FACTICITY AND SOCIOCENTRISM: SOME REMARKS CONCERNING TWO BASIC CONCEPTS OF MORAL THEORY[*]

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Resumo: **Faticidade e sociocentrismo são dois conceitos fundamentais com os quais toda teoria moral se vê confrontada. O artigo enquadra o significado deles na deontologia clássica kantiana e no paradigma pós-kantiano da ética do discurso. A discussão dos problemas implicados nesses conceitos leva o autor a defender um paradigma do Realismo Normativo que faz justiça ao conteúdo crítico desses conceitos e às intuições morais contidas neles.**

Palavras-chave: **Teoria Moral, Faticidade, Sociocentrismo, Realismo Normativo.**

Abstract: **´Facticity´ and ´socio-centrism´ denote major structural features of theories of morality. The paper explicates their core-meaning and tries to demonstrate how these notions are instantiated in classical Kantian deontology and the post-Kantian paradigms of discourse-ethics. A justification is attempted for abandoning these theories in favour of a possible successor paradigm of Normative Realism which does better justice to the critical content of these concepts and the morally loaded intuitions contained therein.**

Key-words: **Moral Theory, Facticity, Sociocentrism, Normative Realism.**

Among other tasks *substantive* theories of morality, of whatever meta-moral affiliation, must invariably deal with the variegated contents of two types of problem-landscapes which in what follows I shall reconstructively subsume under the headings of *facticity* and *sociocentrism.*

A similar predicament is in place for ´second order´ attempts to delineate the main structures of the or a ´moral point of view´: questions concerning the extent of the ´community´ of moral agents or those ´able to act morally´, questions dealing with the ´genealogy´ and justification of moral obligations and/or conceptions of the morally good or of ´moral ideals´ can all be taken to represent paradigmatic *socio-centric* types of problems; whereas enquiries concerning the ´implications´ of the empirically ´given´ fact of more or less massive immorality (or immoralities), i.e. encounterable within an equally ´given´ range of factual worlds or contexts of morally relevant actions and judgements, i.e. whether such ´facts´ affect the propositional content and conceptual extent of moral obligation itself — a consequence famously denied by Kant — or only its ´mode´ as the manner of ´being obligated´ by moral judgements — a consequence equally famously embraced by Kant:[1] questions and enquiries like these can be taken to represent the *´facticity* side of things´.

Additionally *reciprocity* understood as a major structural feature of moral action and judgement represents another ´domain´ of facticity and socio-centrism: both are major rallying points of moral (philosophically inspired) *theory*, but they also represent significant centres of the pre-philosophical, i.e. ´everyday´ or ´commonsensical evolution of moral thinking and action. The ´naturally´, pre-discursively arising questions as to who (or what) counts as a moral subject, as to who (or what) generates moral obligations and the respective types of reasons for this; the problem whether ´mere knowledge´ of the factual ´vulnerability´ of moral subjects (and some types of moral ´objects´) does generate moral obligations in a manner similar to the ´fact´ of being ´causally´ responsible (or ´co-responsible´) for such or comparable conditions, social or otherwise: questions like these are characteristic for problem-settings which arise (pre-theoretically and pre-philosophically) from factually given and factually enabled (reciprocally structured) networks of moral beliefs, convictions and dispositions to act, networks which ´actively and reactively´ grow´ experientially, i.e. are driven pre-dicursively ´from below´.[2]

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[2] In that sense a distinction between a philosophical and/or theoretical reconstruction of ´given instances ´ of moral thinking, judgement, or argument occurring de re so to say, and these ´first order´ phenomena themselves which — again as a matter of fact – can (and do) include ´stretches´ of justifying argument and ´commonsensical´ attempts at ´making sense´ of morality (or moralities) is presupposed in what follows.

I shall begin with an analysis of the *facticity of morality*.[3]

I

The *´facticity of morality´* refers to a primordial and presuppositional state of affairs basic to any and every form of moral thinking and action. Interpretatively, it denotes the ´initiating fact´ that real, i.e. historically situated social actors are faced with the necessity to accept the comprehensive contexts and overarching relationships of their equally ´situated´ social existence as unavoidable starting-points of their moral (and non-moral) actions and deliberations. They have no ´choice´ but to treat these ´contexts´ as ´temporal force-fields´ of their moral (and non-moral) evaluative and normatively informed judgements (of their respective actions) and of those actions themselves.

It is crucial to realize that this very fact (or state of affairs) possesses *intrinsic* moral significance: all forms of moral action and all forms of moral judgement do not only represent socio-historically situated phenomena of action and judgement, but must be *realized and justified* given conditions of the historical hic et nunc of a spatio-temporal series of antecedent events and processes and sets of – quite often — polyphone and ´contested´ reasons and judgemental ´evidences´; this overarching and presuppositional ´context´ is in and of itself the unavoidable condition of the ´appearance´ and/or realization of morality.

