

Ethics in the Contemporary world

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Everyone is familiar with the ongoing discussion in contemporary ethics and social theory about the priority of the good against justice or right and vice versa. The issue at discussion is generally modern. It would have been entirely senseless to ask similar questions in a premodern world, since in all of them —although in different ways— both the content of justice and right as well as the concept of the good shared a common foundation. The pre/modern universe was founded by tradition and by religion; both the ethical and the political was based on the same certainties. True, the dynamics of modernity made already its appearance twice before the modern times and it began to shake up the absolute foundations, yet after such a shake-up a new certainty used to occupy the place of the previous one. As before, the world remained firmly founded.

This natural and firm order was challenged at the wake of modernity. Modernity differs from all pre/modern worlds insofar as it is based on freedom. Freedom is, however, a foundation which does not found. Precisely because freedom is a foundation which does not found, the modern world is left without fundament. Living without a shared absolute fundament, however, does not mean to live without any foundations. Not just philosophy or any theory becomes impossible without some foundation, political or social associations must also be founded. Only anarchists drew a consistent conclusion from the modern condition; they rejected all foundations. But anarchism is not viable, if not for other reasons, but for the simple one that human beings are incapable for a longer time to live in the state of anarchy. Some security, some certainty, some kind of regularity, repetition and repeatability is needed, as one needs also a relatively stable relation between expectations and their fulfilment. Thus, early moderns were seeking for a viable compromise, they knew that they must recommend temporary, conditional, custom made or personal foundations. For example in matters of truth the correspondence theory has replaced the absolute divine Truth, in matters of Beauty taste replaced the idea of the Beautiful, and in politics contract theories replaced the conviction in the eternal and absolute preordained divine order. The premodern natural edifice, was first slowly, later on with increasing speed deconstructed, and so was also metaphysics. An absolute foundation was out of question, given that freedom as the non/founding foundation of modernity assumed also the position of the highest value.

If a world or a philosophical system is not based on an absolute fundament, then not every institution, not every value or virtue, not every kind of knowledge need to be supported by the same fundament. E.g. the truth of knowledge, the beauty of a flower, the justice of a constitution, the goodness of a person or the highest substantive goods do not need to have a common foundation. Just the contrary can be the case all of them can be founded on their own principles. This is why Max Weber said that the modern world is polytheistic, every sphere has its own deity.

I will now start with the distinction between good and justice and not with the distinction between good and right, unless right is roughly identified with justice. I will turn later to the separate issue of right. However, I will not speak about substantive goods /goals to be achieved, values to be followed/to return to them briefly later.

The distinction between good and justice is not just a distinction between two branches of the same. It is assumed that they can be based on their own principles, they do not need to have the same foundation. Yet one thing they need to have in common. Both need to be founded by freedom, by the value, which does not found, that is, they need to be both related to freedom without sharing one single substance.

The distinction between the moral good and justice begins in fact by Hobbes, although he does not carry his idea entirely through. He constructs the model of a state which is neither based on tradition nor on the goodness of men, but on the decision of men. The foundation of justice is then a human construct. Whether the goodness of men is needed for a just state remains the issue for contestation. Liberal thinking opts for a negative, radical thinking /e.g. in Rousseau/ rather for a positive answer. What is far more important than the discord, is the accord. First about the heterogeneity of the foundation, and second, about the relative or temporal or tentative character of the foundation. All contract theories are founding justice tentatively, relatively, insofar as the foundation of justice is located in the human will, decision, need, briefly in one or the other interpretation of freedom. Freedom cannot be limited, it can only be self-limiting, that is freedom is limited by freedom alone. The same happened with goodness. E.g. in Kant morality is founded by internal and absolute /transcendental/ freedom, whereas justice by external freedom, established —on its part— by a fictitious contract.

