what make up the material of justice I have in mind. We cannot take up the stance of an individual or discursive legislator toward these relations, rather we must first be content with being aware of and accepting them. However, even within this highly restricted role we do possess the knowledge that the relations of recognition emerging before us must always presuppose a moral principle if they are to fulfill their constitutive function. Subjects can only grant each other a normative status, in the light of which they are capable of esteeming themselves, if both agree on a moral principle that can serve as a source of their reciprocal ascriptions and statements. No relation of recognition, not even those past relations in which subjects respected each other as *un*-equals, can do without a mutually agreed upon norm. These shared principles work to ensure that a praxis of reciprocal recognition can be developed and preserved at all. With these normative

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[22] This essentially means that the criteria of just distribution of goods (in the sense of distributable resources) arise from the normative principles that determine the type of reciprocal recognition that prevails in a certain social sphere. According to Anthony Laden's reading (see note 16), Rawls' conception of "distributive justice" would also have to be understood in this way. But instead of distinguishing between different types of recognitional relations, he regards the relationship of equality between citizens as the only primary relationship of recognition.

foundations of all recognition, however, our alternative theory of justice does possess some initial criteria for judging existing institutions and policies. After all, the demands made by these moral principles coincide with the conditions under which subjects ideally attain aspects of self-respect. Therefore, we could say tentatively that it would be "just" to install and socially equip an existent social sphere as is demanded by the underlying norm of recognition.[23]

Before I can make this thesis more plausible and substantial, I must first deal discuss which principle of justification we should apply in this context. We saw that the theories I dealt with in the first part of my talk hypothetically construct an impartial procedure of deliberation in which citizens agree upon certain norms. But this kind of proceduralism is unacceptable for the position I will sketch here, because it must presuppose the material of justice as historically given. But if we are not capable of arbitrarily moving and distributing the material of our moral intentions, it is useless to search for hypothetical principles to which we could then commit. The result of already existing relations of recognition demands instead that principles of justice be justified along a path through the historical material. This means that we may not justify principles through the use of a constructed procedure, but by finding them in the relations of communication themselves, as their conditions of validity. This alternative procedure could thus be termed "reconstructive," because it does not "construct" an impartial standpoint from which to justify principles of justice, but "reconstructs" them from the historical process of relations of recognition in which they are always already at work.[24] Compared to proceduralist approaches, this type of reconstructive theory of justice is both more trustful and more

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[23] See Honneth, A., "Redistribution as Recognition," in: N. Fraser – A. Honneth, *Redistribution or Recognition? A Political-Philosophical Exchange*, Verso, London – New York 2003, pp. 110 ff., for a more fundamental treatment of the issue.

[24] Habermas presents a similar justification for his "reconstructive" approach in *Between Facts and Norms* (op. cit., pp. 82 ff.). The difference between our endeavors consists in the fact that he only treats the historical development of the modern constitutional state as an object of normative reconstruction, whereas I recommend that, given the demands on a theory of justice, undertake such a reconstruction with regard to the entire spectrum of the historical development of all the spheres of recognition that are both central and institutionalized in modern societies. Of course, this means

skeptical of historical reality. It is more trustful because it sees within already established relations of communication the normative principles that provide a basis for demands for social justice. It can therefore restrict itself to making the principles explicit that socialized subjects are already guided by in their relationships of recognition. However, if these preconditions are absent, that is, if we are dealing with ethically destroyed and demoralized social relationships, this theory of justice is relatively powerless. It, too, will have to resort to an impartial standpoint in order to not wholly lose sight of the principles of social justice.[25] This extreme case also demonstrates why a reconstructive theory of justice is generally more skeptical than its proceduralist alternatives, because it does not trust a fictitious procedure of agreement to inform us realistically about principles of justice. It is always doubtful about whether these principles overtax existing social relations.

Yet this theory's skepticism reaches even further. There might be hopes that in the course of its normative reconstruction, it could come across a historically existent discursive method – the very same method appealed to only fictitiously by proceduralists. If this were the case, we would be able to make out a special relation of recognition in modern social reality – one in which citizens achieve autonomy by participating in democratic processes of will formation, thereby defining together the principles of social justice.[26] Under these circumstances, the theory could pull out of the business of determining principles of social justice, for it need only distill out the normative preconditions under which the discursive results of the already existing procedure can count as justified. The reason why I distrust such an historically situated proceduralism[27]

I am faced with the problem of having to claim that all three different spheres of recognition are embodiments of principles of recognition whose practical realization in our interactions demands individual autonomy.

[25] This formulation parallels Hegel's idea that the merely "moral point of view," i.e., the internal nature of moral conscience, always has an important role when "the world of actuality is hollow, spiritless, and unstable" (Hegel, *Philosophy of Right*, op. cit., § 138, addition).

[26] Habermas, J., *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, op. cit., Ch. 3 and 4.

[27] I regard the theory of justice that Habermas outlines in *Between Facts and Norms* to be an instance of this form of proceduralism.

is that in my opinion, individual autonomy demands more and other forms of social recognition than are guaranteed by participation in public processes of will formation. Subjects are in need of intersubjective esteem and consideration even in the social roles they exercise outside of their activities as legal subjects, and in which they enjoy insufficient legal protection through their own commonly practiced self-legislation. With that, I pick up my line of argumentation where I left off before turning to the proceduralist theory of justice.

I have referred several times to the fact that subjects are dependent on the recognition of their needs, beliefs and abilities in order to take part in social life. It doesn't suffice to conceive of autonomy as arising solely from intersubjective respect for subjects' decision-making competence, rather they also require esteem for their particular needs and their individual deeds. Only when citizens see all these elements of their personality respected and recognized will they be capable of acting with self-respect and applying themselves to their own respective life paths. For this reason, the reconstructive procedure cannot restrict itself to uncovering the principle of recognition within already established legal relations. While subjects thereby respect each other's capacity to form reflexive judgments, there are still other, equally significant relations of recognition that provide individuals with the experience of esteem for their needs and abilities. Normative reconstruction must be directed toward the entire spectrum of reciprocal social relationships, if it is to truly disclose all the conditions under which subjects achieve autonomy. Alongside the legal relationship, we must also include familial relationships and societal relations of work within our theory of justice. Even if citizens can only intervene in these spheres via the restricted path of democratic law-making, these conditions of recognition also prove significant for issues of justice because they have a strong influence on the flourishing and failing of individual autonomy.

Just as in the egalitarian legal relations of the democratic rule of law, individuals are also obligated within the family and the exchange of services to recognize each other as free and equal. Unlike in traditional societies, both these only weakly regulated spheres must satisfy the demand for a symmetrical and egalitarian recognition between members.[28]

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[28] Honneth, A., "Redistribution as Recognition," op. cit., Ch. 2.

However, in the course of normative reconstruction we find out quickly that very different moral aspects serve here as sources of reciprocal esteem. In democratic legal relations the deliberative equality of all subjects forms the normative basis of the respect that subjects grant each other, whereas within the family the particular needs of the members are what constitute the normative points of orientation for recognition; and within the social exchange of services, the performance of those involved constitutes the relevant criterion. This places a reconstructive theory of justice before the challenge of defending not only one normative principle in the name of individual autonomy, but three: Depending on the social sphere the theory is addressing, it must emphasize and strengthen the moral aspect of either deliberative equality, equity of needs [*Bedürfnisgerechtigkeit*] or performance fairness [*Leistungsgerechtigkeit*].[29] This kind of pluralism, as unwieldy as it may seem, accommodates the distinctions that subjects actually make in individual issues of justice. As many empirical investigations have now shown, subjects constantly distinguish between the same three spheres mentioned above in their everyday praxis, in order to apply the respectively appropriate principles of justice.[30]

This empirical agreement is what gives this alternative theory of justice the chance of reducing philosophy's distance from political praxis after all. Its task would be to demonstrate the institutional, material and legal conditions that would have to be fulfilled in order for different social spheres to take account of the norms of recognition upon which they are based. With the aim of promoting individual autonomy, they would have to defend deliberative equality within democratic legal relations, equity of needs within familial relationships, and performance fairness in relations of work. Not only that, they would also have to

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[29] Ultimately, my conception of social justice coincides with the proposal David Miller makes in his plural theory of justice. He suggests a three-part distinction between the principles of need, desert and equality (Miller, D., *Principles of Social Justice*, Harvard University Press, Cambridge 2003) on the basis of everyday beliefs in justice. On the various disputes that arise from the fact that I regard such a distinction between different "spheres of justice" as being in need of "reconstructive" justification, see Honneth, A., "Philosophie als Sozialforschung. Die Gerechtigkeitstheorie von David Miller," in: D. Miller, *Grundsätze sozialer Gerechtigkeit*, Campus, Frankfurt a. M. 2008, pp. 7–25.

[30] See Miller, D., *Principles of Social Justice*, op. cit., Ch. 4.

demand that all subjects be involved in these relationships of recognition. Such a theory of justice would also find itself in agreement with the moral convictions entertained by subjects in their everyday praxis. On the other hand, however, the theory cannot make the application of its own principles – not even its differentiations – dependent on the outcome of democratic will formation. After all, the theory knows too well that such decisions are only provisional, partial and distorted as long as citizens cannot raise their voices free of all anxiety and shame. For the sake of this element of individual autonomy and elementary freedom of public expression, this theory of justice must demand advocative relations in which subjects attain self-respect not only in the democratic public sphere, but also in their familial relationships and in their working life. Yet, they cannot rely solely on the state to realize their intentions, rather they must count on the cooperation of non-state organizations. Their activities merely require rejuvenation by means of both more powerful and more realistic conceptions of justice in order to employ the right moral vocabulary in the right place. And at least this prospect might nurture the hope that a reconstructive, pluralistic theory of justice can close the gap between philosophical theory and political praxis.

References

Benson, Paul, "Taking Ownership: Authority and Voice in Autonomous Agency," in: Christman, John and Joel Anderson (eds.), *Autonomy and the Challenges to Liberalism: New Essays*, Cambridge University Press Cambridge 2005, pp. 101–126.

Doppelt, Gerald, "Rawls's System of Justice: A Critique from the Left," *Noûs*, 15, 1981, pp. 259–307.

Durkheim, Emile, *Ethics and the Sociology of Morals*, trans. by Robert T. Hall, Prometheus Books, Amherst, NY 1993.

Etzioni, Amitai, *The Spirit of Community: Rights, Responsibilities and the Communitarian Agenda*, Crown, New York 1993.

Habermas, Jürgen, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, MIT Press, Cambridge 1996.

Habermas, Jürgen, "Reconciliation through the Public Use of Reason," in: *The Inclusion of the Other: Studies in Political Theory*, MIT Press, Cambridge 1998.

Hahn, Henning, *Moralische Selbstachtung*, Walter de Gruyter, Berlin – New York 2008.

Hegel, Georg Wilhelm Friedrich, *Philosophy of Right*, trans. by T. M. Knox, Oxford University Press, Oxford 1952.

Honneth, Axel (ed.), *Kommunitarismus. Eine Debatte über die moralischen Grundlagen moderner Gesellschaften*, Campus, Frankfurt a. M. – New York 1992.

Honneth, Axel, *Struggle for Recognition: The Moral Grammar of Social Conflicts*, Polity Press, London 1995.

Honneth, Axel, "Redistribution as Recognition," in: Nancy Fraser – Axel Honneth, *Redistribution or Recognition? A Political-Philosophical Exchange*, Verso, London – New York 2003, pp. 110 ff.

Honneth, Axel, "Between Justice and Affection: The Family as a Field of Moral Disputes," trans. by John Farrell, in: A. Honneth, *Disrespect: The Normative Foundations of Critical Theory*, Polity Press, London 2007, pp. 144–162.

Honneth, Axel, "Arbeit und Anerkennung. Versuch einer Neubestimmung," *Deutsche Zeitschrift für Philosophie* 56, 2008, 3, pp. 327–341.

Honneth, Axel, "Philosophie als Sozialforschung. Die Gerechtigkeitstheorie von David Miller," in: David Miller, *Grundsätze sozialer Gerechtigkeit*, Campus, Frankfurt a. M. 2008, pp. 7–25.

Ladwig, Bernd, "Freiheit," in: Göhler, Gerhard – Matthias Iser – Ina Kerner (eds.), in: *Politische Theorie: 22 umkämpfte Begriffe zur Einführung*, VS Verlag für Sozialwissenschaften, Wiesbaden 2004, pp. 83–100.

Mackenzie, Catriona – Natalie Stoljar (eds.), *Relational Autonomy: Feminist Perspectives on Autonomy, Agency and the Social Self*, Oxford University Press, New York 2000.

Miller, David, *Principles of Social Justice*, Harvard University Press, Cambridge 2003.

Myers, Diana, "Work and Self-Respect," in: Ezorsky, Gertrude (ed.), *Moral Rights in the Workplace*, SUNY Press, Albany 1987, pp. 18–27.

Myers, Diana, *Self, Society, and Personal Choice*, Columbia University Press, New York 1989.

Nagel, Thomas, "The Problem of Global Justice," *Philosophy and Public Affairs* 33, 2005, pp. 113–147.

Neuhouser, Frederick, *Rousseau's Theodicy of Self-Love, Evil, Rationality, and the Drive for Recognition*, Oxford University Press, New York 2008.

Rawls, John, *A Theory of Justice*, Harvard University Press, Cambridge 1971 (1999 Edition).

Rawls, John, *Political Liberalism*, Columbia University Press, New York 1993.

Raz, Joseph, *The Morality of Freedom*, Clarendon Press, Oxford 1986.

Sandel, Michael, *Liberalism and the Limits of Justice*, Cambridge University Press, Cambridge 1982.

Scheler, Max, *Formalism in Ethics and Non-Formal Ethics of Values*, Northwestern University Press, Evanston 1973.

Schmidt am Busch, Hans-Christoph, *Hegels Begriff der Arbeit*, Akademie Verlag 2002.

Taylor, Charles, "The Diversity of Goods," in: *Philosophy and the Human Sciences. Philosophical Papers 2*, Cambridge University Press, Cambridge 1988, pp. 230–247.

Taylor, Charles, *Negative Freiheit? Zur Kritik des neuzeitlichen Individualismus*, Suhrkamp, Frankfurt a. M. 1988.

Wellmer, Albrecht, "Models of Freedom in the Modern World," in: *Endgames: The Irreconcilable Nature of Modernity: Essays and Lectures*, MIT Press, Cambridge 1998, pp. 3-68.

Young, Iris Marion, *Justice and the Politics of Difference*, Princeton University Press, Princeton 1990.

Zahlmann, Christel (ed.), *Kommunitarismus in der Diskussion: Eine streitbare Einführung*, Rotbuch Verlag, Berlin 1992.

Between Civil Society and State: Considerations on Axel Honneth's Critical Theory of Justice

Hans-Georg Flickinger

That the motive behind Axel Honneth's proposal concerning a theory of justice is more complex than the proceduralist version is evident. He distrusts the defenders of the proceduralist foundation of social justice, because of their tendency to transfer all responsibility to governmental, meaning to legally justified, activities. Thus, they would ignore the multiplicity of social spheres in the civil society, where the struggle for recognition of socially fair rules is going on. More than that, they would just presuppose the validity of those normative convictions, which should be the goal of subsequent elaboration and justification. The disrespect of these experiences would cause an increasing distance between the theories of justice and political reality. From this critique, A. Honneth concludes that a theory of justice, able to also attend to social development, should contemplate the social spheres beyond governmental institutions – such as the family, civil organizations or religious communities – as important promoters of social justice. In fact, in a pluralistic society they seem to be areas, where authentic modes of social recognition and, therefore, authentic concepts of justice are arising. Here, the persons would gain their autonomy thanks to specific relations of mutual recognition; that is, thanks to relations which produce collectively discussed norms of what should be considered as socially fair. Having in mind actual social experiences, it's difficult to contest the attraction of these considerations. Today, it's impossible to speak about social homogeneity or about a consensus concerning the unquestionable validity of universal ideas of justice. Whether we talk about juvenile subcultures, about religious sects, about human rights or social movements,[1] in all these cases we deal with not legally anchored options of behaviour and with different modes of social recognition. And – as I'll complete – we deal in particular with the claim of being different, instead of being absorbed by a homogeneous order, however it may be justified. Following A. Honneth, the proceduralist concept

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[1] Flickinger, H.-G. – Sobottka, E. (eds.), *Movimentos Sociais e Democracia, Civitas, Revista de Ciências Sociais*, vol.4, nº1, Porto Alegre 2004.

of social justice cannot take these experiences into account. Therefore, he requires another way of legitimation, which should be capable of calculating with the expanding texture of social networks and its different practices of social recognition. Only such a theory would be able to avoid the concentration of social responsibility in the activities of the modern democratic state of law.

With the following considerations, I'll not provide a continuous commentary according to the sequence of arguments, exposed by A. Honneth. Its red line is clearly expressed and can be very well attended. Nevertheless, in order to sharpen the problems and to bring the discussion forward, I'll tie up to a differentiation presupposed by the author, which seems to me a crucial point of his critical arguments against proceduralism. I refer to the differentiation between a sphere of legally defined governmental authority to fashion the social and institutional relations and, on the other hand, those social spheres – such as family and civil society institutions – which "can be influenced by legal interventions in an only restricted extent". From the point of view of proceduralist convictions, the civil society spheres don't play any role in the formulation of the ideas of justice; more than that, they shouldn't play any role apt to put in risk the superiority of legal proceedings. Against this vision, A. Honneth insists on the fact, that exactly these spheres are – if I'm allowed to exaggerate a little bit – the very ferment in the struggle for social justice. This argument reminds us of Hegel's thesis, that family and corporations represent the moral roots of the state (§ 255 of his *Philosophy of Right*[2]).

In opposition to the presupposed differentiation between legally determined and pre-legal spheres of articulation of norms of social justice, I'll argue considering a dynamic of all-comprehensive juridification of social relations and institutions as a characteristic of a liberally ordered society; a dynamic, that is actually catching more and more of even those social spheres, with regard of which A. Honneth is sure that they cannot be largely submitted to strong legal determination. However, the development in the last decades, not only in Germany, but also, for instance, in Brazil, has demonstrated how deeply the legislation concerning

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[2] Hegel, G. W. F., *Philosophy of Right*, trans. by T. M. Knox, Oxford University Press, Oxford 1952.

the protection of children and adolescents interferes in inner-familial relations; the German (Kinder- und Jugendhilfegesetz) and the Brazilian (Estatuto da Criança e do Adolescente) legislation improve this tendency. Something similar can be seen in the area of labour market policies or in the case of legal restrictions referring to the activities of social movements. Step by step, liberal legislation is colonizing also those spheres, which – in the traditional view of liberalism – should be protected against interventions of the governmental sphere and institutions. Later on, this dynamic will serve as indicator of an insufficiency that seems to characterize A. Honneth's theory of justice and its foundation in a theory of recognition. I'm convinced, that with the identification of this lack we will be able to redefine the relation between the proceduralist theory of justice and that one which is founded in the theory of recognition. In this way, perhaps it will be possible to diminish also "the gap between the theories of social justice and the political praxis".

In order to make my sympathetic critique of A. Honneth's proposal more plausible, I initially will remember some of the basic considerations in his theory of recognition, sharpening them according to my own focus. Secondly, I'll make some remarks on A. Honneth's arguments against contemporary proceduralism. In the third segment, my thesis on the internal dynamic of juridification, which characterizes the liberal social order, will be rapidly explained. And finally, I'll conclude from these three elements some consequences, indicating a productive tension between the proceduralist conception of justice and A. Honneth's proposal, as well as our approaching once more the political praxis.

1. Remembrance

"Probably, it will be urgent, in the next years, to reconcentrate the theory of recognition, not necessarily towards Hegel, but towards a certain crucial element. Only in this way can we avoid the destiny of some other theories, which are based on a unique concept and have disappeared in a boundless ocean of rather contingent meanings."[3] Considering the fact

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[3] Honneth, A., *Reification*, Oxford University Press, Oxford 2008, p. 875.

that it's more and more difficult to overlook the discussion about the theories of recognition, A. Honneth's warning is justified. His theory should not be used as a universal remedy. Therefore, my following remembrance of its most important aspects: The struggle for recognition as a ferment of social development marks the centre of the philosophy of the young Hegel. He argues against asymmetrical social relations, such as they can be found, particularly, in the affirmative theories of self-consciousness like the Kantian or Fichtean ones. Hegel assumes the task of showing us, that individual liberty is only possible if based on mutual recognition between the persons. In other words, liberty and mutual recognition refer necessarily to one another. It is this result of the Hegelian approach which the theories of recognition take into account. In spite of its different articulations, most of its defenders agree with respect to this position of the young Hegel. In its real sense, to recognize someone should not be considered as getting him to know, but "to refer simultaneously to the liberty of the other one to act, on his part, as an instance of recognition."[4] Likewise, it's not sufficient to get to know yourself due to the recognition of the other one. Instead of following the model of mutual objectification, the act of recognition accepts the other one as an equally autonomous individual who shares the same capacity of recognition. Consequently, real recognition is founded on a straight reciprocal relationship.

Only the unconditional mutuality of this relationship can guarantee the autonomy and self-esteem of the partners. The philosophy of the young Hegel can be interpreted as a successful model of a social relation that provides liberty and autonomy of the individuals.[5] Thus, it's an attractive conception for every critical theory of society, bothered about the articulation of the conditions that can secure the autonomy of all members of the society.

A. Honneth's argumentation follows the Hegelian perspective, because he wants to react to the problems, recently created by a no longer homogeneous, but pluralistic society. He underlines that it's no longer

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4 Bertram, G. W., "Hegel und die Frage der Intersubjektivitaet", *Deutsche Zeitschrift fur Philosophie* 56, 2008, 6, p. 890.

5 Flickinger, H.-G., "Reconhecimento e Teoria Crítica", in: E. Sobottka – G. A. Saavedra (eds.), *Civitas, Revista de Ciências Sociais*, vol. 8, nº1, Porto Alegre 2008, p. 80–93.

sufficient to use the instruments of law and the material sustenance of the persons in order to offer or improve their chances for autonomous life and action. On the contrary, he finds it necessary, above all, to take also into account the different moral convictions and the heterogeneous attitudes that characterize modern pluralistic society. It would be exactly this aspect, which could be satisfied by his theory of recognition as fundament of individual liberty and autonomy.

From this argument, we can deduce at least two important functions, to be complied by this type of foundation of a theory of justice. First, it must legitimate the conditions of individual autonomy construction as an universal and adequate principle for the pluralistic society. And second, it has to also make allowance for the dynamic of modification in contemporary society, but without sacrificing the claim for individual autonomy and self esteem of its members.

As we can see, the paradigm of the theory of recognition is rather ambitious. It should be particularly important in cases of considerable social differences, that challenge the demand for social justice. To recognize doesn't mean, primarily, to abolish existent differences, but to take them as essencials, accepting its proper legitimacy. Only in this way, the mutuality in the relations of recognition will contribute much more to sharpen the differences, instead of neglecting them. Without exaggeration: to recognize requires the attitude of being able to support social differences. Thus, the struggle for recognition must be understood as struggle for assertion and acceptance of multiple moral convictions, present in different spheres of social relationship. Whether we deal with demands, with scopes of action or with rights, the criteria of recognition is always self esteem, responsibility and liberty. The readiness to practice reciprocal recognition is, in fact, the moral condition for the acquisition or amplification of individual autonomy.

We cannot be sure, whether the arguments of the young Hegel, which are linked to the model of intersubjectivity, are sufficient to satisfy the demand, caused by the paradigm of recognition theory. A. Honneth denies it. It is true that Hegel interpreted family and civil society in correspondence to the matrix of intersubjective relations of recognition; nevertheless, he didn't also do it in the case of the central point of critique, opposed by A. Honneth to the proceduralist vision, namely in respect to the apparently exclusive role of the state. The fact is, that the state was considered by Hegel as the unfolding of a presup-

posed idea of morality (*Sittlichkeit*), without any reference to intersubjective relations. So, he made of the family and the civil society mere moments of that idea. Family, civil society and state seem to follow different principles of organization.

One can take this state of affairs as Hegel's difficulty to realize his recognition concept. That's the manner in which A. Honneth understands Hegel.[6] But it is also possible to interpret Hegel's idea of the state as an indicator of a certain failure within the proper theory of recognition; i.e., as a difficulty to maintain its normative claim also in relation to the role of the government, so far as it concerns social justice. I'll return to this aspect later on. First of all, some observations referring to A. Honneth's critique of the proceduralist affirmation of a dominant role of the state in the definition of social justice. From this critique – which concerns, with its rejection of the proceduralist confidence in governmental responsibility, also Hegel's conception of the state – we can even learn something about how family and civil society institutions are related to the state when we suppose the point of view of an idea of justice based in the theory of recognition.

2. On A. Honneth's critique of proceduralism

The object of the critique of contemporary proceduralism is, first of all, its classical version, exposed by John Rawls. In its essence, J. Rawls offers a theory of distributional justice. Therefore, the critique must be concentrated in uestioning its persuasiveness. A. Honneth and J. Rawls share an important basic conviction. Both accept as fair, what becomes possible and even amplifies individual autonomy and capacity to design the personal projects of life. However, their answers to the question as to how to provide the necessary conditions in order to achieve autonomy are very different. The proceduralistic position defends, that the chance for autonomous action of individuals must be guaranteed by a fair redistribution of material goods. Everyone should be provid-

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6 Honneth, A., *Kampf um Anerkennung*, Frankfurt 1994, pp. 99–100.

ed with basic material conditions, permitting him to mold his own authentic project of life. In this case, the involved persons themselves should decide upon the principle of fair redistribution. But with such an argument, the proceduralists walk straight into the trap of a petitio principii; they must already presuppose the individual capacity to decide autonomously about their interests and the fair principles of distribution; a liberty which should, at the very first, result from the redistribution of goods. Against this proceduralist proposal, A. Honneth argues, that real autonomy cannot be understood as independence of social relations; on the contrary, it should be taken as the result of the struggle for intersubjective relations of recognition. Thus, we can conclude that it's fair, whatever improves individual autonomy; and if autonomy is the result of determined social relations, then the determination of social justice and fairness is decided by a certain logic of intersubjective relations, and not, primarily, by measures of the fair distribution of goods. A. Honneth's argument is, once more, convincing. For my consideration, import the consequences that result from this critique of the state as an apparently exclusive "agency for fairness."

If only reciprocal relations sustain the experience of recognition, then we must take into account all those social spheres where the struggle for such relations of recognition take place in a pluralistic society. In this respect, A. Honneth believes, that the opportunity to generate reciprocal relations is not restricted to the sphere that is determined by the state and its legal instruments. As far as we can see, the proceduralists don't take notice of the fact, that the state cannot monopolize this field. On the contrary, the family, civil society organizations or ideologically compromised institutions play an increasing role as spheres of the struggle for recognition and, consequently, also as agencies for ideas of social justice. Therefore, it makes it necessary to investigate them as competitive instances in relation to the state and its supposed role as a unique agency for the implementation of social justice.

The critique directed to the proceduralist "fixation in governmental politics" seems to be, at the first moment, persuasive. However, as I already mentioned above, a set of experiences in the social politics during the last decades, puts this reproach in doubt. The amplification of legally defined interventions in family and civil society networks, imposed by governmental decisions, reveals a dynamic of juridification, that must be inherent to the liberal system of law. It can be taken as

an indicator for a structural problem of the liberal order pattern, permitting different interpretations. On one hand, it would be possible to take these experiences as a still incomplete realization of social justice in the pluralistic society, so that we should claim for its perfection by means of social welfare interventions. On the other hand, these experiences could be considered as the expression of a logic, according to which the horizontal network of demands for recognition is insufficient, provoking a supplementary structure, in order to satisfy the more complex base of social justice.

Before considering this question, I still want to make some remarks on my affirmation, that we have to count with an intrinsic dynamic of juridification in the liberal social order.

3. Liberty by means of juridification of the social structure?

The legal system is the realm of realized liberty – thus, Hegel qualifies, in § 4 of his *Philosophy of Right*, the very task of law within the liberal society. Here, he reminds us of its double function. Above all, liberty is presupposed as an abstract principle of social organization to be made concrete by the legal system; second, this formula means, that what we should understand as liberty can be only revealed by and met in the concrete legal determinations and institutions.

From this double perspective, we can conclude some considerable insights. First: liberty seems to be realized only to the same extent, in which social relations and institutions, as well as governmental actions are legally legitimated. The slogan is: the broader the process of juridification, the more efficient must be the realization of liberty! Second: under the rather abstract concept of liberty, we can imagine very different contents. What's hidden behind it, can only be understood in the course of reconstruction of the logic of the legal system. And this means, on its part, that the liberal system of law expresses a very specific notion of this concept. Third: if we want to get to know the sense of this liberty, realized in the liberal law system, we must follow its internal logic; a logic, that was made the original guide of the performance of Hegel's *Philosophy of Right*. It shows us – fourth – that the principle

of liberty in modern society can fulfil its universal, for all members' valid function only if it neglects, simultaneously, the material conditions for its implementation. So, the all comprehensive juridification of the social structure reveals an understanding of liberty, which is necessarily indifferent towards the material basis for individual autonomy and life projects. I called this diagnosis the logic of abstraction, which rules in the liberal law system.[7] All our experiences indicate that the liberal dream can be only realized, if we are disposed to accept these conditions.

According to these rough outlines, it cannot surprise us as a consequent consideration, when the proceduralists see in the fair distribution of the material goods an adequate means to turn the individuals apt to make autonomous and authentic decisions concerning their life projects. Thus, they only follow the logic of the liberal system of law, assuming its traditional welfare orientation; an orientation that – since the end of 19th century – has implanted a policy of material redistribution in order to guarantee, what was called "social peace". Bismarck's social reform in Germany, in the 1870s, was the starting point of this vision. And the recent experiments in German social politics confirm it, with its goal of basic material protection, as a mere epiphenomenon of the liberal system of law.

As I have already denounced in the beginning, we can observe a significant reorientation of social politics in many western countries, during the last decades. The policy of redestribution of material goods and benefits is losing more and more its importance. It's a fact occurring not only because of barely sufficient economic resources. It seems much more, that the principle of distributional justice demonstrated, ultimately, its low capability to amplify autonomy and liberty of the individual persons. We deal more frequently today – first of all in family and labour market politics – with new modes of governmental interference in "the texture of social justice".[8] They are linked to the improvement of the necessary conditions for the social recognition of the individual. The means of these public politics, however, must be

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7 Flickinger, H.-G., *Neben der Macht - Begriff und Krise des bürgerlichen Rechts*, Frankfurt 1980.

8 A. Honneth.

questioned, because the introduction of concepts like solidarity, children's demoralization, welfare or tolerance require moral connotations that can be hardly defined in legal terms. More and more vague juridical concepts invade the legislation in social politics, giving evidence of a certain helplessness in this area. What does this mean? And what are the consequences for the relation between proceduralist theories of justice and those based on the theory of recognition?

4. The theory of justice between a weak and a strong concept of recognition

The construction and stability of a society depend on the homogeneity of its members. One can define it by different criteria: by language, ideology, race, history or something similar. In the case of liberal social order, homogeneity is guaranteed by the membership to the legal system. Exactly because liberal law – as I tried to show before – mostly abstracts from the value of use and material conditions of social relations, it is better than any other candidate, able to condition the homogeneity of a pluralistically constituted community. To bee a person of the law and respect others as such – with this formula, Hegel already expressed the specific condition that recognizes individuas as a member of the whole. From the liberal point of view, this is the necessary, but also sufficient condition for the recognition of the social homogeneity. Therefore: whose birth isn't registered, or who doesn't possess legal status as foreigner cannot take part or doesn't even exist in terms of social order – or exists only as a potential risk. As the liberal order recognizes the interests, claims or chances for individual activity in dependence of the protection provided by a legal title, we can say that the proceduralist conception makes use of a conditioned, or better: of a weak concept of recognition. In this perspective, expectations of justice are defined by the attribution of rights and obligations without any basis in intersubjectively legitimatised guarantees and respect for the different interests and claims for individual autonomy.

Against the version of juridically arranged recognition, A. Honneth requires a strong, or as Georg W. Bertram would say, an unconditioned

concept of recognition.[9] As we have seen, A. Honneth is bothered by liberty and autonomy of the individual as a result of intersubjective relations of recognition; that is, from relations not only arranged by law, but anchored in an originally reflexive relationship between those involved. Here, the expectations of justice are founded in an specific configuration of social relationship, that is chosen by the individuals themselves. A. Honneth attributes such potential of moral socialization not exclusively to public institutions, but, above all, to "pre-legal" social spheres, such as family, self-organizations of civil society, subcultures and even to sects. They don't need any legal mediation. That's what I call a strong concept of recognition.

Having this controversion in mind, the question for the relation between weak and strong concepts of recognition is arising. In this respect, I'll try to propose an interpretation apt to take into account the convincing intuitions of both parts.

As we have seen, the suspicion, that A. Honneth objects to the proceduralists, attacks their legally conditioned, which means a weak concept of recognition. In A. Honneth's eyes, the activities of the state of law indicates an extreme restriction of moral links and compromise, so that they cannot respect the struggle for recognition occurring in civil society currents. Therefore, he pleads in favor of the strong concept of recognition. After all, it cannot come as a surprise that we also have to deal here with different expectations of justice.

As far as I can see, there are actually two manners of reaction to this problem. From the perspective of proceduralism, one tries to "burden up" legal norms and concepts with wider moral connotations in order to compensate the restrictive moral foundation caused by exclusively legal compromises. As a strategy, it corresponds with the proceduralist vision. This way, however, will soon run the risk of entering into conflict with the logic of abstraction, which characterizes the liberal system of law. The second proposal, on its side, tries to found the expectations of justice in reflexive and unconditioned intersubjective relations, which precede legal determinations – the way of A. Honneth's theory of recognition. But in this case, we have to deal with the difficulty of finding

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9   Bertram, G. W., "Hegel und die Frage der Intersubjektivität", op. cit., p. 889.

out how to elect from the multiplicity of competing expectations of justice such as they are defended in civil society, a generally accepted one.

The first strategy has recently been introduced by the legislation in social politics, that is, by legal instruments. The already mentioned examples, such as the law of assistance to children and adolescents, of labour market policy, of educational politics or of assistance to handicapped persons, are replete with concepts of moral obligations; a fact, that turns juridical interpretation very difficult. What we mean with "children's welfare" as a key-concept for social tasks, can be only identified with respect to the dominant moral values in a certain social epoch; "solidarity" or "handicap" refer to normative expectations, based in historically constructed moral convictions of a determined community. What's pointed out here as examples, shows us a very delimited capacity of law to implement moral key-notes, which exceed purely juridical interpretation. Obviously, the own logic of liberal law resists to an all comprehensive juridification of moral principles, which should guide our sense for justice. Nevertheless: even liberal law cannot renounce to such moral references, when it must deal with the question of social justice in order to avoid the loss of its own convincibility.

A similar difficulty, but in an inverse perspective, is valid for the elaboration of the concept of justice, based on the theory of recognition. Indeed, its horizontally designed foundation of recognition, that will do justice to the plurality of interests and claims in modern liberal society, seems me to need also a vertically designed frame of recognition. What I want to say here, can be shown by a structural analogy with some experiences made in civil society and, more precisely, with civil law contract. Imagine a salesman, who wants to sell a determined object. And there are different interested buyers. From the point of view of civil law, they all must be taken as autonomous persons, because they mutually recognize their different interests. Based on this setting, it cannot surprise us that the same salesman can make different contracts with different interested buyers concerning one and the same object. All these contracts are valid and establish mutual rights and obligations, although only one buyer can finally get the object. Indeed, the civil contract doesn't question the material basis of the agreements. And when we worry about the actual fulfilment of the contracts, all buyers become equal competitors and the struggle for the object will be decided by an arbitrary act of the salesman, according to his in-

dividual self-serving interests. The civil law doesn't offer any criteria, which could lead to a fair decision. In last analysis, what would signify here a "fair" decision?

When we consider this case from its structural point of view, we detect the same deficiency in the idea of justice, which is based in the theory of recognition. Also in this case, we have to deal with competing claims for recognition and, consequently, for justice. In both cases, we need support for the decision about different options, as soon as we want to legitimate the decision under the point of view of justice and fairness. Like the civil law itself, that doesn't offer a fair solution for our example of multiple contracts, the proper theory of recognition, proposed by A. Honneth as the basis for a theory of justice, cannot guarantee a socially fair decision in the case of competitive claims of justice created in civil society. It seems to be this the objection, made by Giovani A. Saavedra, when he says, that A. Honneth's theory of recognition would be "still committed with a hermeneutic of civil society".[10] By the way, A. Honneth himself has already dealt – in an earlier essay on Jean-Paul Sartre's analysis of shame – with the necessity to include such a vertical instance, capable of revealing the moral content of intersubjective relations.[11] Hence, we need an institutionally anchored proceeding which can elaborate socially fair solutions and renders them universally acceptable; a proceeding, that should also be apt to react to the dynamic of historical modifications in the ideas of justice.

In order to satisfy this demand, I propose to accept the liberal regulations and legal institutions and to explore their potential in organizing the solution of conflicts. Their proceduralist instruments should provide an adequate framework for legal proceedings in order to turn the struggle for principles of justice a fair play. As these instruments are indifferent in relation to divergent moral contents and visions, the proceduralist claim can represent the necessary, or better: complementary side of a strong concept of recognition, which justifies – within the logic of abstraction of the liberal legal system – the struggle for the

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[10] Saavedra, Giovani A., *Der Geist der Anerkennung. Die Reflexionsstufen der Anerkennungstheorie*, Dissertation Universitaet Frankfurt 2009.

[11] Honneth, Axel, "Kampf um Anerkennung – zu Sartres Theorie der Intersubjektivitaet", in: *Die zerrissene Welt des Sozialen*, Frankfurt 1990, p. 144.

morally-based conditions of social justice in the civil society. Experiences, for instance with social or civil rights movements, confirm such a vertical and nevertheless productive relation between the pre-legal conflicts about principles of social justice and the legal proceedings for its solution. That's what I mean with the proposal to complete the horizontal structure of social recognition with a vertical one.

If these considerations are correct, I may set up the following hypothesis with regard to the political struggle for social justice: the stronger the struggle for social justice in the sphere of civil society, the weaker the pressure for liberal law to use concepts of multiple moral connotations in order to satisfy the demand for moral orientation of the ideas of social justice; and vice versa: the more suppressed the struggle for social recognition in the civil society, the stronger the impulse to moralize the proper juridical sphere with the risk of an extensive juridification, that would suspend the limits imposed by liberal rights. Whether this hypothesis is convincing can only be decided by empirically based investigations. In any case, in respect to both possibilities we must count with the aporetic consequences of the liberal dynamic to juridify social life in the name of personal liberty.

References

Bertram, Georg W., "Hegel und die Frage der Intersubjektivität", *Deutsche Zeitschrift fur Philosophie* 56, 2008, 6, p. 890.

Hegel, Georg Wilhelm Friedrich, *Philosophy of Right*, trans. by T. M. Knox, Oxford University Press, Oxford 1952.

Flickinger, Hans-Georg, *Neben der Macht – Begriff und Krise des bürgerlichen Rechts*, Frankfurt 1980.

Flickinger, Hans-Georg – Sobottka, Emil (eds.), *Movimentos Sociais e Democracia, Civitas, Revista de Ciências Sociais*, vol.4, nº1, Porto Alegre 2004.

Flickinger, Hans-Georg, "Reconhecimento e Teoria Crítica", in: E. Sobottka
    – Giovani A. Saavedra (eds.), *Civitas, Revista de Ciências Sociais*, vol. 8, nº1,
    Porto Alegre 2008, p. 80–93.

Honneth, Axel, "Kampf um Anerkennung – zu Sartres Theorie der
    Intersubjektivität", in: *Die zerrissene Welt des Sozialen*, Frankfurt 1990.

Honneth, Axel, *Kampf um Anerkennung*, Frankfurt 1994.

Honneth, Axel, *Reification*, Oxford University Press, Oxford 2008.

Saavedra, Giovani A., *Der Geist der Anerkennung. Die Reflexionsstufen
    der Anerkennungstheorie*, Dissertation Universitaet Frankfurt 2009.

Legal Good and Recognition:
A Study in Axel Honneth's Social Theory

Fabio Roberto D'Avila
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In the paper *Gerechtigkeitstheorie als Gesellschaftsanalyse. Überlegungen im Anschluss an Hegel*[1] published recently, Axel Honneth presents the foundations of his theory of justice. His main argument is that a theory of justice must be grounded on the structural preconditions (*Strukturvoraussetzungen*) of contemporary society. He argues that the premises of a theoretical justification of this kind cannot be justified in advance but, on the contrary, that it needs to be a product of the theoretical process of justification itself.[2] The first premise is that the diversification of society is intrinsically connected with ideals and ethical values. For Honneth these values permeate all the social spheres with ethical norms, which guide individuals within their social spheres of action.[3] All social spheres, including the economic one, are impregnated with ethical values; hence all social orders are bound to the preconditions of legitimization through ethical values or ideals. This premise is connected with a second one, according to which, as theory of justice is concerned, the only values which can be considered are those which a society really embodies. Moreover, one should only count as legitimate those values truly capable of promoting the intrinsic ethical values of each of these social spheres.[4] Thus Honneth, like Hegel, does not believe it would be possible to analyze social values or the principles of justice from a neutral and external moral point of view. We are always intrinsically connected with the ethical values which are embodied in the social spheres of action. Therefore he defends the thesis that a theory of justice can only be developed through an *immanent* method,

[1] Honneth, A., "Gerechtigkeitstheorie als Gesellschaftsanalyse. Überlegungen im Anschluss an Hegel", in: Ch. Menke – J. Rebentisch (eds.), *Axel Honneth. Gerechtigkeit und Gesellschaft. Potsdamer Seminar*, Berliner Wissenschaft, Berlin 2008, p. 11–29.

[2] Ibid., p. 15.

[3] Ibid., pp. 16–17.

[4] Ibid., pp. 17–19.

which describes our principles of justice from within, and must be developed in the form of a social analysis. Honneth calls this "normative reconstruction".[5]

With this argument Honneth is trying to re-actualise the meaning of Hegel's concept of "the objective spirit embodiment" (*Verkörperung des objektiven Geistes*), upon which Hegel's concept of *Sittlichkeit* relies.[6] However, Honneth knows that Hegel's concept of *Sittlichkeit* involves more than a mere description of given ethical values. For him, it is important that only those ethical life forms which embody the modern ideal and concretized modern institutions count as ethical (*sittlich*). Thus, for a reconstructive method only the ethical life forms which express a concretization of the ideals embedded in modern and democratic institutions can be considered the object of a normative reconstruction. These ideals must be presented as the result of a conflicting evolutionary process, which tends, throughout its development, to increasingly solidify possibilities of individual self-realization. Finally, the method of the normative reconstruction should not only describe the ethical values of contemporary society. It must also make it possible to criticize any given institutions from the perspective of the ethical principles embodied in social spheres.[7]

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[5] Ibid., pp. 21.

[6] Ibid., p. 17.

[7] Ibid., p. 24. Even if Honneth insists on avoiding making use of Hegel's concept of *spirit* (*Geist*) which, for Hegel, *embodies* institutions or is *embodied* in it, it must be said that Honneth's theoretical strategy is more or less the same one Hegel uses in his *Encyclopedia*, *i.e.* the dialectical method developed in his *Logik*. For a discussion of this argument see Saavedra, G. A., *Der Geist der Anerkennung. Die Reflexionsstufe der Anerkennungstheorie*, Inauguraldissertation am Fachbereich Philosophie und Geschichtswissenschaften an der Johann-Wolfgang-Goethe-Universität, Frankfurt am Main 2008 (manuscript). It suffices to compare Honneth's argument in his paper with Hegel's own explanation of his method in the *Encyclopedia* to see that Honneth, in fact, uses the same strategy: Hegel, G. W. F., "Enzyklopädie der philosophischen Wissenschaften III" [1830], in: E. Moldenhauer – K. M. Michel, *Georg Wilhelm Friedrich Hegel. Werke*, Bd. 10, Suhrkamp, Frankfurt/Main 1970, § 387, "Zusatz", p. 39–40. For a great explanation of this aspect of Hegel's *Logik* see Theunissen, M., *Sein und Schein. Die kritische Funktion der Hegelschen Logik*, Suhrkamp, Frankfurt/Main 1980, and Flickinger, H. G., *Neben der Macht. Begriff und Krise des bürgerlichen Rechts*, Syndikat, Frankfurt/Main 1980.

1. Honneth's early Durkheimian argument and its connection to legal good and the harm principle

This brief description of Honneth's theoretical strategy should help us understand the status and function of the spheres of recognition in his theory of justice. According to Honneth, the three spheres of recognition are the product of the reconstructive strategy described above. The spheres of love, right and social esteem are embedded in ethical values which guide us in our social spheres of action and are invoked as legitimate criteria to solve social conflicts. For Honneth, the social spheres of recognition are a common ground, the "lifeworld" (*Lebenswelt*), sometimes reflective, sometimes unreflective, which attributes moral sense to our social relations. The meaning, the contours and the ethical principles embedded in each sphere of recognition have evolved following the development of Honneth's theory;[8] since Honneth himself has acknowledged that his theory is a work in progress, little can be achieved by trying to describe in detail the meaning of each sphere. This is not to say an attempt to clarify his reasoning cannot be made.

It seems clear that with his plural theory of justice, Honneth is trying to introduce into the contemporary discourse elements which have not yet been considered. For instance, he considers it limitative to rule out the emotional dimension of justice, as did Kant and as most of the contemporary debates still do. Honneth tries to overcome this qualification by showing that the experience of love and care and the healthy development of the individual play an important role in concretising justice in social relations, as does the discovery of subjective rights. Both these social spheres of recognition, love and rights, are directly connected with the individual's self-realization, and these

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[8] For the first version of Honneth's spheres of recognition see Honneth, A., *Kampf um Anerkennung. Zur moralischen Grammatik sozialer Konflikte. Mit einem neuen Nachwort,* Suhrkamp, Frankfurt/Main 1992, ch. 5. For the second one see Honneth, A., "Umverteilung als Anerkennung. Eine Erwiderung auf Nancy Fraser", in: A. Honneth – N. Fraser, *Umverteilung oder Anerkennung? Eine politisch-philosophische Kontroverse,* Suhrkamp, Frankfurt/Main 2003, pp. 162 ff. For the relation between spheres of recognition and Honneth's strategy of grounding justice see Honneth, A., "Gerechtigkeitstheorie als Gesellschaftsanalyse", op. cit.

developments can only be correctly understood in interpersonal rela-
tionships. However, just like Hegel, Honneth knows that a society is
more than a collection of self-oriented individuals. Sometimes he uses
the word "solidarity", sometimes "social esteem" and recently has start-
ed to use the word "achievement" to describe that which lies beyond
the dimension of the individual's social development. In any case, the
reasoning is always the same: what matters to Honneth and what he
wants to express with his third sphere of recognition is the idea that
every human being, having experienced life in society, has developed
the feeling of being part of a common project.

Honneth himself acknowledges that his theory of justice and his
theory of recognition use more or less the same method as Durkheim.[9]
In fact, for Durkheim just like for Honneth, "society and its patterned
forms of mutual interaction can only function if there first exists a
shared framework of meanings and moralities".[10] However, Durkheim
uses a different phenomenology when he tries to show the set of moral
values of modern societies. Whereas Honneth focuses on the surface
phenomena of modern societies, like love, subjective rights and social
esteem, Durkheim tries to reach the core of their ethical values of so-
ciety through an analysis of the forms and functions of punishment
within them. As Garland correctly observes:

> By analyzing the forms and functions of punishment, the sociol-
> ogist could gain systematic insights into the otherwise ineffable
> core of moral life around which community and social solidarity
> were formed. Thus, in the processes and rituals of penality, Durk-
> heim claimed to have found a key to the analysis of society itself.[11]

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[9] Honneth, A., "Gerechtigkeitstheorie als Gesellschaftsanalyse", op. cit.; Honneth, A.,
"Arbeit und Anerkennung. Versuch einer Neubestimmung", *Deutsche Zeitschrift für Philo-
sophie* 56, 2008, 3, pp. 327–341; Honneth, A., *Das Ich im Wir. Studien zur Anerkennungs-
theorie*, Suhrkamp, Frankfurt/Main 2010, Ch. 3: "Das Gewebe der Gerechtigkeit. Über
die Grenzen des zeitgenössischen Proceduralismus".

[10] Garland, D., *Punishment and Modern Society. A Study in Social Theory*, The University
of Chicago Press, Chicago 1990, p. 23. See also Durkheim, É., *De la division du travail
social*, Puf, Paris 1930 (trans. by E. Brandão: *Da Divisão do Trabalho Social*, Martins Fontes,
São Paulo 2004, Ch. 2).

[11] Garland, D., *Punishment and Modern Society. A Study in Social Theory*, op. cit., p. 22.

If we read Honneth's early work carefully, we will see that he had this thought at the beginning of the development of his theory, but he has not properly followed through. For instance, in *Kampf um Anerkennung*, Honneth develops what can be called a *negative* conception of recognition. "Negative" here means that he does not try to define what recognition is, but rather focuses on experiences of misrecognition. He connects these negative experiences with a historical *learning process* (*Lernprozess*) aiming to expand our understanding of recognition relationships. By outlining three different spheres of recognition – love, right and solidarity – and by spelling out three structures of relation-to-self – self-confidence, self-respect and self-esteem –, he identifies three forms of misrecognition – mistreatment, deprivation of rights, and degradation – as sources of social conflicts.

If Honneth had continued this Durkheimian thought process his work might have benefitted a lot from the discussion about the legal good and the harm principle and borrowed more from the Hegelian theory of justice. In fact, we believe that the way of reaching the core values of contemporary societies can be explained by a reinterpretation of Hegel's chapter of *Unrecht* in his *Philosophy of Right*.[12] As Hegel knows and explicitly shows therein,[13] conflicts of civil law are always conflicts connected to property. Therefore, the structure of subjective rights is always the same: I own X or I have Y, which means in terms of rights: I have the right to do what I want with X, because it is mine. X can stand for almost anything: someone can have or own cars, rights, liberty, etc. Thus, a contract is nothing more and nothing less than an instrument contemporary societies developed to transfer, coordinate and regulate relations through or relations from properties. Accordingly, Hegel argues that in the sphere of civil law we always have collisions of rights (*Rechtskollisionen*),[14] because something could be owned by several persons, each of which can have several legal reasons to claim

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[12] Hegel, G.W.F., "Grundlinien der Philosophie des Rechts oder Naturrecht und Staatswissenschaft im Grundrisse" [1821], in: E. Moldenhauer – K. M. Michel, *Georg Wilhelm Friedrich Hegel. Werke*, Bd. 7, Suhrkamp, Frankfurt/Main 1970, §§ 82–104, pp. 172–202.

[13] Ibid., § 82.

[14] Ibid.

ownership.[15] In the end, we are simply dealing with disposable values, not with the core values of a given society. These conflicts, Hegel calls "Civil society" (*bürgerliche Gesellschaft*)[16] and the institutions which arise in order to manage them are the courts.[17]

To reach the core of the ethical values of a given society, Hegel contends we need to analyze the structures of punishment, crime, and the criminal, because there lays the source of morality: "*Die im Verbrechen aufgehobene Unmittelbarkeit führt so durch die Strafe, das heißt, durch die Nichtigkeit dieser Nichtigkeit zur Affirmation - zur Moralität*".[18] Hegel's analysis, in chapter 2 "Morality", of right and wrong, formal and theoretical description does not teach us anything about the concretisation of morality. It is only a formal and theoretical description. This concretisation of morality is only address in chapter 3, "*Sittlichkeit*", and described therein in the three spheres of family, law and State. The discussion about crime then initiates a reflection about right and wrong, about the kinds of conducts which should be considered criminal, or about how they should accordingly be punished.

Durkheim explains and shows that every law has a double object: it defines the obligations and it defines the sanctions related to their inobservance.[19] However, whereas in the civil law, and more specifically as regards "restitutive sanctions", the legislator determines both obligations and sanction, in the criminal law, [20] it needs only define sanctions for, Durkheim argues, the obligations related to criminal law are so deeply connected with our lives and our *Lebenswelt* as to render

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[15] Ibid.

[16] "Diese Kollision, in der die Sache *aus einem Rechtsgrunde* angesprochen wird und welche die Sphäre des *bürgerlichen Rechtsstreits* ausmacht, enthält die *Anerkennung* des Rechts als das Allgemeinen und Entcheidenden, so daß die Sache dem gehören soll, der das Recht dazu hat. Der Streit betrifft nur die *Subsumtion* der Sache unter das Eigentum des einen oder des anderen; – ein *schlechtweg negatives* Urteil, wo im Prädikate des Meinigen nur das Besondere negiert wird" (ibid.).

[17] Ibid., §§ 219–229, pp. 373–381.

[18] Ibid., § 104, p. 202.

[19] Durkheim, É., *De la division du travail social,* Puf, Paris 1930 (transl. by Eduardo Brandão: *Da Divisão do Trabalho Social,* op. cit., note 10, p. 44 of the transl. version).

[20] Ibid., p. 45.

an explicit legislative statement unnecessary.[21] That is why, in criminal law, the question is never about obligations, which are always implicit in the discourse, but only about the legitimate, just or adequate punishment. In our opinion, Durkheim is only describing what Hegel already knew and described in his *Philosophy of law*: the core of our ethical values can only be reached by an analysis which takes into account punishment and criminal law. Honneth's theory of recognition would strongly benefit from a discussion about the legal good and the harm principle, for both are great phenomenologies which can be normatively reconstructed.

2. Material validity of prohibition as first issue of criminal law

First and foremost, criminal law is concerned with what may be materially considered as criminal conduct or, put more properly, with which material qualities a conduct must gather to be the object of a criminal prohibition.[22] This is not only about criminal *punishment*; it is perhaps even more about the criminal *prohibition*, the *criminal no*, which is the precondition of the criminal-law thinking. One might be tempted, in a subversion of the logical order of things, to prefer investigating when to punish or understanding the dignity of the condition of penal punishment.[23] However, we must first question the material validity of prohibitions and thus strive to grasp the legitimacy that only the *criminal no* – the opening gesture of criminal-law thinking – is capable of expressing. This is not only the first issue of criminal law, it also serves as

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[21] Ibid.

[22] Roxin, C., "¿Es la protección de bienes jurídicos uma finalidad del Derecho penal?", in: R. Hefendehl (ed.), *La teoría del bien jurídico. ¿Fundamento de legitimatión del derecho penal o juego de abalorios dogmático?*, Marcial Pons, Madrid 2007, p. 443.

[23] Working, differently, on the following of the majoritary comprehension, with criteria such as "Pönalisierungswürdigkeit" and "Pönalisiergunsbedürftigkeit", there are Schenk zu Schweinsberg, J.-M., *Pönalisierungs der Folter in Deutschland. De lege lata et ferenda*, Goethe Universität, Frankfurt/Main 2009, pp. 113 ff. (doctoral dissertation).

a crossing point for several nuances of knowledge, in a complex web of relations and interests, whose consequences go well beyond the scope of this article, as our goal here is more modest.

When Romagnosi, in *Genesi del diritto penale*, refers to the necessity of a *"più forte* áPodestá *punitrice"* – thus, in a way, permitting, through punishment, the sacrifice of humans rights if *"ogni pena involge nella sua noziona la sottrazione o totale, o parziale del bem essere di colui che la soffre"*[24] – , he is in fact, arguing that, when correlating a high cost to individual liberties, criminal law lacks the justification for the material validity that underlies (or should underlie) it. This can only be a starting point. Though the problem has been tackled many times, criminal prohibitions – which are the most sensitive manifestation of the State's power to restrain rights – continue to lack specific justification.[25] Such justifications cannot simply be presumed from the democratic legitimacy of the legislator,[26] stem from the State's "good will" to pursue its ends – often trapped in its "objective vertigo" –, or be founded on empty formalistic argumentation. Material validity cannot either solely rest on history, at least not as far as democratic and constitutional rule of law States are concerned. In sum, as a matter of principle, the State cannot restrict the constitutional liberties without a sufficient, materially established reason.[27]

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[24] Romagnosi, G.D., *Genesi del diritto penale* [1791], ed. by R. Ghiringhelli and pref. by E. Albertoni, Giuffrè, Milan 1996, p. 203.

[25] On whether there is a special justification for the criminal-juridical intervention to be derived from constitutional arguments, see Lagodny, O., "Das materielle Strafrecht als Prüfstein der Verfassungsdogmatik", in: R. Hefendehl – A. von Hirsch – W. Wohlers (eds.), *Die Rechtsgutstheorie. Legitimationsbasis des Strafrechts oder dogmatisches Glasperlenspiel?*, Nomos, Baden-Baden 2003, pp. 83 ff.; Böse, M., "Grundrechte und Strafrecht als 'Zwangrecht'", in: R. Hefendehl – A. von Hirsch – W. Wohlers (eds.), *Die Rechtsgutstheorie,* op. cit., pp. 89 ff.

[26] Also Roxin, C., "¿Es la protección de bienes jurídicos uma finalidad del Derecho penal?", op. cit., p. 444.

[27] In this exact sense, Winfried Hassemer affirms, and rightly so, that the criminal prohibition of behaviours, when not linked to the protection of legal goods, is nothing but State terror, *i.e.* the restriction of freedom without any justification: Hassemer, W., "Darf es Straftaten geben, die ein strafrechtliches Rechtsgut nicht in Mitleidenschaft ziehen?", in: R. Hefendehl – A. von Hirsch – W. Wohlers (eds.), *Die Rechtsgutstheorie,* op. cit., p. 64. No other sense can be given to article 18, n.°2 of the Constitution of the Portuguese Republic: "A lei só pode restringir os direitos, liberdades e garantias nos casos expressamente

Many critics of the theory of legal good have tried to establish the validity of criminal law in the sufficiency of social volition that is democratic representation[28] or in the notion of an intentionally formal existence.[29] Given what we have just expressed as foundational, we must, of course, reject such theories. Criticising the legal good theory when assessing the validity of criminal prohibition is not in itself problematic – quite the contrary, it can contribute to its enhancement. However, negating the value of legal good as a critical *topos* for criminal law is problematic for it is a negation of the very problem of the validity of criminal prohibitions. In other words, one surely might disagree with the remedy prescribed by his physician, but one may no longer negate the illness.