Additionally moral action and judgement understood in this sense, i.e. as realistically (or ´factualistically´) conceived action and judgement, must also be taken to represent a form of *systemically mediated* action and judgement. The variegated ´systems and subsystems´ (N. Luhmann) of law, science, politics, economy etc. cannot ´simply´ be abstracted from or declared irrelevant: neither in reference to an ´autonomous´ ´subject´ of moral action and judgement nor in reference to a highly contested thesis of the ´systemic priority´ of a ´super-system´ of morality.

Systems of morals are major parts of the cognitive structure of life-worlds and as such also dependant on these ´contexts´ and their socio-historical paths of development.

From the very start ´factualistic´ moral theory must reckon with a *plurality of morals*, a plurality which possibly goes ´all the way down´, i.e. which

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[3] The well-known distinction between morality and ´morals´ taken as a ´system´ of factual morality is recognized and respected, of course. Factual morality in this sense is just an instantiation of a phenomenon subsequently to be explicated as that of the facticity of morality.

cannot be demolished (or superseded) argumentatively and which — perhaps — should not be the target of such attempts at ´making morality monolithic´, simply because such attempts themselves might distort, falsify or overlook morally relevant facts, types of evidence or cognitive structures informing systems of morally relevant action and judgement. (A similar caveat holds, of course, for ´strong´, i.e. unifying programs of moral justification).

The ´facticity of morality´ manifests itself ´substantially´ — among others — in the following four areas: a. Non-Ideality; b. Reciprocity; c. Limiting conditions of the adequacy of moral-theoretic reconstruction; d. The distinction between primary and secondary normativity.

(a) *Non-Ideality*

It might almost appear truistic to emphasize that the situated and factually given contexts and sets of conditions of our moral actions and judgements do not amount to ´ideal´ contexts and conditions: ´ideal´ in the strong sense that one can invariably rely on the ´fact´ that each and every actor acts morally or at least attempts to do so given the requirements and conditions of the respective morality which he acknowledges as binding. Situational necessity (or sometimes even coercion) to act and to judge quite often confronts actors given only incomplete informational states concerning morally significant properties of the relevant contexts of action and the possible causal consequences of such actions and/or omissions; furthermore the ´canonical´ semantics of the ascription of agency and liability in respect of action-consequences is quite often — again a truism — simply not satisfied, i.e. in ´cases´ of children, comatose patients or even those ´subjects´ subjected to various forms of social exclusion or discrimination — not to mention non-human, but sentient populations of ´affected´ animals or even non-sentient parts of ´nature´.

Additionally — and for our purposes of primary importance — one has to recognize further facts and conditions of non-ideality. ´Given´, i.e. factually situated contexts of action are also contexts of factually encounterable immorality, sometimes of massive and pervasive extent and quality either as contexts of everyday action or of ´systemically necessitated and exonerated behaviour´ (f. ex. in contexts of economic competition[4]).

A substantial moral theory which purports to satisfy minimal standards of normative and empirical plausibility simply cannot presuppose or take as

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[4] Of course this is not to deny the existence of an ´ethics´ of certain types of economic competition which proceed f. ex. according to some standards of fairness.

´unproblematic´ that all relevant actors would act (at all relevant times and in all relevant situations) in accordance with a suitably formulated (and affirmed) criterion of the validity of moral norms or ´maxims´ implementing those norms — such a presupposition is not only empirically false, but — if unchecked — leads moral theory completely astray.

Consequently I have proposed to introduce a parameter of *reciprocity* into explications of the validity or better: compliance-validity of ´contested´ moral norms to be understood as an ´enhanced´ basic notion of moral theory.[5]

(b) *Reciprocity*

Reciprocity (taken as the concept of a primary meta-ethical condition) can be understood as a consequence of the well-known criterion of the universalizability of a course of action: ´If everybody acted in THIS manner, would the underlying maxim qualify as a ´universal rule of (moral) law´ (I. Kant)´ or ´Could the consequences of such a subjunctively introduced supposition of universal compliance with a moral norm N be ´rationally´ accepted by all those affected?´ (K.-O. Apel and J. Habermas).

Now, even if this were (subjunctively) true, does this imply that ´we´ ought to act in accordance with such a ´norm´ or ´maxim´ in factually ´given´ worlds of social action and interaction?

Not at all (and as *moral* agents we better not do so), because the facticity of morality *and* immorality — understood as a comprehensive empirical condition of factual reciprocity — simply blocks this inference as far as we are able to pass judgement in this matter at all.[6]

(c) *Limiting conditions of the adequacy of moral-theoretic reconstruction*

Taking the facticity of morality seriously leads to a further consequence, namely that ´good´ moral theory proceeds strictly reconstructively — both for the general area of the exhibition of reciprocally valid moral norms and

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[5] See: NIQUET 2002a, p. 133 ff., NIQUET 2002b and NIQUET 2003, p. 317 f.