The modern ethical world stands on these two fragile pillars, on pillars placed upon men created foundations. One of them should remain solid enough to maintain and to promote political and social justice, whereas the other must be firm enough to serve as a crutch for individuals to conduct a decent way of life. There is no modern ethics from which one or the other are missing. It depends on the message of philosophies, better to say on their own temporary or tentative foundations, whether justice or ethical good enjoys priority, but in modern life there is no priority. In liberal democracies the two pillars remain separated, whereas fundamentalist movements try to unify the two. But this unification can last long only with the massive use of force. Fundamentalism is thus a modern phenomenon, for as long as there is one solid fundament for both goodness and justice, one does not need fundamentalism to reunify them. In fundamentalism, the abolishment of the distinction between the just and the good becomes a political ideology.

In what follows, I briefly describe how a modern person can found his/her goodness, and how a modern political and social body can create its foundation for justice.

Instead of goodness I rather speak of decency, in order to clarify a misunderstanding.

Some scholars interpret the priority question between goodness and justice as follows. By goodness they refer to the pursuit of material or substantive goods, and the pursuit of the sum total of those goods is identified with the pursuit of happiness. The priority question between good and justice means in this interpretation the question whether substantive or formal goods have the priority. Substantive goods (of having something, achieving our goals in something etc.) are then juxtaposed to the value of universal responsibility or the form of goodness, which one can identify with justice. As Habermas used to say, from ethics only Justice remained in the modern world. If we take this position, there remain not just two different but also heteronomous temporary foundations. Thus, justice needs a foundation proper, but the concept of good becomes empirical. Except extreme

utilitarianism no philosophy has ever accepted such an asymmetrical position. Traditional or vulgar utilitarians were doing roughly the same thing as fundamentalists do. They homogenize the two pillars of modern ethics in one single foundation: utility. This was one of the modern ways to device an empirical metaphysics. Since philosophies can choose their tentative foundations, orthodox utilitarianism is as well /or as little/ founded as any other modern philosophy.

I repeat that in what follows, I will present the two pillars of modern ethics: first that of moral goodness (decency), second that of justice. I cannot speak of their concrete contents, which are constantly changing, only about their tentative foundations, which are, although not immobile, still more stable.

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The consciousness of modernity is/among others/ also the self consciousness of man's contingency. The contingency experience has appeared simultaneously with the deconstruction of the absolute foundation, and the claim that freedom should occupy its place. Modern man experiences contingency in three different forms, such as: cosmic contingency, the experience of social contingency, and the decomposition of the tradition, among others of the traditional slabs of values and value hierarchies. Reason, or rather reasoning destroys or deconstructs all firm beliefs and certainties.

The three aspects of contingency consciousness are closely related. The experience of cosmic contingency has put a question mark behind our faith in our earthly destination and filled the soul of men with transcendental anxiety. The Christian cosmos which circled around God and His commandments as its Center, has been replaced with a dead, mechanical, indifferent and infinite universe. The blind laws of nature were substituted for divine omniscience and predestination. God knew everything about us, and we, too, knew all about his commandments, whether we obeyed them or infringed them. As Nietzsche expressed it, God has died, and men remained orphaned: no father instructed them in matters of good and evil. «The death of God» does not mean that religion withers, just that modern men can maintain and reproduce themselves and their whole world without God, because cumulative scientific knowledge replaces religion as the dominating form of world explanation. Contrary to religion, modern science sets men free insofar as it does not claim authority in matters of the knowledge of good and evil. Yet this freedom is not unmixed blessing, for the gain goes with a loss: the loss of certainties and of the meaning of life. The new dominating world view —science— does not render meaning to our life. This is why among others Weber called the modern world a disenchanted world.

The consciousness of our social contingency, the second aspect of the modern contingency experience, grew simultaneously with the destruction/deconstruction of the hierarchically ordered premodern social universe. MacIntyre is right: in the pre-modern social arrangement —in fact in all of them—, men and women receive their earthly destination, that is their *telos*, at the time of their birth. This is —be it blessing or curse— their birthday present. During one's life way one must or should become what one already is at the time of one's birth. The path which leads from the accident of birth up to the completion or rather perfection of the person (of a given stratum, estate, race, gender etc.) has been allotted to him or her by birth, it is already designed, precoded. A human person is always thrown into the world by accident, and it is always a difficult task for the children of men to dovetail their genetic *a priori* (their biological ipseity) and their social *a priori* (the system of norms and rules of a world they were thrown into). It has always been difficult to jump over the abyss between the two *a priori*s, and the jump was rarely crowned by complete success. But in the premodern worlds, the envelop in which the genetic *a priori* of a single human being had been thrown, was properly addressed. The metaphorical postman had no difficulty in delivering the