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previstos na Constituição, devendo as restrições limitar-se ao necessário para salvaguardar outros direitos ou interesses constitucionalmente protegidos." See Canotilho, J. J. G. – Moreira, V., *Constituição da República Portuguesa anotada*, Coimbra Editora, 3rd ed., Coimbra 1993, p. 151. Of course, other interpretations exist, see Andrade, J. C. V. de, *Os Direitos Fundamentais na Constituição Portuguesa de 1976*, Almedina, 2nd ed., Coimbra 2001, p. 290 ff.

[28] For Günter Stratenwerth, "abuse of privileged information" was successfully prohibited in Swiss law, through the argumentation that it is an unwanted conduct, even absent a consensus regarding the legal good protected. According to him, one has to admit that the social position recognized by the legislative is decisive as to whether a norm is maintained or not: Stratenwerth, G., "2. Sitzung, Rechtsgüterschutz und Zurechnungsprobleme. Berichterstatter: Karsten Gaede and Tilo Mühlbauer", in: R. Hefendehl – A. von Hirsch – W. Wohlers (eds.), *Die Rechtsgutstheorie*, op. cit., p. 299. This position finds hard criticism not only in Winfried Hassemer, who sees there some form of "resignation" (Hassemer, W., "Darf es Straftaten geben, die ein strafrechtliches Rechtsgut nicht in Mitleidenschaft ziehen?", op. cit.), but also in Bernd Schünemann, to whom the Stratenwerth *Basta-Theorie* and its "naturalist fallacy" (*naturalistischen Fehlschluss*) must be refused: Schünemann, B., "Das Rechtsgüterschutzprinzip als Fluchtpunkt der verfassungsrechtlichen Grenzen der Straftatbestände und ihrer Interpretation", in: R. Hefendehl – A. von Hirsch – W. Wohlers (eds.), *Die Rechtsgutstheorie*, op. cit., p. 145.

[29] This has been proposed by Koriath, H., *Grundlagen strafrechtlicher Zurechnung*, Duncker & Humblot, Berlin 1994, p. 312, and Lesch, H., *Der Verbrechensbegriff. Grundlinien einer funktionalen Revision*, Carl Heymanns, München 1999, p. 204. Critically, see Dias, S. A., "O retorno ao sincretismo dogmático: Uma recensão a Heiko Lesch, der Verbrechensbegriff – Grundlinien einer funktionalen Revision, Ed. C. Heymanns, Köln – München 1999", *Revista Portuguesa de Ciência Criminal*, 11, 2001, p. 323 ff.

3. Exclusive protection of legal good as a hypothesis

The legal good theory seeks, in the form of a "*ratio* in which validity is affirmed",[30] to admit as legitimate the validity of criminal law and, *ipso facto*, of penal norms. It would be naïve to consider such a task free of recurring and intense difficulties. This, however, does not mean the endeavour is useless. One must bear in mind the intensity of the task, yet one might suggest, as did Schünemann, that abdicating at this stage would take criminal theory back to a "pre-illustrated level".[31] Overcoming difficulties will be the basis of a powerful legacy, "the strong stone of liberal thought and [...] of justice", to be preserved even before the movements of Europeanization of criminal law.[32]

The legal good theory finds its way into many levels of criminal-law thinking, for instance, through arguments on the contractualism[33] or even in the deeper dimensions of the communitarily-inserted *Dasein*, as proposed by the onto-anthropological orientation of criminal law.[34] Harnessing criminal law with the legal good theory is a dense endeavour, but this density should not put anyone off: any contribution will help cement the two. We propose a logical-normative resonance contribution to the constitutional normative order through the recognition and justification of the validity of criminal thinking centred on the protection of the legal good. If, following Armin Kaufmann, one starts

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[30] Castanheira Neves, A., "Entre o 'legislador', a 'sociedade' e o 'juiz' ou entre 'sistema', 'função' e 'problema' – os modelos actualmente alternativos da realização jurisdicional do direito", *Boletim da Faculdade de Direito* 74, 1998, p. 33.

[31] Schünemann, B., "Das Rechtsgüterschutzprinzip als Fluchtpunkt der verfassungsrechtlichen Grenzen der Straftatbestände und ihrer Interpretation", *op cit.*

[32] Ibid.

[33] Roxin, C., "¿Es la protección de bienes jurídicos una finalidad del Derecho penal?", op. cit., pp. 137 ff.

[34] Faria Costa, J. de, *O perigo em Direito Penal. Contributo para a sua fundamentação e compreensão dogmáticas*, Coimbra Editora, Coimbra 1992; also Id., "Ilícito-típico, resultado e hermenêutica (Ou o retorno à limpidez do essencial)", *Revista Portuguesa de Ciência Criminal* 12, 2002, 1, pp. 7 ff.; Id., "Uma Ponte entre o direito penal e a filosofia penal: lugar de encontro sobre o sentido da pena", *in Linhas de direito penal e de filosofia*, Coimbra Editora, Coimbra 2005, pp. 205 ff.; and, at last, Id., *Noções fundamentais de direito penal. Fragmenta iuris poenalis,* Coimbra Editora, Coimbra 2007, pp. 19 ff.

from the premise that the norm is, for a logical requirement, preceded by a value judgment,[35] one must, by the very same token, admit that the first moment of normative construction consists, invariably, of a *positive* evaluation, *i.e.* of some valuation. The first assessment, Kaufmann makes clear, "is always positive, for a negative evaluation always demands that a positive one precedes it, even though both coexist in time".[36] Valuation is nothing but the original legal moment of recognition – even in criminal law, though its conception of legal good is often deformed and approximate.

The first dimension of the legal good theory is independent both from this sort of evaluation – whatever form it might take – and from the essence of its object. It is always an axiological moment of a positive sign: an historically dated and organised community recognises the existence of certain social realities as good and desirable, and it strives to keep them intact. This keeps nothing of subjectiveness, for even though value, as Hessen puts it,[37] is "always value for someone", it cannot be doubted that its construction here starts from a profound communitarian-historical reference. Yet, value recognition by communitarian participant is a necessary and complex moment. It is necessary because only when such values have been identified can there be incrimination. It is complex both because of the legitimate limits of value judgements and because of the controversial nature of their object. Indeed, many critics of the legal good theory have spoken of its artificiality and vagueness.

While some simply contend that there is no legal good before there is a legislator,[38] others, such as Stratenwerth, speak passionately against

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[35] Kaufmann, A., *Lebendiges und Totes in Bindings Normentheorie. Normologik und moderne Strafrechtsdogmatik,* Otto Schwartz, Göttingen 1954, pp. 69 ff. Also, about the relation between *norm* and *good*, Liszt, Franz von, *Lehrbuch des Deutschen Strafrechts*, Walter de Gruyter, 22nd ed., Berlin – Leipzig 1919, p. 5.

[36] Kaufmann, A., *Lebendiges und Totes in Bindings Normentheorie, op cit.,* p. 69.

[37] Hessen, J., *Filosofia dos valores*, trans. by L. Cabral de Moncada, Almedina, Coimbra 2001, p. 50.

[38] About this, see, for example, Roxin's critical reference to Andrew von Hirsch's position: Roxin, C., "¿Es la protección de bienes jurídicos uma finalidad del Derecho penal?", op. cit., p. 445.

the very notion: given the countless definitions of legal good, he says, he who would find a complete material definition would have succeeded in "squaring the circle".[39] It seems clear to us that any proposition for a theoretical development must necessarily start from a specifically limited concept of legal good, the *punctum dolens* conditioning the very soundness of the proposition. Amidst so many conceptions, as underlined by Roxin,[40] there can be no debate unless "legal good" is defined. Be that as it may, and despite the diversity of opinions and difficulties faced in obtaining a closed concept,[41] the question currently has a number of satisfactory contributions, that is, guidelines for a concept already sufficiently able to operate in dogmatic and criminal policy. These have been articulated in an improved synthesis in Figueiredo Dias's *Direito Penal, Parte Geral*.[42]

4. The existential dimension of the legal good (*Seinaspekt*)

For Figueiredo Dias, the legal good is, in its essential core – for he too acknowledges the difficulty, if not the impossibility, of obtaining a closed concept, capable of subsumption –,[43] "the expression of an interest, from the person or community, in the maintenance or integrity of a certain status, object or good in itself and socially relevant and, for that reason, legally perceived as valuable".[44] It is true this is quite broad; for instance, the notion of "interest" referred to opens up an interesting space for discussion about its relational nature – as Roxin

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[39] Stratenwerth, G., "*2. Sitzung, Rechtsgüterschutz und Zurechnungsprobleme. Berichterstatter: Karsten Gaede and Tilo Mühlbauer*", op. cit., and ibid.

[40] Roxin, C., "¿Es la protección de bienes jurídicos uma finalidad del Derecho Penal?", op. cit., p. 446.

[41] Also, Figueiredo Dias, J. de, *Direito Penal, Parte Geral. Tomo I. Questões fundamentais. A doutrina geral do crime*, Coimbra Ed., 2nd ed., Coimbra 2007, p. 114.

[42] Ibid., pp. 106 ff.

[43] Ibid., p. 114 and 122.

[44] Ibid., p. 114.

proposes.[45] Equally true, however, is the fact that, so expressed, the concept gains substantial density and delimitation, especially when connected with demands for "corporisation", "transcendence" and "axiological/constitutional-teleological analogy" – connections very well exposed and defended by Figueiredo Dias. The "legal good" then becomes an eminently operational category.

One can choose to understand legal good in the way proposed by Figueiredo Dias. One can also follow Jescheck and Weigend and ground the concept in a "value of social order", worthy of being protected by the law.[46] In our opinion, this is the correct view,[47] though its level of abstraction has attracted some criticism.[48] Either concept, Dias's or that of Jescheck and Wiegend, can serve the demands for corporisation, transcendence and axiological/constitutional-teleological analogy, hence permitting meaningful gains not only in axiological extent, that is, in its "*Wertaspekt*", but also in its "existential" extent, i.e. its "*Seinaspekt*".[49]

Surely the critical potential of the notion of legal good passes through a phenomenological expression, for it is only in the form of a fragment of reality, and not as ideal reality, that the legal good can be reached,

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[45] According to Roxin, it is possible to define goods as "realities or ends that are necessary for a social life that is free and safe, that guarantees the individual's fundamental and human rights, or for the functioning of the State's system, built to the achievement of such end": Roxin, C., "¿Es la protección de bienes jurídicos uma finalidad del Derecho penal?", op. cit., p. 448. Roxin speaks of "ends" to express the legitimacy of legal goods created by the legislator, but such as use, as we will show later, is inconceivable.

[46] Jescheck, H.-H. – Weigend, T., *Lehrbuch des Strafrecht. Allgemeiner Teil*, Duncker & Humblot, 5th ed., Berlin 1996, p. 257. See also Baumann, J. – Weber, U. – Mitsch, W., *Strafrecht. Allgemeiner Teil*, Gieseking, 11th ed., Bielefeld 2003, p. 15, to whom the legal good is an "ideal spiritualized value" (*ein vergeistigter ideeller Wert*).

[47] Even though the conceptual difficulties that the notion of "value" implies are not, obviously, unknown: Hessen, J., *Filosofia dos valores,* op. cit., p. 43.

[48] Schenk zu Schweinsberg, J.-M., *Pönalisierungs der Folter in Deutschland,* op. cit., pp. 123 ff. offers a criticism we would consider correct, but for its corporisation requirement, which we address shortly.

[49] Whereas the axiological dimension of the legal good is connected to its teleological orientation, its existential one refers to the substantial content that is common to the protection matter, which is to say, the content that will allow the conversion of a value worthy of protection into a *good* worthy of protection. This substance assumes different meanings in the doctrine (*v.g.*, "Zustand", "Gegenstand", "Objekt", "Funktionseinheit" or "Interesse"): ibid., p. 123.

in a harmful way, by the *actus reus*.[50] That, however, is far from meaning that the good cannot be thought of in the form of a value. Corporisation demands that this value find projection and concreteness in the phenomenological world to really become susceptible of being offended. As presented here, it is nothing but the abstraction of this very world projecting itself and passing through the contrary path, the path of return to the fragments of reality that allowed it to reach recognition as a value of communitarian participation. The process through which the legal good becomes concrete is, for that reason, fundamental to strengthen its critical potential. This feature is not only present in the hypothesis of individual good protection – for instance, Marinucci and Dolcini observed that what is at stake in the protection of life is not an abstract *vita in sé*, but the life of the *singolo uomo vivente* –,[51] but also, and mainly, the protection of supra-individual good.

Contrary to the individual legal good, whose proximity or even correspondence with its phenomenological identity frequently make the process of corporisation imperceptible, supra-individual good refers to a level of abstraction significantly more complex, a invariably multiform phenomenological expression. Searching for a unique representation ends up assuming – in a necessary dismissal of the phenomenological world – a generalising feature. Often exceedingly generalising, it sometimes loses its concrete expression, thus inducing a typical reading in exclusively formal terms, in the inadmissible form of sheer disobedience. In cases like this, the maintenance of the critical character of legal goods fundamentally depends on an adequate process of concretisation, which reveals the phenomenological expression covering it; in the concrete circumstances of the case, this means the value protected by the norm. This will delimit the actual scope of incidence of the prohibited act. Kuhlen,[52] for instance, when studying the penal protection

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[50] Ibid., p. 124 ff.

[51] Marinucci, G. – Dolcini, E., *Corso di Diritto Penale. Le norme penali: fonti e limiti di applicabilità. Il reato: nozione, struttura e sistematica*, vol. 1, Giuffrè, 3rd ed., Milano 2001, p. 545.

[52] Kuhlen, L., "Umweltstrafrecht. Auf der Suche nach einer neuen Dogmatik", *Zeitschrift für die gesamte Strafrechtswissenschaft (ZStW)* 105, 1993, 4, pp. 714 ff. For more details, see d'Avila, F. R., "O ilícito penal nos crimes ambientais. Algumas reflexões sobre a ofensa

of the environment, seeks the concretisation of the legal good of the environment in proximate realities, i.e. capable of expressing what, *in casu*, should be comprehended as damage, since, obviously, the environment, strictly as an ideal entity or world-wide reality, is incapable of expressing them. These concerns are also contained in the work of Marinucci and Dolcini.[53] Goods such as the public administration and the public faith need a process of *concretizzazione* and *specificazzione*: while certain procedures or motions of the legal system are meant to test the evidence, they can also be used in prohibited conducts, *e.g.* abuse of process, false testimony, etc.[54] Yet, the authors suggest the individualization of the legal good (collective or individual) "demands that the good is reconstructed with such an aspect, taintless to render it capable of being offended in the singular concrete case".[55]

A critical concept of legal good therefore demands the recognition of an existential dimension to be concretized and individualized according to the circumstances and particularities (*Seinsaspekt*) of each case. This existential aspect, although indispensable, does not say anything about its value aspect (*Wertapekt*) and is thus not yet sufficient to cut short the allegations of excessive vagueness and of semantic plurality the legal good theory has been criticised for. As we will show, as for vagueness, critics are mistaken. Also, its contribution to transcendence and axiological/constitutional-teleological analogy remain priceless.

5. The axiological dimension of the legal good (*Wertaspekt*)

The methodological theories and the positive concepts of the legal good go long back. As the question stands, at least when it comes to the critical theories, there has been a fair amount of contributions to

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a bens jurídicos e os crimes de perigo abstrato no âmbito do direito penal ambiental", *Revista Brasileira de Ciências Criminais*, 67, 2007, pp. 46 ff.

[53] Marinucci, G. – Dolcini, E., *Corso di Diritto Penale,* op. cit., pp. 544 ff.

[54] Ibid., p. 545.

[55] Ibid.

the necessity of transcendence of legal goods and value delimitation, starting from constitutional-normative fundaments.

The criminal legal good is not – or, at least, should not be – created by the law. It is easy to produce criminal law, much harder for it to be adequately "recognised"[56] – a recognition which transcend the criminal legal order and condition its legitimate scope of protection. The content of recognition is clear in traditional penal law, much less so on questions of greater complexity, such as economic matters.[57]

Such a withdrawal of transcendence requirement for those values under protection in determined extension is far from being trivial. On the one hand, assuming artificial legal goods is an important conceptual rupture: we have suppressed a nuclear element without reason or parameters. This element is critical and its absence implies the illegitimacy of the normative period of prescription, not the abandonment of the criteria. On the other hand, we are concerned here with the deepest, most intimate, historically densest and most critical *ratio* of the concept of legal good, the foundation of so many disputes: we are concerned with what makes the category what it is and how it keeps the criminal law open to its social *ratio*.

Obviously, in areas of great complexity, one cannot ask for a general and common communitary perception, for the complexity and specificity of agents, relations and premises of existence and continuity are followed by the scope of a regulation. However, accepting that legal objectiveness is built by the law betrays some incomprehension of the complexity of the social and its legitimate emanations. Incomprehension and artificiality of this sort explain why it is impossible today to reach a complete community and horizontal consensus. There is nothing artificial about economy. And there is nothing artificial about community recognition, in its narrowest extension, of fragments of reality with a positive sign valuation.[58]

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[56] Mayer, M. E., *Der allgemeine Teil des deutschen Strafrechts. Lehrbuch*, Carl Winters Universitätsbuchhandlung, 2nd ed., Heidelberg 1923, p. 21.

[57] As stated above, there are those, like Roxin, who give legitimacy to legal goods created by the legislator, such as in the case of the Tax Law: Roxin, C., "¿Es la protección de bienes jurídicos uma finalidad del Derecho penal?", op. cit., p. 448.

[58] From "the relation of reciprocal coordination between the legal good and the prohibited conduct" in secondary criminal law, it must not be concluded that, in this specific

The legal good is – should be, without doubt – the legal representation of a transcendental and corporisational value. That being, one dimension of the analysis goes missing, that of its axiological orientation which today, because the conformation of the democratic States of Law, cannot only be given through a constitutional reading.[59] As Feldens has it, asking for an interpretation of the criminal law based on the constitutional-axiological order is not seeking some mere coincidental relation, but one of "coherence, interaction or reciprocal effect".[60]

Conclusion

In the end, the notion of legal good reaches its conceptual completeness in the orientation and axiological delimitation that allows it, today, to be the normative frame of values and constitutional axioms. Along with the harm principle, it could be fruitfully developed within Honneth's theory of recognition. Both theories have a lot to gain from each other, and should therefore strive to explore their limitations and possibilities. We can only hope, at this point, to have set the foundation of a fertile common ground for discussions that will connect both streams and strengthen them.[61]

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sphere of penal juridicity, "the legal good is a *posterius* and not a *primus*, a *constituto* and not a *constituens* relative to the structure of the illicit and prohibited matter": Figueiredo Dias, J. de, *Direito Penal, Parte Geral. Tomo I. Questões fundamentais. A doutrina geral do crime*, op. cit., p. 122.

[59] See also ibid., p. 120, the passage about "material analogy, founded in an essential correspondence of senses and – from its protection's point of view – ends."

[60] Feldens, L., *Direitos fundamentais e direito penal*, Livraria do Advogado, Porto Alegre 2008, pp. 30 ff. In Brazilian doctrine, he is the author to have taken the furthest the relation between the Constitution and criminal law, going so far as conceiving, under certain aspect, the Constitution as the *normative basis* of criminal law (pp. 16 and 42 ff.). See also, by the same author: *A Constituição Penal. A dupla face da proporcionalidade no controle de normas penais*, Livraria do Advogado, Porto Alegre 2005, *passim*.

[61] Translation by Joana Cavedon Ripoll and Melissa S. R. de Lima Lippert; Copy editing by Laurence Bich-Carrière.

References

Andrade, José Carlos Vieira de, *Os Direitos Fundamentais na Constituição Portuguesa de 1976,* Almedina, 2nd ed., Coimbra 2001, p. 290 ff.

Baumann, Jürgen – Weber, Ulrich – Mitsch, Wolfgang, *Strafrecht. Allgemeiner Teil*, Gieseking, 11th ed., Bielefeld 2003.

Böse, Martin, "Grundrechte und Strafrecht als 'Zwangrecht'", in: Roland Hefendehl – Andrew von Hirsch – Wolfgang Wohlers (eds.), *Die Rechtsgutstheorie,* pp. 89 ff.

Canotilho, José Joaquim Gomes –Moreira, Vital, *Constituição da República Portuguesa anotada*, Coimbra Editora, 3rd ed., Coimbra 1993.

Castanheira Neves, Antonio, "Entre o 'legislador', a 'sociedade' e o 'juiz' ou entre 'sistema', 'função' e 'problema' – os modelos actualmente alternativos da realização jurisdicional do direito", *Boletim da Faculdade de Direito* 74, 1998.

d'Avila, Fabio Roberto, "O ilícito penal nos crimes ambientais. Algumas reflexões sobre a ofensa a bens jurídicos e os crimes de perigo abstrato no âmbito do direito penal ambiental", *Revista Brasileira de Ciências Criminais*, 67, 2007, pp. 46 ff.

Dias, Silva Augusto, "O retorno ao sincretismo dogmático: Uma recensão a Heiko Lesch, der Verbrechensbegriff – Grundlinien einer funktionalen Revision, Ed. Carl Heymanns, Köln-München 1999", *Revista Portuguesa de Ciência Criminal* 11, 2001, pp. 323 ff.

Durkheim, Émile, *De la division du travail social,* Puf, Paris 1930 (trans. by Eduardo Brandão: *Da Divisão do Trabalho Social*, Martins Fontes, São Paulo 2004).

Faria Costa, José de, "Ilícito-típico, resultado e hermenêutica (Ou o retorno à limpidez do essencial)", *Revista Portuguesa de Ciência Criminal* 12, 2002, 1, pp. 7 ff.

Faria Costa, José de, "Uma Ponte entre o direito penal e a filosofia penal: lugar de encontro sobre o sentido da pena", *in Linhas de direito penal e de filosofia*, Coimbra Editora, Coimbra 2005, pp. 205 ff.

Faria Costa, José de, *Noções fundamentais de direito penal. Fragmenta iuris poenalis,* Coimbra Editora, Coimbra 2007, pp. 19 ff.

Faria Costa, José de, *O perigo em Direito Penal. Contributo para a sua fundamentação e compreensão dogmáticas*, Coimbra Editora, Coimbra 1992.

Feldens, Luciano, *A Constituição Penal. A dupla face da proporcionalidade no controle de normas penais,* Livraria do Advogado, Porto Alegre 2005.

Feldens, Luciano, *Direitos fundamentais e direito penal,* Livraria do Advogado, Porto Alegre 2008.

Figueiredo Dias, Jorge de, *Direito Penal, Parte Geral. Tomo I. Questões fundamentais. A doutrina geral do crime*, Coimbra Ed., 2nd ed., Coimbra 2007.

Flickinger, Hans Georg, *Neben der Macht. Begriff und Krise des bürgerlichen Rechts*, Syndikat, Frankfurt/Main 1980.

Garland, David, *Punishment and Modern Society. A Study in Social Theory*, The University of Chicago Press, Chicago 1990.

Hassemer, Winfried, "Darf es Straftaten geben, die ein strafrechtliches Rechtsgut nicht in Mitleidenschaft ziehen?", in: Roland Hefendehl – Andrew von Hirsch – Wolfgang Wohlers (eds.), *Die Rechtsgutstheorie. Legitimationsbasis des Strafrechts oder dogmatisches Glasperlenspiel?*, Nomos, Baden-Baden 2003.

Hegel, Georg Georg Wilhelm Friedrich, "Enzyklopädie der philosophischen Wissenschaften III" [1830], in: Eva Moldenhauer – Karl Markus Michel, *Georg Wilhelm Friedrich Hegel. Werke*, Bd. 10, Suhrkamp, Frankfurt/Main 1970.

Hegel, Georg Wilhelm Friedrich, "Grundlinien der Philosophie des Rechts oder Naturrecht und Staatswissenschaft im Grundrisse" [1821], in: Eva Moldenhauer – Karl Markus Michel, *Georg Wilhelm Friedrich Hegel. Werke*, Bd. 7, Suhrkamp, Frankfurt/Main 1970, §§ 82–104, pp. 172–202.

Hessen, Johannes, *Filosofia dos valores* (trans. by L. Cabral de Moncada), Almedina, Coimbra 2001.

Honneth, Axel, "Arbeit und Anerkennung. Versuch einer Neubestimmung", *Deutsche Zeitschrift für Philosophie* 56, 2008, 3, pp. 327–341.

Honneth, Axel, "Gerechtigkeitstheorie als Gesellschaftsanalyse. Überlegungen im Anschluss an Hegel", in: Christoph Menke – Juliane Rebentisch (eds.), *Axel Honneth. Gerechtigkeit und Gesellschaft. Potsdamer Seminar*, Berliner Wissenschaft, Berlin 2008, p. 11–29.

Honneth, Axel, "Umverteilung als Anerkennung. Eine Erwiderung auf Nancy Fraser", in: Axel Honneth – Nancy Fraser, *Umverteilung oder Anerkennung? Eine politisch-philosophische Kontroverse*, Suhrkamp, Frankfurt/Main 2003, pp. 162 ff.

Honneth, Axel, *Das Ich im Wir. Studien zur Anerkennungstheorie*, Suhrkamp, Frankfurt/Main 2010.

Honneth, Axel, *Kampf um Anerkennung. Zur moralischen Grammatik sozialer Konflikte. Mit einem neuen Nachwort*, Suhrkamp, Frankfurt/Main 1992.

Jescheck, Hans-Heinrich – Weigend, Thomas, *Lehrbuch des Strafrecht. Allgemeiner Teil*, Duncker & Humblot, 5th ed., Berlin 1996.

Kaufmann, Armin, *Lebendiges und Totes in Bindings Normentheorie. Normologik und moderne Strafrechtsdogmatik*, Otto Schwartz, Göttingen 1954.

Koriath, Heinz, *Grundlagen strafrechtlicher Zurechnung*, Duncker & Humblot, Berlin 1994.

Kuhlen, Lothar, "Umweltstrafrecht. Auf der Suche nach einer neuen Dogmatik", *Zeitschrift für die gesamte Strafrechtswissenschaft (ZStW)* 105, 1993, 4, pp. 714 ff.

Lagodny, Otto, "Das materielle Strafrecht als Prüfstein der Verfassungsdogmatik", in: Roland Hefendehl – Andrew von Hirsch – Wolfgang Wohlers (eds.), *Die Rechtsgutstheorie. Legitimationsbasis des Strafrechts oder dogmatisches Glasperlenspiel?*, Nomos, Baden-Baden 2003, pp. 83 ff.

Lesch, Heiko, *Der Verbrechensbegriff. Grundlinien einer funktionalen Revision*, Carl Heymanns, München 1999.

Liszt, Franz von, *Lehrbuch des Deutschen Strafrechts*, Walter de Gruyter, 22nd ed., Leipzig – Berlin 1919.

Marinucci, Giorgio – Dolcini, Emilio, *Corso di Diritto Penale. Le norme penali: fonti e limiti di applicabilità. Il reato: nozione, struttura e sistematica*, vol. 1, Giuffrè, 3rd ed., Milano 2001.

Mayer, Max Ernst, *Der allgemeine Teil des deutschen Strafrechts. Lehrbuch*, Carl Winters Universitätsbuchhandlung, 2nd ed., Heidelberg 1923.

Romagnosi, Gian Domenico, *Genesi del diritto penale* [1791], ed. by Robertino Ghiringhelli and pref. by Ettore Albertoni, Giuffrè, Milan 1996.

Roxin, Claus, "¿Es la protección de bienes jurídicos uma finalidad del Derecho penal?", in: Roland Hefendehl (ed.), *La teoría del bien jurídico. ¿Fundamento de legitimatión del derecho penal o juego de abalorios dogmático?*, Marcial Pons, Madrid 2007.

Saavedra, Giovani Agostini, *Der Geist der Anerkennung. Die Reflexionsstufe der Anerkennungstheorie*, Inauguraldissertation am Fachbereich Philosophie und Geschichtswissenschaften an der Johann-Wolfgang-Goethe-Universität, Frankfurt/Main 2008 (manuscript).

Schenk zu Schweinsberg, Johann-Moritz, *Pönalisierungs der Folter in Deutschland. De lege lata et ferenda*, Goethe Universität, Frankfurt/Main 2009. (doctoral dissertation).

Schünemann, Bernd, "Das Rechtsgüterschutzprinzip als Fluchtpunkt der verfassungsrechtlichen Grenzen der Straftatbestände und ihrer Interpretation", in: Roland Hefendehl – Andrew von Hirsch – Wolfgang Wohlers (eds.), *Die Rechtsgutstheorie. Legitimationsbasis des Strafrechts oder dogmatisches Glasperlenspiel?*, Nomos, Baden-Baden 2003.

Stratenwerth, Günter, "2. Sitzung, Rechtsgüterschutz und Zurechnungsprobleme. Berichterstatter: Karsten Gaede and Tilo Mühlbauer", in: Roland Hefendehl – Andrew von Hirsch – Wolfgang Wohlers (eds.), *Die Rechtsgutstheorie. Legitimationsbasis des Strafrechts oder dogmatisches Glasperlenspiel?*, Nomos, Baden-Baden 2003.

Theunissen, Michael, *Sein und Schein. Die kritische Funktion der Hegelschen Logik*, Suhrkamp, Frankfurt/Main 1980.

Minimal Income
as Basic Condition for Autonomy

Alessandro Pinzani

Introduction

In his *Struggle for Recognition* Axel Honneth aims – among other things – at actualizing some fundamental intuitions that Hegel exposed in his writings from the Jena period.[1] Honneth's intention is to "validate", so to speak, Hegel's conclusions by using the findings of empirical sciences such as Mead's social psychology or Winnicott's psychoanalytical theory. In this context, I'm not interested in valuating the plausibility of this attempt and its results (which, by the way, I consider quite convincing). Rather, it is my intent to focus on a question that in my opinion is not developed enough both in Hegel's and in Honneth's account of the formation of the individual conscience through recognition. I'm referring to the question of the rising of an autonomous subject in a social dimension, which is on the one hand wider than the familiar one of the love relationship between mother and child (the first dimension in the formation of identity considered by Hegel and Honneth), and which on the other hand has not directly to do with the legal dimension of the mutual recognition of individual rights (the second dimension introduced by our authors). In other word, I'll try to explore the open space lying between the recognition forms of *Liebe* and *Recht* in order to identify a further form of recognition, which is as essential as the mentioned ones and which concerns what Amartya Sen calls "capabilities", Philippe van Parijs calls "real freedom" and Georg Simmel calls "independency", and which I shall call simply "basic autonomy".[2] Finally, I shall defend the necessity of a minimal basic income as essential condition for developing this kind of autonomy.

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[1] Honneth, A., *Kampf um Anerkennung*, Suhrkamp, Frankfurt a. M. 1992.

[2] See Sen, A., *Inequality Reexamined*, Harvard University Press, Cambridge (MA) 1992 and Sen, A., *Commodities and Capabilities*, Oxford University Press, New Delhi 1999; Van Parijs, P., *Real Freedom for All. What (if Anything) Can Justify Capitalism?*, Oxford University Press, Oxford 1995; Simmel, Georg, *Philosophie des Geldes*, Duncker & Humblot, Leipzig 1900.

1. Love, Right, and the Missing Link

In the Jena manuscripts Hegel identifies three forms of recognition, which are the basis for the development of the individual identity of any subject: love, right, and solidarity. Through them individuals develop different forms of self-consciousness – forms that Honneth, in his reading of Hegel, calls respectively: self-confidence (*Selbstvertrauen*), self-respect (*Selbstachtung*) and self-esteem (*Selbstschätzung*).[3]

According to Honneth, love relates to the fact that we are beings with both physical and emotional necessities. Through the love of others (primarily of our mother, later of our friends and lovers) we develop self-confidence. The corresponding forms of disrespect are violence and abuse, which threaten our physical and psychological integrity. The recognition of legal rights refers to us as morally responsible subjects and endows us with self-respect. The corresponding forms of disrespect are legal discrimination and deprivation of rights, which threaten our social integrity. Finally, solidarity refers to us as members of a community in which our capacities and qualities are recognized and appreciated. This gives rise to our self-esteem. Humiliation and offense (the corresponding forms of disrespect) violate our honor and dignity.

While I agree with Honneth's Hegelian stance according to which human beings generally develop their identities in an inter-subjective context and particularly in a "healthy" self-consciousness through recognition by others, I have the impression that in his description of the different forms of recognition (love, right, and solidarity) and of "practical self-relation" (self-confidence, self-respect, and self-esteem) Honneth is leaving something out. More precisely, he (and Hegel before him) is jumping from the intimate sphere of love relations (with the mother, with the family, with friends and lovers) to the public sphere of legal relations (with other rights bearers, with the State etc.). I wonder whether there is an intermediate sphere, in which individuals develop what I shall call in a quite generic way, autonomy. This sphere has to do with the third sphere considered by Honneth, that is, the sphere of broad social relations (broad in a double sense: they go further than more intimate ones such as family, friendship etc., and they are more

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3 Honneth, A., *Kampf um Anerkennung*, op. cit., pp. 148 ff.

generic than merely legal relations). The corresponding form of recog-
nition, solidarity, is conceived by Honneth as a form of actively car-
ing for the self-development of others[4] and seems to presuppose that
every individual depends essentially from the others' help in order to
develop her qualities, even if Honneth does not explicitly defend this
position. This is precisely what I shall do, and I shall try to defend the
idea that the formation of autonomy depends not only on love, on le-
gal rights and on solidarity-as-(individual)-care, but also and essentially
on certain social and economic conditions which may vary very much
in different societies.

I shall start offering a broad definition of individual autonomy and
I shall later try to refine this definition through reference to the differ-
ent ways in which individuals can reach autonomy.

2. Autonomy and its conditions

We attribute autonomy to an individual if she is able to act according
to a personal plan of good life (a plan that may correspond to or be
inspired by existing models of good life) and to consider herself and
the others as being able to establish mutual relations of moral and legal
obligation (in other words, if she is able to see herself and the others as
bearers of rights and duties).[5] This definition refers to what we could
call a minimal level of autonomy, since the latter can be developed at

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[4] Ibid., p. 210.

[5] In a more traditional way, Pauer-Studer defines autonomy as the capacity of assum-
ing a reflective, critical attitude towards our spontaneous individual desires. "Being au-
tonomous means choosing from a set of options those for which there are good reasons
from the point of view of our own life plan" (Pauer-Studer, H., *Autonom Leben. Reflexio-
nen über Freiheit und Gleichheit*, Suhrkamp, Frankfurt a. M. 2000, p. 13). According to her,
one can identify several kinds of autonomy, since the latter "becomes concrete in specif-
ic way in different spheres of human action". In order for individuals to develop other
forms of autonomy, it is necessary that they are able to live their conception of good as
they define it (ibid., 16). What I try to defend here is the idea that the very definition of
a conception of good is an expression of autonomy, even if the individual still has no
reflective, critical attitude towards it. Analogous definitions of autonomy can be found
in a plurality of authors, starting with John Rawls.

several degrees: an individual becomes the more autonomous (1) the more she defines her life plan independently from the models offered by her environment (both the narrower one – family, friends, restricted community – and the wider one – her culture, her religious creed etc.), and (2) the more she defines rights and duties (for herself and for others) based on increasingly universal principles as opposed to merely local or parochial principles (such as the ones she learnt from her family or church or community). While in the first case reaching a greater autonomy is relevant only for the individual herself, since it is a matter of widening her chances of good life, in the second case it is relevant also for the others. Therefore, an individual who is able to imagine for herself life models, which her next environment condemns morally (for instance, a woman coming from a very chauvinistic and patriarchal family who decides to live alone, even at the price of moving to another city or to a far place) increases her chances of living a good life; an individual who starts to see and treat other individuals in a different manner than her environment does and who, therefore, recognizes more they're moral rights (for instance, a brother of the afore-mentioned woman who starts to consider his sister's life model as morally legitimate and who starts to attribute to women – in general – rights that the other family members still deny based on their chauvinistic views) contributes to the creation of a more favorable environment for those individuals and their life plans. From this point of view, the development of a greater autonomy could be considered the object of a moral obligation, but I shall not deepen this point.

Now, the question is: how can individuals develop this kind of autonomy and deepen or widen it? In order to answer this question, one should try firstly to specify more the very notion of autonomy. To this goal I shall turn to Philippe van Parijs' concept of real freedom and to Amartya Sen's capability approach.

According to van Parijs, real freedom (as he calls it) incorporates three components: security, self-ownership and opportunity, "in contrast to formal freedom, which only incorporates the first two".[6] In order to be really free, an individual should not only have security and own

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6   Van Parijs, P., *Real Freedom for All. What (if Anything) Can Justify Capitalism?*, op. cit., pp. 22 f.

herself, but also have opportunities to develop and realize a life plan – opportunities that van Parijs does not define exclusively as external or objective, but also as internal or subjective abilities and capacities to do something.

Thus the conception of real freedom presented above does not merely refuse to confine freedom-restricting obstacles to coercion – whether defined as self-ownership-violation or as right-violation. It also refuses to confine them to obstacles external to the person concerned, or to obstacles that are produced deliberately, indeed produced at all and/ or removable by other human beings.[7]

Further: "Personal abilities or talents are internal to the person, and it is therefore correct to say that it is possible for freedom, on this conception, to be restricted by internal as well as external obstacles."[8] Of course, this does not mean that every missing ability or capacity should be seen as a violation of our freedom: the fact that I cannot fly or become – say – a top soccer player does not impede that I develop and realize an alternative plan of good life; not being able to read and write, on the other hand, can have a tremendous negative impact on my chances of living a good life.[9]

We should, therefore, define freedom both with respect to the external, objective obstacles to it (as traditional theories do) *and* to the subjective abilities and capacities that allow individuals to develop and to follow their own vision of good life. The question is: how do individuals reach real freedom?

Amartya Sen's capability approach can represent a way of answering this question. Sen distinguishes notably between functioning and capability. An example of functioning is riding a bicycle. Riding a bicycle means to be engaged in an activity (in this case through an

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[7] Ibid., p. 23.

[8] Ibid., p. 24.

[9] In order to justify his idea of a general basic income, van Parijs insists on the impact of richness and income on our life plans: "Via our earning power, our personal abilities massively affect what we shall be permitted to acquire. Conversely, what I can – over more than the very short term – is systematically affected by what I may. Whether or not I shall stop limping depends on whether or not my wallet or the waiting list will allow me to have the operation I require." Ibid.

instrument: the bicycle). Now, the interesting question is why the cyclist is riding. She can be using a bicycle to ride to work or just at her leisure. In the first case, she can be riding because she doesn't want to use her car (out of ecological consciousness or in order to avoid traffic), or because she doesn't have a car at all; in the latter case, she can be riding because there is no public transport, or because there is one, but our cyclist can't afford a bus, subway or train ticket. In sum: a rich, ecologically-conscious manager pedaling to her workplace and a poor worker riding to a factory in a Third World country share the same functioning (riding a bike), but from very different perspectives. This calls in cause the idea of freedom to function, that is, the range of real options that a person has with regard to "functionings".[10] In this sense, the rich manager has more freedom than the poor worker, since she can choose among a wider range of options (of "functionings"). Considering that certain functionings (like e. g. physical health) have an intrinsic, independent value, one can say that an individual having a wider range of options of functionings can be said to attain a higher level of freedom and of well-being at the same time.[11]

Now, in order to be reached, some functioning involves a complex set of conditions that have to be met. Going back to the above-mentioned example, a woman moving to a city in order to escape the narrow world of her patriarchal family is exercising a functioning that involves several aspects beyond the physical transfer to another place: she is getting free from certain constraints while at the same time losing certain securities; she may widen her choices of having a good life or condemn herself to a hard life of sacrifice and to a poorly paid job (particularly if she is illiterate – as it is likely for a woman coming from her environment). The result of her move to the city depends very much on external circumstances as well as on her *capabilities*.

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[10]   Sen, A., *Inequality Reexamined*, op. cit., pp. 56 ff.

[11]   Martha Nussbaum stretches out that sometimes actual functioning does not only possess intrinsic value, but also represents the basis for exercising our free choice: this is the case, for instance, of reading, since only those who can read at some level are "able to decide to improve or abandon her reading". (Crocker, D.A., "Functioning and Capability: The Foundations of Sen's and Nussbaum's Development Ethics, Part 2," in: M. C. Nussbaum – J. Glover (eds.), *Women, Culture, and Development. A Study on Human Capabilites*. Clarendon Press, Oxford 1995, pp. 153–198, see p. 157.)

This word results from the fusion of capacity and ability. According to Sen we cannot think of a capability as something isolated, but we should always consider it with reference to a set of capabilities. A person always has a set of capabilities which allow her to exercise a certain set of functionings, but there is no necessary relation between these and those: two individuals can have the same set of capabilities and choose different sets of functionings, or – on the contrary – have different capabilities and share certain functionings (as in the example of the manager and the worker both riding a bike). In Sen's vision, capabilities are therefore possibilities, or opportunities of functioning. They are no mere capacities: saying that someone has the capability of moving freely to another city does not refer to her capacity of moving (or in her being able to move), but to the actual options she has of really doing it. In this sense, capabilities refer not only to capacities and abilities, but also to states of mind, to other subjective states (like being healthy, being illiterate etc.) and to external circumstances: therefore, they can only be thought of as a set, not as isolated qualities. Has the woman of our example really the option of moving to a city in order to get a better life? Sen would invite us to consider whether this is an actual option for her considering everything that such an action would imply: for instance, abandoning the place where she was born; her family; a net of relationships and affections; a world whose symbolic code and whose values she understands and – at least partially – shares; a certain climate and lifestyle she is used to, while at the same time going to an unknown and hostile place, where she will be alone (at least at the beginning), and marginalized for coming from a poor environment and for being unable to understand the codes of the big city, etc. It is not enough, therefore, to say that a person has the capability to choose a certain functioning (in this case, emigrating), if we do not consider all the other capabilities involved in this choice.

Going back to van Parijs's definition of real freedom, we could say that an individual has to develop a set of capabilities in order to be really free (in order to have what van Parijs calls opportunity, along with security and self-ownership). Those capabilities will allow her to exercise certain functioning – better: to be actually able to choose among different options of functioning. In order to escape from her environment and to move to a better one, the woman from our example must have a set of capabilities, which involves – among others – the courage to

leave the known for the unknown, the strength to face the difficulties connected to the new environment, a good amount of self-confidence, etc. The presence or absence of some capabilities from the set will influence more or less heavily her chances of success in the city; her literacy, her physical and psychological state, her ability in understanding the new codes etc., are good example of such capabilities.

The autonomy of an individual can be seen, therefore, as depending on a set of capabilities, which allows an individual to choose among a range of options concerning functionings – a range whose width depends upon the capabilities themselves. In other words, autonomy depends on the capabilities an individual develops in the course of her life. Now, individuals develop their capabilities inter-subjectively, that is, in a social environment; but capabilities are neither necessarily the result of love, nor always the object of rights. It seems to me that a somehow not-yet-explored territory stretches between recognition through love and recognition through right; between self-confidence and self-respect – a territory in which a form of autonomy arises, which is neither legal (although it may be guaranteed through legal means), nor political, nor social, nor economical (not even moral, at least not in the strong Kantian or Kohlbergian sense), but a more basic one. Of course there is no great leap forward from the formation of a self-confident subject (via recognition through love) to the formation of a bearer of right endowed with self-respect (via legal recognition). The process through which individuals form their identity and develop autonomy is a complex and continuous one. I agree with Honneth on the necessity of turning to the results of empirical sciences, more specifically to social psychology, in order to grasp this process. In the next part of this paper I shall use the theory of the interrelation between character structure and institution developed by Gerth and Mills, but this classical theory represents rather a starting point for further inquiries and I am aware that there are other, possibly better theories to explain how individual identity and autonomy arise.[12] In other words: For my argument to work, it is sufficient that one accepts the idea that personal identity is

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[12] For a general vision see: Martuccelli, D., "Les trois voies de l'individu sociologique," in: *EspacesTemps.net*, 2005 (htttp.//espacetemps.net/document1414.html – accessed on 11/24/09).

(at least in part, if not completely) the result of inter-subjective relations and processes. Therefore, Gerth and Mills's theory is used here merely as an example to illustrate the consequences that theories of the formation of individual identity and autonomy via social interplay may have on the theories of autonomy as real freedom (van Parijs) and as freedom to function (Sen).

3. The social formation of autonomy

Gerth and Mills' theory can be best summarized by the following assertion: "Man as a person is an historical creation, and can most readily be understood in terms of the roles which he enacts and incorporates.[13] These roles are limited by the kind of social institutions in which he happens to be born and in which he matures into an adult".[14] In other words: an individual's capabilities are determined by her social environments, mostly through her position in it and through the roles she is called to assume in it.[15] According to our authors, an individual forms a self-image through internalization of the image that significant others (or a generalized other) have of her, as well as through the fact that she is meeting the expectations that these significant others have towards her with respect to certain roles, which are defined socially. In order to be recognized as a full member of a group (or of society at large), the individual has to meet role-bound expectations. Her education as a child and as an adolescent or young adult should give her the characteristics that should guarantee her success in acting according to her role. In other words, it will offer her certain capabilities for what her

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[13] This idea will be at the center of Erwing Goffman's theory of the "dramatic" aspect of everyday life (see Goffman, E., *The Presentation of Self in Everyday Life*, Anchor Book, New York 1959).

[14] Gerth, H. – Mills, C. W., *Character and Social Structure. The Psychology of Social Institutions*, Harcourt, Brace & World, New York 1964, p. 11.

[15] A central role in this process is played by language, as Gerth and Mills acknowledge and as Hegel had already observed in his Jena manuscripts (Gerth, H. – Mills, C. W., *Character and Social Structure. The Psychology of Social Institutions*, op. cit., p. 12, note 10 and, more extensively, pp. 81 ff.).

environment regards as a socially (or morally, or religiously) desirable
functioning. In relatively closed, static environments such as a patriar-
chal family from the *sertão*, for instance, the role an individual is called
to assume is clearly defined and the whole familial education is aimed
at creating a person who is up to her or his role.[16] Such an individual
may gain a conspicuous level of self-confidence and self-esteem, but
could nevertheless lack autonomy in the above-mentioned sense of the
capacity of widening the range of options, among which she can choose
her life plan. To this end, she should develop capabilities which depend
on conditions that may not be immediately available in her next social
environment. The range of such conditions may vary from her having
access to alternative models to the patriarchal family, (for instance,
through personal contact with more emancipated individuals or even
through TV)[17] to her having access to public education, to the exist-
ence of policies specifically aimed at giving new chances to individuals
living in poor regions, etc. The last part of my paper refers precisely to
the material basis for autonomy as a possible object of public policies.

4. The material basis for autonomy

Amartya Sen and Martha Nussbaum have insisted very much on the
material basis for the developing of capabilities, and thus, on the ne-
cessity of individuals to have access to the material goods connected to
this process. Analogous positions can be found in Rawls and in other
theories of social justice. The basic idea is: When these goods are not
easily available, individuals should be helped to get them. The point is:
Which material goods are to be handed out, how, and by whom? Since
they involve different levels of freedom/autonomy, there are many an-
swers to these questions, and in this context I shall offer a simple one
concerning the most basic level: The state should guarantee to every-
body an unconditional minimal income in order that everyone may

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[16] Cf. ibid., pp. 91 ff.

[17] I don't need to mention the relevance of some Brazilian *novelas* for contributing to
the social acceptance of heterodox life styles: any average Brazilian knows this very well.

attain basic autonomy, i.e., the set of fundamental capabilities that allows her or him to think of her/himself as a minimally autonomous person. This has nothing to do with guaranteeing a basic income (an idea defended by van Parijs and others), although it can be seen as a first step towards it. The main difference consists in the absence of any conditionality (while basic income can be bound to some idea of social accountability according to which individuals ought to return something to the community in some form).

Every solution other than distributing such an income could be labeled as charity (what Brazilians call *assistencialismo*) and as paternalistic. Of course, there may be emergency situations in which it could be necessary to distribute material goods such as food, shelter etc. But beyond this particular case, the state intervention should be as much impersonal as possible. Giving money to individuals aims exactly at emancipating them not only from misery or poverty, but also from a social environment that can be a further cause of suffering. Going back to our example: a woman depending either on her patriarchal family or on her own labor force (which shall condemn her to low-wage jobs because of her lack of qualifications) has no real option of moving out of her environment and looking for a place in which she can develop her autonomy. On the other side, if she can count on a monthly minimal income, this fact could help her to dare the big step of moving out from her usual environment – even if to this end other causes are necessary too. Of course, I'm not claiming that such an income should or could replace a decent public education, full legal protection and public legal counseling etc. What I'm claiming is that money is a necessary element of the material basis for autonomy (or for the "developing of capabilities", or for "real freedom" – call it as you want).

This is not a particularly new idea. For instance, in his *Philosophy of Money* Georg Simmel pointed out the fact that the rising of the idea of autonomy and of autonomous individuals is a specific phenomenon of Western modernity connected to the rising first of a mercantilist, later of a capitalist system. Particularly useful for us is his distinction between "not dependency" and "independency". Individuals in a pre-modern society have obligations characterized by personal bounds (e.g. the vassal to his lord) and are caught in a net of personal relationships and commitments, which lets them practically no freedom at all. In the mercantilist and capitalist society, those obligations become

depersonalized: instead of owing working hours to his lord, the vassal pays a tax; in this way, the relationship becomes less personal and the lord appears to him not as the real person he is, but as an impersonal instance to which certain taxes are due. This makes individuals independent from each other in the sense that their mutual dependency (which of course still exists) is connected not to a net of inescapable personal relationships, rather to a net of impersonal relationships, i.e., a net of relationships to individuals who show to us only a side of themselves: they are clients, competitors, suppliers etc. Our relationship to them is a monetary one: we pay them or get paid by them for certain services. Through money we buy our independency from any personal bound or commitment, even if we are still dependent on others for our life. *Not dependent* is only "the isolated dweller in the German or in the American forests";[18] the average individual, living with others, does depend on them, but can be *independent* from them in the above-mentioned sense: she does not need to be caught in a net of personal commitments and can, therefore, start planning her own idea of good life independently of the (positive or negative) opinion of people she has unavoidably to connect to in order to satisfy her basic necessities – in other words: independently from the role her next social environment imposes on her. She becomes free of assuming other roles (but not free from assuming roles at all, since this would be impossible).

I would like to stretch that so-thought autonomy is not a quality of the individual as such, as it is the case, say, of her complexion, physical strength and so on. It rather depends on the relations this individual establishes with others. As Simmel puts it: "Individual freedom is no internal quality of an isolated subject, but a phenomenon of correlation which loses its meaning when there is no counter-part".[19] Material independency (guaranteed through money) is an essential element of it and should be therefore considered a basic good that could be the object of public policies aimed at creating autonomous citizens.

The material basis that allows individuals to develop their autonomy can be in a second moment thought of as an object of rights: re-

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[18]   Simmel, Georg, *Philosophie des Geldes*, op. cit., p. 318; my transl.

[19]   Ibid., my transl.

distribution becomes then a matter of recognition (not just a separate, even if equally important matter),[20] since through redistribution the individual is able to obtain a higher level of autonomy, which – as we have seen – is thinkable only in inter-subjective terms. Put it in another way: the legal guarantee of a basic income constitutes a form of social recognition and can be considered as a peculiar form of solidarity along with the one individuated by Honneth (solidarity-as-individual-care). It expresses the solidarity of a political community towards its members, that is, it is expression of an institutional (not individual) care for their autonomy. A policy of universal minimal income would represent the unification of two forms of recognition (the legal and the social), and it would make possible, at the same time, that individuals develop a stronger autonomy from their next environment. On the other side, other conditions should be met in order that individuals reach firstly basic autonomy and develop secondly a higher level of it – conditions that may depend on the existence of public policies, but which are also connected to the social and cultural environment and to the possibility of changing this environment. In other words: while a universal minimal income is a necessary element of basic autonomy, it might not be a sufficient one and, certainly, it is not sufficient for a higher level of autonomy. Whether a higher autonomy can be reached, and at which extent, is a question that can only be answered considering the specific situation in which individuals live: their next environment, social institutions, the state etc. In this sense, if we consider the specific situation of poor women and men in Brazil, we shall have to take into account a number of conditions under which they can gain autonomy. Only having identified such conditions shall we be able to identify the policies, which could lead them to develop autonomy. From this point of view, Honneth is right in pointing out the necessity that political theory cooperates with other disciplines such as sociology or psychology, if it aims at being relevant for political praxis and if it doesn't want to not be a mere intellectual exercise.

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[20]   This is Nancy Fraser's position in her dialogue with Honneth (see Fraser, N. – Honneth, A., *Redistribution or Recognition? A Political-Philosophical Exchange*, Verso, London – New York 2003).

References

Crocker, David A., "Functioning and Capability: The Foundations of Sen's and Nussbaum's Development Ethics, Part 2," in: Martha C. Nussbaum – Jonathan Glover (eds.), *Women, Culture, and Development. A Study on Human Capabilites*. Clarendon Press, Oxford 1995, pp. 153–198.

Fraser, Nancy – Honneth, Axel, *Redistribution or Recognition? A Political-Philosophical Exchange*, Verso, London – New York 2003.

Gerth, Hans – Mills, C. Wright, *Character and Social Structure. The Psychology of Social Institutions*, Harcourt, Brace & World, New York 1964 [1953].

Goffman, Erwing, *The Presentation of Self in Everyday Life*, Anchor Book, New York 1959 [1956].

Honneth, Axel, *Kampf um Anerkennung*, Suhrkamp, Frankfurt a. M. 1992.

Martuccelli, Danilo, "Les trois voies de l'individu sociologique," in: *EspacesTemps.net*, 2005 (htttp.//espacetemps.net/document1414.html – accessed on 11/24/09).

Pauer-Studer, Herlinde, *Autonom Leben. Reflexionen über Freiheit und Gleichheit*, Suhrkamp, Frankfurt a. M. 2000.

Sen, Amartya, *Inequality Reexamined*, Harvard University Press, Cambridge (MA) 1992.

Sen, Amartya, *Commodities and Capabilities*, Oxford University Press, New Delhi 1999.

Simmel, Georg, *Philosophie des Geldes*, Duncker & Humblot, Leipzig 1900.

Van Parijs, Philippe, *Real Freedom for All. What (if Anything) Can Justify Capitalism?*, Oxford University Press, Oxford 1995.

Recognition and Transitional Justice in Brazil:
a Critical Theory Approach on Reasons
for a Truth Commission
on the Dictatorial Regime of 1964–1985

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Wilson Levy
Brunela Vincenzi

1. Introduction

The public problematization over the revision of the 1964–1985 dictatorial regime is a recent political fact in Brazil and has gained special visibility in the media and the public sphere in the past two years mainly because of the forthcoming of the 30th anniversary of the enactment of the Amnesty Law on the regime, and a legal attempt to its revision by OAB, the Brazilian Bar Association, questioning its possible violation of fundamental law principles to the Brazilian Supreme Court at the end of 2008.[1] Many academic and cultural events are also presently discussing the theme in Brazil, which could not only verify but possibly legitimate the reflections intended on this paper.[2]

The theoretical approach to this political problem is normally due to a reading of Hannah Arendt's work.[3] As an effort to strengthen the arguments and conditions for the continuity of this public problematization of Brazil's dictatorial period, this study proposes to address the problem having as basis Axel Honneth's *Theory of Recognition*, which intends to be a renewal of the critical theory paradigms of *production* (at the end, the Adornian negative dialectic approach to critical philosophy) and *communication* (as the Habermasian discourse theory reaches the

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[1] The legal instrument that proposed the declaration of questioning violation of fundamental constitutional principle on the first article of the Amnesty Law, nº 6.683/1979, claimed by the National Council of OAB and of authorship of Professor Fábio Konder Comparato, questions the same amnesty value given by the act to political crimes perpetrated by the State and by rebels of the regime, with the idea of "connected crimes" (*crimes conexos*). The legal action has not yet been decided by Brazil's Supreme Court.

[2] Some of the initiatives on this discussion coming from civil society are the seminars planned to be held during the second semester of 2009 by a work group on *Truth Commissions* from Centre for the Study of Violence (NEV/USP), led by Professor Paulo Sérgio Pinheiro, with the participation of the authors of this paper. Related film shows and debates are also being organized. Consult NEV's calendar of works and events at www.nevusp.org, as well as the NEV research project on right to memory and transitional justice, led by Professor Cláudia Perrone-Moisés.

[3] Cf. Perrone-Moisés, C., "O perdão e os crimes contra a humanidade: um diálogo entre Hannah Arendt e Jacques Derrida", 2006, pp. 211–224. Accessed at: http://www.nevusp.org/downloads/jacquesderrida.pdf (last access: 06/30/2009); see also *Id.* Perrone-Moisés, C., "Lei de anistia face ao direito Internacional: desaparecimentos e direito à verdade", in: F. Piovesan (ed.), *Direitos Humanos, Globalização Econômica e Integração Regional*, Max Limonad, São Paulo 2002, pp. 285–305.

theory of law and democracy).[4] The dialogues that Honneth maintains with both paradigms, however, especially in terms of the importance of negative analysis of social dynamics, and of analyzing legal procedures and institutions as possible developments of struggle for recognition political movements, enables this study to engender its arguments with these elements as a compound prism of the critical theory paradigms.[5]

The path of the argumentation will be started with a brief explanation of the entrance of Axel Honneth's theory of recognition as a new paradigm of critical theory, giving light to the most important elements that distinguishes it from the production and the communication paradigms and to those which could enrich the argumentation for the problematization of a truth commission on the dictatorial period in Brazil. This first effort is obviously not intended to be an exhaustive apprehension of the theory of recognition, and neither a dense theoretical analysis of critical theory, but an attempt to situate Honneth's thought in the actual philosophical discourse and highlight the elements that can be utilized for the aims of this study.