[6] It must be emphasized that such a ´reciprocity-argument´ does not contest the validity of a ´tested´ norm or course of action. Accepting validity as a premise it only attacks the subsequent inference — often believed to be ´unproblematic´- of the compliance-validity of the respective norm or norm-formulation. Of course, on further consideration valid norms might turn out to be compliance-valid, too, but this insight requires a separate and additional justifying argument. See: NIQUET 2002a, p. 146 f. and the further argument below.

for the more specific and possibly much more contested discipline of their justification. In contradistinction to some recent ´revisionist´ variants of Utilitarianism (R.M. Hare; S. Scheffler) and the main Kantian traditions of deontological moral theory reconstruction and justification must not only latch onto *factually given intuitions* of the moral adequacy and justifiability of moral action. Such types of philosophical analysis must also come to terms with the necessity of accepting that these reconstructive types of ´evidence´ — to be exposed in quasi-discursive or other forms of language-games of real ´practical´ deliberation and decision — *have ´the last word´.* The necessity and non-determinacy of a critical evaluation and assessment of the consequences of courses of action for ways of living and forms of life — in the light of possible ´revisionist´ and affirmative conclusions for our understanding of ´what it is to be moral´ — rests *squarely and primarily with those persons factually affected in the widest possible sense* — or with their representatives should the ´moral voice´ of the former have gone silent or become incomprehensible.

(d) *Primary and secondary normativity*

The critical distinction between primary and secondary (moral) normativity can be understood to be a meta-theoretical consequence of the facticity of morality again taken as an unavoidable condition of the adequacy of any type of moral theory. Those (moral) norms and reasons which can (reconstructively) be counted as *intrinsic to factually* given (morally informed) actions and judgements within an equally ´given´ social context can be conceptualized as representative of *primary normativity*; representative of *secondary normativity* are explicitly philosophical reconstructions and normative *theories* of justification of actions and judgements, normative theories which can also have their place in contexts of non-moral theorizing, f.ex. those of rational economics or certain variants of utilitarianism.

Needless to emphasize the very condition of the facticity of morals must be sharply distinguished from factually given networks of substantial moral convictions and justificatory reasons and motives. That condition must not be identified with a (methodologically and empirically) suicidal ´postulate´ of a moral-theoretic actualism!

Of course those ´intuitions´ (as elements of primary normativity) can be more or less ´inadequate´, f.ex. discriminatory, partial to merely ´subjective viewpoints´ or evidentially one-sided. But: the crucial function of an epistemologically and critically potent corrective does not seem to accrue to (some form of) philosophical discourse or theory, but rather to those *factually effective types of deliberations ascribable to actors* and all those affected by the consequences of their actions, i.e. *manifestations in the sense of acts of protest or explicit refusals to acquiesce.*

Strictly philosophical justifications in conjunction with their theoretical ´Überbau´ which quite often generate moral justifications of actions citing radically non-factual types of reasons and deliberations,[7] actions which are preferred by factual actors ´in modo naivo´ so to say, have only secondary normativity on their reconstructive side, irrespective of which ´advanced´ theories of rationality or ´calculi´ of rational choice might ´discursively´ come out on top.

Such moralities must also avoid overly strong idealisations concerning the type and extent of moral communities — they must additionally satisfy conditions of *socio-centric* plausibility.

II

Classical Kantian deontological virtue-ethics is based on (at least) two major presuppositions:

> "... that in ethics, as a pure practical philosophy of internal legislation, *only human relationships of humans to humans are comprehensible to us* .. that ethics cannot extend itself beyond the boundaries of reciprocal human duties."[8]

> "Now such a Realm of Ends *would* factually be realized through maxims the rule of which is prescribed to all rational beings if they *would* be universally complied with. Even though a rational being cannot count upon that, even if he himself did comply with such a maxim, *everybody else would therefore adhere to it* ... this respective law: act according to maxims of a universal law-giving member of a merely possible Realm of Ends, preserves its full power, because it is categorically binding."[9]

This classical moral theory is *socio-centric*, because ´.. only human relationships of humans to humans are comprehensible to us´; but it is at the same time — and equally constitutively — also categorical, since the ´factual fact´ — in this ´diagnosis of the antecedent´ Kant is of course stoutly realistic — of either *intra-individual or societally encounterable immorality does not affect the propositional content of substantial moral obligations in any way.*

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[7] Think of those cognitively involved and informationally complex types of reasons and deliberations so prominent in certain versions of Utilitarianism or of normatively ambitious paradigms of game-theory.

[8] KANT 1968a, p. 491. Pagination of the Academy-Edition .Translation by the author. My emphasis.

[9] KANT 1968b, p. 438 – 39. Pagination of the Academy-Edition. Translation by the author. My emphasis.