newborns to their proper destination. The modern man, however, is normally thrown into the world as wrapped in an unaddressed envelop. The genetic a priori remains as always wrapped in the envelop, yet the social a priori has drastically changed, for it does not present a telos to the newborn, or at least it is not supposed to do so. Sartre expressed this situation with the telling metaphor that we moderns are thrown into Freedom. To be thrown into freedom means to be thrown into Nothing, into the network of mere possibilities, a network without telos, without destination, entirely contingent. And precisely because the envelop of modern men and women is not addressed, men and women themselves must address their own envelop. *To address one's own envelop is the modern persons fundamental responsibility.*

I now turn to the third aspect of the contingency-consciousness of the moderns. The greater our responsibility for ourselves, the less certainties we have. Obviously, our responsibility for our own character and life are simultaneously increasing with the experience of shrinking certainties. Moderns begin to submit the traditional values, virtues, customs to the judgment of reason. But if all of those values, virtues and statements concerning the good and the source of good are consistently and in fact submitted under the jurisdiction of reason, it will soon turn out that none of them can stand the trial of demonstration, none of them withstands falsification. All values, virtues, statements concerning good or evil can be verified and falsified with equal force and with squally good arguments. With sheer rational arguments one can prove everything and also the opposite of everything. This is, in fact not a new discoverye Aristotle remarked in his book alfa, that one needs absolute certainties in order to undertake a conclusive demonstration. Without presupposing certainties which do not call for demonstration, demonstration will go on ad infinitum, without result. For the moderns, this logical question becomes a serious socio/ontological issue. How can one find a limit? Which value, virtue, statement can be taken as an *arche*, and as such, as a certainty, the limit to demonstration? Is there a limit at all which, in itself, is not contingent. If there is no one single value, virtue, or true knowledge concerning good and evil which we could embrace absolutely, with absolute certainty, *we need to embrace first the only certainty the existence and validity of which we cannot doubt*: ourselves. Descartes, with his famous sentence about cogito, comes already to this conclusion in matters of knowledge. Modern ethics, on the other hand, begins to develop in the direction of an ethics of personality. Every modern ethics can, or has, assumed the character of an *ethics of personality*. The main question concerning virtue and vice, good and evil, is namely raised in the following way: I, the personality, the single *exister* I am the only certainty —and so are you, who are facing me. But how can the single individual assume the role of the repository of moral certainty, if the essence of morality consists in our relationship to the Other? How can I, single *exister*, know the difference between good and evil? Since the content of good and evil are historical (historically changing) howe can I find a firm foundation for my moral jugment? Where can I turn to get an advice about what I should do, what is the right thing for me to do?

When I think that all modern moral philosophies can be read in the spirit of an ethics of personality I meant that all of them can serve as *crutches* for modern men and women, who ask questions about good and evil in a world void of absolutes. They can rely on them, and on which of them they rely upon depends very much on time, place, and their character. These philosophies serve as tentative foundations. Also traditional and new religions can serve in this capacity. The ethics of personality is not based on any specific metaphysical creed; it grew out from the ontology contingency itself.

There are two kind of the ethics of personality. Both distinguish between high and low, noble and base. Both put premium on self-development, both believe that the highest duty of men is to

become what he is. Both subscribe to the value of authenticity. But the first kind assumes that ethics requires to take responsibility for ourselves, whereas the second kind assumes that ethics requires to take responsibility for both others and ourselves. The first version is merely formal, the second gives itself a content.

I begin the brief discussion of the ethics of personality with the introduction of its more general, first, and formal kind.