The main thesis of the paper is centered on an interpretation of the right to memory and the right to truth as legal-institutional reflexes of a struggle for recognition movement visible today in Brazilian society towards the political and legal barriers that are presented to the arguments for the opening of documents concerning the history of the

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[4] For a recent study on this theme within a recognition approach, which reinforces many of the arguments here presented, see Cf. Haldemann, F., „Vergangenheitsschuld und das Andere der Gerechtigkeit. West End", *Neue Zeitschrift für Sozialforschung* 1, 2009, Institut für Sozialforschung, Stroemfeld, Frankfurt am Main 2009, pp. 58–100.

[5] The dialogues of Honneth with the production and communication paradigms of critical theory and the importance of the task of making use of the heuristic elements of all three paradigms on the analysis of social dynamics and practical problems is well stated by Trejo-Mathys (Trejo-Mathys, J., "The Idea of a Critical Social Theory: past, present and future", in: E. Sobottka – G. Saavedra (eds.), *Reconhecimento e Teoria Crítica. Civitas: Revista de Ciências Sociais/Programa de Pós-Graduação em Ciências Sociais*, PUCRS, vol. 8, n. 1, EDIPUCRS, Porto Alegre, jan/abril 2008, pp. 16–45, see p. 40): "We have seen the evolution of critical social theory from the production paradigm, through the communication and recognition paradigms. None of these have *aufgehoben* earlier varieties of theory. They have supplemented, improved and innovated, and sometimes, of course, neglected insights of earlier theorists. Hence the task of the day is to creatively draw upon the existing paradigms we have for specific theoretical and practical tasks an endeavor for which I have used the term 'paradigm constellations'".

dictatorial period of 1964–1985.[6] This struggle for recognition would hence have as negative factuality the injustice sentiment of disrespect that these barriers have provoked on Brazil's collective memory, for the political and legal recognition of the abuses and human rights violations then perpetrated but not yet brought forth to the scrutiny of public opinion, would play a central role in the process of self-identity formation of Brazilian history and culture.

If this thesis is correct, the necessary consequence of this struggle for recognition movement would be the need for a public problematization on the enactment of a truth commission on the period, in terms of *symbolic accountability*, or *recognition politics* of respect towards Brazil's collective memory. In this case, the arguments tend to reinforce firstly this symbolic or recognition political practice character of the truth commission, and not of criminal indictment of the perpetrators of human rights violations during the period. This criminal indictment thesis, which will not be more thoroughly discussed in this study, would still possibly be the object of private lawsuits as the obscured facts come to light.

The effort to bring arguments for this thesis and its consequences will thus have to be intermeshed with explanations on the concepts of collective memory, the right to memory and to truth, as well as brief descriptions of the characteristics of truth commissions which had focused on the symbolic and recognition aspects, as had the Chilean and South African examples. For these conceptual and historical analyses, the works *Law and Collective Memory*,[7] and *Unspeakable Truths*[8] will be of central importance.

At the end, the reasons for the enactment of a truth commission on Brazil's dictatorial period must face the question of how this public problematization could reach public communications, especially

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[6] Judges of the Brazil's Supreme Court and the Union's General Advocacy have already expressed publicly their opinions to a no-revision of the Amnesty Law, even before the decision by the Supreme Court on the National Bar's cited petition has been made.

[7] Savelsberg, J. – King, R. D., "Law and Collective Memory", *Annual Review of Law and Social Science*, Vol. 3, Dec. 2007, pp. 99–114.

[8] Hayner, P., *Unspeakable Truths: facing the challenge of truth commissions*, Routledge, London 2001.

mass media systems, task which will be faced with aid of Habermas's new studies on the political public sphere.[9] The growth of the sentiment of injustice, the mobilization of social actors and future positive response from Brazil's legal and political institutions will thus finally depend on the strength and on the recognition and the discursive level of this publicization.

2. Critical theory and the theory of recognition

For Axel Honneth, in Habermas's effort to retrieve critical theory from the aporias of the pessimist phase of Adorno and Horkheimer, there were many advances, however at the cost of new problems. When filling the gaps of a *normative deficit* denounced, Habermas's social theory would have neglected a *sociological deficit* that Honneth considers suspended since the first works of Adorno and Horkheimer. This deficit is materialized in the difficulty that critical theory has of reflecting its normative fundaments according to the presupposition of more concrete social dynamics, that is, "according to the experiences of injustice and the conflicts that emerge from these experiences".[10] It is in this context that "Honneth's critique of Habermas can be divided in two points: (a) the critique of the distinction between system and lifeworld and (b) the critique of communicative rationality oriented to possible mutual understanding."[11]

For Honneth,

The emancipatory process in which Habermas anchors socially the normative perspective of his Critical Theory is not in any

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[9] Mainly the third text of Habermas's compilation band *Ach, Europa* (*Ay, Europa! Pequeños Escritos Políticos*, Trotta, Madrid 2008), and the discussions on the book *Habermas and the Public Sphere* (Calhoun, C. (ed.), *Habermas and the Public Sphere*, MIT Press, Massachusetts 1996).

[10] Repa, L., "Reconhecimento e Justiça na Teoria Crítica da Sociedade em Axel Honneth", in: M. Nobre (eds.), *Curso Livre de Teoria Crítica*, Papirus, Campinas 2008, p. 184.

[11] Ibid., p. 185.

way reflected in how these moral experiences of the involved subject, for they experience a violation of what we can name as moral expectations, that is, their "moral point of view", not as a restriction of the intuitively dominant language rules, but as a violation of identity claims acquired in socialization. In the Habermasian model, it can be explicated how a process of communicative rationalization of the lifeworld can develop historically, but not how it reflects in the experiences of the human subjects as a moral state of things.[12]

In this long quotation from this doctoral thesis, Honneth situates and distinguishes his approach from the Habermasian model.

Habermas himself, however, finally developed his own approach in the direction of two different theories of society; of these, the only one which to me appears promising for a solution to the basis problem is the one in which social development is explained not with reference to a logic of rationalization, but with reference to a dynamic of social struggle that is structurally located within the moral space of social interactions. With the last consideration I have attempted to bring my reconstruction of the history of critical social theory to the point where at least the initial contours of the idea of a model of social conflict grounded in a theory of communication begin to emerge. In contrast to the normativistic tradition of social theory, in such a model the process of social integration is conceived as a process that assumes the form of a struggle among social actors for the recognition of their identity until all groups and individuals possess the equal chance to participate in the organization of their common life. [...] The essays that I have in the meantime published on the history of more recent social theory also represent at most only indirect approximations to the idea that has

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[12] Honneth, A., "The Social Dynamics of disrespect: situating critical theory today", in: P. Dews (ed.), *Habermas a critical reader*, Blackwell, Oxford 1999, p. 328. *Apud* Repa, L., "Reconhecimento e Justiça na Teoria Crítica da Sociedade em Axel Honneth", op. cit.

so far only been roughly outlined. Only a study that succeeded in making Hegel's idea of a "struggle for recognition" systematically fruitful for a social theory could perhaps fill in some of the lacunae in this argument.[13]

A second point of important influence to Honneth's theory of recognition is his Hegelian approach.[14] Firstly, because Honneth is critical to the diagnosis of the times that are based on social *phenomena* such as "risk society" and others, instead of identifying possible social pathologies, for they don't resist consciously promoted empirical tests. In this sense, the presence of the young Hegel in Honneth's work is felt when he considers the philosopher's first kritischen *Zeitgeist auf der Modern* one of the most convincing in the tradition of social philosophy. For such, Honneth attests:

> Hegel affirms, concerning his (and our) times that we suffer from fallible social and self-relations, for we overly conferred autonomy to some necessary aspects of what pertains to the embodiment of a modern culture of liberty and made of autonomy the only point of reference of our personal comprehension. It certainly is in the Philosophy of Law that Hegel develops the nucleus of this pathological diagnosis in a more consequent manner, and for that it will be in the center of my analysis. In essential traces it represents an enlightment over modern society members' conceptual confusion on an adequate comprehension of liberty,

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[13]   Honneth, A., *The Critique of Power – Reflective Stages in a Critical Social Theory*, trans. K. Baynes, The MIT Press, London 1991, p. XVII (Preface).

[14]   Hegel's influence in Honneth's thought is forseen in how the latter retakes Habermas's reconstruction of Hegel's Jena discussion on the formation of self-consciousness (Habermas, J., *Técnica e Ciência como Ideologia*, 70, Lisboa 2006, pp. 11–44), differently from the one made by Marx, which had focused on labor as the most important moment of the dialectics of self-consciousness, in opposition to the momento of the "dialectics of ethicity" (*Dialektik der Sittlichkeit*). For Honneth, hence, this would be a model that represents better heuristic conditions than others, for it contains the moment of the causality of destiny, the experience of negativity, the struggle for recognition and the reconciliation in love, which shows true simbiosys of logics and practice of life. Cf. Freitag, B., *Dialogando com Jürgen Habermas*, Tempo Brasileiro, Rio de Janeiro 2004, p. 20.

which consequences may be better conceived as a "suffering of indetermination" (*Leiden an Unbestimmtheit*).[15]

In this context, Honneth explores the actuality of the diagnosis of suffering of indetermination, and when analyzing the great chapter on ethnicity (*Sittlichkeit*) from Hegel's Philosophy of Law, he frames it in terms of a "philosophical therapy" to reveal an effective and positive constitution of the idea liberty.

In *Struggle for Recognition*, Honneth deepens the idea of an actualization of critical theory. In this work, it is of great importance the comprehension of the recognition patterns (which for Honneth are present in love, law and solidarity), as well as in the question of personal identity and disrespect (violation, privation of rights and degradation). Discussing preliminarily the topic concerning law, in the modes of recognition, Honneth states that

> For law, Hegel and Mead perceived a similar relation in the circumstance that we can only reach an understanding of ourselves as holders of rights when we posses, inversely, a knowledge on which obligations we have of observing in face of the respective other: only on the normative perspective of a "generalized other", that already helps us understand ourselves also as subject of rights, in the sense that we can be secure in the social fulfillment of some of our claims.[16]

Habermas's presence is thus felt in the framework of recognition when it discusses law. The Hegelian thesis, however, is interpreted by Honneth from the perspective of the changes occurred with the birth of modernity.

For that, Honneth does not lose sight of what Horkheimer called in the thirties *emanzipatorische Interesse*, or "emancipatory interest", as a central comprehensive category and point of departure of critical the-

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[15] Honneth, A., *Patologias da Liberdade Individual - o diagnóstico hegeliano de época e o presente*, Novos Estudos CEBRAP, nº 66, CEBRAP, São Paulo 2003, p. 78.

[16] Honneth, A., *Luta por Reconhecimento. A gramática moral dos conflitos sociais*, Editora 34, São Paulo 2003, p. 179 (free translation from the Brazilian version).

ory. Even though recognizing the advances promoted by Habermas's communicative turn as for identifying and signalizing the "ways out" of the aporias of the first paradigm of critical theory radicalized with Adorno's negativism, Honneth recovers the notion of emancipatory interest as a learning process, making use of the Hegelian method of historical description of philosophy (*Philosophiegeschichtsschreibung*).

However, Honneth's contribution is not circumscribed to reviewing Habermas's thought, but also to a preoccupation of the possibilities of actualizing the historical materialism, in the sense of the risk of historical relations may fall into power relations, as well as the fact that the social struggle would still be the "motor of history" and the interest on revolution would be connected intrinsically to an anthropological structure of human beings.[17]

That is why, according to Saavedra,[18]

"Honneth intends, in a first moment, to develop critical theory through the fundamental and initial intuitions of the Habermasian theory. The ideas that permeate the reconstruction promoted by Honneth can be resumed in five points:
1. Analyze in an integrated form complexes of interaction between action and history;
2. Develop a theoretical framework which would be able to apprehend both process of communication and interaction;
3. Formulate a material concept of human needs;
4. Develop a critique on social theories that are conceived systemically;
5. Develop a critique on social theories that suppose the existence of (5.1.) organizations of actions free from normativity and (5.2) of communication spheres not intermeshed with power".

Thus, the critical theory of recognition starts to be used hence as element of an affirmative struggle for women's and homosexual rights and from other groups excluded from the social discourse. It is in this

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[17] Saavedra, G., *A Teoria Crítica de Axel Honneth*, in: J. Souza – P. Mattos, *A Teoria Crítica no Século XXI*, Annablume, São Paulo 2007, p. 97.

[18] Ibid., p. 101.

context that it is proposed the application of the theory of recognition to demonstrate the necessity of promoting the right to cultural and historical memory of each individual. However, in contrary to this intention of the Brazilian people to appropriate its own history, the Brazilian state has utilized the term "recognition" in an ideological approach, making any kind of clarification of the facts seem unnecessary as related to Brazil's dictatorship.

Honneth is aware of this problem, and states it in his article "Recognition as Ideology",[19] which may seem, somewhat, to be one of the reasons for the difficulties in the search for truth in Brazil.

3. The right to memory and truth as political-institutional responses to feelings of disrespect towards Brazil's collective memory

From this brief thematization of Axel Honneth's approach to the renewal of critical theory with the theory of recognition, this study can highlight for its argumentation purposes the importance of the negative character of *sentiment of injustice to the procedural concept of recognition* as a means of enabling a motivational drive for a struggle for recognition movement[20], as well as the normative aspect of recognition practices, as *a positive response of semantic collective identity formation to historically recognized injustices*, in terms of enhancement of social recognition dimensions.[21] With this conceptual basis, these reflections will now focus on the links between these procedural and normative concepts and the legal concepts of right to memory and right to truth, aside with the sociological concept of collective memory.

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[19] Honneth, A., "Anerkennung als Ideologie," *WestEnd. Neue Zeitschrift für Sozialforschung*, 1, 2004, 8, pp. 51–70.

[20] "The negative reactions that accompany the psychic plan of the experience of disrespect can represent in an exact way the effective motivational basis in which is anchored the struggle for recognition". Free translation of the Brazilian edition of *Struggle for Recognition* (Honneth, A., *Luta por Reconhecimento*, op. cit., p. 220).

[21] Ibid., p. 218.

The always precarious task of linking theoretical to practical and historically situated problems such as the one faced in this study, requires yet the presentation of some methodological presuppositions already encountered in Honneth's discussions of his theory with his interlocutors. Two of these problems are important to this part of the study: the first one is how Honneth's idea of *individualization* can be seen and identified as a social process, having hence a collective and political character that transcends semantics and social psychology; and the second is how the modes of recognition can be identified in legal institutions, for the idea of recognition as a struggle that emerges from subcultural backgrounds, preserving its moral content, wouldn't in principle be capable of accepting its "formalization" in legal documents,[22] such as the international treaties which protect human rights in transitional justice processes.

These two methodological problems are intrinsically related to the practical aims of the study and will be presented with reference to them, for the formation of a political movement to mobilize public opinion[23] and pressure for the institutionalization of a truth commission on Brazil's dictatorial period demands efforts on the justification of the connection of the concepts of collective memory and an intersubjectively constituted and historically situated morality that could experience the sentiment of an injustice, in a recognition basis, as well as arguments for the identification of normative claims of recognition models in the right to memory and to truth in international law documents.

The concept of collective memory is discussed by Professor Joacquim Savelsberg (2007) with reference to French scholar Maurice Halbwachs (2002), and presented in the theme of transitional justice problems as a type of "knowledge about that past that is shared, mutually acknowledged and reinforced by a collectivity – from small informal groups to

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[22] Cf. the introduction written by Professors Giovanni Saavedra and Emil Sobottka in Sobottka, E. – Saavedra, G. (eds.), "Reconhecimento e Teoria Crítica. Civitas: Revista de Ciências Sociais/Programa de Pós-Graduação em Ciências Sociais", PUCRS, vol. 8, n. 1, EDIPUCRS, Porto Alegre, jan/abril 2008, pp. 9–18, esp. pp. 16–18).

[23] One of the outcomes of the practical problem faced here, that questions relations of struggle for recognition movements to the dynamics of political public spheres, which brings another challenge to Professor Honneth's theory (Trejo-Mathys, 2008:37), will be briefly raised and discussed in the last part of this paper.

formal organizations to nation states and global communities". These social and constructivist aspects of the concept, as it is influenced by Durkheim to escape the empiricism of Hume and the apriorism of Kant,[24] are also reasons for relating it to a form of intersubjective experience of history that is subject to "mnemonic struggles".[25]

The similarities of this concept to the procedural and normative concepts of struggle of recognition can be respectively justified as Honneth seeks to measure the strength and influence of this struggle from the way it emerges from a "horizon of subcultural interpretation that explicates the motivational relation between the individual sentiment of injustice and collective struggle for recognition";[26] and at the same time, this experience of injustice has to be identified in a historical process of moral development. In this respect, the positive response of the social struggle for the revision of the dictatorial period in Brazil would have to be proved as an example of an amplification of recognition relations.[27]

With these concept relations, albeit the theoretical discussions on the individual-collective aspect of the violations of recognition practices,[28] the social character of Honneth's idea of the individualization process is suggested when the struggle for recognition is seen as the negative individual sentiment of injustice that evolves to a public problematization – or a possible collective grammar – of a historical collective injustice;[29]

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[24] Savelsberg, J. – King, R. D., "Law and Collective Memory", *Annual Review of Law and Social Science*, Vol. 3, Dec. 2007, pp. 99–114, p. 5.

[25] Ibid., p. 6.

[26] Sobottka, E. – Saavedra, G. (eds.), "Reconhecimento e Teoria Crítica. Civitas: Revista de Ciências Sociais/Programa de Pós-Graduação em Ciências Sociais", op. cit., p. 16.

[27] Ibid., p. 17.

[28] "On the highest level, such demands for recognition can first of all be distinguished according to whether the objectives they articulate have an individual or an originally 'communal' or collective character. Here, following a suggestion by Bernhard Peters, those collective demands for recognition that aim at improving the situation of the group's individual members will be called 'individualistic,' while those that aim in a sense at the common life of the group will be called 'communal'" (Honneth, A., in: Honneth, A. – Fraser, N., *Redistribution or Recognition*, 2003, p. 163).

[29] Haldemann, F., „Vergangenheitsschuld und das Andere der Gerechtigkeit", op. cit., p. 82.

in this case, the human rights violations that have been perpetrated in Brazil's dictatorial regime and are denied publicization by the state.[30]

The analysis now turns to the necessity of justifying the right to memory and to truth as positive institutional reflexes of the second dimension of recognition, as legal materialization and possible universalization of their normative contents.

For such, the second dimension of recognition, a *social respect* that is institutionalized in rights, can be defined as follows, in a comparison with the dimension of love:

> That the self-respect is to the legal relation what self-esteem is to the love relation is what is already suggested by the logic with which the rights are conceived as anonymized signs of *social respect*, in the same way that love can be conceived as an affective expression of a dedication, albeit maintained from a distance: while this creates in every human the psychic fundament to be able to trust in his own impulses of lacking, those emerges in him the *consciousness of being able to respect himself, because he deserves the respect of all others*.[31]

The right to memory and truth are institutionalized in legal international documents that work with the human rights justice administration concepts of *remedy*,[32] *reparations* and *transitional justice*. Examples

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[30] "The valorative degradation of determinate patterns of self-realization has for its holders the consequence that it cannot be referred to the conduction of their lives as something to which would gain a positive meaning in the interior of a collectivity; as for that, for the individual, it goes side-by-side with the experience of such a social devalue, in a typical manner, a loss of personal self-esteem [...] Thus, what is here subtracted from the person by disrespect in terms of recognition is the social acceptance to a form of self-realization that she strivingly encountered with the encouragement based on group solidarities." (Honneth, A., *Luta por Reconhecimento*, op. cit., pp. 217–218).

[31] Ibid., pp. 194–195. (Free translation from Brazilian version. Highlights not from the original.)

[32] "Every person has the right to receive from national competent courts the effective remedy for the acts that violate the fundamental rights for him recognized by the constitution or the law." Universal Declaration of Human Rights, 1948. art. 8th. Free translation from Brazilian version. In: Bittar, E. – Almeida, G., *Mini-Código de Direitos Humanos*, Associação Nacional de Direitos Humanos – Pesquisa e Pós-Graduação, Juarez de Oliveira, São Paulo 2008, pp. 221–224.

of documents that enact these rights are the UN Economic and Social Council Resolution 1989/65, entitled *Principles Related to an Effective Prevention and Investigation of Extrajudicial, Arbitrary or Summary Executions*, as well as the UN Resolution 60/147, on *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*.

In the first document, the right to memory and truth are identified when "extrajudicial, arbitrary and summary" executions are prohibited, and "exhaustive investigations" are expected into these types of executions. In the second, the principles of the Rome Statute which institutionalizes de International Criminal Court (1992) are recalled, when stating that the International Criminal Court requires "the establishment of 'principles relating to reparations to, or in respect of, victims, including restitution, compensation and rehabilitation' [...], as well as the duty "'to protect the *safety, physical and psychological well-being, dignity and privacy of victims*'", for "the international community keeps faith with the plight of victims, *survivors* and *future human generations* and reaffirms the international legal principles of *accountability, justice and the rule of law*".[33]

In this sense, the right to memory and truth can be interpreted as examples of recognition positive practices of legal social respect, for the idea of the struggle for regaining self-respect and respecting others would be present in the need for an institutional recognition of victim's reparations and exhaustive investigations of human rights violations granting the physical and psychological safety and dignity of the victims, survivors and future generations. Here, the idea of reparation transcending the individual's realm makes a clear connection to the concept of collective memory.

At the end, the thesis that in countries which dictatorial regimes were rememorized through truth commissions repeat more scarcely gross human rights violations than in countries that have not held similar procedures,[34] also contributes to the idea that without the legal

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[33] Highlights not from the originals.

[34] Savelsberg cites the works of Minow (*Between Vengeance and Forgiveness: Facing History after Genocide and Mass Violence*, Beacon Press, Boston 1998; *Breaking the Cycles of Hatred:*

recognition which enables self-respect, the respect for others (with no repetition of gross human rights violations) will be more difficult to attain. Therefore, the need for a truth commission on Brazil's dictatorial period becomes more justified and urgent.

4. Truth commissions and reasons for a public problematization on the revision of the dictatorial period in Brazil

This paper has attempted to discuss the present practical problem in a compound analysis of critical social theory,[35] as it highlighted the negative character of the sentiment of injustice, bringing forth the *procedural* character of recognition as a dialectical heritage from the production paradigm. The relation to the communication paradigm of critical theory will now be attempted as the discussion evolves to the idea of *politizing the struggle for recognition*, in the task of raising arguments on the practical problem of this study: the need for a public problematization in Brazil's present political public sphere and possible opinion and will formation on the revision of the dictatorial period in a *truth commission*, which would include investigations for opening of archives, publicization of documents and historical facts, state and personal ac-

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Memory, Law, and Repair, Introduced and with commentaries by N. L. Rosenblum, Princeton University Press, Princeton, N.J. 2002) and Kritz (Kritz, N. (ed.), *Transitional Justice: How Emergent Democracies Reckon with Former Regimes*, U.S. Institute of Justice, Washington, DC 1995) to consider that "Law is central to new attempts at 'breaking cycles of violence' and at managing the transition from authoritarian regimes to democracy". At the same time, Savelsberg and King relate collective memory to law in the sense that "Collective memories are activated in legislative and legal decision making, which Savelsberg & King ("Law and Collective Memory", op. cit.) refer to as the 'institutionalization of collective memory as law.' In addition, collective memories also affect law enforcement practices (King, R. D., *When Law and Society Disagree: Group Threat, Legacies of the Past, and the Organizational Context of Hate Crime Law Enforcement*, University of Minnesota, Minneapolis, 2005 – Doctoral Thesis), Savelsberg & King ("Law and Collective Memory", op. cit., pp. 3–4).

[35] Trejo-Mathys, J., "The Idea of a Critical Social Theory: past, present and future", op. cit.

countability for human rights violations, as well as the possibility of criminal prosecution.

The concept of truth commissions as present in the works of Hayner,[36] and Mezzarobba,[37] can be resumed as special types official investigations and publicizations of facts and documents aimed at some form of acknowledgment and reparation of historical injustices, mainly but not only in dictatorial or exception regimes. The procedures of the commissions may include acts such as testimonies from victims and offenders, official publicization of facts, state accountability recognition for human rights violations by officials, face-to-face questioning and answering between actors involved in the investigated facts, as well as criminal prosecutions.

There are several models of truth commissions, varying from more symbolic and truth-oriented reparations to criminal prosecution, judgment and punishment of unjustifiable acts of violence. The civil reparations to victims and families of victims of human rights violations, which are monetary and consequently individualized, cannot be considered truth commissions, albeit being another type of transitional justice practice. This model is, though, prevalent in Brazil's transitional justice commissions and practices,[38] and raises the question of how much legitimacy and what impact a more truth, symbolic and recognition-oriented commission would have in Brazil's present public sphere.[39]

As it became clear in this study, the theoretic basis used is aimed at contributing with normative arguments for the public problematization and implementation of these more symbolic-oriented truth com-

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[36] Hayner, P., *Unspeakable Truths: facing the challenge of truth commissions*, op. cit., pp. 24–31.

[37] Mezzarobba, G., *O preço do esquecimento : as reparações pagas às vítimas do regime militar*, Faculty of Philosophy, Literature and Social Sciences, University of São Paulo, 2007 – Doctoral Thesis, pp. 12–32.

[38] The works of the Ministry of Justice's Aminesty Comission are a clear example of these kinds of reparations. Cf. http://www.mj.gov.br/anistia/data/Pages/MJ20BF8FD-BPTBRIE.htm (access: 06/29/09).

[39] For a discussion on this specific problem with also an empirical comparison between transitional justice practices of Chile, Argentina and Brazil, cf. Mezzarobba, G., *O preço do esquecimento : as reparações pagas às vítimas do regime militar*, op. cit.

missions, as were the South-African and Chilean examples.[40] This is justified when the symbolic aspect of collective memory, as well as the collective and subcultural backgrounds revealed in the sentiments of disrespect and self-respect socially expected and institutionalized in the right to memory and truth, can be identified as negative and positive examples of the second dimension of recognition practices.

The similarities of these truth commissions' more symbolic practices with *Restorative Justice* practices are also possible of being identified,[41] as the latter works different forms of reparation and/or reconciliation legal justice procedures in which the violence victims and offenders are transferred from the perspective of the "objects" of the process – in terms of the traditional justice process with intervention of specialists and the inaccessibility of the legal language – to *subjects* that participate directly in the communicative acts and decisions of the procedures. These characteristics could also suggest a reading of restorative justice practices as a form of recognition practice that could engender more effective reparations in terms of the re-attainment of one's self-respect, approximation to the other and reciprocal social esteem.[42]

However – and this is what this study could also probably offer as a more heuristic potential to this discussion –, the normative arguments for the public problematization of the need for a truth commission in Brazil still have to fulfill Honneth's conditions for identifying it as a *struggle for respect* that effectively reaches a *political dimension*.

These conditions can hence be summarized with the following question: is the sentiment of disrespect present in the actual civil society

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[40] For more on the South-African Truth Commission, as well as the fecund discussions of its impacts, controversies and legitimating force, cf. Hayner, P., *Unspeakable Truths: facing the challenge of truth commissions*, pp. 32–49. On the Chilean example, cf. Mezzarobba, G., *O preço do esquecimento : as reparações pagas às vítimas do regime militar*, op. cit., pp. 243–202.

[41] Cf. Haldemann, F., „Vergangenheitsschuld und das Andere der Gerechtigkeit. West End", op. cit., p. 59.

[42] The fertile discussion on the concept of restorative justice as an evolution from or complementation of the traditional justice, as well as its possible connections to Honneth' theory of recognition, which would obviously involve a social psychology analysis, can only briefly suggested here, but could be more thoroughly analyzed with the aid of Zehr (Zehr, H., *Trocando as lentes – um novo foco sobre o crime e a justiça*, Palas Athena, São Paulo 2008) and Honneth (*Luta por Reconhecimento*, op. cit.).

opinions for the revision of the human rights violations in the dictatorial period in Brazil (1) *reaching the individuals' struggle for self-respect*, (2) gaining *social strength*, and (3) can be at the same time *identifiable in institutionally anchored patterns of social esteem that are historically individualizable*?[43]

(1) The first condition would already be fulfilled, especially when Brazilian's institutional reparation responses are being legally claimed by families of victims of the dictatorial regime's repressions. At the same time, the present difficulties and the state's negligence on opening archives and revisiting the Amnesty law can be seen as acts of injustice towards each and every member of the country's right to memory, truth and access to public information, revealing negatively the struggle for respect engendered in Brazilian civil society.

(3) The condition of the identifying historically individualizable and institutionally anchored patterns of social esteem is also present: the cited international law documents that protect and aim to guarantee the actionability of the right to memory, truth and reparations of gross human rights violations have been recognized and incorporated by the Brazilian legal order.

(2) This leads the argument to the discussion of the *social strength* of this already identifiable struggle for recognition. If this condition could also be proved true in the case of the problematization for a truth commission on Brazil's dictatorial regime, this struggle could be seen as able to engender a *recognition politics*,[44] in the sense enacting a truth commission that is justified from each individual's right and need for the recovery of the historical collective memory as an essential step of the identity formation of the country's culture.

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[43] Ibid., p. 218.

[44] Habermas utilizes this term in reference to Honneth's theory in *Naturalism and Religion*, when arguing about the collective form of implementation, and at the same time individual natural character of *cultural rights*. The constitutive rights for the protection of integrity of the singular individual also determine his status as a subject of rights. These rights must be amplified to the point of granting the access to the *contexts of experience, communication and recognition* in which a person can articulate an understanding of himself, as well as develop and maintain a personal identity. In according to this, the cultural rights, demanded and introduced in the light of a 'politic of recognition', cannot be understood as being naturally collective rights" (orig. Habermas, J., *Zwischen Naturalism und Religion*, Frankfurt am Main, Suhrkamp 2005. Free translation from the Brazilian version. Italic not from original.)

A recent article published in the new *Zeitschrift* of the *Institut für Sozialforschung* by Frank Haldemann, entitled "Failures of the Past and the Other of Justice" ("*Vergangenheitsschuld und das Andere der Gerechtigkeit*"), which has worked a theory of recognition approach to the right to historical truth and transitional justice, suggests that to ignite – and even only then theoretically justify – a struggle for recognition movement on these themes, it is necessary to create a moral collective grammatical interpretation of the feeling of the dictatorship period and the difficulties to access it transparently as a *Collective Violence* (*Kollektiv Gewalt*).[45]

This social strength of the struggle for recognition, and thus the possibility of legitimating the pressure for this recognition politics, can be suggested by a very brief presentation of elements for analyzing the influence that this debate and its grammatical power of nominating the feeling of collective violence has had in Brazil's present political public sphere.[46]

Habermas's most recent contributions on these studies considers that the formation of the public opinion influences the formation of political decisions by three different and reflexively self-regulating sources that revolve around mass communications: from the state, parties and politicians; the *lobbyists* of each social subsystem affected by the problem; and the non-governmental entities, intellectuals and public advocates of social causes, which come from civil society.[47]

With the mobilizations from civil society here cited, the question of the social strength of this public problematization depends, in the end, on targeting, pressuring and influencing through the mass media and other forms of public communications the social subsystems and the politicians and parties. Now, how to engender such communica-

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[45] Cf. Haldemann, F., "West End", op. cit., p. 82.

[46] A study of this sort would require empirical research which considers these elements raised by Habermas (*Ay, Europa! Pequeños Escritos Políticos*, op. cit., pp. 164–165). However, Habermas still is aware that "es muy difícil capturar empíricamente las opiniones públicas. Al fin y al cabo, se forman cuando se allana de manera intuitiva el desnivel que se observa entre, or una parte, las opiniones *publicadas* que están fuertemente determinadas por la prensa de calidad y, por otra parte, las distribuciones de la opinión reflejadas en los registros estadísticos de las encuestas a partir de cuestionarios sobre muestras representativas." (Ibid.)

[47] Ibid., p. 164 f.

tive power, in order to effectively influence the administrative instance of political opinion and will formation,[48] will have to be the focus of a future study.

References

Bittar, E. – Almeida, G., *Mini-Código de Direitos Humanos*, Associação Nacional de Direitos Humanos – Pesquisa e Pós-Graduação, Juarez de Oliveira, São Paulo 2008.

Calhoun, C. (ed.), *Habermas and the Public Sphere*, MIT Press, Massachusetts 1996.

Fraser, N. – Honneth, A., *Redistribution or Recognition? A Political-Philosophical Exchange*, trans. Golb, Ingram and Wilke, London – New York, Verso 2003.

Freitag, B., *Dialogando com Jürgen Habermas*, Tempo Brasileiro, Rio de Janeiro 2004.

Habermas, J., *Between Facts and Norms. Contributions to a Discourse-Theory on Law and Democracy*, MIT Press, Boston 1996.

Habermas, J., *Zwischen Naturalism und Religion*, Frankfurt am Main, Suhrkamp 2005.

Habermas, J., *Técnica e Ciência como Ideologia*, 70, Lisboa 2006.

Habermas, J., *Ay, Europa! Pequeños Escritos Políticos*, Trotta, Madrid 2008.

Halbwachs, M., *On Collective Memory*, University of Chicago Press, Chicago 1992.

Haldemann, F., „Vergangenheitsschuld und das Andere der Gerechtigkeit. West End", *Neue Zeitschrift für Sozialforschung* 1, 2009, Institut für Sozialforschung, Stroemfeld, Frankfurt am Main 2009, pp. 58–100.

Hayner, P., *Unspeakable Truths: facing the challenge of truth commissions*, Routledge, London 2001.

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[48] Habermas, J., *Between Facts and Norms. Contributions to a Discourse-Theory on Law and Democracy*, MIT Press, Boston 1996.

Honneth, A., *The Critique of Power - Reflective Stages in a Critical Social Theory*, trans. K. Baynes, The MIT Press, London 1991.

Honneth, A., "The Social Dynamics of disrespect: situating critical theory today", in: P. Dews (ed.), *Habermas a critical reader*, Blackwell, Oxford 1999, p. 328.

Honneth, A., *Luta por Reconhecimento. A gramática moral dos conflitos sociais*, Editora 34, São Paulo 2003.

Honneth, A., *Patologias da Liberdade Individual - o diagnóstico hegeliano de época e o presente*, Novos Estudos CEBRAP, nº 66, CEBRAP, São Paulo 2003.

Honneth, A., "Anerkennung als Ideologie," *WestEnd. Neue Zeitschrift für Sozialforschung*, 1, 2004, 8.

King, R. D., *When Law and Society Disagree: Group Threat, Legacies of the Past, and the Organizational Context of Hate Crime Law Enforcement*, University of Minnesota, Minneapolis, 2005 – Doctoral Thesis.

Kritz, N. (ed.), *Transitional Justice: How Emergent Democracies Reckon with Former Regimes*, U.S. Institute of Justice, Washington, DC 1995.

Mezzarobba, G., *O preço do esquecimento : as reparações pagas às vítimas do regime militar*, Faculty of Philosophy, Literature and Social Sciences, University of São Paulo, 2007 – Doctoral Thesis.

Minow, M., *Between Vengeance and Forgiveness: Facing History after Genocide and Mass Violence*, Beacon Press, Boston 1998.

Minow, M., *Breaking the Cycles of Hatred: Memory, Law, and Repair*, Introduced and with commentaries by N.L. Rosenblum, Princeton University Press, Princeton, N.J. 2002.

Nobre, M. (ed.), *Curso Livre de Teoria Crítica*, Papirus, Campinas 2008.

Perrone-Moisés, C., "O perdão e os crimes contra a humanidade: um diálogo entre Hannah Arendt e Jacques Derrida", in: Correia A. (ed.), *Hannah Arendt e a Condição Humana*, Quarteto, Salvador 2006, pp. 211–224. Available at: http://www.nevusp.org/downloads/jacquesderrida.pdf (last access: 06/30/2009).

Perrone-Moisés, C., "Lei de anistia face ao direito Internacional: desaparecimentos e direito à verdade", in: F. Piovesan (ed.), *Direitos Humanos, Globalização Econômica e Integração Regional*, Max Limonad, São Paulo 2002, pp. 285–305.

Repa, L., "Reconhecimento e Justiça na Teoria Crítica da Sociedade em Axel Honneth", in: M. Nobre (eds.), *Curso Livre de Teoria Crítica*, Papirus, Campinas 2008.

Saavedra, G., *A Teoria Crítica de Axel Honneth*, in: J. Souza – P. Mattos, *A Teoria Crítica no Século XXI*, Annablume, São Paulo 2007.

Savelsberg, J. – King, R. D., "Law and Collective Memory", *Annual Review of Law and Social Science*, Vol. 3, Dec. 2007, pp. 99–114.

Sobottka, E. – Saavedra, G. (eds.), "Reconhecimento e Teoria Crítica. Civitas: Revista de Ciências Sociais/Programa de Pós-Graduação em Ciências Sociais", PUCRS, vol. 8, n. 1, EDIPUCRS, Porto Alegre, jan/abril 2008.

Trejo-Mathys, J., "The Idea of a Critical Social Theory: past, present and future", in: E. Sobottka – G. Saavedra (eds.), *Reconhecimento e Teoria Crítica. Civitas: Revista de Ciências Sociais/Programa de Pós-Graduação em Ciências Sociais*, PUCRS, vol. 8, n. 1, EDIPUCRS, Porto Alegre, jan/abril 2008, pp. 16–45.

Zehr, H., *Trocando as lentes – um novo foco sobre o crime e a justiça*, Palas Athena, São Paulo 2008.

III

Recognition in International
and Global Justice

Recognition between States:
On the Moral Substrate of International Relations

Axel Honneth

From an everyday, non-theoretical perspective, we seem to take for granted that state actors are primarily guided by the aim of insisting that other states respect the community they represent, and of suing for recognition with corresponding measures.[1] In everyday discussion, we readily agree that the behavior of Palestine's political leaders, for instance, cannot be understood without taking into account such strivings for recognition; that Russia's government has been going to great lengths to compel Western countries to show more consideration for Russian interests; or that during the Bush administration, Western European governments used diplomatic relationships and maneuvers to obtain renewed respect from their American ally.[2] At first sight, these applications of the category of recognition to international relations certainly doesn't seem surprising. After all, one of the more important motives behind the recent revival of Hegel's theory of recognition was the desire to return to a stronger moral-theoretical language in analyzing the comportment of collective agents and social groups, thereby extracting this behavior from the dominant paradigm of purely purposive-rational, strategic action.[3]

But even in a work as old as the *Philosophy of Right*, Hegel objected to applying the notion of a "struggle for recognition" to international relations, at least in the case of "civilized nations." Instead, he sought to describe relations between states in terms of the self-assertion of nation-states within the framework of universally accepted international

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[1] The original publication of the article in English: Honneth, A., "Recognition between States: On the Moral Substrate of International Relations". in: A. Honneth, *The I in We. Studies in the Theory of Recognition*, Polity Press Cambridge 2012, pp. 137–152. © Suhrkamp Verlag.

[2] I have taken these examples from Wolf, R., "Respekt: Ein unterschätzter Faktor in den internationalen Beziehungen," *Zeitschrift für Internationale Beziehungen*, 15, 2008, 1, pp. 5–42.

[3] See Honneth, A., *The Struggle for Recognition: The Moral Grammar of Social Conflicts*, Polity Press, London 1995, Ch. 8.

law. He reserved the idea of a striving for recognition and respect for more underdeveloped and unrecognized nations, who were unsuccessful in their efforts at honor and glory, while the enlightened constitutional states of the West were solely guided by the aims of maximizing welfare and preserving national security.[4] That is the image that the dominant theory of international relations has adopted over the last few decades. Without making any reference to Hegel, this theory maintains that from the moment of their internationally recognized independence, national governments essentially aim to assert themselves as nation-states and are thus mostly uninterested in matters of international respect and recognition. A significant gap therefore seems to lie between our everyday intuitions and the dominant theory, one that appears difficult to overcome. While in our more theoretical explanations of state comportment we accept that state activity is to be interpreted exclusively in terms of purposive rationality, our more everyday intuitions also account for quasi-moral motifs such as a striving for recognition and violations of respect.

These intuitions, however, generally don't stand up to scientific models. The idea that state actors and governments are exclusively interested in collective self-assertion has so much suggestive power that we quickly abandon our everyday intuitions in favor of the standard scheme of purely material motives. From this perspective, what we once assumed to be acts fueled by a feeling of being disrespected, or by a desire for recognition, now represents a merely symbolically concealed act motivated by national interest. The question this raises is, in the first instance, purely empirical and descriptive: Is the dominant paradigm of purpose-rational behavior an adequate model for explaining political tensions, conflicts and wars? From the perspective of our everyday intuitions, we would instead have to ask whether we need to consider more original [*originär*] motives, such as the desire for recognition and respect, in order to explain foreign policy in general and international hostilities in particular. The answer to these questions will also have opaque normative implications that cannot be left out of the picture, for the more our explanations of international relations em-

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[4] Hegel, G. W. F., *Philosophy of Right*, trans. by T. M. Knox, Oxford University Press, Cambridge 1967, p. 52.

phasize individual states' striving for recognition, the more it appears we will have to concede that states do not behave independently of the political reactions of their counterparts, and therefore have a latent awareness of the fact that their collective identity must be internationally acceptable. Even if this shift in our perspective cannot yield any immediate guidelines for action, it does strongly suggest that we prefer "soft power" to "military" or "hard power" in international conflicts.[5] The explanatory framework we choose therefore has a strong bearing on our prescriptions for how states should act in the case of international tensions, disagreements or conflicts. Depending on whether we emphasize the aspect of individual national self-assertion, or that of the foreign political striving for recognition, the normative horizon of our prescriptions will change accordingly.

In what follows, I will make some tentative, exploratory efforts to answer these questions. First, I explain why we should give more attention to the dimension of recognition in explanations of international relations. Again, this concerns the purely descriptive issue of the appropriate categorial means for describing international conflict and tensions (I). Second, I will touch on some of the normative consequences of this suggested paradigmatic shift on how we understand and explain international relations. Because of my lacking familiarity with the issue, I will have to restrict myself to some tentative considerations, which should nevertheless make apparent that by emphasizing the dimension of recognition in international relations, our moral perspective on world politics will be changed significantly (II).

<p style="text-align:center">1</p>

The main difficulty we face in applying the category of recognition to international relations is revealed by the obstacles we run into on our search for an appropriate theoretical vocabulary. As soon as we try to give a name to the dimension of respect involved in state conduct,

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[5] These terms stem from Joseph Nye, *Soft Power: The Means to Success in World Politics*, Public Affairs, New York 2004.

we find that the only terms at our disposal are too psychologically or mentally laden. We speak, slightly helpless and awkwardly, of a striving for recognition or a need for respect, even though we know that such psychological concepts don't appropriately describe the matter at hand. As long as we only transfer the concept of recognition from the interpersonal level to the behavior of social groups or movements, we don't seem to have any terminological problems. In this case, we view the collective identity of a given community as the higher-level equivalent of personal identity or relation-to-self. We therefore have a relatively clear picture about what is being fought over when individuals, but also groups, engage in a struggle of recognition. Hence there has never been any problem with speaking of a "politics of recognition" when it comes to the struggles of minorities for legal respect and social recognition for their collective identity. The starting point of these struggles consists in shared experiences of exclusion, indignity or disrespect, which moves the members of such a group to band together and fight in solidarity for legal or cultural recognition.[6]

But such a conceptual transfer is much more difficult, and the conceptual problems become much broader, once we switch from the level of group struggles to relationships between nation-states. Here we can no longer speak of collective identity, particularly because the obvious increase of ethnic and cultural subgroups has started to make the illusion of a nationally homogenous population disappear for good. Even where, for historical reasons, the idea of the nation-state has been able to gain a toehold, the state apparatus cannot be viewed as the executive organ of a collective identity, because the tasks it carries out – providing for security, preserving power and ensuring economic coordination – obey their own set of rules [*eigengesetzlich*]. Not only do the tasks of government change their form in accordance with various overall forms of political organization, but the manner in which they are described also changes according to the theory we employ. Depending on whether the

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[6] See Taylor, Ch., et al., *Multiculturalism*, Princeton University Press, Princeton 1994; Habermas, J., "Struggles for Recognition in the Democratic Constitutional State," in: Ch. Taylor, et al., *Multiculturalism*, op. cit., pp. 107 ff; Honneth, A., "Redistribution as Recognition," in: N. Fraser – A. Honneth, *Redistribution or Recognition? A Political-Philosophical Exchange*, Verso, London – New York 2003, pp. 110 ff.

function of the liberal democratic state is regarded as consisting more in the "biopolitical" management of the population or in creating conditions of social justice compatible with the requirements of national security, we will find great differences in the description of the tasks of government. But even beyond differences pertaining to the form of government or the theoretical system of description, it remains true that the foreign-political function of the state cannot merely be viewed as a compliant agency charged with giving articulation to collective identity. Rather the state is subject to forces and imperatives that derive from the tasks of preserving the borders, economic well-being and political security. Therefore, we cannot simply transfer the concept of recognition and claim that wherever collective identities exist, there must also be a struggle for recognition. Between the supposed need of a people to have their own, however fragmented, "identity" respected by foreign nation-states, there are always the self-standing functional imperatives of political control [*Steuerung*] and the preservation of power. The psychological concepts we use when we speak of "strivings", "needs" and "feelings" are thus inappropriate for describing international relations. State actors do not have mental attitudes, but are authorities charged with carrying out politically determined tasks.

Now, on a theoretical level, there is a concept of "recognition" that is applied to international relations as a matter of course. According to the statutes of international law, a politically organized community only comes into legal existence by virtue of being recognized by other internationally "recognized" states. One of the tasks of a government's foreign policy thus consists in examining whether a certain community, which regards itself as a state, actually meets the generally defined prerequisites of a "state."[7] Hans Kelsen maintains that this act of legal recognition is a necessarily reciprocal act, because a newly recognized state can only be viewed as a full-fledged member of the international community if it recognizes the states that offer it recognition in turn. As long as a state fails to return the recognition extended to it, the birth of a state within the international community will remain incomplete,

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[7] See Kelsen, H., "Recognition in International Law: Theoretical Observations," *The American Journal of International Law*, 35, October 1941, no. 4, pp. 605–617.

because that state will not yet have proven its competence as a member of the legal community of states.[8]

At the same time, however, Kelsen emphasizes that in acts of recognition between states, a government only officially takes note of or cognizes an empirical reality, rather than conveying its respect for that state. If a state recognizes another political community within the framework of international law, this only means that the recognizing state regards the recognized state as having fulfilled the conditions of statehood. This type of recognition, therefore, is not normative, but instead expresses that state's cognition of a given state of affairs: "The legal act of recognition is the establishment of a fact; it is not the expression of a will. It is cognition rather than re-cognition."[9] In order to speak of "recognition" between states in the true sense of the term, Kelsen claims that there must be a certain amount of room for decision. This would not involve examining a *fait accompli* in order to perhaps draw the conclusion that a state deserves recognition; rather, a decision would have to be made as to whether more intense and benign relations should be taken up. According to Kelsen, it is only at this second stage that we can justifiably speak of an act of recognition between states. This would not refer to the consequence of a state's cognition of an empirical fact, but to a government's free decision to enter into a positive relationship with another state. Kelsen terms these acts of recognition "political" in order to emphasize their specificity. With a political act of recognition, a government expresses its intention to treat another state as an equal member of the international community. Even if Kelsen primarily focuses on the establishment of diplomatic relations and trade agreements, his conceptual proposal provides us with a key to pursuing the above-mentioned institutions on a theoretical level. Obviously, what we mean when we speak of recognition between states, of disrespect and indignity, lies on the same level that Kelsen has in mind when he speaks of "political" acts of recognition.[10]

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[8] Ibid, p. 609.

[9] Ibid, p. 608.

[10] On this perspective within the theory of international relations, see Wolf, R., "Respekt," op. cit.; Hacke, J., "The Frankfurt School and International Relations: On the Centrality of Recognition," *Review of International Studies*, 31, 2005, pp. 181–194.

The first step we would have to take in order to get a better grasp of the issue consists in emphasizing the sources of legitimacy that bind the conduct of state actors. The latter cannot carry out the task of foreign political self-assertion without considering whether the manner in which they fulfill that task conforms to the presumed expectations of the population. The manner in which a government defends the nation's security, political clout and economic prosperity must be made dependent upon the consent of the nation's citizens, if only to demonstrate the government's operational capacity. The necessity of legitimacy in foreign policy even holds true for non-democratic political systems. Even in authoritarian states or dictatorships, such as Iran or China, rulers and political elites usually understand that their authority is wholly dependent on the degree of public consent to their actions. We can assume that a state's citizens, regardless of the cultural, ethnic or religious differences that might divide them, are very keen on seeing their country accorded due respect and honor by other countries. The political representatives of other communities are to "recognize" that upon which a community founds its self-image – the challenges it has overcome in the past, its power to resist authoritarian tendencies, its cultural achievements, etc.[11] We mustn't make the mistake of immediately equating such desires with nationalism or feelings of supremacy over other peoples. This is not only because the collective identity of a state-organized community can no longer found itself on historical or ethnic commonalities,[12] and not only because the processes of cultural globalization run counter to any such will to supremacy. Rather, the desire for international recognition of everything that makes up a nation's self-respect is fundamentally directed toward the involvement, and not the exclusion, of other states. Mundane examples for such desires can be found in the often bemusing excitement that can envelop an entire population as soon as its team brings home a victory in an international sport event, or in the naïve pride with which a country's citizens attempt to draw the attention of visitors to cultural productions that honor the past of one's own community. That is neither

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[11] See Rawls, J., *The Law of Peoples*, Harvard University Press, Cambridge 2001.

[12] See Habermas, J., "Historical Consciousness and Post-Traditional Identity: Remarks on the Federal Republic's Orientation to the West," *Acta Sociologica*, 31, 1988, 1, pp. 3–13.

nationalism nor even constitutional patriotism [*Verfassungspatriotismus*], because it neither demonizes other peoples nor necessarily expresses a positive opinion about one's own democratic constitution. Instead, this represents a striving for a form of collective recognition, without which a collective identity could not be maintained in an unequivocal and unbroken fashion.

It is this kind of collective expectation on the part of a country's population to which a state's political agents must remain attached in their foreign-political activities. In order to legitimate their own actions, they understand that they will have to appropriately display those features of their country that deserve recognition *while* carrying out their functionally defined tasks. Therefore, the collective striving for recognition is not just one particular function within the spectrum of a state's tasks, rather it colors and underlies the way in which political agents fulfill the tasks assigned to them by the nation's constitution.

In order to understand the alternatives open to state actors in this context, we need to take the next step in our analysis. We need to get a clear picture of the symbolic horizon of meaning that necessarily encompasses the entirety of state conduct. Political measures and actions have a whole series of meanings beyond their expressly formulated content, and which are communicated through the manner of their implementation. This involves the use of certain easily understood metaphors, historically trained rituals, even the conscious manipulation of facial expressions and gestures at summits and other political events. These are all parts of the arsenal of symbolic means with which state actors can intentionally communicate messages that go beyond the "official" content of their communiqués.[13] Presumably, much of what Kelsen terms "political recognition" goes on in the symbolic staging of foreign policy. Statements intended to raise awareness for the collective identity of one's own country, or to express respect for the achievements of another country's population, are not normally an explicit part of a given political transaction, but are contained in the manner in which these transactions are concluded and presented. Of course, there will

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[13] Edelman, M., *The Symbolic Uses of Politics*, The University of Illinois Press, Urbana 1964. For a critique of this book, see Honneth, A., – Paris, R., "Zur Interaktionsanalyse von Politik", *Leviathan*, 7, 1979, 1, pp. 138–142.

always be cases in which government representatives believe they are acting in accordance with the political mood of their home country when they explicitly express a certain measure of recognition for the culture of another nation's population. A striking example is President Obama's astounding speech at Cairo University in June 2009 before a large number of political and intellectual representatives of the Islamic world. From greeting the audience in Arabic to his repeated mentions of the cultural achievements of Islam, his entire speech sought to remove the impression of disdain in many Arab countries during the Bush years. But much less common are instances in which a political actor explicitly demands respect for the collective identity of his or her own nation's population. The desire to maintain the appearance that one's own nation is unaffected by other nation's opinions, the aim of avoiding public embarrassment, and the etiquette of diplomatic encounters – all that usually prevents a people's desire for recognition of its collective identity from being directly and openly expressed by its political representatives. This recognitional dimension of international relations is thus typically expressed indirectly and symbolically. Behavior that serves to express a state's interest in self-assertion is staged so as to implicitly convey a finely calculated game in which respect and disrespect, desires for recognition and experiences of humiliation, find expression.

Therefore, distinguishing a strategic dimension of self-assertion from a normative dimension of recognition is problematic. In their transactions with other states, political actors do not initially pursue purely purposive-rational aims such as preserving power and maximizing welfare, in order to subsequently grant or revoke recognition. Rather, states always define their interests within a horizon of normative expectations they presume their citizens to have in the form of diffuse desires for the recognition of their own collective identity or that of another collective. Therefore, it is wrong to initially assume a primary, isolated layer of purely strategic intentions and calculations. State actors cannot formulate such interests without considering the needs for recognition they can presume on the part of the fragile collective that is their own population, as well as the needs for moral reparations harbored by an equally porous foreign population. Because political representatives must preserve legitimacy by acting as interpreters of the experiences and desires of their own respective citizenry, all encounters and relationships between states stand under moral pressure generat-

ed by a conflict over recognition. Issues of this kind – the need for an appropriate self-image in the eyes of the world, the defense against the shame of collective humiliation, the desire to make reparations for unjust deeds – determine the execution of foreign policy to a degree that makes analytical differentiation impossible.

All this, however, relates solely to the descriptive level of an analysis of international relations. When it comes to explaining international relations, it is unwise to assume a certain bundle of interests that refer exclusively to a state's desire for self-assertion, in order to then subsequently add a diffuse "need" for recognition. Rather, state actors define what they regard as necessary for the preservation of the country they represent in light of their interpretations of the desires for recognition held by the citizenry. Naturally, rulers or state representatives have a certain amount of leeway in interpreting the smoldering, diverse and hardly organized sentiments of the population in one direction or another, that is, in emphasizing either the conciliatory or the hostile elements of the public mood. Only in democratic states, in which the constitution itself is a principles-based interpretation of the nation-state's identity, are rulers compelled to obey certain guidelines in the fulfillment of such collective strivings for recognition. But in no state can political actors simply ignore the population's demands concerning their collective identity, because this would mean risking the loyalty of the population. Therefore, when political agents interpret and execute the functions accorded to them, they must always consider the expectations of their citizens about the conduct of other states. Authors who, like Hegel, refuse to accept such a connection between foreign policy and collective strivings for identity in the case of civilized states don't have a clear grasp on the significance of the need to secure legitimacy. They believe instead that in explaining international relations, they can ignore moral demands emerging from collective identities, because they refuse to recognize that even modern, functionally differentiated states depend on the consent of the citizens.

If we search out illustrative examples in the recent past, we will find a number of both positive and negative cases. At the negative end of the spectrum, we would find National Socialism's policy of territorial expansion, which cannot be explained without reference to widespread feelings of collective humiliation among the German population due to the Treaty of Versailles. These feelings even found their way into the

definition of external enemies. In this case, it is almost impossible to examine Nazi foreign policy without reference to the successful attempt to take diffuse feelings among the population and concentrate them upon a feeling of national humiliation due to the Treaty of Versailles, thereby creating a justification for an aggressive policy of reparations and revenge.[14] At the other, positive, end of the spectrum, we could cite an example from the very recent past: the new American president's efforts at reconciliation with the rest of the world. We cannot explain these efforts adequately without seeing in them an attempt to overcome a widespread feeling of isolation and shame among the American population. Certainly, both examples are extreme cases of politically mediatized struggles for recognition. In the first case, political rulers formed a narrative of justification on the basis of a diffuse mood among the citizens, which allowed the rulers to engage in a campaign of conquest and revenge. In the second case, a democratically elected president with impressive rhetorical skills has interpreted the paralyzing unease of the majority in a way that allows him to justify reconciliatory gestures toward currently hostile governments. Both examples, different as they are, clearly illustrate that we cannot divorce a nation's foreign-political aims from the respective demands of the nation's collective identity. The manner in which states react to each other, and the forms of relation they maintain with each other, derives from a fusion of interests and values brought about by both sides. This fusion consists in the disclosure of foreign-political goals from the perspective of the hypothetical community that joins together a population, and which is interpreted as a collective that is striving for recognition. Therefore, the psychological terminology I recommended avoiding above has a place after all – not as an element of our theoretical language, but as one of the objects of that language in political reality. And in that reality, state actors must interpret the population's moods, making use of concepts related to strivings for recognition and historical humiliation.

At the same time, the moral spectrum illustrated by these two examples also gives us a clear demonstration of just how many directions

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[14] See Cohrs, P., *The Unfinished Peace after World War I: America, Britain and the Stabilisation of Europe, 1919-1932*, Cambridge University Press, Cambridge 2006. (I owe this reference to Volker Heins.)

the political mobilization of collective sentiments can take. The desire to have one's own collective identity be recognized by other peoples can be used to legitimate both an aggressive policy of conquest and a deescalating policy of reconciliation. This raises questions that are no longer merely descriptive, but that touch on the normative dimension of a theory of international relations.

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In my opinion, we cannot further differentiate the type of recognition that plays a constitutive role in the explanation of the dynamics of international relations. Unlike social groups or movements, whose own statements can be used to draw conclusions about the specific type of collectively desired recognition, national collectives are far too amorphous for us to be able to make comparable differentiations. Instead, we must content ourselves with the relatively vague assumption that the members of a nation-state generally have a diffuse interest in having their collective self-respect be respected by other states, and in receiving recognition for their common culture and history. Differentiations between various modes of recognition, such as are made in the realm of intersubjective relations,[15] seem inappropriate on the highly-aggregated level of entire populations. It is almost impossible to tell whether such populations are striving for signs of goodwill, legal equality, or esteem in the eyes of the other side, because their individual members' motives are too diffuse and their aims are insufficiently integrated.[16] In any case, such differentiations play a very marginal role in the explanation of international relations. What is decisive is not the type of recognition for which a certain population "actually" strives, but how political actors and rulers interpret its respective moods. The "we" of the population, which will always have an influence on the definition of foreign-politi-

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[15] See Honeth, A., *Struggle for Recognition*, op. cit., Ch. 5.

