



e-Thinking Europe

Book Series

Volume 1 – 2011

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Presentation

This book can certainly be considered both as an end and a beginning. It represents the end of a year of scientific and academic cooperation between researchers from different universities in Europe. In this sense, this book is the materialisation of the first collective action of the research network Rethinking Europe, the beginning of which was the realization of a homonymous workshop in February 2011 at the Universiteit Gent. At the same time this book represents the beginning of a series of volumes dedicated to the current political philosophical debates in and about Europe.

Rethinking Europe is a research network integrated by scholars from different universities in Europe. Its principal aims are to offer to researchers a free and public space for discussion about Europe and to promote the development of innovative research in the field of political philosophy.

The papers of the first volume of Rethinking Europe deal with main issues concerning the European question such as the conditions of possibility for (radical) democracy, the tension between equality, recognition and exclusion and the creation of social norms. The articles show a diversity of methodological approaches, coming from very different traditions of contemporary philosophy such as the phenomenology, the theory of social/collective action and the critical philosophy.

Beside the papers of the members of the research network this volume includes contributions of two celebrated scholars: an article on Europe written by Heribert Boeder and an interview with Ernesto Laclau.

We will express our gratitude to all the authors for their uninterested collaboration and patience, to B. Demarest and A. Froeyman for their cooperation in the edition of the content of this book, and to Gertrudis Van de Vijver for her unconditional support on this new philosophical enterprise.

The Editors
Blandijnberg, April, 2012

To begin with, a confession: a dilettante is talking here —that is to say, one who has no idea about the circumstances surrounding the planning of television programs but who nevertheless at least has the tendency to watch something every now and again; one who therefore checks daily to see what ARTE¹ has scheduled. And sometimes he takes pleasure in a find such as the recent program on Ionesco.

Though occasionally a certain dissatisfaction with the offerings makes him ask: why, out of the truly rich variety of what today is regarded as a manifestation of culture, why, more precisely, out of the astonishing multiplicity of what people have even expressly arranged and produced for viewing, do they show this sort of thing again and again? Why ‘again and again’, when in fact a different theme is set for almost every evening? Do ARTE’s selections reveal a one-sidedness, broad though it may be? The motive for such a question is dark since it is not at all conspicuous —perhaps it cannot be due to habit— that what comes into view on television, alongside various documentaries about nature and art, is predominantly the world of actions —whether staged artistically or recorded directly. It is certainly safe to assume that man regards himself as the most interesting object. But is he therefore capable of viewing himself only as an agent? Has he not always seen himself in the things of his dwelling, as is expressly attested in various ways by their attractive formation?

One might think these questions trivial. But let us listen more closely. Do they in any way express an interest held by society today? If so, how would one discern it? Now —it has already been discerned, since the fundamental pluralistic trait of contemporary

* Translated by Marcus Brainard. This is a revised version of a translation first published under the same title in Heribert Boeder, *Seditions: Heidegger and the Limit of Modernity*, ed. and trans. Marcus Brainard (Albany, N.Y.: State University of New York Press, 1997), 265–75. The German original, “Europa und die Dinge des Wohnens,” was read at the symposium “Der Kulturkanal Arte,” held by the Internationales Fernseh-Forum für Musik (Osnabrück/Zürich) on November 11, 1992. The essay will soon be published in German for the first time in Heribert Boeder, *Epoché und Epoche I: Logotektonische Schriften zur Sophia und Philosophie der Letzten Epoche*, ed. Marcus Brainard (Nordhausen: Verlag Traugott Bautz).

¹ Note of Translator: ARTE (Association Relative à la Télévision Européenne) is a German-French cultural station based in Strasbourg and is oriented towards the European market. It shows films, reports, and documentaries focusing on animals and nature, countries and people, and art and society; three times per week (Sunday, Tuesday, and Thursday) the evening is devoted to a specific theme; music is the subject of other programs; and plays, performances, and short-films are shown.

society has already found its articulation. The chief interest in force there is in the violence of men against others and against themselves, of men against so-called nature, and especially against the natural environment. The reflection on such violence determines it first to be economic; then to be sub-economic, that is to say: to be the violence of the orders of discourse, which tend to be exclusive; and, finally, to be the violence of the so-called master thinkers of our tradition –with the unifying, universalizing, systematizing violence of what they represent as the first ground or as origin. The key proponents of this interpretation are Merleau-Ponty, Foucault, and Derrida. Their respective thoughts are constitutive of what can be regarded as the philosophy of so-called postmodernity.² Whether this name pleases our contemporaries or not, in philosophy it aptly testifies to a separation from the sense-explications of modernity.³

Yet pluralism, with its necessary thematization of both non-violence and violence, is not the only fundamental trait of contemporary society. The other is communication as it has been disclosed by the scientific disciplines of pure linguistics, semiology, and structural anthropology. Here the decisive positions are those of Jakobson, Barthes, and Lévi-Strauss, the latter having recently been paid tribute on ARTE.

Of concern in this other dimension is not the overcoming of humanism and its egocentricity, not the dissolution of the face that man assumed for himself in the modern human sciences, not the expunction of his λόγος- or *ratio*-based understanding of himself, but rather the establishment and unfolding of his linguistic character as it is alone human. Starting with the speech of “wild thinking,” which is still in effect in civilized thinking. The first thought and thus the first word is a negation, a prohibition, a taboo. The negativity of the first gesture of speech is so thoroughgoing that it underpins the gesture’s instrumentality –negating the independent significance of individual sounds. Accordingly, the humaneness of the use of instruments begins first of all with the manufacture of secondary ones, that is, those for the manufacture of other instruments. An interest in

² Note of Translator: Since this talk was given, the author has modified the tectonic of postmodernity, which he in fact calls ‘submodernity’ due to its structural affinities with modernity (rather than its temporal relation to the latter, as indicated by the prefix) and, in view of the anarchic character of contemporary thought, in analogy to ‘subculture’. The first two dimensions discussed here he later terms the ‘an-archic’ and the ‘structural’ reflection, respectively. To these is added a third, namely, the analytic reflection. Together, these three dimensions form the whole of submodern thought, from which Boeder’s own, “logotectonic” thought is distinguished. In addition to the work contained in later part of *Seditions*, the fullest account of the structure of submodernity is to be found in Heribert Boeder, *Die Installationen der Submoderne. Zur Tektonik der heutigen Philosophie* (Würzburg: Königshausen & Neumann, 2006). See also his essays from the *New Yearbook for Phenomenology and Phenomenological Philosophy*: “The Submodern Character of Linguistic Analysis,” II (2002), 117–36; “Derrida’s Endgame,” III (2003), 121–42; and “The Distinction of Speech,” VI (2006), 185–98.

³ Note of Translator: In Boeder’s thought ‘sense-explication’ renders *Besinnung* insofar as the latter designates a dimension of modern thought. See *Seditions*, xxiii–xxxii, esp. xxvi and xlvi n. 21B.

things becomes apparent here that respond, in their instrumentality, to properly human speech. Especially insofar as they can become objects of semiology.

If the things of dwelling join the instruments of production and action, it nevertheless has to remain open here whether they are sufficiently grasped thereby as instruments. Should we define them? Even disregarding Wittgenstein's objection to such a procedure, it would be imprudent to seek to do so for historical reasons, which we shall have to pass over here. At any rate, the following exposition can rely on the illusion of immediate familiarity, an illusion that dwelling, along with its things, has for everyone. Is it not precisely this general familiarity that speaks against its presentation on television? What interest could a table and a bed arouse on their own –without being, say, the props of a story? But, prior to this, one would have to ask: can dwelling even be shown? To do so, would it not be necessary for a story or an action, such as familial discord, first to be introduced into it? Or might it be possible to access dwelling solely by way of its things –by way of a house and a garden and their arrangement?

Dwelling is familiar to everyone but difficult to grasp. Can it be broken down into parts, much as an action into individual actions? Can it be completed like actions? Does it display an inherent architectonic of grounds and causes? Presumably not, for otherwise philosophy would have attended to it, and dwelling would not first have become thematic only after the separation of the sense-explication from philosophy at the limit of modernity, and in fact for Heidegger.⁴ Let us leave this semblance of familiarity and turn to the things of dwelling.

Now such things are presented, of course, on television in commercials—as on every market, so too on this one: as wares. They extol the things' merits in utility as well as in design. Yet the market has to be left to its own global habits of advertising. Advertisement has to take care of itself and is no business of public television, most certainly not of ARTE. At any rate, the contemporary market also reveals that, as with other things, here too it is not only their market value that can be discerned but also the specification of each thing's use in dwelling; and, what is more, a manner of design that suggests a judgment about the thing's attractiveness—as it were, an answer that may depart from the judgment about its utility. Such distinction is older than Europe. We mention here only a Hittite ewer from the early second millennium B.C. and a Northern Chinese vase from the same period, each of which possesses, for a contemporary eye at least, an exquisite form— this ever among a mass of average products. In their attractiveness, such things are not merely things of use but are to be read as signs—as signs of the most modest interest of man in himself, and in

⁴ Note of Translator: On the break between philosophy and modernity, see the author's *Topologie der Metaphysik* (Freiburg/Munich: Alber, 1980) and *Das Vernunft-Gefüge der Moderne* (Freiburg/Munich: Alber, 1988), as well as *Seditions*.

fact in his faculty of judgment. It is precisely on account of this that we shall now talk of Europe and the things of dwelling.

Of which Europe? We should first look —as is fitting— to our contemporaries for an answer to this. In the dimension of the reflection on the fundamental pluralistic trait of its society, there is much talk of Eurocentrism. Such is, as is well-known, a reproach and testifies to a Europe that is at odds with itself —stricken, as it were, with a bad conscience. Why? Not long ago, the widespread aspersions cast on the distant Columbus made the contemporary basis of judgment perspicuous: social violence or non-violence. And how could it be otherwise in light of what we said at the outset? The Europe of violence against the rest of the world —once again, first regarding the world market with its political substructure; then regarding the predominance of its orders of discourse, including their legal manifestations; and, finally, regarding the claim of the superiority of its culture, especially its logocentric culture.

The postmoderns are at odds with their Europe of colonial modernity, especially with that of the violently imposed European world market. This is manifest in another way with respect to the aforementioned sciences of communication —concretized in structural anthropology. To disclose wild thinking, to recover its remnants, which have not yet been transformed by civilization, the researcher must effect —as Lévi-Strauss calls it— a “displacement” (*dépaysement*), a departure from the established customs of his or her country and the ways of thinking of his or her people, the expunction of all feelings of superiority.

Regarding overt or covert violence, no one speaks of Sino-centrism, although China has always been far more intensely centered on itself, also in its self-esteem, than Europe has been. Even Leibniz’s offer to the Imperial Court to exchange European mathematics for China’s technical know-how came to nothing.⁵ At any rate, a Europe other than that of the capitalistic world market, a Europe that understands itself geographically and geopolitically, surfaces here —a Europe not of our world but one belonging to a closed history, closed by the concluding of the reason proper to it. It has to remain concealed so long as its history is instead projected as a continuum extending back from Europe’s seemingly revolting present.

The other, but in truth first, Europe is not old according to its self-conception, not much older than the world powers characterized as European and the postmodern rejection of this Europe. It was Napoleon who completed its political formation. Which Europe is that? In his *Reflections on the Government of Poland and on its Projected Reformation*, Rousseau writes: “There are no more Frenchmen, Germans, Spaniards, even English-

⁵ See, e.g., G. W. Leibniz, *Leibniz korrespondiert mit China*, ed. Rita Widmaier (Frankfurt a. M.: Klostermann, 1990).

men, nowadays, regardless of what people may say; there are only Europeans”⁶—they being understood, however, in a negative sense in the wake of the dissolution of national institutions. At any rate, a Europe is known here, though chiefly in the resistance to its cosmopolitan dissolution.⁷

Neither the Greeks nor the Romans nor their Carolingian or Salian descendants understood themselves to be Europeans. But the Greek and the Roman worlds come to fruition in a European self-conception, and in fact as a result of a political constitution that seems to accommodate Rousseau’s principle of freedom —as becomes obvious in the text cited above. By the development and standard of this principle, Europe here posits its historical beginning. In accordance with that beginning, the principle is also completed as a historical construct— despite all contemporary continuation in the hollow repetition of concepts such as ‘human dignity’ and ‘human rights’, which in the world of modernity and especially in the speech of postmodernity have been divested of their rational ground. It is precisely on account of this that it may be a task for television —contrary to the usual desire to “establish proximity” or “make accessible”— to leave the history of this Europe, despite the reigning lack of distance, in its remoteness —and this most appropriately with regard to the things of dwelling of concern here.

The myth of Europa already calls to mind the fact that European dwelling is marked by the legal relations that shelter it. Europe is a young culture and thus the myth bespeaks a pre-European provenance, namely, *ex oriente*. Europa is carried from Phoenicia to Crete and becomes the wife of Zeus, who for the first time linked violence with right. By contrast, the linking of violence with right is a state of affairs that excites the postmoderns, a fact recently confirmed by Derrida’s text “Force of Law.”⁸ Europa’s three sons become kings who administer justice —ultimately in the underworld.

Still linked with the kingdom of the old Orient in this myth, Europe comes into its own with legal relations that are literally political, namely, where word and deed are to be answered for, what is more: to be justified, in public discussion. This Europe of our history becomes visible for the first time in the works of Homer and Hesiod, and finally of Solon, who is the first to constitute a πόλις, to devise —in Greek terms— a κόσμος for it. This κόσμος is a posit, is as such revocable, and is preserved not by the legitimation of royal

⁶ Jean-Jacques Rousseau, *Considérations sur le Gouvernement de Pologne et sur sa Réformation Projetée*, Oeuvres Complètes III (Paris: Gallimard, 1964), 953–1041, here 960; English translation: *Reflections on the Government of Poland and on its Projected Reformation*, in *The Social Contract and Other Later Political Writings*, ed. and trans. Victor Gourevitch (Cambridge: Cambridge University Press, 1997), 177–260, here 184.

⁷ See *ibid.*, commentary ad. loc.

⁸ Jacques Derrida, *Force de loi* (Paris: Galilée, 1994); English translation: “Force of Law,” trans. Mary Quaintance, in Drucilla Cornell, Michael Rosenfeld, and David Gray Carlson, eds., *Deconstruction and the Possibility of Justice* (New York: Routledge, 1992), 3–67. First published in a bilingual edition in *Cardozo Law Review* 11 (1990), 920–1045.

judges but rather in the giving and taking of reasons for why it is better to proceed in one way rather than in another. Here matures with early philosophy what Hegel called the “judgment of the concept” —that is to say: this is good, this is beautiful, according to the knowledge of what an action, what a thing, was destined to be. Here the rational intention to appreciate something in view of its perfection is realized. Such was the proper motive of European formation. With respect to this motive, Europe proved the suitability of its name: the “wide-eyed” —like an archaic κοπή.

It is precisely the culture of such judgment that time and again has widely extended its gaze beyond the bounds of the habitual for what is exceptional in other cultures. This is attested just as much by a 6th-century B.C. Corinthian jug decorated with an animal frieze as by a Sicilian ivory box from the Hohenstaufen period or by a blue and white delft bowl from the 17th century. All are appropriations and translations that remain unrivaled in the open-minded appreciation of foreign achievements, an appreciation of more than the usual influences —for instance, of Chinese ceramics on 15th-century Persian ceramics. In what sense unrivaled? European technologies were grounded in European science. And the latter, in the science of reason.

It is established, with early philosophy, through the attempt to ground the political κόσμος on the pre-given κόσμος of contrary natures. Something similar to this may be found in China; and this as well: thinking the κόσμος as a harmony. But not this: thinking it as an invisible and yet mathematically representable harmony, which also is to be traced back to a λόγος, a ratio, and in fact as the proportion of all proportions —most richly embodied in the buildings that, for the Greeks, alone bear the name ‘dwelling’: ναός, that is, temple. From them the architectonic of public buildings is learned. The family house remains architecturally of vanishing significance. As for domestic things, however, we know them in their attractive formation mainly from burial objects: vase painting.

This first Europe is open-minded not only in taking but just as much in giving. Uninhibited by ethnic divisions, the Hellenic πόλεις offered that which alone was binding for their entire οίκουμένη, their world of the housed —namely, ἑλληνίζειν: a way of life of free sociability based on a common language and education. This was understood as such not only in the Hellenistic empires but also by the decisive heirs of their culture, namely, the Romans.

With the *res privata*'s achievement of independence from the *res publica* —a distinction first made by Epicurus— a new fertility of interest in the things of dwelling appears, one that can still be seen today in the remains of Pompeii and Roman villas. The *ordo* that came into force there says something other than κόσμος: it emphasizes the central intention of a differentiated way of life in the second Europe —again with the distinction of reason itself: directed first to one's obligations to the community, which is structured in keeping with the natural whole; then to the relief of the body, in the company of like-

minded individuals, from its burdens and of the soul from disturbances; and finally to the perfect life in the sense of the *religiosi*, above all in the monastic community.

This second Europe also has proved itself, according to the diverse intentions of its ways of life, in the acknowledgment of foreign excellence in the usefulness and formation of the things of dwelling –be it in its appropriation and development of Syrian glass art into objects that are still exemplary or of Sassanian silverware, Byzantine fabrics, or Arabic metalwork.

While in the later, medieval phase of this second Europe the ability to assimilate superior foreign crafts is rather slight, a corresponding talent asserts itself almost eruptively in the 15th century, thus at the outbreak of the final –and in truth first– Europe of the said history. Here we mention only the example of maiolica. The dominance of the Arabic tradition is obvious in the Hispano-Moresque ware of Valencia regarding both technique and decoration. Its tin-glaze is imported into Italy and forms the technical basis of a manner of decoration without equal in the Islamic world. The conventional figurative elements are excluded from the picture as it is taken over both thematically and structurally from indigenous painting. Here, as seldom before, things of domestic use appear as showpieces. In this period, the visual arts claim for the first time to be science and not merely craft; they posit their right, in accordance with the generality of such knowledge, to integrate all crafts productive of the things of dwelling expressly into a unified formative project –not only to construct a building but also to make its fittings, particularly the furnishings. Michelangelo's Laurentian Library provides a first-rate example of this.

It is only in the 17th century, however, that the way of thinking proper to this epoch begins to get clear on its principle, namely, freedom as self-determination within the horizon of consciousness, thus of the relation between the ego and the object external to it. Those who today malign it under the catchword 'egocentrism' don't know what they are talking about. It is precisely the objectifying ego that in its elementary separation from the everyday world –as well as from its human manifestation– set an imagination free that possessed an unheard-of inventiveness, particularly regarding the things of dwelling.

Determinative here is not the *κόσμος*, not the *ordo*, but what Hegel in looking back at civil society conceived as the "system of needs." To bring their diversification into view also in the respective things of dwelling, one need only visit an English country house, such as Holkham Hall. Here European dwelling in its *commoda vitae* (Bacon) most clearly parts with the dwelling proper to other cultures. By way of comparison, we mention only the Katsura Imperial Palace in Kyoto –nearly empty rooms of the most refined simplicity.

Here in the third epoch of its history of reason, we find, so to speak, the European Europe –prior to all national power constructs, it is marked by a civility that is cultivated with the said freedom first and most intensely in the Netherlands and England, a civility

based on self-respect and acknowledgment by one's peers. The extent to which its entire society is steeped in it is visible in the fact that the ethos of civil dwelling is able to pare down the representational form of furniture, for example, such that the eye is directed especially to the natural qualities of the wood, its color and grain. To a semblance of nature, as it is also proper to an English park.

For this Europe the things of dwelling explicitly become objects of a judgment that requires the cultivation of taste. This cultivation is European; it does not think of rescuing provincial idioms. Dutch glassblowers happen upon *façon de venise*. A Moustier tureen gets its decoration from the commedia dell'arte. Wallpaper from Lyon makes its way to England. Porcelaine de Saxe, or Meissen ware, to France. Cultivated taste does not ask: is that German, is that French? It makes no pained endeavor to understand the products of one's neighbors, has no "tolerance" for the foreign. With open-mindedness it says, for example, with the opening words of Sterne's *Sentimental Journey*: "They order ... this matter better in France."⁹ Cultivated taste asks: what is better? And it searches for a standard by which to answer that question, not least because the judgment about the beauty of a thing has its place in civil sociability. Even the demand for the "purity" of taste was able to gain acceptance in the 18th century and found such purity in what is "classical"; it thus inaugurated a relationship to the first and the second Europes, a relationship that was most definitely "inhabited" and not merely thought about. Take, for example, the architect Robert Adam: after years spent studying with Piranesi and exploring Diocletian's palace in Spalato, he evolved its architectural and decorative doctrine, transformed it freely, purified it, and concerned himself with dwelling as a whole in his buildings, from the decoration of the rooms and furniture down to the last doorknob.

Here too we see this Europe's open-mindedness for the superiority of other cultures: for China's horticulture and porcelain, for India's, Persia's, and Turkey's carpet-craft—and also in this case their assimilation by Cuenca, their complete redesign in the manufacture of the carpets of Savonnerie and Aubusson. But enough of this final Europe, which Leibniz saw invested with the mission: *embellir la face de la terre*. This earth on which we dwell has increasingly shown another face, one from which the landscape architect Humphry Repton sought to screen the views from a house in his design of the perimeter of its grounds: the industrial landscape and its miserable housing complexes.

This foreshadows the earth-shattering event in the formation of the things of dwelling, and in fact as regards their ware-character, more precisely: the freedom of self-realizing capital. Moved by the Marxian analysis, William Morris founded the Arts and

⁹ Laurence Sterne, *A Sentimental Journey through France and Italy*, ed. Paul Goring (London: Penguin, 2001), 5.

Crafts Movement –which, significantly, no longer focused on the whole of a residential building but instead dealt with the things of a household, down to the printing and binding of its books.

Yet despite the admiration for the workmanship of medieval crafts, the things of dwelling move into the modernity of a Europe for which nothing is foreign any longer the world over. First of all, art nouveau permeates architecture, as it were, reactively. Its forming –based not on the taste of the faculty of judgment and the reason grounding it but on the lived experience of an unreflected life– shows at once a one-sidedness. The other and superior side over against this one is the construction engineering proper to technical thinking. Wittgenstein held to his rejection of all decoration down to the last detail in his design of the Stonborough House in Vienna. He articulated the resistance to dwelling in a residential building and thereby gave a sign –even harsher than a Mackintosh chair, on which one can hardly bear to sit.

Certainly –Bauhaus and Le Corbusier found the language mediating the “functions” of dwelling. Yet it also expresses quite clearly the departure of the “system of needs” together with civil society– as well as the sociability proper to it. This holds not only of the “machines for living” in Marseilles but also of the generously laid out Villa Savoye in Poissy. The furnishings themselves testify to the predominance of industrial design, even in the paintings. This completely satisfies the intention of people who know themselves to be the “arguments” of “functions” (cf. Frege).

12

It is no accident that “postmodernity,” as far as its name is concerned, also comes into view and to fruition from out of architecture. Within the pluralistic mentality, the syntax of signs no longer requires any justification. Thus, the glass façade of a New York high-rise can be trimmed with a quotation of the portal of an Egyptian temple. Once all signifying things are fundamentally of equal value –once they have been reduced, so to speak, to phonemes that have no significance in themselves– the Europe marked by rational judgment becomes a mere phantasm for its adversary: precisely the unjustly “Eurocentric” Europe.

In Egypt old Solon heard from a priest: “You Greeks are always children; there is no such thing as a grizzled Greek.”¹⁰ Never again will Europeans become children. Have they perhaps grown senile? Would they not prefer to be the heirs of the dead Europe, defined on the basis of its closed history? Yet –as Hegel says– “to hold fast to what is dead, that is what requires the greatest strength.”¹¹ What is dead there, however, is not what has

¹⁰ Plato, *Timaeus* 22A 4.

¹¹ G. W. F. Hegel, *Phänomenologie des Geistes, Gesammelte Werke* 9 (Hamburg: Meiner, 1980), 27 line 26; English translation: *Phenomenology of Spirit*, trans. A. V. Miller (New York: Oxford University Press, 1977), 19.

perished but rather what has departed. To grasp the departed as such, the faculty of distinction is needed that already knows that Europe's reason has come forth eminently with its distinction of itself –never unanimously, which is also why its philosophy was always in conflict. Such conflict is also to be provoked in “postmodernity”– disregarding the quarreling of the philosophy business and its endless continuation of problems. Such conflict is to be renewed in view of the difference, mentioned at the outset, between the reflection on the speech of violence and the sciences of the speech of communication. Incomprehensible to both sides, a third dimension of speech becomes apparent here: that of the word of the configurations of wisdom that came to fruition in Europe's philosophy –configurations epochally distinguished as the knowledge of the Muses, of the Christian doctrine, and of that which makes one a citizen: one's nature, present as freedom, or one's humanity. In each epoch, the σοφία have awakened a corresponding “philosophical” reason, have given dwelling in Europe, despite its nations, its characteristic stamp: a culture that bears a tension within itself, one that is to be animated time and again in crises. So let us encourage the crisis that always meant for its protagonists: to get clear about oneself and the world.