The ethics of personality had been first conceived also as a revolt against the Kantian ethics and its universal norms of «you should» or «you must not», whether they read Kant or not. This is true about Fourier, Stirner or Nietzsche, and in the case of such representative real or fictitious personalities of their age who have not just theorized, yet also practiced, an ethics of personality successfully such as Goethe or Napoleon, or catastrophically, such as Dostoevskij's Raskolnikow. The pathos as well as the fundamental idea of the formal ethics of personality is inspired by a kind of freedom-fanaticism. One needs to liberate oneself not just from the pressure of the eternal commandments, the traditional norms and customs, but also from the terror of the universal moral law which supposedly resides in ourselves. The first initiators of the pure ethics of personality believed that the self-development of personality will be the sole source and essence of ethics, the norm and its fulfillment in one. Be true to yourself! Become what you are! this are the categorical imperatives of the ethics of personality. As mentioned, the fundamental value of this ethics is authenticity. The category-pair authentic/inauthentic replaces the traditional category/pair good/evil, or becomes identified with it, and occasionally also with the category/pair true/false.

The problem with the pure ethics of personality is, however, the same as with the Kantian —its purely formal character. For example, one could argue that Hitler or Stalin fulfilled all the conditions of such an ethics of personality. After all, they have developed their personality in full, and they became what they were. Unless the ethics of personality remains purely formal, a second question needs also to be raised. All right, a person develops his character, his self-set telos in full, but what kind of character is that what he develops and how is his telos be fulfilled? It can be any character whatsoever, among others demonic, diabolic, or just totally egoistic. This essential determination was well portrayed by Ibsen in *Peer Gynt*; to say: «be yourself!» is authentic. But what about: «Troll, be yourself enough?» Troll is, after all an ugly dwarf. The devil is also a significant and «inner directed» personality. Rosenzweig said, while commenting on the pure ethics of personality, that those who practiced it were dancing on a rope, in his mind there was only one single person who succeeded to perform the manoeuvre without falling into the abyss, namely Goethe. One could add, that although Nietzsche was one of the most significant propagators of an ethics of personality of the first kind, he never practiced it himself in its pure form.

Still, it is by far not absurd to affirm, that even the purely formal ethics of personality, just as it appears in Goethe's and Nietzsche's formulations, is a real ethics and not a phoney one. How does, for example, man's true authenticity show in Nietzsche's terms? How do I know that this person is authentic rather than inauthentic? There are three main criteria of authenticity. An authentic person does not lie in certain things, and never lies to himself, an authentic person does not become dirty or lowly, and an authentic person has the capacity to make promises. These three values are in fact reinterpreted versions of very traditional ones. An authentic man does not lie to himself even if not lying is mostly painful. If he is a painter, for example, he never lies with his colours or lines, if a philosopher, he never lies in philosophical thinking. A person is not dirty if he never does anything neither freely nor under pressure what contradicts his own personality, or what is alien from his

personality. A man has the capacity to make promises, if he has a long memory. Only men with long memory are able and ready to take responsibility for their words, acts, beings —since beings and acts are as much promises as words are. Men who take care of themselves in the three ethical dimensions, are noble.

I advanced the thought that the Other is absent in a purely formal ethics of personality, that the personality takes responsibility just for himself. Here I need to add, that while taking responsibility for oneself alone, the person remains responsible for others directly and indirectly. Not necessarily also from the perspective of the bearers of a formal ethics of responsibility, but from the perspective of others, who are in fact present in every person's life, whether this person notices them, takes care of them, or not.

Let me now turn to the not merely formal kind of an ethics of personality, to its first and decisive version as formulated by Soren Kierkegaard. He set himself the task to give a moral content to the ethics of personality. But how is this possible? On the one hand, an ethics of personality cannot be founded in the sense as metaphysically grounded ethics are. On the other hand, it cannot rely on empirical norms or rules, or any given and inherited values, on any religion or philosophy. How can then an ethics of personality have even a weak moral content? The solution sounds simple: if the person who chooses this ethics is a moral person and if the choice itself is of moral content. One can assume that a contingent person chooses herself as a decent person and, as a result, the choice transforms her into a moral personality. This kind of choice is an existential choice. In what follows, I am going to speak about the existential choice in the spirit of Kierkegaard, without repeating his story in full.