[16] That is why I have doubts about the proposal made by Erik Ringmar in his essay in the present volume – an essay that is otherwise highly valuable.

cal objectives, is not an empirical but a hypothetical quantity. It arises when disordered and presumed expectations and moods are formed into a collective narrative that makes a certain type of international stance appear justified in the light of past humiliations or desired recognition.[17]

Such narratives of justification give us a key to answering the normative questions that arise when it comes to shaping international relations.[18] After all, the shape of international relations determines the chances for changing these relations so as to reduce martial conflicts and improve prospects for peaceful cooperation. As soon as we turn away from the descriptive problems of a theory of international relations and turn toward the normative problems these relations entail, we must adopt a different perspective on actual conflicts in the world. We then no longer ask how to properly understand conflicts between states, but which measures would have to be taken in order to make such conflicts less likely and raise the chances for a more peaceful state of international affairs. This second category of questions, however, cannot be wholly separated from the first, because only an appropriate understanding of the causes of international conflict can enable us to envision solutions for overcoming the prevailing state of affairs. The "realism" of our normative considerations and utopias[19] will increase to the extent that we have correct hypotheses about the considerations that underlie how state actors and governments plan and calculate their relations with other states. The theoretical assumptions I developed in the first section of the essay play a central role at the juncture between empirical facticity and normative considerations. If it is true that states can only define their international relations by including narratives of justification containing a credible and convincing interpretation of the population's interests in collective self-respect, then "political" relations of recognition at the international level indirectly take on decisive importance as soon as we seek to reduce conflicts between states.

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[17] For the logic of such constructions, see Anderson, B., *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, Verso, London 1983.

[18] On the concept of "narratives of justification," see Forst, R., – Günther, K., "Über die Dynamik normativer Konflikte. Jürgen Habermas' Philosophie im Lichte eines aktuellen Forschungsprogramms," *Forschung Frankfurt*, 2, 2009, pp. 23–27.

[19] See Rawls, J., *The Law of Peoples*, op. cit., § 1.

This basic normative idea results from the close connection be-
tween collective feelings on the one hand and political narratives of
justification on the other. State actors can only disclose and define
foreign-political aims by viewing their citizens' elementary desires for
security and prosperity in the light of interpretations that constitute
a narrative synthesis of the diffuse expectations of the population. At
the same time, very narrow limits are imposed on these interpretations,
because a summarizing construction of collective feelings must prove
to be a halfway appropriate and convincing interpretation of the citi-
zenry's actual, if diffuse, expectations. Narratives intended to justify a
hostile and aggressive pursuit of foreign-political interests can remain
intact only as long as the population has perceptible grounds for feel-
ing that their collective self-respect has been violated or insulted by the
conduct of other states. If there is no evidence for such disrespect, feel-
ings of humiliation and degradation will not be able to spread among
the fragmented publics in which citizens move, and the narratives in
play will fast lose credibility and thus become incapable of playing its
legitimating role. What is true in the case of aggressive foreign policy
can also apply to a policy of willing cooperation and reconciliation.
A narrative interpretation that supports such conduct can only be up-
held as long as the feeling of having one's own collective self-respect
be disrespected by other states does not gain the upper hand. In both
cases, the collective feelings of a population that follows the signals of
other states with interest and suspicion will prove to be the decisive
measure for the success of foreign-political narratives of justification.
The greater the distance between the diffuse moods among the citi-
zenry and the official justifications for political conduct, the more dif-
ficulties state actors will have maintaining foreign-political objectives.
Therefore, perhaps we could say that states indirectly codetermine the
foreign-political conduct of other states, because the symbolic means
with which they convey respect and recognition for other nations con-
stitute an instrument for influencing the formation of public opinion
and mood in other countries.

All these considerations have taken us a long way toward answering
the normative questions at issue. We saw that the entirety of a state's
foreign-political conduct stems from a specific interpretation of inter-
ests and values. This interpretation must coordinate the functional
requirements for maximizing security and prosperity with the pub-

lic's expectations about other states' recognition of its own collective identity. For that reason, state actors or governments must base their conduct on narratives meant to justify, in light of historical events and episodes, pursuing the state's interests in an either cooperative or aggressive manner. At the same time, however, we saw that states also exercise an indirect influence on how other states legitimate their foreign policies, because they can influence the formation of public opinion and mood from abroad. The diverse tools used to signal recognition or disrespect constitute a means for casting doubt upon other states' narratives of justification by demonstrating a divergent view of those states' collective identity. These measures drive a wedge between the self-justifications of state actors and the political will-formation of the population; by means of credible expressions of respect and recognition, they attempt to convince another citizenry to mistrust their government's narratives of justification. Although the history of international relations is brimming with examples of such behavior, they play a very marginal role in the theory. Because the latter interprets state activity largely according to the model of purposive-rational behavior, it lacks the conceptual framework for according the affective dimension of international relations of recognition their proper place. On the normative level, this ignorance comes back to haunt the theory in the form of a procedural lack of fantasy regarding the chances for reducing hostile conflict and expanding relations of peaceful cooperation. The theory instead restricts itself to compromises and agreements under international law, even though the history of international conflict teaches us that collective feelings of recognition or humiliation by other states play a much more significant role.

The path for civilizing international relations primarily lies in sustained efforts at conveying respect and esteem for the collective identity of other countries. Even before legal agreements aimed at promoting peace can do their work, and even before the cultivation of diplomatic relations and economic agreements can reduce international tensions, we need publicly visible signals that the history and culture of other nations are worth being heard among the cacophony of the world' peoples. Only by means of such recognition, which goes over the heads of government representatives and political agents, can we ensure that the citizens of another state no longer believe the demonization practiced by political elites, and that they can begin to trust that the

other side respects them. The history of international relations contains
enough examples proving that a violation of this normative principle
only raises the danger of international conflict, while demonstrable
respect for this principle has reduced the potential for such conflicts.
Willi Brandt's famous "Warschauer Kniefall" was an internationally
perceptible gesture that made it nearly impossible for the Polish gov-
ernment to awake formerly prevalent prejudice and resentment about
the FRG.[20] Europe's (and especially Germany's) ignoring of the harsh
and determined struggle of the Serbs against the Nazis prepared the way
for a fatal policy of overly hasty international recognition of individ-
ual ex-Yugoslavian states (Croatia, Kosovo), which drove Serbia's gov-
ernment into increasing isolation and thereby ultimately strengthened
ultra-nationalistic narratives among the Serbian public.[21] The lacking
sympathy, and perhaps even a total absence of solidarity, on the part
of internationally dominant states for the demeaning situation of the
Palestinian population continue to fuel a situation in which the local
ruling elites' fantasy of taking revenge on Israel finds collective support
among the lower, impoverished classes.[22]

We could easily expand this list of examples. We might think of
the constant stream of new members joining Islamist terrorist organi-
zations over the last several years in order to get a sense of the effects
of a policy that fails to extend recognition to other peoples, an act of
recognition that would go over the heads of state authorities. The first
step toward reconciliation between states, toward developing peaceful
and cooperative relations, will always consist in using the soft power of
respect and esteem, which signals to a foreign citizenry that its cultural
achievements are in no way inferior, and that it can count on others'
sympathy for its sufferings. The more explicit we demonstrate such

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[20] For an analysis, see Schneider, Ch., *Der Warschauer Kniefall. Ritual, Ereignis und Er-
zählung*, UVK Verlagsgesellschaft, Konstanz 2006; Wolffsohn, M. – Brechenmacher, T.,
Denkmalsturz? Brandts Kniefall, Olzog, Munich 2005.

[21] Despite all the idiosyncrasy and hyperbole of Peter Handke's political statements on
the wars in the former Yugoslavia, his critique of Western Europe's lack of respect for
the sufferings of the Serbian population is nevertheless compelling.

[22] See "Suicide Bombers: Dignity, Despair and the Need for Hope," An interview with
Eyad El Sarraj, *Journal of Palestine Studies*, 31, 2002, 4, pp. 71–76. I owe this reference to
José Brunner.)

recognition, the more visible these demonstrations will be to other peoples, and the more we can cast doubt on demonizations serving to justify hostile reactions. The best means a state has at its disposal for counteracting demonization and resentment on the part of other nation-states consists in globally visible and clear signals of willingness to include other citizenries in the international moral community.

Certainly, such symbols of political recognition are not enough to create a solid basis for transnational cooperation. We need to follow up on efforts to overcome rejectionist attitudes arising from experiences of collective humiliation, to undermine historically grounded and yet long-exploited demonizations, by taking steps toward contractual agreements that secure peaceful relations and long-term arrangements on how to coordinate efforts to meet common challenges. On the basis of that cooperation, more stable networks of transnational communities can arise,[23] such as we might find in the process of European integration.[24] But before such a decentering of state politics can take place, different citizenries must have the experience of recognizing each other's cultural productions and historical achievements, both of which make up the conditions of their collective self-respect. A political theory that fails to gain conceptual access to these affective roots of transnational confidence-building will also be unable to appropriately conceive the normative conditions for civilizing world politics. Therefore, it is time that we view international relations in a new light – one that differs from the view of Hegel and the political realists following in his wake.

Translation by Joseph Ganahl

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[23] See Brunkhorst, H., "Demokratie in der globalen Rechtsgenossenschaft – Einige Überlegungen zur posstaatlichen Verfassung der Weltgesellschaft," *Zeitschrift für Soziologie. Sonderheft "Weltgesellschaft,"* 2005, pp. 330–347.

[24] Bach, M. (ed.), *Die Europäisierung nationaler Gesellschaften*, Westdeutscher Verlag, Wiesbaden 2000.

References

Anderson, B., *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, Verso, London 1983.

Bach, M. (ed.), *Die Europäisierung nationaler Gesellschaften*, Westdeutscher Verlag, Wiesbaden 2000.

Brunkhorst, H., "Demokratie in der globalen Rechtsgenossenschaft – Einige Überlegungen zur posstaatlichen Verfassung der Weltgesellschaft," *Zeitschrift für Soziologie. Sonderheft "Weltgesellschaft,"* 2005, pp. 330–347.

Cohrs, P., *The Unfinished Peace after World War I: America, Britain and the Stabilisation of Europe, 1919-1932*, Cambridge University Press, Cambridge 2006.

Edelman, M., *The Symbolic Uses of Politics*, The University of Illinois Press, Urbana 1964.

Forst, R., – Günther, K., "Über die Dynamik normativer Konflikte. Jürgen Habermas' Philosophie im Lichte eines aktuellen Forschungsprogramms," *Forschung Frankfurt*, 2, 2009, pp. 23–27.

Habermas, J., "Historical Consciousness and Post-Traditional Identity: Remarks on the Federal Republic's Orientation to the West," *Acta Sociologica*, 31, 1988, 1, pp. 3–13.

Habermas, J., "Struggles for Recognition in the Democratic Constitutional State," in: Ch. Taylor, et al., *Multiculturalism*, Princeton University Press, Princeton 1994, pp. 107 ff.

Hacke, J., "The Frankfurt School and International Relations: On the Centrality of Recognition," *Review of International Studies*, 31, 2005, pp. 181–194.

Hegel, G. W. F., *Philosophy of Right*, trans. by T. M. Knox, Oxford University Press, Cambridge 1967.

Honneth, A., – Paris, R., "Zur Interaktionsanalyse von Politik", *Leviathan*, 7, 1979, 1, pp. 138–142.

Honneth, A., "Redistribution as Recognition," in: N. Fraser – A. Honneth, *Redistribution or Recognition? A Political-Philosophical Exchange*, Verso, London – New York 2003, pp. 110 ff.

Honneth, A., *The Struggle for Recognition: The Moral Grammar of Social Conflicts*, Polity Press, London 1995

Kelsen, H., "Recognition in International Law: Theoretical Observations," *The American Journal of International Law*, 35, October 1941, no. 4, pp. 605–617.

Nye, J., *Soft Power: The Means to Success in World Politics*, Public Affairs, New York 2004.

Rawls, J., *The Law of Peoples*, Harvard University Press, Cambridge 2001.

Schneider, Ch., *Der Warschauer Kniefall. Ritual, Ereignis und Erzählung*, UVK Verlagsgesellschaft, Konstanz 2006.

Schneider, Ch., *Der Warschauer Kniefall. Ritual, Ereignis und Erzählung*, UVK Verlagsgesellschaft, Konstanz 2006; Wolffsohn, M. – Brechenmacher, T., *Denkmalsturz? Brandts Kniefall*, Olzog, Munich 2005.

Taylor, Ch., et al., *Multiculturalism*, Princeton University Press, Princeton 1994.

Wolf, R., "Respekt: Ein unterschätzter Faktor in den internationalen Beziehungen," *Zeitschrift für Internationale Beziehungen*, 15, 2008, 1, pp. 5–42.

Interstate Recognition and Its Global Overcoming: Extra-territorial Recognition

Marek Hrubec

> *„Global social and economic processes bring individuals and institutions into ongoing structural connection with one another across national jurisdictions. Adopting a conception of responsibility that recognizes this connection is an important element in developing a theory of global justice."*
>
> Iris Marion Young, *Responsibility and Global Justice*

The theme of social, economic, political and legal aspects of an arrangement beyond the boundaries of a nation state has become important especially in the last decades of intensified global interactions, mainly after the fall of the bipolar world. In this paper, I will focus on recognition among states and on its relation to recognition on the transnational and global levels. Specifically, I will analyse a concept of interstate recognition developed by Axel Honneth within his ground-breaking Critical theory of recognition.[1]

Axel Honneth articulates developmental trends that are detectable in the moral grammar of social conflicts based on struggle for recognition in the West in the time-frame of the past few centuries. The concept of the polemical relationships of mis/recognition between states is one of the specifications of this concept of social conflicts.[2] Although Honneth's analysis of the order beyond nation-states has not been fully developed yet, it has opened many very relevant and provocative questions. In general, it is possible to say that, compared to analyses of local and national levels of recognition, analyses of recognition beyond the borders of the jurisdiction of a state are not yet sufficiently detailed and require further research.

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[2] Particularly: Honneth, Axel, "Recognition between States, On the Moral Substrate of International Relations", see above in this book.

Analyses of the struggle for recognition among states need further conceptual distinction between the different relations crossing state borders. If we divide these topics into classic international issues and current transnational and global issues, Honneth's analyses are based primarily on the category of international order.[3] He refers to the main focus of his position as an analysis of recognition between states. We might talk of the concept of international order, as he himself uses the term "international" as a synonym for "interstate".[4]

That is not to say, however, that Honneth wishes to attribute normative priority to states and the relations of recognition between them, and examine his position simply within the theory of national and international relations. His general social theory also analyses a surplus of normative validity which is expected to correspond to the developmental tendencies of the patterns of recognition. Thus, his theory should also include the trends of transnational and global development. Of course, this raises considerable attention and questions among many scholars who continue to build on or develop the concept of international order, or proceed beyond it to the macro-regional and global levels. However, because Honneth has not focused on interstate relations in the explicit way of many papers so far, it is necessary to explore, not only his texts which are dedicated directly to that theme,[5] but also to his specific theses in the texts which have a different focus as main subject of study.[6]

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[3] Honneth makes a classic differentiation into individual states, and examines particularly with states in the international context. He does not deal with relations between peoples, as performed by Rawls, for example. Rawls, J., *The Law of Peoples with „The Idea of Public Reason Revisited"*, Harvard University Press, Cambridge, Mass. – London 1999.

[4] Honneth, A., "Recognition between States".

[5] The principal analyses should focus primarily on the already mentioned text: Axel Honneth, "Recognition between States"; See also his paper on philosophical bases of the international covenants, specifically on human rights: Honneth, A., "Is Universalism a Moral Trap? The Presuppositions and Limits of a Politics of Human Rights", in: J. Bohman – M. Lutz-Bachmann (eds.), *Essays on Kant's Cosmopolitan Ideal*, MIT Press, Cambridge, MA, 1997, pp. 155–178. In German: Honneth, A., „Universalismus als moralische Falle? Bedingungen und Grenzen einer Politik der Menschenrechte", in: A. Honneth, *Das Andere der Gerechtigkeit. Aufsatze zur praktischen Philosophie*, Suhrkamp, Frankfurt/M. 2000, pp. 255–281.

[6] Honneth, A., *The Struggle for Recognition: The Moral Grammar of Social Conflicts*, The

I will address these issues in the following order. In the first part of my paper, on the metatheoretical plane, I will touch on Honneth's conception of moral realism, and specify it with regard to the issue of the legitimacy of states. Then, I will focus on the fundamentals of Honneth's concept of recognition between states, and dwell on the necessity of recognition for each state, including an issue of the relationship between the state and political and cultural recognition. This reconstruction of several important characteristics of Honneth's concept can serve especially as a kind of introduction, and can be more or less skipped by those who have analysed Honneth's piece on interstate recognition published above even if they can follow my focus on the specific dimensions of his concept which can illuminate my interpretation in other parts of this paper. In the second part, I will formulate the dilemmas and limits of the concept of interstate recognition, especially in view of the globalization processes and in relation to a concept of the individual in relations of mutual recognition in a community. Then, I will discuss Heins's and Pogge's inadequate transposition of the patterns of social relations from the national plane to the international and global plane. In the third part, I will focus on developmental tendencies of international and global recognition, and recall a part of my own theory that is focused on an important transitory concept of extra-territorial recognition. In the fourth part, I will analyse possibilities and ambivalences of the global state, following especially Alexander Wendt and William Scheuerman. In the end, I will conclude by stressing the concept of extra-territorial recognition, and showing possibilities of the further examination of a theory of recognition at the transnational and global levels.

MIT Press 1996. In German orig.: *Kampf um Anerkennung. Zur moralischen Grammatik sozialer Konflikte*, Suhrkamp, Frankfurt am M. 1992; Fraser, N. – Honneth, A., *Redistribution or Recognition? A Political-Philosophical Exchange*, Verso, London 2003. In German: *Umverteilung oder Anerkennung?: Eine politisch-philosophische Kontroverse*, Suhrkamp, Frankfurt am M. 2003; Honneth, A., *Freedom's Right: The Social Foundations of Democratic Life*, Columbia University Press 2014. In German orig.: *Das Recht der Freiheit. Grundriß einer demokratischen Sittlichkeit*, Suhrkamp, Frankfurt am M. 2011. See also some analyses of Honneth's team in the book he edited: Honneth, A. (ed.), *Befreiung aus der Mundigkeit. Paradoxien des gegenwartigen Kapitalismus*, Campus 2002.

1. Interstate Recognition

Before addressing the proper issue of recognition between states, it is important to deal at least briefly with a metatheoretical concept of realism, and distinguish Honneth's concept from other ones, especially from Rawls's one which is discussed in this context as well and mentioned also by Honneth. There seems to be a certain similarity between Honneth and Rawls because both share a kind of realism, although more detailed specifications show that the two concepts of realism differ. While Rawls gave up a connection of normative theoretical and empirical kinds of research and focused only on normative constructivism, he accedes at least formally to one version of a concept of realistic utopia, which, on the one hand, transcends reality with the certain normative vision and, on the other hand, limits normativity by the realistic applicability of its design.[7] His concept is designed for "reconciliation" with the social world, which for Rawls means that it is proven that there is a real possibility of the certain kind of society and politics, even if it is not based on the struggles for justice in reality but only in Rawls's individual vision.

Although Rawls keeps to this formulation of a realistic utopia, in the background of his reasoning lurks another idea which, while not directly included in his definition of a realistic utopia, is an integral component of his political theory. At play here is not merely a pragmatic consideration of feasibility trying to avoid more demanding requirements of the people and to establish a compromise solution in real politics. His version of a realistic utopia includes the element of civil legitimacy as well. This element is also close to Honneth's concept of moral realism at first sight. However, unlike Rawls, Honneth does not concentrate only on the practical application of normativity into the framework of problematic legitimacy of a momentary time cut, but he views it systematically within the framework of his concept of moral realism[8]

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[7] Rawls, J., *The Law of Peoples*, Harvard University Press, Cambridge 2001, pp. 4, 5–6, 16–17.

[8] Honneth elaborates on his arguments regarding moral realism in this sub-chapter, for example: Critical Social Theory and Immanent Transcendence. In: Fraser, N. – Honneth, A., *Redistribution or Recognition*, op. cit., pp. 238–247.

which enables his theory to draw on the long-term social struggles and their normative demands for legitimacy in general. He develops not only a conception of the synchronic spheres of recognition but also, and mainly, a conception of the diachronic, historical development of patterns of recognition. From this point of view, Honneth's concept of realism can extend beyond a description of the situation between states in the momentary time cut and target a normative articulation of long-term tendencies of struggles against misrecognition between states.

As for the longer conceptual history, Honneth follows Hegel in many respects,[9] as is well known, but takes a different path in recognition between states[10] because Hegel associates recognition only with the claims of nations as yet unrecognized, i.e. nations which do not yet feature as actors in international relations.[11] However, Honneth is aware that, while the pursuit of recognition is a common part of the vocabulary of individual governments or states, consideration of this vocabulary urges a more cautious approach toward the use of the concept of recognition in international relations. Moreover, while purposefully rational arguments about relationships between states prevail in theoretical considerations dealing with international relations, the term recognition is used in a different sense in the sphere of theory in international law than that intuitively perceived and implemented in philosophical tradition associated especially with existentialist connotations. It is important that the definition of the state, in international-law discourse, whether theoretical or practical, usually requires not only people (a population), territory, and a government but also the ability to enter into relations with other states, which implies one or the other kind of external recognition by other states.[12] The struggle

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[9] Honneth, A., *Suffering from Indeterminacy. An Attempt at a Reactualization of Hegel's Philosophy of Right*, Van Gorcum, Amsterdam 2000. The German version: *Leiden an Unbestimmtheit: Eine Reaktualisierung der Hegelschen Rechtsphilosophie*, Reclam 2001; Honneth, A., *Freedom's Right*, op. cit.

[10] Honneth, A., "Recognition between States"; Cf. Honneth, A., "Is Universalism a Moral Trap?", op. cit.

[11] Hegel, G. W. F., *Elements of the Philosophy of Right*, Cambridge University Press, Cambridge 1991.

[12] Cf. analysis recognizing the legitimacy that a state receives from other states on the basis of fulfilling certain criteria of justice: Buchanan, A., "Recognitional Legitimacy and

for recognition here goes beyond the scope of psychological interpretation which concentrates on the relations between human individuals or smaller groups of persons.

To specify the kinds of recognition between states, it is relevant to see Honneth's polemic with Hans Kelsen when Honneth questions his reduction of recognition to descriptive registration of the fact of the existence of one state by another state.[13] Although Kelsen grasps legal recognition as a reciprocal act between two or more entities, he perceives recognition in a relatively narrow sense of cognition, i.e. only as an act of a government acknowledging the existence of another state. This is not an active volitional relationship with another, but only confirmation of a fact. However, as recognition requires the real possibility of a decision and not just a confirmation of the status quo, according to Kelsen this is not re-cognition but mere (one-off) cognition.

While this Kelsen's interpretation is considered unconvincing by Honneth, he finds an adequate interpretation in one of Kelsen's distinctions – the distinction between legal and political recognition.[14] While legal recognition as mere cognition is effectively no recognition for Kelsen, he considers "political" acts of recognition, through which governments positively or negatively relate to the governments and citizens of other countries, to be understandable and real. He takes the term political recognition to mean roughly what Honneth calls recognition in general.

More specifically, political recognition can be grasped as part of Honneth's broader concept of recognition that also includes legal recognition.[15] Although political recognition can also be viewed as specific,

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the State System", *Philosophy & Public Affairs*, 28 Jan. 1999, 1, pp. 46–78. Disputation with this approach is offered, for example, by justification recognizing legitimacy from a pragmatic point of view: Naticchia, C., "Recognition and Legitimacy: A Reply to Buchanan", *Philosophy & Public Affairs*, 28 July 1999, 3, pp. 242–257.

[13] Honneth, A., "Recognition between States"; Honneth analyses particularly the text: Kelsen, H., "Recognition in International Law: Theoretical Observations", *The American Journal of International Law*, 35, Oct. 1941, 4, pp. 605–617.

[14] Kelsen, H., "Recognition in International Law", op. cit.

[15] See the analyses of Honneth's earlier texts: Thompson, S., *Political Theory of Recognition. A Critical Introduction*, Polity Press, London 2006. Cf. with the later one: Honneth, Axel, *Freedom's Right*, op. cit.

it is also a more fundamental concept than legal recognition as, in a more detailed interpretation, it becomes evident that a legal relationship to other states is not possible without constantly assuming political recognition in the sense of obtaining affirming responses to efforts at official recognition of the collective identity of the state. Individual states need not only the legitimacy of their citizens, but also the legitimacy of the outside world beyond their borders. States receive neither of these types of legitimacy entirely automatically and permanently. In this regard, states, even those already recognized, are struggling for their recognition all of the time. This argument also applies to authoritarian states where the people have no real opportunity to participate in the running of the state. These states, too, if they do not wish to rely only on violence in the internal and external contexts, must strive for the certain legitimacy among their citizens and other countries. Furthermore, given that absolute violence is both unsustainable and pragmatically inefficient, each state works with legitimacy to a greater or lesser extent. In this sense, however, it would be more accurate to speak of the recognition of the legitimacy than, generally, of political recognition, which may include a wider range of recognition. However, as I have noted above, states also need long-term recognition, not only current legitimacy.

Honneth touches on yet another form of recognition sought by states, such being unofficial recognition (as opposed to the above-mentioned more official recognition) on both cultural and diplomatic planes. He refers to this as the symbolic space of meaning which creates the context of official political recognition. This kind of symbolic recognition is often implicit but no less significant. In fact, it is more fundamental. It is not purely purposefully rational action aimed at the pursuit of power and certain goods but a symbolic act that contains normative requirements which are based on the specific expectations. Therefore, it is impossible here to make a clean cut between strategic action and social action of a symbolic nature. This interconnection is not a haphazard and auxiliary explanation but corresponds with the above concept of interlinking the descriptive and normative aspects of recognition. This is also evident from military recognition, which, by contrast, is strongly linked with power and which may be symbolically manifested in conflict situations only by tacit recognition, i.e. tolerance in the form of the absence of military intervention.

Thus, the struggle for recognition between states may be perceived as long-term efforts aimed at respect developed from the perspective of members of the community of the state or, indirectly, their political and cultural representatives home and abroad. According to Honneth, such efforts struggle for recognition of a particular group of persons which, thus, takes on a specific bond of reciprocity, both within the group and with external entities providing recognition. These relations are not unidirectional since recognition is a reciprocal relationship, even if the parties can assume asymmetrical positions.[16]

2. The Dilemmas of Transcending Interstate Recognition

I will focus on dilemmas contained in Honneth's concept of relations between states, the dilemmas that are characteristic problems of similar concepts for other authors as well. At the same time, I will point out the potential that Honneth's theory of recognition offers for the redefinition of the concept of interstate recognition and, more generally, international relations and global interactions. Despite the fact that Honneth has yet to develop his concept of recognition in this direction, he presents strong arguments underpinning such development. I will pay attention to the difference between international and cosmopolitan theories, as well as to the conservativist reasons preventing theorists of international relations from advancing from an international theory toward the direction of a cosmopolitan theory. The progressivist perspective

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[16] Honneth's position is illuminated by seeing the conflict between the constitutive theory of statehood, which is based on the recognition of a state by other states, and declaratory theory, is not critical in this case because even declaratory theories eventually assume some, though not perhaps political, recognition by other states. This is evident in the 1933 Montevideo Convention on the Rights and Duties of States, where the explicit political existence of the state, in one sentence, is regarded as independent of recognition by other states but, in other sentences, certain forms of recognition are assumed, for example, in the matter of conserving peace by "recognized pacific methods". Cf. Wallace-Bruce, N. L., *Claims to Statehood in International Law*, Carlton Press, New York 1994.

does not mean a resignation on international issues but an inclusion of international relations into the broader global context which is very important, especially for the global development of the last decades.

Honneth is prevented from developing a more adequate theory by the fact that he underestimates the negative impacts of economic globalization. A concept of international relations is limited here because it is not able to cross relations between states and address the important problems of global capitalism. Many authors point out the influences on national social, economic, political and cultural phenomena in society caused by various problematic global, especially economic and financial, interventions that can substantially and rapidly worsen nation-states circumstances, such as standard of living, and can significantly compromise national and international justice.[17] As I will explain, a social theory, which would include analyses of the developmental transition from the theory of international interactions to global interactions, is more compelling than the traditional concept of international relations, which underestimates, or even ignores, the globalization-based economic and other pressures and opposing struggles for global justice.

However, even if Honneth's theory shares these shortcomings with the mainstream international theory, he offers a basis for overcoming them. While the mainstream (i.e. liberal) theories of international justice (be they formulated by John Rawls or other theorists), suffer from deeper social philosophical deficits, Honneth presents a way to transcend them by his theory of recognition. It can be illuminated by the problem of justice. The guaranteeing of justice and rights, including justice within international law, requires a certain political re-

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[17] So far, see, for example: Robinson, W., *A Theory of Global Capitalism: Production, Class, and State in a Transnational World*, Johns Hopkins University Press 2004; Linklater, A., *Critical Theory and World Politics. Citizenship, Sovereignty and Humanity*, Routledge, London – New York 2007; Linklater, A., *The Transformation of Political Community: Ethical Foundations of the Post-Westphalian Era*, Polity Press, London 1998; Forst, R., "Zu einer kritischen Theorie transnationaler Gerechtigkeit", in: R. Schmücker – U. Steinvorth (eds.), *Gerechtigkeit und Politik. Philosophische Perspektiven* (Sonderband 3 der *Deutschen Zeitschrift für Philosophie*), Akademie Verlag, Berlin 2002, pp. 215–232; Delanty, G., *The Cosmopolitan Imagination. The Renewal of Critical Social Theory*, Cambridge University Press, Cambridge 2009; Fraser, N., *Scales of Justice: Reimagining Political Space in a Globalizing World*, Columbia University Press, New York 2010.

sponsibility and solidarity, and therefore also identification with the political community. The key to identification with the community is basic good in the form of relations of mutual recognition.[18] Honneth observes:

> [...] Hegel, in contrast to Rawls, does not assume that this "basic good" is a good in the narrow sense, something which ought to be divided and distributed according to a just standard; rather, it seems that Hegel wants to advocate the idea that modern societies can be just only to the extent of their ability to enable all subjects to participate in this "basic good" equally.[19]

According to Honneth, although Rawls rightly opens an issue of the good in distributive social justice, he does not understand its foundation in the basic good of relation of social recognition, which is a prerequisite for any other goods and also justice in general.

Honneth is right when he stresses that if individuals were more rooted in the mentioned basic good, i.e. if they were involved in relationships of mutual recognition with others in the local community, they could be better integrated into relations within the national community relations and could demonstrate solidarity therein. Then, it is possible to add, they could smoothly go beyond this framework and, in solidarity, align themselves with the macro-regional or continental intercultural community on the higher level and the largest cosmopolitan community on the highest level as well. This version of the cosmopolitan theory develops half-forgotten elements of Hegelian philosophy establishing universalist characteristics of community. Although Honneth builds on Hegel's concept of recognition and community, he follows the more traditional version of his concept of international interactions and does not envisage a kind of a neo-Hegelian concept that would

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[18] Honneth, A., *Suffering from Indeterminacy*, op. cit.

[19] Ibid., pp. 27–28; cf. Honneth, A., *The Struggle for Recognition*, op. cit.; cf. also Taylor, C., "The Nature and Scope of Distributive Justice", in: C. Taylor, *Philosophical Papers 2. Philosophy and the Human Sciences*, Cambridge University Press, Cambridge 1985; Taylor, C., "Irreducibly Social Goods", in: C. Taylor, *Philosophical Arguments*, Harvard University Press, Cambridge, Mass. 1995.

transcend the boundaries of international politics and analyse various transnational and global issues, as some other contemporary authors do.[20] Therefore, the considerable potential offered by Honneth's general theory to a theory of global justice has not been used by him yet.

The main problem I find with Honneth's concept is the underestimation of transnational and global interactions, and consequently a certain reification of the nation state. This approach prevents him from grasping major evolutionary dynamics taking place above the plane of nation states especially during the last decades, because transnationalization and globalization significantly de-statize economic, political, legal, social and other national orders. And if Honneth disregards this aspect, he cannot sufficiently develop his thoughts on the criticism of global social pathologies and social injustice, and address the position of the West in the global framework of agonic intercultural relations.[21] Despite these problems, Honneth's establishment of an analysis of the

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[20] The representative example of this position can be found, for example, in the texts of Robert Fine: "Kant's Theory of Cosmopolitanism and Hegel's Critique", *Philosophy and Social Criticism*, 29, 2003, 6, pp. 609–630; *Cosmopolitanism*, Routledge, London 2007; See the other examples: Burns, T., "Hegel, Cosmopolitanism, and Contemporary Recognition", in: T. Burns – S. Thompson (eds.), *Global Justice and the Politics of Recognition*, Palgrave 2013, pp. 64–87; Buchwalter, A., "Honneth, Hegel, and Global Justice", in: ibid., pp. 23–47; Jones, C., *Global Justice. Defending Cosmopolitanism*, Oxford University Press, Oxford 1999; Vincent, A., "The Hegelian State and International Politics", *Review of International Studies* No. 9, 1983, pp. 193–205. If a cosmopolitan theory was not based in the relations of mutual recognition of persons within a community, it would suffer the same problems as traditional international theories. Neo-Hegelian defenders of cosmopolitan justice overcome the nationalistic explanatory framework of that time, and articulate a cosmopolitan potential of Hegel's theory which is present in his critique of cosmopolitanism alienated from the community, i.e. his critique of -ism in cosmopolitanism. Fine, R., "Taking the 'Ism' Out of Cosmopolitanism", *European Journal of Social Theory,* Nov. 2003, vol. 6, No. 4, pp. 451–470. Cf. with various alternative cosmopolitan concepts in: Delanty, G. (ed.), *Routledge International Handbook of Cosmopolitan Studies*, Routledge, London 2012.

[21] Hrubec, M., "An Articulation of Extra-Territorial Recognition: Toward International and Supranational Solutions of Global Poverty", in: T. Burns – S. Thompson (eds.), *Global Justice and the Politics of Recognition*, op. cit., pp. 265–287. Hrubec, M., "Preconditions of an Intercultural Dialogue on Human Rights", *Veritas*, Vol. 55, No. 1, 2010, pp. 183–205. See also other papers in: Burns, T. – Thompson, S. (eds.), *Global Justice and the Politics of Recognition*, op. cit.

order beyond the nation state in his theory of recognition provides an excellent starting point but he has not used it yet.

The line of reasoning with this cosmopolitan intimation is followed by Volker Heins, who recently tried to apply it to three of Honneth's types of recognition.[22] In his study, he tries to extend Honneth's theory in the cosmopolitan way but, while his main intention is good, the realization is not successful. Based on Honneth's three-dimensional theory of recognition, he inferred arguments for the transition from recognition within a national framework to cosmopolitan recognition, and he incoherently draws on certain elements of international theory at the same time. It is more or less the mechanical transmission of Honneth's ideas from a national level to a global plane, regardless of the different basis of the theory and the context. Looking at Honneth's theory, which belongs to the sphere of nation states and his analyses of international relations, we can ask if there is a parallel between the kinds of recognition at national and international level. We can explore whether and how such identification beyond the nation state is possible in the unchanged form of Honneth's three kinds of recognition: love and friendship, equal respect and rights, esteem and performance. While Honneth himself does not undertake such an analysis, Heins attempts to do so by transposing these three differentiated spheres into international and global relations.

Just as Thomas Pogge redefined John Rawls' *A Theory of Justice* by the transnational extension of the national principles of justice, Heins makes a transnational extension of Honneth's patterns of recognition formulated in his book *The Struggle for Recognition*.[23] As is clear from the title of Heins's article ("Realizing Honneth"), this parallel with Pogge ("Realizing Rawls") is intentional and acknowledged. Heins, like Pogge, shares the main ideas with the author of the original theory he is

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[22] Heins, V., "Realizing Honneth: Redistribution, Recognition, and Global Justice", *Journal of Global Ethics* 4, 2008, 2, pp. 141–153; I would like to thank Volker Heins for discussions on our international and transnational analyses of Honneth's theory of recognition.

[23] Heins's intention is to "'globalize' Honneth in the same way as Thomas Pogge was able to globalize Rawls". Heins, V., "Realizing Honneth: Redistribution, Recognition, and Global Justice", op. cit., p. 3; Pogge, T., *Realizing Rawls*, Cornell University Press, Ithaca,

developing, and elaborates on them in an area beyond the framework of the nation state.

However, there are serious limits to this parallel resulting from the different bases of Rawls's and Honneth's theories. Liberal theory and Critical theory have, of course, different starting points and bases. It can be said that, although Honneth and Heins agree with Rawls and Pogge on the idea of the need for distributive justice, Honneth and Heinz criticize the mainstream theory of distributive justice, including the Rawlsian theory, for deforming the social relations among human beings, which occurs as a result of ignoring the patterns of mutual recognition. However, when it comes to issues of transnational or global justice, this parallel is apt. Heins's efforts are aimed at the global transfer of Honneth's recognition patterns that would determine the moral expectations of individuals in mutual relations of love, rights and esteem in a transnational environment. He does it even if he is aware that the institutional framework that would provide a backdrop for the mechanic application of Honneth's three principles of recognition in the international arena is very weak and specific.

The kind type of recognition – in the form of love and friendship – seems to be at first sight scale-neutral in relation to the territorial extent. This is borne out by the various forms of love carried across borders, whether formally unregistered long-distance relationships, marriage between partners from different countries, and so on. However, the automatic transmission of patterns of recognition from a national to an international and transnational level, as proposed by Heins, is not possible. For example, the child sponsorship he refers to does not fit into the category of recognition in the form of love, which in Honneth's analyses at national level relates to intimate and emotional relationships between a small number of people. Although this kind of adoption resembles the traditional parent-child relationship, it is primarily a relationship of charity or solidarity with people living in a

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NY 1990; *World Poverty and Human Rights*, Polity Press, Cambridge 2002. Cf. the investigation of Honneth's three spheres of recognition beyond the state with an intension global theory of justice as recognition but without a necessary global transposition of Honneth's spheres: Thompson, S., "Recognition Beyond State", in: T. Burns – S. Thompson (eds.), *Global Justice and the Politics of Recognition*, op. cit. pp. 88–107.

state of insecurity, particularly in the developing countries, and not a relationship of family love. We have to see that a child sponsorship is a borderline category relationship on the boundary of Honneth's first and third type of recognition. Thus, it requires a specific articulation which would formulate the new important transnational and global patterns of recognition, and the mechanical transposition of the patterns of recognition is not possible. I would like to stress other problematic relationships, specifically transnational care practices which, in the form of immigrant nannies and domestic workers, cause mothers from less developed countries to leave their children and seek work in richer households in developed countries. This is the transnational exploitative deformation of interpersonal relationships which, in a significant, but more parentally detached manner, benefits only one party, i.e. the employer, and does not constitute the development of transnational love.[24] In connection with the motto "the personal is political", it could also be said that "the personal is global", but as a problem rather than part of an articulated sphere of recognition.[25] These complications are also evident in other examples of Heins's transposition. The inclusion of these examples in Honneth's theory, if it were theoretically possible, would require substantial reformulation.[26] However, Heins does not undertake this. He also disregards the fact that other forms of recognition on the first plane, such as friendship, are already realized at international and transnational level to some extent and are compatible

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[24] Ehrenreich, B., Hochschild, A. R., *Global Woman*, Metropolitan Books, New York 2003; Hondagneu-Sotelo, P., Avila, E., "I'm Here But I'm There. The Meaning of Latina Transnational Motherhood", in: M. K. Zimmerman – J. S. Litt – C. E. Bose (eds.), *Global Dimensions of Gender and Care*, Stanford, Stanford University Press 2006, pp. 254–265; Parrenas, R. S., *Servants of Globalization. Women, Migration, and Domestic Work*, Stanford University Press, Stanford 2001.

[25] Hochschild, A. R., "Love and Gold. The Global Care Chain", in: L. Ricciutelli – A. Miles – M. McFadden (eds.), *Feminist Politics, Activism and Vision: Local and Global Challenges*, Zed and Innana Books, London – Toronto 2005.

[26] Honneth's redefinition of his own original interpretation of recognition in the form of love in the sense of the possibility of the further normative development of this form of recognition facilitates the development of considerations in this transnational direction. See his sub-chapter The Capitalist Recognition Order and Conflicts over Distribution. In: Fraser, N. – Honneth, A., *Redistribution or Recognition?*, op. cit., pp. 135 ff.

with Honneth's theory. Friendship may, but need not, take the form of traditional friendship based on personal contact, and it may also be a virtual friendship in various forms of the widespread social media.[27]

The second level of recognition – legal recognition – is regarded by Heins as territorially highly specific.[28] While he does not consider the institutional anchoring of the first level of recognition to be problematic territorially, legal recognition is institutionally closely related to the territory of the nation state, in particular because of the enforcement of individual rights by the government institutions. Although he also considers human rights, he points to the possibility of their limited application due to a lack of institutional support.[29] If human rights do not become part of the constitutions of nation states, they must be regarded more as manifestation rights only, the strength of which lies primarily in their political and diplomatic significance. The promotion of human rights in international relations can at least draw attention to problems and demand solutions in the spirit of the internationally accepted Declaration and the related international agreements. According to Heins, delineating this sphere of influence determines the limits of human rights.

The end of the Cold War and the political opportunities that this opened up led Honneth to promote the need for the moralization of world politics. He argued in favour of strengthening the importance of human rights and the possibility of the legal enforcement thereof[30] which he later – in his paper on recognition between states – specifies mainly by developing arguments in favour of pre-legal presuppositions of the legal arrangement. As Honneth attaches importance to this kind

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[27] These interactions can be realized in various ambivalent forms, from e-mail exchanges to daily interaction in social networks such as Facebook, MySpace, etc.

[28] The more detailed elaboration of an analysis of the legal sphere of recognition is performed by Heins primarily on the examples of children's global rights, human rights and intellectual property, but his articles also offer more general arguments about the global order: Heins, V., "Realizing Honneth: Redistribution, Recognition, and Global Justice", op. cit., pp. 15–16; cf. id., "Human Rights, Intellectual Property, and Struggles for Recognition", *Human Rights Review*, 9, 2008, 2, pp. 213–232.

[29] Cf. alternative point of view: Pogge, T., *World Poverty and Human Rights*, op. cit.

[30] Honneth, A., "Is Universalism a Moral Trap?", op. cit.

of recognition on the international scale, his focus on human rights issues is the relevant topic in an analysis of his theory. Heins's point of view is limited in that human rights are bound only to states, and international institutions extending beyond states with their international, macroregional and global activities are underestimated. As I will show, transnational and global elements in the application of human rights, especially extraterritorial recognition, should be added to the overlaps in the international framework, not only by macroregional and global institutions, but also through nation states. In this respect, Heins underestimates legal recognition in international and global relations.

According to Heins, the third type of recognition, which includes forms of esteem and solidarity, is deficient at international and transnational level[31] because, beyond the nation state, it does not have an adequate parallel; specifically, there are insufficiently developed global values to form a basis for this third type of recognition. The greatly unequal financial valuation of work on a transnational scale disrespects people who make a claim to the meritocratic valuation of work. There are only exceptions in particular sectors, such as some services, which promote certain transnational standards, but tend to introduce unfavourable working conditions. As a result of comparisons of work remuneration, in recent times there has been a greater push aimed at demanding higher wages for workers, at least in some sectors, such as agriculture, or in the struggle for gender equality. One might ask, however, whether it would be fruitful to focus more on criticism of the current conditions and on an interpretation of normative transnational and global expectations currently manifested and promoted in these struggles for recognition.

To sum up Heins's mechanical transposition of patterns of recognition from a national level to international and transnational levels, we can say that he regards the different levels of recognition as transposable: the first kind of recognition (love and friendship) smoothly,

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[31] Heins, V., "Realizing Honneth: Redistribution, Recognition, and Global Justice", op. cit., pp. 16 ff. In the area of non-governmental organizations, however, he does elaborate well on his analysis: *Nongovernmental Organizations in International Society. Struggles over Recognition*, Palgrave MacMillan, New York 2008.

the second kind of recognition (legal recognition) partially, and the third kind of recognition (esteem) in an uneasy way. All the three types of recognition specific for a national level in Honneth's theory, however, according to Heins's opinion, occur to a greater or lesser extent in internationally and transnationally institutionalized patterns of recognition.

3. From International to Global: Extra-territorial Recognition

Now I will move on from the problematic attempts to transcend the concept of national and international recognition to the articulation of a more appropriate approach that is able to realize this transcendence. I have thus far focused my objections to Heins's transposition only on particular issues within each type of recognition. However, I think that his main problem is deeper. The fundamental problem is his ahistorical approach to the patterns of recognition. As Heins copies Pogge's transposition of Rawls's theory, he also gratuitously follows his ahistorical approach to the principles of justice. While an ahistorical approach is typical for liberal theory, it is entirely inadequate for Critical theory, especially in Honneth's version. Honneth explicitly conducts a detailed analysis of both the synchronous and diachronic (historical) dimensions of the patterns of recognition. Furthermore, for him, the analysis of the historical aspect is not just an accessory, but a highly important and fundamental part of his methodology and significant for Critical theory in general. And since Heins's static transmission of the patterns of recognition from the national level to the international plane does not reflect the historical developments in institutional structures of recognition at international level, it is unable to provide an interpretation of the structure of patterns of recognition at international and transnational levels. Therefore, Heins's transposition is not in fact an elaboration of Honneth's theory of recognition but contradicts it methodologically and, thereby, also in the content in the end.

Honneth is aware of the difficulties of such a transposition, and does not even attempt this. Therefore, whereas he considers three levels of

recognition in the local and national communities, he does not accede to this on the plane of international relations because he sees there is no support for it. He knows that they are similarities between the national and international levels but there is a specific development of specific spheres of recognition beyond the boundaries of nation states. What is more, in the different conditions of international relations, he takes the view that it is not currently possible to rely on the necessary social institutions.[32] At the international level, therefore, Honneth concentrates on the general recognition of states and specifically on the recognition of the personality of states. From this perspective, his analysis of recognition between states can be considered an inspiring but underdeveloped contribution to the analysis of the contemporary recognition beyond the borders of nation states.

While Honneth's analysis offers mainly a model of three patterns of recognition in the Western context, Heins attempts to transpose this model, in a Western-centric way, into the global arena without analysing the formation of patterns of recognition in other (non-Western) cultures and their intercultural interactions. This absence of the cross-cultural aspect is another serious deficiency in Heins's analysis.

Despite the overall problematic approach which he prefers, his analysis keeps in some aspects with Honneth[33] when he shows that legal recognition offers a (quasi-)universal hope for global recognition even if he more or less reproduces Honneth's basic structure of legal recognition from the national level. However, there is in fact the real international and global potential of legal recognition because the gradual establishment of the international legal structures already represents the certain good institutionalized values and structures shared by individual states and other actors. Nevertheless, the articulation of this form of recognition needs to be subjected to further critical analysis and the patterns of recognition beyond the borders of the nation state need to be identified more finely than Heins has done.

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[32] A similar argument, again on a metatheoretical plane, is developed by Honneth in his response to Nancy Fraser's chapter "Concluding Conjunctural Reflections: Post-Fordism, Postcommunism, and Globalization" in their joint work *Redistribution or Recognition?*, op. cit.

[33] Honneth, A., "Is Universalism a Moral Trap?", op. cit.

Honneth is aware of that. In his only paper focused on the one specific kind of recognition beyond the nation state, he explains the importance of human rights and their legal connotations in the international context.[34] Efforts to develop and reformulate Honneth's analyses of recognition beyond states require the mapping of the historical developmental trends which are articulated primarily through the ambivalent contemporary international legal order which is based on national legal orders. Although Honneth has yet to analyse global issues directly, the focus of his writings shows that he is inclined to think that legal relations on an international level, especially human rights, are more developed compared to the other two spheres of recognition, i.e. the sphere of personal relationships and the sphere of esteem and performance. More precisely, it can mean that, according to his opinion, the remaining two spheres are currently developed much less in international and transnational space, and therefore, in terms of moral and social realism, they provide a weaker basis for important normative connotations, even though they have already started to come more to the fore in the struggle for recognition.

Nevertheless, the third and the second sphere of recognition are not entirely separate from one another in this context. At an international level, legal and cultural recognition is interdependent because legal relations are not completely separated from the cultural status of nation states. Legal relations retain certain cultural connotations of a politics of difference and characteristics of recognition, which is typical for this area, including use of the term recognition in both the traditional (hierarchical) and the post-traditional (equitable) senses. For example, recognition of the sovereign status of a new state by existing states is a legal act, the intercultural component of which is reflected in the acceptance of another, in the acceptance of the different entity by states from other cultural or civilizational circles.

As I already mentioned, Honneth's analysis of interstate recognition may be viewed only as a partly developed contribution to the study of recognition beyond the borders of nation states. His neglect of other, specific forms of recognition on international and transnational planes is difficult to defend. The articulation of forms of recognition on

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[34] Idem.

new levels requires an analysis of the developmental tendencies mainly in the last decades, and international, transnational, and global patterns of recognition need to be identified more finely than Heins has done.

I presented such a developmental approach in my analyses of social, economic, legal, and cultural dimensions of recognition.[35] Now I would like to recall only one of my analyses of global society and politics where I showed that the development of recognition is rooted also in social struggles for the reactualization of some aspects of the current international legal system, which, despite not being free of negative aspects, also incorporates various progressive features, i.e. a surplus of normative validity, that can be developed and thus contribute to the formation of a global legal system. One of these features now gaining in importance is a key concept of *extraterritorial recognition*,[36] especially as for social and economic rights. The concept of extraterritorial recognition is able to illuminate the historical developmental dynamics of the contemporary social struggles of the exploited, the marginalized and the poor in the international, transnational and global contexts. I would like to stress it as both a relevant theoretical concept and a useful, even if still very marginalized, term of legal international practice.

There is a big difference in the definition and practical usage of extra-territorial recognition concerning social human rights, on the one side, and civil human rights, on the other. In civil and political rights, the international law states' obligations focus on actors living in their territory and falling under their jurisdiction. However, for economic, social and cultural rights, with due regard to the contemporary international law, extraterritorial recognition may also be required as there is no limit on *the scope of action* of the law. Therefore, the enforcement of social rights extends beyond the territory of a nation state in the current international law.

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[35] Hrubec, M., *Od zneuznání ke spravedlnosti. Kritická teorie globální společnosti a politiky.* (*From Misrecognition to Justice. A Critical Theory of Global Society and Politics*), Filosofia, Prague, 562 pp. See specifically, for example: Hrubec, M., "An Articulation of Extra-Territorial Recognition: Toward International and Supranational Solutions of Global Poverty", In: T. Burns (ed.), *Global Justice and the Politics of Recognition*, Palgrave 2013, s. 265–287.

[36] Hrubec, M., "An Articulation of Extra-Territorial Recognition", op. cit.

In the Westphalian system of international relations, the concept of extraterritorial recognition was used in only a small number of cases that had little effect on either the broader population or the system of international relations. However, because economic and financial activities of capitalism are increasingly transnational and global and bring out the serious negative consequences on the lives of people, the degree to which the recognition of various rights of individuals and groups in other states needs to be secured is rising dramatically. In other words, the need to recognise rights beyond national borders in the post-Westphalian world of global capitalism is becoming very intense. The requirement of extraterritorial recognition of various transboundary rights encapsulates efforts by critical, social and political actors in practice to force states to take responsibility for their actions, for the actions of their citizens, and especially for the activities of economic entities.

The states can and should at least regulate transnational and global economic and financial actors extraterritorially by applying legal means to assert their influence on the activities of "their" transnational corporations in other states.[37] A legal relationship should be in place between economic and financial actors on the one hand, and their home states, bound by the said international law, on the other, based on which they shoulder legal responsibility for their transnational activities. This means that, as things stand, there is room for the extraterritorial usage of international standards of social justice to be developed. This approach helps to create a global network of recognition which helps to safeguard the most important bases of social recognition on the local and national levels, and to strengthen regulation on all the levels that contributes to social justice, especially to extreme poverty eradication on the global level. These processes are distinguished by the promising fragments of an emerging global legal order in distributive regulation, namely the extraterritorial recognition of individuals and social groups in the developing countries (especially the global poor) harmed by the activities of transnational and global economic and financial actors.

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[37] Ibid; cf. Craven, M., "Violence of Dispossession: Extra-Territoriality and Economic, Social, and Cultural Rights", in: M. Baderin – R. McCorquodale (eds.), *Economic, Social and Cultural Rights in Action*, Oxford University Press, Oxford 2007.

Nevertheless, the analysis of current international legal structures in relation to transnational and global economic forces and financial institutions also indicates that there are limits to the legal influence that nation states can expect to wield beyond their borders. The inability of individual states to regulate the activities of their transnational corporations and wield influence in the international financial institutions in whose operations they are involved motivates misrecognized persons and groups of persons to form requirements for the establishment of transnational regulatory mechanisms safeguarding social justice macroregionally and globally. The contemporary influence brandished by transnational and global economic and financial actors triggers different reactions among those who are misrecognised and unrecognised, such as the everyday resistance of the exploited, the marginalized and the poor and in the developing countries. In fact, dynamics in the historical development of recognition appear to be moving in precisely this direction: from non-recognition and misrecognition, that has not been eliminated nationally or internationally, to transnational and global recognition on macro-regional and global scales.

Of course, extraterritorial recognition does not draw exhaustively on the developmental crystallisation of all forms of recognition of the legal form of recognition but it also contains various forms of social recognition. It reveals articulation of the diachronic aspect of this form of recognition on international, transnational and global planes that are more far-reaching than Honneth's analysis of interstate recognition, which moves beyond the current international order in only a modest way. However, at the same time, unlike Heins, who also seeks this more extensive articulation of recognition on an international level, there is a historical dimension to the analysis of the formation of recognition. Other features of the legal sphere of recognition and selected elements of the first and third spheres of recognition would need to be formulated in this developmental way, although that is a matter beyond the scope of this article. I have discussed the separate theoretical articulation of patterns of recognition internationally, transnationally and globally elsewhere, both from the social – economic[38] and the

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[38] Hrubec, M., "An Articulation of Extra-Territorial Recognition", op. cit. Cf., for example: Sklair, L., *Globalization: Capitalism and Its Alternatives*, Oxford University Press,

intercultural[39] perspectives. Here I concentrate more directly on the line of Honneth's arguments. I can only stress that struggles for global justice concerning the extraterritorial recognition are closely linked to some aspects of Honneth's concept of recognition which are present also on the global level, especially those aspects which are related to the partly globalized disputes for salaries of the exploited workers and marginalized groups of people in the developing countries, and social movements accompanied those dynamics, including everyday struggles for survival of the global poor. It is the reason why it is necessary to get at least the basic knowledge of alternative perspectives from other macroregions of the world in order to overcome to the West-centric concepts of international relations which does not include the points of view of non-Western authors. The normative concepts of just international and global interactions cannot be formulated really universally without the inclusion of them.[40]

Oxford 2002; Sklair, L., *The Transnational Capitalist Class*, Blackwell, London 2000; Robinson, W., *A Theory of Global Capitalism*, op. cit.; Beck, U., *World Risk Society*, Polity Press Cambridge 1999; Wei, X., *Rethinking China's Economic Transformation*, Global Scholarly Publications, New York 2010; El-Ojeili, C. – Hayden, P., *Critical Theories of Globalization*, Palgrave MacMillan, Houndmills 2006.,

[39] Hrubec, M., "Preconditions of an Intercultural Dialogue on Human Rights", *Veritas* 55, 2010, 1, pp. 183–205. Cf. Brown, C., "Cultural Diversity and International Political Theory: From the *Requirement* to 'Mutual Respect'?", *Review of International Studies* 26, 2000, pp. 199–213; Angle, S. C., *Human Rights and Chinese Thought: A Cross-Cultural Inquiry*, Cambridge University Press, Cambridge 2002; Bauer, J. R. – Bell, D. A. (eds.), *The East Asian Challenge for Human Rights*, Cambridge University Press, Cambridge 1999; Dussel, E., "A New Age in the History of Philosophy: The World Dialoque Between Philosophical Traditions", *Philosophy and Social Criticism* 35, 2009, 5, pp. 499–516; Fornet-Betancourt, R., *Crítica intercultural de la Filosofía Latinoamericana actual*, Trotta, Madrid 2004; Al-Jabri, M. A., *The Formation of Arab Reason. Text, Tradition and the Construction of Modernity in the Arab World*, I. B. Tauris, London 2011; Tehranian, M., *Rethinking Civilization: Resolving Conflict in the Human Family*, Routledge, London – New York 2007; Wiredu, K., *Cultural Universals and Particulars: An African Perspective*, Indiana University Press, Bloomington 1996.

[40] One of the main problems of the majority of Western theorists of international and global justice is that they know only Western languages and mostly ignore the perspectives formulated in the Slavic, Chinese, Arabic, and other languages. If they exceptionally read some of non-Western theorists, they read only the assimilated selection published in Western languages.

4. The Perspectives of Global State

Whereas Honneth works with a relatively modest surplus of normative validity which can go over the status quo of the contemporary reality, and, thus, reveals lesser emancipatory potential for the development of patterns of recognition, my own interpretation embraces a more demanding surplus of normative validity that contains a more forceful critique of the status quo and offers the opportunity for the further development of recognition. That is why I consider it important to also analyse the ambivalences of the global state as the limit point of the institutional global analyses. However, at the same time, I criticize the authors who anticipate very strong development of the normative potential of recognition in the absence of a sufficiently established relationship with the reality of social criticism and the associated articulation of normative requirements because they may be faced with speculative conclusions.