Now back to the things of dwelling. As we said, much stands in the way of one's descent into that history in which a wealth of things brings the characteristically European dwelling to speech with distinction. Amid the idle talk of those who are merely ephemeral, these things cannot have their say. Would this not be the right place for a *dépaysement* also for television, so that we might learn to see what is our own in light of what is foreign? Such a learning becomes possible, however, only when what is sought out are not just obsolete things of prehistoric or ethnological interest, things that are somehow to speak while lacking a script, not just fossils of human dwelling, but rather things whose selection is itself alive in the judgment of a foreign culture. Such a learning allows itself to be led to what is worth seeing by the appreciation that the foreigners themselves have for such things.

In this sense, such appreciated things include a famille rose bottle, which the Emperor Chien Lung himself inscribed with a poem; and earlier still, a Ting porcelain vase from the Sung Dynasty, a celadon ewer incised with black and white flowers from Korea's Koryo period, and a red Raku tea bowl by the Japanese potter Koetsu from around 1600 A.D. which even bears a name: Woman-Face-Moon. All such things provide a lesson in seeing but also in being quiet before the silence of a dwelling that has taken shape there.

In the first of the *Four Quartets*, one of the moderns, namely, Eliot, takes the movement of word and music back into a stillness which he indicates not by accident by way of the following comparison:

as a Chinese jar still
Moves perpetually in its stillness.¹²

Is anything to be added to this? No. Enough.

¹² See T. S. Eliot, "Burnt Norton" (1935), in *The Complete Poems and Plays of T. S. Eliot* (London: Faber, 1969), 171–76, here 175.

Meritocracy and the *rational* Exclusion of the Other in Enlightenment's emancipative Discourses: The case of 18th Century Freemasonry

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In this paper I attempt at providing some arguments for the thesis that every appeal for (radical) egalitarianism and universal inclusion *necessarily* leads to postulating mechanisms of social differentiation and exclusion based on meritocratic criteria. These criteria are usually related to traditional conservative or right discourses, since they serve as justification for the inevitability, of social and economic inequity —these discourses pretend to see— and to criticise (compulsory) solidarity¹. So, egalitarian emancipative discourses end up supporting economic, social and political practices they tend to contest. According to this thesis, which provides the conceptual horizon of the present paper, the fact that such discourses, no matter how universalist their pretension might be, can be used for justifying the exclusion of individuals from society is not, as one would suppose, due to a wrong application of the respective ideas, but, on the contrary, results from having consistently inferred from the respective egalitarian principles. Consequently, there is no qualitative difference between egalitarian emancipative discourses and discourses attempting at justifying the exclusion of some groups or individuals from a particular society (or from the world society) such as the ones articulated by conservative, racist, nationalist and fundamentalist religious thinkers, movements and institutions. Both groups possess a similar excluding potential, since both consider merit as the only criterion that can guarantee real equality. The question in each case, though, is what kind of individuals is considered not to be worth of being part of the whole and what kind of arguments is used to justify the exclusion. In other words: The difference is to be found in what for each of both positions is meritorious. Being aware of this will let us consider current social excluding mechanisms in Europe and the reactions against them from a new perspective, as I will try to show in the third and last part of the present paper.

¹ See i.a. R. Nozick, *Property, Justice and the Minimal State*. Cambridge, 1991.

The thesis about the particular connexion between egalitarianism and meritocracy will be illustrated by both an analysis of and a critical reflection on the meaning central ideas in modern political thought –such as ‘man’, ‘society’ and ‘state’, ‘freedom’, ‘equality’ and ‘brotherhood’– receive in the foundational text of Enlightenment Freemasonry: the *Old Charges* (1723)². Accordingly I will attempt to show i) that the egalitarian discourse of Enlightenment Freemasonry represents a clear example of the development during the European Enlightenment of an at that time new way of justifying the exclusion of individuals from the benefits of society; ii) that the novelty of this justification consists in its being based on “objective”/“rational” arguments, contrary to other forms of argumentations mainly based on religious or racial differences; iii) that Freemasonry justification for the “enlightened” excluding device is based on the premises of the egalitarian discourse of Freemasonry, which belongs to a new form of conceiving equality, namely, as based on rational arguments, opposed to other modern egalitarian discourses based on dogmatic, arbitrary or merely subjective arguments such as authority, belief or superstition (e.g. B. de las Casas’ discourse for the recognition of the humanity of Amerindians and M. Astell’s discourse for the recognition of equality between men and women); iv) and, finally, that the power of persuasion of the rationality (objectivity, impartiality) that is at work in the arguments for inclusion or exclusion, not only made possible that this (at the time) new egalitarian discourse prevailed upon the discourse of pre-Enlightenment or conservative/moderate Enlightenment ideologies, but is also still effective in our present, since it constitutes the conceptual basis of current exclusion mechanisms.

This at that time new exclusion mechanism is what I want to call “*rational exclusion*”, the origin of which can certainly be situated in modern political thought. According to the presuppositions of the present paper, an analysis of the case of 18th Century Freemasonry should clearly show the logical dynamic of this mechanism of exclusion. Therefore, it is not my intention to examine the rituals as such of Freemasonry nor focus on its esoteric, mystic or metaphysical message³. I will strictly focus on the set of ideas articulated in Freemasonry discourse, which let imagine a certain (democratic, egalitarian, emancipative) interaction between individuals. This imagined scenario and its realization in the lodges can be seen as one of the several manifestations of the emergence of the *public sphere* in the Enlightenment. In this sense by “Enlightenment Freemasonry” I mean a social institution of Europe’s 18th Century consisting in imaging, praising, promoting and

² J. Anderson, “The Charges of a Free-Mason”, in: *The Constitutions of the Free-Masons Containing the History, Charges, Regulations, &c of that most Ancient and Right Worshipful Fraternity*. London 1723, S. 49-56.

³ About esoteric elements in Enlightenment Freemasonry vide M. Neugebauer-Wölk, “Zur Konzipierung der bürgerlichen Gesellschaft. Freimaurerei und Esoterik”, in: J. Berger & K.-J. Grün (eds.): *Geheime Gesellschaft. Weimar und die deutsche Freimaurerei*. München/Wien 2002, pp. 80-89.

realising a form of interaction between individuals out of the scope of the state that makes the *experience* of equality among individuals possible. So, the object of analysis is “the case of Freemasonry” considered as an attempt at creating a public space for free discussion and free interaction between individuals based on the idea that all human beings are *per naturam* equals.

The analysis will therefore concentrate on the *egalitarian* discourse articulated in Freemasonry foundational writing. The above-mentioned ideas will be examined in the light of the question about how universality, individual subjectivity and criteria for differentiation or introduction of differences among individuals are constructed in this discourse. This analysis is guided by the presupposition that the main topics of Freemasonry egalitarian discourse and, first of all, its distinction between *fair* (rational) and *unfair* (dogmatic) exclusion of individuals are, as already said, still present in the way we think of the social and the political. Therefore an analysis of this event in the history of European political and philosophical thinking will contribute to an analysis of some problems in the social and political situation of contemporary Europe.

The present paper is divided in three parts: (1) I will begin with an explanation of why the discourse of Freemasonry can be considered both a democratic and a revolutionary or radical one, why egalitarianism represents the ideological core of Freemasonry discourse and what its egalitarianism basically consists in. Then (2) I will analyse how ideas such as ‘man’, ‘society’ and ‘state’; ‘freedom’, ‘equality’ and ‘brotherhood’ are conceived in Freemasonry egalitarian discourse by focussing on two points: how universality, (radical) egalitarianism, subjectivity and inter-subjectivity are conceived; and how the mechanism of exclusion is developed in this discourse. The results of this analysis will lead to (3) a critical consideration of the conceptual legacy of this egalitarian discourse in the light of some of the principal problems of the current political crisis in Europe.

1 Freemasonry Democratic Discourse: the Central Question on (radical) Equality

By ‘democratic discourse’ I mean, following E. Laclau and Ch. Mouffe, a set of ideas, articulated in a discourse, that let resignify inter-subjective relationships that were regarded until then as normal or acceptable, by unmasking their oppressive nature, unjust character and/or incompatibility with the dignity of the human being. Characteristic of democratic discourses is that the displacement of meaning they exert, opens up the

possibility for a *real* change in the mentioned relation by means of emancipative practices.⁴

Without any doubt Enlightenment Freemasonry has contributed to change the perception people had at that time of the social order, which was hierarchically structured according to dogmatic principles. Enlightenment Freemasonry could achieve this not only by articulating an emancipative egalitarian discourse –although some of its ideas can sound a little bit conservative or reactionary to our postmodern ears–, but also by giving individuals the possibility of experiencing the equality they could not find in the *real* world. Although the *Old Charges*, as we will see in part (2), reserves the right to become a mason exclusively to certain male individuals; it is also true that the historical development of Freemasonry during the European Enlightenment and in the next centuries shows an increasing tendency, supported on Freemasonry principles, to include social groups initially marginalized from Freemasonry (in the case of the women by creating, for example, the *Lodges of Adoption* in the 18th century in France or mixed orders such as *Les Droits Humains* at the end of the 19th century). Furthermore, it has to be said that as a result of the egalitarian message of Freemasonry many people throughout Europe during the Enlightenment tried to be part of this institution or to apply its principles and practices in the real world⁵. So, the initial discrimination of some male individuals and all women we find in the *Old Charges* can be considered a *wrong inference* from the principles postulated in this writing maybe due to cultural and historical conditions.

Although Enlightenment democratic discourses are conceptually based on the ideals of *freedom*, *equality* and *brotherhood*, they differ from each other in giving predominance to one of the three ideals and so establishing a certain dependence of the other two to the chosen one. In the case of Freemasonry democratic discourse, as we will see, equality constitutes the conceptual basis from which on freedom and brotherhood must be conceived. Freemasonry social and political message is, thus, principally a plea for equality, which is understood as condition of possibility for brotherhood and freedom. Precisely its insistence on the recognition that all human beings as such are equals and on the benefits resulting from a praxis according to this reality is what constitutes the core of Enlightenment Freemasonry discourse and its (at that time) revolutionary character. This can be seen not only in the Masonic writings in which the principles of this institution are presented, but also in the 18th Century anti-Masonic literature. Indeed, the majority of this

⁴ Cf. E. Laclau & Ch. Mouffe, *Hegemonía y estrategia socialista. Hacia una radicalización de la democracia*. Madrid 1987, p. 173.

⁵ About the historical development of Freemasonry and its contribution during the Enlightenment to the propagation of egalitarianism I emphatically recommend the reader to see: M. Jacob, *The Radical Enlightenment: Pantheists, Freemasons and Republicans*, London & Boston 1981; and *Living the Enlightenment: Freemasonry and Politics in Eighteenth Century Europe*, Oxford 1991.

last group of writings concentrate their criticisms on the idea of equality Enlightenment Freemasonry discourse and practices were based on. In this criticism we can see that the discourse of Enlightenment Freemasonry was not principally considered as a wrong explanation of reality or a fantastic plot without any philosophical basis, but first of all as a way of thinking and interacting that was very dangerous for the established social order. The threat to the established hierarchical social order is seen in the egalitarianism both proposed in the *Old Charges* and other doctrinal writings and pamphlets, and praised in an infinity of songs, composed in the 18th century, about what it means to be a Mason.

As an example of the reactions against Freemasonry message of egalitarianism we can find in the anti-Masonic literature the anonymous pamphlet: *Masonry, the Way to Hell*⁶. In this book, Freemasonry is certainly criticized from a moral and theological point of view. The author adverts the reader about “the impiety and absurdity of its [sc. of Freemasonry] mysteries and the wickedness of those who profess them”⁷. In a rhetorical way the author depicts the end of religion and morality as a result of the influence of Freemasonry on individuals: “Adieu religion! Adieu morality! Farewell, ye deceitful phantoms!”⁸. Nevertheless, at the end of both quoted passages the real point clearly comes to light: for the author of the pamphlet the central problem is not the absurdity and impiety of the mysteries as such, but actually “the malignant influence of this institution [sc. Freemasonry] on society”⁹ exerted by its message and practices that let vanish “all distinction of right and wrong”¹⁰.

So, it is all about the social and political consequences of Freemasonry egalitarian message, which as such tends to the abolition of all differences. The author certainly criticizes Freemasons’ laxity concerning drinking habits and women. There is also a religious criticism: “we suppress brothels, we prohibit by penal laws the religious conventions of heretics, while in reality there are no places where impiety and enthusiasm are so effectually propagated, as in the holy lodge of St. John”¹¹. But again the problem is not impiety as such nor that Freemasons profess a different religion or a kind of ecumenism, but that they propose a religion *without authority*, namely, without a religious institution conceived as *indispensable medium* between God and men. Hence, the central point is the issue of authority, which is intimately related to the issue of equality: “they [sc. the Freemasons] profess at their meeting to acknowledge no distinction of character”¹²,

⁶ Anonymous, *Masonry, the Way to Hell. A Sermon wherein is clearly proved, both from Reason and Scripture, that all who profess the Mysteries are in a state of Damnation*. London 1768.

⁷ *Ib.* p. 8.

⁸ *Ib.* p. 16.

⁹ *Ib.* p. 8.

¹⁰ *Ib.* p. 16.

¹¹ *Ib.* p. 21.

¹² *Ib.* p. 27.

“the prince and the porter, the lord and the lackey, are all upon equality: all are united by a friendly grip”¹³.

This can more clearly be seen in another anti-Masonic writing: the *Compendio della vita, e della gesta di Conte Cagliostro*¹⁴, on which Freemasonry ecumenical message that “the Catholic, the Lutheran, the Calvinist and the Jew [are] equally good, in as far as they all believe on the existence of God and the immortality of the soul”¹⁵, is seen as an attack against the Catholic Church as one of the guarantors of social order. In the *Compendio* it is also said that Freemasonry attack on religion is not essentially a theological matter, but a strategy aimed at destroying the Catholic Religion and Monarchy. Accordingly, Freemasonry pursues a “goal contrary to [the goal of] the state and to public tranquility”¹⁶. Indeed, in the *Compendio* it is affirmed that this kind of religious egalitarianism, which consists in a sort of *indifference* toward the doctrinal particularities of institutionalized religions, necessarily leads to sedition and riot (*sedizione e tumulto*) and that Freemasonry discourse on humanity, equity, purged morals and religion (*religione e morale depurata*) pursues exclusively one goal: the destruction of the rights of property and of the ranks of orders or classes [*graduazioni di Ordini*], “which are the strongest bond of society”¹⁷.

Freemasonry message of egalitarianism permitted forms of associations between individuals that were impossible in real life. When the author of the first quoted writing, *Masonry, a Way to Hell*, tells the reader not to believe in the promise of Freemasons that, if he enters the lodge, he will receive help from his *brethren*, when he needs it¹⁸; he is actually trying to influence against the creation of ties between social groups or classes that in real life would have never met, because the system did not allow it.

Freemasonry egalitarian practices in the Enlightenment allows some people to enjoy the feeling of being equal. This was certainly an experience that did not correspond to daily life. Nevertheless, for the unknown author of *Masonry, A Way to Hell* the real problem is not the experience of a fictional or parallel reality based on equality, but the consequences of such an experience, namely that this kind of lived experiences, on the one hand, leads to a change in the perception of the social order (the real) by contrasting it with a possible and fairer reality (the ideal), and so, on the other, encourages imagination to seek ways to establish a fairer (egalitarian) social order. Precisely this dialectic view of hierarchical social order fostered by Freemasonry egalitarianism and consisting in seeing

¹³ *Ib.* p. 28.

¹⁴ G. Barberi, *Compendio della vita, e delle gesta di Giuseppe Balsamo, denominato il conte Cagliostro che si è estratto dal processo contro di lui formato in Roma l'anno 1790. E che può servire di scorta per conoscere l'indole della setta de' Liberi muratori*. Roma 1791.

¹⁵ *Ib.* p. 151, my translation.

¹⁶ *Ib.* p. 82, my translation.

¹⁷ *Ib.* p. 4, my translation.

¹⁸ Cf. *Masonry, the Way to Hell*, p. 29 f.

hierarchical social order as something fortuitous or to be abolished, is what the author of the pamphlet is observing, when he accuses Freemasonry of nurturing the “pernicious and delusive ambition”¹⁹ in the low classes of being treated as equals. So, there is without any doubt an at that time radical/revolutionary component in Freemasonry discourse: *its conception of a possible world absolutely based on equality.*

The radical character of Freemasonry equality consists basically in its *indifference* to all distinction among individuals *as such*, namely to the particularities that constitute the individualities of each subjectivity. According to the examined writings, Freemasonry considers each individual merely as human being bracketing the social and economic situation and the religion of the individual. Equality is then essentially a result of negating precisely that which distinguishes individuals from each other, more clearly: of abstracting from the *singularity* of each human being. Equality is thus the result of a negative process, something that can only be reached by removing from reality some elements that do not let individuals recognise that all human beings as such are equals. This abstract or negative equality is based on a particular notion of human being that implies a conception of the whole of social and political life. The different components related to equality will be analysed in the following part of this paper.

2 Constructing Universality: The Egalitarian Discourse of Enlightenment Freemasonry

Enlightenment egalitarian discourses have to be understood in the context of the struggle against political and metaphysical dogmatism for recognition and equality during the European modern era. In order to understand the particularity of these discourses and, specifically, of Freemasonry egalitarianism, we first have to briefly refer to modern egalitarian discourses that are not fully based on objective or impartial principles. In its conceptual diversity, the Enlightenment offers a lot of examples of such discourses. I will refer to one related to the Feminist struggle for recognition in the Enlightenment.

Previous to Mary Wollstonecraft’s *Vindication of the Rights of Woman*²⁰ —a plea for equality among men and women based on rational (objective) arguments— namely, during the so-called *Querelle des Dames*, the arguments either for or against the recognition of the humanity and rights of women were based in principles derived from the Catholic Dogma, theology, Christian philosophy and a particular interpretation of Aristotle. At the end of this debate, actually initiated by *male* theologians and philosophers, we find one of the

¹⁹ *Ib.* p. 27.

²⁰ M. Wollstonecraft, *A Vindication of the Rights of Woman: with Strictures on Political and Moral Subjects*. London 1792.

most representative female voices joining this discussion: Mary Astell. Her arguments for equality between man and woman were deduced in general from the Catholic beliefs and fundamentally from the following two dogmas: i) that God does nothing without reason and ii) that both man and woman were created in God's own image.

One of M. Astell's arguments is: "if God had not intended that Women shou'd use their Reason, He wou'd not have given them any, for He does nothing in vain"²¹. Another of her most important arguments reads as follows: "If all men are born free [since man and women are created in God's own image, and God is free], how is it that all women are born slaves?"²² In doing this, Astell was saying: if what you say and what you believe in, is true, then you have to recognize that we are all equals.

The idea of human being in Astell's emancipative discourse, however, still falls short of universality, since her plea for equality is based on a religious conception of reality that does not criticise the dogmatic pillars of monarchy. Indeed her discourse for equality still distinguishes at least two kinds of individuals: the monarch and his or her subjects. She was a Tory and accordingly believed in the necessity of the subject's absolute obedience to the monarch. Indeed, this subjectivity (Mary Astell) introduced itself neither as a mere rational being nor as a mere woman, but as a *Daughter of the Church of England*. Her struggle for the recognition of women is based on the same principles of the social order that excludes women from the benefits of society. Therefore, her discourse is an attempt at radicalizing the moral values as well as the interpretation of reality of the English social, political and religious order of her time.

This strategy certainly gives to her argument a very strong force of persuasion, because it is presupposed that she is not doing nothing but correctly applying the principles recognized by both sides in the dispute. But because it is based on the beliefs of a particular religion with a particular history and relationship to political power, her discourse at the same time doesn't necessarily contradict the form of government upheld by her oppressors. Furthermore, she reproduces the exclusion mechanisms of the group that excluded her and all women. Hence, her plea for equality consists in increasing the extension of the set of the subjects of law by means of the demonstration of the current misapplication of the concept to reality –namely that a right application implies the inclusion of women in the community of subjects of law–, but without criticizing the intension of the concept. Nevertheless, M. Astell's discourse is articulated by her conviction of representing the whole of the humankind. Therefore, she identified "member of the Church of England" with "human being". If we do not understand this discursive

²¹ M. Astell, *The Christian Religion as Profess'd by a Daughter of the Church of England*. London, 1705. Section 5.

²² M. Astell, *Some Reflections upon Marriage. With Additions*. London (4th ed.) 1730, "Appendix", p. 150.

strategy and the undesired consequences it implies, then we will not understand why she is a monarchist, although she seems to be arguing for radical egalitarianism, and we will think of having found contradictions in her thinking.²³

Concerning M. Astell's emancipative discourse, we could say from the point of view of European Enlightenment common sense that the problem lies precisely in the fact that "reason", understood as an impartial tribunal, is not undertaking the determining role in both the conception of "human being" and the construction of universality. Then this is the reason why the pretended universality of Astell's democratic discourse neglects political rights to some individuals or groups that did not share determined qualities. Instead of a *consistent* universal concept of human being, Astell's concept has certain predicates that do not actually belong to all human beings, but to a particular social group (the Church of England). So, considered from the point of view of European Enlightenment common sense, a solution to this problem should consist of removing from the concept of human being, on which equality is to be based, all predicates or differences that do not belong to all human beings. This kind of operation of thought is *abstraction*. It is therefore all about the construction of an *abstract* concept of human being that as such must not be "contaminated" by the particularities of the individuals, so this concept can really encompass the totality of humankind and allows for the construction of a consistent universality.

In the Enlightenment, this idea of human being resulted from reconsidering the human being from the perspective of reason understood as a pure, universal, objective and, therefore, impartial instance of judgement. This attempt has to be seen as a reaction against every form of argumentation that is dogmatically based on authority and beliefs. Enlightenment's maxim can be formulated as follows: *only what reason recognizes as true, fair, convenient and good, is objectively and universally true, fair, convenient and good, and should therefore be accepted and recognized as such.*

2.1 The individual

In establishing a definition of human being, Enlightenment Freemasonry discourse follows the aforementioned maxim. The idea of human being postulated in the *Old Charges* appears under the figure of the *mason*. The mason has to be understood as the representative of the idea of human being. This universal notion of human being is forged by Freemasonry by means of abstraction from all particularities in human individualities.

²³ This is the case for example of R. Perry's reading of M. Astell's thinking: "All the contradictions of the period we call "The Enlightenment" were embodied in the life and writings of Mary Astell, a feminist intellectual who lived from 1666 to 1731. She argued for the rights of women yet she upheld absolute monarchy in the state." R. Perry, "Mary Astell's Response to the Enlightenment", in: *Women and the Enlightenment*. New York 1984, pp. 13-40, here 13.

So, the universality of “human being” is based on its indeterminacy: the less predicates the concept possesses, the more extension the concept has. The mason is therefore the incarnation of an abstract notion of human being.

At the beginning of the first chapter, “Concerning God and Religion”, of the *Constitutional Part of the Old Charges* a definition of mason is given. In order to achieve universality some particularities of the existing singularity have to be removed. So, to become a worthy representative of humanity, individuals have to leave “their particular Opinions to themselves”²⁴; individuals must be considered only in the light of the *moral law*, which can be understood as a kind of moral instinct in terms of modern moral consciousness. This law is the criterion for judging an individual. In the lodge it is only important whether the individual “is a good Men and true, or Men of Honour and Honesty, by whatever Denominations or Persuasions they may be distinguish’d”²⁵. Particular opinions, denominations and convictions have to be left outside of the consideration of the individual, because they are not necessary predicates of the notion of “human being” and, therefore, of each individual understood as mere human being. Furthermore, the social, cultural, national and historical character of each personality as well as feelings like envy²⁶ are an obstacle for the establishment of a free and equal interaction among individuals.

Particular (institutionalized) religions also have to be set aside. For the human being has no concrete religion, but only the one “in which all Men agree”²⁷. And, as I already mentioned, individuals have *essentially* no concrete customs or morals as well. They, considered exclusively as human beings, only have “to obey the moral Law”²⁸.

As it can be seen, Freemasonry emancipative discourse postulates a praxis of *purification* of the self as condition for acceptance in the lodge. One has to purify his or her “self” in order to become a worthy representative of the ideal of human being. The resulting individuality is universal by grace of its abstract character. Because of this purification, equality and free interaction occur on the soil of a reciprocal identification of the individuals as manifestations of the *same*, namely as instances of the same concept. They recognize each other merely as human beings in terms of a rational being without any particular determination, but not as historical singularities.