Needless to emphasize for Kant only the formal character of moral obligations[10], their formal mode as statements of ´ought´, must be traced back to the ´fact´ that — as far as we can ´empirically´ know ourselves — beings like humans are not beings of pure reason. Our ´double-nature´ as sensual and rational beings generates the necessity to embed the propositional content of substantial morality within norms of ´ought´: pure, i.e. monolithic beings of reason can comply with those ´contents´ (taken as mere ´statements´) as such by virtue of their wholly and truly rational ´nature´.[11]

As beings endowed with a ´double nature´[12] we are constitutively members of the mundus intelligibilis; but — and this is crucially important — since this ´Realm of Ends´ is not subject to the conditions of historical times and spaces, *factually encounterable* immorality and its conditions and consequences essentially and necessarily *drops out as a possible ´datum´* for such a theory of morals.

A similar diagnosis holds for that kind of ´Transcendental Anthropology´ first developed by Kant in the third part of the ´Groundwork´:[13] the socially ´encounterable´ immorality of other social actors, i.e. that ´given´, normatively contingent part-structure of the factual field of social action, *does not and cannot come into play*, because — austerely stated — the virtue-theoretic primary paradigm of ´duties against oneself´ can only capture moral obligations of the I in its identity as a rational being against the ´same´ I in its co-identity as a spatiotemporally existing and corporeally ´encapsulated´ or realized being of sensual inclination and disposition.[14] For that very reason a factually given, *only intersubjectively identifiable, i.e. social immorality*[15] cannot come into play here — at least not in such

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[10] Here and in the text to follow I am using the term ´obligation´ as an umbrella-term to cover the different kinds of moral judgements, i.e. permissions, ´rules´, prohibitions etc.

[11] See: KANT 1968a, p. 452 f. and KANT 1968c, p. 57-59. B-Pagination.

[12] The homo phaenomenon – homo noumenon-distinction in the sense of the double-nature model of ´man´ is of course basic to the ´Metaphysics of Morals´: Kant makes it very clear that without this ´critical notion´ the whole of the theory of morality as based on the notion of ´duties against oneself´ would not even get off the ground, at least not as a necessarily freedom-centric theory. See the first part of the ´Ethische Elementarlehre´ of the ´Metaphysics of Morals´, i.e. KANT 1968b, p. 417 – 418.

[13] See: KANT 1968a, p. 446 ff.

[14] See note 13 above. Kant is of course very clear on the ´semantic fact´ that a different, i.e. monolithic reading would make nonsense of the whole notion of a moral duty as such. The ´binding force and nature´ expressed by this notion taken as a minimally necessary condition seems to escape a monolithic reading altogether.

[15] What is not in play at this critical juncture is the ´trivial´ consequence of the Kantian paradigm that violation of a ´duty against others´ of course can amount to and consist in nothing but a violation of a primary ´duty against oneself´, f. ex. to help others in need. In this sense the basic notions of virtue-ethics have ´social meaning´, even though that meaning cannot be derived from an antecedently specifiable intersubjective content of

a manner that by an ´opening up´ of the evidential foundations of moral theory one could thereby conceive of a modification (or perhaps even of a ´suspension´) of the substantial propositional contents of morally valid imperatives or norms.

Now regarding these ´consequences´ of his deontological morality of virtue Kant seems to have commonsensical intuition on his side — a ´fact´ which he explicitly claims as positive evidence for his argument in the famous paragraph of p. 454 — 455 of the ´Groundwork´.[16]

Because and after all: the mere ´fact´ of immoral actions authored by others — whether in the way of interaction with myself or not — does not seem to ´affect´ me in a rationally reconstruable manner such that the mode of obligation and the propositional content of moral norms valid for all rational beings suddenly and consequently undergoes change. (And additionally: Does not the ´practical fact´ of freedom ´shield´ me from such an ´external´ and heteronomy-generating type of utilization?)

Of course the paradigms of recent post-Kantian deontological theories of morality (´discourse-ethics´) are not burdened with presuppositions such as models of a *mundus intelligibilis* or of a double-nature of human subjects of morality — in that sense they can be counted ´post-metaphysical´. Moral communities conceived of as communities of action and ´discourse´ are constituted as intersubjective ´entities´ *from the very start* and the reference to ´major and minor consequences´ for the interests, preferences etc. of all those affected by a subjunctively hypothesized universal compliance with the respective moral norm(s) seems to emphasize the realistic ´cut´ of this line of theorizing.

All of this notwithstanding it is still possible to work up a general counter-argument to these deontologies (albeit a stronger one against J. Habermas than against K.-O. Apel):

The seemingly unproblematic inference from the (formal) validity of a norm N which is thereby *hypothetically*[17] taken as universally complied with to a duty (´ought´) of *factual* compliance with N in a historically ´given´ and factual (world)-context of action K can be blocked by referring to the empirical falsity in K of the *subjunctive* supposition of universal

the moral ´ought´. For that matter one might even question the socio-centric nature of the Kantian ´Metaphysics of Morals´, naively interpreted. An ´intra-individual´ relationship of co-identity of ´rational and sensual ´part-selfs´ for spatio-temporally identifiable, unitary persons does not really seem to qualify as a type of genuine social relation.

[16] See: KANT 1968a.