When considering various scenarios of global development, which have to be subsequently documented by more detailed investigation, we should pay attention to the analyses of the global state and recognition made by Alexander Wendt.[41] It is illuminating to see these analyses by means of the texts on global reform and world government from the point of view of progressive realism presented by William Scheuerman.[42]

If we are to compare Honneth and Wendt's theories of recognition, first, the concept of diachronic development needs to be specified because their reasoning on this point leads to very different outcomes. While a difference is readily noticeable between my interpretation above and Honneth's opinion, the contrast between Honneth and Wendt is even more compelling. Honneth, building on his arguments of moral realism, contends that we need to move beyond the current state of

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[41] Wendt, A., *Social Theory of International Politics*, Cambridge University Press, Cambridge 1999; Wendt, A., "Why a World State is Inevitable", *European Journal of International Relations*, 9, 2003, 4, pp. 491–542; cf. Shaw, M., *Theory of the Global State: Globality as an Unfinished Revolution*, Cambridge University Press, Cambridge 2000; Linklater, A., "Global civilizing processes and the ambiguities of human interconnectedness", *European Journal of International Relations*, 1, 2010, 16, pp. 155–178.

[42] Scheuerman, W., *The Realist Case for Global Reform*, Polity, London 2011.

development by forming normative requirements, assisted by immanent critique and subsequent quasi-transcendental steps steeping such critique in the contradictions of the societal structure. The point here is to find elements of facticity which extend beyond the status quo of the social set-up: according to Honneth, nationally, this concerns those three patterns of recognition to which people relate in the criticism of their misrecognition, whilst internationally this area is limited to recognition between states within the framework of existing interstate relationships. Unlike Honneth, Wendt defends the stronger historical principle of intentional teleology which delivers a faster dynamics to the development, specifically the establishment of a world state. However, Wendt also differs from realists in the practical-political sense, of course, who consider where we are headed in the reductionist pursuit of security, because he believes that the pursuit of security – whether by individuals or entire states – can be included, once reformulated, in the more suitable category of the struggle for recognition.[43]

Wendt argues that, although contemporary nations in themselves may seem relatively stable, in a global era, given their interconnections, this is not so. He thinks that the current international order of nation states is unsustainable and, therefore, we need to consider what system can replace it. He claims that the dynamics of current and near-future developments will result in a world state:

> I argue that a world of territorial states is not stable in the long run. They may be local equilibria, but they inhabit a world system that is in disequilibrium, the resolution of which leads to a world state. The mechanism that generates this end-directedness is an interaction between "struggles for recognition" at the micro-level and "cultures of anarchy" at the macro.[44]

Like Honneth, Wendt views the struggle for recognition as an effort to form individual and group identities, that is, as an effort focused on ideas, but realised through material disputes. Let's take a look at this

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[43] Wendt, A., "Why a World State is Inevitable", op. cit., pp. 493 ff., and esp. 507 ff.

[44] Ibid., p. 507.

position more closely. First, Wendt contends that it may be enough to complete the current internationalisation of political authority and arrive at a global state by reforming the United Nations, the European Union, the International Criminal Court, the World Trade Organisation and other institutions, and continue a situation where no institution has a global monopoly on the use of force. In contrast, in terms of a concept of the state in the form of a "peaceful federation", that situation would only constitute a transitional stage because, in the long run, the system monopolises power at a global level.[45]

A fundamental argument here is that the transformation of the current form of the state into a global state will require three major changes.[46] Firstly, the world state will require the creation of a "universal security community". A community of this type is based on the peaceful rather than military handling of disputes. This anticipates that states will be able to abandon the idea of other countries as an existential threat. Secondly, the idea of a universal security community is associated with "universal collective security", which is impossible unless members of the security community identify threats as common threats and share in the provision of security. Thirdly, a world state requires a "universal supranational authority", which should be based on safeguarding a globally legitimate method of decision-making with respect to organised violence. The implementation of a universal supranational authority is contingent on states' relinquishment of their sovereignty in the field of violence.

This three-point approach to the transformation of the current form of the state into a global state is essentially a two-point concept. The first and second points, i.e. the universal security community and universal collective security, together actually form a "global common power". The understanding of the global state, as a whole, on a basic security level here is derived from the definition of a state whose essential characteristics comprise Weberian and – in keeping with Honneth – Hegelian features, namely the disposition of a monopoly on the use of

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[45] Higgott, R., Brasset, J., "Building the Normative Dimensions of a Global Polity", *Review of International Studies,* 29, 2004, 1, pp. 29–55; Higgott, R. – Ougaard, M. (eds.), *Towards a Global Polity?,* Routledge, London *2002.*

[46] Wendt, A., "Why a World State is Inevitable", op. cit., pp. 505 ff.

organised violence in a state and equal recognition of all its members. As this does not entail a transition to an entirely new kind of organisation, but only to another version of the same, the main emphasis should be placed on the issue of a new level of state, i.e. the global characteristics of a state, and on the transition from the national to the global level.

If we focus, in this framework, on the form of the global state, there is no need to consider its most advanced variants.[47] Rather, it suffices to delineate its realistically achievable form in the near term. The global state may be decentralised and consist of individual elements comprising the transformation of the current form of the state and its international integration. The autonomy of a political community's national or local units, i.e. states or other entities, need not be surrendered. Autonomy may remain in place and help to shape the existence of the global community. Autonomous national politics and culture can continue to develop, although organised violence will no longer fall under the jurisdiction of the national community. Secondly, not only autonomy, but also the army of national communities may remain unaffected, as there is no need to create a global army. The global community would engage in military interventions in the form of pre-contracted joint operations by the armed forces of individual states, or by units of their armies, as is the case for regional and macro-regional events today. However, a fundamental element here would be the subordination of the individual armies to global intervention derived from the global monopoly on organised violence. This does not mean that a global government, akin to national governments, would have to exist. Thirdly, a global government should not have leadership in the hands of a single person, in the manner of a national government. The government could be made up of a collective, more comprehensive structure, with debate in the global public sphere. If the European Union were to actually complete the process of its integration based

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[47] Cf. Haigh, S., *The World State: Polity or Condition?*, Australasian Political Studies Association Conference, University of Tasmania, Hobart 2003; Jones, C., *Global Justice. Defending Cosmopolitanism*, Oxford University Press, Oxford 1999; Nielsen, K., "World Government, Security, and Global Justice", in: S. Luper-Foy (ed.), *Problems of International Justice*, Westview Press, Boulder 1987.

on legitimate and participatory politics and transpose its structure to a global plane, we could think of it as a world state, for example.

Wendt also builds on Deudney's argument about the movement towards a global state based on the tenet of the *extent* to which national security is safeguarded.[48] Whereas states could previously exist over a limited territory, developments in law enforcement technologies have given rise to a situation where states are no longer able to guarantee their own security. The technologies have become destructive to such a degree that individual states are no longer able to control them. Generally speaking, if the extent of the use of violence exceeds existing boundaries, thus increasing conflictual interaction between states in the long run, the state will have to enlarge its territorial scope by merging with or absorbing another state. At present, this tenet can be instantiated by Deudney's concepts of a "nuclear one-worldism" or "nuclear globalism". Nuclear weapons and ballistic missiles have built stairways to the expansion of a state's territorial scope. Just as, in the Middle Ages, Western states expanded due to the invention and use of gunpowder and related technologies, today the scale of current law enforcement technologies enables them to move beyond the existing territorial scope of the state.[49]

This theoretical interpretation makes new technologies an external condition for the possibility of ambivalent territorial integration, and technological advances here play the role of a driving principle guiding the integration telos. Nevertheless, it remains a mere external possibility, and does not explain the internal conditions of the possibility and their dynamism in the integrational evolution of society. These are added by Wendt when he considers two aspects of his teleological clarification of developments in a world state: the first is on a micro-level, the second on a macro-level. Here, the aspect having a bottom-up effect on movement takes the form of the self-organising process of the struggle for recognition, which is implemented in response to technological change. The

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[48] Deudney, D., "Regrounding Realism", *Security Studies* 10, 2000, 1, pp. 1–45; cf. Deudney, D., "Nuclear Weapons and the Waning of the Real-State", *Daedalus* 124, 1995, 2, pp. 209–231.

[49] Deudney, D., "Geopolitics and Change", in: M. Doyle – J. Ikenberry (eds.), *New Thinking in International Relations Theory*, Westview Press, Boulder 1999.

aspect having the opposite – top-down – effect is the structural logic of disorder in an international arena.[50] In connection with this argument, Wendt also incorporates the security-based driving force behind developments into his theoretical explanation and, as such, specifies the internal telos thereof. As individual territorial units are no longer able to cope with the military threat of new technologies capable of affecting larger areas, and to guarantee security in their territory, they must redefine their borders and move beyond them towards greater integration. Naturally, other issues associated with technological advances remain, but the basic historical force driving forward the material shaping of the global state is clarified. Nevertheless, it must be accompanied by a specification of the identity of the new territorial entity. If a new, larger territorial unit – in our case the global state – is to have its own identity rather than consist solely of the separate identities of existing entities, the inhabitants or citizens of individual states must gradually become global citizens, cosmopolitans, and shape – step by step – the identity of the global state.

We could ask whether Wendt's concept of historical development anticipates overly fast and smooth advances in tendencies geared towards the global state. While he seems to correct in his long-term normative analysis of the selected aspects of the establishment of global state, his concept of the global state in relation to his interpretation of recognition should be examined in a more precise analysis of complex short-term and long-term historical trends of the development of recognition. In my concept of extraterritorial recognition, as discussed above, I have attempted to convey such an analysis of the historical transition from an international structure to a transnational and global set-up. The more detailed treatment of these analysis and other similarly oriented explorations of international, transnational, macroregional and global developmental trends of social, political, legal and other kinds of recognition could help to identify the strengths and limits of the concept of global state, and offer a more fitting comparative approach to Honneth's position.

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[50] Wendt, A., "Why a World State is Inevitable", op. cit., pp. 498 ff; cf. Wendt, A., *Social Theory of International Politics*, op. cit.

Conclusion

In summary, Honneth's essay on a transboundary arrangement focuses on interstate recognition. Honneth's basis is a position on moral realism, and, drawing on his analysis of interactions between states, he concludes that the legal recognition of a state requires the constant assumption of the political recognition of the collective identity of the state. The recognition of a state is based on the legitimacy of citizens within the state and the legitimacy of the representatives of other states. As this kind of recognition is not an eternal given, all states, including those already recognised, must constantly seek it in the historical development of the struggle for recognition.

Problems associated with Honneth's concept of recognition mainly stem from the problem to analyse transnational and global interactions in economics, politics, law and other spheres. Underestimating these problematic interactions of global capitalism and related arrangement leads to partial reification of the nation state, and impedes an understanding of the development of the state and both negative and positive national, transnational, macroregional and global trends towards the global state and the formation of critiques of them. This deficit held Honneth back from sufficiently developing his concept of social recognition beyond the boundaries of the nation state and critically reflecting on the dominant role of the Western economy, politics, and culture and of Western proposals for a global arrangement. Therefore, his theory of recognition remained largely unused here, despite offering excellent potential for elaboration of the category of recognition in this new context.

Developing Honneth's concept of patterns of recognition from a national plane to international and transnational levels and developing his theory in relation to the establishment of a global state requires assessment drawing on more detailed analyses than that offered by the authors mentioned in this article. The assessment should be derived from a historically-based concept of recognition taking into account the need for analysis of the transition from an international structure to a transnational and global set-up, as demonstrated by the important concept of the contemporary transition phenomenon of *extraterritorial recognition*, which is able to connect social and legal justice. Behind the dynamic of extra-territorial recognition, there are the social struggles of

the misrecognized. It is a model concept of the contemporary analyses which correspond to the current stage of economic, social, political, and legal historical developments of the struggles for recognition.

Moreover, all of these analyses require an intercultural approach that clarifies developments in the international, transnational, macroregional and global orders, bearing in mind the various forms of recognition in different cultural circles, e.g. Western, Confucian, or Islamic, which could demonstrate the possibilities and potential starting points for the articulation of such an arrangement beyond state borders by means of comparative intercultural analysis.

References

Al-Jabri, M. A., *The Formation of Arab Reason. Text, Tradition and the Construction of Modernity in the Arab World*, I. B. Tauris, London 2011.

Angle, S. C., *Human Rights and Chinese Thought: A Cross-Cultural Inquiry*, Cambridge University Press, Cambridge 2002.

Bauer, J. R. – Bell, D. A. (eds.), *The East Asian Challenge for Human Rights*, Cambridge University Press, Cambridge 1999.

Beck, U., *World Risk Society*, Polity Press, Cambridge 1999.

Brown, C., "Cultural Diversity and International Political Theory: From the *Requirement* to 'Mutual Respect'?", *Review of International Studies* 26, 2000, pp. 199–213.

Buchanan, A., "Recognitional Legitimacy and the State System", *Philosophy & Public Affairs*, 28 Jan. 1999, 1, pp. 46–78.

Buchwalter, A., "Honneth, Hegel, and Global Justice", in: T. Burns – S. Thompson (eds.), *Global Justice and the Politics of Recognition*, Palgrave 2013, pp. 23–47.

Burns, T., "Hegel, Cosmopolitanism, and Contemporary Recognition", in: T. Burns – S. Thompson (eds.), *Global Justice and the Politics of Recognition*, Palgrave 2013, pp. 64–87.

Craven, M., "Violence of Dispossession: Extra-Territoriality and Economic, Social, and Cultural Rights", in: M. Baderin – R. McCorquodale (eds.),

Economic, Social and Cultural Rights in Action, Oxford University Press, Oxford 2007.

Delanty, G., *The Cosmopolitan Imagination. The Renewal of Critical Social Theory*, Cambridge University Press, Cambridge 2009.

Delanty, G. (ed.), *Routledge International Handbook of Cosmopolitan Studies*, Routledge, London 2012.

Deudney, D., "Nuclear Weapons and the Waning of the Real-State", *Daedalus* 124, 1995, 2, pp. 209–231.

Deudney, D., "Geopolitics and Change", in: M. Doyle – J. Ikenberry (eds.), *New Thinking in International Relations Theory*, Westview Press, Boulder 1999.

Deudney, D., "Regrounding Realism", *Security Studies* 10, 2000, 1, pp. 1–45.

Dussel, E., "A New Age in the History of Philosophy: The World Dialoque Between Philosophical Traditions", *Philosophy and Social Criticism* 35, 2009, 5, pp. 499–516.

Ehrenreich, B. – Hochschild, A. R., *Global Woman*, Metropolitan Books, New York 2003.

El-Ojeili, C. – Hayden, P., *Critical Theories of Globalization*, Palgrave MacMillan, Houndmills 2006.

Fine, R., "Taking the 'Ism' Out of Cosmopolitanism", *European Journal of Social Theory,* Nov. 2003, vol. 6, No. 4, pp. 451–470.

Fine, R., "Kant's Theory of Cosmopolitanism and Hegel's Critique", *Philosophy and Social Criticism*, 29, 2003, 6, pp. 609–630.

Fine, R., *Cosmopolitanism*, Routledge, London 2007.

Fornet-Betancourt, R., *Crítica intercultural de la Filosofía Latinoamericana actual*, Trotta, Madrid 2004.

Forst, R., "Zu einer kritischen Theorie transnationaler Gerechtigkeit", in: R. Schmücker – U. Steinvorth (eds.), *Gerechtigkeit und Politik. Philosophische Perspektiven* (Sonderband 3 der *Deutschen Zeitschrift für Philosophie*), Akademie Verlag, Berlin 2002, pp. 215–232.

Fraser, N. – Honneth, A., *Redistribution or Recognition? A Political-Philosophical Exchange*, Verso, London 2003. In German: *Umverteilung oder Anerkennung?: Eine politisch-philosophische Kontroverse*, Suhrkamp, Frankfurt am M. 2003.

Fraser, N., *Scales of Justice: Reimagining Political Space in a Globalizing World*, Columbia University Press, New York 2010.

Haigh, S., *The World State: Polity or Condition?*, Australasian Political Studies Association Conference, University of Tasmania, Hobart 2003.

Hegel, G. W. F., *Elements of the Philosophy of Right*, Cambridge University Press, Cambridge 1991.

Heins, V., "Human Rights, Intellectual Property, and Struggles for Recognition", *Human Rights Review*, 9, 2008, 2, pp. 213-232.

Heins, V., "Realizing Honneth: Redistribution, Recognition, and Global Justice", *Journal of Global Ethics* 4, 2008, 2, pp. 141-153.

Heins, V., *Nongovernmental Organizations in International Society. Struggles over Recognition*, Palgrave MacMillan, New York 2008.

Higgott, R. – Ougaard, M. (eds.), *Towards a Global Polity?*, Routledge, London 2002.

Higgott, R. – Brasset, J., "Building the Normative Dimensions of a Global Polity", *Review of International Studies,* 29, 2004, 1, pp. 29-55.

Hochschild, A. R., "Love and Gold. The Global Care Chain", in: L. Ricciutelli – A. Miles – M. McFadden (eds.), *Feminist Politics, Activism and Vision: Local and Global Challenges*, Zed and Innana Books, London – Toronto 2005.

Hondagneu-Sotelo, P. – Avila, E., "I'm Here But I'm There. The Meaning of Latina Transnational Motherhood", in: M. K. Zimmerman – J. S. Litt – C. E. Bose (eds.), *Global Dimensions of Gender and Care*, Stanford, Stanford University Press 2006, pp. 254-265.

Honneth, Axel, *The Struggle for Recognition: The Moral Grammar of Social Conflicts*, The MIT Press 1996. In German orig.: *Kampf um Anerkennung. Zur moralischen Grammatik sozialer Konflikte*, Suhrkamp, Frankfurt am M. 1992.

Honneth, Axel, "Is Universalism a Moral Trap? The Presuppositions and Limits of a Politics of Human Rights", in: J. Bohman – M. Lutz-Bachmann (eds.), *Essays on Kant's Cosmopolitan Ideal*, MIT Press, Cambridge, MA, 1997, pp. 155-178. In German: „Universalismus als moralische Falle? Bedingungen und Grenzen einer Politik der Menschenrechte", in: A. Honneth, *Das Andere der Gerechtigkeit. Aufsätze zur praktischen Philosophie*, Suhrkamp, Frankfurt/M. 2000, pp. 255-281.

Honneth, Axel, *Suffering from Indeterminacy. An Attempt at a Reactualization of Hegel's Philosophy of Right*, Van Gorcum, Amsterdam 2000. The German version: *Leiden an Unbestimmtheit: Eine Reaktualisierung der Hegelschen Rechtsphilosophie*, Reclam 2001.

Honneth, Axel (ed.), *Befreiung aus der Mundigkeit. Paradoxien des gegenwartigen Kapitalismus*, Campus 2002.

Honneth, Axel, *Freedom's Right: The Social Foundations of Democratic Life*, Columbia University Press 2014. In German orig.: *Das Recht der Freiheit. Grundriß einer demokratischen Sittlichkeit*, Suhrkamp, Frankfurt am M. 2011.

Hrubec, M., "Preconditions of an Intercultural Dialogue on Human Rights", *Veritas* 55, 2010, 1, pp. 183-205.

Hrubec, M., *Od zneuznání ke spravedlnosti. Kritická teorie globální společnosti a politiky.* (*From Misrecognition to Justice. A Critical Theory of Global Society and Politics*), Filosofia, Prague 2011, 562 pp.

Hrubec, M., "An Articulation of Extra-Territorial Recognition: Toward International and Supranational Solutions of Global Poverty", in: T. Burns – S. Thompson (eds.), *Global Justice and the Politics of Recognition*, Palgrave 2013, pp. 265–287.

Jones, C., *Global Justice. Defending Cosmopolitanism*, Oxford University Press, Oxford 1999.

Kelsen, H., "Recognition in International Law: Theoretical Observations", *The American Journal of International Law*, 35, Oct. 1941, 4, pp. 605–617.

Linklater, A., *The Transformation of Political Community: Ethical Foundations of the Post-Westphalian Era*, Polity Press, London 1998.

Linklater, A., *Critical Theory and World Politics. Citizenship, Sovereignty and Humanity*, Routledge, London – New York 2007.

Linklater, A., "Global civilizing processes and the ambiguities of human interconnectedness", *European Journal of International Relations*, 1, 2010, 16, pp. 155–178.

Naticchia, C., "Recognition and Legitimacy: A Reply to Buchanan", *Philosophy & Public Affairs*, 28 July 1999, 3, pp. 242–257.

Nielsen, K., "World Government, Security, and Global Justice", in: S. Luper-Foy (ed.), *Problems of International Justice*, Westview Press, Boulder 1987.

Parrenas, R. S., *Servants of Globalization. Women, Migration, and Domestic Work*, Stanford University Press, Stanford 2001.

Pogge, T., *Realizing Rawls*, Cornell University Press, Ithaca, NY 1990.

Pogge, T., *World Poverty and Human Rights*, Polity Press, Cambridge 2002.

Rawls, J., *The Law of Peoples with „The Idea of Public Reason Revisited"*, Harvard University Press, Cambridge, Mass. – London 1999.

Rawls, J., *The Law of Peoples*, Harvard University Press, Cambridge 2001.

Robinson, W., *A Theory of Global Capitalism: Production, Class, and State in a Transnational World*, Johns Hopkins University Press 2004.

Scheuerman, W., *The Realist Case for Global Reform*, Polity, London 2011.

Shaw, M., *Theory of the Global State: Globality as an Unfinished Revolution*, Cambridge University Press, Cambridge 2000.

Sklair, L., *The Transnational Capitalist Class*, Blackwell, London 2000.

Sklair, L., *Globalization: Capitalism and Its Alternatives*, Oxford University Press, Oxford 2002.

Taylor, C., "The Nature and Scope of Distributive Justice", in: C. Taylor, *Philosophical Papers 2. Philosophy and the Human Sciences*, Cambridge University Press, Cambridge 1985.

Taylor, C., "Irreducibly Social Goods", in: C. Taylor, *Philosophical Arguments*, Harvard University Press, Cambridge, Mass. 1995.

Tehranian, M., *Rethinking Civilization: Resolving Conflict in the Human Family*, Routledge, London – New York 2007.

Thompson, S., *Political Theory of Recognition. A Critical Introduction*, Polity Press, London 2006.

Thompson, S., "Recognition Beyond State", in: T. Burns – S. Thompson (eds.), *Global Justice and the Politics of Recognition*, Palgrave 2013, pp. 88–107.

Vincent, A., "The Hegelian State and International Politics", *Review of International Studies* No. 9, 1983, pp. 193–205.

Wallace-Bruce, N. L., *Claims to Statehood in International Law*, Carlton Press, New York 1994.

Wei, X., *Rethinking China's Economic Transformation*, Global Scholarly Publications, New York 2010.

Wendt, A., *Social Theory of International Politics*, Cambridge University Press, Cambridge 1999.

Wendt, A., "Why a World State is Inevitable", *European Journal of International Relations*, 9, 2003, 4, pp. 491–542.

Wiredu, K., *Cultural Universals and Particulars: An African Perspective*, Indiana University Press, Bloomington 1996.

Towards a Cosmopolitan Theory
of Recognition between States

Frédéric Vandenberghe

The prominence of the concept of recognition is a symptom of our times. Replacing older diagnostic concepts, like alienation, exploitation or neurosis, to name but a few, it has succeeded in gathering a variety of feelings of diffuse suffering (physical, mental and moral suffering, both individual and collective) under a single conceptual umbrella. It is enough to look at the world through the spectacles of the theory of recognition to find struggles of recognition on every street corner. One way or another, everybody feels misrecognized, misunderstood and disrespected: the workers, the unemployed and the immigrants; the prisoners, the nurses and the elderly, the teachers, the professors and the students; the women, the gays and the lesbians; the minorities, the indigenous and, these days, even the bankers feel discriminated against. It is certainly not a coincidence that the theme of recognition has found such wide acclaim in the academic world. There's hardly a conference nowadays in philosophy, sociology and political sciences without a paper on Hegel, Honneth and Fraser or on the struggle for recognition by, say, the *quilombos* (communities of free slaves) in Brazil or the immigrants in Europe. Meanwhile, the whole debate about the relation between recognition and redistribution has spawned an academic cottage industry that is reminiscent of a similar craze that arose around Habermas and Rawls at the end of the eighties.

Axel Honneth's theory of the spheres of recognition is at the heart of the current debates.[1] Since the publication of *Kampf um Anerken-*

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[1] The literature on Honneth's theory of recognition is vast and often of dubitable quality. I personally recommend Kompridis, N., "From Reason to Self-Realisation? Axel Honneth and the 'Ethical Turn' in Critical Theory", *Critical Horizons*, 1/2, 2004, pp. 323–360; Zurn, Ch., "Recognition, Redistribution, and Democracy: Dilemmas of Honneth's Critical Social Theory", *European Journal of Philosophy* 13, 2005, 1, pp. 89–126; and Bader, V. M., "Misrecognition, Power, and Democracy", in: B. van Brink – D. Owen (eds.): *Recognition and Power. Axel Honneth and the Tradition of Critical Social Theory*, Cambridge University Press, Cambridge 2007, pp. 238–269.

nung in 1992, incidentally the same year as *Faktizität und Geltung*,[2] he has developed his theory of recognition as a left-Hegelian alternative to Habermas's discourse theory of society, morality and law. Returning again and again to Hegel and the Frankfurt School, he has steadily refined, broadened and deepened his understanding of the relations of recognition in the sphere of love, law and solidarity as preconditions of human flourishing. In order to move away from the formalism and proceduralism that characterizes Kantian theories of justice, he brings back to the fore the "ethical life" (*Sittlichkeit)* of the Hegelians and the concern with human flourishing and the good life (*eudemonia*) of the Aristotelians. With the early Hegel, he proposes that human flourishing can be analyzed in terms of "practical relations to self" (self-confidence, self-respect and self-esteem) that depend on the existence of relationships of mutual recognition in the sphere of primary sociability (love), legal institutions and moral norms (law) and networks of solidarity and shared values (solidarity). It is in and thanks to relations of recognition with others that human beings can fully develop their capabilities and be considered as persons in the fullest sense of the term[3] – i.e. as subjects who are at the same time ethical persons (singular and non-substitutable subjects who are different from all the others), moral and juridical persons (autonomous and self-determining individuals who are equal to others and are endowed as citizens with economic, social, political and cultural rights) and social persons (role players who are recognized for their contribution to a shared social project and a pursuit of the common good). Together, satisfactory relations of recognition in the sphere of love, law and solidarity are preconditions of the pursuit of "the good life for and with others in just institutions".[4]

Although one can note a certain tendency on the part of Honneth to extend his theory of recognition to all fields and to apply it to all themes from the encyclopedia of the human sciences (from alienation, bureaucracy, class to, why not?, public transport and football),

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[2] Habermas, J., *Faktizität und Geltung. Beiträge zur Diskurstheorie des Rechts und des demokratischen Rechtsstaates*, Suhrkamp, Frankfurt am Main 2002 (1992).

[3] Forst, R., *Kontexte der Gerechtigkeit. Politische Philosophie jenseits von Liberalismus und Kommunitarismus*, Suhrkamp, Frankfurt am Main 2004, pp. 413–437.

[4] Ricoeur, P., *Soi-même comme un autre*, Seuil, Paris 2001, p. 202.

I welcome his excursus into the field international relations. The introduction of "recognizing" as a supplementary dimension that subtends "bargaining" and "arguing"[5] significantly widens the possibility of modes of action in negotiations between states. With its suggestion that both communication ("arguing") and strategy ("bargaining") have to take into account the difference in values, outlooks and projects of the societal communities if they are to succeed in their negotiations, it shows not only that international relations can be analyzed as one more struggle for recognition, but it also indicates new ways in conflict resolution.

With the recognition between states, relations between, rather than within, societies are, perhaps for the first time, explicitly thematized. Up till now, Honneth had focused on the struggle for recognition between groups of the same societal community. The implicit assumption that groups that struggle for their rights share a common horizon of values and are, one way or another, engaged in a common project, is now relaxed. With the introduction of states, the analytical focus is enlarged. It now encompasses not only intra-group, but also inter-group relations, which can be peaceful or strained to the point of open hostility.

Before I ask some critical questions and offer the cosmopolitan communicative communitarian perspective as an alternative, let me first summarize and schematize the argument in three steps (the first two make up the empirical argument, the last one the normative argument).

1. In a first moment, Honneth argues against "power politics", as conceptualized by the realist school in international relations, from Machiavelli, Hobbes and Hegel to Morgenthau and Kenneth Walz. In the same way as he criticized rational choice in *Kampf um Anerkennung* for its neglect of values and norms, he now rebuts the anarchic logic of realism. States do not just use hard power to defend their vital interests and affirm their position in geopolitics. To understand foreign relations in general and hostilities between states in particular, one should also take into account the identity claims of the societal community they represent, the values they incorporate and the common project they

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5 Niesen, P. – Herborth, B. (eds.), *Anarchie der kommunikativen Freiheit. Jürgen Habermas und die Theorie der internationalen Politik*, Suhrkamp, Frankfurt am Main 2007.

pursue. When such a community feels that its self-image is not recognized by other states, when it feels humiliated and devalued – "polluted" as Jeffrey Alexander[6] would say – hostilities may ensue.

2. The recognition between states has a performative-symbolic dimension. Although foreign policy often appears determined only by the interests of the state, the pursuit of these interests has to be understood within the horizon of normative expectations that the ideas, identities and ideals of the people, as expressed in the narratives of justification that are constitutive of the self-identity of a state, be respected. With Roger Smith,[7] we could call these expressive-normative narratives of identity that inspire worth among the members a people by weaving together economic strength, political power and ethically constitutive narratives "stories of peoplehood". Honneth claims that the recognition or non-recognition of these stories constitutes a crucial, but neglected and undertheorized factor in understanding and explaining the behavior of states with regard to other states.

3. In case of conflict or in order to avoid conflict, it is important not to fuel the cycle of "mimetic violence" with mutual pollutions of each other's identity. The explicit acknowledgment of the identities, interests and ideals that are part and parcel of the identity of a people may well be a first step in strategies of appeasement and conflict reduction between states.

Now that the main drift of the argument has been presented, I want to raise some critical questions – "provocations" as Brazilians would say – in order to get the conversation going and stimulate the debate. Basically, I want to hold a brief for a cosmopolitan communicative communitarian theory of recognition between states. The argument will be developed in three steps. In the first step, I'll try to "out-Hegel" Honneth and contend that, as a result of globalization, societal communities now form a single community of fate and that the emergence of a planetary consciousness justifies talk about cosmopolitan communitarianism (1). Whereas my first move is a Hegelian one, my second move is more Kantian. Affirming the priority of rights and norms

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⁶ Alexander, J. C., *The Civil Sphere*, Oxford University Press, Oxford 2006.

⁷ Smith, R., *Stories of Peoplehood. The Politics and Morals of Political Membership*, Cambridge University Press, Cambridge 2003.

over values, I will argue that the recognition of states is conditional on their endorsement of human rights and democracy (2). Finally, I will conclude my discussion with a social ontological question concerning the existence of collective subjectivities (3).

<div align="center">1</div>

My first question concerns Hegel: Can we actualize Hegel and develop a cosmopolitan theory on a communitarian basis that keeps pace with the global "community of fate"? I know there are good historical, political and philosophical arguments not to draw on Hegel's philosophy of the state in international relations. With its insistence on power and grandeur, his theory of the state exemplifies a realist, not to say hawkish position in international relations that exalts war as a force of rejuvenation of the nation. With its dialectical relations between people, language and the state, Hegel can be used, and has been used, to justify undemocratic, authoritarian and warmongering regimes. Like everything else in Hegel, his conception of the state is inseparable from an onto-teleo-theological metaphysics of the Spirit that is only a secularized version of the history of God.

Yet, in spite of all this metaphysical baggage, I wonder if we could not go back to Hegel to develop a cosmopolitan philosophy of history that suits the global age. As complex global systems, from the economic and the technological to the cultural and the ecological, connect the fate of communities in one locale to the fate of communities in distant regions of the world, the "methodological nationalism" of the realist school has to be "sublated" in a self-conscious "methodological cosmopolitanism" that considers the world system as a single unit.[8] Now that all communities and polities of the planet are increasingly united in "overlapping communities of fate" that are engaged in the same human adventure, the same collective project, we can perhaps lift the communitarian restrictions and think of globalization within

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8 Beck, U., *Macht und Gegenmacht im globalen Zeitalter. Neue weltpolitische Ökonomie*, Suhrkamp, Frankfurt am Main 2002.

a communicative communitarian cosmopolitan perspective as the becoming conscious of humanity as a single species.

The integration of communities into a world system, unified by an economic and technological substrate that spans the globe, requires and provokes a planetary consciousness. With the dialectic between globalization *an sich* and für sich, Humanity emerges in the history on the scene of world politics as a collective subject pursuing the common project of "the good life with and for other peoples and civilizations in just, democratic institutions and a sustainable environment". Although the emergence of world government is neither likely nor desirable, the idea of a world society without world government – though with a global executive body that is (at least in theory) responsible for the maintenance of peace and security, the enforcement of human rights and the stewardship over natural resources[9] – is at the horizon of the world society.[10] Hegel's vision of the realization of the idea of mundane reason (*Weltvernunft*) in a self-conscious ethical substance (*selbstbewußte sittliche Substanz*) has become not only a possibility, but also a necessity and a reality.

2

Now that I have tried to update Hegel and introduced the idea of cosmopolitan *Sittlichkeit*, I can go back to a more Kantian line of argumentation and raise my second question, which concerns the place of justice, human rights and democracy in Honneth's analysis. In the text, there are references to interests and power, as well as to common values and projects but, strangely enough, not to universal norms and human rights. This absence can, no doubt, be explained by Honneth's

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[9] Habermas, J., *Zwischen Naturalismus und Religion. Philosophische Aufsätze*, Suhrkamp, Frankfurt am Main 2005, pp. 324–365.

[10] Amending Habermas's (2005) vision of global constitution, which considers ecological issues as political issues that have to be negotiated among state and non-state actors, I have proposed a model in which social movements move ecological issues to the top of the multi-level system and defended the creation of a global UN commission of sages that would be responsible for the distribution of natural resources. Cf. Vandenberghe, F., "The State of Cosmopolitanism", 2009, unpublished manuscript.

tendency to introduce the ethics of care (love) and communitarian ethics (ethical life) into moral and political philosophy against more deontological positions (law). Although his position does allow for a more encompassing conception of justice that integrates Hegel, Kant and Levinas into the unitary framework of the theory of recognition,[11] at times Habermas's successor seems to be carried away by a more polemical vein and explicitly advances recognition over and against communication. I am not convinced by this move. I conceive of Honneth's theory of recognition as a turn within Habermas's theory of communicative action to which it offers a welcome complement, but not an alternative.[12] For this, its conceptual bases are too narrow in my opinion. In the same way as I pleaded before for a cosmopolitan communitarianism, I'd now like to defend the idea of a communicative theory of recognition among liberal democratic states.

The three categories of recognition have become the hallmark of the Honnethiana. Following the young Hegel, he distinguishes three stages in the development of collective moral consciousness. Thanks to the struggle for recognition, persons and the communities they represent are recognized in the sphere love (the family), law (civil society) and solidarity (the state).[13] Against Hegel and with Habermas, I would, however, like to invert the order of progression in such a way that solidarity (civil society) comes *before* and *not after* the law (the state). The

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[11] Honneth, A., *Das Andere der Gerechtigkeit. Aufsätze zur praktischen Philosophie*, Suhrkamp, Frankfurt am Main 2000, pp. 133–170.

[12] Iser, M., *Empörung und Fortschritt. Grundlagen einer kritischen Theorie der Gesellschaft*, Campus, Frankfurt am Main 2008.

[13] While the original formulation was developmental in its orientation, the more recent version conceives of the three categories as spheres rather than stages of recognition. It is somewhat ironic that the third category (solidarity) on which Honneth has banked so much is also the one that is most confusing. All too often it has been understood as referring to the identity politics of minorities, whereas, in fact, it does not apply to it, as Honneth acknowledged in his debate with Fraser (Fraser, N. – Honneth, A., *Umverteilung oder Anerkennung? Eine politisch-philosophische Kontroverse*, Suhrkamp, Frankfurt am Main 2003, pp. 185–201). According to Honneth, the struggles for recognition of particular identities (class, race, gender) in multicultural societies have to be conceived of as struggles for citizenship that can best be dealt with within a Habermasian framework. Moreover, it should also be noted that the third category is rather unstable. Conceived originally as solidarity, it has been progressively retooled as achievement (*Leistung*) and linked to

collective identity of the societal community is not the end. It is not the ultimate, but the penultimate station on the way to a global social order that realizes the common good of all communities and societies in a single world society. The right to recognition of particular nations, peoples and states is conditional on their endorsement and effective defense of human rights (though there might, of course, be different formulations of it). Not all forms of life are worthy of esteem, but only those that recognize democracy and protect the human rights of all – not only of individuals, but also of the various collectivities that make up a state. I would, therefore, contend that today only liberal democratic states are legitimate.[14]

The cosmopolitan communicative communitarian perspective is, obviously, a normative one. In the last part of his paper, Honneth convincingly demonstrates the irenic function of the recognition of worth of peoples. Especially in cases of conflict, when whole populations are stereotyped and "polluted" by politicians, it is important that positive characterizations of the "enemy" circulate in the public sphere, so that the narratives of justification of animosity that devalue and disrespect the other lose their credibility. That is, definitely, an important point, but I wonder if communication across divisions, based on common values and norms, is not as important as the recognition of cultural differences between nations and nation-states. What has to be avoided by all means is the transformation of diacritical markers (religion, ethnicity, race, language) of relative difference into the deadly opposition of friends and enemies. Once again, we see that a theory of recognition is not opposed to a theory of communication, but that it complements it.

Dewey and Durkheim rather than to Hegel. In any case, the social topology that one finds in the *Rechtsphilosophie* (family, civil society and state) is misleading and does not correspond to Honneth's.

[14] Unlike John Rawls (*The Law of Peoples*, Harvard University Press, Cambridge, Mass. 1999), I do not think that "decent hierarchical peoples" with authoritarian and undemocratic states deserve to be unconditionally recognized in the concert of nations. That does not mean that they do not deserve respect. It means rather that liberal democratic states should support the internal struggle for recognition as an important dimension in the struggle for recognition between states. Needless to say that support for democratic movements in decent hierarchical societies does in no way justify the imposition of democracy by force from without by a coalition of liberal democratic societies.

3

So far the question of the recognition between states has been treated from the perspective of moral and political philosophy. Arguing for a cosmopolitan communitarianism that suits the global age, I have tried to actualize Hegel and to push the theory of recognition in a more liberal direction. I have basically made the case that the dialectics of globalization have led to the emergence of common values of, and a common project for, the overlapping communities of fate of the world. But a common project presupposes, of course, common action and a collective subject. Moving from moral and political philosophy to social metaphysics, to conclude, I now want to take up the question of the ontology of collectives.

In the opening pages of his text, Honneth makes it quite clear that he doesn't want to transfer the concept of recognition to the macro-level and that, unlike Hegel, he does not consider the state as the executive organ of a collective identity. I suspect, however, that this nominalist stance derives from a normative (not to say affective) aversion of nationalism.[15] Could we, however, not use the concept of the community of values to develop a more sociological analysis of the constitution of collectives, like the Proletariat or Humanity itself? Do we always have to adopt a nominalist perspective and assume that collectives are only aggregates of individuals in interaction who cannot act as a person? I would strongly contest such an affirmation and argue that any political theory of international relations must recognize the existence of societal communities as collective actors endowed with causal power and the capability to change the world.

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[15] As a European, I share this aversion of nationalism. But in a post-colonial context, like Brazil, nationalism has a different meaning altogether. Returning just from Québec, where nationalism is progressive and not reactionary and degenerate like in Europe, I wonder, just for the sake of the argument, whether Honneth would be willing to recognize the existence of nations as collective subjects and, if so, if he would also be willing to grant them collective rights (possibly with the right to secession of peoples without states)? For a *plaidoyer* for the recognition of the collective rights of Québec, which conceives of itself as a multi-ethnic, multi-cultural and multi-national nation, see Seymour, M., *De la tolérance à la reconnaissance*, Boréal, Montréal 2008.

Elsewhere, drawing on the work of Roy Bhaskar, but extending it to the field of social movements, I have outlined a realist theory of collective subjectivities that analyzes the constitution of collectives – from the dyad all the way up to imaginary communities – in terms of triphasic dialectical process.[16] If collectives are to act as persons of a higher order, they need, first, to symbolically represent themselves as an "imaginary community" and constitute themselves as a "We" with a categorical identity, differentiated from the others. To transform this "imaginary community" into a virtual network of members who can enter into contact and communication with each other and coordinate their actions across space, they also need the technological mediation of mass communication. Finally, to transform this virtual network of people into an organized group that can defend its identity, ideals and interests, the collective needs to be politically represented by a spokesperson that speaks in its name and actualizes its capacity to act as one person.

At the time, I did not directly refer to the theory of recognition, but I could have. After all, is the theory of recognition not a theory of collective subjectivity? Isn't it first and foremost a political theory of intersubjectivity that analyzes how conflicts can lead to the normative integration of societal communities through progressive inclusion of the excluded in a common project? Indeed, to the extent that the performative dimension of the act of recognition is quite conspicuous in the mutual recognition of states, I think that the analysis of collective subjectivities could benefit from the analysis of the recognition in international relations. In the trajectory that goes "from the passive use to the active use of voice",[17] the political recognition between states is at the active end: it presupposes an act of will; it is a decision and not simply the discovery of a reality that already exists. As an illocutionary, declarative act, the act of recognition of a state by another state has a performative power – although one cannot say that states only exist thanks to the recognition by other states, it is evident that the act of recognition adds something. It brings it into existence as a legitimate

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[16] Vandenberghe, F., "Avatars of the Collective. A Realist Theory of Collective Subjectivities", *Sociological Theory* 25, 2007, 4, pp. 295–324.

[17] Ricoeur, P., *Parcours de la reconnaissance. Trois études*, Stock, Paris 2004, p. 35.

entity. The recognition between states may be only a special case, but to the extent that it brings the performative power of recognition into the open, it could be used as a template for the analysis of the performance of identities in general and the constitution of a collective subjectivity in particular as "an I that is a We, a We that is an I".[18]

References

Alexander, J. C., *The Civil Sphere*, Oxford University Press, Oxford 2006.

Bader, V. M., "Misrecognition, Power, and Democracy", in: B. van Brink – D. Owen (eds.): *Recognition and Power. Axel Honneth and the Tradition of Critical Social Theory*, Cambridge University Press, Cambridge 2007, pp. 238–269.

Beck, U., *Macht und Gegenmacht im globalen Zeitalter. Neue weltpolitische Ökonomie*, Suhrkamp, Frankfurt am Main 2002.

Forst, R., *Kontexte der Gerechtigkeit. Politische Philosophie jenseits von Liberalismus und Kommunitarismus*, Suhrkamp, Frankfurt am Main 2004.

Fraser, N. – Honneth, A., *Umverteilung oder Anerkennung? Eine politisch-philosophische Kontroverse*, Suhrkamp, Frankfurt am Main 2003.

Habermas, J., *Faktizität und Geltung. Beiträge zur Diskurstheorie des Rechts und des demokratischen Rechtsstaates*, Suhrkamp, Frankfurt am Main 2002.

Habermas, J., *Zwischen Naturalismus und Religion. Philosophische Aufsätze*, Suhrkamp, Frankfurt am Main 2005.

Honneth, A., *Kampf um Anerkennung. Zur moralischen Grammatik sozialer Konflikte*, Suhrkamp, Frankfurt am Main 1992.

Honneth, A., *Das Andere der Gerechtigkeit. Aufsätze zur praktischen Philosophie*, Suhrkamp, Frankfurt am Main 2000.

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[18] In passing, I also note that a careful analysis of the *Phenomenology of Spirit*, from which I extracted the final quote, is well overdue. Honneth has careful readings of the *Realphilosophie* and the *Rechtsphilosophie*; but what is still missing is a close analysis of the "dialectic of the master and the slave" to supplement Kojève.

Iser, M., *Empörung und Fortschritt. Grundlagen einer kritischen Theorie der Gesellschaft*, Campus, Frankfurt am Main 2008.

Kompridis, N., "From Reason to Self-Realisation? Axel Honneth and the 'Ethical Turn' in Critical Theory", *Critical Horizons*, 1/2, 2004, pp. 323–360.

Niesen, P. – Herborth, B. (eds.), *Anarchie der kommunikativen Freiheit. Jürgen Habermas und die Theorie der internationalen Politik*, Suhrkamp, Frankfurt am Main 2007.

Rawls, J., *The Law of Peoples*, Harvard University Press, Cambridge, Mass. 1999.

Ricoeur, P., *Soi-même comme un autre*, Seuil, Paris 2001.

Ricoeur, P., *Parcours de la reconnaissance. Trois études*, Stock, Paris 2004.

Seymour, M., *De la tolérance à la reconnaissance*, Boréal, Montréal 2008.

Smith, R., *Stories of Peoplehood. The Politics and Morals of Political Membership*, Cambridge University Press, Cambridge 2003.

Vandenberghe, F., "Avatars of the Collective. A Realist Theory of Collective Subjectivities", *Sociological Theory* 25, 2007, 4, pp. 295–324.

Vandenberghe, F., "The State of Cosmopolitanism", 2009, unpublished manuscript.

Zurn, Ch., "Recognition, Redistribution, and Democracy: Dilemmas of Honneth's Critical Social Theory", *European Journal of Philosophy* 13, 2005, 1, pp. 89–126.

IV

Justice and Recognition
within a Theoretical Context

Rawls and Habermas on Justice and Pluralism

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The conciliation between justice and pluralism is the fundamental question of modern practical philosophy in each of its different domains, moral philosophy, political philosophy or in the philosophy of law.[1*] Not incidentally, John Rawls combines the two themes into a single problem, and enunciates, in the first chapter of his *Political Liberalism*, the following question, as the one to be answered by his intellectual effort: "how is it possible for there to exist over time a just and stable society of free and equal citizens, who remain profoundly divided by reasonable religious, philosophical, and moral doctrines?".[2] Political Liberalism is one of the main available instruments for the analysis of the normative foundations of political justice in pluralistic contemporary societies. Paired by the Discourse Theory[3], it is capable of ever conferring new impulse to the already crystallized movement for the rehabilitation of moral reflection on political questions. Deriving from distinct traditions, although mutually influenced in several aspects, the theories of Habermas and Rawls shed new light on the debate around the universality of moral principles and the legitimacy of democracy. Arguing against the instrumentalist and historicist tendencies of contemporary philosophy, Rawls and Habermas intend to restitute a moral import to the political practices and discourses in societies deprived of ultimate, transcendent guarantees, developing their reflections in the limits of a procedural conception of practical reason fundamentally inspired in Kant[4]. From this standpoint, both advocate an independ-

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[1] This essay is adapted from Luiz B. L. Araujo, "A Decade of Debate: Discourse Theory *versus* Political Liberalism", *Archiv für Rechts- und Sozialphilosophie*, Beiheft 107, 2007, pp. 87–96.

[2] Rawls, J., *Political Liberalism*, 2nd ed., Columbia University Press, New York 1996, p. 4.

[3] See particularly from Jürgen Habermas: *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, trans. by William Rehg, MIT Press, Cambridge (Mass.) 1996; Habermas, Jürgen, *The Inclusion of the Other: Studies in Political Theory*, edited by Ciaran Cronin and Pablo De Greiff, MIT Press, Cambridge (Mass.) 1999.

[4] For a discussion of these relevant issues see: Baynes, K., *The Normative Grounds of Social Criticism: Kant, Rawls and Habermas*, Suny Press, Albany 1992; Larmore, Ch., "The

ent or autonomous conception of political justice, grounded in a certain principle of impartial validation of practical questions: the liberal principle of legitimacy (Rawls) and the discourse principle (Habermas)[5].

As is well known, the problem of the conciliation of pluralism and justice is bound to the modern thesis of the priority of the right over the good, which is a different formulation to the so-called principle of neutrality.[6] Indeed, a deep disagreement between the moral, philosophical and religious doctrines that compose a democratic society seems to imply the adoption of a conception of justice that is not bound to any particular belief, that is, the principles of justice must be neutral toward controversial notions of the good. Rawls suggests that an overlapping consensus exists when the political conception of justice governing the basic institutions of a given society is accepted by the several comprehensive doctrines composing it.[7] What is being argued for, therefore, is a strictly *political* liberalism that distinguishes itself from classic metaphysical formulations inasmuch as its starting-point is the so-called *fact of pluralism*, that is, the diversity of comprehensive doctrines that are reasonable though mutually exclusive and irreconcilable.

Habermas accepts this thesis, considering that the principle of neutrality is a necessary component of an inevitable practice for which

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Moral Basis of Political Liberalism", *The Journal of Philosophy* 96, 1999, 12, pp. 599–625; Lafont, C., "Procedural justice? Implications of the Rawls-Habermas debate for discourse ethics", *Philosophy & Social Criticism* 29, 2003, 2, pp. 163–181; McCarthy, T., "Kantian Constructivism and Reconstructivism: Rawls and Habermas in Dialogue", *Ethics* 105, 1994, 1, pp. 44–63.

[5] These principles read as follows: a) Rawls's principle of legitimacy: "our exercise of political power is fully proper only when it is exercised in accordance with a constitution the essentials of which all citizens as free and equal may reasonably be expected to endorse in the light of principles and ideals acceptable to their common human reason" (John Rawls, *Political Liberalism*, op. cit., p. 137); b) Habermas's discourse principle: "Just those action norms are valid to which all possibly affected persons could agree as participants in rational discourses" (Jürgen Habermas, *Between Facts and Norms*, op. cit., p. 107).

[6] See Larmore, Ch., *The Morals of Modernity*, Cambridge University Press, Cambridge 1996.

[7] Cf. Rawls, J., "The Idea of an Overlapping Consensus", in: *Collected Papers*, edited by Samuel Freeman, Harvard University Press, Cambridge (Mass.) 2001, pp. 421–448 (originally published in *Oxford Journal of Legal Studies* 7, 1987, pp. 1–25).

there is no alternative.[8] But if the argument is meant to refute the communitarian objection according to which impartial evaluation of practical questions cannot be dissociated from certain worldviews and life projects, it may not lead to the liberal model of justification of the primacy of the right over the good, since discourse theory does not dispense with the cognitive validity claim concerning the questions of moral and political justice, advocating an independent status in the sense of an *ethical* neutrality, and not a philosophical neutrality, in face of worldviews. This is so inasmuch as, for Habermas, the demand for impartiality of practical reason, to which comprehensive doctrines are submitted, may be justified only by an epistemic authority independent of, and prior to, the different worldviews. Discourse theory gives vital importance to the difference between the procedures that produce the conditions of stability of a social order, in conformity with a negative version of mutual recognition grounded in tolerance, and the constitution of an argumentative debate concerning the validity of the institutions, the grounding for which requires the philosophical principle of critique as a presupposition of the public use of reason. The fundamental strain, therefore, resides in the strategy for justifying the priority of the right over the good.[9]

The debate between Jürgen Habermas and John Rawls officially began fifteen years ago, on the occasion of a direct interchange between the two thinkers. A critical essay by the former received a reply from the later, and to that a new text by the German philosopher followed, but no new Rawlsian reply.[10] In his essay, "Reconciliation Through

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[8] Cf. Habermas, J., "Democratic Procedure and the Problem of Its Neutrality", in: *Between Facts and Norms*, op. cit., pp. 302–314.

[9] A detailed presentation of each strategy can be found in: Rawls, J., "The Priority of Right and Ideas of the Good", in: *Collected Papers*, op. cit., pp. 449–472 (originally published in *Philosophy and Public Affairs* 17, 1988, pp. 251–276); Habermas, J., "Remarks on Discourse Ethics", in: *Justification and Application: Remarks on Discourse Ethics*, translated by Ciaran Cronin, MIT Press, Cambridge (Mass.) 1994, pp. 19–111 (see particularly: pp. 88–96).

[10] The first essay by Habermas ("Reconciliation through the public use of reason: remarks on John Rawls's *Political Liberalism*") and the reply from Rawls ("Reply to Habermas") appeared originally in a special issue of *The Journal of Philosophy* 92, 1995, 3, pp. 109–131; 132–180) and were reprinted respectively in: Habermas, J., *The Inclusion of the Other*, op. cit., pp. 49–73; Rawls, J., *Political Liberalism*, op. cit., pp. 372–434. The second contribu-

the Public Use of Reason", Habermas brings to light three questions about the statute of the theory of justice as fairness. The first question concerns Rawlsian argumentation relating to the original position. It is noteworthy that, according to the Habermasian reading, the notion of a moral person as enunciated by Rawls leads him to a few mistakes regarding the definition of *primary goods*, and those mistakes undermine the neutrality of his theory. In his "Reply to Habermas", Rawls defends himself by indicating the differences between his own theory, presented as freestanding in relation to comprehensive doctrines, and Habermas's theory, which he considers to be of this later kind. In his second objection, Habermas examines the problematic of pluralism and the Rawlsian idea of overlapping consensus. Habermasian argumentation evolves around the idea of an overlapping consensus understood as the observance of an index of social stability, since Rawls does not concede to the notion of the Reasonable – an element determining the existence of a consensus between diverging comprehensive doctrines – the character of truth, but that of expressing an attitude of tolerance. Rawls's answer is that his own formulation takes into account the concern with stability, but that its legitimacy goes well beyond that, due to the threefold character of justification and to the recognition of two different kinds of consensus. Finally, the notions of public and private autonomy are discussed, so that the discussion on the principles of justice that Rawls erects in his theory is properly addressed. As for that, Habermas understands that Rawls favors the "liberties of the moderns" in detriment to the "liberties of the ancients", but Rawls replies to this with an explanation of his four step sequence which, according to him, was misinterpreted by Habermas.

In my view, the main philosophical divergence between political liberalism and discourse theory corresponds to the second moment in the inaugural debate. Habermas addressed that divergence again in his new contribution. In his first essay, Habermas raises two objections on

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tion by Habermas ("Reasonable" versus "True", or the Morality of Worldviews") was published as a chapter of *The Inclusion of the Other*, op. cit., pp. 75–101. The three pieces of the Habermas-Rawls debate were collected in a single volume both in french (*Débat sur la justice politique*, Cerf, Paris 1997) and spanish (*Debate sobre el liberalismo politico*, Paidós, Barcelona 1998).

the Rawlsian notion of overlapping consensus. The first objection is ad-
dressed to the role of this concept, whether instrumental or cognitive.
The second objection discusses the sense of the predicate Reasonable,
as employed by Rawls. Habermas recalls how this Rawlsian notion is
dealt with on the grounds of a certain configuration found in demo-
cratic liberal societies. As far as Rawls sees it, this configuration could
be understood as a model to be accepted in pluralistic societies. That is
to say: within the political culture of a democratic society, the possibil-
ity of consensus exists with the help of certain norms of acquaintance
between the several different doctrines and conceptions of the good
life. The way how conflicting doctrines coexist in modern democratic
tradition may be apprehended as exemplary for the process of acquiring
the guiding principles of public justice. But, then, Habermas's question
is precisely this: is, in fact, the observance of an overlapping consen-
sus in a pluralistic environment a means of justification? What worries
Habermas is the Rawlsian supposition that the test of acceptability for
his principles is of the same kind as the test of a society's potential
for self-stabilization. This would imply that the idea of an overlapping
consensus would have a functionalist character. This methodological
parallel is problematic, since the only role an overlapping consensus
could play is an instrumental one. According to Habermas, a loss of
epistemic meaning takes place: the Rawlsian concept might serve only
as an index of utility, of *acceptance*, and not as a confirmation of the
theory's correctness, that is, of its *acceptability* or validity.

   As for the meaning of the predicate Reasonable, Habermas splits
his objection in two parts. Rawls introduces that concept as comple-
mentary to "true". Therefore, we may either understand Reasonable as
a synonym of "morally true" or in the sense of "thoughtfulness". That
is, either doctrines or opinions considered to be reasonable have moral
truth or they contain a capacity for tolerance in relation to different
positions. For the German philosopher, Rawls picks the later option. In
the first sense, Rawls avoids adding the predicate "truth" to his theory
of justice, and consequently to his principles. As Habermas sees it, the
problem is not the rejection of moral realism on the part of the Amer-
ican thinker, or the resultant rejection of the semantic truth predicate
for normative statements, but the fact that he connects such predicate
to worldviews, proper to the so-called comprehensive doctrines, since
"their contents cannot be expressed completely in sentences that ad-

mit of truth and they do not form a symbolic system that can be true or false as such".[11]

As for the second sense, that is, Reasonable as thoughtfulness, the role of a theory of justice, from a secular standpoint, would be that of looking for existent reasonableness in the reflexive consciousness of each of the comprehensive doctrines. As a validity predicate, this reasonableness would, thus, be transferred to a political conception of justice. Habermas draws a distinction between the character of justifiable truth of moral questions and questions of justice, and the content of partiality in ethical questions (what is good for me and for us is not necessarily good *for all*). Rawls, however, raises the question about overlapping consensus interpreting that the political institutionalization of freedom of thought and liberty of conscience was what led to the end of religious civil wars in the modern age.[12] Habermas, therefore, asks: "But could the religious conflicts have been brought to an end if the principle of tolerance and freedom of belief and conscience had not been able to appeal, with good reasons, to a moral validity *independent* of religion and metaphysics?"[13] Therefore, the suggested conclusion is that, for Habermas, it is possible that moral (normative) questions be treated in terms of truth and falsity, since they may appeal to an impartial standpoint, while the same does not hold for worldviews propped on religious or metaphysical interpretations of reality.

For Rawls, the answer to Habermas's objections regarding the notion of overlapping consensus and the meaning of the term Reasonable stems from the way in which political liberalism specifies three different kinds of justification – a *pro tanto* justification of the political

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[11] Habermas, J., *The Inclusion of the Other*, op. cit., p. 67.

[12] In fact, Rawls affirms, in the introduction to the first edition of his *Political Liberalism*, that "the historical origin of political liberalism (and of liberalism more generally) is the Reformation and its aftermath, with the long controversies over religious toleration in the sixteenth and the seventeenth centuries. Something like the modern understanding of liberty of conscience and freedom of thought began then. [...] Indeed, the success of liberal constitutionalism came as a discovery of a new social possibility: the possibility of a reasonably harmonious and stable pluralist society. Before the successful and peaceful practice of toleration in societies with liberal institutions there was no way of knowing of that possibility" (pp. xxvi–xxvii).