The abstracting procedure for the establishment of Freemasonry idea of human being is rational in the sense that the only criterion is pure reason, which guarantees the impartiality of the resulting concept. The concept is therefore not contaminated by particularities of the subjectivity who has conceived it. This procedure shows that in the

²⁴ J. Anderson, op. cit. p. 50.

²⁵ *Ib.*

²⁶ *Ib.* p. 53: “None shall discover Envy at the Prosperity of a Brother”.

²⁷ *Ib.* p. 51.

²⁸ *Ib.* p. 50.

light of pure reason, individuals appear only as pure human beings. The idea of human being expresses that which reason recognizes as essential in human beings and therefore, since individuals must act in a rational way, that which each individual must recognize in the others.

2.2 Society

Freemasonry equality is based on the concept of human being described above. The universality of this concept becomes concrete in the lodge understood as the space where equality becomes real in the form of free interaction and discussion among individuals. The lodge can be considered as a place situated between the public and the private spheres of human life, where free interaction between individuals *outside of the scope of the state* is possible. Freemasonry appears as a place where freedom, equality and brotherhood can become reality, although it is a special kind of reality, *namely a secret²⁹ and closed one*. So, in order to fulfil these ideals of human emancipation, individuals have created a closed place situated outside the scope of the establish authority as well as outside of the real public life. It may sound somewhat contradictory, but it is precisely this apparent contradiction that makes it an interesting subject, among other reasons because it will let us more easily see the construction of equality and universality (totality) in the Enlightenment and today.

Enlightenment Freemasonry's point of departure for the construction of a space for free interaction is the acknowledgment that the real world (real society and the state guarantying order in society) is not structured in a way that can make such an interaction possible. The elements that do not let free interaction arise (social and economic differences, hierarchy, and political and religious differences) are products of the real society. This is the reason why it is necessary to create an alternative place inside reality, which can guarantee the envisioned free interaction.

For Enlightenment Freemasonry mentality, this was actually not a diagnosis of a particular situation, but a necessary consequence of the idea that real society necessarily

²⁹ The importance of secrecy for guaranteeing freedom of speech and thought should not be interpreted as something originally coming from Freemasonry ideology or a symptomatic manifestation of a kind of paranoia in Freemasonry thinking. For the common sense of the Enlightenment, it was obvious that it was very dangerous for the professional carrier of an individual in public life (if not for his or her life) to freely express his or her thoughts. Some words of a young E. Burke confessing to a friend in 1744, when he was student at Trinity College, can serve as example of this: "We live in a world where everyone is on the catch, and the only way to be safe is to be silent –silent in any affair of consequence; and I think it would not be a bad rule for every man to keep within what he thinks of others, of himself, and of his own affairs" (quoted from B. J. Spruyt, "Een omstreden erfenis: Edmund Burke in Nederland", in: E. Burke, *Het wezen van het conservatisme. Een bloemlezing uit Reflections on the Revolution in France*. Kampen/Kapellen 2002, p. 11.). About the fundamental role of secrecy for Freemasonry see R. Koselleck, *Critique and Crisis: Enlightenment and the Pathogenesis of Modern Society*. Cambridge, Mass. 1988, p. 83 f.

sets men apart. This is an idea shared by many Enlightenment thinkers and which is always related to Rousseau's conviction that society pervades individuals. The first goal of Freemasonry or the first reason for the creation of Lodges is to bring together what the world has set apart. Accordingly, masonry is defined in the *Old Charges* as "the Means of conciliating true Friendship among Persons that must have remained at a perpetual Distance"³⁰.

From the very beginning a barrier is set between the real world and the lodge. The barrier divides reality in two domains: the profane world and the sacred one, i.e. the temple (lodge). Nevertheless, in doing so, Freemasonry does not explicitly or consciously attempt to subvert the social order. On the contrary, the conception of the lodge as a parallel world is based on the presupposition that society and its exclusion mechanisms are impossible to overcome. The barrier between temple and profane world is constitutive for the lodge. If real society would not have set men apart, then the lodge as such would be unnecessary.

The lodge must be considered as the place where individual differences are bracketed. Accordingly, the lodge constitutes a moment of suspension of the validity of the real world. The lodge is a space, where recognition and equality are at work and the possibility for free interaction is given to everyone. Freedom is, however, not primarily positive freedom, but freedom *from* the profane world. A free place *for* free interaction of free individuals results therefore *from* excluding all conflicts, ideologies, differences, etc. So, the establishment of the lodge is essentially a negative move. Freemasonry does not solve the differences that have set men apart, but shows that they are not essential, namely that they do not have to play any role in human interaction. A rational being (here: a mason) must recognize this and consistently act, namely he or she must treat the others as mere (pure) human being without considering the historical background of the others. The negative fundamental character of the lodge understood as the social (inter-subjective) moment of the pure human being is repeated in the relation between the lodge and the state.

2.3 The State

The mason as the manifestation of the pure human being, it has been said, has no nationality. Nationality is one of the particularities that have to be left outside of the lodge in order to achieve the purification required to enter the community of equals. Nationality not only contradicts the universality of "the human being" and produces conflicts that are superficial or artificial, since they are not directly related to the essence of the individuals,

³⁰ *Ib.* p. 50.

but it is also a dogmatic difference, namely a difference that the individual has not made freely.

The rejection of nationality brings Freemasonry subjectivity nearer to the figure of Enlightenment cosmopolitan subject. Cosmopolitans certainly are, as M. Jacob says, “stranger nowhere in the world”³¹, but not because they *accept* all nations and they feel citizen of all nations, but because they *neglect* them and consequently the authority of every particular state. They are citizens of the world in terms of members of a community liberated from the coercive power of every political authority. For Freemasonry common sense as well as for Enlightenment mentality, above the rules of the state are the moral values and the objective knowledge (truth), which can be recognized as such exclusively by a consistent use of reason. For Freemasonry as well as for many Enlightenment thinkers in the line of Rousseau, the state usually follows other principles than the ones given by reason, so its principles are neither impartial nor objective. The state does not correspond, therefore, with the purity of the human being. The state is impure, insofar as it is a necessary consequence of the immorality this kind of thinking pretended to see all over the *real* world.

The subjectivity postulated by Freemasonry discourse neglects the authority of the state opposing to all political powers the primacy of morals and truth. The ideal human being is therefore an *apolitical being*. The state is, as Thomas Paine said, nothing but a necessary evil:

“Some writers have so confounded society with government, as to leave little or no distinction between them; whereas they are not only different, but have different origins. Society is produced by our wants, and government by our wickedness; the former promotes our happiness positively by uniting our affections, the latter negatively by restraining our vices. The one encourages intercourse, the other creates distinctions. The first is a patron, the last a punisher. Society in every state is a blessing, but Government, even in its best is but a necessary evil.”³²

The tension between society and state and the definitions of the elements of the opposition Paine is trying to advance, is the same as the tension the *Old Charges* notes between the lodge and the state. Freemasonry’s denial of state power can be found in its very specific rules to solve conflicts between Brethren without going to public trials and in its compromise to protect the political persecuted³³. So, Freemasonry makes possible social life outside of the coercive power of the state. This kind of inter-subjective life is

³¹ M. Jacob, *Strangers Nowhere in the World. The Rise of Cosmopolitanism in Early Modern Europe*. Philadelphia, 2006.

³² Th. Paine, *Common Sense*, in *The Writings of Thomas Paine*, M;D. Conway (ed.), New York & London 1804. Vol. I., p. 69.

³³ See J. Anderson, op. cit. p. 50 and 54.

actually the dreamed situation of consistent classical liberalism and radical democracy movements and discourses in the line of A. Negri's and M. Hardt's trilogy on the emancipation of the multitude from the claws of the Empire. Common to all these ideologies is the conviction that politics should have to obey the dictates of morals and that politics is something bad and impure that could be avoided if we interact consistently according to what our (universal) moral consciousness dictates.

2.4 Rational exclusion and merit

The universality envisaged in Freemasonry conception of the human being implies that everyone can be a member of the community of equals, i.e. that everyone can demand to be recognized by the others as equal in rights and duties. The only requirement consists in the mentioned process of purification of the self, which is essentially an act of freedom. The relation between individuals as equals is comprehended in the idea of Fraternity or Brotherhood as the ideal of Humanity. All individuals must consider each other brothers, i.e. members of the same *family*. But Freemasonry egalitarian discourse builds this including universality on a mechanism of exclusion: "The Persons admitted Members of a Lodge must be good and true Men, free-born, and of mature and discreet Age, no Bondmen, no Women, no immoral or scandalous Men, but of good Report."³⁴ And if there have to be differences among the brothers, they have to be according to the Merit of each individual: "All preferment among Masons is grounded upon real Worth and personal Merit only"³⁵.

Aside from the exclusion of women and bondmen, actually a dogmatic form of exclusion that as such contradicts the principles of the *Old Charges* and has therefore been abandoned in the further historical development of Freemasonry (although there are up to this day fraternities trying to rationally argue for the exclusion of women from Freemasonry), there is another kind of exclusion that can be deduced from the principles of the *Old Charges* and generally from the principles of Enlightenment common sense: the exclusion of individuals based on merit or moral values.

Contrary to dogmatic discrimination based on religious, cultural, racist, national and political differences, the exclusion based on merit and moral values corresponds with Enlightenment conviction that only differentiations based on objective or universal moral values can be tolerated in a community of rational and free beings. We see here one example of Enlightenment tension between authority and merit, dogma and (moral or objective) truth in the struggle between political and ecclesiastical power and civil society. For the Enlightenment subjectivity, merit is a difference made by freedom within a scope

³⁴ *Ib.* p. 51.

³⁵ *Ib.*

of action regulated by objective rules and based on equality. Therefore differences based on merit are, for the Enlightenment mentality, *fair* differences. On the contrary, differences based on superstition or tradition are unfair and arbitrary. As such they could not resist an impartial (scientific) examination of the arguments supporting them. Hence, the fact that there is no place in the lodge, namely in Humanity, for individuals who have not achieved success in life or who act or think contrary to the moral common sense of the community, is not unjust. For contrary to dogmatic exclusion, the rational exclusion based on distinction according to merit presupposes that the individual has had the possibility to act in a different manner, namely that he or she has been free in all decisions he or she has made in order to become what he or she now is. The exclusion in this case is not unfair; on the contrary, the individual deserves to be excluded. Hence, meritocracy is consistent deduced from the postulate that everyone as mere human being is free and can rationally conduct his or her life. As criterion for differentiation merit comes to replace arbitrary criteria of differentiation and exclusion, it also replaces the differences made by the state, for example nationality or citizenship.

As soon as a scope of action where equality is universally recognised and based on an abstract concept of human being, is established, the only possible criterion for differentiation among individuals is what they freely do and the results of their actions. Inclusion and exclusion do not depend on an external authority, but on the individuals themselves. Everyone is free to enter in the lodge and once he or she has entered it, only his or her acts will determine his or her position, duties and rights in the dynamic of the lodge.

3 Conclusion: Merit and Rational exclusion, then and today

Freemasonry concept of human being and “fair” inter-subjectivity possesses universality based on rational arguments. This was not an original idea of Freemasonry, but of the Enlightenment, I have considered Freemasonry only as an example of the former. The rationality operating in this conceptual construction consisted in identifying in the individuals only what is universal. The result is the concept of a *pure* human being, whose purity implies the denial of differences such as social status, nationality, individual conflicts, political opinions and beliefs. So, universality is achieved by means of abstraction/refusal of every particularity.

This conceptual construction reflects a particular tension between purity and impurity, between scientific or moral truth and authority and superstition, between freedom and oppression. The democratic discourse that results from Enlightenment construction of Universality, promotes the emancipation of individuals of all impurity, which implies not only the refusal of religious discourses, nationalism, racism and

ideology, but also the replacement of politics through technocracy in terms of a replacement of opinions by truth or objective criteria for judgements.

The inter-subjective relation according to equality in Freemasonry discourse proposes a particular form of tolerance consisting in being indifferent to the particularities of each individual existence. The effects these particularities could have in the relation among individuals are neutralized and with them the conflicts they could generate. Conflicts of inequality, discrimination or intolerance are solved by means of a transformation (purification) of the individuals involved in the respective conflicts. With their “purification” their conflicts lose their relevance: they are neglected as such. The rationality governing this scope of action makes the state (its laws and the necessity of its intervention) irrelevant as well.

We can see in our times that this way of thinking is still present. I think firstly on contemporary debates on multicultural societies and on recognition of the differences, where the most important attempts are conceived according to the same logic. The theories of consensus first propose an ideal of society and or individual and then require everyone to adapt her or himself to this model as a condition to take part in public discussion. Conflicts that do not allow for dialogue are neglected or ignored by classifying them as irrational, fundamentalist, contaminated with ideology, etc. The only way a conflictive discourse can take part in the public discussion (universality) is by “purifying” itself from its own “irrationality”, so it becomes a *rational* discourse. Through this operation of purification (abstraction) the real conflict or the real discourse is left outside of the framework for the discussion, i.e. is excluded, of course in an impartial way. Conflicts are therefore not really solved, but necessarily neglected, because their negation is condition of possibility for the establishment of a rational dialogue. Individuals are therefore only recognized in their identity with the ideal of rationality and humanity of those who propose the dialogue. Recognition happens under the idea of a pure human being that is actually *mutatis mutandis* the subject of today’s human rights.

Last but not least the demonstrations in Madrid and other similar movements such as the “occupy X-actions”, show the still effective potential of the idea of the pure human being. The *indignados* understand themselves essentially as apolitical beings and the “purity” of their individualities allows them to distinguish them from the impurity of the oppressive political and economical power. In all these cases individuals as well as groups or organizations do not recognize political authority and present themselves as apolitical (and that means pure) subjects that only recognizes a higher principal than authority, which usually has moral and sometimes scientific bases.

It is very interesting to see that even the economic power criticized by the above-mentioned movements follows the same logic. The discourse representing the interests of the economic world power and articulated by the majority of the politicians and of the experts in economics in Europe presents itself as a rational one meant to bring true

solutions to a problem originated by the irrationality or negligence of politicians (see the case of Greece). There is the conviction that the purity of knowledge necessarily brings solutions, among other reasons because it establishes impartiality and rationality in human relations.

Nowadays merit is still considered as the fairest form of making differences, which also means, of excluding people from a certain sphere of interaction. The same concept appears in the conformation of our liberal democracies and in their defence against arbitrary discrimination. Merit has been used to conform our *open* societies, where, like in a closed society such as a Lodge, people are not excluded because of religion, blood, race, and other arbitrary criteria. The only kind of exclusion we can still tolerate is, like in the Lodge and in the Enlightenment, one based on merit, the rationality and impartiality that nobody seems to cast into doubt. According to merit the only group that can be excluded from our open societies are the *losers*, namely, the ones whose actions do not deliver anything productive for the whole of (world) society, the ones whose actions society does not need, the ones who have never learned what a “free” society is all about, the ones who have not play this game well enough.

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In this article we would like to concentrate on the figure of Georges Gurvitch¹. Gurvitch developed a considerable body of work in the field of political philosophy, legal science as well as sociology². But he did not limit himself to theoretical work: he also sought to intervene in and influence the social and political evolution of his time. Thus, while in exile in New York during World War II, in 1944 he wrote *The Bill of Social Rights* (*La déclaration des droits sociaux*³), whose purpose was to inspire the constitution of the French Fourth Republic. It is this form of intervention that we would like to focus on here. If it deserves our attention, it is because, beyond its mere historical interest, it allows us to readdress the question of the intellectual intervention of the philosopher in the social realm in an original way. What is unique in Gurvitch's intervention in the social realm is that it is motivated by a genuine ambition to go beyond the aporia of a purely ideal approach based on the illusion of the omnipotence of ideas, all the while refusing to sacrifice the desire to strengthen the "hold of the ideal over the real". Neither purely ideal nor purely real, Gurvitch qualifies his method as an "ideal-realism". As we shall see, Gurvitch's aim in *The Bill of Social Rights* is to render possible a more effective hold of the ideal over the real.

¹ A longer version of this article has been published in French under the title "L'idéal-réalisme de Georges Gurvitch", in M. Maeschalck & A. Loute (eds.), *Nouvelle critique sociale, Europe-Amérique Latine, Aller-Retour*, Monza: Polimetrica, 2011, pp. 387-419. It can be consulted in open access on the website of the publisher (www.polimetrica.com). The authors would like to thank Joseph Carew for the translation of the current text.

² For a general introduction to the work of Georges Gurvitch, we refer the readers to the following books: R. Toulemont, *Sociologie et pluralisme dialectique*, Louvain/Paris: Nauwelaerts, 1955; J. Duvignaud, *Gurvitch*, Paris: Seghers, 1969; G. Balandier, *Gurvitch*, Paris: PUF, 1972; R. Swedberg, *Sociology as Disenchantment, The Evolution of the Work of Georges Gurvitch*, Atlantic Highlands: Humanities Press, 1982; F. Saint-Louis, *Georges Gurvitch et la société autogestionnaire*, Paris: L'Harmattan, 2005; J. Le Goff, *Georges Gurvitch. Le pluralisme créateur*, Paris: Michalon, 2012. See also Gurvitch's intellectual autobiography "Mon itinéraire intellectuel ou l'exclu de la horde", in *L'homme et la société*, n° 1 (1966), pp. 3-12; "My Intellectual Itinerary or 'Excluded From The Horde'", in *Sociological Abstracts*, 17/2 (April 1969), pp. i-xiii.

³ *La déclaration des droits sociaux*, New York: Editions de la Maison Française, 1944. In 1946, the book was republished with some slight modifications (Paris: Vrin) and then published in English (*The Bill of Social Rights*, New York: International Universities Press, 1946). Here we will refer to the recent reproduction of the 1946 French edition: G. Gurvitch, *La déclaration des droits sociaux*, preface by C. M. Herrera, Paris: Dalloz, 2009.

However, we should stop ourselves from limiting Gurvitch's intervention to the mere act of writing of this text. *The Bill of Social Rights* has to be read alongside his critique of the individualist position in legal science and his philosophical justification of what he calls "legal transpersonalism". In order to come to terms with the multi-faceted nature of Gurvitch's work, in this article we will show that his intellectual intervention must be understood as the completion of a three-fold task. We will take seriously Gurvitch's claim that, if a Bill is to be effective, "il faut un idéal, une description des obstacles à sa réalisation et une technique particulière tenant compte des deux"⁴. In the first section, we will present Gurvitch's critique of legal individualism. He tried to demonstrate that the individualistic prejudices of legal science drive a wedge between the concepts of jurists and the real life of law. In the second section, we will discuss Gurvitch's attempt to justify legal transpersonalism. We will see that, according to him, the essence of democracy must be understood as the institutionalization of social law. Social law therefore comprises an ideal, which Gurvitch calls transpersonalism. It is not until the third and last section that we will focus on *The Bill of Social Rights* as such. Our thesis is that this text realizes the critique of the individualism of legal science and its concomitant justification of the ideal of transpersonalism by proposing a technique, which allows the implementation of this ideal in the social reality of his time. First of all, let's start with the description of the reality of social law.

1 The critique of individualism in legal science

In the 30s, Gurvitch's judgement on the state of the legal science was without mercy. An abyss had arisen between the legal concepts and the reality of the legal life of his time, an abyss mainly caused by the essentially individualistic bias of legal science⁵. For Gurvitch, individualism in legal science brings together a series of legal concepts which could be said to include, but are not limited to, the following principles⁶: the sovereign and autonomous individual constitutes the supreme end of law; the only function of law is the negative limitation of external freedoms of individuals; the individual on a small scale (man) or on a large scale (the State) is the sole basis for the binding force of law; and the only possible manifestation of the legal community is the submission of a multitude of isolated individuals to a general and generic rule. This constellation of ideas shows that from an individualist standpoint it is impossible to grasp new and emerging forms of legal

⁴ G. Gurvitch, *La déclaration des droits sociaux*, p. 38. Proposed translation: "we need an ideal, a description of the obstacles to its realization, and a particular technique that is able to take the two into account".

⁵ See G. Gurvitch, *L'idée du droit social. Notion et système du droit social, Histoire doctrinale depuis le 17e siècle jusqu'à la fin du 19e siècle*, Paris: Editions Sirey, 1932, p. 1.

⁶ See G. Gurvitch, *L'idée du droit social*, p. 5.

institutions. Thus, in the field of labor law⁷, many authors emphasize the increasing role of non-state based, “unofficial” law emerging out of the spontaneous organization of groups composed of the parties concerned and their agreements. As such, this law could neither be produced by individuals between themselves, as in the case of a contract, nor by the “the individual on a grand scale” that constitutes the State, but rather arises from the group itself. This law refers to the objective element of the union of the parties concerned.

Gurvitch sees in “collective labor agreements” an example of institutions, which pose insurmountable difficulties for an individualist conception of law. First and foremost, if it is made between two parties (for example, an employers’ union and a trade union), the agreement applies at the same time to these parties and individually to all the members that make up each group. In addition, the agreement not only applies to individual members of the groups of the contracting parties, but also to third parties (for example, non-union workers). Finally, collective labor agreements entail the nullity of all individual contracts, which infringe upon the clauses of the collective agreement. As Gurvitch emphasizes, these observations have led a number of scholars of labor law to see in these collective agreements an “objective autonomous law”. Such a law does not find its foundation in the will of the people nor in the commanding will of the State. Gurvitch also discusses various innovations of his time such as the “workers’ councils” establishing “workers’ control”. These innovations also pose a problem for a legal science based on individualism.

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Gurvitch’s thesis is that these insurmountable problems can only be resolved by incorporating the concept of “social law”. By social law Gurvitch means:

“le droit autonome de communion par lequel s’intègre d’une façon objective chaque totalité active, concrète et réelle incarnant une valeur positive, droit d’intégration [...], aussi distinct du droit de coordination [...] que du droit de subordination, seuls reconnus par les systèmes de l’individualisme juridique et de l’universalisme unilatéral”.⁸

We must determine what Gurvitch means by law of integration. Social law carries out the integration of a totality, a group, through the participation of its members in this whole. For Gurvitch, “le droit social fait participer directement les sujets auxquels il s’adresse, à un tout, qui à son tour participe directement aux relations juridiques de ses

⁷ For an in-depth analysis of this question, see G. Gurvitch, *Le temps présent et l’idée du droit social*, Paris: Vrin, 1931, pp. 13-100. In this work, Gurvitch also criticizes individualism in legal science by questioning the legal innovation of his time in the field of international law and the discussions of the sources of positive law.

⁸ G. Gurvitch, *L’idée du droit social*, pp. 11-12. Proposed translation: “the autonomous law of communion by means of which each active, concrete and real totality incarnating a positive value integrates itself in an objective way, a law of integration [...] [which is] as much distinct from the law of coordination [...] as from the law of subordination, the only ones recognized by the systems of legal individualism and unilateral universalism”.

membres”⁹. This law integrates a totality, but remains immanent to the members of this totality. Amongst themselves, members have “relations of communion”¹⁰, which Gurvitch symbolizes by his use of the pronoun “We”, instead of using oppositional or subordinating relationships (I, You, He/She). The expression “objective integration” means that the basis for the binding force of social law is objective and impersonal. Authority is not derived from an aggregation of wills nor from the will of the individual on a grand scale, but rather from the objective fact of union, namely from the “We”. When referring to this objective and impersonal authority, Gurvitch uses the expression “normative fact”.

The individualist position in legal science is not only unable to account for these legal innovations, but also for more traditional legal institutions. We even need the concept of social law in order to understand the kinds of relations brought forth by private property law in a capitalist system. The reason for this is that, for Gurvitch, the law of coordination and subordination must be understood as a distortion and perversion of social law¹¹. In order to illustrate this point Gurvitch uses, amongst others, the example of a factory environment¹². When a worker is hired at a factory, he is subject to a whole series of obligations regulating the internal organization of the plant: work hours, various requirements for discipline and expectations of moral conduct, etc. These are “beyond consent” and fall outside of any contract. Gurvitch raises the question of the legal basis for the subjection of workers to these obligations. Such a base cannot legitimately be found in the property rights of the owner because such a right can only be exercised on objects and not people. For Gurvitch, the only legal basis for such workplace regulations is to be found in the derivation of social law from the legal totality that the factory as such constitutes. Thus, by enacting or establishing the law, the owner sets himself up as the legitimate representative of this autonomous totality. But, by usurping the title, the boss in reality distorts the social law that integrates the social totality that is the factory by making it a matter of individual property. The power he exercises, rather than being based on social law, is based on ownership. He considers the workers as things he owns.

This thesis of a perversion of social law in the case of the law of subordination present in Gurvitch’s legal philosophy refers to the opposition between, on the one side, the infrastructure of an unorganized community and, and on the other, the superstructure of a superimposed organization¹³. For Gurvitch, any community, any social group, is composed of these two elements. The first is the “We”, namely the “normative fact” of the objective union. In relation to this first “stratum” or “layer” of the social group Gurvitch

⁹ G. Gurvitch, *La déclaration des droits sociaux*, p. 75. Proposed translation: “The social law lets the subjects whom it addresses itself directly participate in a whole which, in its own way, participates directly in the legal relationships of its members”.