[17] A hypothetical condition HC does not necessarily go over into a subjunctive condition SC – confusion on this point of different modalities might have contributed to the overhasty ´classical´ inference.

compliance of norm N in K — empirically speaking: by pointing out that *N is not compliance-universalizable in K.*

Given a situational context in which ones own life or the lives of ones dependants are actually threatened by purposeful, possibly violent actions of others it could — in such a factual context — be *immoral* to discount violent means of reactive defence *in principle*; it could be *immoral* not to lie to the proverbial Nazi as to the true whereabouts of a Jewish family which has taken refuge in my house; it could be *immoral* to send ones own kids to expensive private schools (or universities) abroad whereas untold numbers of children find an early death in countries of the so-called Third World because of insufficient sanitary and other types of conditions improvable with comparatively negligible amounts of money.[18]

And the ´classical´, i.e. ´standard´ answer to such ´qualms´, namely that inferences such as these could be generated and justified given the ´casuistic´ resources of the classical and post-classical deontologies does not really help. A careful analysis of the relevant types of moral evidence involved can show — I can only assert this here[19] — that these ´classical´ paradigms are necessarily superseded, superseded in the direction of post-deontological *moral-strategic*[20] types of action, reasoning and judgement which intrinsically affect the very conception of morality itself.

But be that as it may: the general problem — already referred to in the first citation above — of the implications of an *essentially* socio-centric moral theory, a type of moral theory which neither delegates the (quasi) systemic character of factually given immorality to a mere ´casuistry´ of the ´application´ of an ´ideal´ morality of discursively justified norms or — as in the well-known Kantian example of categorically ´forbidden´ lies — possibly accepts the massive violation of moral intuitions, perhaps motivated by reasons of secondary normativity -: that general problem has not been sufficiently dealt with. Of course I acknowledge the open and highly provisional nature of the argument of the following paragraphs.

Moral obligations are generated (paradigmatically) not just for factual social agents toward populations of those affected via networks of ´natural´ and social causality, but also for those who *merely have information* about those networks or simply ´know´ of them, i.e. groups of persons who play no praxeological or effective consequentialist part in the constitution of such networks of factual consequences of the respective types of action. Those ´knowers´ or ´information-holders´ also do not seem to share in any

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[18] It goes without saying that I do not deny that the quoted and ´overridden´ courses of action possess as such a prima facie moral quality!

[19] For further argument see: NIQUET 2003.

[20] A more general term would be ´compliance-valid´. See: NIQUET 2003.

kind of moral responsibility for these consequences conceived of in a ´narrowly´ causalistic manner.

The at least prima facie perfectly justifiable type of question (reminiscent of the anthropological criticism of A. Gehlen concerning ´super-moralities´): ´What do I care about social immoralities in the Trobriand Islands or in Brazil? I have no part in their social causation and neither do I profit from it´ can be answered by reference to (at least) two kinds of circumstance:

a. the ´cry for help´ of those factually affected, and *b.* ones own knowledge of (or the fact that one could[21] know or even ought[22] to know about) the respective morally scandalous states of affairs,

i.e. simply being informed about it (plus something like the ´naked´ power to act in the relevant ´direction´ of the world, however attenuated and mediated), f. ex. in the sense of a sympathetic reception of that cry for help, its interpretation and ´informational publication´.

Both of these ´levels´ can be integrated into a radically ´inner-worldly´ notion of a ´moral community´, a conception gravitating around three ´positional´ (ideal-typical) notions: that of the factual social actor (omission acts included!), that of the factually affected ´sufferer´, ´crying´ for help — not necessarily limited to sets of human ´subjects´, and that of the ´mere´ knower or mere ´possessor of relevant information´. The morally relevant distress of other social agents, uncaused by me and also not even possibly co-caused by me, can nevertheless — and this is the core-content of this ´intuition´- affect my ´moral standing´ in an informative manner, i.e. *in the manner of an ´informational involvement´!* It can manifest itself as a cry-for-help with a *reciprocal regime of ´informational´ aid*, but also in such a way that recent or future actions of mine, f. ex. in contexts of political or economic decision-making, undergo significant change consequential to the ´cognitive pressure´ of such morally relevant ´evidential prompts´.

Of course as a morally enabled agent I continue to be ´autonomous´: but the manner of the praxeological and *itself morally ´loaded´* ´manifestation´ of my moral autonomy seems to turn on a *socio-centric kind of informational dependence* on such ´prompts´ of morally scandalous states of affairs not in any way actor-ascribable to myself.

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[21] Of course an acceptable interpretation of this deontic modal term cries out for further analysis. Morally motivated ´overburdening´ of factual actors and ´knowers´ must be avoided – while at the same time ´not letting them off the hook´!

[22] Again, see the foregoing footnote. That one ought to know what one could know is of course not just ´moral nonsense´: but a seemingly relevant notion of morally required world-knowledge for ´average social actors´ is at best opaque, not just because there simply is no plausible base-notion of a factually shared informational world. The conception of an ´informational duty´ involved here has received embarrassingly little attention in recent moral philosophy.