[13] Habermas, J., *The Inclusion of the Other*, op. cit., p. 67.

conception of justice, a full justification by individual persons and a public justification by political society – and two kinds of consensus – a sort of an *ad hoc* consensus, which focuses upon coalition-building, and a reasonable one. In the first place, the justification of a political conception of justice is *pro tanto*: it relates solely to political values, leaving other values aside, which will have to be internally dealt with by whichever comprehensive doctrine of a reasonable sort. Because of this, in the point where political values converge, a political conception common to all doctrines may be found. The second justification is that carried out by an individual citizen as a member of civil society. Each of them has the task of stipulating how the claims of political justice will be disposed in relation to nonpolitical values, which will be sought out in a comprehensive doctrine, to which each of them finds himself bound. This way, the political conception of justice is made to derive from within the different doctrines and is asserted by the citizens themselves, but this is done by mapping the political values of each doctrine. Finally, Rawls also holds that there is a justification by political society. It occurs when all reasonable members of political society bring about the justification of their shared political conceptions by fitting those in their comprehensive doctrines. Although comprehensive doctrines are the ground from which each individual impels himself toward political debate, the express contents of these doctrines play no normative role in public justification. The citizens are understood as persons that do not look into each other's doctrines, and this is how they may remain, in terms of justification, within the bounds of the political.

The basic idea of public justification is intimately linked to the existence of a reasonable overlapping consensus and, as Rawls sees it, is connected to the idea of stability for the right reasons and the idea of legitimacy. So as to analyze the connection between those three notions, Rawls addresses two kinds of consensus. The first refers to the notion derived from everyday politics. A person occupying a public position tries, by means of diplomacy, to arrive at a coalition of opinions that may be accepted by a majority. Such consensus is obtained from the outside in. But *Political Liberalism* considers a different kind of consensus: a model that is to be obtained in a justification always carried out *pro tanto*, never trying neither to look at the nonpolitical values of the comprehensive doctrines, nor to know what they are like. When the political conception attains the condition of having eliminated all such

values and of having preserved only political values, it is then possible to expect that all doctrines are capable of supporting this conception. According to Rawls, the idea of stability enters this conception of consensus inasmuch as it is understood that to show the possibility of recognizing a stabilizing force for right reasons in a reasonable pluralistic society is also part of the justification itself. In this sense,

> seeing whether an overlapping consensus on the political conception is possible is a way of checking whether there are sufficient reasons for proposing justice as fairness (or some other reasonable doctrine) which can be sincerely defended before others without criticizing or rejecting their deepest religious and philosophical commitments.[14]

Thus, in a society where it is possible to recognize an overlapping consensus, stability assumes a different aspect from that occurring in a society in which citizens are grouped by their full justifications (not only those of a political character), and their conceptions are not embedded in a shared political conception. To Habermas's objection that the observance of a reasonable overlapping consensus might be a factor reflecting social stability, Rawls's answer is to raise his own notion of stability to the rank of justification, beyond that of mere functional disposition of equilibrium of social forces.[15]

As for Habermas's objection to the predicate "Reasonable", Rawls reasserts his strategy of avoidance in regard of the notion of truth and reinforces that its meaning refers to a reflective attitude to toleration. Whereas Habermas believes that political liberalism cannot avoid the

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[14] Rawls, J., *Political Liberalism*, op. cit., p. 390.

[15] To sum up the argument, overlapping consensus is meant to provide not social stability *simpliciter* but stability for the right reasons. According to Rawls, stability for the right reasons has three main characteristics (cf. p. 391): it refers to the basic structure of society being regulated by the most reasonable political conception of justice; this political conception is endorsed by an overlapping consensus comprised of all reasonable comprehensive doctrines in society and these are in an enduring majority; and public political discussions, at least concerning constitutional essentials and matters of basic justice, are always decidable on the basis of reasons specified by the most reasonable political conception.

questions of truth and the philosophical conception of the person, Rawls's position is:

> I do not see why not. [...] Until this way of proceeding is shown to be unsatisfactory, or to fail in certain ways, political liberalism need not give ground. [...] Yet I believe the main lines of the distinction between the reasonable and both the true and the rational are clear enough to show the plausibility of the idea of social unity secured by a reasonable overlapping consensus.[16]

According to Rawls, the central idea of political liberalism is the fact that it is constituted as a conception that moves within the category of the political and leaves philosophy as it is, abstaining from making claims in the field of comprehensive doctrines. He describes a *political* conception of justice in terms of three features:[17] (a) its application is restricted to the basic structure of society; (b) it is formulated independently of any particular comprehensive doctrine; and (c) its fundamental ideas belong to the category of the political and are familiar from the public political culture of a democratic society and its traditions of interpretation of the constitution and basic laws. In relation to citizens, political liberalism leaves entirely open the formulation of their own means of going beyond a shared political conception.

A large part of the discussions inspired by Rawls' strategy for justifying the freestanding character of his political conception revolves around the amount of contextualism that could have entered political liberalism, be it as a result of a defensive attitude in face of the neo-Aristotelian and neo-Hegelian objections of communitarian thinkers,[18] be it because of

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[16] Rawls, J., *Political Liberalism*, op. cit., p. 395.

[17] See, for instance: Rawls, J., *Justice as fairness: a restatement*, edited by Erin Kelly, Harvard University, Cambridge (Mass.) 2001, pp. 26–27.

[18] On the communitarian objections to his theory of justice as fairness, see: MacIntyre, A., *Whose Justice? Which Rationality?*, Duckworth, London 1988; Sandel, M., *Liberalism and the limits of justice*, Cambridge University Press, Cambridge 1982; Taylor, Ch., *Sources of the Self: the making of the modern identity*, Harvard University Press, Cambridge 1989; Walzer, M., *Spheres of Justice: a defense of pluralism and equality*, Basic Books, New York 1983.

the historical or cultural context of its appearance.[19] As Habermas understands it, this interpretation is implausible. Nothing he can see points toward a moderation of the universalist approach contained in that procedural explanation of the impartial evaluation of moral and political questions furnished by the theory of justice as fairness, in favor of which Rawls made considerable efforts.[20] That explanation is also rejected by Rawls. On the one hand, he interprets the revisions introduced in the course of the eighties as a need to remove some ambiguities and inconsistencies of *A Theory of Justice* – in particular, the unrealistic account of the stability of a well-ordered society based on a comprehensive philosophical and moral doctrine – in order to present justice as fairness from the outset as a political conception of justice, which calls for a family of ideas such as the notions of an overlapping consensus, of public reason, of reasonable pluralism, and the idea of political constructivism.[21] On the other hand, Rawls does not think of himself as having given up Kantian constructivism – for which it is essential that the principles of justice are the outcome of a reasonable procedure of construction expressing the conception that autonomous citizens have of themselves and of society, and not a mere approximation to moral facts that are both previous and independent, which would result in heteronomy – in order to replace it with a justification bound to a given *modus vivendi*, as if overlapping consensus between distinct and opposite comprehensive doctrines was maintained by pure opportunism.[22]

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[19] This contextualistic appropriation of Rawls is supported by Richard Rorty, for whom the former is "simply trying to systematize the principles and intuitions typical of American liberals", as a result of "a thoroughly historicist and antiuniversalistic" way of thinking ("The Priority of Democracy to Philosophy", in: *Objectivity, Relativism and Truth*, Cambridge University Press, Cambridge 1991, pp. 175–196; here p. 189 and p. 180). See also, from the same author: *Contingency, Irony and Solidarity*, Cambridge University Press, Cambridge 1989.

[20] Cf. Habermas, J., "The Return of Modern Natural Law and the Impotence of the Ought", in: *Between Facts and Norms*, op. cit., pp. 56–66.

[21] "The changes in the later essays are sometimes said to be replies to criticisms raised by communitarians and others. I don't believe there is a basis for saying this. Of course, whether I am correct in this belief depends on whether the changes can be satisfactorily explained by an analytic view of how they fit into the revised account of stability. It is certainly not settled by may say so" (Rawls, J., *Political Liberalism*, op. cit., p. xix, note 6).

[22] Cf. Rawls, J., "Kantian Constructivism in Moral Theory", in: *Collected Papers*, op. cit., pp. 303–358 (originally published in *The Journal of Philosophy* 77, 1980, pp. 515–572).

It must be stressed that the strategy of avoidance is a component present in any perspective that adopts the thesis of the priority of the right over the good. Discourse theory, in this sense, is not an exception, since Habermas tries to establish the controversial thesis[23] of the radical difference between *moral* questions, which concern rights, not goods, and are subject to impartial treatment regulated by the universalization principle, and *ethical* questions, which are not necessarily excluded from a rational debate, but are limited by the pluralism of life ideals and conflicting value-orientations, so as to cause the application of norms and the application of values to be distinguished. According to Habermas, norms and values differ

> first, in their references to obligatory rule-following versus teleological action; second, in the binary versus graduated coding of their validity claims; third, in their absolute versus relative bindingness; and fourth, in the coherence criteria that systems of norms and systems of values must respectively satisfy. The fact that norms and values differ in these logical properties yields significant differences for their application as well. [...] Naturally, in both cases the problem of application requires the selection of the right action. But if we start with a system of valid norms, that action is "right" that is equally good *for all*; in reference to a typical value constellation for our culture or form of life, on the other hand, that behavior is "best" that, on the whole and in the long run, is good *for us*.[24]

However, a method of avoidance in the strict sense is clearly not taking place here, insofar as the *philosophical* undertaking of grounding the principle of neutrality cannot be mistaken by a tolerant interpretation of the same principle. Tolerance is a political value of the highest degree but, contrary to what Rawls maintains, does not apply to philosophy. Habermas explores precisely this point in his rejoinder:

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[23] See, for example: Habermas, J., "On the Pragmatic, the Ethical, and the Moral Employments of Practical Reason", in: *Justification and Application: Remarks on Discourse Ethics*, op. cit., pp. 1–17.

[24] Habermas, J., *Between Facts and Norms*, op. cit., pp. 255–256.

> He seems to think that a theory that is freestanding in the polit-
> ical domain will be freestanding in the philosophical domain as
> well and steer clear of all controversial metaphysical problems
> – "leaving philosophy as it is". But it is hard to see how Rawls
> can explain the epistemic status of a freestanding political con-
> ception, without taking a position on philosophical questions
> which, while not falling under the category of the metaphysical,
> nevertheless reach well beyond the domain of the political.[25]

The philosophical justification of neutrality rests on the idea that the
demand for impartiality of a practical reason emancipated from the
morality of worldviews is grounded on an epistemic authority that is
independent of, and prior to, the worldviews themselves.

As can be clearly seen, the discussion is transposed so as to focus
on the concept of philosophy, and justification begins to depend on
what Habermas calls post-metaphysical thinking.[26] Modern societies
deprived of ultimate metasocial guarantees, functionally differentiated
and culturally heterogeneous, can only rely on validation procedures
whose rules are ultimately grounded on the conditions that make all
argumentative debate possible. Under such premises, the relations be-
tween the political and the metaphysical, on the one side, and between
the moral and the ethical, on the other, are transformed. Forgoing the
support given by the truth of religious and metaphysical worldviews,
moral and political considerations must be analyzed solely with the
help of a procedural principle that expresses the demanding sense of

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[25] Habermas, J., *The Inclusion of the Other*, op. cit., p. 76.

[26] On this subject, see Habermas, J., *Post-metaphysical Thinking: Philosophical Essays*, trans.
by W. M. Hohengarten, MIT Press, Cambridge (Mass.) 1992. The same aspect is pointed
by Charles Larmore, for whom the relevant feature of modern experience does not lie in
the demise of metaphysical and religious worldviews, as we can find in the Habermasian
reconstruction of the normative basis of modern democracy, but in the expectation that
metaphysics and post-metaphysics will remain an enduring object of reasonable disagree-
ment (Larmore, Ch., "The Foundations of Modern Democracy: Reflections on Jürgen
Habermas", *European Journal of Philosophy*, 3, 1995, 1, pp. 55–68). Notwithstanding his
agreement with the suggestion that the visions of the good life are subject to reasonable
disagreement, Habermas considers that Larmore misunderstands his conception of the
ethical use of practical reason.

a post-conventional grounding. Once it is not possible to judge them merely in terms of the truth or falsity of the enunciations they contain, the comprehensive doctrines of the good, from which the conceptions of individual or collective identity arise, answer more properly to the criterion of the authenticity of the forms of life and lifestyles, around which, although a rational elucidation may be admitted, no more than a reasonable disagreement may be expected. By contrast, according to Habermas,

> we expect that moral questions and questions of political justice admit in principle of universally valid answers. [...] The problematic relation between the reasonable and the true calls for an explanation that raises questions concerning Rawls's strategy of avoidance. The concept of practical reason cannot be drained of moral substance and morality cannot be relegated to the black box of comprehensive doctrines. I cannot see any plausible alternative to the straightforward Kantian strategy. There seems to be no way around the explanation of the moral point of view in terms of a procedure that claims to be context-independent. [...] A procedure that operationalizes the moral point of view of impartial judgment is neutral with respect to arbitrary constellations of values but not with respect to practical reason itself.[27]

Passages like that show that, in certain points, Rawls and Habermas make different options, though always aiming at a defense of an autonomous conception of political justice in pluralistic societies. The chief difference pointed out by Rawls in his comparison between *Political Liberalism* and *Diskursethik* is based on the alleged freestanding view of the former and the character of comprehensive doctrine of the later. As he critically notes, Habermas's position

> is one of logic in the broad Hegelian sense: a philosophical analysis of the presuppositions of rational discourse (of theoretical and practical reason) which includes within itself all the alleged-

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[27] Habermas, J., *The Inclusion of the Other*, op. cit., pp. 99–100.

ly substantial elements of religious and metaphysical doctrines. His logic is metaphysical in the following sense: it presents an account of what there is – human beings engaged in communicative action in their life-world.[28]

Habermas, on his turn, sheds doubt on the impartiality of Rawls's procedure, considering that Rawls binds practical reason to substantive connotations, and taking himself as having a more satisfactory mechanism for making sure that the moral point of view would be operational in times of pluralism. He declares that the objections against the design of the original position and against the assimilation of questions of validity to those of acceptance point in the same direction:

> By subjecting rationally choosing parties to reasonable procedural constraints, Rawls remains dependent on substantive normative assumptions; at the same time, by tailoring a universalistic theory of justice to questions of political stability through an overlapping consensus, he compromises its epistemic status. Both strategies are pursued at the cost of a strict proceduralist program.[29]

Nevertheless, although their answers to the challenge of pluralism differ in important aspects, Habermas and Rawls share the central idea that the legitimacy of a given conception of political justice depends on the *reasons* that may be justified *independently* of the normative content proper to the particular conceptions of the good life.

Habermas's main criticism of political liberalism, adopted in the first essay and reinforced in the second,[30] addresses a consensus resulting from a simple successful convergence of comprehensive doctrines, but Rawls's position, in my opinion, is more complex and subtler than it appears at first sight. The Rawlsian idea of public reason, at least in the last phase of its development, authorizes the development of a new

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[28] Rawls, J., *Political Liberalism*, op. cit., pp. 378–379.

[29] Habermas, J., *The Inclusion of the Other*, op. cit., pp. 67–68.

[30] See Habermas, J., *The Inclusion of the Other*, op. cit., p. 78 and p. 83. In these passages, Habermas talks about the "felicitous overlapping" of comprehensive doctrines and the "lucky convergence" of reasonable worldviews.

stage of the debate, insofar as the so-called overlapping consensus is not a casual result of convergence between conflicting comprehensive doctrines[31]. On the contrary, since it is bound to an ideal of justification whose central aspect resides in the public reasoning of citizens, it may only play an appropriate role in political justification when it contributes to the social stability by means of right reasons. Instead of being interpreted as a mere accommodation of diverging worldviews, Rawls's conception of political justice must be analyzed on the light of the notion of rational acceptability grounded on the liberal principle of legitimacy. This interpretation highlights a much greater proximity between Habermas and Rawls than can be grasped from their contributions to the debate, or than many other interpretations try to point out.

References

Baynes, Kenneth, *The Normative Grounds of Social Criticism: Kant, Rawls and Habermas*, Suny Press, Albany 1992.

Bohman, James – Rehg, William (eds.), *Pluralism and the Pragmatic Turn*, MIT Press, Cambridge (Mass.) 2001.

Habermas, Jürgen, *Post-metaphysical Thinking: Philosophical Essays*, trans. by W. M. Hohengarten, MIT Press, Cambridge (Mass.) 1992.

Habermas, Jürgen, *Justification and Application: Remarks on Discourse Ethics*, trans. by Ciaran Cronin, MIT Press, Cambridge (Mass.) 1994.

Habermas, Jürgen, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, trans. by William Rehg, MIT Press, Cambridge (Mass.) 1996.

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[31] On the notion of public reason, see Rawls, J., "The idea of public reason revisited", in: *The Law of Peoples*, Harvard University Press, Cambridge (Mass.) 1999, pp. 129–180. The proximity between Habermas and Rawls under the perspective of public reason is vigorously defended by Kenneth Baynes: "Practical Reason, the 'Space of Reasons', and Public Reason", in: James Bohman and William Rehg (eds.), *Pluralism and the Pragmatic Turn*, MIT Press, Cambridge 2001, pp. 53–85.

Habermas, Jürgen, *The Inclusion of the Other: Studies in Political Theory*, edited by Ciaran Cronin and Pablo De Greiff, MIT Press, Cambridge (Mass.) 1999.

Lafont, Cristina, "Procedural justice? Implications of the Rawls-Habermas debate for discourse ethics", *Philosophy & Social Criticism* 29, 2003, 2, pp. 163–181.

Larmore, Charles, "The Foundations of Modern Democracy: Reflections on Jürgen Habermas", *European Journal of Philosophy* 3, 1995, 1, pp. 55–68.

Larmore, Charles, *The Morals of Modernity*, Cambridge University Press, Cambridge 1996.

Larmore, Charles, "The Moral Basis of Political Liberalism", *The Journal of Philosophy* 96, 1999, 12, pp. 599–625.

MacIntyre, Alasdair, *Whose Justice? Which Rationality?*, Duckworth, London 1988.

McCarthy, Thomas, "Kantian Constructivism and Reconstructivism: Rawls and Habermas in Dialogue", *Ethics* 105, 1994, 1, pp. 44–63.

Rawls, John, *Political Liberalism*, 2nd ed., Columbia University Press, New York, 1996.

Rawls, John, *The Law of Peoples*, Harvard University Press, Cambridge (Mass.) 1999.

Rawls, John, *Justice as fairness: a restatement*, edited by Erin Kelly, Harvard University Press, Cambridge (Mass.) 2001.

Rawls, John, *Collected Papers*, edited by Samuel Freeman, Harvard University Press, Cambridge (Mass.) 2001.

Rorty, Richard, *Contingency, Irony and Solidarity*, Cambridge University Press, Cambridge (Mass.) 1989.

Rorty, Richard, *Objectivity, Relativism and Truth*, Cambridge University Press, Cambridge (Mass.) 1991.

Sandel, Michael, *Liberalism and the limits of justice*, Cambridge University Press, Cambridge (Mass.) 1982.

Taylor, Charles, *Sources of the Self: the making of the modern identity*, Harvard University Press, Cambridge (Mass.) 1989.

Walzer, Michael, *Spheres of Justice: a defense of pluralism and equality*, Basic Books, New York 1983.

Deliberative Democracy and Public Reason

Kenneth Baynes

Among normative theories of democracy, the idea of a deliberative democracy is a relatively new kid on the block – though one that has already received a fair amount of attention.[1] Those who claim the label, however, reflect a variety of different political persuasions, and deliberative theorists have had a difficult time identifying what makes this conception distinct from its various competitors.[2] It is also an idea that has recently been the focus of important criticisms, even by those generally supportive of its aims.[3] In *Between Facts and Norms* Habermas introduces his own conception of a "deliberative politics" and "procedural democracy" that has much in common with other deliberative theorists. In the following I wish to explore this conception, noting some of its similarities and differences from other conceptions. I will then consider how it fares against some objections and reservations that have been made against deliberative conceptions generally. In the final sections, I take up the idea of public reason with which the idea of deliberative democracy is closely associated and consider briefly some of the more practical implications of that idea.

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[1] See, in the rapidly expanding literature, Cohen, J.„ "Deliberation and Democratic Legitimacy," in: A. Hamlin – P. Pettit (eds.), *The Good Polity*, Blackwell, 1989, pp. 17–34; Fishkin, J., *Democracy and Deliberation*, Yale, New Haven 1991; Bessette, J., *The Mild Voice of Reason: Deliberative Democracy and American National Government*, University of Chicago Press, Chicago 1994, Gutmann, A. –Thompson, D., *Democracy and Disagreement*, Harvard University Press, Cambridge, Mass. 1996; Dryzek, J., *Deliberative Democracy and Beyond*, Oxford University Press, New York 2000; and the two collections, *Deliberative Democracy*, ed. by J. Bohman and W. Rehg (MIT Press, Cambridge 1997) and *Deliberative Democracy*, ed. by J. Elster (Cambridge University Press, New York 1998). See also the review essay by Freeman, S., "Deliberative Democracy: A Sympathetic Comment", *Philosophy and Public Affairs* 29, 2000, pp. 371–418.

[2] See Estlund, D., "Who's Afraid of Deliberative Democracy?", *Texas Law Review* 71, 1993, pp. 1437–77.

[3] Knight, J. – Johnson, J., "Aggregation and Deliberation: On the Possibility of Democratic Legitimacy", *Political Theory* 22, 1994, pp. 277–296.

1. The Idea of a Deliberative Democracy

The aim of a conception of deliberative democracy is to specify a broad set of procedures and conditions for reaching collectively binding decisions that are both legitimate and presumptively correct (or rationally acceptable). In general, deliberative theorists focus on the (formal and informal) processes that precede the final act of decision-making, rather than concentrating on a more narrowly conceived process of aggregating voter preferences. Legitimacy, for them, derives not simply from the act of voting, but from broader processes that lead up to the act of voting as well.[4] As with other normative conceptions, it is primarily conceived as a set of ideal procedures in light of which existing institutions and practices could be criticized and assessed.

Joshua Cohen has offered one concise formulation of such an "ideal deliberative procedure" that lies at the core of his conception of deliberative democracy.

> A democratic conception can be represented in terms of the requirements that it sets on such [an ideal] procedure. In particular, outcomes are democratically legitimate if and only if they could be the object of a free and reasoned agreement among equals. The ideal deliberative procedure is a procedure that captures this principle.[5]

Johnson and Knight have offered a comparable ideal: "We view deliberation as an *idealized process* consisting of *fair procedure* within which political actors engage in *reasoned argument* for the *purpose of resolving political conflict*".[6] Among the "fair procedures" Johnson and Knight include the requirement of "manifestly free and equal access to relevant

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[4] Manin, B., "On Legitimacy and Political Deliberation," *Political Theory* 15 (1987); for a more recent sketch, which distinguishes sharply between the role of deliberation and the act of voting, see Richard Vernon, *Political Morality* (New York: Cambridge Univerisity Press, 2001).

[5] Cohen, J.,, "Deliberation and Democratic Legitimacy," op. cit., p. 22.

[6] Knight, J. – Johnson, J., "Aggregation and Deliberation: On the Possibility of Democratic Legitimacy", op. cit., p. 285.

deliberative arenas for purposes of establishing procedures, setting the agenda, and making final decisions".[7] Their conception differs from Cohen's primarily in its departure from a notion of consensus or agreement as a regulative aim of deliberation. (A point to which I will return below.) Finally, Samuel Freeman defines a deliberative democracy as "one in which political agents or their representatives (a) aim to collectively deliberative and vote (b) their sincere and informed judgments regarding (c) measures conducive to the common good of citizens".[8] Central to all these views is the idea of "a process of public reasoning about the common good"[9] and it is this feature that most distinguishes it from the liberal-pluralist or "aggregative" alternative.

The conception of a deliberative democracy can also be supported by somewhat differing considerations. For Cohen, "the notion of a deliberative democracy is rooted in the intuitive ideal of a democratic association in which the justification of the terms and conditions of association proceeds through public argument and reasoning among equal citizens." The motivation behind this conception, then, is predominantly a notion of public justification among free and equal citizens. Others, such as David Estlund, have argued that the "key" to the conception of a deliberative democracy is "the idea of true or false judgments about political justice".[10] Deliberation involves a "pooling of judgments" (Michelman) not a mere aggregation of interests. It is thus this cognitive or epistemic feature that is central to the conception. Still other deliberative theorists stress the unique conception of citizenship and particular virtues or qualities of citizenship as a distinguishing feature in a deliberative conception.[11] Although each of these

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[7] Ibid., p. 285.

[8] Freeman, S., "Deliberative Democracy: A Sympathetic Comment", op. cit., p. 382.

[9] Ibid., p. 336.

[10] Estlund, D., "Who's Afraid of Deliberative Democracy," op. cit., p. 1476; see also Estlund, D., "Beyond Fairness and Deliberation: The Epistemic Dimension of Democratic Authority", in: J. Bohman – W. Rehg (eds.), *Deliberative Democracy*, op. cit.; "Political Quality", in: E. F. Paul et al. (eds.), *Democracy*, Cambridge University Press, New York 2000, pp. 127–160.

[11] See, for example, Bessette, J., *The Mild Voice of Reason*, op. cit., or Gutmann and Thompson's emphasis on the civic virtue of reciprocity, *Democracy and Disagreement*, op. cit., p. 359.

considerations points to important aspects of a deliberative conception, in the following I shall argue that what is most distinctive about a deliberative conception is the way in which it seeks to capture (in a set of ideal procedures) an abstract conception of the freedom and equality of citizens. Its primary difference, then, from both liberal-pluralist and "radical" (or participatory) alternatives is the way in which this (more) abstract conception is used to shape the ideal procedures.

If we begin with what Johnson and Knight call the "standard case" for deliberative democracy, several features can be noted. (1) A deliberative conception views the democratic process as one that is concerned with the common good, where this is not identified exclusively with a notion of aggregate interests or collective goods.[12] Although politics is not solely oriented to it, the idea of the common good is given a more prominent normative role than it is within liberal conceptions. (2) In response to the longstanding question of whether law is best conceived as *voluntas* or *ratio*, deliberative conceptions come down on the side of *ratio*. A central means by which the common good is discerned and/or "fashioned" (Johnson and Knight) is a deliberative process that places a high premium on reason and argumentation. Further, the relevant notion of reason is not simply instrumental (or Humean) in character, but includes as well the idea that its exercise is "truth-tracking" or at least "reasonable" in a more substantive sense. (3) A central assumption of a deliberative conception is that the deliberations that take the common good as their focus do not simply treat individual preferences as exogenous elements of the political system. Rather, it assumes that in the process of reasonable deliberation, the search for a common good will often result in the transformation and/or "laundering" of merely private preferences. "Preferences do not exist independently of the institutions through which they are expressed; their formation is at least partially endogenous to the process of agenda formation, which must, therefore, be seen as a deliberative rather than as a purely aggregative mechanism".[13] (4) Finally, deliberative democracy invokes a different conception of citizen motivation than that found in the liberal-pluralist

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[12] Knight, J. – Johnson, J., "Aggregation and Deliberation", op. cit., p. 281; see also Cohen, J., "Deliberation and Democratic Legitimacy," op. cit., p. 24–5.

[13] Beitz, Ch. R., *Political Equality. An Essay in Democratic Theory*, Princeton University

model. What motivates citizens is not simply self-interest constrained by the recognition of some principles for mutual advantage, but an interest in finding the common good and a "higher-order" desire to justify claims to others who share such an interest.

Not surprisingly, each of these elements has been challenged either by recalling earlier criticisms of the "classical conception of democracy" or by indicating new difficulties that are uncovered with the aid of theories of collective or social choice. (1) At least since Schumpeter, the notion of a unique and determinate common good as the object and expression of the will of the people has been frequently criticized. "There is no such thing as a uniquely determined common good that all people could agree on or be made to agree on by the force of rational argument."[14] Such a conception is in conflict with what Schumpeter calls the "irreducible differences of ultimate values which compromise could only maim and degrade".[15] Moreover, theorists of collective choice have repeatedly demonstrated that even if there were a sufficiently determinate conception of the common good (or "general will") it cannot be construed as the outcome of any minimally defined set of democratic procedures.[16] Deliberativists respond that neither a recognition of the "fact of pluralism" (if this is not itself already taken to imply value skepticism) nor the theorems of social choice theory require rejecting a notion of the common good. While the common good may not be a unique and determinate ideal that can be specified independently of any (ideal) procedures, deliberativists would also reject defining the common good in exclusively proceduralist terms (as the social choice theorist's objection assumes).[17] The more plausible

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Press, Princeton, New Jersey 1989), pp. 12–13; see also Sunstein, C., "Preferences and Politics," *Philosophy and Public Affairs* 20, 1991.

[14] Schumpeter, J., "Two Concepts of Democracy," in: A. Quinton (ed.), *Political Philosophy*, Oxford University Press, New York 1967, p. 154.

[15] Ibid., p. 155.

[16] See Riker, W., *Liberalism against Populism*, W. H. Freeman, San Francisco 1982, and the discussion in Coleman, J. – Ferejohn, J., "Democracy and Social Choice," *Ethics* 97, 1986, pp. 6–25, and Miller, D., "Deliberative Democracy and Social Choice," *Political Studies* 40, 1992, pp. 54–67.

[17] See especially Cohen, J., "An Epistemic Conception of Democracy," *Ethics* 97, 1986, pp. 26–38.

interpretation is that the common good (or general will) describes a
general scheme or framework that provides both a *focus* for delibera-
tion and includes at least those (not exclusively procedural) rights and
values that are conditions for deliberation itself.[18] (2) The characteriza-
tion of deliberative democracy as "cognitive" or "epistemic" has also
been the focus of criticism. The idea that deliberation is concerned
with a "pooling of judgments" and that one can talk about the truth
(or at least the reasonableness) of political outcomes in more than an
instrumentalist fashion strikes many as, at best, misguided and, at worst,
pernicious. It encourages the view that democracy as a procedure might
then be replaced by political elites who are better able to discern the
correct (true) outcomes of democratic deliberation.[19] Others (such as
Jon Elster) object that there may be reason to doubt that more reason-
ing and deliberation will necessarily yield better political outcomes.[20]
In response to these and other objections, deliberativists divide: Some
(Estlund) think that commitment to a procedurally-independent no-
tion of political truth is *sine qua non* of deliberative politics, but that
this commitment can be fit within a democratic process given that it
is not the only relevant political value.[21] Others, by contrast, are more
sanguine about the epistemic benefits of democracy itself, even if actu-
al democratic procedures are at best *imperfect* procedures (Cohen and
Habermas). What nonetheless unites these recent conceptions of delib-
erative democracy is the idea that deliberation, as process of reasoning
and argumentation, involves an exchange of reasons that cannot in the
end be reduced to the expression of individual preference. (3) and (4):
Finally, others have been critical of the strong assumptions concerning
the transformation of individual preferences and/or the civic virtues
presupposed in at least some deliberative conceptions, suggesting that
they are either extremely utopian or that they assume too high a degree
of homogeneity, or both. Deliberativists, in turn, have responded that

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[18] Ibid. and Freeman, S., "Deliberative Democracy," op. cit., p. 376.

[19] See Estlund, D., "Who's Afraid of Deliberative Democracy," p. 1452.

[20] "The Market and the Forum: Three Varieties of Political Theory" in *Deliberative De-
mocracy*, Bohman and Rehg, p. 14.

[21] Estlund, D., "Beyond Fairness and Deliberation", op. cit., and Estlund, D., "Political
Quality", op. cit.

it is rather the *potential* for preference transformation that is important and that, in many cases, the earlier republican or civic humanist stress on virtue can be replaced or at least mitigated by more explicit attention to institutional design.

1.1 Habermas's "procedural democracy"

The conception of a "procedural democracy" and "deliberative politics" introduced by Habermas in *Between Facts and Norms* shares, in some form, all these features of a deliberative democracy. Politics is concerned, at least in part, with the common good and processes of deliberation have as their primary focus, at least some of the time, the common good or "generalizable interests". This conception of democracy is also "cognitive" in that it is concerned with specifying procedures for collective decision-making that have a presumption of rational outcomes.[22] Habermas also argues that democratic procedures should specify not simply a means for aggregating pre-political preferences but the conditions of deliberation in which agreement about "generalizable interests" can be pursued, at least in part through the transformation of preferences. Finally, though Habermas puts less emphasis on this feature, the realization of a deliberative politics assumes that individuals have motivations other than those of self-interest. Democratic procedure requires a "rationalized lifeworld" including a liberal political culture and corresponding civic virtues that, as he puts it, "meets it halfway". In fact, with respect to each of these features of a deliberative democracy, Habermas is inclined to give them a more procedural interpretation. This is particularly evident in his attempt to distinguish his position from both the liberal and republican alternatives. It will thus be helpful to consider first the sense in which Habermas's conception of democracy is – and is not – procedural.

"Procedural" and "proceduralist" are among the most commonly used adjectives in Habermas's *Between Facts and Norms*. He broadly contrasts his preferred "proceduralist legal paradigm" to the liberal

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[22] Habermas, J., *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, MIT Press, Cambridge 1996, p. 285 (further referred as BFN).

and welfarist paradigms (BFN, 409). He speaks of a "procedural understanding of the constitution" (BFN, 246), a "proceduralist" view of constitutional adjudication, a proceduralist understanding of law (BFN, 409), a proceduralist theory of politics (BFN, 273), and a procedural interpretation of popular sovereignty (BFN, Appendix I). He also describes his own conception of democracy as "proceduralist". Within the context of German discussions, it is clear that Habermas's primary concern is to distance himself from a material value-ethics interpretation of the law and political process, interpretations inspired by the work of Max Scheler and Nicolai Hartmann (BFN, 254). Habermas also uses the term "procedural" to distinguish his own conception of the democratic process from liberal and republican alternatives. This is partly to distinguish his position from one that takes as fixed and given a "pre-political" set of (natural) rights and from one that has the democratic process derive its legitimacy "from the prior agreement of a presupposed substantial-ethical community" – that is, from a prior agreement on a conception of the good. Thus, Habermas writes, "a consistent proceduralist understanding of the constitution bets on the intrinsically rational character of the procedural conditions grounding the supposition that the democratic process as a whole facilitates rational outcomes. In that case reason is embodied solely in the formal-pragmatic facilitating conditions for deliberative politics." (BFN, 285).

However, within the wider context of legal and democratic theory, the term "procedural" is ambiguous and there are many different conceptions that have been described as proceduralist that differ importantly from Habermas's own. For example, in his influential essay, "Is Democracy Special?," Brian Barry describes his own conception as proceduralist which he understands to mean a rejection of "[...] the notion that one should build into 'democracy' any constraints on the content of the outcomes produced, such as substantive equality, respect for human rights, concern for the general welfare, personal liberty, or the rule of law. The only exception (and these are significant) are those required by democracy itself as a procedure."[23] While the question of what is "required by democracy itself as a procedure" is itself a matter

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[23] Barry, B., "Is Democracy Special?", in: P. Laslett (ed.), *Philosophy, Politics, and Society*, Blackwell, Oxford 1979), pp. 155–56.

of much debate, Habermas's conception of democracy is not procedural in this sense. It clearly entails more substantive normative content than Barry would want.

Further, even normatively richer procedural conceptions, such as Peter Singer's conception of democracy based on a notion of "fairness as compromise" or John Ely's "process-oriented approach" to the constitution and constitutional review, fall short of Habermas's conception.[24] For these conceptions, the democratic process consists in a set of rules and procedures that are supposed to weigh equally preferences whose formation is largely exogenous to the democratic process itself. Each person should be granted the opportunity to register her preference and no person's preference should count for more than another person's. The conceptions thus operate with an ideal of political equality understood in terms of the equal opportunity to influence political outcomes. A procedure is "fair" if it captures this notion of equal power. The difficulty with such conceptions, however, is that they remain relatively indifferent to the initial preferences that enter into the procedure.[25] A fuller and thus more adequate account would consider the formation and quality of preferences as well. To do this, the ideal of political equality must initially be conceived at a more abstract level and cannot be identified directly with the (procedural notion of the) equal opportunity to influence outcomes.[26]

Habermas's conception of democracy thus assumes a more abstract ideal of political equality and the aim is then to capture this more abstract ideal in a set of ideal procedures thereby considered "fair". The ideal of political equality is, however, not equated with a set of procedures that secures an equal opportunity (for any given preference) to influence outcome. "Rather, the claim that a norm lies equally in the interest of everyone has the sense of rational acceptability: all those possible affected should be able to accept the norm on the basis of good reasons" (BFN, 103). In this sense, Habermas's procedural con

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[24] See Singer, P., *Democracy and Disobedience*, Oxford University Press, New York 1974, and Ely, J. H., *Democracy and Distrust*, Harvard University Press, Cambridge 1980.

[25] See Beitz, Ch., *Political Equality*, Princeton University Press, New York 1989, p. 82.

[26] See, for example, Habermas' remark linking the notion of equal respect with the idea of reasons acceptable to all (BFN, 103).

ception is perhaps closest to what Charles Beitz has called "complex proceduralism":

> Like other forms of proceduralism, [complex proceduralism] holds that democratic procedures should treat *persons* as equals; but it will not follow that the appropriate criterion for assessing procedures is the simple principle of equal power over outcomes. Instead, complex proceduralism holds that the terms of democratic participation are fair when they are reasonably acceptable from each citizen's point of view, or more precisely, when no citizen has good reason to refuse to accept them.[27]

In Habermas's conception, analogously, there are certain abstract ideals – in the last analysis an ideal of (public and private) autonomy or communicative freedom – that are identified prior to (and thus independently of) any proposed set of (ideal) procedures. Habermas nonetheless describes his conception as procedural for two reasons: First, in contrast to a material value-ethics, Habermas claims that the fundamental ideal that forms the "dogmatic core" of his theory – the idea of communicative freedom or autonomy – is not itself simply one value among others, but reflects a basic norm implicit in the very idea of communicative action (BFN, 445–6). Second, he claims that this ideal – developed in *Between Facts and Norms* in connection with the co-equal and mutually interdependent ideas of public and private autonomy – can in turn be expressed in a set of (ideal) democratic procedures. It is because the procedures adequately mirror this basic ideal, however, that we are entitled to confer a presumption of reasonableness or fairness upon them.[28] In sum, then, for Habermas, ideal procedures attempt to capture or express an ideal or model-conception of the citizen as free and equal or, what amounts to the same thing, an ideal of practical reason.

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[27] Beitz, Ch., *Political Equality*, op. cit., p. 23.

[28] See BFN, p. 295 and Habermas, J., "Three Models of Democracy," *Constellations* 1, 1994, p. 6.

1.2 The "co-originality thesis": Democracy and Liberal Values

Habermas's procedural or "discourse" conception of democracy, as out-
lined in chapter four, provides a basis for reconsidering the long-standing
dispute concerning the relation between democracy and other liberal
values or, in Benjamin Constant's phrase, the liberty of the ancients
and the liberty of the moderns. In *Between Facts and Norms* Habermas
argues that neither the "principle of democracy" nor the basic scheme
of (liberal) rights should be seen as primary. Rather, as he puts it, the
principle of democracy and the basic scheme of rights are "co-original"
(or "equiprimordal") and emerge together via the "interpenetration of
the discourse principle and the legal form" (BFN, 121). As Habermas
sees it, this enables his conception to avoid the two extremes of a legal
positivism that leaves basic rights up to the political sovereign, on the
one hand, and a subordination of popular sovereignty to a prior moral
principle as in, for example, Kant and the natural law tradition, on the
other. "The universal right to equal liberties may neither be imposed as
a moral right that merely sets an external constraint on the sovereign
legislator, nor be instrumentalized as a functional prerequisite for the
legislator's aims" (BFN, 104). Thus, the "co-originality thesis" regards
public autonomy (roughly, the idea that citizens can be bound only
by laws that they give to themselves) and private autonomy (roughly,
civil and political rights) as reciprocally dependent on each other such
that neither can claim a prior or independent status.

In an extended comparison between Habermas's views and his own,
Joshua Cohen endorses (as also, incidentally, does Rawls) this idea of
the "co-originality" or "equiprimordiality" of public and private au-
tonomy.[29] However, he is less convinced by the specific arguments in
support of it. In particular, he suggests, first, that Habermas's account
appeals to a "comprehensive doctrine" or philosophy of life that is in-
appropriate given the "fact of reasonable pluralism" and, second, that
it is deficient in its support for an *equal* right to liberty. Cohen's alter-
native account of the relation between basic liberties and democracy

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[29] Cohen, J., "Reflections on Habermas on Democracy," *Ratio Juris* 12, 1999, pp. 385–
416; for Rawls's views on the "co-originality" thesis, see Rawls, J., "Reply to Habermas",
in: *Political Liberalism*, Columbia University Press, New York 1993, p. 412.

is highly instructive and strengthens the co-originality thesis. However, given that Habermas has elsewhere acknowledged that there is a substantive "dogmatic core" to his theory – the idea of communicative freedom or autonomy – I do not think it necessary to read him in the more procedurally minimalist manner that Cohen proposes. In fact, my account of Habermas's distinctive use of the term "procedural" above is intended to resist such an interpretation.

Cohen's first reservation is plausible in that Habermas's account of political legitimacy is presented within the wider framework of his theory of communicative action. It would thus seem to be a "comprehensive" rather than "political" account that appeals to considerations that not all politically reasonable citizens would acknowledge.[30] However, an alternative reading is possible: The "interpenetration of the discourse principle and the legal form" can itself be seen as a restriction of the more abstract conception of autonomy to the political-legal context and thus as first introducing the idea of "legal consociates".[31] In Habermas's own variation on the social-contract tradition, the guiding question then becomes, "What basic rights must free and equal citizens mutually accord one another if they want to regulate their common life legitimately by means of positive law?"[32] Further, this question must be addressed, so to speak, from within – that is, without appeal to substantive philosophies of life (or comprehensive doctrines) that other citizens cannot reasonably be expected to endorse. Thus, unlike earlier contract theorists (including at least some readings of Rawls), this question cannot be settled by appeal to particular interests of the parties nor by appeal to a set of "natural" (pre-political) rights but, in the first instance, to considerations about what citizens would consent to in view of their status as free and equal persons:

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[30] Rawls also objects that Habermas's theory is "comprehensive" and not "political", in "Reply to Habermas", op. cit.

[31] This interpretation is further supported by the fact that, in BFN, Habermas specifically introduces the discourse principle at a quite abstract level, prior to its formulation as a moral principle (Principle U) or in connection with the question of political legitimacy (BFN,107–8).

[32] BFN, 82; Habermas, J., "Remarks on Legitimation through Human Rights," *Philosophy and Social Criticism* 24, 1998, p. 160.

Under conditions of postmetaphysical thinking, we cannot ex-
pect a further-reaching consensus that would include substan-
tive issues. This restriction to presuppositions that are formal
in this sense is tailored for the specifically modern pluralism
of worldviews, cultural forms of life, interest positions, and so
forth. Naturally, this does not mean that a constitution-making
practice of this kind would be free of all normative content. On
the contrary, the performative meaning of this practice, which
is merely set forth and explicated in constitutional principles
and the system of rights, already contains as a doctrinal core the
(Rousseausian-Kantian) idea of the self-legislation of voluntarily
associated citizens who are both free and equal.[33]

As I will argue below in connection with the idea of public reason,
this interpretation more or less parallels Rawls's idea that a "political
conception" must not be "political in the wrong way".   According to
Cohen's second reservation, Habermas's commitment to equal liberties
is insufficient since it too rests on his claim that the system of rights
can be derived *exclusively* from "the interpenetration of the discourse
principle and the legal form". Given that Cohen views the discourse
principle as imposing a fairly general requirement of impartiality he is
doubtful that its conjunction with the idea of the "rule of law" (or "le-
gal form") will yield a sufficiently broad set of liberal rights (including,
rights to conscience, bodily integrity, privacy, property, etc.).[34] Although
it must be admitted that Habermas's argument here is less than clear,
I believe that Cohen is reading Habermas's account in an excessively
minimalist or proceduralist manner. If, as I have argued, the discourse
principle itself reflects an (abstract) ideal of persons as free and equal,
then it may impose more constraints than Cohen assumes. Further, the
notion of the "legal form" that Habermas invokes, derived from legal
debates in 20th century German law, is also more substantive in char-
acter than the idea of the "rule of law" more narrowly conceived and

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[33] Habermas, J., "Reply," in: M. Rosenfeld – A. Arato (eds.), *Habermas on Law and De-
mocracy*, University of California Press, Berkeley 1998, p. 406.

[34] Cohen, J., "Reflections on Habermas on Democracy," op. cit., p. 390.

already includes something like the idea of equal subjective liberties.[35] Thus, the "interpenetration" strategy could arguably generate something like the liberties specified, for example, in Rawls's Principle of Equal Liberty. On the other hand, however, Cohen is correct to note that, on Habermas's account, the "interpenetration of the discourse principle and legal form" yields only a general scheme of basic rights and not a concrete set of liberties.[36] Although this scheme is more detailed than Cohen assumes, it does not by itself provide the means for assigning specific weight to the reasons that citizens must consider when determining the more specific scope of the basic liberties. On Habermas's account, these are questions that citizens within a given polity must determine for themselves within the framework of a deliberative politics. Of course, citizens would have to give consideration to precisely the kinds of reasons – and the appropriate weighting among them – that Cohen raises in his own reflections on the relation between democracy and rights to religious, expressive, and moral liberty.[37]

1.3 The Role of Consensus

The idea of consensus plays an important role in Habermas's conception of a deliberative democracy as it does in other deliberative conceptions. As Cohen has expressed it, "Ideal deliberation aims to arrive at a rationally motivated *consensus* – to find reasons that are persuasive to all who are committed to acting on the results of a free and reasoned assessment of alternatives by equals".[38] The aim of reaching agreement on the basic principles and terms of social cooperation reflects the conviction that the democratic process should not simply provide a mech-

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[35] See BFN, pp. 84–9 and, more generally on this topic, Scheuerman, W., *Between the Norm and the Exception: The Frankfurt School and the Rule of Law*, MIT Press, Cambridge 1994.

[36] Cohen, J., "Reflections on Habermas on Democracy," op. cit., p. 393.

[37] See Cohen, J., "Democracy and Liberty", in: J. Elster, *Deliberative Democracy*, op. cit., and, with respect to debates about pornography, "Freedom, Equality and Pornography," in: A. Sarat – T. Kearns (eds.), *Justice and Injustice in Law and Legal Theory*, University of Michigan, Ann Arbor 1996.

[38] Cohen, J., "Deliberation and Democratic Legitimacy," op. cit., p. 23.

anism for aggregating personal or pre-political preferences, but should provide a context for reasoned debate and discussion about the merits of policies and proposals in a way that recognizes the freedom and equality of each citizen. It is also claimed that a search for consensus is one way in which what Madison called the "mild voice of reason" can find expression within the political process. The idea of consensus, then, follows from a commitment to the freedom and equality of citizens and from a desire to improve the "reasonable quality" (BFN, 304) of democratic outcomes.

Nevertheless, the value placed on a search for agreement or consensus has not gone unchallenged by other democratic theorists. Some claim that, in a society characterized by the "fact of pluralism", it is both impractical and unreasonable as a goal, while others have pointed to the pernicious effects that could follow from an insistence on consensus. For example, Donald Moon, who describes his own version of "political liberalism" as "a variant of traditional consensus theories of legitimation, but one that does not share their faith in supposing that nonconsensuality can be overcome",[39] notes the risk in consent theory of "excluding certain voices, and so generating a false consensus". Similarly, in a critique of deliberative theories, Iris Young has also argued that the demand for consensus can exclude the viewpoints of others and promote cultural bias.[40] Finally, James Bohman and William Rehg have criticized the prominent role given to the search for consensus in Habermas's theory, arguing that a "weaker interpretation of epistemic deliberation" is required for a multicultural society.[41]

Although these criticisms may apply to some models of deliberative democracy, in general I think they rest on a misunderstanding of the role of consensus. Neither Habermas nor Cohen, for example, claim that *all* social conflict or disagreement can be resolved in a consensus – not even, as Johnson and Knight suggest, "in the ideal case at

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[39] Moon, D., *Constructing Community: Moral Pluralism and Tragic Conflicts*. Princeton, Princeton University Press 2001, p. 211.

[40] Young, I., "Communication and the Other: Beyond Deliberative Democracy," in: *Intersecting Voices*, Princeton University Press, Princeton 1997.

[41] Bohman, J. – Rehg, W., "Discourse and Democracy," in: R. von Schomberg – K. Baynes (eds.), *Discourse and Democracy*, SUNY Press, Albany 2002, p. 46.

least".[42] Cohen, for example, is quite explicit that, "even under ideal conditions there is no promise that consensual reason will be forthcoming".[43] The bulk of the political process, Habermas acknowledges, depends on compromise and on the outcome of fair procedures, including, as prominent among these, majority rule (BFN, 282). It is thus necessary to be more specific about the role (and motivation) of consensus as an aim of deliberation in this conception of democracy. Several brief observations are in order.

First, none of the theorists we have been considering suggest that political legitimacy requires or rests on a *de facto* consensus or agreement. For just the reasons Moon notes, such a consensus may be "false". Deliberative theorists, by contrast, speak of an ideal consensus that can be reached only if certain demanding conditions have been met. In this sense, the search for consensus functions primarily as a regulative idea that can only be approximately realized in practice. However, once the role of consensus is formulated in this way, it suggests that the real normative work is not being done by the idea of consensus but by other ideals lying behind it. As I have suggested, the search for consensus reflects a commitment to the view that "the principles of political association should be justifiable to all whom they bind" (Larmore). It thus rests upon a deeper commitment to the freedom and equality of citizens and is not itself an independent goal or value.

Second, recognition of the (derivative) value of consensus as a regulative idea does not mean that agreement, even after extended deliberation, is to be reasonably expected on a wide-range of preferences or policies. There can be, however, no pre-set answer to the question of the scope or range of agreement since the search for consensus itself may lead to new insight and the discovery (or creation) of new bases for agreement. This, at least, is the hope that deliberativists hold out: Unlike the liberal-pluralist alternative, it takes the aim of consensus seriously, but, unlike the republican (or civic humanist) alternative, it does not assume that deep agreement or a "shared common ethos" is likely.

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[42] Knight, J. – Johnson, J., "Aggregation and Deliberation", op. cit., p. 282.

[43] Cohen, J., "Deliberation and Democratic Legitimacy," op. cit., p. 23. For similar remarks, see also Sunstein, C., "Beyond the Republican Revival," *Yale Law Review* 97, 1988, p. 1555, and Michelman, F., "Law's Republic," *Yale Law Review* 97, 1988, p. 1527.

However, there is a further role of consensus in deliberative accounts that does seem to require actual agreement in order for (good faith) deliberation to take place. If citizens are to regard the outcome of deliberative procedures as legitimate and "fair" (even if not necessarily right) it would seem that they must all agree that certain values have been sufficiently recognized. This follows from the fact that, according to the deliberative model, the legitimacy or fairness of the procedures is not solely a procedural question.[44] As I suggested in connection with Habermas's view above, the conception of equality to which he appeals is not the equal consideration of interests procedurally defined, but the equal status of citizens as co-authors of the legal order to which they are bound – that is, a conception of democratic equality. If citizens are not able to agree on a minimal political "core morality" – or if it is not embedded in the democratic institutions of the society – then it is not clear how the outcomes could claim to be legitimate at all.

Critics may reply (and have replied) that this last role of a political-moral consensus does not take the fact of *moral* pluralism seriously enough.[45] Disagreement is not limited to ethical questions, as Habermas has sometimes suggested, but extends to moral questions, or questions of justice, as well. Similarly, some critics will find Rawls's idea of an overlapping consensus – a political consensus that can emerge despite a plurality of reasonable comprehensive doctrines – to be similarly suspect. Clearly, many questions of justice are as contestable as ethical questions. However, as I shall argue in the next section, unless there is reason to expect agreement on a minimal core morality it is not clear how any further compromise could be regarded as fair, or how any other distinction between a reasonable (as opposed to an unreasonable) disagreement could be sustained.[46]

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[44] For a persuasive defense of this position, see Joshua Cohen's critique of Stuart Hampshire's proceduralism, in "Pluralism and Proceduralism", op. cit..

[45] See, for example, Caney, S., "Liberal Legitimacy, Reasonable Disagreement, and Justice," in: R. Bellamy – M. Hollis (eds.), *Pluralism and Liberal Neutrality*, Frank Cass, London 1999, pp. 19–36, and Chan, J., "Legitimacy, Unanimity and Perfectionism," *Philosophy and Public Affairs* 29, 2000, pp. 5–42.

[46] Habermas's basic strategy in response to this challenge is to "go abstract" and argue that in an increasingly pluralist society the bases of agreement shrinks to the terms of fair procedure. My claim in the section that follows is that fair procedures cannot completely

2. The Idea of Public Reason

The idea of public reason figures importantly in the conceptions of political legitimacy proposed by John Rawls and Jurgen Habermas. However each criticizes the other for shortcomings in their respective approach: Rawls suggests that Habermas's idea of public reason is part of a comprehensive philosophical doctrine and thus unacceptable as a basis of political legitimacy in a society characterized by a plurality of comprehensive views. Habermas, by contrast, suggests that Rawls's model of public reason, with its reliance on the idea of an overlapping consensus, remains too beholden to the contingencies of a de facto agreement to serve as a suitable basis of political legitimacy. Though Rawls is not always as clear about his conception of public reason as he might be, I wish to argue in the following that the positions of Habermas and Rawls are not as far from one another as is often supposed. In particular, though Rawls suggests that his model of public reason is circumscribed and perhaps even constituted by what he calls the "domain of the political", I believe that when his conception of the political is properly understood – when, that is, it is not "political in the wrong way" – it does not differ significantly from Habermas's own account of public reason. In the end, both accounts of public reason incorporate a core set of liberal values tied, in Rawls's case, to the notion of citizens as free and equal persons with the two basic moral powers and, in Habermas's case, to a notion of communicative autonomy.

Public reason for Habermas refers not only to the sense in which in acting communicatively (or indeed, as I have argued, in acting for a reason at all) a person must suppose that she can justify her action to others. The idea of public reason also plays a crucial role in Habermas's account of political legitimacy. Basic political norms (e.g., what Rawls calls the "constitutional essentials" and matters of basic justice) are legitimate only if they conform to a demanding ideal of public reason,

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ignore (substantive) issues of equal respect and mutual recognition. In fact, the example cited by Bellamy and Hollis – the case of the Lincoln/Douglas debate over slavery – shows precisely why not just any compromise can be considered fair (see "Consensus, Neutrality and Compromise" in: R. Bellamy – M. Hollis (eds.), *Pluralism and Liberal Neutrality*, op. cit., pp. 74–5.

that is, only if they could be agreed to by all citizens as participants in a practical discourse for the same (publicly available) reasons. Tom Mc-Carthy and others have argued that Habermas's conception of political legitimacy, together with this idea of public reason, is too strongly oriented to the idea of consensus or "rational agreement" and that he should move more in the direction of Rawls's notion of an overlapping consensus which allows for "reasonable disagreement" and "reasonable pluralism" within a public culture.[47] Political legitimacy neither can nor should depend on such a demanding idea of rational agreement but rather should draw upon the idea of a "mutual accommodation" among diverse worldviews and corresponding forms of life. This revision also entails a more thoroughly "proceduralist" interpretation of political legitimacy.

On the other hand, in an extended engagement with Rawls's work, Habermas has argued that Rawls's notion of an overlapping consensus cannot serve the purpose to which Rawls puts it and that Rawls himself requires a stronger, more consensualist notion of practical reason to support his own liberal principle of legitimacy.[48] This principle, it will be recalled, reads as follows: "Our exercise of political power is fully proper only when it is exercised in accordance with a constitution the essentials of which all citizens as free and equal may reasonably be expected to endorse in the light of principles and ideals acceptable to their common human reason"[49] or, as he has expressed it in more recently: "Our exercise of political power is proper only when we sincerely believe that the reasons we would offer for our political actions – were we to state them as government officials – are sufficient, and we also reasonably think that other citizens might also reasonably accept those reasons."[50] According to Habermas, however, Rawls (at least in *Political Liberalism*) interprets this principle of legitimacy in connection

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[47] McCarthy, T., "Legitimacy and Diversity: Dialectical Reflections on Analytical Distinctions," in: A. Arato – M. Rosenfeld (eds.), *Habermas on Law and Democracy: Critical Exchanges*, University of California Press, 1998, pp. 115–153; see also Bohman, J. –Rehg, W., "Discourse and Democracy", op. cit.

[48] See Habermas, J., *The Inclusion of the Other*, MIT Press, Cambridge 1998, chaps 2 and 3.

[49] Rawls, J., *Political Liberalism*, op. cit., p. 137.

[50] Rawls, J., "The Idea of Public Reason Revisited," *The University of Chicago Law Review* 64, 1997, p. 771.

with the *de facto* emergence of an overlapping consensus rather than, as one should, in terms of a more abstract (communication-theoretical) idea of rational agreement or acceptability.

In the following I would like not only to defend Habermas's own position, as I understand it, against McCarthy's "friendly amendment" but also argue that Habermas has misunderstood Rawls's position, which, rightly understood, is in fact much closer to Habermas's own position. Even (or precisely) a *liberal* principle of political legitimacy requires a substantive (and not merely "indirect" or procedural) agreement on a "core morality" (Larmore) that can be the focus of, or specify the content for, a *reasonable* overlapping consensus.[51] However, in contrast to Habermas's reading, this overlapping consensus is not simply a "lucky convergence" that just "happens" to come about.[52] Rather it can only play an appropriate role in justification if it contributes to social stability, as Rawls puts it, "for the right reason" and is not "political in the wrong way".[53] I thus agree with Larmore when he writes,

> [Rawls] seems clearly not to believe, contrary to some of his recent critics, that the commitments on which his political liberalism rests are simply those that people in modern Western societies share as a matter of fact. What he holds is that these commitments would be the object of consensus to the extent that people view themselves, as they should, as free and equal citizens.[54]

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[51] Joshua Cohen also questions attempts to distinguish sharply between "procedure" and "substance" with respect to political values in "Pluralism and Proceduralism," *Chicago-Kent Law Review* 69, 1994, pp. 589–618. For Charles Larmore's notion of a "core morality," see his *The Morals of Modernity*, Cambridge University Press, New York 1996), where he argues it includes, among other elements, a "norm of rational dialogue" and a "norm of equal respect." Larmore, it should be noted, does not think this "core morality" can be derived from a concept of practical reason alone (see pp. 56–57); but he also assumes a conception of practical reason that is more restrictive than Habermas's and one that is too sharply contrasted with tradition.