¹⁰ See G. Gurvitch, *L’idée du droit social*, p. 18.

¹¹ See G. Gurvitch, *L’idée du droit social*, p. 12.

¹² See G. Gurvitch, *Le temps présent et l’idée du droit social*, p. 66.

¹³ See G. Gurvitch, *L’idée du droit social*, pp. 28-30.

talks about unorganized social law. The second element is the superstructure of the social group. It is here that the social law integrating the group is organized. This organization can take various forms: collaborative partnership, subordinated association, etc. In order to be a real, veritable social law, organized social law –the superstructure– must be “entièrement fondé et pénétré par le droit social inorganisé, qui se dégage de la communauté objective sous-jacente”¹⁴. So, when a superstructure takes the form of a hierarchical organization, social law is perverted into an individual right of subordination. As is the case for collective agreements under capitalism, it is thereby cut off from the objective community from which it emerges.

2 The justification of social law: the ideal of transpersonalism

As we said in our introduction, Gurvitch does not limit himself to a critique of the individualism characterizing legal science. He also attempts to justify social law from the perspective of political philosophy. It is this second aspect of his work that we will now focus on. In 1929, Georges Gurvitch published an article titled “Le principe démocratique et la démocratie future”¹⁵ where he developed his political philosophy. In this article he seeks to define the essence of the idea of democracy. For him in the history of philosophy the concept of democracy was developed as a synthesis of three basic elements: the idea of the sovereignty of the people, the idea of equality and the idea of individual freedom. His goal is to overcome the inherent limitations of the first formulation of a theory seeking to balance these three elements, which came into being in the seventeenth and eighteenth centuries within the context of individualist thinking. For Gurvitch,

“il s’agit donc précisément de savoir si l’individualisme unilatéral ressort de l’essence même de l’idéologie démocratique, ou si, au contraire, il ne fut qu’un prisme historique qui en détermina la réfraction [...]. Il importe de savoir s’il est permis d’en rendre responsable la démocratie et si dépasser l’individualisme équivaut à dépasser la démocratie”¹⁶.

¹⁴ G. Gurvitch, *L’idée du droit social*, p. 30. Proposed translation: “completely and utterly founded and penetrated by unorganized social law, which itself emerges from the underlying objective community”.

¹⁵ G. Gurvitch, “Le principe démocratique et la démocratie future”, in *Revue de métaphysique et de morale*, 36, 1929, pp. 403-431.

¹⁶ G. Gurvitch, “Le principe démocratique et la démocratie future”, p. 407. Proposed translation: “we must therefore know whether unilateral individualism emerges from the very essence of democratic ideology, or if, on the contrary, it was only an historical prism that determined its refraction [...]. It is imperative to know if democracy is to be held responsible for individualism and if going beyond individualism is equivalent to going beyond democracy”.

As we have mentioned, for Gurvitch individualism posits the sovereign and autonomous individual as the foundation and the ultimate end of law¹⁷. This is not an individual entangled in the concreteness of the conditions of its existence, but rather a “représentant nivelé du genre abstrait de l’humanité en général”¹⁸. At the heart of this conception is therefore an abstract individual devoid of everything that makes up the singularity of its individuality. It is a metaphysical essence asserted as a fact, which allows us to establish the identity between freedom and equality. Furthermore, according to whether the emphasis is placed on freedom or equality, there are two possible variants of this fundamental principle¹⁹. Veritable individualism asserts that freedom is the inalienable expression of the essence of each individual, which only morality can deal with, and thereby reduces law to the external limitations that different free individuals mutually impose upon one another. In the context of a unilateral universalism, on the other hand, the emphasis goes on the idea of equality as already given because of the universality of the essence of humanity. However, unilateral universalism ultimately leads to a reduction of individual singularity to an abstraction: purely quantitative equality amongst different individuals. For Gurvitch, unilateral universalism completely confuses Justice with the moral ideal, but without Justice being elevated to the grandeur of the moral ideal. It is rather the latter that is downgraded, brought down to a lower level. Thus thinkers such as Plato and Hegel wrongly attribute to the state and its laws the absolute value of the moral ideal. If the starting point of universalism is thus the opposite of the starting point of individualism, their conclusions are nevertheless similar: whether we are dealing with a Justice that subordinates an individual to another or a Justice that subordinates everyone to the State, “cette Justice est menacée une fois de plus d’être confondue avec la force”²⁰.

Consequently, the ideas of law and democracy themselves are endangered when they are based on individualistic principles. For Gurvitch, the condition of overcoming the impasses brought forth by individualism and unilateral universalism is to create a new conception of law. We must think the possibility of a law which, all the while introducing a quantitative dimension, does not reduce the concrete singularity of individuals to a purely quantitative equality. Equality must rather be seen as the equivalence of individuals in

¹⁷ When Gurvitch criticizes individualism as unable to account for the multifaceted essence of democracy, his main interlocutor is Jean-Jacques Rousseau. See, for example, G. Gurvitch, “Kant et Fichte, interprètes de Rousseau”, in *Revue de métaphysique et de morale*, 4, 1971, pp. 385-405 (first published in *Kant-Studien*, 1922); G. Gurvitch, “Rousseau et la Déclaration des droits. L’idée des droits inaliénables dans la doctrine politique de J.-J. Rousseau”, in G. Gurvitch, *Ecrits russes, Ecrits de jeunesse*, trans. C. Rol and M. Antonov, Paris: L’Harmattan, 2006.

¹⁸ G. Gurvitch, *L’idée du droit social*, p. 5. Proposed translation: “a levelled out representative of the abstract species of humanity in general”.

¹⁹ See G. Gurvitch, *L’idée du droit social*, pp. 97-98; G. Gurvitch, “Le principe démocratique et la démocratie future”, pp. 416-417.

²⁰ G. Gurvitch, *L’idée du droit social*, p. 98. Proposed translation: “we once again risk confusing Justice with force”.

relation to the whole. Everyone's concrete vocation must participate in the same way, as an essential element, in the formation of the concrete universality of the totality. Correspondingly, we need to think the possibility of a law, which, under the protection of a quantitative freedom, at the same time renders possible the flourishing of the material and qualitative freedom of each concrete singularity. For such a synthesis between the freedom of concrete singularity and equality as equivalence to be possible, the third element of the essence of democracy, the idea of the sovereignty of the people, must be understood as the idea of a "tout organique qui puise en lui-même le principe de sa vie"²¹, of "une totalité concrète qui se détermine elle-même"²² and not as an expression of the rational will universally present in every individual. Here we come across the idea of a concrete totality and, which is intrinsically correlated to the former, the idea of social law.

How can the introduction of this quantitative element peculiar to law allow it to found and maintain the deployment of qualitative freedom and equality? A first answer is provided by what Gurvitch calls "legal pluralism", which is made possible by the establishment of social law. We have seen that social law governs concrete totalities without appealing to the state as the sole source of norms. Thus, a multiplicity of totalities may establish themselves in social space by counterbalancing one another and working together. According to Gurvitch, the future of democracy is to be located precisely in the universality and multiplicity of its faces. In fact,

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"si la démocratie a des faces multiples, l'individu lui-même s'en trouve qualitativement enrichi: à la multiplicité de plans dans lesquels se développe la démocratie répondent des faces multiformes de la personnalité"²³.

Thus, the quantitative element introduced by social law promotes freedom as a creative singularity by establishing a plurality of sites where it can unfold as truly equivalent to other freedoms in relation to the whole.

From what we have just shown, it follows that any attempt to find a balance between the elements making up the essence of democracy, which wants to truly achieve a synthesis between individuals and universalism leads to the necessity of social law. We have seen that social law is the law by which every concrete totality is able to integrate itself in an objective manner. It is based on the "normative fact" of a community. We have already seen that if, on the one hand, the whole is irreducible to all its members, on the

²¹ G. Gurvitch, "Le principe démocratique et la démocratie future", p. 407. Proposed translation: "organic whole which finds in itself the principle of its life".

²² G. Gurvitch, "Le principe démocratique et la démocratie future", p. 409. Proposed translation: "a concrete totality which determines itself by itself".

²³ G. Gurvitch, "Le principe démocratique et la démocratie future", p. 422. Proposed Translation: "if democracy has multiple faces, individual themselves are thereby enriched qualitatively: the multifarious faces of personality respond to the multiplicity of ways in which democracy is developing".

other it is immanent to its parts and constituted by their collective actions. Because of this “continual transition” between the individual and the whole, Gurvitch defines its own philosophical position as an “ethical transpersonalism”. As Gurvitch lucidly explains:

“Dans cette conception le tout étant distinct de la somme de ses membres, ne leur est pas transcendant et ainsi ne s’oppose à eux ni comme objet extérieur ni comme une personnalité supérieure (personnalisme hiérarchique); l’élément qui dépasse les "moi" personnels n’est ni objet ni personne, mais l’activité supraconsciente (Nous) à laquelle sont immanentes par l’intermédiaire de l’action toutes les personnes; cette activité, à son tour, est immanente à ces personnes et les pénètre. Dans ce sens de compénétration réciproque entre l’activité supraconsciente et l’action consciente, le tout transpersonnel, symbolisé dans le Nous, peut être caractérisé comme une totalité immanente”²⁴.

By this idea of a super-conscious activity, which he sometimes calls “a flood of pure superconscious creation”, Gurvitch designates the creativity specific to collective action as produced by individual actions which are absolutely irreplaceable, the latter being, in turn, rendered possible by their very participation in this collective action. Thus the point of view of an individual can be synthesized with the point of view of the whole: the idea of “We” allows Gurvitch to show the dynamic relation of mutual and immanent determination that exists between the two.

We can begin to see that a shift has occurred with regard to the critique of legal individualism as we have presented it in the preceding stage of our argument. Speaking of social law, we are now at an ideal level. In fact, “la synthèse proprement dite en une totalité immanente de l’un et du multiple, de l’individuel et de l’universel, ne peut être acquise que dans l’idéal moral”²⁵. The introduction of this ideal brings us back to the question of the relation between law and morality. Indeed, the moral ideal of a creative activity in which the singularity of personal actions is situated in a relation of reciprocal production with a transpersonal creativity remains unrealizable at the empirical level because at this level the conflict between individual values and universal values underlies every possible manifestation of the social. It is at this level that Justice intervenes: “la Justice est appelée à *concilier d’une façon préalable* les conflits réels entre les valeurs

²⁴ G. Gurvitch, *L’idée du droit social*, p. 10. Proposed translation: “In this conception, although distinct from the sum total of its members, the whole is not transcendent, beyond them, and is therefore not opposed to them as an external object or as a superior personality (hierarchical personalism); the element which exceeds or goes beyond each personal 'I' is neither an object nor a person, but a superconscious activity (We) in which, by the intermediary of action, every person exists immanently; this activity, in turn, exists immanently in these persons and penetrates them. Because of this reciprocal interpenetration between the superconscious activity and the conscious action, the transpersonal whole, symbolized in the We, can be characterized as an immanent totality”.

²⁵ G. Gurvitch, *L’idée du droit social*, p. 17. Proposed translation: “the veritable synthesis in an immanent totality of the one and the multiple, of the individual and the universal, can only be accomplished in the moral ideal”.

transpersonnelles et personnelles”²⁶. Establishing a law capable of reconciling personal and transpersonal authorities is indispensable for the formation of these “We’s”, which are now understood as the element of the ideal inscribed in the essence of the democracy. Only by social law can these “We’s” be established in reality insofar as these “We’s”, even while generating or producing it, found their very existence on it.

Gurvitch therefore not only mobilizes the concept of social law in an endeavor to describe the reality of law, but also in an endeavor to found the essence of democracy. If these two paths take us to the same idea of social law, the first one leads to the acknowledgement of social law as a fact expressed in the spontaneous life of law, while the second one presents it as an ideal to be instituted into the social if one still wants democracy to have a meaning and a future. The problem that arises now is to know whether these two moments are sufficient in order for Gurvitch’s intellectual work to have a determinate effectiveness in the real dynamics of the institution of social law. On the one hand, it seems that a simple description of already existing forms of social law implies an excessive confidence in the fact that these forms could be instituted through the simple movement of the spontaneous life of law. However, we already know that Gurvitch was aware of the possibility of social law being perverted into an individual law. On the other hand, the mere formulation of an ideal remains too detached from the context where this ideal should be achieved and it is thus unable to grasp the specific obstacles that impede its achievement. Oscillating between a realist approach that limits itself to describing already existing realities and an idealist approach that develops an ideal without taking the real conditions of its effectuation into account, one must observe that this intellectual work should renounce any grasp on reality. This is the reason why, in order to rebuild Gurvitch’s gesture of intellectual intervention and grasp its full meaning, we must now explore a last level that allows the dialectical articulation of the descriptive and normative dimensions. We are here referring to the *The Bill of Social Rights* considered as a technique and a symbol.

3 The bill of social rights as a technique and a symbol

In this 1944 work, Gurvitch proposes a formulation of social rights which allows groups to be “centres actifs d’engendrement et de défense de leurs droits sociaux”²⁷. Rather than formulating rights that ensure we can passively benefit from social polices, social law should allow for the self-government of groups and individuals. *The Bill of Social*

²⁶ G. Gurvitch, *L’idée du droit social*, p. 99. Proposed translation: “Justice is called upon in order to reconcile, in a preliminary manner, real conflicts between transpersonal and personal values”.

²⁷ G. Gurvitch, *La déclaration des droits sociaux*, p. 36. Proposed translation: “active centers in the generation and defense of their social rights”.

Rights does not limit itself to laying down this ideal in an abstract way. Gurvitch has designed his *Bill* by considering the specific obstacles that the effectuation of this ideal encounters in the social reality of his time. For Gurvitch, in the 20th century these obstacles are foremost present in the “economic feudalism” that the switch to capitalism has led to, that is, in the domination of economic life by great corporate shareholders, trusts, cartels, etc. Gurvitch also cites the following: the autocratic power of employers in factories; the strengthening of the financial oligarchy of banks due to the subjugation of industrial capital to financial capital; the development of technocracy and bureaucracy; various situations where the state becomes authoritarian, etc. This diagnosis leads Gurvitch to qualify his era as the “era of the Leviathans”²⁸. Instead of spending a lot of time going into the specific details of these analyses, here it suffices to recall that the force Gurvitch sets in opposition to these obstacles is a pluralist legal technique²⁹. This technique would aim at guaranteeing, against these Leviathans, the autonomy of social groups and ensuring that they could act as a means of reciprocal counterbalance through limiting one another. One of the central consequences of implementing such a technique would be the introduction of an Independent Economic Organization, governing itself, that would represent the whole of producers and consumers, and that would act to counterbalance political power.

One question arises. Talking of *The Bill of Social Rights* as a pluralist “technique” that would allow us to bring forth democratic values in reality could appear problematic. What should we understand by “technique”? A knowledge that enables those who take possession of it to create social law? Is this not contradictory with Gurvitch’s legal objectivism? According to this principle, the compulsory character of law is not at all based on a Will but rather on the non-personifiable and objective authority of a normative fact. In fact, Gurvitch does not understand “technique” as a means to create social law. In his work *The Idea of Social Law*, he makes an important distinction between primary and secondary sources of the positive law³⁰. The former are “normative facts”. It is from these facts that law draws its normativity. By secondary sources, one must understand laws, customs, conventions, etc., which Gurvitch calls “formal sources” of law. These sources constitute various “technical procedures” (*procédés techniques*) whose aim is to ascertain and express normative facts. Therefore, by proposing a pluralist technique of implementing democratic values in social reality, Gurvitch does not seek to empower individuals or the State with a technique which would enable them to *ex nihilo* create social law, but rather to offer technical procedures which would render possible the very expression of normative facts, the “We’s”. In particular, Gurvitch criticizes the absolute

²⁸ G. Gurvitch, *La déclaration des droits sociaux*, p. 54. The expression is from G. D. H. Cole.

²⁹ See G. Gurvitch, *La déclaration des droits sociaux*, p. 61.

³⁰ See G. Gurvitch, *L’idée du droit social*, pp. 132-144.

privilege given by some jurists to the secondary source that is law, the “fetishism of law”³¹ which absolutizes a secondary source and makes the State the only source of law. His intervention therefore takes part in the criticism of the domination of a technical procedure which prevents us from even noticing the social law generated by the “We's” and offers new technical procedures to make manifest these normative facts.

This objective of making normative facts manifest can be most clearly seen in the fact that Gurvitch expects *The Bill* to play the role of a “symbol” that would exert an active force on society. Here it is helpful to quote Gurvitch at length:

“Les déclarations, bien qu’elles paraissent cristallisées, représentent l’élément le plus dynamique du droit écrit. Non seulement elles expriment le mieux le droit spontané, mobile et vivant de la Nation, mais encore elles communiquent ce dynamisme spontané à tout le système juridique organisé, en le poussant vers des transformations consistantes et immanentes. [...] Le problème d’une nouvelle déclaration des droits n’est à ce point de vue qu’un aspect du problème général du renouvellement des symboles fatigués, problème si actuel à l’heure présente. C’est à ce prix seulement qu’on peut aboutir à une emprise renforcée de l’idéal sur le réel dont l’humanité a plus besoin que jamais”³².

The symbolic dimension of *The Bill of Social Rights*, even more than its technical dimension, sheds light on the way Gurvitch conceives of his own intellectual intervention. He does not delude himself about the role a symbolic intervention can play in a dynamic of social transformation. In contradistinction to any sort of idealist belief in some kind of omnipotence of ideas, he understands that his *Bill of Social Rights* must be the expression of an already present reality in the spontaneous life of law. At the same time, and due to his conceptual constructions, *The Bill of Social Rights* allows the actors constituting this reality to reflect upon their action by providing them with the means of fighting against the obstacles impeding its implementation and, amongst other things, against the ideological blockages, which prevent them from recognizing the innovative range of their own creativity. Moreover, Gurvitch's intervention encourages the amplification of this creativity by transferring it to the organized instances of the life of law, which tend to block it because of their fixity.

In this article, we have shown that Gurvitch's ideal-realism can only be understood by recognizing a third level, one between description and justification, as its true core,

³¹ G. Gurvitch, *Le temps présent et l'idée du droit social*, p. 10.

³² G. Gurvitch, *La déclaration des droits sociaux*, pp. 46-47. Proposed translation: “declarations, although they seem crystallized, express the most dynamic element of written law. Not only do they best express the spontaneous, moving and living law of the nation, but they also transfer this spontaneous dynamism into the entire organized juridical system by pushing it towards consistent and immanent transformations. [...] The problem of a new declaration of rights is, from this perspective, only one aspect of the general problem of revitalizing worn-out symbols, a problem so relevant at the present time. That's the price we have to pay if we are to succeed in strengthening the hold of the ideal over the real which humanity needs now more than ever”.

where theory is indissolubly bound to an intervention. As a matter of fact, by conceiving social law as a technique and expounding it by means of the symbol of the *The Bill of Social Rights*, Gurvitch avoids formulating, in the same breath, an empirical theory or a transcendental theory of social law. Starting from the assumption of already existing social law, he asks what are the conditions for its institution, highlights the technical and ideological obstacles impeding this institution, and then proposes a new technique and new symbols which enable its implementation and open up the space for its amplification. Without ever leaving the immanence of the real dynamics of social transformation generated by the emergence of social law, Gurvitch formulates techniques which, because of their symbolic meaning, allow actors to reflect upon the movement which they take part in.

Gurvitch's intervention however raises a series of questions. What can guarantee the effectiveness of the "active force" which constitutes, according to him, his *Bill of Social Rights*? One must realize that, for Gurvitch, the active force of a symbol depends upon the prior existence of the "We", in that language, by itself, cannot create a normative fact. Only then can symbols take part in its recognition and institution, as well as fight against powers likely to corrupt it. Thus, although utterly significant as an attempt to avoid the pitfall of the omnipotence of ideas, this conception claims that the *Bill*, in order to be effective, depends upon the spontaneity of a life of law, which it does not seem to have any power of acting upon. Indeed,

"tout en s'appuyant sur l'ensemble des moyens de médiation offerts par les signes et les symboles, la sociabilité par participation dans le Nous reste fondée sur des intuitions collectives virtuelles"³³.

These collective intuitions constitute the first moment of emergence of a "We", the moment which dynamizes all social creativity as such. But what is the nature of these "virtual collective intuitions"? Gurvitch does not seem to give a clear answer to this question. Moreover, the connection between collective intuition and the genesis of the normative fact is not even sought out, and, consequently, neither the roles that the intellectual could play in this process. Without a doubt, this lack stems from the strict application of the principle of juridical objectivism advocated by Gurvitch which excludes any introduction of the figure of the will –whether it be in the figure of the individual will or the will of the state– in the question of the foundation of social law. However, shouldn't

³³ G. Gurvitch, "Problèmes de sociologie générale", in G. Gurvitch (ed.), *Traité de sociologie*, Tome I, Paris: PUF, 1958, pp. 155-251, p. 174. Proposed translation: "all the while relying on the set of the means of mediation offered by signs and symbols, sociability by participation in the We remains based on virtual collective intuitions".

we ask how actors experience the processes of the institution of these “We’s”, as well as how subjectivities are transformed by participating in these “We’s”?³⁴

³⁴ An interesting way of approaching this question has been proposed by Lucien Goldmann. He claims that social life can be accounted for only by considering the two correlated dimensions of the transindividual coherence of a collective subject and of the libidinal investment of the individuals forming this subject. See L. Goldmann, “Structuralisme génétique et création littéraire”, in *Sciences humaines et philosophie. Suivi de structuralisme génétique et création littéraire*, Paris: Gonthier, 1966, p. 153.

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Among critical theories, which denounce the historical conditions of social alienation, the role of phenomenology could be said to consist in a deepening and radicalization of a philosophical reflection, which renders possible, or in a revitalization of collective action. This revitalization can be also understood as a revival, when, drawing on the possibility of a reflection that penetrates into the involved commitment implicit in concrete experience —a *seeing of seeing* made possible by the phenomenological reduction—, the new epistemological task is to become attentive to the neglected aspects of this vision. Rather than embarking on an exploration of the primordial immanence from which experience proceeds, the goal of this task is an analysis of the modalities of this experience itself as it implicates individuals who are called upon in their ipseity by historical processes, which as such only become visible in determinate conditions of space and time. Subjectivation is brought into conceptual illumination not through the acts of transcendental consciousness, but rather through the historical horizon in which they are inscribed: the unknown territory of the activity of knowledge, which must be taken into account, if this activity is not to lose its ground as a living, vibrant experience

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In the structure of this horizon, a structure made up of a “non-actual diversity of appearances” necessary for our “world of experience (*Welt der Erfahrung*)”¹, a slumbering process of the formation of meaning (*Sinnbildung*) emerges in the margins of its noetico-noematic determination. Its genesis cannot be considered as a simple logical succession, but has to be described as “an unfolding, a becoming”² through which past meanings constantly join present meanings. In the same movement, each present goes into a passive life constituted by sedimentations, which are progressively made more and more inaccessible. As for novelty in general, which is to be defined as such only in relation to a familiar and ancient horizon, there is no actual meaning without a non-actual background from which it becomes estranged. The hidden zone of this background is to be explored in

¹ E. Husserl, *Hua VI, Die Krisis der europäischen Wissenschaften und die transzendente Phänomenologie. Eine Einleitung in die phänomenologische Philosophie*. Ed. Walter Biemel, 1954, § 46, p. 162.

² E. Husserl, *Hua XI, Analysen zur passiven Synthesis. Aus Vorlesungs und Forschungsmanuskripten, 1918-1926*, Ed. Margot Fleischer, 1966, p. 339.

a two-fold manner: firstly in terms of generation of the intentional apperceptions and secondly in terms of the exteriority which accompanies their affirmation and their sedimentation.

The nature of this exteriority is to be analyzed by a phenomenology of alienation, not only as the impossible link to what always escapes the grasp of consciousness³, but also in terms of its violent impact on creative movement of subjectivity within experience and its capacity to displace itself and to be ethically and socially called upon (*interpellée*). Self-transformation is thus to be understood through a historicity which emerges from combined impulses and with a view towards social action that they are able to produce. In this perspective, both the blockages and the resistances, which move and immobilize the becoming of individuals, appear as the practical condition of the renewal of experience in its development and of the revival of meaning in its multiple geneses.

Our intention is to explore some of the newly discovered, unmapped territories opened up by Husserl's genetic phenomenology and to advance them toward a phenomenology of history, in order to bring to the fore the radical meaning of the phenomenological "seeing of seeing" by focusing on off-limit visions and the blind spots that it implicitly institutes in experience. The becoming of each ipseity is thus to be understood as related to the historical community present at each moment of its development.