Now should this highly provisional and strictly ´intuition-based´ explication hold up well under critical scrutiny it is quite easy to see why the famously claimed ´unconditional validity´ of the Kantian Categorical Imperative must be reconsidered.[23] Either — against ´classical´ Kant — as inapplicable, because the subjunctive supposition of universal compliance turns out to be empirically false on account of per se *morally relevant* (and possibly ´loaded´) kinds of informational evidences;[24] or — against ´classical´ discourse ethics[25] — as a potentially immoral deontological rule of action, because genuinely moral action must proceed according to and informed by ´compliance-valid´ norms — ´mere´ validity (even if subsequently ´application-aided´) by and of itself is insufficient to count actions moral.[26]

Additionally and reformulating the argument in a justification-theoretic perspective:

the logical ´heart´ of classical discourse ethics is constituted by a conception of practical discourse as the paradigmatic ´home´ of the reconstruction, validation and justification of (formulations of) moral norms. Independently of the fact that a Habermasian conception of discourse is subject to (´transcendentally´ justifiable?) idealisations, one must note the following highly problematic aspects of this key-conception of a meta-theory of morality given a socio-centric epistemology of morality:

(a) The *constitutive* conception of an ensemble of transcendental ´conditions´ of ´discourse´ or ´discursive speech´ as such, a cognitive set which is conceived of as *essentially* containing high-order moral norms among its presuppositional elements, does not hold up under critical scrutiny.[27]

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[23] The necessity for such a reinterpretation might possibly be circumvented by the ´simple´ expedient of a ´narrow´ understanding of ´Kantian´ immorality: i.e. as a wholly intra-individual or intra-personal affair given the double-nature ontology of ´morally enabled´ persons. ´Biting the bullet´ such a Kantian might claim that the immorality of a premeditated killing of another human being is not so much a function of the ´social´, because irreducibly other-directed and other-centred immorality of terminating the existence of that human being against his ´autonomous will´, but the result of a violation of a duty against oneself, namely (possibly) not to let a ´sensual´ inclination-state (of whatever kind – greed, hate, vengeance etc.) dominate oneself and thereby violate the moral self-respect which to execute and keep ´intact´ is one of the major duties against oneself.

[24] There might be morally valid reasons not to act according to the Categorical Imperative – for Kant an ´impossible datum´ of moral theory. This realization is crucially important – we are not dealing with other kinds of ´reasons´, i.e. those of an ´inclination – type ancestry which of course would de-qualify them a limine as morally relevant in any interesting sense. But check the argument of the preceding footnote.

[25] Of course post-Kantian deontologies offer their own ´principles´ of the moral validity of ´contested´ norms. See the reconstruction in: NIQUET 2002a, p. 55 ff.

[26] For further analysis, see: NIQUET 2002a, p. 137 ff.

[27] See the argument in: NIQUET 2002a, p. 187 ff., and esp. p. 195 ff.

This type of ´inclusion´ or identification is conceptually simply not possible, *neither for genuine transcendental conditions nor for genuine moral norms.*[28]

In consequence *one of the constitutive pillars of classical discourse ethics collapses* — and with it successor concepts (and conceptions) like the claim to universal validity of discursive morality[29] and the unconditional precedence of ´the moral´ over any and all conceptions of the ´merely´ ethical.

(b) The overarching condition of the facticity of morality can generate the necessity to ´suspend´ ´supernorms´ as part of the (envisaged) internal ´presuppositional´ moral scaffolding of discourse simply because they can be shown to fail the condition of compliance-validity. And that — crucially — because of moral reasons![30] Of course if these ´moral´ norms really possessed genuine transcendental standing such an ´operation of suspension´ would just not be possible (and necessary)!

A type of moral-practical reason, which includes this conception seems to represent an autonomous, i.e. not transcendentally compromised (or compromisable) species of practical reason — and in so doing seems to return us to Kantian intuitions, albeit from a non-Kantian perspective and interpretation.[31]

(c) As a matter of systemic necessity practical discourse (of whatever kind) seems to require of its subjects a stance of *objectivity and impartiality* — the ´Objective Self´ (Th. Nagel) of each and every participant is systemically called upon. But, as it happens, or could (or morally ought to) happen: perhaps the reconstruction and justification of major sets of moral-epistemological evidence is only possible via a *practical hermeneutics of contingent life-worldly identities and morally ´loaded´self-interpretations*: the husband and father who arrives at the ´conclusion´ — deliberating from a perspective of impartiality and objectivity — that he is not prone to a ´special moral obligation´, namely an obligation to rescue his wife and his children (in that order) from the burning wreckage of a Greyhound Bus *ahead of all other persons*, possibly involves himself in a massive

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[28] The argument that the whole of (transcendentally ´grounded´) discourse ethics rests on a ´transcendental fallacy´ might lead one to reconsider the Kantian paradigm of what makes pure practical reason into an autonomous, i.e. ´transformation resisting´ form of practical reason. For a first attempt, see: NIQUET 2007. ´Transforming´ Practical Reason´ (understood along Kantian lines) , even if done according to the semiotic recipes of Ch. S. Peirce, might land one in ´theoreticist´ quagmires – one indication seems to be the Apelian identification of high-level moral norms with ´strong´ transcendental presuppositions of ´discourse´.