[52] Habermas, J., *Inclusion of the Other*, op. cit., p. 84.

[53] Rawls, J., "Reply to Habermas," *Journal of Philosophy* 92, 1995, pp. 132–80, here p. 142; see also *Justice as Fairness: A Restatement*, op. cit., p. 188.

[54] Larmore, Ch., *Morals of Modernity*, op. cit., p. 149; for a similar interpretation of Rawls's later writings, with their focus on "stability for the right reasons," see also Hill, T. E.,

These considerations suggest that the notion of the reasonable (together with his account of public reason) functions for Rawls in a different manner than Habermas has suggested. It also suggests that the procedural/substantive contrast may be overdrawn by several of the participants in this debate.[55]

To begin, then, I will briefly review McCarthy's criticisms of Habermas. According to McCarthy, Habermas has not yet articulated a conception of public reason (and, hence, political legitimacy) that can adequately respond to the value pluralism that characterizes liberal-democratic societies. On the one hand, there typically is no homogeneous ethico-political culture that could provide the necessary background for an agreement on "constitutional essentials and matters of basic justice." On the other hand, the model of discourse that Habermas proposes does not make sufficient allowance for "reasonable disagreements" about moral/ethical questions. Rather, cases supporting the idea of a reasonable value pluralism are either interpreted as "interim reports" on an on-going moral disagreement, where it is claimed there is only one right answer, or they are too quickly treated as a matter of negotiation and compromise, in just the way that conflicts of "interest" are to be handled.[56] The result is a certain inadequacy within Habermas's theory in responding to the value pluralism characteristic of modern societies. McCarthy's suggestion is that, to accommodate the fact of reasonable pluralism, Habermas must relinquish the strong claims concerning rational agreement (*Einverstaendniss*), make room for a notion of mutual accommodation[57] and, consequently, give his theory a still more "procedural twist".[58] By making greater use of his own distinction between direct and indirect justification of a norm,

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"The Problem of Stability in *Political Liberalism*," in: *Respect, Pluralism, and Justice*, Oxford University Press, New York 2000, chap. 9.

[55] See the important discussion of Joshua Cohen, "Pluralism and Proceduralism", *Chicago-Kent Law Review* 69, 1994, and Rawls's own endorsement of this interpretation in his "Reply to Habermas", op. cit. In effect, neither Rawls nor Habermas are "proceduralists" in a very strict reading of this term.

[56] McCarthy, "Legitimacy and Diversity," op. cit., p. 150.

[57] Ibid., p. 152.

[58] Ibid., p. 151.

for example, Habermas could allow for the idea of a "reasonable dis-
agreement" on values, while nonetheless still providing citizens with a
strong procedural reason for accepting as legitimate those norms and
decisions they oppose at a substantive level.[59]

An initial interpretive question that should be raised concerning this
proposed revision, a question of which McCarthy is aware, concerns the
nature of the proceduralism he has in mind. What, for instance, is the
relation between the procedural and substantive elements of the theo-
ry and how, after this "proceduralist twist," is Habermas's position to
be distinguished from the more common varieties of proceduralism in
which the "fairness" of the procedure is secured by a much more min-
imal notion of equal consideration of interests than either Habermas
or Rawls would be comfortable with?[60] As I have attempted to show
above, despite Habermas's own frequent use of the term procedural,
neither Habermas (nor Rawls) are proceduralists "all the way down".[61]
Rather, both attempt to mirror in a set of procedures a prior substan-
tive value or set of values – autonomy, in the case of Habermas, and
the idea of citizens as free and equal persons, in the case of Rawls. It is
these values or ideals that then confer a presumption of reasonableness
or fairness on the proposed procedures.[62]

I would like instead to focus here on another general question con-
cerning the use of the term "reasonable" in McCarthy's reference to a
"reasonable disagreement" and a "reasonable pluralism." I assume that
McCarthy takes over these terms relatively unmodified from Rawls,
but I want to suggest that Rawls's own use of them, along with their
relation to the idea of an overlapping consensus, has not always been

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[59] Ibid., p. 128.

[60] I have in mind, for example, the views of Brian Barry in "Is Democracy Special?",
op. cit., or Peter Singer, *Democracy and Disobedience*, op. cit.

[61] See my "Deliberative Democracy and the Regress Problem: Response to Michelman,"
The Modern Schoolman 74, 1997, pp. 333 f., and "Democracy and the *Rechtsstaat*: Haber-
mas's *Faktizität und Geltung*," in: S. K. White (ed.), *The Cambridge Companion to Habermas*,
Cambridge University Press, New York 1995, chap. 9; see also the important discussion
by Cohen, J., "Pluralism and Proceduralism", op. cit.

[62] See Habermas, J., *Between Facts and Norms*, op. cit., pp. 266 and 295; "Reply", op.
cit., p. 406.

well understood. A correct interpretation, I believe, puts Rawls and Habermas much closer together than either McCarthy or Habermas suppose, since both are committed to the view that there must be a prior agreement on a "core morality" that each citizen can affirm for the same (publicly available) reasons.

The idea of the reasonable is invoked at many levels within Rawls's theory, but its most basic use is with respect to persons: A citizen is reasonable if she is willing to accept and abide by fair terms of cooperation and willing to accept the "burdens of judgment," that is, to acknowledge and abide by the limits of reason.[63] These two basic virtues of the citizen are themselves understood in connection with what Rawls calls the basic moral powers of the person: the capacity for a sense of justice and the capacity for a conception of the good. These moral powers (or basic human capacities) are part of a moral psychology or conception of the person that, along with the idea of social cooperation, form one of the "fundamental intuitive ideas" found in a liberal political culture and from which his political conception is drawn. Though this idea is according to Rawls not itself part of a comprehensive doctrine or theory of human nature, it is nonetheless part of a general set of normative reflections, informed as well by moral and social-scientific theory, on the basic capacities of human agency.[64] Like Korsgaard's conception of practical agency, this "fundamental intuitive idea" of the person is (I believe) a conception of the agent that "stands behind" our other, more determinate practical identities and is more or less implicitly assumed by many different religious and secular traditions. It refers to the general human capacity to respond to and act for reasons. The appeal to this capacity gives normative content to Rawls's idea of the reasonable and ultimately shapes his notion of a (rational) justification (e.g., what is acceptable to "common human reason").

The further notions of a "reasonable comprehensive doctrine," a "reasonable overlapping consensus," and "reasonable pluralism" all draw upon this prior notion of reasonable persons: a doctrine, for example, is reasonable if its more specific elements fall within the "burdens of

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[63] Rawls, J., *Political Liberalism*, op. cit., p. 49 note 1.

[64] Ibid., pp. 86–87.

judgment" of reasonable citizens and an overlapping consensus is reasonable just in case it is a consensus among reasonable comprehensive doctrines. Finally, a reasonable disagreement is a disagreement that persists even after reasonable people, exercising good faith and recognizing the "burdens of judgment," nonetheless fail to agree on a particular matter. According to Rawls, in a liberal polity such disagreements are to be expected.

It is important to note, however, even in this brief outline, that what Rawls describes as the reasonable is *not* the conclusion or outcome of an agreement or overlapping consensus that just happens to exist. Rather, the prior idea of the reasonable *informs* what can count as a reasonable comprehensive doctrine and thus what could finally be part of a (reasonable) overlapping consensus. The idea of the reasonable, in other words, is something that must in this sense be given in advance of any existing overlapping consensus, rather than something that results from it. It might be objected, in response, that this reading does not follow Rawls's own recent distinction between "moral autonomy" and "political autonomy" (or, relatedly, between "persons" and "citizens") and thus still gives Rawls's position a too Kantian interpretation – one his "freestanding" political conception is meant to avoid.[65] However, though Rawls's own formulations sometimes lend support to such a reading, I think this cannot be his considered position. He is himself explicit that a "political" conception is still a "moral conception" and, in introducing his "criterion of reciprocity" (in which citizens must reasonably think that others can reasonably accept the terms of cooperation proposed), he states that this criterion bars slavery and other violations of basic liberties.[66] In short, even his conception of the political autonomy of citizens, along with the terms of social cooperation they could "reasonably" undertake, presupposes the two moral powers or "basic human capacities" Rawls earlier introduced in *A Theory of Justice*.[67]

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[65] See, for example, Forst, R., "Die Rechfertigung der Gerechtigkeit", in: H. Brunkhorst – P. Niesen (eds.), *Das Recht der Republik*, Suhrkamp, Frankfurt am Main 1999, pp. 105–168.

[66] Compare Rawls, J., *Political Liberalism*, op. cit., p. xliv and li.

[67] The distinction between "moral autonomy" and "political autonomy" is thus not a claim that political autonomy does not presuppose the (Kantian) moral powers of the

A related question often raised in connection with Rawls's political liberalism – and one raised by Habermas – concerns the role that the idea of an overlapping consensus plays in its justification (in contrast to its stability or likelihood to endure over time).[68] According to Rawls, the idea of an overlapping consensus is first introduced at a second stage, in connection with the question of social stability, not at the first stage when the initial justification of the principles of justice is at issue. This does not mean, however, that the overlapping consensus is not at all relevant to the process of justification. Rawls's considered view seems to be that if it turns out that the political conception justified at the first stage is not stable–that is, could not become the object of a reasonable overlapping consensus–then this would somehow call into question its earlier claim to being justified.[69]

In his own interpretation of Rawls, however, Habermas seems to take a different tack. That is, he attributes a *more* significant justificatory role to the idea of an overlapping consensus than, I believe, Rawls has in mind. Habermas apparently does not consider that the idea of the reasonable must already be presupposed prior to the identification of those comprehensive doctrines that might be eligible candidates for a reasonable overlapping consensus, but rather regards the notion of the reasonable as itself the outcome of a contingent or "lucky" convergence: "Only the lucky convergence of the differently motivated nonpublic reasons can generate the public validity or 'reasonableness' of the content of this 'overlapping consensus' that everyone accepts. Agreement in conclusions *results* from premises rooted in different outlooks."[70] Now, while it is true that each citizen may and even should look to his or her own comprehensive doctrine to see whether he or she has reason to affirm the content of the overlapping consensus, it is not the case either that the justification of the content rests upon

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person, but rather a claim that these moral powers do not entail the more comprehensive (Kantian) ethic of personal autonomy (see Rawls, J., *Political Liberalism*, op. cit., p. xlv and the helpful discussion in Larmore, Ch., "Political Liberalism" [*The Morals of Modernity*, op. cit., pp. 134–141].

68 Habermas, J., *Inclusion of the Other*, op. cit., pp. 61, 89 f.

69 See Rawls, J., "Reply to Habermas," op. cit., pp. 142 f.

70 Habermas, J., *Inclusion of the Other*, op. cit., p. 84.

these "nonpublic" reasons or that a contingent overlapping consensus produces or defines the "reasonableness" of that content.

This repositioning of the reasonable within Rawls's conception of political liberalism also then suggests how Rawls may in fact be closer to Habermas's own position. It is the basic idea of the citizen as reasonable and rational and, behind this, the idea of the basic moral powers of the person that importantly shapes the subsequent employment of the reasonable in Rawls's work. In ways that closely resemble Habermas's basic assumptions about communicative freedom–the capacity to take a position on a speech act offer, Rawls's idea of the reasonable acquires at least some of its normative authority from the fundamental human capacity to respond to and act from reasons: the legitimacy of a political order depends on what citizens can endorse in view of their "common human reason" (though a lot of further philosophical argument – contained in *A Theory of Justice* and *Political Liberalism* – is required to show what kind of political order might possibly satisfy this requirement).

Given McCarthy's reservations about Habermas's model of public reason sketched above, his response to this reading of Rawls might simply be, "Well, so much the worse for him!" If the best reading of Rawls is one that also commits him to a stronger, more consensualist model of political legitimacy, then perhaps he too should be urged to move more in the direction of McCarthy's proceduralism and idea of "mutual accommodation." However, I do not believe this is an option for McCarthy because I do not think he is able to make a convincing case that his proposed revision constitutes a real alternative to Habermas. It only *seems* to be a real alternative because McCarthy does not clarify what he means by a *reasonable* pluralism and a *reasonable* disagreement. How are these to be distinguished from their unreasonable counterparts? I see no alternative to the view that a disagreement is reasonable only if there exists at another level an agreement on core values that all can accept for the same publicly available reasons–in the last analysis, values based on our conception of ourselves as free and equal persons. We could think a disagreement arose from the "burdens of judgment" rather than willful ignorance or prejudice only if there were a further agreement on other basic values. Similarly, we can "(reasonably) agree to disagree (reasonably)" (McCarthy) only if we believe other procedures that are available for regulating our coexistence at a more abstract level reflect norms and values that all could accept for the same (publicly

available) reasons. In short, it would not be a reasonable pluralism or a reasonable disagreement if there were not (or could not) be this deeper agreement. McCarthy rightly notes that Habermas's discussion of practical rationality does not adequately address ways to handle cases of reasonable disagreement, but I do not think a more adequate or nuanced account can finally break with Habermas's criterion of rational acceptability.[71] As Habermas points out in his reply to McCarthy, even McCarthy's treatment of tolerance and mutual accommodation seem to presuppose the ideal of a rationally motivated agreement.[72]

3. The Practice of Public Reason

In concluding I will briefly consider some implications this more abstract debate regarding the idea of public reason might have for more concrete political practice. In particular, I want to suggest some ways that it might inform both the practice of toleration and the practice of *political* public reasoning.

(a) As many commentators have pointed out, toleration is an important yet elusive liberal virtue.[73] It asks that we live with what we might find deeply repugnant from a personal point of view. In this respect, it is an attitude that, despite its almost banal ring, is both extremely demanding and indispensable to a liberal political culture: On the one hand, we may personally (and justifiably) feel quite opposed to the practice or way of life we are asked to tolerate, yet, on the other hand, we are asked actively to affirm the right of others to engage in that practice or way of life (even though we need not have any regret should that practice or way of life cease to exist).[74] How is it possible

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[71] For some important suggestions on this topic, see Bohman, J., *Public Deliberation*, MIT Press, Cambridge 1996.

[72] Habermas, "Reply," op. cit., p. 402.

[73] See Heyd, D. (ed.), *Toleration: An Elusive Virtue*, Princeton University Press, Princeton 1996.

[74] See Scanlon, T. M., "The Difficulty of Tolerance", in: D. Heyd (ed.), *Toleration*, op. cit., and Habermas's remarks in his "Reply," *Habermas on Law and Democracy*, op. cit., p. 393.

to cultivate such an attitude, particularly in a pluralist society where we are likely to frequently encounter attitudes and ways of life with which we disagree? And, secondly, what are the appropriate limits of such an attitude: is it necessary to tolerate the intolerable? Is not this paradoxical virtue simply one more symptom of an impoverished liberalism that finds itself obliged to defend practices it finds morally offensive? These are not easy questions to answer but several brief observations can be made. Habermas's distinction between a political culture and the larger societal culture, as well as Rawls' parallel distinction between what he calls the "politically public" and the larger background culture, is important here inasmuch as the first term in these pairs helps to set the basic frame and limits of the tolerable. In this respect it defines the minimal "core morality" the violation of which need not be tolerated, either from a legal or a moral point of view.[75] (I do not mean that, as a matter of policy, questions such as the legal regulation of hate speech or violent pornography are now immediately settled; but rather that this core morality provides the general framework within which a political community is first properly bound to address those topics). At the same time, however, matters that do not concern the "core morality" of the political culture are ones that all citizens have an obligation to tolerate as a matter of public morality. It may also be that, as part of an attitude of toleration, citizens also have an obligation to try to reach a greater mutual understanding of one another's perspective. The exercise of toleration thus may *(but need not)* develop into stronger forms of appreciation and "civic friendship."

(b) In the context of his exchange with Rawls, Habermas has defended a conception of public reason and corresponding conception of "reasonableness" as an important political virtue and one that is probably as demanding as the virtue of toleration. In connection with his version of "political liberalism" based on the idea of an "overlapping consensus" among divergent comprehensive moral or religious worldviews, Rawls has argued that, as a duty of civility, citizens have a moral obligation, when they consider how to cast their vote, to regard themselves as "ideal legislators" and ask whether the reasons in support

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[75] I draw this idea of a shared "core morality" from Larmore, Ch., *Morals of Modernity*, op. cit., pp. 12–13.

of the proposed legislation or policy are ones that it is reasonable to think other citizens could also endorse. In response to criticisms of his initial formulation, he now endorses what he calls an "inclusive" model of public reason which allows citizens to act from reasons drawn from their comprehensive moral or religious convictions so long as they believe the positions they support could "in due course" also be supported on the basis of public reasons that all affected could acknowledge on the basis of their shared conception of themselves as free and equal persons.[76] Rawls goes on to indicate that this "duty" applies only to political discussions within the "public political forum" and not to discussion within the larger "background culture" of civil society.[77] Thus, while it is permissible for a person to advocate laws, say, prohibiting same-sex marriages in various associations and fora of civil society, it would be inappropriate for that same person to make such an argument in a political forum where it is not reasonable for him or her to assume that the co-participants (and co-citizens) could share the same grounds of the argument.[78] Nonetheless, it is clear that this still represents a quite demanding requirement for public reason.

In his own reflections Habermas is led to a similar conception of public reason and, if anything, gives it an even stronger interpretation.[79] He writes: "Anything valid should also be capable of a public justification. Valid statements deserve the acceptance of everyone *for the same reasons*."[80] Thus, for Habermas, though it may indeed be possible for individuals to embed their shared political ideals within their own com-

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[76] Rawls, J., "The Idea of Public Reason Revisited", op. cit., pp. 776, 784.

[77] Ibid., pp. 768, 775n.28.

[78] Rawls, it seems to me, is in fact unclear as to whether this constraint applies to all citizens or only to legislators and candidates for public office (see pp. 767–68 and 769, where he suggests that all citizens are to think of themselves *as if* they were legislators).

[79] Habermas, J., "'Reasonable' versus 'True', or the Morality of Worldviews," *Inclusion of the Other*, op. cit., chap. 3. Though, as I will argue, this is not the most charitable way to read Rawls, it is one that is widely shared; see for example Raz, J., "Facing Diversity: The Case for Epistemic Abstinence," *Philosophy and Public Affairs* 19, 1990, pp. 3–46.

[80] Habermas, J., "'Reasonable' versus 'True'," op. cit., p. 86; see also his "Some Further Clarifications of the Concept of Communicative Rationality," *Pragmatics of Communication*, op. cit., p. 321, where he writes: "*Agreement* [*Einverständniss*] in the strict sense is achieved only if the participants are able to accept a validity claim for the *same* reasons."

prehensive moral or religious worldviews, this connection between private moralities and public reason does not provide a sufficiently stable or normatively appropriate basis for the legitimate exercise of coercive political authority. Rather, citizens must simultaneously both presuppose and strive to articulate a basic political consensus (focused on the idea of a "core morality" mentioned above) that all citizens can endorse as valid for the same (publicly available) reasons. The legitimate exercise of political power requires that the reasons that justify at least the basic principles of justice and "constitutional essentials" be ones that all citizens can endorse for the same reasons – that is, in view of their shared conception of themselves as free and equal persons. Moreover, the political virtue of reasonableness requires that citizens, in regarding themselves as "ideal legislators", seek to find for the policies and legislation they support reasons that they reasonably believe others could reasonably endorse.

Two important objections to this account of the civic virtues need to be addressed: are they themselves exclusionary and/or sectarian in conception?, and is it at all plausible to think that they can be effectively promoted and sustained within the two-track model of deliberative democracy advocated by Habermas?

(1) The first objection, which has been raised from some quite diverse perspectives, is that the virtues of toleration (and reasonableness) are not innocent but rather function in ways that are both exclusionary and sectarian. Although this objection raises a number of extremely complex issues, I want to claim in response that, when properly understood, these virtues do not have to have the exclusionary consequences its critics have claimed. While Kirstie McClure, for example, may be right that the practice of toleration asks, say, religious believers to regard the truth claims of their faith as matters of private belief, it does not follow that it constitutes an unjustifiable or unacceptable harm against them.[81] There is no guarantee that within a liberal polity matters of religious faith and practice or, for that matter, other individual or collective ways of life will remain unchanged. The question must be whether or not individuals have their equal rights and liberties de-

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[81] McClure, K., *Judging Rights: Lockean Politics and the Limits of Consent*, Cornell University Press, Ithaca 1996, p. 199.

nied them in their treatment by the state. It does not seem to consti-
tute a harm or violation of a right to, say, freedom of speech, if one
is told that he or she is not morally entitled, in certain political fora,
to press claims against others that others do not (and cannot reasona-
bly be expected to) acknowledge. Similarly, the claim that citizens act
unreasonably if they promote policies and legislation on the basis of
non-public reasons does not per se imply that they themselves are the
victims of exclusionary or sectarian politics. On the one hand, to claim
that it is a violation of a moral duty to pursue positions on the basis
of non-public reasons within the more narrowly circumscribed polit-
ical public sphere does not mean that there are not many other fora
available within civil society in which those views can be aired and dis-
cussed. Secondly, I have again not broached the difficult topic of when
(or whether) it is permissible to respond to such moral infractions with
legal remedies (e.g., the legal regulation of hate speech).[82] Rather, my
more general and limited point has been to claim that the civil duty
of toleration does not necessarily imply an (unjustifiable) exclusion of
others or their points of view.

   A slightly different version of this objection can be found in the
claim that the "discipline of public reason" is too harsh in that it will
require individuals to argue their opinions in a form that will strike
them as foreign or insincere. If comprehensive doctrines and philos-
ophies of life must be left at the entrance to political assembly and
arguments presented in terms of public reasons that others could ac-
knowledge citizens may not even recognize themselves in their posi-
tions and, ironically, this requirement of reciprocity may inhibit the
aim of mutual understanding.[83] According to Daniel Weinstock, Rawls's
assumption that public reason functions like a "module" that can be
attached (or detached) from any (reasonable) comprehensive doctrine
rests on a questionable psychology of beliefs since the "fit" between

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[82] See, however, the cautious defense of a regulation of hate speech by Joshua Cohen,
"Freedom, Equality and Pornography", op. cit., and the very interesting critique of liberal
arguments against the regulation of hate speech by Brison, S., "The Autonomy Defense
of Free Speech," *Ethics* 108, 1998, pp. 312–39.

[83] See Weinstock, D., "Saving Democracy from Deliberation," in: R. Beiner – R. Norman
(eds.) *Canadian Political Philosophy*, Oxford University Press, New York 2000, pp. 78–91.

public and "private" reasons may be much tighter for many citizens. As an example – mine, not Weinstock's – consider Catherine MacKinnon's description of our gendered society:

> Men's physiology defines most sports, their needs define auto and health insurance coverage, their socially designed biographies define workplace expectations and successful career patterns, their perspectives and concerns define quality in scholarship, their experiences and obsessions define merit, their objectification of life defines art, their military service defines citizenship, their presence defines family, their inability to get along with each other – their wars and rulerships – defines history, their image defines god, and their genitals define sex.[84]

It is difficult to imagine how this criticism of the sexism in social life could be as effective if it were to be expressed in the language of public reason – or how it could be expressed with the same conviction.

However, I believe this version of the objection misses the point of – and motivation for – the idea of public reason, at least in Habermas and Rawls. First, as I indicated above (and as Weinstock also notes), the expectation that reasoning be public (or that reciprocity be exercised) applies only to certain political fora and *not* within the wider "background" culture or in what Habermas calls "civil society". Such a wide constraint would surely undermine, as Weinstock argues, both mutual understanding and individual autonomy. More importantly, however, Rawls's account of public reason leaves citizens free to find the deeper roots of their convictions about the political values in their comprehensive views and thus does not ask them to sacrifice their non-political identity when they are asked to argue (again in certain contexts) from their shared pool of public reasons. It does assume, however, that they are capable of drawing a distinction between their common political identity as citizens and whatever further identities they may possess.

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[84] MacKinnon, C., *Feminism Unmodified*, Harvard University Press, Cambridge 1987, p. 36.

(2) The second objection is equally challenging: Is it in fact reasonable to assume that in a civil society characterized as "wild" and "anarchic" the social and cultural conditions will exist that would be required for the promotion and maintenance of the civic virtues of toleration and reasonableness? Habermas is himself quite aware of this challenge:

> On account of its anarchic structure, the general public sphere is [...] more vulnerable to the repressive and exclusionary effects of unequally distributed social power, structural violence, and systematically distorted communication than are the institutionalized public spheres of parliamentary bodies.[85]

There can thus be, it seems, no guarantee that the associations arising within civil society will not be "tribalistic," inegalitarian, or ones that contribute to a culture of group bias and discrimination. Can a liberal political culture be fashioned and sustained under such conditions? It is unlikely that a definitive answer can be given to this question one way or the other. Many empirical and normative assumptions are involved. However, at least until we have more evidence to the contrary perhaps we should not be overly pessimistic about the possibilities for wider civility even in the face of a civil society that is deeply pluralistic and even "anarchic." On the one hand, the form of civility that is required for a democratic polity may not need to be as "thick" as some communitarians and others have supposed. What is required, it would seem, is a liberal political culture that is based on, and incorporates in its own norms of civility, the "core morality" mentioned above. The bonds of civility may not have to reach so deeply into particular and often sectarian worldviews that it threatens their (at any rate always fluid) identities, and it may be possible to embrace the central elements of a core morality from the perspective of otherwise very different worldviews. (This, I take it, is the important lesson to be learned from Rawls's idea of an overlapping consensus.)[86]

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[85] Habermas, J., *Between Facts and Norms*, op. cit., pp. 307–08.

[86] See Rawls's *Political Liberalism* as well as the argument for mutual respect based on a principle of reciprocity despite deep moral disagreement, found in Amy Gutmann and Dennis Thompson, *Democracy and Disagreement*, Harvard University Press, Cambridge 1996.

On the other hand, it is perhaps also the case that we have not suf-
ficiently explored the ways in which government, through its regulatory
policy, can help to promote the minimal bonds of civility. This indeed
may be one of the major differences between the liberal egalitarianism
of the welfare state and Habermas's "two-track" model of a delibera-
tive politics.[87] The largely interventionist and regulatory practices of
the liberal welfare state, some have argued, may be counterproductive
to their own intended effects.[88] What is required – though it is by no
means an easy task – is a focus on the (limited) ways in which the state,
in cooperation with institutions of civil society, can help to foster the
virtues necessary for a liberal political culture.[89]

References

Barry, Brian, "Is Democracy Special?", in: P. Laslett (ed.), *Philosophy, Politics, and Society*, Blackwell, Oxford 1979), pp. 155–56.

Baynes, Kenneth, "Deliberative Democracy and the Regress Problem: Response to Michelman," *The Modern Schoolman* 74, 1997, pp. 333 f.

Baynes, Kenneth, "Democracy and the *Rechtsstaat*: Habermas's *Faktizität und Geltung*," in: S. K. White (ed.), *The Cambridge Companion to Habermas*, Cambridge University Press, New York 1995.

Beitz, Charles R., *Political Equality. An Essay in Democratic Theory*, Princeton University Press, Princeton, New Jersey 1989.

Bellamy, R. – Hollis, M. (eds.), *Pluralism and Liberal Neutrality*, Frank Cass, London 1999.

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[87] See Habermas's discussion of a new legal paradigm, in contrast to both the classical liberal and the welfare state paradigms, in *Between Facts and Norms*, op. cit., chapter 9.

[88] See, among others, Margalit, A., *The Decent Society*, Harvard University Press, Cambridge 1996.

[89] See on this the interesting proposal concerning the use of the "intangible hand" of the state for such a purpose in Pettit, P., *Republicanism*, Clarendon, Oxford 1997.

Bessette, Joseph, *The Mild Voice of Reason: Deliberative Democracy and American National Government*, University of Chicago Press, Chicago 1994.

Bohman, James – Rehg, William (eds.), *Deliberative Democracy*, Cambridge, MIT Press 1997.

Bohman, James – Rehg, William, "Discourse and Democracy," in: R. von Schomberg – K. Baynes (eds.), *Discourse and Democracy*, SUNY Press, Albany 2002.

Bohman, James, *Public Deliberation*, MIT Press, Cambridge 1996.

Brison, Susan, "The Autonomy Defense of Free Speech," *Ethics* 108, 1998, pp. 312–39.

Caney, Simon, "Liberal Legitimacy, Reasonable Disagreement, and Justice," in: R. Bellamy – M. Hollis (eds.), *Pluralism and Liberal Neutrality*, Frank Cass, London 1999, pp. 19–36.

Cohen, Joshua, "An Epistemic Conception of Democracy," *Ethics* 97, 1986, pp. 26–38.

Cohen, Joshua, "Deliberation and Democratic Legitimacy," in: Alan Hamlin – Philip Pettit (eds.), *The Good Polity*, Blackwell, 1989, pp. 17–34.

Cohen, Joshua, "Pluralism and Proceduralism," *Chicago-Kent Law Review* 69, 1994, pp. 589–618.

Cohen, Joshua, "Freedom, Equality and Pornography," in: A. Sarat – T. Kearns (eds.), *Justice and Injustice in Law and Legal Theory*, University of Michigan, Ann Arbor 1996.

Cohen, Joshua, "Reflections on Habermas on Democracy," *Ratio Juris* 12, 1999, pp. 385–416.

Coleman, Jules – Ferejohn, John, "Democracy and Social Choice," *Ethics* 97, 1986, pp. 6–25.

Dryzek, John, *Deliberative Democracy and Beyond*, Oxford University Press, New York 2000.

Elster, Jon (ed.), *Deliberative Democracy*, New York, Cambridge University Press 1998.

Ely, John Hart, *Democracy and Distrust*, Harvard University Press, Cambridge 1980.

Estlund, David, "Who's Afraid of Deliberative Democracy?", *Texas Law Review* 71, 1993, pp. 1437–77.

Estlund, David, "Political Quality", in: Ellen Frankel Paul et al. (eds.), *Democracy*, Cambridge University Press, New York 2000, pp. 127–160.

Fishkin, James, *Democracy and Deliberation*, Yale, New Haven 1991.

Forst, Rainer, "Die Rechfertigung der Gerechtigkeit", in: H. Brunkhorst –
     P. Niesen (eds.), *Das Recht der Republik*, Suhrkamp, Frankfurt am Main
     1999, pp. 105–168.

Freeman, Samuel, "Deliberative Democracy: A Sympathetic Comment",
     Philosophy and Public Affairs 29, 2000, pp. 371–418.

Gutmann, Amy – Thompson, Dennis (eds.), *Democracy and Disagreement*,
     Harvard University Press, Cambridge 1996.

Habermas, Jürgen, "Three Models of Democracy," *Constellations* 1, 1994.

Habermas, Jürgen, *Between Facts and Norms: Contributions to a Discourse Theory
     of Law and Democracy*, MIT Press, Cambridge 1996.

Habermas, Jürgen, *The Inclusion of the Other*, MIT Press, Cambridge 1998.

Habermas, Jürgen, "Remarks on Legitimation through Human Rights,"
     Philosophy and Social Criticism 24, 1998.

Habermas, Jürgen, "Reply," in: M. Rosenfeld – A. Arato (eds.), *Habermas on
     Law and Democracy*, University of California Press, Berkeley 1998.

Heyd, David (ed.), *Toleration: An Elusive Virtue*, Princeton University Press,
     Princeton 1996.

Hill, Thomas E., "The Problem of Stability in *Political Liberalism*," in: *Respect,
     Pluralism, and Justice*, Oxford University Press, New York 2000.

Chan, Joseph, "Legitimacy, Unanimity and Perfectionism," *Philosophy and
     Public Affairs* 29, 2000, pp. 5–42.

Knight, Jack – Johnson, James, "Aggregation and Deliberation: On the
     Possibility of Democratic Legitimacy", *Political Theory* 22, 1994,
     pp. 277–296.

Larmore, Charles, *The Morals of Modernity*, Cambridge University Press,
     New York 1996.

MacKinnon, Catherine, *Feminism Unmodified*, Harvard University Press,
     Cambridge 1987.

Margalit, Avishai, *The Decent Society*, Harvard University Press, Cambridge
     1996.

McCarthy, Thomas, "Legitimacy and Diversity: Dialectical Reflections on
     Analytical Distinctions," in: A. Arato – M. Rosenfeld (eds.), *Habermas on
     Law and Democracy: Critical Exchanges*, University of California Press, 1998,
     pp. 115–153.

McClure, Kirstie, *Judging Rights: Lockean Politics and the Limits of Consent*,
     Cornell University Press, Ithaca 1996.

Michelman, Frank, "Law's Republic," *Yale Law Review* 97, 1988, p. 1527.

Miller, David, "Deliberative Democracy and Social Choice," *Political Studies*
     40, 1992, pp. 54–67.

Pettit, Philip, *Republicanism*, Clarendon, Oxford 1997.

Rawls, John, *Political Liberalism*, Columbia University Press, New York 1993.

Rawls, John, "Reply to Habermas," *Journal of Philosophy* 92, 1995, pp. 132–80.

Rawls, John, "The Idea of Public Reason Revisited," *The University of Chicago Law Review* 64, 1997.

Raz, Joseph, "Facing Diversity: The Case for Epistemic Abstinence," *Philosophy and Public Affairs* 19, 1990, pp. 3–46.

Riker, William, *Liberalism against Populism*, W. H. Freeman, San Francisco 1982.

Rosenfeld, M. – Arato, A., (eds.), *Habermas on Law and Democracy*, University of California Press, Berkeley 1998.

Scanlon, T. M., "The Difficulty of Tolerance", in: D. Heyd (ed.), *Toleration: An Elusive Virtue*, Princeton University Press, Princeton 1996.

Scheuerman, William, *Between the Norm and the Exception: The Frankfurt School and the Rule of Law*, MIT Press, Cambridge 1994.

Schumpeter, Joseph, "Two Concepts of Democracy," in: A. Quinton (ed.), *Political Philosophy*, Oxford University Press, New York 1967.

Singer, Peter, *Democracy and Disobedience*, Oxford University Press, New York 1974.

Sunstein, Cass, "Beyond the Republican Revival," *Yale Law Review* 97, 1988.

Sunstein, Cass, "Preferences and Politics," *Philosophy and Public Affairs* 20, 1991.

Weinstock, Daniel, "Saving Democracy from Deliberation," in: R. Beiner – R. Norman (eds.) *Canadian Political Philosophy*, Oxford University Press, New York 2000, pp. 78–91.

Young, Iris, "Communication and the Other: Beyond Deliberative Democracy," in: *Intersecting Voices*, Princeton University Press, Princeton 1997.

Social Movements and Lifeworld:
Making Sense of Subjective Interpretation

Hermílio Santos

The Honneth-Fraser debate is constructed mostly around the concept of recognition. One of the impacts of this dispute can be seen in the characterization of contemporary social movements, which are, according to Fraser, marked by a struggle for identity.[1] Honneth states, based on Weber,[2] that many contemporary movements try to exclude the differences in the process of affirming their identities,[3] that means, those actors are not only or necessarily trying to integrate the "other". This is due to the fact that social movements can be of two kinds: those that present individualistic recognition demands, and those that present rather demands to improve the common life of the group, called communitarian.[4] This interpretation is quite important to avoid a naïve interpretation of the meaning of social movements for the democratization process in contemporary societies. However, this classification is not enough to clarify how the demands are viewed and experienced by the members of such groups.

By proposing a definition of civil society, Cohen and Arato[5] state that social movements must be understood as being part of the civil society. According to them, social movements are the dynamic element in the process that should make effective the positive potentialities of modern civil societies. What is new and positive in the social movements, according to the interpretation of Cohen and Arato, is not only the fact that most of them had left the revolutionary ideas in favor of radical reforms, but above all, the fact that the struggle for these re-

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[1] See Honneth, A., "Redistribución como reconocimiento: Respuesta a Nancy Fraser", in: N. Fraser – A. Honneth, *Redistribución o reconocimiento? Um debate político-filosófico*, Ediciones Morata, Madrid 2006, p. 95.

[2] See Honneth, A., *The struggle for recognition – The moral grammar of social conflicts*, The MIT Press, Cambridge 1996, p. 124:

[3] Honneth, A., "Redistribución como reconocimiento: Respuesta a Nancy Fraser", op. cit., p. 97.

[4] Ibid., p. 129.

[5] Cohen, J. – Arato, A., *Civil society and political theory*, The MIT Press, Cambridge 1992.

forms were not mostly or uniquely directed toward the State. It means that civil society and, more specifically, social movements are the target and the sphere able to process these reforms. This, and the most influential analysis of social movements have in common the intent to offer a macro-characterization of these actors. Although a relevant task, especially for the understanding of contemporary societies, I will argue that most of these attempts are incomplete, due to the fact that they seem to assume the thesis that social movements are on the move based on a kind of similarity of identity or even interest. In this sense these movements would be characterized by an internal uniformity.

The preliminary balance of the literature on social movements is that these analyses grant a privilege to approach this phenomenon almost exclusively from a systemic and macro-sociological perspective,[6] with very few exceptions, especially those that stress a close connection between social movements and everyday life.[7] However, at least in the Brazilian sociological literature, this recognition has until now no significant impact on empirical research. On the one hand, the systemic approach represents a fundamental contribution to understand contemporary societies, since it allows the comprehension of the structural contours that constrain the action of social actors and the identification of the public agenda proposed by social movements.[8] On the other hand, this literature has dedicated relatively little attention to other analytical perspectives that can provide important contributions to interpret our societies. Paradoxically, an analytical dimension that seems to be left aside by many in approaching social movements con-

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[6] For instance Raschke, J., "Sobre el concepto de movimiento social", *Zona Abierta* 69, 1994, pp. 121–134; Avritzer, L., *Modelos de sociedade civil: uma análise da especificidade do caso brasileiro. Ensaios de teoria e filosofia política*, ed. by A. Mitre, Belo Horizonte, UFMG 1994; Rucht, D., "Sociedade como projeto – projetos na sociedade. Sobre o papel dos movimentos sociais", *Civitas* 2, 2002, 1, pp. 13–28; Scherer-Warren, I., "Das mobilizações às redes de movimentos sociais", *Sociedade e Estado* 21, 2006, 1, pp. 109–130; Gohn, M. da Glória, "Abordagens teóricas no estudo dos movimentos sociais na América Latina", *Caderno CRH* 21, 2008, 54, pp. 439–455.

[7] For instance, Dominigues, J. M., "Vida cotidiana, História e movimentos sociais", *Dados* 46, 2003, n. 3, pp. 461–490.

[8] For instance, Gohn, M. da Glória, "Abordagens teóricas no estudo dos movimentos sociais na América Latina", op. cit.

cerns the comprehension of the everyday lifeworld[9] of those engaged in such movements.

The aim of this chapter is to introduce this perspective in the debate, especially in what concerns the consideration of the subjective point of view for the characterization of contemporary social movements, anchored on the interpretative sociology of Alfred Schütz. It is encouraged in some way by the consideration of intersubjective recognition carried on by Honneth, especially in his *The Struggle for Recognition*[10] and in his article "Redistribución como reconocimiento: Respuesta a Nancy Fraser".[11] My communication is also encouraged by what Nythamar de Oliveira[12] calls the phenomenological deficit of critical theory. In this sense my aim here is to explore other perspectives of the subjective approach that could be incorporated into the recognition theory and eventually into empirical research based on this theory. My point here is founded on the presupposition that to know how a movement acts and the meaning of social movements for contemporary societies is not the same as to know how the members of this movement act, and the meaning of this movement for their members. Knowing how the members of a movement act means to know their motivation and their interpretation of the movement itself to which they belong – if they recognize themselves as members at all, which means to understand the subjective meaning they conferred to their movement. To offer an analysis of social movements based in this perspective could open new possibilities to understand current societies. I propose to address this problem from a Schützinian perspective, by combining a theoretical discussion with the consideration of an empirical method, which I think could make explicit the subjective interpretation of social phenomena and experiences.

According to Giddens, individuals are in some way compelled to choose and define their lifestyle that synthesize their place in the world,

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[9] Schutz, A., *Fenomenologia e relações sociais*, Zahar, Rio de Janeiro 1979, p. 72.

[10] Honneth, A., *The struggle for recognition*, op. cit.

[11] See Honneth, A., "Redistribución como reconocimiento: Respuesta a Nancy Fraser", op. cit.

[12] Oliveira, N., "Affirmative Action, Recognition, Self-respect: Axel Honneth and the phenomenological deficit of critical theory", *Civitas* 9, 2009, 1, pp. 369–385.

since lifestyle implies a whole of practices followed by individuals, not only because such practices fulfill utilitarian necessities, but because it gives material forms to a particular narrative of self-identity.[13] The tensions provoked by these exigencies around identities, as well as their impact on the perception of the other, seem to act as a somewhat relevant factor in the definition of an individual's guide to action. However, my thesis here is that there are no pre-given positions assumed by individuals on this tension able to define their action. On the contrary, the comprehension of action must be based on an individuals' interpretation of their own experiences of everyday life, accessible through their narratives. The analysis of narratives in biography and in everyday life, i.e., in experience, is turning out to be relevant considering the increasing challenges with which individuals are confronted to in contemporary societies,[14] as well as in "peripheral" ones, like the Brazilian. These challenges are not limited to material aspects, given, for instance, by the uncertainties related to the insertion into the work-market, assuming a more and more symbolic dimension, expressed by exigencies for a increasingly precocious definition of the contours that should assume their own identities or, if you prefer, their self-definition in situations which must be reaffirmed in everyday life. As stated above, this article analyzes some aspects of the contribution of the phenomenological sociology of Alfred Schütz to approach this problem, based mostly on the discussion of the constitution of lifeworld.

Lifeworld (*Lebenswelt*) is the pre-existent intersubjective world taken-for-granted through a "natural attitude",[15] in which the individual recognizes objective things of life, such as laws and costume that can provide some orientation to an individual's action, as well as the conditions for action (for instance, the other's intention and his/her own). With the natural attitude in everyday life, belief in the existence

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[13] Giddens, A., *Modernity and self-identity - Self and Society in the Late Modern Age*, Stanford University Press, Stanford 1993, p. 81.

[14] Beck, U., *Risikogesellschaft - Auf dem Weg in eine andere Moderne*, Suhrkamp, Frankfurt am Main 2000.

[15] Schütz, A., *Theorie der Lebenswelt 1 - Die pragmatische Schichtung der Lebenswelt*, Alfred Schütz Werkausgabe Band V.1, ed. by M. Endreß – I. Srubar, UVK, Konstanz 2003, p. 182.

of things in the environment are not suspended; on the contrary, what is suspended is precisely the doubt concerning the existence of these things,[16] since all past experiences are lived in the present as if they were ordered, such as knowledge or as expectation that something in the near future will occur exactly the same way as it occurred in the past.[17] However, everything that is taken for granted in the lifeworld is surrounded by uncertainties.[18] This way, the natural attitude is simultaneous to the interpretation proceeded by individuals, based mostly on the stock of knowledge at the disposal to the individual and on previous experiences of the individual him/herself and of others with whom he or she is in contact with, directly or even indirectly (for instance, parents, teachers, teachers of teachers, etc.), which means, supported by the knowledge on hand (*Wissen vorhand*)[19] that works as a "reference code"[19] for the individual. There is here an important distinction between knowledge on hand and knowledge at hand (*Wissen zuhand*). The former is a knowledge that is accessible to the agent even if he/she does not make directly and objective use of this knowledge, or even if he/she is not conscious of this knowledge. It is a kind of knowledge that someone doing empirical research could access through the individual narrative since it is strongly connected to one's own biography. In contrast, the knowledge at hand is not just accessible, but effectively acceded in a specific situation, in an objective way. In this sense, this knowledge system – as the result of the sedimentation of subjective experiences (biography) in the lifeworld[20] – assumes for those individuals that recognize themselves as internal members of a group, community or movement an aspect of coherence, clarity and consistency sufficient to all to have a reasonable chance of understanding and being understood.[21]

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[16] Schutz, A. – Luckmann, T., *The structures of the life-world*, Volume 1, Northwestern University Press, Evanston 1973, p. 27.

[17] López, D. G., "Conocimiento de sentido común y procesos de interpretación – una mirada a partir de las reflexiones de Alfred Schutz y Harold Garfinkel", *Intersticios - Revista Sociológica de Pensamiento Crítico* 2, 2008, 2, pp. 241–250, p. 242.

[18] Schutz, A. – Luckmann, T., *The structures of the life-world*, op. cit., p. 9.

[19] Schutz, A., *Fenomenologia e relações sociais*, op. cit., p. 72.

[20] Schutz, A. – Luckmann, T., *The structures of the life-world*, op. cit., p. 123.

[21] Schutz, A., *Fenomenologia e relações sociais*, op. cit., p. 71.

This intersubjectivity is constructed through the relation of the *I* with the *we*, and implies a common experience.[22] In this sense, what for Durkheim[23] is a strong constraint for individual action – the role played by collective representations – for Schütz is a reference that individuals can be disposed to and follow. However, it occurs because the relation between I and we is made object of their interpretation, since they are provided with the cognitive capacity for that, developed since childhood.[24] Here, individuals are guided by a "natural attitude" in relation to the world, which means it implies a belief in the phenomena of everyday life. However, in phenomenological terms "belief in" implies in making everyday situations an object of inspection and interrogation.[25] In the analysis provided by Schütz, it is conceived a status of the actor toward individuals that interpret things with which they are confronted (people, ideas, events, etc.), with the aim of assuming a position in the world and, in so doing, to establish their guide of action.

However, this approach is surrounded by misunderstandings, when some critics believe that the interpretive sociology (*verstehende Soziologie*) implies that the sociologist must attain the role of a "neutral" receiver of common sense "voices". Definitely this is not the sociological project of Schütz approach. At the same time, to put the subjective meaning in the frontline for analysis has nothing to do with the investigation of the psychological process of the agent, since what is intended to be understood is not the agent, but the meaning of its action.[26] My argument here is that investigation into contemporary social movements

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[22] Schutz, A. – Luckmann, T., *The structures of the life-world*, op. cit., p. 68; Capalbo, C., "A subjetividade em Alfred Schutz", *Veritas*, Porto Alegre, 45, 2000, 2, pp. 289–298, p. 293.

[23] Durkheim, É., *De la division du travail social*, Presses Universitaire de France, Paris 1962.

[24] Schutz, A., *Theorie der Lebenswelt 1 - Die pragmatische Schichtung der Lebenswelt*, op. cit., p. 339; see also Cicourel, A., "As manifestações institucionais e cotidianas do habitus", *Tempo Social* 19, 2007, 1, pp. 169–188, p. 175.

[25] Natanson, M., "Alfred Schutz: Philosopher and social scientist", *Human Studies* 21, 1998, pp. 1–12, p. 7.

[26] Cohn, G., "Introdução", in: G. Cohn (ed.), *Max Weber*, Editora Ática, São Paulo 2002, p. 28.

could benefit from a subjective approach in Schützinian terms, since it would allow identifying the diversity within the apparent homogeneity of a social movement, especially in what concerns the perception of an eventual struggle for recognition.

1. Interpretations of everyday life

We know since Durkheim[27] that collective representations, understood as "a system of classification and denotation of the allocation of categories and names",[28] are usually shared by members of a society, community or group. However, the capacity of social representations to be a common orientation for individual action seem to be challenged, even in a familial environment.[29] In part this is due to the fact that the construction and the representation of the self are turning out to be a relevant problem for individuals in contemporary societies,[30] strongly marked by a process of redefinition of tradition, in which individuals occupy a central role in the definition of their own identity, since we have to decide not just who we are, and how we act, but also how we appear to the world.[31] According to Giddens, inherited identities through a traditional status no longer satisfied individuals, turning the self into an object of manipulation. According to Mead, the process through which the self emerges is one of a social process, which involves the interaction of individuals of the community and the pre-existence of this community.[32] The community is characterized by the interaction

[27] Durkheim, É., *De la division du travail social*, op. cit.

[28] Moscovici, S., *Representações sociais – investigações em psicologia social*, Vozes, Petrópolis 2003, p. 62.

[29] Zaluar, A., "Gangues, galeras e quadrilhas: globalização, juventude e violência", in: Hermano Vianna (ed.), *Galeras cariocas*, Editora UFRJ, Rio de Janeiro 1997, p. 41.

[30] Giddens, A., *Modernity and self-identity*, op. cit.

[31] Giddens, A., *Para além da esquerda e da direita*, Unesp, São Paulo 1996, s. 97; see also Leccardi, C., "Por um novo significado do futuro – mudança social, jovens e tempo", *Tempo Social* 17, 2005, 2, pp. 35–57.

[32] Mead, G. H., *Mind, Self and Society*, University of Chicago Press, Chicago 1972, p. 164.

of the ego with the other mutually oriented. This reciprocity is possible due to previous conditions of the existence of communication through a common system of symbols or common culture.

The current forms of interaction are possible due to the fact that they are oriented by the construction of alterity. Communities are possible since there is the perception of the I and of the other, which means the perception of identity and diversity. However, such perception is not necessarily oriented towards the integration of plurality in the interactive process. On the contrary, what stands behind the construction of communities is precisely the attempt to exclude the difference, since communities should not be violated by "outsiders".[33] Communities represent a moment reserved for conviviality with the same and not with the distinct.

The establishment of a common life with others necessarily presupposes sharing meaning that sustains social relationships[34] or a collective identity expressed through common values that are reaffirmed in communication environments, that is to say in interactive relations.[35] This means that people of a specific community or group possess something socially significant in common, having in such an element or elements the border marker, since subjective meaning that a group presents for their members consists in their knowledge of a common situation and, with it, a common system of typification and relevance,[36] in which recognizing similarities involves, at the same time, establishing differences,[37] which make possible the existence of what Schütz calls an "internal group".[38] Communities (and here we could say, social

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[33] See, for instance, Elias, N. – Scotson, J. L., *Os estabelecidos e os outsiders*, Jorge Zahar, Rio de Janeiro 2000.

[34] Schutz, A., *Fenomenologia e relações sociais*, op. cit., p. 80 ; see also Schutz, A., *The phenomenology of the social world*, Heinemann Education Books, London 1972, p. 202.

[35] Schutz, A., *Fenomenologia e relações sociais*, op. cit., p. 160.

[36] Ibid., p. 82.

[37] Jenkins, R., *Social Identity*, Routledge, London 2002, p. 80. On the analysis of the "strange" carried out by Schutz, we can see very clearly the relevance of alterity on the establishment of individual action (see, for instance, Schutz, 2004a, p. 219; 2004b, p. 116; 1979, p. 85).

[38] Schutz, A., *Fenomenologia e relações sociais*, op. cit., p. 80.

movements) or the internal group, as Schütz calls it, are possible due to the perception of the *I* and the *other*. This implies affirming that the members of an internal group do not possess "knowledge about", but "knowledge of" a context, to which the individual is sufficiently familiarized.[39] However, this familiarity is not given, transmitted by relatives or teachers, for instance, but must be reconfigured in each situation.[40]

The interpretive work of individuals implies, in the Schützinian phenomenology, having at their disposal a system of relevance and typification that is part of what is transmitted to the members of an internal group through education.[41] Although both concepts refer to distinct problems, we can affirm that relevance and typification are elements of the same system, whose role is precisely to "naturalize" or harmonize social life. The sociological phenomenology has an explicitly pragmatic component, since the individual is considered from the point of view of his/her action, or imminent action. Nor are individuals adrift (à deriva in Portuguese or *sich selbst überlassen* in German), or submerged under the stream of facts lived by them, since they are "equipped" with the necessary instruments to orient themselves. This instrument is the relevance and typification system that selects the knowledge on hand that is relevant to the action;[42] in this way, pure events or facts do not exist, but only interpreted facts and events.

Schütz undertakes two kinds of distinction in what concerns relevance; the first is between imposed and voluntary relevance. These two kinds of relevance can assume motivational, thematic or interpretive characteristics. The first kind, the motivational relevance, is characterized as being oriented by individual's interests in a specific situation. This means that individuals separate, among the elements present in a situation, those that are useful for the definition of the situation accord-

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[39] Nasu, H., "How is the Other Approached and Conceptualized in Terms of Schutz's Constitutive Phenomenology of the Natural Attitude?", *Human Studies* 28, 2006, pp. 385–396, p. 391.

[40] Ibid., p. 394.

[41] Schutz, A., *Fenomenologia e relações sociais*, op. cit., p. 119.

[42] Nasu, H., "A Continuing Dialogue with Alfred Schütz", *Human Studies* 31, 2008, pp. 87–105, p. 91.

ing to the interests of that person.[43] This happens when the elements of the situation are sufficiently familiar to the person. When this is not the case, that means, if the involved elements in the situation are not sufficiently known, the individual effort will be directed toward the definition of the situation, since this has a status of a problem that must be interpreted. However, the unknown or the problematic is only relevant if it hints at the definition of a situation according to individual interests and current plans.[44] Schütz distinguishes also a third kind, the interpretive relevance that demands a more detailed interpretation to permit the recognition of the problem. This interpretation can be non-problematic, in the case that the necessary knowledge is routinely accessed; if this is not the case the individual will undertake specific efforts to conduct a satisfactory interpretation, even before taking the first step of action. It is clear, then, that not only the biographic position is relevant here, but also the results of personal history, of the experiences at hand and on hand, which means, the results of the one's own experiences and f those of their contemporaries or predecessors, transmitted to them in some way.[45] The knowledge acquired through experiences will organize the different levels of relevance mobilized by individuals in all situation of everyday life.

Relevance is the most important problem for the phenomenological investigation of lifeworld,[46] since it implies asking for the ways that individuals experience objects and events around them, which means how they perceive, recognize, interpret, know and act in everyday life through the selection of facts in the totality of elements involved in each situation. The experience itself occurs as a process of choice and not as a fatality or as a passive reception of data and information, due to the fact that individuals choose which elements of meaning should receive their attention, that is, which elements among those involved in a situation are made relevant. On the one hand, we could say that individuals do

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[43] Wagner, H. R., "Introdução: A abordagem fenomenológica da sociologia", in: Max Weber, *Economia e sociedade*, Volume 1, UnB, São Paulo 2004, p. 23.

[44] Ibid., p. 24.

[45] Schütz, A., *Relevanz und Handeln 1 - Zum Phänomenologie des Alltagswissens*, Alfred Schütz Werkausgabe Band VI.1, ed. by Elisabeth List, UVK, Konstanz 2004, p. 69.

[46] Nasu, H., "A Continuing Dialogue with Alfred Schütz", op. cit., p. 92.

not always choose the objective situations in life they have to face; on the other hand, individuals can make choices concerning the attention given to problems. Those choices are, however, informed by the stock of knowledge accumulated through previous experiences, their own as well as from others with whom they maintain some kind of tie, even if those other individuals are not their contemporaries. In this sense, present and future choices are in some way influenced by choices taken in the past, but not in a deterministic way. This is so because even past experiences are constantly submitted for interpretation and reinterpretation by those that act. In this sense, although anchored on the stock of knowledge, individual' course of action remains open, even if constrained by phenomena over which he/she does not have any control.

The process of typifying, on the other hand, precedes the perception of a situation.[47] All objects, with which we are in contact even for the first time, are experienced through typification, which means they are sent to a kind of catalogue where we search for affinities and similarities to other things already seen or known. Typification is socially processed, which means that the milieu in which a person is socialized builds and recognizes a typification of objects and relationships, transmitted to new members of a group during childhood. This typification is generally accepted by those that are members of such a group. Simultaneous to that, individuals operate a self-typification in which they typify their situation in the world and the diversity of relationships they maintain with other individuals and other objects, both material and cultural.[48] Typification is a reference for the perception of the situation in this sense it is also submitted for interpretation by those that act, conducting in this way to an individual typification, singular, over which is sustained the individual' guide of action. On the one hand, this typification allows to individuals anticipate the perspectives of the object to which he/she is in contact with; on the other hand, it makes it possible to organize expectations in relation to the object.

The individual interpretive work implies, as already mentioned, in having at their disposal a system of typification and relevance as part of

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[47] Psathas, G., "Alfred Schutz's Influence on American Sociologists and Sociology", *Human Studies* 27, 2004, pp. 1–35, p. 9.

[48] Schutz, A., *Fenomenologia e relações sociais*, op. cit., p. 118.

what is transmitted to members of the internal group through educa-
tion.[49] This system fulfills the following functions: a) to determine which
events should be treated as typically equals (so, similar problems will
be handled the same way); b) to transform unique individual actions of
unique human beings in typical functions of typical social roles, which
guarantees that individuals act in accordance with the played social role,
and c) the system of relevance and typification works also as a code of
interpretation and, at the same time, as a code of orientation for mem-
bers of the internal group, creating a common discourse universe, even
if there is no certitude that it will be so. Social interaction depends on
this system, when the code of interpretation is standardized and the rele-
vance system is institutionalized. This common system of relevance and
typification originate the individual typification and individual structure
of relevance, basic instruments for individual interpretation.[50]

   In their efforts to have an orientation and interpretation in everyday
life, individuals are also disposed to the language, especially the vocab-
ulary and syntax, besides the markers and indicators. Markers work as
"subjective warnings" that make it easier to recover elements lived in
the past, but that are relevant for the interpretation of the present and
near future situations. Indicators, on the other side, are orientation
elements in the sense that they help the individual to transcend the
world that is real and in front of him, making connections between the
reachable elements with those outside it,[51] since it allows him to iden-
tify facts, objects and events that maintain some level of interrelation,
making easier the individual performance in future contexts, even if
the knowledge of future situation is still vague.

   The habitus concept, as employed by Bourdieu[52] i.e. a system of

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   [49] Ibid., p. 119.