1 Social critique and the question of alienation

If we were to consider the question of alienation in the light of contemporary phenomenology, M. Henry's *Marx*, published in 1976, is an indispensable point of reference. Social alienation is described as a relation of immanent life to a specific kind of alterity. Nevertheless, this relation emerges in a movement that defines the very nature of life: the movement of objectivation. Henry writes:

"Alienation and objectivation are identical for a two-fold reason: it is itself that thinking posits in the form of alterity, it is thinking itself that assumes the appearance of exteriority and nature, but it is also thinking itself that accomplishes this positing, which is a positing, this positing of itself in the other. The result is that what is posited by objectivation of thinking is not in reality something else than this thinking itself, but rather its product. We can say that objectivation is thinking under another form."⁴

³ Cf. L. Tengelyi, *L'histoire d'une vie et sa région sauvage*, Grenoble, Millon, 2005, pp. 18-54.

⁴ M. Henry, *Marx*, Paris, Gallimard, 1976, t. I, p. 299.

With this identification of alienation and objectivation, Henry refers to the Husserlian thesis that transcendental life becomes rigid when it starts to be effective in the world, when it starts to produce an objective form as a general horizon within which all subjective acts meet. The ambiguous status of objectivation appears through the concept of “substruction,” which is defined by Husserl as “idealization of sensible appearances above and beyond any possibility of effective intuition”⁵. The idealized meaning of nature is thus replaced with the originary meaning of the sensible experience. The “*anticipation prolonged to infinity*” of the intuitive teleology of the world-life (*Lebenswelt*) is covered by the garment of ideas (*Ideenkleid*) made from an open infinity of possible experiences, a garment which suits it well, a garment of truths which one can call “objectively scientific”⁶. But this Husserlian distortion of meaning (*Umdeutung*) is not a simple accident in the evolution of the European sciences; it also affects the formation of meaning (*Sinnbildung*) in the world-life. The weakening of the teleological horizon of science is thus related to a crisis present in the world-life, as it is confronted with a progressive technologization which separates it from its first intuitivity. Husserlian genetic phenomenology has made clear that, if the idealization of natural life produces an occultation of meaning, the cause of this to be found in the fact that each present has the tendency to conceal the previous evolutions of meaning within the passive undergrounds of conscious life. The search of an originary meaning (*Ursprungssinn*) has to deal with this gap between the objectively determined meaning and phenomenological meaning which is continuously transforming⁷.

In the light of these investigations, objectivation appears on one side as the *modality* in which the life of meaning expresses and shares itself, and, on the other side, as the *form* of its own self-positing, exterior to the intrinsic dynamism of the effectivity of meaning, and reflecting it in its accomplishment.

This Husserlian diagnosis is radicalized by Henry insofar as he understands transcendental life as irreducibly individualized and its meaning created in another sphere than one of intentional acts. This critical perspective allows Henry to present objectivation as the first form of alienation that affects life. Do we have to think that alienation is the only way that life is able to express itself? Is alienation intimately related to the productivity of life or is it a mere turning away from life? An attentive analysis of Henry’s texts is needed in order to answer these questions.

What does it mean for life, as Henry says, “to posit itself in another”⁸? What does it mean for life to produce itself “in another form”? An intrinsic deviation seems to interfere

⁵ E. Husserl, *Hua VI*, §9, d), p. 37.

⁶ *Idem*, §9, h), p. 51.

⁷ Cf. E. Husserl, *Hua VI*, Beilage III, zu § 9 a), pp. 365-386.

⁸ M. Henry, *Marx, op. cit.*, t. I, p. 299.

in the process of the production of life and to change its destiny, guiding it towards territories where life as a living, dynamic production cannot recognize itself anymore, disguises itself in forms which are foreign to its own inner dynamism and in manifestations where it cannot see itself as their vivid source.

When describing the modalities of expression undertaken by life which found each manifestation, Henry underlines the temporality of self-presence (*presence à soi*) made possible starting from a first passivity –the passivity of the givenness of life in us. It appears that self-presence implies a “phenomenological distance”⁹ as an essential law and an ontological structure. It is the distance between two regimes of living: on one side the regime of what is received passively and on other side the regime of what is appropriated actively. Insofar as the productivity of life as *poesis* is to be understood as a way of “bringing the non-present into presence”¹⁰, its task is to relate this two regimes of temporality, implying the passivity of life in individual activity.

But it is also because of this distance that the movement of life separates itself from its results, just as the creative impulse drives one to leave behind, to distance itself from, one's productions. We can thus make a distinction between, on one side, a process that, receiving itself, receives the world as its production, and, on the other side, the static, objectified determination of an appearance in which this same process loses its effectivity. Two forms of passivity are to be observed: the passivity that we experience within the vivid activity of the self as a condition of its sensible genesis, and the passivity in front of that which separates itself from this subjective activity, transforming us into mere submissive spectators of our own existence.

As if by an inexplicable self-forgetting, life steps away, distances itself, from what it renders possible and thus material reality separates itself from its phenomenological effectivity¹¹, thereby destroying its attachments to it. The immediate link between the process of passive genesis and its productions, between the its first movements and its historical inscription, it thus lost. The alienation of this “becoming other” of life is total in the illusion of “being immediately the other of one self”¹², which allows us to believe that we can offer in our own present a living, dynamic foundation to alterity, separated from the living, dynamic foundation of the ipseity of each individual.

Yet, this notion of alterity is unclear. Insofar as the “positing of self as other” gives life the possibility to create a history, enabling its invisible process to leave traces of itself, to appear in a present and thus to pass itself on. The fact that the relations between

⁹ Cf. M. Henry, *L'Essence de la manifestation*, Paris, PUF, 1963, t. I, §10.

¹⁰ M. Henry, *Phénoménologie de la vie*, 4 t., Paris, PUF, 2003, t. III, p. 13.

¹¹ M. Henry, *Marx, op. cit.*, t. I, p. 303.

¹² *Idem*, p. 303.

individuals are always made possible in historical conditions that these same relations are able to change invites us to reconsider the question of the alteration of life from a new point of view. The movement of life's expression in the horizon of a world is also to be considered as an insertion of invisible in the visible, which makes possible its continuation –that is, as an alternative to its alienation. How does history give to life the possibility of accomplishing itself in its effectuation and therefore overcome the heterogeneity of its objectivation?

How can life defend its freedom of development and escape alienation? How can this process of “becoming other”, which affects the expression of each self, avoid complete self-alienation, fight against this self-forgetting, this loss of its immanent source? Henry seems to indicate to us the possibility of a reappropriation of the products of life by life itself¹³, which passes by a *recognition of the self in the other* instead of the *positing of the self as other*, following what Marx said about the fact that “man feels himself, feels at home, in his being-other”¹⁴. The affirmation of the world from the point of view of the life that generates it redeems the world.

The fact that “man feels himself, feels at home, in his being-other” points to the fact he recognizes his historical position as related to his own act of self-positing: from alienation he returns to the immanent process of the self-actualization of life, to the self-seizing interiority at the basis of all subjectivity, present in all its potentialities, and breathes life into its other but *only insofar as it primordially retains itself, adheres to itself*. The main explanation of this modality of the effectuation of life is given in the *Généalogie de la psychanalyse*:

“Life never actualizes itself in, never enters into, the limited place of the light; it retains itself entirely outside of it, in the immediation of its own omni-self-presence. For life, actuality, virtuality, potentiality have another meaning: actuality designates auto-affection in which potentiality is effective, the reality of the possibility consubstantial to each power and identical to each presence”¹⁵.

What makes possible the effectivity and power of life resides precisely in this, that is, its inability “*to come into the light of ek-stasis*”¹⁶. Life must be recognized in its invisible process, as that which makes possible the strength and the power of life.

A new problem becomes here obvious, from two perspectives:

¹³ Cf. sur ce point M. Henry, *Phénoménologie de la vie, op. cit.*, t. III et *Du communisme au capitalisme, Théorie d'une catastrophe*, Paris, Odile Jacob, 1990.

¹⁴ K. Marx, *Manuscrit de 44*, quoted by M. Henry in *Marx, op. cit.*, t. I, p. 302.

¹⁵ M. Henry, *Généalogie de la psychanalyse*, Paris, PUF, 1985, p. 78.

¹⁶ *Idem*, p. 392.

1/ From a psychological point of view, this Henrian thesis doesn't take into account the blockages of the activity of life, which appear at a level that can also be described as *passive*: this passivity in which the absence of freedom of an affectivity able to primordially seize itself is made visible at precise moments of each one's life's history.

2/ From a political, but also from a phenomenological, point of view, trying to resolve the problem of alienation by a return to the auto-affectability of life doesn't take into account the fact that life is never "safe"¹⁷, but always in danger, insofar as it is always exposed to changing social and historical circumstances. These challenges become a part of its history when the difficulties they pose are solved, but they can also intimately affect its intensive growth, when life is mishandled, worn out, and sometimes even violently overpowered. What affects individuals in their existence is not what affects life from an abstract and general point of view, but what affects the power of life to be lived and shared.

Not only the resistances and the anti-resistances which span every living, dynamic evolution, but also the traumas and the shocks which characterize it, must be taken into account in order to understand the historicity of life, its exposure to contingent circumstances and thus its vulnerability. If these dimensions of the experience of life are not taken seriously, we are confronted with a possible danger if we proclaim that the only solution to alienation is to return to the auto-production of life in itself. This would merely repress a *double exteriority* to which it is always exposed¹⁸.

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The first exteriority is the exteriority of other lives, correlated to an irreducible multiplicity of their manifestation. The unique source from which life proceeds relates it to different individual existences, but it also separates them in the specificity of their manifestation. The fact that the other is an other self –the fundamental idea behind the Henrian theory of intersubjectivity– makes him close to me, but also a stranger, determines him as important, but also as indifferent. This is the reason why the question of "suffering-with" (*pâtir-avec*) is to be developed in the direction of a phenomenology of the community present in each one's own affectivity, in order to show that the question is not to establish an analogy between several manners of receiving life and of being situated in its movement, but to underline the necessity for different singularities to meet in the determined horizon of a history.

This mutual empowerment (potentiation) immanent to life that Henry calls "pouvoir pouvoir"¹⁹ brings us to the second exteriority with which life is confronted: exteriority towards its self, due to the temporalization of its acts that prevent life from ever being

¹⁷ Cf. J.-L. Chrétien, «La vie sauve», in *Les Études philosophiques*, 1 (1988), pp. 37-49, p. 37 sq.

¹⁸ *Idem*, p. 40.

¹⁹ M. Henry, *Phénoménologie de la vie*, op. cit., t. I, p. 174.

entirely present in all its productions. If, as Henry writes, “being is a desire of self, it is its own nostalgia”²⁰, it is so because self-presence is never automatically assured by the givenness of life. If this givenness is a self-givenness, it must be transferred from the regime of passivity in which we access it to the real self-presence of a living individual. Even if life is always given, we must become able to “give ourselves self-presence”²¹. This act of giving or the bestowing of present time is surely the first act of freedom by which we take a stand against alienation –but it cannot become effective if we do not take into account the historical condition of life, a correlative of a givenness which is always partial. Although this historical limited condition invites us to search for a full, exorbitant self-givenness, it also confronts us with situations where our affectability is suspended or contradicted.

2 Alienation and history

To clarify this problem, the debate between Ricoeur and Henry is important. Ricoeur blames Henry for having concealed the relation between individuals and their historical material circumstances. It is the originality of the anthropology of Marx to refrain from separating the individual from the circumstances in which he acts. Marx never stops saying: “the people and their conditions”, never stops talking about what the people do “in situation”, “in accordance with their material productivity”²². The Ricoeurian critic is important. Henry's text is however able to grant it.

“La vie phénoménologique individuelle, toutes ses vies ou, pour parler comme Marx, les “individus vivants”, bien qu'ils entrent dans l'histoire et soient déterminés par elle, la déterminent au contraire, et cela dans un sens ultime: non pas parce qu'ils concourent, chacun pour sa modeste part, pour une part infime à vrai dire, à produire le cours du monde et à façonner sa physionomie d'ensemble, mais parce qu'ils constituent sa condition de possibilité, ce sans quoi l'histoire ne serait pas”²³.

The first answer is however only partial because Ricoeur questions a second aspect of the same critic which Henry's reading of Marx had neglected. For Ricoeur, it should be recognized that “the individual has always already entered in history under conditions and circumstances which it did not produce and through which it is however summoned to produce history”²⁴. If not, Ricoeur says, “how is it so that the individual who produces the conditions of his own existence can feel them as an external destiny”²⁵?

²⁰ M. Henry, *L'Essence de la manifestation*, *op. cit.*, t. I, § 10, p. 90.

²¹ *Idem.*

²² P. Ricoeur, *Lectures*, 2. t., Paris, Seuil, 1999, t. II, p. 133.

²³ M. Henry, *Marx*, *op. cit.*, t. I, p. 195.

²⁴ P. Ricoeur, *Lectures*, *op. cit.*, t. II, p. 133.

²⁵ M. Henry, *Phénoménologie de la vie*, *op. cit.*, t. IV, p. 103.

Henry however thinks that he is being true to the spirit of Marx: “the circumstances are produced by the people as much as the people produce the circumstances”²⁶. That circumstances are produced by people does not cancel out the fact that circumstances are the circumstances of their activity, that this, that they “the forms in which such an activity occurs”²⁷. Henry thus doesn’t separate the circumstances which form the horizon of activity from a pure activity, a separation which, from a Marxian point of view, could only lead to the perpetuation of the alienation. On the contrary, he even points out that “there is a very important idea in Marx which goes completely in the direction of what Ricœur said: the idea of generation. When we think history, it is necessary to think history by generation, that is the individuals who arrive to find the conditions of production, which are the conditions of their life”²⁸.

The conditions received from the previous generation assign to the following generation their own conditions of existence and give him a determined development, a specific character. Consequently, it is completely correct for Henry to say that “the individual finds the conditions of his activity, he finds his activity itself as an activity already achieved by the others and who is offered to him so that he exercises it in turn”. Only Henry adds that “he finds it as he accomplishes it himself, as it is its own life, there is nothing, consequently, which would be outside him, which would determine him from the outside”²⁹.

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Let us now at the most important Ricœurian critic: “the condition of history is for Henry heterogeneous to historical circumstances”³⁰. And this is indeed what Henry says explicitly: “as that which constitutes the condition of the possibility of history, he writes, life, although it belongs to history, does not belong to it, and must be understood as meta-history and as this heterogeneous foundation which founds the possibility of the development of history”³¹.

How can Henry claim that the conditions of history are conditions immanent to the development which they produce but are, at the same time, heterogeneous with history? It is necessary to pause at this thesis because it is the basis of the phenomenological position from which Henry proposes to construct a philosophy of history.

“Que signifie plus précisément l’immanence à l’histoire de sa condition méta-historique de possibilité ? Comment la vie peut-elle à la fois appartenir à l’histoire et ne pas lui appartenir ? Appartenir à l’histoire veut dire pour la vie, être chaque fois en elle, à chaque moment ou

²⁶ K. Marx, *L’Idéologie allemande*, in *Œuvres philosophiques*, t. VI, trad. Molitor J., Paris, Costes, 1946, p. 185 ; trad. Auger H., Badia G., Baudrillard J., Cartelle R., Paris, Éditions sociales, 1968, p. 70.

²⁷ M. Henry, *Marx, op. cit.*, t. I, p. 249.

²⁸ M. Henry, *Phénoménologie de la vie*, op. cit., t. III, p. 104.

²⁹ M. Henry, *Marx, op. cit.*, t. I, p. 251.

³⁰ P. Ricœur, *Lectures, op. cit.*, t. II, p. 133.

³¹ M. Henry, *Marx, op. cit.*, t. I, p. 195.

plutôt en chaque individu, la condition d'une production effective, une production rendue nécessaire par cette vie et pour elle. Ne pas appartenir à l'histoire veut dire: cette condition de toute histoire n'est pas quelque chose qui puisse lui être soumis, qui serait emporté et aboli par elle, n'est pas un état historique, c'est-à-dire justement un état de choses en voie de transformation et finalement de disparition"³².

This heterogeneity does not place the condition of history "outside" of history. "That life constitutes the fundamental condition of history, its a priori condition of possibility or, as we can still call it, its transcendental condition, its meta-historical condition, none of this does not imply in anyway that it is situated outside history"³³. The condition of history is not structurally heterogeneous with history in such a way that there could be no possible relation between the origin of history and history. This heterogeneity does not indicate a exteriority of phenomenological levels. Far from indicating the absence of relation, the heterogeneity aims on the contrary to show their relation. It is because the essence of the individual phenomenological life is not historical but contains the possibility of any history, that the existence of the people is historical, is able to produce history and even contingency, that there is a necessity. Thus, it is not individuals who always naturally live within the concrete conditions of existence which determine them who constitute the heterogeneous element of history: rather, it is the condition of the individual life, namely, the absolute Life itself. And that is why it is not a cause doomed to disappear with the effect which it sets off. That is why, "in the phenomenological and ontological horizon of the life, the idea of the 'end of the history' has no sense"³⁴.

3 A way out of the crisis

Which consequence can we draw from this phenomenology of history at the level of the social criticism? The fundamental idea is that individuals are no longer able to produce history because history as a structure of potentiation does not allow it any more. Individuals consequently exercise a positive action when they try to escape what they thought, imaginarily or mythologically, to be the condition of history – or, in others words, when individuals recognize that history is not an automatic, self-unfolding process that determines itself by itself but that rather is only the structure by which the life potentializes individuals.

So, when Henry rejects the hypostasization of the history or the economy, he rejects in the same breath the hypostasization of the society.

³² *Ibid.*, p. 197.

³³ *Ibid.*, p. 196.

³⁴ M. Henry, *Phénoménologie de la vie*, op. cit., t. III, p. 128.

“C’est parce que les individus vivent, travaillent, cohérent de telle manière qu’ils composent tel type de société. Une relation entre la société —qui n’existe pas— et l’individu est principalement impossible. Seule peut être problématisée la relation des individus entre eux”³⁵.

As long as we try to consider the potentiation of history by history, we settle for thinking the possibility of the revitalization of history only in terms of transformation of circumstances. We are trapped in “the absurd thesis which still determines the cultural world in which we live today, a thesis which claims that it is first necessary to change society and then naturally everything will be changed and in particular the life of individuals”³⁶. On the other hand, by returning to life as the condition of the potentiation of the history, we put the problem in terms of the potentiation of our capacities of self-transformation within the circumstances in which we act.

The consequence which Henry draws from this is that any resolution of this “crisis” which does not take into account the fact that the crisis affects not only a system but also the way in which individuals refer to their action in history is condemned to “repetition”. As long as the principles which guide their action involve “the deep disorganization of the individual life and its pathetic history”, they can only endlessly repeat the same construction of social and institutional organizations which bring forth the same crises. And, consequently, neither will the liberation of individuals be rendered possible by the external imposition of a new social and institutional organization considered as more virtuous or by a purely theoretical refoundation of norms which frame their actions.

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It is only in the transformation of affects that a truly liberating power can be fully unleashed, both in terms of overcoming various impasses we find ourselves confronted with and the destabilization of certain points of view. And it is what Marx already said against Stirner: “the state of society can only be modified if we modify ourselves”³⁷. Any social and institutional change has to first pass through a change within individuals who recognize that it is here and now, in their current conditions of existence, that they have to adhere to the power of self-transformation of life in order to renew history.

We cannot resolve, according to Henry, the crisis in the terms in which it has been posed. It is necessary to modify our entire concept understanding of this crisis in order to be able to revive history. And that is why one of the most fundamental theses of a radical phenomenology of history is that, confronted with such moments of crisis, it is the crisis itself which we should integrate because, as such, it contains the possibility of a revitalization of history.

³⁵ *Ibid.*, p. 111.

³⁶ M. Henry, *Marx, op. cit.*, t. I, p. 190.

³⁷ K. Marx, *L’Idéologie allemande, op. cit.*, Costes, p. 187 ; Editions Sociales, p. 71.

“Le concept de crise désigne en général un moment crucial à l’intérieur d’un processus dont elle n’est qu’une phase. Processus qui la précède donc et, le plus souvent, lui survit. La crise est passagère, elle sera surmontée: c’est elle qui [met] à nu des contradictions qui ont mûri lentement et les [porte] brusquement à un degré extrême de tension. [...] Plus qu’elle ne liquide un certain passé, la crise ouvre la voie de l’avenir”³⁸.

Conclusion

When we first approached alienation with Henry, we insisted on the illusion of “being immediately the other of one self”³⁹, which authorizes us to believe that we can offer in our own present a vivid founding to alterity, separated from the vivid founding of the ipseity of each individual. In the light of our investigations, it is important to emphasize that alterity is relative to ipseity. Understanding alterity as an absolute exteriority exposes us to the danger of seeing the notions of hosting the other, of intersubjective share and of ethical interpellation disappear in the obscure sphere of a transcendence which denies its foundations. In this perspective, the search for freedom understood as social emancipation becomes impossible. Nevertheless, alterity is to be recognized as the source of transformation in each process of subjectivation, as interferes with a former ideological overdetermination and also with a practical intervention that is to change the social order.

If alienation is to be understood as an alteration of the relation that life has with itself, another notion of alterity must be emphasized: it is not the alterity of “positioning one self as another” (pretending that we are not ourselves), but the alterity of “becoming another” (transforming our history) thanks to the others, to what they give us and to what they teach us. A vivid learning process is thus to underline that guides subjectivation, that allows us to understand life as a historical process of self-transformation. Its expression is to be searched not only in a self-position that turns against its foundation, covering it and disturbing its relation to itself, but also in a field of confrontation between several different forms of manifestation which cross and reflect each other.

³⁸ M. Henry, *Phénoménologie de la vie*, op. cit., t. III, p. 123.

³⁹ M. Henry, *Marx*, op. cit., t. I, p. 303.

Europe's Marginalization. A Philosophical Threat?

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The problem of Europe's marginalization is probably not one of the most prominent topics in contemporary political philosophy. Nonetheless, it is definitely worth taking a look at the philosophical implications of just such a *marginalization*. I use the term 'marginalization' in an internal sense (referring to European debates, such as the constitutional project) and in an external sense (referring to the role of the EU in future global politics). In the following essay, I will present a philosophical position in response to the issue of Europe's marginalization that will engage with the positions of J. Derrida, J. Habermas and P. Sloterdijk. My intention is not to give a detailed discussion of the *European* conceptions of these three thinkers but to refer to their arguments to develop my own thoughts about Europe's marginalization. Ultimately, my reflections can be situated somewhere nearer to those of Habermas than those of Derrida and Sloterdijk.

First of all, I will briefly describe the philosophical background of my paper (I). Then, I would like to explain why a marginalization of Europe as a political unity constitutes a real (and not only a philosophical) threat (II). A discussion of some contrary arguments that consider Europe's marginalization as inevitable will then lead into a futuristic thought experiment (III). And finally, I will make a plea for the necessity of continental regimes such as of the European Union (IV).

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I

The philosophical background of my paper largely consists of three pairs of writings from several European (actually French and German) authors who all deal with something that can be described as the diagnosis of a *European crisis*. I speak of 'pairs' because the titles resemble each other although the contexts of their argumentation may differ a great deal. In the first of the three pairs – two texts from the first half of the twentieth century – the concept of crisis even appears in the title of the texts: "La crise de l'esprit" ("The Spiritual Crisis"), a small collection of two letters and one note ("L'Européen") from 1919 by Paul Valéry¹ and *Die Krisis der europäischen Wissenschaften und die transzendente*

¹ P. Valéry, "La crise de l'esprit" (*Essais quasi politiques*), in : *Œuvres*, T. I, Paris: La Pléiade, 1957, p. 988-1014).

Phänomenologie (The Crisis of European Sciences and Transcendental Phenomenology) by Edmund Husserl from 1935/36.² Both Valéry and Husserl share the conviction that there must have been something in the European spirit, which had enabled it to go so far in the exploration of the world. For their respective contexts, both identify a kind of decline and illness of the European spirit, which they also try to explain.

The next two texts are much younger. They share a perception of a state of uncertainty in which the European continent finds itself after the fall of the “iron curtain”. The first text is a small pamphlet by Peter Sloterdijk: “Falls Europa erwacht” (“In case Europa awakes”) dating from 1994.³ Here, Sloterdijk proposes –as the subtitle says– some “thoughts about the program of a world power at the end of the age of its political absence”. Sloterdijk sees Europe’s essential characteristic as a “mechanism of imperial transfer” (“Mechanismus der Reichsübertragung”)⁴ that has driven European history since the fall of the Roman Empire. According to Sloterdijk, the decisive question for future European politics in the post-bipolar world order is whether Europe will be capable of creating a new political form beyond that of the empire.⁵ Evidently borrowing a concept from Nietzsche, Sloterdijk sees Europe as a continent with far-reaching aspirations after forty years of historical “absence” that would grant itself the right to make “big politics”⁶.