[29] That universality-claim is of course based on the supposedly transcendental validity of the respective morally ´loaded´ presuppositions of ´discourse´ (plus the claim that ´discourse´ is a ´transcendentally necessary condition´ of ´all meaningful thought´.)

[30] See the argument in: NIQUET 2002a, p. 144 ff.

[31] Cf. NIQUET 2007.

immorality[32] — in so doing he might heroically save persons in deadly peril,[33] but only by violating a *primordial, but contingent moral obligation* towards his family.

In consequence there could be types of genuine moral identity *substantially and necessarily inconsistent* with a discourse-systemically ´prescribed´ attitude or stance of practically relevant objectivity and impartiality.[34] A ´classical´ conception of discourse might generate unacceptable, because strongly revisionist consequences for our pre-discursive understanding of substantial moral obligations.

Concluding the analysis of ´socio-centrism´ three further considerations should be noted:

(1) As it appears: Why is it so difficult to explicitly cite effective moral norms?

But perhaps one is disposed to think of this question as obviously unjustified. On the contrary – is it not rather simple, perhaps even trivial to cite courses of action which — in a moral perspective — are normatively ´on the safe side´ even when we are not disposed to do so in the form of explicit formulations of ´rules´ or ´valuations´? For example ´rules´, prohibitions and permissions, i.e. not to lie, not to cheat, to respect others (and oneself!), perhaps not to actively promote the welfare of others, but always to treat them in such a manner that they do not suffer avoidable harm as a consequence of ones own actions, to always subject ones own actions to standards of universalizability etc. etc.. The ´rest´, i.e. the situatively adequate ´application´ is being dealt with given the ´casuistry´ of moral-practical reason, the complications of which cannot be anticipated — but as such are being ´taken care of´ within ´informed practical discourses´.

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[32] His objective and impartial ´decision-procedure´ might have been an analogue to a ´throw of the dice´.

[33] Thereby complying with a general moral duty to aid those in need – which – and that is the decisive ´point of evidence´- at the same time and eodemque actu amounts to an instance of an immoral type of action!

[34] The meta-criticism often championed by ´orthodox´ adherents of discourse-ethics, namely that this (possible) result itself must be understood as an outcome of a practical discourse, thereby validating the conception by showing that it is not ´anchored´ to these systemic criteria is no good, because it crucially relies on a standard of morality which seems to be antecedent to and as such independent of the discursive ´play´. The mere fact that the relevant judgement of morality/immorality is an outcome of such a discursive endeavour is not enough, of course! What counts is whether the argument has to rely on or cite moral criteria or ´standards´ not identical to elements (or conjunctions thereof) of the ´transcendentally privileged´ ´presuppositional´ set or of its logically implied successor sets. And if, in the end, one admits to the necessity to incorporate the whole of ´practical reason´ into that presuppositional structure, one might as well give up such an ´ethics´ as ´discourse´-ethics.

Furthermore one could point to the fact that the relevant moral knowledge — at least in application to ´normatively unproblematic everyday´ contexts — seems to exist in an epistemically ´compiled´ format, a format which ensures that ´everyday´ moral subjects do not have explicit propositional access to that knowledge — a type of practical knowledge (´know how´) which is only present in the form of *epistemically encapsulated routines of action and judgement.*

Now, I believe that especially the latter interpretation is basically correct, but I nevertheless want to ´stick to´ the above question — also because of the fact that the ´classical´ model of casuistic application can lead dramatically astray.

This ´model´ cannot be restricted to moral deliberations and evidences of a certain ´canonical´ kind — on the contrary its successor must be susceptive to *any and every kind of situation- and ´moral data´-driven extension and application.* Furthermore it seems that a practical-moral form of reason which is factually and situatively ´engaged´ and effective generates its cognitive ´profile´ (and self-understanding), i.e. its cognitive identity *in the course of just such ´applications´-: the very idea that moral norms or ´rules´ need only be ´applied´ in the sense of some adequately specified ´code´ is simply inadequate.*

And lastly a conception of moral knowledge taking as ´inputs´ descriptions of situations of application and leading up to *uniquely correct* imperatives or norms of action in a quasi ´algorithmic´ manner seems to incorporate an epistemic ideal — almost a ´scientistic´ ideal of everyday morality -, which completely misses the factually effective character of such ´knowledge´ — a type of knowledge to be thought of as insight and not as some form of truth-based *episteme.*

(2) Moralities which essentially exhibit properties of facticity and socio-centrism are also ´hybrid´ forms of morality: What does that mean?