The existential choice is the choice of one's own personality. This choice consists of a double move. I choose myself as such and such on the one hand, and I re-choose all of my circumstances and personal idiosyncracies on the other hand. The second move contains the choice of both the genetic a priori and the social a-priori. The first move is the choice of one's own telos; the second move is the choice of all circumstances. Both moves together mean to address one's own envelop, the throw. In doing this, one transforms one's contingency into one's destiny. One is no more pushed by accidental causalities, one is rather pulled by one's telos, one's own destiny. One is no more anxious about one's freedom, for there is nothing left to be anxious about, since the person who has chosen oneself became the carrier of her destiny, her freedom.

The choice of myself is a leap. It cannot be fully explained, and it is not determined. It is the second throw. The second throw is not necessarily a conscious decision, it can occur also as an instinctual, blind gesture. The essential thing, however is, that one leaps over the abyss to become one's own destiny.

In the first move of the existential choice I choose myself as such and such. This «such and such» is the content I give to my own personality, to myself. This content can be almost everything. The main issue is that by giving a content to the choice of myself I should not choose something external, for in choosing something external, the choice would be heteronomous rather than autonomous. For example I do not choose philosophy, I choose myself as a philosopher. I do not choose the beloved, I choose myself as the lover of my beloved. I do not choose the good or virtue, I rather choose myself a decent, upright person.

The existential choice is merely formal if everything or anything can be given as its content. This is why it can be said, that this choice is performed under the category of the particular (difference). This is the kind of choice which is morally suspect, although, as all kinds of existential choices, this too mobilizes certain traditional moral virtues. If, however, someone chooses oneself as a decent, upright person and gives thereby her personality a more specific content, namely a

moral content, she will choose herself under the category of the universal, because she chooses in a way which is open—in principle—to everyone.

What does it mean that someone chooses oneself as a decent, upright person? Kierkegaard says, that he chooses the choice between good and evil. That means, that he chooses himself as a person, who, before deciding in a concrete matter or before embarking on an action, will ask himself first whether the thing he is going to do is good or evil, right or wrong, and only after he has assured himself that there is nothing morally wrong in it, will he raise the questions as to whether it is useful or harmful, pleasant or unpleasant. Thus he takes responsibility for his own essence (moral goodness) and for certain others.

Still, can one give some, although weak, content to the concept of decency, goodness, or righteousness of a man or a woman? Instead of speculating on artificial logical examples, I recommend to return to the tradition which was frequently pondering on this issue.

Socrates/Plato has mobilized at least twice his best arguments to prove that it is better to suffer injustice than to commit injustice (better to suffer wrong than to wrong others). But he never succeeds. More precisely, he does prove his case, but he is painfully aware of the puzzling fact that the opposite statement, namely that it is better to commit injustice than to suffer injustice, can be equally proven, with as good arguments as the first. This is an antinomy, very similar to Kant's antinomy in his *Critique of Practical Reason*. Yet, if there is no metaphysics, if man cannot be divided into two entirely unrelated persons such as the homo noumenon and homo phenomenon, the antinomy cannot be solved. In an ethics of personality which radically rejects metaphysical ontology, the antinomy becomes a paradox for it is well understood that it cannot be (logically) solved. Since a modern philosophy of morals cannot assume absolute certainties, yet without some certainty, without a foundation, or a center, there is no moral philosophy, neither is there morality at all, the following suggestion can be made. Although the thesis of Socrates cannot be proven (or the opposite can also be proven), but something still remains certain: for Socrates, that is, for the decent, upright man, this statement is true; Socrates has in fact acted consistently in the spirit of his conviction.

Modern thinking, after the deconstruction of metaphysics, finds itself back again in Socrates' position. This is the thing we can say once again: for a person who has chosen herself as a decent, upright person, the statement of Socrates is true both theoretically and practically. She has chosen herself as the moral absoluteness insofar as she has chosen herself as a decent person. The ethics of personality which gives itself a moral content (the person chooses herself as a decent person) already knows its foundation, fundament. The foundation, the fundament of an ethics of personality is nothing else but the upright, decent person himself/herself who freely chooses himself/herself. Goodness is then self-founding. The good person is a certainty. For the essence of a good/decent person is, that the dictum of Socrates is true for him/her. But the dictum of Socrates remains unfounded. It is freely chosen as the foundation by decent men and women.