Curiously, the other text in this pair has almost the same title as Sloterdijk’s pamphlet: “Quand l’Europe s’éveilleira” (“When Europa Wakes Up”) by the French author Laurent Cohen-Tanugi, published in 2011.⁷ But, instead of Sloterdijk’s rather speculative standpoint on history, Cohen-Tanugi deals more with concrete facts and political interpretations of the actual situation und future perspectives for the European Union.

The third pair of books brings together a collection of literary impressions from seven European countries written by the German poet Hans Magnus Enzensberger and a collection of small political writings by Jürgen Habermas. This pair differs from the other two because, in this case, the title of the second book refers explicitly to the title of the first one. With a subtle use of punctuation marks that seems almost deconstructive, Habermas transforms Enzensberger’s optimistic exclamation “Ach Europa!”⁸ (with an exclamation

² E. Husserl, *Die Krisis der europäischen Wissenschaften und die transzendente Phänomenologie*, Husserliana VI, The Hague: Nijhof, 1976.

³ P. Sloterdijk, *Falls Europa erwacht. Gedanken zum Programm einer Weltmacht am Ende des Zeitalters ihrer politischen Absence*, Frankfurt a.M.: Suhrkamp, 1994.

⁴ Sloterdijk, *Falls Europa erwacht*, p. 34.

⁵ Sloterdijk, *Falls Europa erwacht*, p. 50.

⁶ See M. Wirtz, „Der Begriff der großen Politik bei Nietzsche. Reflexionen zur Globalisierung des Übermenschen“, in *Internationale Zeitschrift für Philosophie*, 1 (2004), p. 43-60.

⁷ L. Cohen-Tanugi, *Quand l’Europe s’éveilleira*, Paris: Grasset, 2011.

⁸ H. M. Enzensberger, *Ach Europa! Wahrnehmungen aus sieben Ländern*, Frankfurt a.M.: Suhrkamp, 1989.

mark) into the frustrated or pitiful sigh “Ach, Europa”⁹ (with a comma). It is especially the article “European politics in a dead-end. Pleading for a politics of gradual integration”¹⁰ in this collection that interests me here.

Finally, a treatise by Jacques Derrida called “The Other Cape” (“L’autre cap”)¹¹ from 1991 should be mentioned here as another relatively recent text that philosophically deals with the question of Europe’s future. Starting from the root word *cape* (from the Latin word *caput* = head), Derrida develops some fascinating familiarities between concepts and ideas: the geographical cape that Europe represents; the “captain” who represents the phallogocentric tendency in European history; the capital as the missing center of Europe, but also as the base of the European economic system that has to be re-thought after the collapse of communism; or, the capital duty of Europeans to assume the responsibility for their own history, opening themselves at the same time for the “other of the cape”, as Derrida says.

While the future of Europe in a globalized world appears necessarily uncertain and nebulous in the writings of Derrida and Sloterdijk, we might now – twenty years later – see this a bit more precisely as the threat of a growing marginalization of the European “cape”.

It is generally acknowledged that the twenty-first century will be (or might already be) more Asian and Pacific than European and Atlantic. Geopolitically, Europe finds itself in a marginalized position: dominant influences that will probably characterize world civilization during the next decades no longer seem to emanate from the European continent. The signs of Europe’s marginalization are multiple. They include internal political and economic problems as well as external indications. When it comes to the political constitution of the European Union (which is of course not identical to the European continent as a whole), it must be acknowledged that the constitutional process has been paralyzed since the negative outcome of the popular votes in France and the Netherlands in 2005. The Lisbon Treaty, finally ratified in December 2009, includes some of the institutional reforms initially intended in the constitutional treaty, but it obviously cannot compensate for the deficit in legitimacy that the EU as a political unit of 27 member states suffers from. The conviction of the founders of the common currency, the Euro, that a stronger political union would necessarily follow the currency union has not been

⁹ J. Habermas, *Ach, Europa. Kleine Politische Schriften XI*, Frankfurt a.M.: Suhrkamp, 2008.

¹⁰ J. Habermas, „Europapolitik in der Sackgasse. Plädoyer für eine Politik der abgestuften Integration“, in : Habermas 2008, p. 96-127.

¹¹ J. Derrida: *L’autre cap*, suivi de *La démocratie ajournée*, Paris: Éditions de Minuit, 1991.

verified by reality. Instead of closer cooperation in financial and economic questions, the EU member states have continued their very different national economic politics until the crisis of the Euro in 2010 made clear that a common currency is not quite compatible with opposing tendencies in European economies. The disturbing fact that –if we trust the opinion polls– a large majority of the German people could imagine going back to the good old “Deutsche Mark” shows that a common European currency did not effectively help to create something along the lines of a collective European identity. The danger of an erosion of solidarity between the nations of Europe following the Euro crisis has not yet disappeared; rather, this danger has been reinforced by the enduring lack of a European public comparable to that of the national publics. The absence of real political discourse on the European level that could supersede national debates is surely one of the reasons why the constitutional project failed after the expansion of the European Union to the East in 2004; but, paradoxically, exactly this European constitution which has been rejected in two important popular votes could have actually contributed to the creation of a European political discourse.¹²

It seems that the aforementioned problems – especially the lack of a European political public and harmonious economic and financial policies in the European Union – will still take a very, very long time to solve. But, time is just something that Europe really doesn't have! The breath-taking economic growth of China, as well as that of emerging countries like India and Brazil, and the fragilized position of the United States as the last super power will not allow European countries to continue to engage in egocentric behaviors and delaying tactics. If the European continent wants to play an important role in future global politics, which will certainly be dominated by the USA, China, Russia, India and other “continental” nations, it has no other choice than to move much more quickly to a closer form of cooperation, and even unification, of its national political publics. The only alternative to this is the long-term marginalization of the European continent – and indeed European civilization –, which will represent less than 5 or 6 % of the world population by the middle of this century. And, even if Europe might still be a prospering world region in an economic sense, it will not have a strong influence on the geopolitical level.

What we can observe at the moment is a fatal interdependence between an internal marginalization of the European topic in national political debates and an external marginalization of the European continent as a political unity. (The climate summit in Copenhagen in December 2009 was a very good example of European weakness in international negotiations). While the external marginalization is growing at an ever-faster rate, the internal marginalization of Europe is not a completely new phenomenon.

¹² See M. Wirtz: „Der lange Weg nach EUtopia. Zwei grundsätzliche Aporien europäischer Identitätsbildung und ihre mögliche Auflösung“ in: H. Heit (ed.) *Die Werte Europas. Verfassungspatriotismus und Wertegemeinschaft in der EU?* Münster: LIT, 2005, p. 231-242.

As the construction of the European Union from the 1950s up to now has always been a matter more of governments and administrations than of political movements or civil society, the European subject has never really gained a privileged place in the political consciousness of European citizens. “Europe”, too often identified with the abstract bureaucracy of Brussels, seems to evoke feelings of rejection and skepticism rather than affirmation and political passion.

III

But, one might say that these two forms of Europe’s marginalization should neither be avoided, nor bemoaned. The fact that European affairs are not discussed in the same way as national affairs is simply due to the fact that there is no collective European identity. It is exactly this kind of argument that has also been put forward in public discussions about the European constitution. The crucial question here is: Does a constitution necessarily presuppose the collective identity of a nation (as argued, for example, by Dieter Grimm) or, on the contrary, does the collective identity of a nation presuppose a constitution (as argued by Jürgen Habermas)?¹³

The problem of whether something like a collective European identity exists (or not) was broadly discussed in the fields of sociology, political science, legal theory and philosophy during the 1990s.¹⁴ Personally, I agree with the principal argument of Habermas that a national identity is not something natural, but rather the result of communicative processes of mutual understanding among citizens guaranteed by a constitution and a political public. As the creation of modern European nations went hand-in-hand with the creation of political constitutions and public spaces, there is no reason why the creation of a European constitution and a European political public should not contribute to a collective European identity. It is wrong to believe that there are “natural” national entities or “peoples” independent of constitutions and medial spaces. On the contrary, these two elements are necessary for the stabilization of collective identities. And the European problem is that exactly these two conditions are still missing.

On the other hand, one could argue that Europe’s marginalization in external world politics is only a logical consequence of a very European principle, namely that of the liberty and equality of all human beings. Of course, ever since the proclamation of this principle during the Enlightenment and the French Revolution, European politics has not

¹³ J. Habermas: „Braucht Europa eine Verfassung? Eine Bemerkung zu Dieter Grimm“ in *Die Einbeziehung des Anderen. Studien zur politischen Theorie*, Frankfurt a.M.: Suhrkamp, 1996, p. 185-191.

¹⁴ See C. Wiesner: „Die Identität Europas und die Balance zwischen partikularen und universalen Werten“ in ed. Heit 2005, p. 204-214.

at all respected these universal principles of liberty and equality. The history of European colonialism and imperialism in the 19th and 20th centuries is based on an unsolvable contradiction between the values of liberty and equality on the one hand and hegemonic politics on the other hand that often destroys the *otherness* of other cultures. The age of colonialism and imperialism corresponded with a historical moment in which Europe was not marginalized at all, but rather, as Hegel described it, the powerful center of the world.¹⁵ But, at the same time, this center was never unified in and of itself. It was in fact comprised of differences, contradictions and antagonisms between leading European nations who found themselves in a perpetual struggle for power and influence. The whole history of imperialism can be understood as an extrapolation of internal conflicts between European nations and within European nations. But, during the age of European domination of the world, there was yet another European contradiction that was felt and expressed by European intellectuals such as Paul Valéry –namely, the contradiction between the marginalized geophysical position of the small European continent (a *cape* or an *appendix* of the Asian continent) and its political, scientific and technological dominance. The perception of this disparity between the physical size and the political and cultural power of Europe could even reinforce this feeling of European superiority over other peoples.

In his 1990 discourse “L’autre cap”, Derrida has re-interpreted some of Valéry’s thoughts concerning the destiny of Europe. It is interesting that Valéry, as Derrida extrapolates, considers the essence of Europe as being just a “small cape of the Asian continent” (“un petit cap du continent asiatique”¹⁶), while its appearance or its existence consists in being “the precious part of the terrestrial universe, the pearl of the sphere, the brain of a large body”.¹⁷ And the main question (“cette question capitale”) that Valéry asks is: “Will Europe retain its predominance in all domains?”¹⁸

A few decades after Valéry’s question, we are in the privileged position of being able to give a very clear answer: No! The gap between the appearance of Europe and its reality is diminishing more and more. But, one might provocatively pose the question: Is this really so bad? Couldn’t it be that, in some sense, Europe’s marginalization in world politics is not a problem, but rather the solution for the threefold contradiction that I mentioned before?

Let me explain this. No rational person wants a politically dominant, hegemonic or imperialistic Europe anymore. I would even say that, if we think consequentially, in a political world based on the values of liberty and equality for all human beings, Europe

¹⁵ See Sloterdijk, *Falls Europa erwacht*.

¹⁶ P. Valéry, “La crise de l’esprit”, p. 995.

¹⁷ P. Valéry, “La crise de l’esprit”, p. 995 (Translated by M. W.).

¹⁸ P. Valéry, “La crise de l’esprit”, p. 995 (Translated by M. W.).

should be marginalized. Let me illustrate this –perhaps surprising– conclusion with a little thought experiment (which goes exactly in the inverse direction of the fundamental theorem that Paul Valéry used to explain his “capital question”¹⁹):

Imagine that in the year 2111, human rights are finally guaranteed and respected for every world citizen (first presupposition). At the same time, there are elements of direct democracy (let’s say, via the world wide web) that allow all world citizens to vote for their representatives in a world parliament or even to collectively make decisions about questions of universal terrestrial relevance (I am not saying that there would be no regional, national or continental parliaments any more, but I postulate the existence of a world-wide democracy as the second presupposition). Finally, the economic behaviors of world citizens are regulated by the principle that every world citizen has the same limited right to pollute the earth (I cannot treat the technical problems of such a regulation here, I simply ask you to accept it as the third presupposition). So, if we consider the three presuppositions together, what would be the position of European citizens in that world of 2100? As they have the same rights to pollute the environment as Asian or African people or anyone else, the differences in welfare and standard of living between different world regions would certainly be much smaller than they are now. And, as every world citizen has one vote in all world elections, the geopolitical influence of every region would depend primarily on the number of its citizens –which corresponds to democratic standards.

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What we can learn from this thought experiment is that if global politics would take the European principles of liberty and equality really seriously, Europe would be automatically in a marginalized position. Its political influence would perfectly correspond with the relatively small number of its citizens, and there would no longer be any contradiction between the hegemonic politics of a particular world region and universal values.

IV

The problem is that we don’t live in the ideal world of this thought experiment, but rather we live in a political situation in which the most important questions of humanity (a fair distribution of essential goods, sustainable development, control of proliferation of arms of mass destruction and so on), are neither determined by supranational institutions (such as a World Parliament), nor by direct democratic decisions (via the Internet, for example). Instead, powerful national states and private organizations (profit-oriented companies as well as non-profit, non-governmental organizations) deal with problems that are mostly too small for national states and too important for individual organizations

¹⁹ P. Valéry, “La crise de l’esprit”, p. 995f.

with their own private interests. So, what is missing on the global level of world politics – effective public institutions and more democratic participation – is exactly what is missing on the level of European politics.

It is from this point of view that the threat of a marginalization of the European subject within Europe becomes so dangerous in the contemporary situation. As Habermas has pointed out in several articles,²⁰ continental regimes like the European Union could constitute an intermediary sphere between the regional/national level and the global dimension of politics. And, as the EU is, at the moment, the oldest and most successful example of such a continental regime, the step-by-step unification of European national states (however with an uncertain finality) into “Europe” could be (and has already been) an example for other continental co-operations in Asia, Africa and South America. Consequently, the defeat of the European project would not only marginalize small European nations in future world politics, but also other world regions consisting of relatively small nations. So, if one defends a system of multipolar global politics that is not just dominated by a few continental nations such as the USA, China, India or Russia, one must also defend continental regimes like the European Union. In an ideal situation of world politics, Europe’s marginalization would not be a problem anymore because there would be more direct democratic participation for all world citizens and more supranational institutions preventing the domination of singular national states and profit-oriented organizations like big companies or banks. Not only would Europe be marginalized, but also the United States, China, India, Russia, etc. But, given the long path before us to reach this ideal situation, Europe’s marginalization represents a major danger: that the whole idea behind the European project fails and consequently the failure of the first attempt in history of creating a supranational organization that does not simply replace its members, but transcends them into to a new public space, serves as justification to abandon all efforts to establish more democratic and representative institutions. If we don’t manage to become *European*, how can we ever manage to become *Planetarian*?

²⁰ See, for instance, the articles collected in Habermas’ *Ach, Europa*.

The Ideal (of) Democracy: Multitude and Multiplicity in Spinoza's Political Ontology

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0 Introduction

In spite of the clear fact that the variety in political systems has substantially decreased over the past centuries, up to a point where most states at least pretend to be of the same kind, the issue of political organization continues to divide philosophers. This is not because of the problems political practice faces today in implementing or refining the ideal of democracy, as this would not preclude that the resolution of these difficulties is eventually up to the praxis of politics.¹ It is rather because of the recognition that the ideal of democracy does not have a clear unity. Many thinkers have attacked the currently prevalent notion of democracy because they insist that its alliance with other political ideas, such as liberalism or capitalism, is deeply disingenuous.² An interesting way to challenge these alliances is that of going back in the history of democratic thought and examining how major proponents of it can be used to construct alternatives to contemporary theories and practices. One figure who has proven to be exceptionally valuable in this project is Spinoza.

Spinoza's value in this discussion derives from two features of his thought. First and foremost is his complex and ambiguous position towards democracy. Whereas the *Theologico-Political Treatise* (TTP), the only major work of his to be published during his lifetime, albeit anonymously, seems to endorse values we would call liberal, his later, unfinished work on political theory, the *Political Treatise*, shows considerable reservations to the passions of the masses. This ambiguity is perhaps unresolved within Spinoza's work because the *Political Treatise* (TP) breaks off after the initial paragraphs of the chapter(s?) on democracy, the best form of dominion. In a way, Spinoza's death left his latest attempt at reconceiving democracy unfinished and offers an opportunity for others to set off where he stopped.

¹ Hannah Arendt does in fact seem to believe that political philosophy is largely rendered oblivious by the praxis of democratic citizens (H. Arendt, *The Human Condition* (2nd ed.), Chicago: Chicago University Press, 1998, p. 5).

² Cf. N. Bobbio, *Liberalism and Democracy*, London: Verso, 1990; C. Mouffe, *The Democratic Paradox*, London: Verso, 2005.

The other major reason why Spinoza is so popular among continental political philosophers is that he combines a very elaborate metaphysical system with a clear and equally thought-through political message. This invites readers to relate both theories to each other and engage in what we would now call "political ontology". This opens new ways of interpreting Spinoza's political theory that are not as easily obscured by our preconceived notions of politics. In particular, it may serve as the key to (re-)constructing Spinoza's last considered view on democracy.³

In this paper, I take up these two threads by starting off with an examination of Spinoza's political ontology. I will do this by indicating how Spinoza can be taken to tackle with the difficulty of the ontological status of political entities running through Western political theory (Section I). An investigation of his version of the social contract theory in light of the question concerning political ontology will then reveal that Spinoza may have drawn heavily on his epistemological views to inform his political ontology (Section II). This allows us to draw up Spinoza's classification of political systems according to his classification of forms of knowledge and to transpose the resolution of the difficulties faced by the lower forms of knowledge in the higher to the overcoming of the antinomies faced by lower forms of dominion in the higher (Sections III, IV and V). In particular, it allows us to distinguish between three forms of democracy in Spinoza, the third of which represents the ideal form.

1 Political ontology

The very idea of "political ontology" may seem strange to some, since we generally conceive of ontology and political theory as relatively far removed in the classification of philosophical sub-disciplines. Although contemporary philosophers are generally skeptical towards the idea of classification, they usually allow for it in the notion of a sub-discipline, even if it were only so that they could purport to be able to make advances in one terrain without pretending to have any outstanding qualifications in others. It is ironical, therefore, that the philosopher to whom we owe most of our practice of sub-division, as well as the names of several paradigmatic subdivisions, felt quite insecure in indicating the precise domain of political philosophy.

Aristotle, indeed, regarded political philosophy as the master art, meaning that it is the most inclusive art.⁴ This immediately raises a problem, because it suggests that

³ E.g. A. Negri, "Reliqua desiderantur: a conjecture for a definition of the concept of democracy in the final Spinoza", in: A. Negri, *Subversive Spinoza: (un)contemporary variations*. T.S. Murphy (ed.) Manchester: Manchester University press, 2004, p. 28-58.

⁴ *Nicomachean Ethics* 1094a.

political science has as its object all the objects of the sciences included in it.⁵ In the *Politics*, Aristotle refines this suggestion from the *Nicomachean Ethics* by establishing that the object of political science is the polis, the state, which is the highest of all possible communities, and is therefore inclusive of the goods of the latter.⁶ This grants a great deal more plausibility to political science's claim to be both a science with an object of its own and the most inclusive of all sciences. Indeed, an adequate government should put to use all other sciences in order to allow the state to live up to its potential. In proposing this solution, however, Aristotle uncovered another, deeper difficulty by raising the unsettling question concerning the ontological status of the state.

Aristotle is not oblivious to this issue, and answers it quite elegantly. He refuses to acknowledge that a state is a queer entity and sees it as the endpoint of a natural tendency in man to associate into communities of different sorts.⁷ Unfortunately, this issue seems to subsume the state unproblematically under a class of entities like families, beehives and anthills. The difference, then, can be found in the fact that the state is a kind of second-order community, which structures otherwise loose associations of communities. The ways of structuring them are derived from the various kinds of friendship that are formative of natural communities, and can even be considered sublimations of the latter.⁸ These sublimations are called constitutions, the ways in which the state is structured and in which it governs itself. To Aristotle, the major prerequisite of the state is unanimity, acquired through the constitution's respecting the proportions of the powers of the elements of the state (justice). The ultimate goal of political science, therefore, is establishing the best way to insure the stability of the state.

The practical upshot of this operation, which is formative of Western political thought, is that all political science is, to a greater or lesser extent, directed at stability. Even revolutionary practices have mainly intended to obviate the need for revolution by installing the required proportionality⁹. The theoretical upshot, however, is that political philosophy becomes the reflection on the relation between the state as a structure and the state as an entity. This issue is far from an intellectual *Spielerei*: one's answer to it defines one's idea of justice and of political practice. Machiavellian and Hobbesian politics, for instance, are built around the central premise that there is a radical gap between the state and its structuring capacities on the one hand and the relations and associations it

⁵ *Nicomachean Ethics* 1094b.

⁶ *Politics* 1252a.

⁷ *Politics* 1254a.

⁸ *Nicomachean Ethics* 1161a-1161b.

⁹ Nowhere is this more apparent than in the Marxist concept of the permanent revolution. In spite of what its name might suggest, it simply means continuing the revolution until "all the more or less propertied classes have been driven from their ruling positions" (*Marx-Engels Werke*, Berlin: Dietz, 1956-1990, Bd.7, esp. 247-248) As long as this is not completed, class antagonisms will remain or even be exacerbated instead of abolished. It is thus apparent that the permanent revolution is the idea to continue this one revolution until all further need for revolution has been dispelled.

structures on the other. For Machiavelli, this implies that political practice cannot be judged by morality, which has its legitimate domain in human relations. For Hobbes, it means that the very idea of a human relation outside of a state is a questionable concept. He remains in doubt, however, as to whether the state is an individual composed of parts in any physical sense or a rational operation silencing the vicissitudes of human nature¹⁰.

In sum, the entire tradition of Western political philosophy can be said to be primarily oriented towards the issue of the ontological status of the state. Nowhere, however, is the fact that this issue remains unresolved and continues to form the organizing tension of political practice as well as theory, as palpable as in Spinoza's political philosophy. Admittedly, this tension may be due to his desire to integrate Hobbes's brilliant appropriation of the natural law-doctrine with Aristotle's naturalism. The reason, however, why he regards this unification as necessary, is that he acknowledges that neither theory is free from this tension, and that every adequate political theory must deal with this issue openly. It is this uncovering of the political paradox that informs Spinoza's account of democracy.

2 The multitude matters

The problem of political ontology, the fundamental tension between the state as a structure and the state as a totality of human relations, reveals itself to Spinoza as the tension between naturalism and contractarianism. A properly naturalist theory of politics postulates a continuity between the natural relations in the state of nature and the juridically regulated relations in society, whereas a contractarian theory describes the origin of the state as a radical rupture with the state of nature. Spinoza's simultaneous endorsement of both theories, then, is not a mark of irresolution or an uncritical concurrence of opposed influences, but a deliberate choice for the overt treatment of the fundamental tension of political ontology. In allowing an opposition to operate at the heart of political philosophy, he is faced by the challenge of conceptualizing both opposites and their mutual relations.

Spinoza's theory of natural right is amazingly simple: it consists mainly in an equation of natural right with the law of nature¹¹. As a thoroughgoing determinist, he advances that, in the state of nature, each has as much right as he has power. It is important to note two things here. On the one hand, Spinoza distinguishes the power inherent in each thing insofar as it is a natural entity (*potentia*) from political power

¹⁰ This latter tendency in Hobbes has been famously identified by Leo Strauss: L. Strauss, *The Political Philosophy of Hobbes: Its Basis and its Genesis*, Oxford: Oxford University Press, 1936, esp. p. 13.

¹¹ TP II, 3.

(*potestas*).¹² As a result, the patterns of domination and association in the state of nature are radically individual and occasional¹³. On the other hand, the power here is not merely effective action, but also the way in which one can move another to behavior that is in accordance with one's striving for self-preservation¹⁴. Thus, Nietzsche could not be further from an adequate understanding of Spinoza's analysis of power as when he quips that the statement "*unusquisque tantum juris habet, quantum potentia valet*" (each has as much right as he has power) should be replaced by "*unusquisque tantum juris habet, quantum potentia valere creditur*" (each has as much right as he is believed to have power)¹⁵. In fact, our power includes our capacity to make others believe (rightly or not) that we have a certain amount of power in a more direct sense.

These remarks lead to two important conclusions about the nature of human association in the state of nature. First and foremost, they mean that humans are to be considered as always already involved in substantial associations that are more than mere herds or families. These associations are very unstable, because they are immediately constituted by the passions. Nonetheless, their instability is not ontological: the disruption is only possible if there is a breach in proportionality, if the powers of the constituents are not adequately reflected in the structure. In the state of nature, however, these two poles are identical: might is right. Thus, even though associations may be unstable, the totality of associations is not: the ontological factum of association is eternal.