Hybrid moralities incorporate high-level structural properties which are characteristic of and essential to different traditions of moral-theoretic thinking. *Monolithic* ethics like the classical Aristotelian paradigm postulate a unified profile of moral-practical reason. The post-Kantian ´classical´ deontologies are hybrid moral theories in the specific sense that both an ´ought´ of compliance and an integral reference to the ´extensional´ consequences of actions are intrinsic criteria of the validity of moral norms the Apelian variant introduces a further teleological ´element´ in the form of the so-called ´principle of supplementation´, i.e. the postulated *telos* of an approximative realization of the conditions of application of an ´ideal´

ethics of discourse is constitutive for ´part B´ of his variant of discourse ethics.[35]

Now a ´post-deontological´ theory of morality does not only elaborate this paradigm; I believe that in order to even arrive at a minimally satisfactory conception of morality one has to constitutively establish this conception as hybrid ab ovo — *minimally adequate theories of morality have to be plurilithic from the very start.*

The distinction between validity and compliance-validity, between *compliance*-universalization and *acceptance*-universalization[36], the introduction of a (highly differentiated) parameter of reciprocity and a strictly socio-centric interpretation of the idea of the moral ´ought´ designate a minimal set of new elements of a unified conceptual landscape which recognizes monolithic conceptions of morality either as ´streamlined´ structures of secondary normativity or as revisionist conceptions of an ´ideal´ morality without a constitutive ´factualistic´ (not just ´applicative´) underpinning.

These conceptions seem to be more at home in some moral-theoretic analogue of the famous Study of Hume than in a required *Normative Realism* of moral analysis.[37] Counting on or reckoning with every kind of ´evidence´, every kind of ´calculus´, every kind of heuristic of prioritization[38], every kind of ´ideal of action´: (minimally) all of this must ´drive´ such an analysis. Processes of moral and moral-theoretic problem solving have to be conceived of as ´driven´ by often highly differentiated and heterogeneous data, sets of evidence and types of situations of action: and what counts as a ´moral problem´ is equally ´open´ and often dependant on circumstances which defeat the predilections of theoretical anticipation or regimentation.

(3) Epistemology of Morals and processes of Re-Moralization

In ´Faktizität und Geltung´[39] J. Habermas has defended the interesting thesis of a ´de-epistemologization´ of the ´action system´ of moral-practical reason in the specific sense of its ´depowerment´ or ´transformation´ into a system of ´mere knowledge or insight´ without any ´natural´ or ´effective´ connection to sets of actions. Moral beliefs are not to have ´immediate access´ to the ´action system´; their place has been taken by other types of ´motivationally powerful´ convictions, f. ex. representing elements of certain types of sanction-based legal structures of an attendant democratic legitimacy.

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[35] See the reconstruction in: NIQUET 2002a, p. 83 ff.

[36] Cf. NIQUET 2002a, p. 156 ff.

[37] For a first account of Normative Realism see: NIQUET 2003.

[38] NIQUET 2003, p. 329 ff.

[39] See: HABERMAS 1992, p. 145 ff.

But this diagnosis — if at all correct — seems to be only one side of the ´transformatory coin´: depowerment must be taken as *complementary* with or ´back-to-back´ to a regime of *re-moralization.*

Both processes are aspects of a unitary mode of development of moral-practical reason. Given a perspective of everyday morality to a large extent we certainly find ourselves relieved of the cognitive burdens of morally loaded problematization, but at the same time — and equally ´naturally´- we can be confronted with effects and processes of re-moralization originating in and from prima facie inconspicuous and ´tranquil´ ´parts´ of our everyday social and personal environment. Buying things in the local supermarket, the airplane flight to the pre-booked vacational ´paradise´, the cup of coffee starting off the day: all of them phenomena which are open to — austere — processes of re-moralization: one need not cite ´high-level´ problems such as those of the global distribution of monetary wealth and poverty, the political justification to spend a large part of ones own taxable income on getting ´the best education´ for the children of ones own country or the propensity to implicitly accede in regimes of international exploitation to secure the material riches of ones own daily comfort.

Processes of re-moralization can also be recognized — perhaps at its most impressive and exhibiting widespread consequences — in the ´internationalistic´ fact of a global politics of universal human rights. Possibly the United Nations taken as a global platform of such politics can already be understood as the forerunner of a kind of normatively *hybrid institution,* an institution which would conceptualize and implement a *global regime of law according to moral criteria and a regime of global morality according to criteria of a politics of human rights.*

Consequently a one-dimensional thesis of the straightforward and ´radical´ depowerment of moral-practical reason, a thesis of the ´suspension´ of its potential for ´factualistic´ criticisms in favour of regimes of (democratic) law simply cannot be maintained. Epistemologization and re-moralization are *special, because factualistic, twins* — the one does not come without the other.

And we encounter both — ´at home´- within the conceptual body of a hybrid theory of morality the identity of which is essentially dependant on its socio-centric and factualistic constitution.

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