   [50] Schütz, A., *Relevanz und Handeln 1 - Zum Phänomenologie des Alltagswissens*, op. cit.,
on Schutz's significance of "relevance", see also Langsdorf, L., "Schutz's theory of rele-
vance", *Human Studies* 3, 1980, pp. 403–410, and Nasu, H., "A Continuing Dialogue with
Alfred Schütz", op. cit.

   [51] Schutz, A., *Fenomenologia e relações sociais*, op. cit., p. 101.

   [52] Bourdieu, P., *Le sens pratiques*, Les Editions de Minuit, Paris 1980; *O poder simbólico*,
Bertrand Brasil, Rio de Janeiro 2000; *A economia das trocas simbólicas*, Perspectiva, São
Paulo 2005.

socially constituted dispositions that generate and unify the whole of practices and ideologies of an agent group[53] – stay somehow close to the identified characteristics of members of an "internal group", as in the formulation of Schütz.[54] The habitus of agents is anchored in their past experiences and, besides composing their thoughts and perceptions of present reality, defines an agent's practice in a regular and constant manner,[55] expressed through symbolic marks of distinction through the knowledge acquired, translated in lifestyles, as well as on political, moral and esthetic judgments.[56] In this sense, we could state that members of a specific internal group are connected to each other by a specific habitus; however, Bourdieu[57] asserts that habitus makes possible the production of all thoughts, of all perceptions and also of all actions, which seems to restrict enormously the possibility of individual' interpretation of their own habitus. On the one hand, it seems to be possible to identify some proximity between the concept of habitus and the "internal group" (an expression adopted from William Graham Summer[58]); on the other hand, it is clear that the role of interpreter played by individuals or agents is not emphasized with the same intensity in both approaches. Crossley,[59] for instance, points out precisely this distinction between both approaches, affirming that phenomenology – as well as those schools called by him "social phenomenology" (ethnomethodoloy and symbolic interactionism) – stresses excessively the agents' interpretive horizon.[60] In this dispute, it seems to me that Honneth would stay by the side of Bourdieu, at least this is the interpretation I could form from the discussion of the patterns of

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[53] Bourdieu, P., *A economia das trocas simbólicas*, op. cit., p. 191.

[54] Bülow-Schramm and Gerlof (n.y.) see also approximations between both concepts.

[55] Crossley, N., "The Phenomenological Habitus and its Construction", *Theory and Society* 30, 2001, pp. 81–120, p. 83.

[56] Bourdieu, P., *Le sens pratiques*, op. cit., p. 92; Bourdieu, P., *O poder simbólico*, op. cit., p. 61.

[57] Bourdieu, P., *O poder simbólico*, op. cit., p. 92.

[58] See Schutz, A., *Fenomenologia e relações sociais*, op. cit., p. 80.

[59] Crossley, N., "The Phenomenological Habitus and its Construction", op. cit., p. 85.

[60] The same way, Throop and Murphy (2002) scrutinize the critics formulated by Bourdieu on Schutz's phenomenology.

intersubjective recognition.[61] It could also be objected of the phenomenological approach that it does not consider the constraints played by the "social structure" on the definition of individual action. It must be remembered, however, that the important point here is to stress just the possibility open to individuals to interpret their reality, including an interpretation of structural constraints over their actions.

The issue of an individual's interpretive attributes in everyday life is the most important aspect of the phenomenological sociology project (of) Schutz' in what concerns the attempt of a fusion of both of the most important fundaments over which his interpretation is established: Husserl's phenomenology and Weber's sociology of action. On the one side, Weber points out that individuals in action ascribe subjective meaning, considering the present, the past and the most probable future behavior of those with which he/she interacts, at the same time that he/she is considered by others – which makes clear that individuals, for Weber, are interpreters par excellence. It should also be considered that, according to Husserl, reality is put under brackets,[62] in the sense that the interpretive activity implies that everything around an individual is put in suspension in order to receive the agreement of his/her subjective meaning attribution.[63]

This synthesis intended by Schutz cannot be understood as an attempt at a juxtaposition of interpretations. On the contrary, it means a combination of Weber and Husserl based on a critical appropriation made by Schutz, which was received by some critics, for instance by Giddens[64] and by Campbell;[65] the last one exclusively on what refers to

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[61] Honneth, A., *The struggle for recognition*, op. cit., Part II, Chap. 5, see for instance p. 127.

[62] Wagner, H. R., "Introdução: A abordagem fenomenológica da sociologia", op. cit., p. 8.

[63] For a brief and important comparison of the phenomenological approaches of lifeworld in Weber and Schutz, see Hall, J. R., "Max Weber's Methodological Strategy and Comparative Lifeworld Phenomenology", in: P. Hamilton (ed.), *Max Weber: Critical assessments* 1, Volume II, Routledge, London 1991.

[64] Giddens, A., *Novas regras do método sociológico – Uma crítica positiva das sociologias compreensivas*, Zahar Editores, Rio de Janeiro 1978, pp. 24–34.

[65] Campbell, C., *The Myth of Social Action*, Cambridge University Press, Cambridge 1996, p. 33.

Schutz's interpretation of Weber. In an article published originally in 1981, Keneth R. Muse sustains that some authors (for instance, George Psathas and Helmut R. Wagner) identify in the methodological formulation of Weber some "phenomenological" aspects (for instance, on the doctrine of *Verstehen*). However, according to Muse, Weber did not recognize these elements as being "phenomenological". On the other side, the argument of Muse is that it is possible to identify strong evidence of the impact of Husserl's work on Weber. This influence can be found where, according to him, we are not expecting it: on the doctrine of the ideal type.[66] Schutz's phenomenological sociology shows yet a third important foundation, the theory of economic action formulated by his former professor, Ludwig von Mises, one of the most important representatives of the "Vienna Economic School". Important here for Schutz is his theory of value, in which von Mises accentuates the subjective perspective on the valorization of goods.[67]

I've already mentioned that knowledge is composed of the accumulation of lived experiences, directly and indirectly. Experience is not just the practical events in which the individual is directly involved, but also events in which take part his/her contemporaries and even their predecessors. In this sense, experience must be understood as phenomena to which individuals can assign meaning. However, not all experience can be considered meaningful. This characterization is reserved to already lived experiences, when viewed in retrospective.[68] To say that experiences are meaningful implies that it is possible for individuals to distinguish and accentuate them, which means to confront them with other experiences when it is not possible to manage current experiences. This can only be undertaken if the experience can be delimited through what Schütz calls "an attention act". So, to assign meaning to an experience is to interpret it ex post through the recovering by memory.

[66] See Muse, K. R., "Edmund Husserl's Impact on Max Weber", in: Peter Hamilton (ed.), *Max Weber: Critical assessments 2*, Volume II, Routledge, London 1991

[67] See for instance Endreß, M. – Renn, J., "Einleitung der Herausgeber", in: A. Schütz, *Der sinnhafte Aufbau der sozialen Welt - Eine Einleitung in die verstehende Soziologie*, Alfred Schütz Werkausgabe Band II, UVK, Konstanz 2004, pp. 18–20 and 25–36.

[68] Schutz, A., *Fenomenologia e relações sociais*, op. cit., p. 63.

Although Schütz did not delineate instruments and guides for empirical research founded on his phenomenological sociology,[69] this can be undertaken through biographic narratives, because this approach makes it possible to recover the most important elements for the subjective interpretation, i.e. the system of relevance and typification.

The biographic and everyday life narrative approach, although very influential in European sociology, especially in the German scenario,[70] is still almost unknown in Brazilian sociology, with very few exceptions.[71] Biographical and everyday life narratives are able to offer a very important access to the narrator's interpretation, but also to the connections between individuals and their groups, communities and movements.[72] However, it must be considered that any narrative is an interpretation viewed from a specific biographical situation,[73] since a biography is a description of processes and lived experiences by the individual him/herself. In this sense, biography is someone's "subjective interpretation of their own life trajectory".[74] To approach a problem this way implies a research undertaking that puts into relevance not only the narrator – since his/her interpretation on lifeworld is what will be analyzed – but

[69] Hitzler, R. – Eberle, T. S., "Phänomenologische Lebensweltanalyse", in: U. Flick – E. von Kardorff – I. Steinke (eds.), *Qualitative Forschung - Ein Handbuch*, Rowohlt Taschenbuch Verlag, Reinbeck bei Hamburg 2000, p. 117.

[70] Based mostly on the formulation of Fritz Schütze, for instance, Schütze, F., "Biographieforschung und narratives Interview", *Neue Praxis* 3, 1983, pp. 283–293; Riemann, G., "A joint project against the backdrop of a research tradition: an introduction to 'Doing Biographical Research'", *Forum Qualitative Social Research* 4, 2003, 3, Art. 18; Rosenthal, G., *Interpretative Sozialforschung - Eine Einführung*, Juventa, Weinheim 2008; Völter, B., *Judentum und Kommunismus - Deutsche Familiengeschichten in drei Generationen*, Leske – Budrich, Opladen 2003; Bohnsack, R., *Rekonstruktive Sozialforschung - Einführung in qualitative Methoden*, 7th ed., Verlag Barbara Budrich, Opladen 2008.

[71] A good example is Weller, W., "A presença feminina nas (sub)culturas juvenis: a arte de se tornar visível", *Estudos Feministas* 13, 2005, 1, pp. 107–126, and "A contribuição de Karl Mannheim para a pesquisa qualitativa: aspectos teóricos e metodológicos", *Sociologias* 13, 2005, pp. 260–300.

[72] Carvalho, I. C. M., "Biografia, identidade e narrativa: elementos para uma análise hermenêutica", *Horizontes Antropológicos* 9, 2003, 19, pp. 283–302, see p. 293.

[73] Schutz, A., *Fenomenologia e relações sociais*, op. cit., p. 73.

[74] Born, C., "Gênero, trajetória de vida e biografia: desafios metodológicos e resultados empíricos", *Sociologias*, Porto Alegre 3, jan/jun 2001, 5, pp. 240–265, see p. 245.

also the researcher, who simultaneously plays the role of interpreter and partner in a narrative. Individuals whose narratives are the object of analysis are guided by their own relevance system. Here, the analysis of everyday verbal language (vocabulary and syntax) permits an access to the comprehension of the relevance and typification system,[75] since "everyday life is, above all, life with language".[76]

2. Concluding remarks

At this point I would like to make some concluding remarks returning to the debate on the characterization of contemporary social movements; those that could be called "new", and those that would not be suited to this identification. We discussed here everyday life as a starting point to understand the guide of action followed by individuals, based on the contributions provided by Alfred Schütz. The most important aspect of this contribution is probably to offer accurate elements to understand the structure of the interpretive process conducted by individuals in everyday life. To know this is an essential step toward building an approximation to the logic of action conducted by individuals in their everyday life. This could lead to a misuse of the Schutzinian approach, assumed by some as a proposal to produce a kind of identification between common sense knowledge and that of the social scientist. Although common sense provides the most important inputs for the sociological analysis presented here, it cannot be understood as a subordination of the second to the first kind of knowledge. Far from that, this analytical proceeding must be taken as a way to offer a closer and more accurate understanding of action in everyday life. And this is only possible if, first, we approach the constitution of an individual's meaning construction, and, second, if it is assumed that

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[75] Schutz, A., *Fenomenologia e relações sociais*, op. cit., p. 96; Giddens, A., *Modernity and self-identity*, op. cit., p. 43; Berger, P. L. – Luckmann, T., *A construção social da realidade*, Vozes, Petrópolis 2002 p. 56; Hall, S., *Representation – Cultural representations and signifying practices*, Sage Publications, London 1997, p. 19.

[76] Berger, P. L. – Luckmann, T., *A construção social da realidade*, op. cit., p. 57.

individual action takes place through a simultaneous process of "natural attitude" concerning phenomena in the world, and of interpretation of this same world. In this sense, this article has shown that the key to understanding this process is to clarify the systems of relevance and typification that give the necessary support to an individual's action in everyday life. To introduce the phenomenological subjective point of view toward approaching social movements has potentially the advantage of providing an internal differentiation of social movements in terms of subjective motivation and justification for engagement in such a movement.

References

Avritzer, Leonardo, *Modelos de sociedade civil: uma análise da especificidade do caso brasileiro. Ensaios de teoria e filosofia política*, ed. by Antonio Mitre, Belo Horizonte, UFMG 1994.

Beck, Ulrich, *Risikogesellschaft – Auf dem Weg in eine andere Moderne*, Suhrkamp, Frankfurt am Main 2000.

Berger, Peter L. – Luckmann, Thomas, *A construção social da realidade*, Vozes, Petrópolis 2002.

Bohnsack, Ralf, *Rekonstruktive Sozialforschung – Einführung in qualitative Methoden*, 7th ed., Verlag Barbara Budrich, Opladen 2008.

Born, Claudia, "Gênero, trajetória de vida e biografia: desafios metodológicos e resultados empíricos", *Sociologias*, Porto Alegre 3, jan/jun 2001, 5, pp. 240–265.

Bourdieu, Pierre, *Le sens pratiques*, Les Editions de Minuit, Paris 1980.

Bourdieu, Pierre, *O poder simbólico*, Bertrand Brasil, Rio de Janeiro 2000.

Bourdieu, Pierre, *A economia das trocas simbólicas*, Perspectiva, São Paulo 2005.

Bülow-Schramm, Margret – Gerlof, Karsten, "Lebensweltliche Konstruktionen von Studierenden – Brücken zum Habitus?", available from [http://www1.uni-hamburg.de/QUEST//Pdf/lebensweltl_konstruktionen.pdf], accessed 21/07/2008.

Campbell, Colin, *The Myth of Social Action*, Cambridge University Press, Cambridge 1996.

Capalbo, Creusa, "A subjetividade em Alfred Schutz", *Veritas*, Porto Alegre, 45, 2000, 2, pp. 289–298.

Carvalho, Isabel Cristina Moura, "Biografia, identidade e narrativa: elementos para uma análise hermenêutica", *Horizontes Antropológicos* 9, 2003, 19, pp. 283–302.

Cicourel, Aaron, "As manifestações institucionais e cotidianas do habitus", *Tempo Social* 19, 2007, 1, pp.169–188.

Cohen, Jean – Arato, Andrew, *Civil society and political theory*, The MIT Press, Cambridge 1992.

Cohn, Gabriel, "Introdução", in: G. Cohn (ed.), *Max Weber*, Editora Ática, São Paulo 2002.

Crossley, Nick, "The Phenomenological Habitus and its Construction", *Theory and Society* 30, 2001, pp. 81–120.

Dominigues, José Maurício, "Vida cotidiana, História e movimentos sociais", *Dados* 46, 2003, n. 3, pp. 461–490.

Durkheim, Émile, *De la division du travail social*, Presses Universitaire de France, Paris 1962.

Elias, Norbert – Scotson, John L., *Os estabelecidos e os outsiders*, Jorge Zahar, Rio de Janeiro 2000.

Endreß, Martin – Renn, Joachim, "Einleitung der Herausgeber", in: Alfred Schütz, *Der sinnhafte Aufbau der sozialen Welt - Eine Einleitung in die verstehende Soziologie*, Alfred Schütz Werkausgabe Band II, UVK, Konstanz 2004.

Giddens, Anthony, *Novas regras do método sociológico - Uma crítica positiva das sociologias compreensivas*, Zahar Editores, Rio de Janeiro 1978.

Giddens, Anthony, *Modernity and self-identity - Self and Society in the Late Modern Age*, Stanford University Press, Stanford 1993.

Giddens, Anthony, *Para além da esquerda e da direita*, Unesp, São Paulo 1996.

Gohn, Maria da Glória, "Abordagens teóricas no estudo dos movimentos sociais na América Latina", *Caderno CRH* 21, 2008, 54, pp. 439–455.

Hall, John R., "Max Weber's Methodological Strategy and Comparative Lifeworld Phenomenology", in: Peter Hamilton (ed.), *Max Weber: Critical assessments* 1, Volume II, Routledge, London 1991.

Hall, Stuart, *Representation - Cultural representations and signifying practices*, Sage Publications, London 1997.

Hitzler, Ronald – Eberle, Thomas S., "Phänomenologische Lebensweltanalyse", in: Uwe Flick – Ernst von Kardorff – Ines Steinke (eds.), *Qualitative Forschung - Ein Handbuch*, Rowohlt Taschenbuch Verlag, Reinbeck bei Hamburg 2000.

Honneth, Axel, *The struggle for recognition – The moral grammar of social conflicts*, The MIT Press, Cambridge 1996.

Honneth, Axel, "Redistribución como reconocimiento: Respuesta a Nancy Fraser", in: Nancy Fraser – Axel Honneth, *Redistribución o reconocimiento? Um debate político-filosófico*, Ediciones Morata, Madrid 2006.

Honneth, Axel, *Reificación – Un studio en la teoría del reconocimiento*, Katz Editores, Buenos Aires 2007.

Jenkins, Richard, *Social Identity*, Routledge, London 2002.

Langsdorf, Lenore, "Schutz's theory of relevance", *Human Studies* 3, 1980, pp. 403–410.

Leccardi, Carmen, "Por um novo significado do futuro – mudança social, jovens e tempo", *Tempo Social* 17, 2005, 2, pp. 35–57.

López, Daniela Griselda, "Conocimiento de sentido común y procesos de interpretación – una mirada a partir de las reflexiones de Alfred Schutz y Harold Garfinkel", *Intersticios – Revista Sociológica de Pensamiento Crítico* 2, 2008, 2, pp. 241–250.

Mead, Georg H., *Mind, Self and Society*, University of Chicago Press, Chicago 1972.

Moscovici, Serge, *Representações sociais – investigações em psicologia social*, Vozes, Petrópolis 2003.

Muse, Kenneth R., "Edmund Husserl's Impact on Max Weber", in: Peter Hamilton (ed.), *Max Weber: Critical assessments 2*, Volume II, Routledge, London 1991.

Nasu, Hisashi, "How is the Other Approached and Conceptualized in Terms of Schutz's Constitutive Phenomenology of the Natural Attitude?", *Human Studies* 28, 2006, pp. 385–396.

Nasu, Hisashi, "A Continuing Dialogue with Alfred Schütz", *Human Studies* 31, 2008, pp. 87–105.

Natanson, Maurice, "Alfred Schutz: Philosopher and social scientist", *Human Studies* 21, 1998, pp.1–12.

Oliveira, Nythamar, "Affirmative Action, Recognition, Self-respect: Axel Honneth and the phenomenological deficit of critical theory", *Civitas* 9, 2009, 1, pp. 369–385.

Psathas, George, "Alfred Schutz's Influence on American Sociologists and Sociology", *Human Studies* 27, 2004, pp. 1–35.

Raschke, Joachim, "Sobre el concepto de movimiento social", *Zona Abierta* 69, 1994, pp. 121–134.

Riemann, Gerhard, "A joint project against the backdrop of a research tradition: an introduction to 'Doing Biographical Research'", *Forum Qualitative Social Research* 4, 2003, 3, Art. 18.

Rosenthal, Gabriele, *Interpretative Sozialforschung - Eine Einführung*, Juventa, Weinheim 2008.

Rucht, Dieter, "Sociedade como projeto – projetos na sociedade. Sobre o papel dos movimentos sociais", *Civitas* 2, 2002, 1, pp. 13-28.

Scherer-Warren, Ilse, "Das mobilizações às redes de movimentos sociais", *Sociedade e Estado* 21, 2006, 1, pp. 109–130.

Schutz, Alfred, *The phenomenology of the social world*, Heinemann Education Books, London 1972.

Schutz, Alfred, *Fenomenologia e relações sociais*, Zahar, Rio de Janeiro 1979.

Schütz, Alfred, *Theorie der Lebenswelt 1 - Die pragmatische Schichtung der Lebenswelt*, Alfred Schütz Werkausgabe Band V.1, ed. by Martin Endreß – Ilja Srubar, UVK, Konstanz 2003.

Schütz, Alfred, *Der sinnhafte Aufbau der sozialen Welt - Eine Einleitung in die verstehende Soziologie*, Alfred Schütz Werkausgabe Band II, ed. by Martin Endreß – Joachim Renn, UVK, Konstanz 2004.

Schütz, Alfred, *Relevanz und Handeln 1 - Zum Phänomenologie des Alltagswissens*, Alfred Schütz Werkausgabe Band VI.1, ed. by Elisabeth List, UVK, Konstanz 2004.

Schutz, Alfred – Luckmann, Thomas, *The structures of the life-world*, Volume 1, Northwestern University Press, Evanston 1973.

Schütze, Fritz, "Biographieforschung und narratives Interview", *Neue Praxis* 3, 1983, pp. 283-293.

Throop, C. Janson – Murphy, Keith M., "Bourdieu and phenomenology – A critical assessment", *Anthropological Theory* 2, 2002, pp. 185-207.

Völter, Bettina, *Judentum und Kommunismus - Deutsche Familiengeschichten in drei Generationen*, Leske – Budrich, Opladen 2003.

Wagner, Helmut R., "Introdução: A abordagem fenomenológica da sociologia", in: Max Weber, *Economia e sociedade*, Volume 1, UnB, São Paulo 2004.

Weller, Wivian, "A presença feminina nas (sub)culturas juvenis: a arte de se tornar visível", *Estudos Feministas* 13, 2005, 1, pp. 107-126.

Weller, Wivian, "A contribuição de Karl Mannheim para a pesquisa qualitativa: aspectos teóricos e metodológicos", *Sociologias* 13, 2005, pp. 260-300.

Zaluar, Alba, "Gangues, galeras e quadrilhas: globalização, juventude e violência", in: Hermano Vianna (ed.), *Galeras cariocas*, Editora UFRJ, Rio de Janeiro 1997.

Rights as entitlements and rights as claims

Marco Antonio Oliveira de Azevedo

What are "rights"? Rights are usually understood as "legal relations"[1] (and here I refer to the kind of "legal relations" that the Brazilian legal doctrine, following specially the German scholars, designates as "subjective rights"). There are people who widen up the idea supporting the plausibility that rights express moral relations, besides from legal ones. However, "legal" or "moral", would be rights relations between *whom* and about *what*? A very influent idea is one that takes rights as bonds or ties (be them natural or legally generated) between one individual and a property, from which it could be derived (secondarily) specific demands against certain persons, be them physical or juridical. Another persuasive idea is that of taking those "relations" as demands or claims of an individual *over* other persons, about something (an *action* or a state-of-affairs).

Thus, there are at least two different conceptions about what kind of legal (or moral) relations we call *rights*. I shall call the first *view of rights as entitlements* and the second *view of rights as claims*. The first considers rights as relations between someone and something (in case, a property); the second, on its turn, takes rights as "relations" between an individual (or someone) and other person (or between an individual and an undetermined person, or between an individual and a determined person[2]),

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[1] To say that rights are legal relations may be misleading and somewhat misunderstanding. However, in the legal speech, it is common to deal with subjective rights as "relations" of a certain kind. We will see ahead how much inappropriate it is to take statements about rights as if they were expressing relations (in the strict logical sense, understood as a kind of predicate). Let's take, for now, the term "relation" in a vague sense, inaccurate, without any commitment with what logics understand, in a more restricted way, as 'relation' (as relations between individuals and universals, as properties possessed or exhibited by individuals that can be translated and presented in a first order logical language as a n-place or a n-tuple predicate).

[2] This difference marks the classical Latin distinction between a right *in rem* and a right *in personam*. The possibility of talking about rights *in rem*, that is, respecting a lawsuit not toward a particular person, but toward "all the world", has made the possibility also of talking of rights not toward a definite person, but as rights applied to a property or a thing. The expression "in rem" comes from Latin, meaning "against (or about) a thing". This misleading form of expression probably made the "linguistic" opportunity of talking in general in rights as a kind of legal entitlements to things or properties (period).

or, more appropriately, as *demands* of someone *upon* (or *against*) another person *about* something. From these two, it could be said that the first is what we could call the "commonplace", "mainstream" or "hegemonic". It's the view that better characterizes the present conception on manifestos and on common speech of most philosophers and social scientists, as well as human rights activists. Despite of that, it is the second view the one that better logically adapts to the moral and legal speech. It is possible to show that the first view is faulty (and probably fallacious) in case of not being interpretable on the logical patterns proposed by the second. Nevertheless, for reasons of room, I will have to leave its complete defense for another occasion. I'll return in brevity on this comparison in the concluding section of this paper.

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The idea that rights are entitlements holds intimate connections with the view that rights are benefits or edges. This view assumes that there are things of which ownership or bonds represent a property or value to its holder or bearer. If dry fruits are beneficial to people, thus the power of having them at disposal is also a benefit. Saying that someone has rights to "dried fruits" would mean saying that this person can have this good. Perhaps any kind of thing could, following this view, be the object of a right. But there would be certain things that would be beneficial in an *essential* sense. The power to dispose of these goods would be something essential, which is to say, *vital*. Not wanting to dispose of this good would be simply irrational.

Let's assume something beneficial. The view of rights as entitlements is born from the following supposition. If Φ is a good to S, it is rational that S might or could want Φ. In other words, S must want Φ (at least *prima facie*). In case of S not wishing or not wanting Φ, and in case of it not being able of give us a reason, we'd say it's attitude relatively to Φ is unintelligible and *prima facie* not reasonable.[3] That is because it

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[3] "If Φ is a good to S, then S *ought to* desire Φ" means that, if S actually doesn't desire Φ, or S has any strong and contrary reason, or there is something wrong in their be-

makes sense to say that, if Φ is a good to *S*, then *S* has an interest (intelligible and justifiable) in or for Φ.

Thus we explain and account for the possible and even for an actual or eventual interest of *S* for Φ. Well, from that, yet it certainly doesn't follow any rights of *S* to Φ. As "moral" or "legal relations", rights are normative "entities". The existence of a right should do for reasons or grounds for demand of someone doing or refrain from doing something. Rights, in effect, grounds attributions concerning obligations. If someone has a right, then there is a reason (maybe enough) to claim (and perhaps, to legally demand) of another that something occurs. Rights authorize claims or demands over someone else.

Joseph Raz seems to me a reasonable advocate of a version of the view that I will call here the view of rights as entitlements. According to Raz, assertions of rights are assertions that a certain interest of someone serves as a sufficient reason to assign someone else a derived duty. Following Raz, '*X* has a right' if and only if: a) *X* can have or bear rights, and b) other things being equal, an aspect of *X*'s well-being (his interest) is a sufficient reason for holding some other person(s) to be under a duty.[4]

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havior. For instance, if nourishing results in an action that is good for S (because eating is good for S), if S refuses to eat, then probably he has some other reason or a stronger motive for not doing this (e.g. being on a diet, or going on a hunger strike), or there is something wrong about his behavior (the Greeks would consider him crazy or an anarchist; the physicians, in their turn, probably would consider his conduct a symptom of some psychiatric disorder).

   [4] Raz, J., *The Morality of Freedom*, Oxford University Press, New York & London 1976, p. 166. Joseph Raz seems to me to be an advocate for the rights as entitlement view because his intention of making a definition of right as an antecedent or primary normative relation of someone and something, that serves for holding another one to some legal bind, a duty. With this strategy, Raz intend to offer a definition without implying the so called "rights-duty correlative conception", a conception that he thinks is logically flawed. But, as not every interest of *X*'s can count as a sufficient reason for holding another person to some duty or obligation, it's necessary to give an additional reason, one that can be able to show that a certain interest Φ can be reasonably taken as a sufficient reason for claiming or demanding something from another(s). Without this additional reason or ground we cannot understand why this or that kind or aspect of other's well-being constitute a sufficient reason for claiming or even for enforcing the demand for something to someone else. As we will see, the claim conception of rights, as a semantical view, doesn't need this kind of substantive supplement.

A theory of rights like that of Raz needs in effect a supplementary theory that shows why certain interests of *S*'s serve as (or could serve as) *prima facie* sufficient reasons to claim or to attribute to someone else some correspondent duty, of which also succeeds the distinction between two general kinds of rights or entitlements: rights that are universal, and serve as reasons for anyone, under any political circumstances or juridical scheme, be justified in claiming or requiring something from someone; and non-universal rights, that is, rights that would express some contingent relations, and which enforcement would depends on agreement, convention, or a political or legal determined action.[5]

Let's see what kind of interest or "aspect of someone's welfare" could justify the imposition of moral or legal duties in a universal way. Let's consider the case of the well-known "right to life". If *life* is a good for *S*, then it follows his subjective interest upon it; however, if life is an essential good, that is, a good without which *S* could not, under any hypotheses, reach any other kind of good or try any kind or welfare, present or future, thus it would be claimed by the advocates of the view of rights as entitlements, *S* has a sufficient reason for claiming certain conduct of others, such as, of not restraining or hindering his fruition. Thus the conclusion that life is a good to which we all are entitled, and that living is a good that justifies submitting others to corresponding obligations. I personally think that this is what most of human right activists intend to say when they claim that we have a *right to life*, and that life is a good, for instance, of which protection we owe to each other.

In fact, one of the statements raised by the advocates of the rights as entitlements' view is that human rights would be goods of this kind, in other words, essential goods to any possibility of human realization, common or individual. They're goods that not only could not be denied to us, but also should be guaranteed and promoted. In this case, if life is a human right, then I not only *can*, that is, have permission or power to enjoy it; life is something that is, in some or another way, owed to

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[5] This is the line usually taken by Kant philosophers or influenced by Kant views. Many utilitarians also follow the same line of argumentation. I think that some Aristotelians would suggest replacing the expression "that could be accepted in a universal or impartial way" for any statement that could be taken as an objective (and not merely subjective) of what Thomas Aquinas, for instance, understood as a "common good".

me by the others. We'd have, thus, not only the power to live, but also the power to attribute corresponding obligations over the others, such as the obligation of not threatening my life and, according to some, maybe even the obligation to guarantee it, especially in situations of threat or scarcity. Hence the view of some that every *necessary* means to enjoy the good is equally an essential good.[6] In this way, if health, for instance, is acknowledged as necessary condition to enjoying the *life-good*, then health is equally a good to which I'm necessarily entitled. Each one of us would be committed to promote it, not only for ourselves, but also for every one else.

According to many philosophers, moral rights are justified by moral principles; legal rights would be, on the other hand, justified by some legal principle or legal rule. In general, human rights are understood

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[6] This follows from the notion of necessary goods, or of essential or basic needs. Given that we all have the same needs for the simple fact that we are all humans, it follows that there are goods that are equally desired by every one. These goods can be equally *claimed* and *owed* by all of us to all and anyone else: we demand and owe to each of us these goods *equally*. This is a subjacent idea to the rights as entitlement view: all human beings have the same (essential) rights to the goods that we universally recognize as human necessities. Bernard Williams, in the classic "The idea of equality" (in: B. Williams, *In the Beginning Was the Deed*, Princeton University Press, 2005, see pp. 106–107), published by Williams originally in 1962 (in fact, one of the most influent articles in political philosophy of the last century) has gone even more far. Suppose we agree that certain good β is a necessary good for two different persons, *A* and *B*. But, *B*, contrary to *A*, doesn't dispose of the necessary means for obtaining β. Suppose that this mean would be "money" ($). Here we have an inequality: *A* has $ for obtaining β; *B*, doesn't. Yet as $ is a necessary condition for *B* having the necessary good β, it follows that if we owe β to *B*, we owe equally $ (nevertheless the same doesn't follow considering the case of *A*). This is what many intellectuals calls *equity* (and others use the word *fairness*), meaning with this a principle whose source would be in Aristotle, that is, the principle that we must treat the equals, equally, but the unequals, unequally. But, there is a difference between the *necessary* means for granting a right in a determinate context and the means that only promote the attainment of some good (in the sense that *B* probably would attain the good if he would attain also the mean); even than, e more relevant than this, there is also a difference between the conclusion that something is a necessary mean to the attainment of an essential good, and the argument that, because this, we have a right to this mean. Yet a right to some good can be a human right because it is a right to an essential good in whatever context; but the rights of human beings to the contextually necessary means can operationally differ, without loss to the idea of equality. Than the right to a *good-mean* in some country can be a human right and without being in another. Following this idea, some human rights are contextually sensitive.

as *moral* rights. There certainly is some who will deny the existence of such rights (positivistic theories in Law deny the existence or the intelligibility of purely moral rights). But, let's consider for now the thesis that human rights are legal rights (or if you please "subjective legal rights"). In this case, a human right will only be a legal right if there is any legal principle (or a law) that declares it (otherwise, it will be just an aspiration or pretension to a legal right).[7]

As we've seen, according to this view, a human right is a pretension, or an aspiration, *morally* justified to a *essential* good (therefore, a pretension that should be legally attended – or legally guarded – and not merely a pretension that can or *could* simply be legally attended – that is to say, a pretension whose attention, guarding or enforcement depends on the sovereign's will, or, in more modern terms, of the "general will"). Let's review the right of life case. All of us aspire to enjoy this good; however, as life is an essential good, if someone is prevented from enjoying it, or if life is from him taken, withdrawn, extinguished or even significantly threatened, this would be committing a grave violence, a felony against this person.

Well, this would be true even in the case of there not being a law that declares the right to life as a positive right. Entitlements to essen-

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[7] Notice that for a jusnaturalist there is no problem in there is so many rights justified by natural Law and rights justified by positive Law. A moral right legally not declared is an aspiration to a *legal* right, but it is not obviously an aspiration to a *moral* right: it *is* a moral right. For the jusnaturalists, moral rights have the same face value as legal rights (and an infringement of a moral right doesn't leave in this sense of being an infringement of a right). For the positivists, however, since there is not "natural" or "moral" rights, to talk in "moral rights" is *only* to talk of aspirations to legal rights. Positivists that defend the intelligibility of the human rights discourse sustain that rights only became actual in the moment that these were politically recognized. For these theorists, the human rights talk of "universal" rights is a discourse for the international sphere of rights (and it supposes an actual and cogent international juridical sphere of Law). Bobbio suppose having found in the multiple international declarations promulgated after the creation on the United Nations (Bobbio, N., *The Age of Rights*, Polity Press, 1991) the ground for the existence of these actual international rights. For Bobbio, "the problem of the foundation of human rights only had it present solution in de Universal Declaration of the Human Rights of December 10th of 1948" (p. 48). Of course, a positivist who disagrees about the legal efficacy of this international document will not agree with this "activist" assertion of Bobbio, and this coherently will make him refuse the efficacy of these manifestos outside the domain of the territory of the countries that positively incorporated them.

tial goods are justified by moral reason, not legal. In any case, every advocate for the view of rights as entitlements that acknowledges the split between moral rights and legal rights need, thus, to burden itself from the following problem: whereas a moral right represents a moral demand or claim of each one against others, and a legal right, a demand or claim protected by law (its objective and sufficient reason is established by law, not morality), it is necessary to justify the thesis that every moral right should be enforced by law, in other words, that they must be turned into legal rights. That is how the advocated for the rights as entitlements view justify the need for transformation or realization of moral rights into legal rights: if a transformation of a moral universal right into a legal right is a necessary condition for the actualization of the moral right itself, or for making the moral right effective, then it follows that we have equally moral rights to its actualization or realization.[8] Here we have a politic right (or a right to a politics), or, in other words, we have a moral reason for the enforcement of a moral principle by Law. In fact, it is by Law that we obtain legal duties, which infringement would authorize the authorized or legitimate use of force.

All things considered, if some good is essential, then every and any necessary means for its protection and promotion is equally essential. The logic spreads itself, in this way, to all the goods considered essential: if my life depends on a minimum offer of food, then my right to these food is morally justified (the same could be said of water, air, and even about the environment, considering that a harmed environment endangers the life of human beings). If my moral right to life and to a minimum offer of food supplies can only be in case if the government guarantees them to myself, from this then it follows my moral right to the legal right that the government guarantees these food supplies. From which stems the so-called positive social rights, morally demanded against the governments. Then, if my moral rights could only be realized under the condition of existing also legal rights enforcing and supporting them, from this follows my moral right to the transformation of

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[8] On the "enforcement", "transformation" or "actualization" of a moral vision in a legal right (*the legal enforcement of morality*), see the classical *The Harry Camp Lectures at Stanford University* de Herbert Hart, de 1962, entitled "Law, liberty and morality" (Hart, H. L. A., *Law, Liberty and Morality*, Stanford University Press, 1963).

these rights into *legal* ones.[9] In that way underlie not only the so-called "negative" rights, but also the "positive" ones. In order to protect life, it is argued that the others are prohibited of doing certain things, but it is also argued that these, the community, or the government that represents them have positive duties to which one of us. Thus we have grounded a series of "positive" rights (or of a "second generation"), as well as the right of health and to public security, the social rights to dignified habitation and to work. Summarizing, for grounding some right as a *human* right, all you need to do is to recognize an essential human right, and then stem other rights understood as means, positive or negative, however, equally necessary.

<div align="center">3</div>

For now, I think I said enough about the view of rights as entitlements. Let's take a look at the view of rights as *claims*.

According to this other view, when someone says: 'I have the right to Φ', he is not only stating a relation between him and something (Φ), of which affirmation follows the supposedly justified affirmation that others possess certain correspondent duties. He is *claiming*, demanding,

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[9] By the way, the idea that we have a right to the transformation of a moral view (or a moral right) into a legal right, since the Law is an efficient mean (or at least is this what is pretended) for its "guarantee", is being reproduced also in the positivistic idea that the legal system is a system of guarantees of fundamental rights (in the legal sense). This is what we can infer from the works of authors like Luigi Ferrajoli (*Derechos y garantías*, Editorial Trotta, Madrid 1999). Ferrajoli doesn't depart from moral rights, but from legal and fundamental rights, defined as "all that subjective rights that correspond universally to 'all' human beings with the status of persons, of citizens or persons with the capacity to act" (ibid., p. 37). Nevertheless it seem clear that this conception goes beyond the positivistic account of the complete separation of legal rights from moral ones, it seem also clear in Ferrajoli's definition that the justification for the existence of these "fundamental rights" resides in a extra juridical moral reason, to wit, the supposed status of agency that all human beings would have in common. Then, even positivists that follow an entitlement conception of human rights don't preclude some moral suppositions: they suppose that there are moral and extra juridical reasons that claim for guarantees by the creation of legal rights (the fundamental rights legally instituted).

requiring Φ of someone else. Thus, while in the view of rights as entitlements, rights primarily express relations between two terms (a subject *bearer* of the right and *something* – in the case, a *good*), in the view of rights as *claims*, rights primarily express (maybe inappropriately[10]) "relations" between *three* terms (the claimant, the person charged or entrusted with some duty, and something – the claim-content). In this view, every time a right is pronounced it is being asserted (or claimed) a kind of normative relation between at least two people (or between an individual[11] and at least one person) about something (a state-of-affairs, or a determined action).[12]

I think this was the view originally semantically explored, in an analytical vein, by Wesley Newcomb Hohfeld. In 1913, in two articles simultaneously published in the *Yale Law Review* and entitled *Fundamental conceptions as applied in judicial reasoning*, Hohfeld complained against the North American and English jurists would employ the word 'right' sys-

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[10] Thomson (*The Realm of Rights*, Harvard University Press, 1990, p. 41, n. 5) understands that it is better to think in "rights" not as relation of a tuple of three terms, preferring the use of modal operators for usual propositions, which permits to express better some entailment relations between ascriptions of rights.

[11] I say 'individual' and not 'person' for not precluding the possibility that entities that we don't consider persons (like animals for example) can support demands for rights. On this possibility, see the famous paper of Joel Feinberg ("The rights of animals and future generations", in: W. Blackstone (ed.), *Philosophy and Environmental Crisis*, University of Georgia Press, Athens, Georgia 1974).

[12] That was I think the main criticism of Benjamin Constant to Kant. For Constant, "a duty is what corresponds in some being to what in another corresponds to his right". Bentham claimed some similar in his hard criticism of the language of the Rights of Man of the French Declaration, when he said that a right there is only when there is also a bearer of a correlated duty (Bentham, J., *The Works of Jeremy Bentham*, v. 2. Elibron Classics, Adamant Media Corporation, 2005, p. 293). Nietzsche, in some passages, said some similar respecting our duties. In the aphorism 39 of the Daybreak, Nietzsche had a reference to the rights of others as that to which our duties consist (Nietzsche, F., *Daybreak*: thoughts on the prejudices of morality, Cambridge texts in the History of Philosophy, Cambridge University Press, 1997, p. 199). Hayek, a libertarian, was pretty explicit in this way: "Nobody has a right to a particular state of affairs unless it is the duty of someone to secure it" (Hayek, F., *Law, Legislation and Liberty*, v. 2. The mirage of social justice, The University of Chicago Press, 1976, p. 102). This was the vision of Feinberg (Feinberg, J., *Social Philosophy*, Prentice Hall, 1973), which call this view the "logical correlativity" between duties and claims. Recently, this vision of rights as claims was systematically designed and explicitly developed by Judith Jarvis Thomson in *The Realm of Rights*, op. cit.

tematically in a confusing way. Intentionally trying to clarify the word's usage, Hohfeld identified and distinguished eight distinct concepts (ideas or thoughts) expressed by the word 'right', concepts that he judged "fundamental" for expressing "basic jurisdictional relations" existing in any legal system or of government. To Hohfeld, these jurisdictional relations were *sui generis*, which would hamper formal strict definitions.[13] To make them clear, he presented them in a scheme of "opposites" and "correlatives". Thus, the following relations (that I shall call *hohfeldians*, following a common designation in literature) represent the opposites:

1) Right/no-right;
2) Privilege/Duty;
3) Power/Disability;
4) Immunity/Liability.

Whereas the following relations express *correlatives*:

1) Right/Duty;
2) Privilege/No-right;
3) Power/Liability;
4) Immunity/Disability;

A *right* is the correlative of a *duty*. This is what Hohfeld *calls a right in a strictsense*. In order to avoid ambiguities, Hohfeld suggested that it was employed the term *claim* (or *claim-right*) to indicate a right in a strict sense. *Claim* is a demand,[14] a requirement, or an exigency *against* someone: if I have a right in a strict sense, then I have an exigency of something relatively to someone, and this someone has, in a correlated sense, an special obligation relatively to me. The term employed by Hohfeld is *duty*. It should be noticed that this is not the same "duty" that some moral philosophers understand as the expression of a moral

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[13] Hohfeld has employed the expression '*legal relations*' to cover a range of relations called "rights" by lawyers, jurists and magistrates (See: Hohfeld, W. N., "Fundamental legal conceptions", in: D. Patterson (ed.), *Philosophy of Law and Legal Theory*, Blackwell Publishing, 2003, p. 296).

[14] In German, the Word 'anspruch' has the same meaning.

imperative[15], neither of the "duty" that expresses the final conclusion of a practical reasoning – that which *must* be done (*ought* to be done), all things (or circumstances) considered.[16]

Judith Jarvis Thomson made an elegant usage and clarification of Hohfeld's ideas with the following statements.[17] According to her, what Hohfeld was trying to say was that allegations of *rights* (that is, rights in a strict sense) are statements in the following general form:

> *X* has a right againt *Y* that *p*,

where 'p' can be replaced by any sentence or proposition you like. This assertion amounts (that is, has strictly the *same reference*, however not properly the *same sense*) to:

> *Y* is under a duty toward *X*, namely the duty that *Y* discharges if and only if *p*.

In other words, while *p* is not the case, lingers the exigency or the claim of *X* and the duty of *Y*. If I have a right in a strict sense relatively to someone, this exigency, allegation, expectation, demand, request or, simple, this claim, is only respected or satisfied while or when it would be the case is that *p* (that means, when or while *p* is true). Thomson says that "every claim is a right that an entity has against an entity". I prefer to put this in another way: every right (in the strict sense of right) is a claim that an entity has against another entity of a distinct kind – namely, a person (I will not pay attention here for this very slightly version of Thomson's statement, nevertheless I think it is of great importance in some controversies on the problem of who are the

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[15] Kant has made popular the view that moral rules are categorical imperatives. Richard Hare is another of those that sustained the thesis that moral duties express imperatives. My point is that *duties* are not properly conclusions of practical reasons: Nevertheless, duties are or can be premises in practical reasons, *duties* are not *practical oughts*.

[16] See my "Razões para agir (ou como Lewis Carroll nos ajudou a entender *também* os raciocínios práticos)" – published in *Veritas* (Vol. 52, 2007, pp. 91–108). Bernard Williams has made this distinction in a broadly sense in the paper 'Ought and moral obligation', published in *Moral Luck* (Cambridge University Press, 1981).

[17] Thomson, J. J., *The Realm of Rights*, op. cit., pp. 37–60.

possible bearers of rights of any kinds and who are the possible bearer of the correlative duties).

Well, Thomson symbolizes these two affirmations this way:

$$C_{x,y}p$$

as an abbreviation of '*X* has a right (in a strict sense) that *p* against *Y*', and

$$D_{y,x}p$$

as an abbreviation to '*Y* is under a duty of *p* toward *X*' (or '*Y* is submitted to a duty relatively to *X*, that is, the duty that *Y* discharges if and only if *p*').

The hohfeldian thesis of rights and duties being *correlatives* would have formal expression in Thomson's statement that '$C_{x,y}p$ is equivalent to $D_{y,x}p$'. Symbolically:

$$C_{x,y}p \leftrightarrow D_{y,x}p.$$

Let's see an example. If I have a right relatively to John of 'Not being assaulted', that implies that John has a duty toward me that the state-of-affairs represented by 'not being assaulted', or by 'Marco not being assaulted by John', be the case. Therefore, if I am not and neither a being assaulted by John, then the sentence 'Marco was not (and is not being) assaulted by John' is true. In that case, my right relatively to John is satisfied, and it can equally be said that John is exonerated (or keeps on being exonerated) or is discharged from his duty. Obviously, in this case, I cannot *complain* (in terms as much legal as "moral") of John (at least while this condition or state-of-affairs persists), and this is because my claim or exigency was satisfied. That is to say: my right was respected. In other words, John fulfilled his duties towards me.

One of the confusions in the uses of the word 'right' is in the ambiguity in denoting, sometimes, a *right* (in a strict sense), sometimes, a *permission*.[18] However, permission is the opposite of a duty and the

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18 Hohfeld used *privilege*. But I prefer '*permission*', since to have a privilege is to have a special or exclusive permission.

correlative of a 'no-right'. A person has a permission every time it is not true that she has any duty of something being (or not being) the case. Or, in a equivalent meaning, every time it is not true that someone has, relatively to her, any claim that something is (or is not) the case.

Saying, therefore, that 'John has the permission to assault Marco' is the same as saying that 'John is not under the duty of not assaulting Marco', and equally the same of saying that 'Marco has no right over John of not being assaulted' (that means the claim or exigency of Marco's over 'not being assaulted by John' is false; or, if we'd rather, 'Marco doesn't have a claim of not being assaulted by John' is true). Thomson symbolizes these notions with the following schemes:

$$P_{x,y}p,$$

which means 'X has as regards Y a permission of letting be the case that p', or, as I prefer, 'X has a permission over Y that p', being that 'having a permission', in this case, that it is untrue that X has some duty toward Y that p is not the case, that is to say:

$$\text{Not-}(D_{x,y}\text{Not-}p),$$

of which results the affirmation that '$P_{x,y}p$' is equivalent to 'Not-($D_{x,y}$Not-p)', or, symbolically:

$$P_{x,y}p \leftrightarrow \text{Not-}(D_{x,y}\text{Not-}p).[19]$$

Let us imagine an example. All of us agree that, in case John tries to assault me, I have the permission of *defend myself* (it is thought, then, that I have the permission of reacting against the assault, occasionally

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[19] In modal logics, the operator $\diamond$ ('it is possible that') is defined as equivalent as $\neg\square\neg$ ('not-necessarily-not'). The hohfeldian expressions, read as modal formulae, are in accordance with the rules of the usual systems of modal logic. Like the operator (deontic) '*permission*' and (aletic) '*possibility*' are analogous, and the moral operator $\diamond$ cann be defined in terms of its dual operator $\square$, the operator P can also be defined in terms of its dual operator D. By this we can obtain: $P_{x,y}p \leftrightarrow \neg D_{x,y}\neg p$. See: Chellas, B., *Modal Logic: an Introduction*, Cambridge University Press, 1980.

employing means capable of being harmful to my aggressor). Hence, in those circumstances, it is false that John would have any claim against me that I don't defend myself (even by occasionally aggressive or injurious means). Nevertheless, even though I have the permission of reacting proportionally to an occasional assault of John's, that does not imply any right in the strict sense on his behalf (this means, it cannot be deduced, from the fact that I have this permission, that John is subdued to another duty relatively to me besides the duty of not assaulting me; that is to say, it cannot, for instance, be inferred that John has the duty of *letting himself be* assault by me).

Let's suppose that John is effectively threatening to assault me. Well, anybody would agree that, in this case, I have the "right" to defend myself. But what means here to have the "right to defend oneself"? If the "right to self-defense" would mean a claim (an exigency against someone else), then not only it would be true that I have the permission to react to the occasional assault of John's, but also that John would have the correlative duty of letting himself be assaulted by me (that is, my right to react to John's assault would be equivalent to John's duty, toward me, that is, the duty of being assaulted by me – notice that, this way, John would only be discharged of his duty towards me in case I effectively react to his assault – and I suppose you would agree that, even if it would be possible, it would not be reasonable). But this is of course an absurd. It is altogether unconceivable why my aggressor would suddenly be under the obligation of letting himself be assaulted in case of aggressing me. His obligation was that of *not aggressing me*, but it is not by the fact of having infringed it that I became capable of generate in my aggressor the obligation of being aggressed or of letting himself be aggressed by me. It seems clear, therefore, that my "right" does not properly correspond to a claim of mine over John, but, given the fact of his aggression, I've stopped being under the obligation of not aggressing him. In fact, our common sense sustains that, in front of an aggression, I have the *permission* of reacting. It means that, in the case of an aggression, I stop being under the duty of not assaulting my aggressor. That is what we want to say when we affirm that people who are assaulted have the "right" to react to the assault. Notice also that, from my permission, it does not follow any correlative duty of John's. I mean, even if I have the permission of reacting to John's aggression, it is false that John is under the duty of letting himself be aggressed by

me (or even someone else), or that he has any correlative duty of not defending himself.[20]

Permissions do not imply claims and we cannot infer any claims from any permissions.[21] In other words, from a mere permission, does not follow any right.[22] Therefore, if X has the permission over Y that p, from this it does not follows any right or any correlative duty.[23] The inverse, however, is true: if X has a right over Y that p, then Y has a duty towards X that p and, necessarily, Y has equally the permission that p is the case. Therefore, if I have the right of not being assaulted by John, John has the correlative duty of not assaulting me, and also the permission of not assaulting me – which could seem rather trivial. However, it is not, because if John had not the permission of not assaulting me, he would, on the contrary, under the obligation of assaulting me (that is, someone else would have a right over John that I was being assaulted by him).

For the time being, it is enough on 'claims' and 'permissions'. How about powers and immunities? The term 'power', by the way, has multiple meanings. The use, however, that Hohfeld made of this word was specific. According to Hohfeld, to have a *power* is to have the ability or the capability to make other person have or not have certain "rights" (to Hohfeld, the correlative of a power is a *liability*). Then there is the concept of *immunity*. To Hohfeld, alleging immunity equals to say that one does not have or stopped to have any power relatively to another. This implies saying that if I have a power relatively to John, then John is under a modification of his condition or position regarding his "rights" in general (rights in a strict sense, permissions, powers or

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[20] It is not without reason that the war is a consequence of an indiscriminate aggression. See Thomson, J. J., *The Realm of Rights*, op. cit., for some speculations on the difference of the concepts of Hobbes and Locke concerning the moral situation before the civil state.

[21] Thomson, J. J., *The Realm of Rights*, op. cit., p. 51 ff.

[22] From this, Thomson deploys the important difference of a mere *privilege* and the *claim* of non-interference.

[23] Consider the problem of the right of conducing and using lethal guns (supposing for self defense). The permission of reacting to an aggression doesn't imply any right like the claim or even a permission of having guns. The right to self-defense is not the same as the privilege of having guns for self-defense.

immunities) in reason or effect of an action of mine's. Saying, on the other hand, that John has immunity relatively to me is saying that I don't have any power of changing his moral or legal condition, or status, by an action of mine.

Thomson also adds the "rights" that she called *cluster-rights*. A right is composite if it's a right that includes or contains other rights. Paradigmatic examples are: the right to property, the right to life and the right to freedom.

Being the right to property a typical example of a *composite right*, what do we want to say when we claim it? Well, having the right to property is to have not only rights in a strict sense (the right, for example, that someone keeps distance of what is mine), but it is equally to have permissions and, specially, *powers*. To have property over something includes the power of transmitting this composite right to another, or even of transmitting only a *permission of usage*. Having the right to life, on it's behalf, comprehend a group of permissions (as the trivial or puerile permission of keep on living), as well as, and *especially*, the right in a strict sense that others do not threaten my life or my physical integrity.[24]

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There is an advantage in taking human rights necessarily as *claims* and not only as *entitlements*. Claims suppose a real carrier of the correlative duty (claims *in personam* suppose an *actual* carrier or bearer of the duty). Those correlative duties are, to use an expression employed by Kant, *perfect rights*. However, understood only as entitlements, rights could bear claims, but not necessarily; thus the group of divergences toward the real meaning of statements comprised in manifestos, traditionally redirected on the vague language of rights as entitlements (which Joel Feinberg called rights "in a sense of manifesto"). In the approach of rights

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[24] See my point in the paper "O direito de morrer" (Azevedo, M. A. O., "O direito de morrer" [The right to die], in: R. T. de Souza – N. F. de Oliveira (eds.), *Fenomenologia Hoje III*, Edipucrs, Porto Alegre 2008).

as entitlements, the attribution of rights to someone does not depend on the correlative attribution of some duty to another. Although Raz affirms that rights are sufficient reasons to attribute a duty to another, the attributed duty's content is not necessarily the same content of the alleged right; it is not immediately clear, therefore, which is the right, neither who is the duty's bearer. This obviously permits to the possible duty bearer the advantage of being able to interpret at his own gusto the duty's content that could, in thesis, satisfy the right in question. It also allows eventually evading from the allegation of which is responsible of the duty that comes from the right that one doesn't is, however, not recognizing *prima facie*. Well, insofar as rights are used exactly to protect someone's interests of the eventual power of another, this results in flagrant disadvantages to the defense of rights.

But this fragility does not occur if the human rights are interpreted strictly as claims. Yet for each claim there is always and necessarily a determined duty, of which it's bearer cannot evade him or herself (not at least without a reason). Therefore, when rights are to be described as entitlements (as what is done in the human rights speech), a reasonable rule is to take the language of claim as primitive, ruling that every right as an entitlement should be interpreted somehow as a real claim, under the penalty of, on the contrary, reduce itself to mere rhetoric, maybe not properly mischievous (such as Bentham judged), but, to the purpose of it's advocates, something even worse: just a mere naïve rhetoric.[25]

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[25] This Chapter was originally presented at the *Fourth International Symposium on Justice: Justice and Recognition* in Porto Alegre. Then, it was published in *Veritas* (Volume 55, No 1, 2010, pp. 164–182).

References

Azevedo, Marco Antonio O., "*Razões para agir* (ou como Lewis Carroll nos ajudou a entender *também* os raciocínios práticos)" [Reasons for action: or how Lewis Carroll has helped us to understand *also* the practical reasonings], *Veritas* 52, 2007, 2, pp. 91–108.

Azevedo, Marco Antonio O., "O direito de morrer" [The right to die], in: R. T. de Souza – N. F. de Oliveira (eds.), *Fenomenologia Hoje III*, Edipucrs, Porto Alegre 2008.

Baier, Annette C., *Moral Prejudices*, Harvard University Press, 1994.

Bentham, Jeremy, *The Works of Jeremy Bentham*, v. 2. Elibron Classics, Adamant Media Corporation, 2005.

Bobbio, Norberto, *The Age of Rights*, Polity Press, 1991 (Brazilian edition: *A era dos direitos*, Elsevier, Rio de Janeiro 2004).

Carmichael, Gershom, *Supplements and Observations upon Samuel Pufendorf's on the Duty of Man and Citizen according to the Law of Nature* [1724], in: G. Carmichael, Natural rights on the threshold of the Scottish Enlightenment: the writings of Gershom Carmichael, ed. by James Moore and Michael Silverthorne, Liberty Fund, Indianapolis 2002. Accessed from: <http://oll.libertyfund.org/title/1707/19508> on 2009-10-25.

Chellas, Brian, *Modal Logic: an Introduction*, Cambridge University Press, 1980.

Feinberg, Joel, *Social Philosophy*, Prentice Hall, 1973.

Feinberg, Joel, "The rights of animals and future generations", in: William Blackstone (ed.), *Philosophy and Environmental Crisis*, University of Georgia Press, Athens, Georgia 1974.

Ferrajoli, Luigi, *Derechos y garantías*, Editorial Trotta, Madrid 1999.

Ferrajoli, Luigi, "Fundamental rights", *International Journal for the Semiotics of Law* 14, 2001, pp. 1–33.

Grotius, Hugo, *The Righs of War and Peace*, Liberty Fund, Indianapolis 2005. Accessed from <http://oll.libertyfund.org/title/1425/138593> on 2009-10-25.

Hare, Richard, *The Language of Morals*, Clarendon Press, Oxford 1952.

Hart, Herbert L. A., *Law, Liberty and Morality*, Stanford University Press, 1963.

Hayek, Friedrich, *Law, Legislation and Liberty*, v. 2. The mirage of social justice, The University of Chicago Press, 1976.

Hohfeld, Wesley Newcomb, *Fundamental legal conceptions as applied in judicial reasoning*, The Lawbook Exchange, Union, New Jersey 2000.

Hohfeld, Wesley Newcomb, "Fundamental legal conceptions", in: D. Patterson (ed.), *Philosophy of Law and Legal Theory*, Blackwell Publishing, 2003, pp. 295–321.

Nietzsche, Friedrich, *Daybreak*: thoughts on the prejudices of morality, Cambridge texts in the History of Philosophy, Cambridge University Press, 1997.

Raz, Joseph, *The Morality of Freedom*, Oxford University Press, New York & London 1976.

Thomson, Judith Jarvis, *The Realm of Rights*, Harvard University Press, 1990.

Williams, Bernard, *Moral Luck*, Cambridge University Press, 1981.

Williams, Bernard, "The idea of equality", in: B. Williams, *In the Beginning Was the Deed*, Princeton University Press, 2005.

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