Why do some persons choose themselves as decent persons whereas other persons do not? To this question we cannot give an answer, and it is better not to pretend that we can. The source of morality is transcendent—this is the «positive» formulation of the «we do not know». But how does one know that a person has chosen himself as a decent person? From his practical decency, nothing else. This is exactly the same «proof» as Kant's «proof» (or no proof) was for the existence of transcendental freedom which via free causality gives law to nature. It is not a proof of a logical or transcendental kind. It is a gesture.

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Let me return to the beginning. There are two, relatively separate pillars of modern ethics. The good and the just, and neither of them stand on solid ground. Both of them are supported by men. Since freedom is the foundation which does not found, foundations need to be freely established by modern men and women themselves.

The ethics of a relatively autonomous and authentic modern man or woman can be described as an ethics of personality. This is so whatever concrete ethical crutch someone may choose, or if someone chooses a crutch at all. Whether a person is a Nietzschean or a Kantian, whether she is committed to the ethics of Buddhism or that of Spinoza, she has choose her crutches freely, and they are her crutches. Even if those crutches are absolutes for her, she will freely admit that other persons have chosen other crutches and also freely, and that the only relevant thing, the only thing that matters is to remain true to our choice of ourselves as decent persons. Everyone can be decent in his or her own way. The foundation is the foundation of the self as the source of her own goodness. This foundation remains solid, certain and firm as long as the decent person constantly reconfirms in acts and judgments her own self-foundation.

The process of the self-founding of justice is very similar. And I will choose the same avenue of elucidation. At first I want to return to the question of «right». The idea that there is a question of choice between right and good is—in my mind—wrongly put, because in the very formulating this alternative one already narrows down the foundational question of modern ethics into a conflict between utilitarianism on the one hand, and Kantianism, on the other. This is obvious, among others, in the philosophy of Rawls. Speaking in the spirit of ethics of personality, these two philosophical recommendations are but two different crutches a modern persons can rely upon, if they choose to do so, both in the wake of their existential choice, or in constituting justice. The concept of right can also connect, albeit not unify the foundation of morality and the foundation of justice. Hegel made some remarkable recommendations in favour of such a concept in his *Philosophy of Right* in the subchapter on moral right. To reformulate Hegel's conception briefly, there are three moral rights: the right of individual persons to develop their abilities, their right for the pursuit of their private happiness, and the right for living according to their own concept of the good. Hegel calls these rights moral right, albeit only the third, the right to live according to one's own concept of the good, refers directly to ethical matters. The first two offer the moral right to pursue substantive goods, among others, or rather first of all, the good to practice of one's best abilities. To put it bluntly, in Hegel's mind a modern state needs to open the possibility for the individual to pursue an ethics of personality. I think that it is worthwhile to accept this connection between public justice and the existential choice of oneself.

Modern states as the modern world in general, are not absolutely founded. But one cannot have a political or social order without any foundation. These foundations need to be tentative insofar as the possibility to remove them and to replace them with another, can never be excluded. The foundations can also be modified and amended, they are not sacred, they can be touched. In this sense, the political fundamentals of a modern political body are transient. Transiency does not mean that they can be changed every week, for if they can, they are hardly foundations, but that they are not considered to be the eternal or immortal political order. Modern states are founded by men, at least, modern states are based on the *fiction* that they are founded by the citizens themselves, who become citizens in-and-through the act of foundation.

The fundamental law of a modern state is the constitution. The word constitution already indicates that it is constituting and is also constituted. Which are the kind of constitution that secure the three (Hegelian) moral rights for the individual? Only constitutions which are not just founded

on freedom (for this simply means they are chosen and signed by men), but embrace also freedom as the supreme substantive value.