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This naturalism is joined to a contractarian theory stipulating how the various constituents of the state transfer their powers to a sole authority, who from then on rules through Power (*potestas*) over his subjects¹⁶. In Hobbes's infamous version of this theory, individuals have no actual right to limit the powers of the state, since they have surrendered all of their rights to the supreme authority in order to render the stability of the state possible¹⁷. Indeed, the state demands unity and obedience, because the private right of individuals can always be a source of its disintegration¹⁸. Thus, the stability of the state rests on the monopoly on power exercised by authority in order to bar the eternal possibility of the dissolution into the state of nature.

¹² This distinction has been mainly brought to the fore of research on Spinoza's political theory by Antonio Negri (A. Negri, *The Savage Anomaly: The Power of Spinoza's Metaphysics and Politics*, Minneapolis: University of Minnesota Press, 1991).

¹³ For this reason, Alexandre Matheron defines it as a state of fluctuating interdependence (A. Matheron, *Individu et Communauté chez Spinoza*, Paris: Minuit, 1969, p. 305).

¹⁴ TP II, 9-10.

¹⁵ MA, KSA II, 91, emphasis added.

¹⁶ TTP XVI.

¹⁷ *The English Works of Thomas Hobbes*, B. Molesworth (ed.), Darmstadt: Scientia Verlag Aalen, 1966, vol. 3, p. 157-158.

¹⁸ TP III, 3.

Through this process, the horizontal dynamics of the natural state is reorganized into a vertical subsumption of the civil state under a particular dominion¹⁹. This process of subsumption is the juridical order, i.e., the representation of the proportions of the powers of the state in the dominion. In order for this proportionality to count, the power of the state's constituents is translated into their public import, the *res publicae*, whereas the public character of man is structured by the power of the dominion. Thus, the two kinds of power are indexed into each other by means of justice. Nonetheless, they both derive from the power of the natural form of the community, the multitude, which is best conceived of as the civil state in abstraction from the structure exacted upon it by the dominion. In this way, the barred possibility is not only the constitutive negation of the state, as Agamben²⁰ would have it, but also its constitutive affirmation: pre-structural power articulates itself into powers (free individuals) and the limits imposed on them by juridical rule.

The negation constitutive of the state, the barring of the state of nature, however, is not as complete as it should be, for within the minds of its constituents, it retains some of its fickleness. The rule we exact over another's body can be perfect, but we can never hope to control another's mind completely. Any passion can disrupt the love or fear giving rise to his obedience at any time.²¹ In this way, the multitude retains its active power even after it has articulated itself into the vertical, reified structures of the state. This does not mean, however, that it has always a formative function for the state. On the contrary, it retains its constitutive power only as a check on the formal organization, i.e. as matter. This is best expressed by denying that the multitude *forms* and maintaining instead that it *matters*.

3 Political Epistemology

As we saw in the previous section, Spinoza conceives of the civil state as regulating the inherent multiplicity of individuality. This structure derives its political power (*potestas*) from the multitude itself, and is therefore a structure, which remains intimately linked to the capacities of those that make up the multitude. This already sets the tables for the following discussion: a dominion worth examination by the political philosopher is one that is a structure imposed by the multitude itself, and not one that is imposed from the outside.²² It is in this limitation that Spinoza shows his allegiance to the same metaphysical idea that lay behind his version of the social-contract theory from the

¹⁹ TP III, 1.

²⁰ G. Agamben, *Homo Sacer: Sovereign Power and Bare Life*. Stanford: Stanford University Press, 1998, p. 18.

²¹ TP II, 10.

²² TP V, 6.

Theological-Political Treatise, despite all other shifts that may have occurred during both books.

These are the general properties of the civil state as Spinoza pictured it at time of the Political Treatise. With this general conception of the civil state in place, he can draw up the particular forms of structure it can undergo. In the Political Treatise, Spinoza simply adopts a version of the traditional subdivision of forms of political rule: the rule by the one, monarchy, the rule by the few, aristocracy, and the rule by the many or all, democracy.²³ It is important to note, however, that the distinction between the good and the bad versions of either form has been dropped from the subdivisions used by Aristotle and by one of the great ideologists of feudal monarchical rule, Aquinas. Thus, categorizing democracy as the best of all bad dominions whilst being the worst of all good dominions is an option he radically refuses from the very onset.

This reappearance of the traditional division of forms of dominion is not, however, a shift back to the traditional judgment on their relative worth. In most treatises, democracy was considered the worst of all political forms because it is the most susceptible to dissolution and demagogy. Spinoza seems at times to share this view of democracy and its relation to violence. He seems, thus, to appreciate the aporia that led ancient and medieval scholars to adopt a double series in which democracy figures both as the worst of all good systems and the best of all bad systems. It is in response to this aporia that Spinoza reaches for his political epistemology.

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Since the civil state is a structure regulating the inherent multiplicity of the individual, its basis lies in the capacity of man to unite the disparate into an image that reflects and unites the various individualities. In other words, it grounds in man's epistemic capacity. Any proper analysis of the various dominions structuring the state should, then, follow the path of epistemology. In this way, Spinoza's political ontology points towards a political epistemology, dealing with the state as a conceptualization of the multitude.

4 The three kinds of democracy

Spinoza distinguishes three ways in which man can conceptualize. The first way is through imagination. Like any scientifically minded rationalist, Spinoza does not regard imagination, which unites knowledge from vague experience and knowledge from

²³ Balibar stresses this shift back to the traditional subdivision from one that gives central place to theocracy (E. Balibar, *Spinoza et la Politique*, Paris: Presses Universitaires de France, p. 64).

hearsay²⁴, as an adequate source of information. This seemingly mundane statement transforms into a powerful critique of traditional epistemology, since he identifies imaginative knowledge with our common way of forming concepts. The two basic mechanisms of imagination are confusion and contraction. A great variety of images, each representing the affection of our body by a state of affairs, is contracted into a single image, up to the point where the particularities are lost out of sight.²⁵

A dominion constituted through imaginative means can therefore follow two paths. On the one hand, it can impose the image of the good relative to one individual (in monarchy), or to a limited part of the individuals constituting the state (in aristocracy) on the state as a whole.²⁶ This method is a pattern of domination, which is usually exacted by means other than political power, since political power itself rests on the success of the imposition of the paradigm as hegemonic²⁷.

The stability of these kinds of states is largely dependent on their ability to stretch the model beyond its actual legitimacy, and beyond any temporary success. For this reason, Spinoza sees the problem of succession as the weakest point of monarchy: it can exact the greatest amount of homogeneity, but is drastically limited to a single individual. Kantorowicz's research in political theology revealed how medieval jurists were aware of this and formulated metaphysical, even mystical conceptions of the nature of rule in order to guarantee the continuity of dynasties and avoid the "little interregnum" that threatened to disturb juridical order during the time of succession.²⁸

On the other hand, the state can take into account a large variety or all of the conceptions of the good at work in society. In doing so, it ends up with a confused image which leads to bitter contradictions and which ultimately differs little from the state of nature. This state is of course the form of democracy so eagerly criticized by classical and medieval philosophers.

Closer analysis of Spinoza's hierarchy of dominions thus reveals that he links the traditional hierarchy with the imaginative conception of knowledge. This knowledge

²⁴ *Ethics* II, prop 40, comm 2

²⁵ *Ethics* II, prop 40, comm 1

²⁶ TP II, 17.

²⁷ For this reason, Gramsci states explicitly that "by the 'State' should be understood not only the apparatus of government, but also the "private" apparatus of "hegemony" or civil society" (Q. Hoare & G. Nowell Smith (eds.), *Selections from the Prison Notebooks of Gramsci*, New York: International Publishers, 1971, p. 261), i.e. "the entire complex of practical and theoretical activities with which the ruling class not only justifies and maintains its dominance, but manages to win the active consent of those over whom it rules" (id., p.244). The hegemony forms "the basis for the State in the narrow sense of the governmental-coercive apparatus" (Q. Hoare & G. Nowell Smith (eds.), *Selections from the Prison Notebooks of Gramsci*, p. 265).

²⁸ E. H. Kantorowicz, *The King's two Bodies: A Study in Medieval Political Theology*, Princeton: Princeton University Press, 1997, chapter 7.

makes the dichotomy between synchronous stability, i.e. the homogeneity of a society at any given moment, and diachronous stability, i.e. the sustainment of stability over time, insuperable, and forces one to either sacrifice the present to the future, or the future to the present. This realization leads him to turn to other forms of knowledge in search for an adequate form of dominion.²⁹

The second in Spinoza's much debated hierarchy of the forms of knowledge is reason. Amidst the many confusing and unclear definitions of this contact with the external, is the suggestion that it is knowledge through common notions. There is, according to Spinoza, nothing particularly mystical about these notions: each one of us possesses them fully and adequately. They express merely what it means to be conceived under a particular attribute, such as thought or extension. Thus, reason starts from knowledge of more encompassing individuals than our minds and bodies, and ideally from the most encompassing of all individuals, *Deus sive Natura*. The more encompassing individual, which serves as the basis for the conception of good and bad, the particular juridical structure, of the rational state, is the idea of humanity.

The rationalist, totalizing projections of Spinoza's metaphysics, would thus turn out to be veined by a humanist vision. This humanism, however, suffers from a serious drawback. On Spinoza's own account, there is no real good or bad. Admittedly, he sometimes speaks as though there were a true, transcendent good over and above the vain and inane aspirations of men³⁰, but as we shall see, this actually refers to a negation of the true good turned into an affirmation, a positive power. Nothing good can come from such idealism, which merely entertains elitist thoughts from a traditional standpoint *de contemptu mundi*³¹. Spinoza's is a philosophy of life, not of ascetism, despite its apparent elitist traits.³²

The idea of humanity should therefore not be conceived as having any particular essence over and above the totality of humans. This express denial of humanism's latent essentialism seems to render the very cohabitation of man, let alone cosmopolitanism, impossible. The idea of the coinciding of particular interests in a state depends on metaphysical convictions that Spinoza finds highly implausible. In this way he anticipates the criticisms of the liberal state advanced over two centuries later by Carl Schmitt.³³ Far from epitomizing the doctrine leading to the ultimate dissolution of the very idea of the

²⁹ I thus disagree with Negri's celebration of imagination in Spinoza's system and his criticism of intuitive knowledge as a regress to the mystical reverence of the bourgeois utopia.

³⁰ *Tractatus de Intellectus Emendatione* §§ 12-13.

³¹ *Ethics* III, praefatio; TP I, 1

³² G. Deleuze, *Spinoza: Philosophie Pratique*. Paris: Editions de Minuit, 1981, p.21.

³³ C. Schmitt, *Politische Theologie: Vier Kapitel zur Lehre von der Souveränität*, Berlin: Duncker & Humblot, 2009, p. 14; pp. 63-64.

state³⁴, he already sketched the path beyond the irresolution of liberal democracy through a radical theory of citizenship.

It has now become apparent that Spinoza could not have envisaged rationality and humanism as a sufficient answer to the problem of political organization. The latent mattering power of the multitude cannot be adequately barred by means of the models based on the first two forms of knowledge. This means that the state in which the powers of the constituents coincide naturally with the juridical structure remains an unrealizable ideal. This is not Spinoza's final word, however: in the face of the necessary dissolution of the utopia, he postulates the bold solution of a radical dystopia.

This dystopia is rooted in intuitive knowledge, the final and highest form of knowledge, which remains disappointingly vague in Spinoza's writings. What is clear, however, is that Spinoza does not conceive of it as a mystical insight providing a union with God. He rather sees it as the way in which the passivity and emptiness of rational knowledge can be brought to bear on an individual.³⁵ Since the minds of others are merely the ideas of their bodies, our acquiring adequate knowledge of them means assimilating their minds without abolishing the particularity of either our own mind or of the assimilated mind. Thus, the multiplicity of the state is integrated in its constituents through a process of active, learning-based citizenship. The latent instability is displaced in the very minds of men, rather than being the result of the failed negotiations between parties and other interest groups. The citizen of the future has surrendered his own homogeneity to his particularity, thus integrating and taking part in the dynamics of forces constitutive of the state.

This is not an abstract, peculiar metaphysics devoid of practical consequences. On the contrary, in tackling the issue of multiplicity through a theory of active citizenship, Spinoza formulates the basis of a plausible practice, which may serve to integrate states that are faced by a frightening lack of homogeneity. Thus, he offers one of the few philosophically informed, useful paradigms of European integration yet.

³⁴ C. Schmitt, *Der Leviathan in der Staatslehre des Thomas Hobbes. Sinn und Fehlschlag eines politischen Symbols*, Stuttgart: Klett-Cotta, 1982, 86-89.

³⁵ This follows from the combination of *Ethics V*, prop 25 and prop 27: the third kind of knowledge pertains to individual things and results in acquiescence. Although rational knowledge is a necessary ingredient for this kind of knowledge (*Ethics V*, prop 28) it is not itself capable of grounding the moral outlook.

Positionality and Normative Ought in Max Scheler's Formalism in Ethics and Non-Formal Ethics of Values

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The aim of this paper is to provide a specific key to the reading of Max Scheler's value theory in his main work: *Formalism in Ethics and Non-Formal Ethics of values* (1916), hereinafter *Formalism*, which emphasizes aspects of his paradigm normally not highlighted by reviewers. Such aspects include important and anticipatory intuitions by means of which we can clear up some problems deriving from the current debate on social ontology.

A close examination can reveal how Scheler's paradigm actually founds an epistemology¹, and not purely ethical perspective, whose implications are able to incorporate all sides of practical intentionality and rest upon very simple and elegant assumptions. Apart from theistic aspects or questions inherent to philosophical anthropology, which are embedded in the *Formalism*, the focus of the following analysis deals with the constitution of both practical consciousness and practical reality in a non-reductionist perspective. It is worth underlining that Scheler often refers to concepts such as *Seele* or *Geist*, actually meaning "mind". Pertaining to the definition of values as "priori essences" (*apriorische Wesenheiten*), we will see how they do not merely consist of a transcendent reality, but can also be considered everything but vague and indefinable notions². Moreover, the so-called emotional perception (*Fühlen*), through which value cognition occurs should not lead us to believe that Scheler's description takes no notice of the role of practical reason: there is a lack of a dedicated coverage, but in his theoretical scheme the function of the reason, both at conceptual and not conceptual level, is of crucial importance indeed. Overall, Scheler's scheme is a mine of intuitions, probably not well illustrated by the author himself. His notion of "a priori material value" seems to be the best way to explain the existence of practical objects, whose objectivity, namely the independence from individual preferences and desires, does not exclude an individual's free will among its premises.

¹ Some interesting aspects of Scheler's epistemology have been considered "long ago" by M. Dupuy in *La philosophie de Max Scheler; son évolution et son unite*, Paris: Presses Universitaires de France, 1959.

² Scheler's scheme is undoubtedly nearer to A. Meinong's theory of objects, as Scheler himself affirms in the preface of *Formalism's* second edition (1921), than to N. Hartmann's realism of values, as he affirms in the preface of the third edition (1926).

The “Is” and the “Ought”

The basis of Scheler’s elegant scheme, which is also the foundation of his famous criticism to Kantian formalism, states a very simple thesis: the assertion of an A determines a system of correlated logical validities. The same thesis can be enunciated as follows: every kind of logical consistency or validity is only given in accordance with a reference criterion: an A previously asserted. Both formulations are important because they can represent on the one hand the determination, on the other the intuition of a state of affairs. Scheler’s main object is to justify the notion of “material a priori” by appealing to the evidence that a logic-formal system is itself based on the concept “is” and that, in turn, such concept derives from an “intuition of substance” (*einer Materie der Anschauung zur Grundlage*³). But what is important here is to acquire the concept of “adequate validity”: no possible worlds, nor systems of realities (ideal or material) can be conceivable in absence of a foundation or reference to adequacy. We normally perceive and represent reality as “adequate”, a reality based on grounds of validity. The very semantic-syntactical structure of our language, through which we express our representations, wouldn’t even exist in absence of constant reference to a subject, i.e. a starting point for meaning and construction. Overall, our practical and theoretical truths consist of “adequacies”. In this document, for example, I will try to adequate the arguments of a phenomenological theory to arguments which could be considered valid within the analytical paradigm. Another important concept to acquire here is that of system: a structure hierarchically ordered on correlated validities (*Aufbau*). Scheler does not deny its logic-formal structure to any reality; he just denies that such a structure can be considered as the truth criterion or the justification upon which that specific reality determines itself. In fact a structure without implying at least a content of reference is unconceivable. So the author contests all theoretical models within which reason with its structuring function establishes a truth, particularly an ethical truth; and in so doing he sharply points out that such attempts are designed to fail, just as the claims to demonstrate the foundations of mathematics: if ethics is based on founding objective laws, these can only be intuited and demonstrated through the same system, just as it happens for every rational system, so they must be assumed and approved tout court. Here Scheler makes implicit reference to Gödelian incompleteness, which basically states that a formal system (arithmetic) cannot be proven to be consistent from within the boundaries of the system. A foundation for the system has to come from elsewhere. Similarly, according to Scheler, there are a priori principles founding our ethical-practical sphere which can only be intuited but not demonstrated: we will never be able to explain the last cause of those “values” which move and guide our intentions. So the last concept we want to take into consideration here is that relating to the approval or affirmation of a truth, regardless of its demonstrability or justification: “I

³ M. Scheler, *Der Formalismus in der Ethik und die Materiale Wertethik*, Elibron Classics 2007, p. 48

approve and affirm that A is". In our interpretation such a concept is able to represent the fulcrum of the schelerian paradigm and must be identified with that of "positionality", in its important meaning of placing or "giving position to A".

Let us briefly shift from the *is* to the *ought*. It has to be pointed out that among all authors giving formal treatment of the notion of value, Scheler is the only one who doesn't include a normative connotation in it, namely the idea that the main feature of a value doesn't consist in an ought⁴. All theoretical models, which have thus far identified the notion of value with the ought mode, intended, on the one hand to give a specific and evident definition of "value" and on the other to provide an immediate practical validity that could justify the universality and objectivity of moral deeds. On the other side, Schelerian values are not "due" (*nicht aber bestehen die Werte in einem Gesolltsein*⁵): they do not compel to act or to will, unless the representation of an ought, dictated by free will, occurs. Hence value essences do not necessarily generate normative propositions nor value judgments since they are in itself neither good, nor right; they simply "are". Such derivative relation is nonetheless "possible" inasmuch as we consider the role played by free will (*die Willkür*) between "is" and "ought". This is an extremely fascinating perspective allowing us to reinterpret the Humean Dichotomy according to which there is no derivative relation between is and ought; the possibility of such a reinterpretation is justified by the fact that we basically consider the whole experience of consciousness instead of the mere propositional representation of the practical experience: the system-mind instead of the structure-reason. Nevertheless the possibility of such a derivation concerns only one direction, i.e. from is to ought, since, as we will see, no kind of judgment itself can create sufficient conditions to value essence's determination. If we state that values can be found on "valid judgments" we fall in an infinite recursion⁶. As already mentioned, "reason", being a sum of pure logical relations, is not valid in itself. Even if we would consider the being of reason in propositions like: "reason is true" or "reason has to be", we would actually turn reason into an objectified content of reason itself, formulating a judgment which is of course valid, but self-referential in an infinite circularity. Beyond an idealistic perspective, such a self-referentiality reveals itself as empty and paralyzing at practical level: structure as objective of a structuring activity. It is exactly in this perspective and against such an inconsistent practical self-referentiality that Scheler deems the "fact" of Kantian moral law to be unjustifiable, because it expresses a sort of tautology which is very limiting compared to the complexity of practical action: "the

⁴ Such a difference emerges, for example, with reference to the value theory of R.H. Lotze (1817-1881), whose positions Scheler took into consideration in his doctoral thesis: *Beiträge zur feststellung der beziehungen zwischen den logischen und ethischen Prinzipien* (1897); to the notion of transcendental validity in W.Windelband (1848-1915) and H.Rickert (1863-1936) within the Baden school; to the idea of value in N.Hartmann (1882-1950). We should also include the ethical intuitionism of the analytical school: G.E.Moore (1873-1958).

⁵ *Der Formalismus*, p. 188

⁶ Cfr. *Der Formalismus*, p. 189: "Die Wahrheit von Sätzen besteht nicht etwa in ihrer Geltung".

universal ought is *a* universal ought". The schelerian thesis of the unobjectifiability of the act⁷, recalling Nietzsche's paradigm, implies that whatever constitutes the acting person, so also her reasoning function, cannot become object of intentions; an act doesn't exist separate from its own intentioned object. Similarly "ought", which is consequence of a pure act (an affirmation as we'll see in detail), should not exist in itself, but always needs to be anchored to "the *is* that *ought*"; it cannot be isolated both at perceiving and representational level.

As we mentioned, the final reason for our practical actions and intentions, constantly outstretched to an *ought*, is unexplainable. However we will try at least to explain the "is" upon which an "ought" is established, namely values, with the aim also to remove part of the obscurity which covers this notion. And we will do it precisely starting from the concepts of adequate validity, system, positionality: the last one includes the previous, therefore it needs a specific account.

Moreover, in the course of the analysis, some problems still unresolved within the contemporary debate on social objects can be clarified. The very recent theory of J.Searle⁸, for example, does not give an exhaustive account of the reason why there "exist" objects created by human mind which are "objective", that is: why a dollar, a cocktail party, friendship or even human rights, exist and entail their own normativity, recognized as valid by more than one individual, independently from preferences and desires? At the same time we continue to ask why such normativity is so strongly anchored to material objects and events; and why, besides a normativity, which is objective and external, such material objects are also able to suggest a normativity which is objective and internal.

The Positionality

We consider the position of an A, where A is a kind of an experienced object we intend to affirm or confirm as "something which is". Such an affirmation does not need a conceptual representation to occur. Immediate logical consequence of A will be the negation of its contrary: non(non A) and a set of truth-functional relations $X = \{R_1(A), R_2(A), \dots, R_n(A), \dots\}$ such that $R_i(A)$ is a positive adequacy and $R_i(\text{non}A)$ is a negative adequacy. On a purely practical level the affirmation of A determines positive and negative validities in view to affirm A. This is a sort of self-determining semantic tree, also representing an infinite system, namely a system with potentially infinite correlating

⁷ Cfr. *Der Formalismus*, p. 69: "Akte selbst koennen hierbei nie und in keine sinne gegenstaendlich werden, da ihr Sein allein im vollzuge beruht".

⁸ J. R. Searle, *Making the Social World*, Oxford: UP, 2010.

terms, which in turn is closed, relying on an intrinsic rationality. So we define such a scheme as the representation of an intrinsic validity:

$$A \vdash \text{non}(\text{non } A) \text{ and } X = \{R_1(A), R_2(A), \dots, R_n(A), \dots\}.$$

In Scheler's scheme such positive and negative validities can be identified with the so-called objective essences of value and disvalue, which in their self-determination constitute objectivities, independent from contingent preferences. Such validities stand out from reality, and the necessity they express is not deontological, but logical. Value essences gather around different hierarchical structures (*kleine "Hierarchie" von Werten*) which are further systems of validities adequate to relating founding terms. Each of these hierarchical structure is an essence on its own, containing terms in a consequent relation among themselves (*Folgeverhältnis*)⁹. They all converge to one founding absolute hierarchy whose term of adequacy, as we will explain further, is the unobjectifiable value of "the person". Such unobjectifiability is expressed through the so-called values of the sacrum, the higher and therefore founding values before sensitive values, vital values and spiritual values. Returning to the notion of value essence, it is worth pointing out that the same schelerian description leads us to affirm that we are dealing with a unit of "meaning" (*Bedeutung*), which distinguish itself from ideal mathematical meanings only in as far as it's anchored to material objects (*Träger dieser Bedeutung*)¹⁰, i.e. a value essence can be known only on material basis. In fact, an essence expresses the self-determining logic of a material state of affairs: if I give assent to my well-being, I will probably give assent to a holiday, a massage room, a relaxing party; If I confirm my perception that in giving birth to a baby I generate a life from "my" life, then I will horrify in knowing that there are mothers abandoning their children, I will consequently take care of "my" baby, pay attention to the usefulness of a nappy, perceive the existence of perils and needs I didn't know before, and so on. Overall in each of the infinite value essence possibilities, we perceive material reality around us as more or less "true" or adequate to something, which "is" (my baby). Therefore the possibility of being values and is reflected by material objects and state of affairs, whose "status" is also a placeholder of specific validities, in a continuous alternation within which, in principle, every intrinsic validity is a possible value and all kind of materiality is a potential value bearer, or "good". Nevertheless, as Scheler's scheme suggests, we must distinguish between the experience of an intrinsic validity, the objectified representation of a value and the position of a value. During the experience of a value (the motherhood in giving birth to a baby), which occurs in an emotional perception

⁹ Cfr. *Der Formalismus*, p. 92-93: "Ich sage, dass der Wert von der Art B den Wert von der Art A fundiere, wenn ein bestimmter einzelner Wert A nur gegeben sein kann, sofern irgendein bestimmter Wert B bereits gegeben ist; und dies wesensgesetzlich! Dann ist aber der jeweilig fundierende Wert, d.h. hier der Wert B, auch jeweilig der höhere Wert".