The gesture of foundation is the beginning. Arendt speaks about the constitution of liberties, for it is this act and not liberation which is the real beginning. But the act of constituting liberties need also be founded. On what? On the concept of freedom (liberties). For these concepts need to be present in the mind of those who constitute liberties (as ideas) and also in their practice, in their action prior to the constituting act. But what kind of foundation is this? For it the act of foundation need ideas prior to this act, those ideas (and practices) need to be founded on other, logically or historically previous or preceding ones, *ad infinitum*. It seems as if the act of foundation were like building something on sand. And this is, indeed so, yet it is also not so.

Modern constitutions and the acts of constituting liberties are, themselves, founded on a vague, and equally fictitious concept of «natural rights».

We can listen to the formulation of the Declaration of Independence of the United States, and particularly on its strong founding sentence. The founding fathers formulated the following founding sentence: «we hold these truths to be self evident...», and then they continue, that all men are born free, and they are equally endowed by the Creator with reason and conscience. Let me unpack the foundational sentence.

It is stated that all men are born free. This statement poses us similar difficulties as the Kantian transcendental freedom. Neither is it empirical, nor can one prove or disprove it. (That God has endowed all of us equally with reason and conscience fares even worse). But one can employ the sentence in the capacity of a regulative theoretical and practical idea, very much in a Kantian sense. One can say: I oblige myself to think about social and political issues such as if all men were born free, and I ought to act in a way that I presuppose the equal freedom of all men. But if these statements cannot be proven or disproven (or can be as well proven and disproven what amount to the same) how can I state that it is true?

One can answer to this: we, the signatories of this sentence accept that the sentence is true. Everyone is invited to sign it. We, who live under the constitution, have joined in the process of signing the statement. It is true for us, who signed it. It maybe untrue for others, who have not. It is our free foundation, the free foundation which comes about through the act of foundation. That is, the constitution is a relative foundation, related to our willingness and decision to sign the founding statement.

One can also answer to this the following. The founding fathers formulated thus that we accept the content of the sentence (the truth claims) as self-evident. What is self-evident? What we do not question. If we take the sentence that every man was born free as self-evident, it becomes an *absolute truth* that we cannot, moreover, should not question. In this sense the relative foundation is absolute, for it is based on something unquestionable, and establishes something quasi-sacred.

However, we know quite well, that these self-evident truths had been questioned many times by several modern political actors. Race theories for example, reject the very substance of the sentence. Racists claim that some people are born superior, some inferior, that not everyone is endowed equally with reason and conscience. Some are born free, others born slaves. Historical experiences shows that the self evident truths of the Declaration of Independence are by far from being self evident. They are self evident for the signatories, or the fictitious signatories, yet neither self evident nor truth for others. Thus the foundational sentence, even if one makes a claim for its eternal validity, is, and remains transient. In modernity no foundation is eternal, no foundational sentence, not even the absolute one, is in fact self evident, everything remains transient.

What can be then said about the foundational sentence? It is the foundation of justice in the modern world insofar as it is *this* sentence which stands in waiting for to get signed by every modern men and women. The acceptance of the foundational sentence (of a fictitious natural right) is *the ethical minimum of the anthropology of modern liberal/democratic politics*. In reverse: I call liberal/democratic every political order (constitution) which is based on the general acceptance of the ethics of this anthropological minimum *not just de jure, but also de facto*. Different movements, parties, programmes develop their own images of men explicitly or implicitly. For example, the policy of a socialdemocratic welfare state or the policy of unlimited economic liberalism, or the policy of a militant democracy—all of them have their own «images of men». Yet, they are liberal/democratic if they share the ethics of an anthropological minimum.

In this sense I would recommend to accept the ethics of the anthropological minimum as the foundation of justice in the modern world. I repeat: it is an absolute foundation only for the signatories. Yet, signatories are committed to check all recommendations, whether they are political or social, as to whether they can be related to the ethics of anthropological minimum. But since the foundation of the ethical minimum, even if absolute, is transient, and constantly threatened by various kinds of fundamentalism/racism, I cannot subscribe to Rorty's ideas that liberal democracy does not need philosophical legitimation. I rather believe that only the anthropological minimum requires constant philosophical and practical legitimation (both) because of its fragility, because it is the foundation of freedom by freedom, by the foundation which does not found. Every contestation of justice («this is not just, something else will rather be»), the constant practice of dynamic justice itself—both on the field of ideas and in action—supports the foundation itself. For it is a foundation which does not found without being supported by action and by thinking. The fragility of freedom is the modern condition.