¹⁰ Cfr also *Der Formalismus*, p. 166: "Gegenüber der Sphäre der Nur-Bedeutungen sind sie sittlichen Tatsachen Tatsachen der materialen Anschauung".

(*Fühlen*), we perceive at non-conceptual level an eidetic presentation of the intrinsic validity scheme, where things that are truer “come forth” while all the rest of reality “stays back”. Such an emotional perception of a value can also occur within an imaginative intention (*vorgestellten Werte*), namely in absence of concrete bearers. The representation of an intrinsic validity as a value V ¹¹ signifies that this is “mereologically” caught in its meaning through a reflective and objectifying act (the motherhood as a never experienced truth). Such value V is defined on the ground of an adequate system which in turn contains it; at the same time the represented affirmation of V entails its own intrinsic validity. So we have:

$$V \vdash \text{non}(\text{non } V) \text{ and } Y = \{R_1(V), R_2(V), \dots, R_n(V), \dots\},$$

such that $R_i(V)$ is a secondary value (*Konsequativwert*) and $R_i(\text{non}V)$ is a secondary disvalue. The representation of a value also occurs thanks to (not by means of) a specific class of intentional acts, which Scheler names “preferring and postponing”. However it’s the position of a founding value (the motherhood orients the whole of my practical intentions and deeds), namely the affirmation of its being and the “necessity for it to be” in the future as well, that defines the validity of whatever kind of structured system of values and determines both the experience and the representation of an ought (*Sollen*). Such position of a value coincides with the crucial moment within which *is* and *ought* are identified through an act of free will, so that a truth also becomes an end. Hence, in virtue of the affirmation of V , each secondary value $R_i(V)$ will be both a good and a positive ought, while each secondary disvalue $R_i(\text{non}V)$ will be a bad or a negative ought. We define the position of a value (or a disvalue) as the conscious or unconscious affirmation of its ought to be. In Scheler’s scheme in fact, such a position corresponds to an assent at the non-conceptual level (that Scheler again names “preference”: *Vorzug*), or a recognition at the conceptual level (*Anerkennung*), which determine the respective fields of practical intentionality: the conation towards a goal and the will towards a purpose. So both conations and purposes are actually an ought, respectively at non-conceptual and conceptual level. At the conceptual level the recognition of V will also concern, on the one hand the experience of an interior ought, which binds the will to the affirmation of V (*Pflicht*); on the other the experience and the representation of an ideal normative ought (*ideale Sollen*), an “ideally” universal normativity that is oriented to the practical realization of V itself (*Norm*) and can entail the determination of a further system of validities, whose terms are “positioned” as emergent objects in order to realize V . Such terms consist of normative objects which are at the same time instrumental values (*Werkzeugswert*):

$$Z = \{P_1(V), P_2(V), \dots, P_n(V), \dots\},$$

¹¹ The representation of constitutive rules of reality, as described by Scheler is nearer to Aristotle’s theory of essences, than to Husserl’s the phenomenology of transcendental essences.

such that $P_i(V)$ is a positive normative ought, $P_i(\text{non}V)$ is a negative normative ought and $[\text{non } P_i(V)]$ is also a negative normative ought on the basis of responsibility. In Scheler's scheme the three moments of experience, representation and position of a value do not necessarily coincide: we can perceive a value without representing or positioning it (so without further extending it into the future); we can represent a value "not due", so not positioned; we can position a value without representing it or maybe only by representing the relating ought ("I feel guilty but I don't know why"). All these dynamics, whose details cannot be described here, derive from a reciprocal interaction between the non-conceptual and conceptual scenarios and their respective positions. Each of our positions determines validities, which consist of objective intrinsic rationalities (many small natural deduction systems), which literally "program" our mind and every single portion of our practical life. Nevertheless, it is the free will that "predisposes" such positions, giving birth to a complex tissue within which whatever corresponds to a goal or a purpose, does not only upon a previous positionality but constitutes a new potential positionality itself. At the non-conceptual level the systems of preferences (*Systeme Vorzugsregeln*) and their conations rely on a founding order (*Vorzugsordnung*) that in turn determines one sole system of non conceptual intentionalities (*das System unserer Strebungen*): all this corresponds to the internal disposition of consciousness to practical intentions (*Gesinnung*), which can change from individual to individual and over during the time. On the other hand, at the conceptual level we possess different value structures all converging in one sole "axiological structure" on the basis of which we realize our purposes (*Wertverhalten und in ihnen gegründeten Sachverhalten*). The perfect harmony of our practical intentionalities can only derive from the "reciprocal adequacy" between our validity structures (*die passen aufeinander*). Similarly the perfect evidence of a value (*verschiedensten Graden der Adäquation bis zur Selbstgegebenheit –mit der absolute Evidenz*¹²) refers to the convergence between the validity terms of our conceptual and non-conceptual consciousness, or rather to the coincidence between experience, representation and position of that specific intrinsic validity. During such an adequate experience of a value, we feel as though "we have always known it" (*immer schon erschaut*), eventually feeling like "we are in the right place": we actually experience an intrinsic validity whose paradigmatic basis we have already unconsciously approved (*ein tiefer liegendes Prinzip*). In doing so we assume exactly the position complying with that paradigm of validities, orienting our practical horizon, even if just for one moment¹³; the experience of a value is a mental state. Such a kind of experience (the more it concerns our founding positionalities, the stronger it gets) does not entail any obligation (*Pflichtsollen*), since there is no representation of an ought as opposing to contrary conations. On representational ground, this value evidence corresponds to the truth of a value and, consequently, to its "authority": whatever "is" or is "true" possesses a specific authority on

¹² *Der Formalismus*, p 65

¹³ Cfr. *Der Formalismus*, p 115 : "eine Gesinnung kann auch nur einen Augenblick wahren".

the rest of reality we perceive and represent, exactly because what obtains in relation to it is more true than other things. If our doctor's diagnosis lets us know that we hallucinate at all levels, our sensorial experiences will be basically inadequate since they do not correspond to our representation of truth. So we affirm that exactly as there are external authorities, there are also-internal authorities: values. Moreover, it is worth underlining that the positionality, namely the affirmation of something which is and ought to be, rests on a fundamental "trust" towards what we are able to perceive and affirm; in Scheler's description this coincides with a primary intention: Love. Nonetheless there is still a question to answer: why are there value experiences which are in principle universally valid, independent of representations? What is the last reference for the adequacy of such kind of validity experiences? It is impossible here to refer make reference to any previous positionality (the risk is that of an infinite recursion): there is no specific moment through which we give assent to our sensorial sensibility (sensorial values); our wellbeing (vital values); our ability to transcend ourselves (spiritual values) or to mystify itself of our being practical agents, that even leads us to feel an indefinite sense of gratitude (values of sacrum). Rather, it is precisely due to the perception of some terms of validity that we recognize in a specific moment what we "are" and always "have been", in a sort of continuous positionality ("the position of man in the cosmos"¹⁴). Notwithstanding the perception of a universal validity, the experiences I give assent to are first of all represented as basically "mine": my nature, my neighbour's rights, my God. Basically, however, the values that found our practical sphere are not created by our consciousness; we can rather say we are "invited" to assume the position they entail, exactly because "we live in this world".

Apart from the fact that the constitution itself of consciousness does not seem to be possible without the affirmation of a founding truth (*is*), a fundamental difference emerges here between the concept of positionality we described and the husserlian *Stellungnahme*. The former, in fact, in allowing the self-determination of a reality outside consciousness, entails something more than a "thetic objectifying act" which creates "horizons of beliefs"; moreover, it does not risk to remain dependent upon the emotional fruition of the subject. As brilliantly pointed out by Maurice Dupuy¹⁵, while Husserl accounts for an analysis which goes "from things to phenomena", Scheler's scheme goes "from phenomena to things".

¹⁴ Cfr. M. Scheler, *Die Stellung des Menschen im Kosmos* (1928)

¹⁵ Cfr. M. Dupuy, *La philosophie de Max Scheler* (1959)

The Normative Ought

Norms are a human creation, the most intelligent one perhaps. We do not find any ought in nature. The notion of normative ought (*das normative Sollen*) is very important in Scheler's scheme, notwithstanding he formally approaches it only in a short paragraph of the *Formalism*. We can briefly affirm that the normative ought is the bridge between the perceived and the "positioned" materiality. As emerged, this concept somehow has the function of fixing the necessity of a value through a sort of contract between the will and the will herself (she anchors herself to a repeatability criterion relating to the affirmation or realization of V, avoiding any remorse). In doing so, consciousness deontologically structures itself, so that the conceptual reason is able to orient and govern conations: we can say that the normative ought is the final and most refined "form of economization" (*Ökonomisierungsform*) of what we define with Scheler as "ethical discernment" (*sittliche Einsicht*). On the other hand, the normative ought coincides with the possibility for the will to position an emergent system of intrinsic validities in view to realize V (*Tunwollen*). It is worth to underline that we are dealing with objects: positioned instrumental values exist in the form of objects; exactly in the same way as concrete value bearers are objects. To perception, these objects entail similar effects, as we will clarify. First of all, let us consider, as mentioned, that, at the conceptual level, values are represented under objectification and inserted in a "manageable" and adequate horizon of objects: objectifying an intrinsic validity implies that we assume a position external to it, so that we position a new system of validities which contains it. In doing so, our axiological structure is not necessarily defined in correspondence to our inner order of preferences, as already said. An object, concrete bearer of a specific intrinsic validity (the home), leads us to assume the position suggested by that specific validity (my mother loves me; my father educates me; I feel protected). It lets us experience a value (the family) in a direct way; so the ideal objects of an axiological structure are able to impose themselves with their orientations to the non-conceptual sphere. Then we consider the normative objects positioned by other subjects: overall a person is surrounded by normative forces since his birth (*ein jeglicher Mensch findet sich von Geburt an umringt von faktischen normierenden Gewalten*¹⁶) and these include "represented states of affairs" which play the same part as concrete objects in being value bearers. As for every kind of intrinsic validity, there are no normative objects which do not depend on some of our assent to exist. So we affirm that a positioned normative object P only exists if it falls within the validities deriving from at least two similar positionalities of two different individuals. In sum, it exists if it is in some way perceived "p" by at least two subjects: $P \leftrightarrow \exists x \exists y [pP(x \text{ and } y)]$. Here we consider the positioning subject's perspective: in order to grant existence to P it will have to address the other's positions (conceptual or non-conceptual) and the more these positions are

¹⁶ *Der Formalismus*, p 193

founding, the more the existence of P will endure. The necessity of such a “declaring force” stands out with reference to whatever kind of intersubjective positioned validity (practical, social, juridical objects), exactly as the constitution of value bearers depends upon the “energy of subjects which constitute them” (*von den Fähigkeiten der Menschen, die sie bilden*¹⁷). Then we consider the perceiving subject’s perspective: in receiving P, it has to anchor it to the nearest materiality in its own consciousness. For example, in respecting a juridical norm I can rely on a vital value (fear of the institutional or social sanction), or rather on a spiritual value (I respect society or the ideal of truth as such). In any case that norm, as the Law itself, “exists”, exactly like doctors, hospitals, banks, the work place, the marriage, also “exist” (bearers of values for me and many others); or rather my birthday, the village festival, the sunday jogging (bearers of values for me and some others). According to Searle’s theoretical model, each of these objects is a status function, namely a field of reality which, depending on contests and by virtue of an acknowledged “authority”, claims for a specific normative validity independent from individual preferences and desires.

As already said, we consider authority and truth as two sides of the same coin if perception and representation correspond (the sensorial experience, my internal perception, my father, my doctor, the legislator). So the evidence or truthfulness of a normative object can also depend indirectly on the fact that this has been positioned by an external authority: a model, an institution, the tradition (*Autorität, Tradition und Nachfolge*). As follows from what already has been described, the truthfulness of objects within our axiological structure “competes” with the material objects we perceive, in the sense that an intrinsic validity emerging from a surrounding environment still not corresponding to our conceptual positions, can be “silenced” or revised according to our conceptually positioned adequacies. This can happen, we acknowledge, in both a good and in a bad way: in good, during the potentially traumatizing vision of a man who has been shot; in bad, during the vision of a baby which, as well as being my child, I don’t recognize as object of my love (but one day I’ll probably realize that I love him more than any other thing; exactly as I realize at one moment that I love my father; because if I somehow gave assent to life, I cannot avoid to recognize the value of donating life). As a matter of principle, however, we can say our free will allows us to transcend the representation of “habitual” meanings with new meanings or truth criteria. As already emerged, in Scheler’s scheme there is a mutual dialogue between experience and representation of validity structures, so that the representation of a practical position can be said in a sense to become a “theoretical position”; exactly as the perspective representation of a “true” state of affairs becomes, in turn, the basis for action. So in a sense Scheler anticipates the Wittgenstein of *Philosophical Investigations* (1945). It is worth pointing out that from the

¹⁷ *Der Formalismus*, p 18

representation of one sole truth-authority it is possible to derive only one closed system of intrinsic rational validities, therefore only one “perspective consciousness” (only what my father or the legislator states, is right, good and so on). We will therefore appreciate the ability of consciousness to represent different truth criteria, namely different horizons of validity¹⁸: in doing so, consciousness will be able to perceive and adapt to an equal amount of contentions of value. So we compare the constitution of practical consciousness and practical reality to complex systems.

We said our practical truths and purposes always rely on the assent we progressively give to our material experiences (*Materie des Wollens*). Within this sphere we also include intersubjective experiences: common positions and collective intentions (*gemeinsamen Willens*), the first of which are those that shared with the mother; besides: intentional acts which are only possible to within a society (*Miteinandererleben*). So, just as an individual or universal adequacy, we also have a “collective adequacy”, by means of which a person basically constitutes herself both as a single person (*Einzelpersonen*) and as a collective person (*Gesamtpersonen*)¹⁹. As already said, in positioning a normative object I have to address the other’s own positions: I do it also in order to obtain a “we”, namely a common position, where at least two subjects’s perceptions and positions of objects can correspond. The common acquisition of a social ought in all kinds of its essential modes, all implying reciprocity (the friendship, the promise, the contract, the National Institution), presuppose the experience of such a common position (*Lebensgemeinschaft*), i.e. the material basis (is) to which it’s possible to anchor the representation of a commitment (ought) and relative validities. The acknowledgment of such a commitment again entails a self-reference, not only because collective adequacy is itself a specific kind of positionality within individual’s consciousness, but also because what is “ours” (our Nation, our Tradition, our Rights as humans) is normally at the same time also “mine”. With reference to Europe, which Scheler mentions as an example of cultural community, the so called euro-skeptical can bring into question the acknowledgement of EU Institutions (such positioned objects are not mine), but he cannot avoid to recognize the “meaningful” fact that once there was a “we” to position them.

¹⁸ In accordance to a so-called polyvalent logic, for example fuzzy logic.

¹⁹ The meaning of “person” as such entails itself a self-determination within a society.

Emiliano Acosta: Reading the major European newspapers, one gets the impression that, today, the European crisis is essentially an economic or financial one and that other problems that politicians have to confront, like the *indignados* in Spain or the difficulties in establishing a government in Belgium, are only secondary or that their solution is not as urgent as a solution to the actual financial crisis. Do you think that all these problems have something in common, namely, that they are manifestations of one and the same crisis and that, therefore, the above-mentioned hierarchical classification of problems does not reflect the real crisis Europe is now experiencing?

Ernesto Laclau.: Well, I think that the two aspects you mention are related with each other. The crisis is the crisis of an economic and financial model, whose general lineaments were the neo-liberalism prevailing in the economic policies of the last twenty years. This model is manifestly in crisis and though the solutions offered for example in the case of Greece are measures that insist in the same kind of receipt that brought Greece to the crisis. So, the bad situation gets constantly worse and worse, i.e. there are no policies directed to economic growth. There is a policy of economic adjustment, which has only a financial character and all the principal politic forces of Europe share this policy today. It is not a merely conservative policy. The Labour Party in England, for example, applied during the Administration Blair a policy, which was very similar to the one exerted by the Thatcher Administration in the past. So, the problem is that this kind of crises of a model occurs without the existence of alternative political forces making their presence felt and pressing for a different model. The result is that the protest against the model tends to be a protest politically not structured. The case of the *indignados* is the most typical, but manifestations of the accumulation of social demands and the absence of institutional mechanisms to express and implement them become visible in these cases. What has still not been produced on the side of the alternative policies are politic-institutional formulas that give the social protest a political character. At present this protest is an inorganic protest.

E.A.: From your point of view: Which are the challenges and the tasks a project of rethinking Europe has to undertake in a short and in a long term?

E.L.: Well, this is a little bit difficult to answer in the way you put it. But, let us see. I think that firstly it is all about thinking an economic alternative project. The alternative economic projects do exist. There are a lot of non-orthodox economists formulating these

projects: Stiglitz and Krugman, for instance, are proposing measures that exactly go in a direction opposed to the one applied at this moment in Europe. So, on a certain way a model based on economic growth and expansion of the demand and that introduces a certain dose of Keynesianism, is the *sine qua non* of every reformulation of the European political model. So, what it has to happen is a change of the paradigm in the organization of the economy.

Secondly, we have the problem of which the political forces and the social forces are that can support this alternative project, because it is evident that a project of changing a paradigm requires individuals capable to assume and implement it. Und here is the place where we see with all clarity the situation we has just referred to. There is a ser of inorganic protests in very different places: not only in Europe, but also in the USA and in some countries in Latin America. And it seems to me that what it has to happen is a transit from the moment of no-organization [*inorganicidad*] of these forms of protests to some kind of political organization. Let us think for example in the question on democracy. A democratic regime needs to exist creating an articulation between two levels. On the one hand, there is the level of what we could call a democracy from below, i.e., the “rank and file”, the class root of social movements, have to arise in institutional forms relatively effective. On the other hand, the question of the reform of the state is not finished. I am against those ultra libertarian formulas that claim that the whole problem reduces to substitute a policy of transforming the state for a policy of a democracy from below. If a policy is exerted exclusively on the level of the state there is a deficit of the social basement, which could implement a different project of change. But if from this side we only have the protest, the class root level, these demands can very quickly disintegrate and after a certain period of anti-system mobilization they do not construct anything that may conduce to a transformation of the system. So, I think that both aspects are complementary. On the one side, a new and alternative economic model, on the other, a new way of political action that unifies the dimension of the democracy from below with the dimension of reform and transformation of the state.

E.A.: One of the main topics in today's discussions on the conditions of possibility for a real (radical) democracy and on its limitations is the question about the legacy of the democratic discourse of the European Enlightenment. Which of the categories and modes of conceiving the complexity of social life that we can find in the Enlightenment's political thought do you think should be recovered and which ones should be abandoned in order to enrich the discussion on the future of Europe?

E.L.: Firstly, we have to say that the Enlightenment represents a very complex historical tradition. There are many dimensions of the Enlightenment. Forms of radical democracy like the Jacobinism came from the Enlightenment, but also forms of elite politics like the one represented by positivism. Therefore when we analyse the Enlightenment tradition, I think, we have to necessarily introduce some substantial

modifications. In many of my books and papers I have insisted in remembering a phrase, actually an analysis rather than a phrase. It belongs to C. b. Macpherson. He said that the liberal-democratic tradition, which normally is presented as a unified and homogeneous whole, actually has two components, which only very lately reached a certain balance. Because at the beginning of the 19th Century liberalism, which is an essential product of the Enlightenment, was a political formula absolutely respectable, but on the other hand democracy was a pejorative term in the same terms like populism today, because democracy was identified with the government of the mob and the Jacobinism. So, it has taken a long while, all the 19th Century with its revolutions and reactions, until Europe reached a balance, which never has been perfect, between the democratic and the liberal component. In some way, now a day we have to pass to a different kind of model, in which the democratic component should have a much more relevant role than in the past. If we think in the liberal component without democracy, we are actually thinking of a technocratic government. And what in the last years has been applied in Europe has been an essentially technocratic policy, which has its roots in the 19th Century. In the 19th Century Saint-Simon said that societies must transit from the government of men to the administration of things. He was proposing the substitution of politics by the administration. Democracy, on the contrary, presupposes a confronting moment, presupposes to question the people before the power and so extend the civic participation to sectors that until now did not have take part in the consensus and formation of politics. I think that this democratic component will have to be absolutely vital in any form of alternative economic model.

E.A.: The question about European Identity (either as a neglected reality, as something absent in our present, but real in the past, or, finally, as an ideal or as a project) is undoubtedly present in the contemporary political philosophical debate on Europe. In your studies on hegemony and populism the tension between both universality and particularity and between identity and difference occupy a central place. Which political status do you give to the question about the European Identity? Which problems do you think that such a question makes or could make visible and which others does this question keep from arising as problems?

E.L.: I think that the question of the European Identity is vital because of some reasons I will expose in a minute. But what we have to see is that the European identity like the popular identity is not a reality in Europe today. The European identity is today something that becomes real through bureaucratic mechanisms, Brussels and everything related to the actions of the European Commission, which has never represented a moment of politic activism or creation of popular identities. The result is that what exists under the label of "European identity" is today an abstract pact and has less connections with a political action with democratic character. Precisely the opposite: when there have been popular reactions, they have taken in most of the cases an anti-European position. In the referenda about the European Constitution, some years ago, the "no" that in the

Netherlands and in France prevailed, was a manifestation of a popular reaction against the bureaucratization of the unification of Europe. On the other side, I think that without a European identity, which has to be in this sense popular identity, we will not go very much forward in the configuration of a European presence in the international forums. Our present shows that the project of mono-polar order that at the end of the 80's seemed to prevail after the dissolution of the Soviet Empire, has not become real. The world is going forward to a multi-polar order, which is more and more visible. New actors are now entering the international scene like China, India and Brazil, and all these new actors are going to dispute the centrality that the USA have had in the configuration of the social and economic international policies. In twenty years China will have vastly beaten the USA as the principal economic force of the planet. An in this multi-polar world, which is now emerging, is evident that the individual states of Western and Eastern Europe should not act as separate actors. They have to present themselves as a voice representing the voice of whole Europe like in the case of Latin America, where we have institutions like the Mercosur and others similar regional forums, which are producing more and more an integration of the Latin American continent and a participation of this continent at international forums with a unified voice. This unified voice has to constitute in Europe. It is necessary to constitute a European identity, but this identity cannot be reached merely through measures of bureaucratic nature. This identity has to be created on the base of effective popular participation and at the present time this seems to be very far to be realized, but it is absolutely necessary.

E.A.: Dealing with the actual crisis in Europe, it seems that all intellectual attempts, without regard to their political and theoretical backgrounds, limit their field of study to the European history and present situation as well as to the past and present European political philosophical discussion as the only intellectual resource for such a reflection on Europe. Do you think that Europe has something to learn from other political present realities, past or present, or from theories coming from the so-called intellectual Periphery, namely from thinkers who develop their activities outside of Europe and the USA?

E.L.: Well, first I would immediately say that Europe has a lot to learn of the Latin American experience. What the Latin American experience has characterized in the last years has been the total refusal to the neo-liberal model. In Argentina, for example, the government has followed a policy that is totally opposed to the recommendations of International Monetary Fund. In doing this Argentina experienced an economic growth, which allowed this country to pay its debt to the IMF. Now Argentina has a merely formal relationship to the IMF. Neither recommendations nor inspections to study the situation of the Argentinian economy of IMF are now accepted by the Argentinian government and, of course, none of the policies of economic adjustment that the IMF is now proposing. So, in the case of Argentina this country could find an exit to the crisis of 2001, by doing exactly the opposite of what today the international community is trying to implement in Greece.

And in most of the other countries in Latin America the experience is very similar. I think the influence power and the relative significance of international financial institutions like the IMF or the World Bank, is going to diminishing in the next years and that other kind of institutions and agreements are going to emerge, by means of which the new model will have to prevail in a long term, because if we continue with this kind of policies of adjustment like in Greece now, there will be evidently no exit to the crisis. We do not know very well how we will exit of the crisis in the long term, but what we well know is how we entered it. We entered the crisis because of the deregulation of the economy, the extreme monetarism and because of all formulas of neoliberalism that also have led to today crisis. I am not against the existence of a unique currency in the European continent, but evidently it is not possible to develop a unique monetary policy without certain coordination at the level of the national policies. Here it has been a clear unbalance between the policies of the European Nation-States and the supranational model they were trying to implement. So, we have to come to a supranationalism, if you want, to a European national identity, but this national identity, as I said before, has to result form democratic participation.