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While explicating the two main forms of modern contemporary ethics, I could not touch their content. The ethical contents are mainly inherited, and this is up to a degree also true in non-traditional societies. Several traditional virtues (like courage, charity and so on) are required perhaps also in different fields, than before (see civic courage), but virtues they remain. The virtue of authenticity, and the norm to respect the autonomy of the Other, might modify the content of previous moral expectations: for example several moral norms were transformed from the imperative mode into the form of recommendations or advices. *But whatever the contents: the issue of moral goodness becomes more and more the matter of an ethics of personality, one chooses oneself as a person who rather suffers than commits the wrong) and the issue of justice becomes more and more rooted in the acceptance of the ethical anthropological minimum (every man and woman is born equally free and is equally endowed with reason, and conscience)*. These are the two men/constituted, free floating =yet solid= pillars (what a paradox!) of modern ethics.

Both pillars are *fictions*. The existential choice of myself is a fiction, and so is the story of natural rights. There is, however a difference between these two fictions.

My model of an ethics of personality is *maximalist*, yet my model of justice is *minimalist*. One does not need to believe that there is one single person who chooses oneself entirely, that there is anyone who constantly, without exception, has chosen to suffer wrong rather than wronging others. One does not need even to believe that there is a single person who, as Nietzsche put it, will entirely «become what he is». Sartre, e.g. said, that this was impossible. The model is «maximalist» for it can be just approximated, and approximation is not «shortcoming». After all, every decent person is decent in his/her own way, and everyone who becomes /to an extent/ what he is, develops his/her

personality in his/her own way. Without seeing/knowing/feeling what one needs to approximate, one cannot approximate. And one approximates the «maximum», yet maximum in structure, form, not in content.

The model of justice is, however, minimalist, because the founding sentence is also a *content* (freedom is not just a form of choosing —as the existential choice— but also the value to be chosen), and it is not to be approximated, at least not in the same way as the model of the existential choice. Since all kinds of contestation of justice need to have recourse to the founding sentence without contradiction and constantly reconfirm its absolute (albeit not eternal) validity, the founding sentence of justice provides moderns with a *weak ethos*. The weak ethos can be made *more thick* only if the fictitious signatories of any act of foundation freely subscribe to it. The difference between the maximalist and minimalist model, —the two pillars of modern ethics— lies in the difference of the *I* respective subjects. In the first case, it is the first person singular (*I*) who founds, in the second case, it is the first person plural (*we*). If one says «*I*», her outstanding modern virtue will be authenticity, as the absolute acceptance of attitude of being true to oneself; if one say «*we*» their outstanding modern virtue will be solidarity in a formal sense, that is as the commitment of good citizens to engage in matters of justice, while assuming the attitude of symmetric reciprocity. Both virtues have, however, something in common: taking responsibility.

It became fashionable —from MacIntyre to our next door neighbours— to complain about the amorality of the modern world. One does not distinguish anymore between good and evil, one does not care for norms and virtues, one breaks all the commandments, one follows only one's own self interest, one is hedonist and so on and so forth. Such complaints are as old ethics itself, with one exception. Previously moralists complained that men and women pretend doing good although they do evil, whereas nowadays they rather insist that moderns cannot distinguish anymore between good and evil. As if men and women would now return to the state of innocence, that is to the ignorance in matters of good and evil before the Fall. First innocence was paradisaical, yet second innocence would be diabolic.

If I believed that moderns approximate the state of second innocence —the diabolical— I would not have written this paper. Rather, I wanted to make a case for tentative foundations, for transitory foundations, freely chosen and constituted foundations, yet still foundations. And if there are foundation of this kind, the distinction between good and evil remains possible. Whether the relatively transient foundations prove to be absolutely transient, that is, whether the modern world will de-modernize itself in returning to absolute foundations, or whether it would destroy itself in a diabolic state of the second innocence, I do not know. And I do not like to think over the worse scenarios, as long as there are better and still viable ones.