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The architectonic of the ethics of liberation[1]
On material ethics and formal moralities

Abstract This contribution is a critical and constructive engagement with discourse ethics. First, it clarifies why discourse ethics has difficulties with the grounding and application of moral norms. Second, it turns to a positive appropriation of the formal and procedural aspects of discourse ethics. The goal is the elaboration of an ethics that is able to incorporate the material aspects of goods and the formal dimension of ethical validity and consensuability. Every morality is the formal application of some substantive good. Every ethical perspective demands its evaluation in terms of its universability. In order to achieve this mediation, it is suggested that we must incorporate not only the historical dimension of moral systems, but also the role of critical consciousness and the negativity embodied by those who are victims of the existing consensus. The essay concludes with six points that need to be considered when formulating a material ethics that is universalizable and, most importantly, that can address the massive poverty and dehumanization of those excluded from the present community of communication.

My strategy in setting out my argument is the following. In the intro-
duction I indicate in a summary fashion the architectonic of discourse
ethics {morality) and demonstrate the difficulty in both the ground-
ing and application of its fundamental norm due to an originary
dichotomy that dates back to Kant. In § 1 I reformulate the meaning
of material ethics thus showing that it is possible to define the *uni-
versality* of material criteria, principles and imperatives {which have
been explained in diverse forms by the different material ethics and
frequently quite reductively), but being clear that this is a *necessary
but not sufficient* moment within a comprehensive ethics. In § 2 I rein-
terpret the meaning of formal moralities, since they are, in my
opinion, the procedural dimension of the 'application' of the material
principle {completely inverting the traditional problem concerning
this issue). This step must also be considered as a *necessary but not
sufficient* moment within any ethic worth its name. With these rein-
scriptions I take a fundamental step forward in the ongoing dialogue
with discourse ethics. In § 3 I integrate the procedural intention of
Peirce's pragmatism, which discourse ethics has been the first to
articulate in its architectonic, but now diachronically as the insti-
tutionalization of the valid-good. In § 4 I situate the transcendental
place, the first place, of the historical consciousness of the main actors
{the dominated and/or excluded) and of the recent 'great critics' of
the ruling ethical system. With this I demonstrate the necessity of the
thematic-scientific mediations used by these critics. Among the great
critics, who include Freud, Nietzsche, Foucault, Hinkelammert, and
many others, I give greater and fundamental relevance to Marx {for
his clarity in pointing out the material-economic moment of every
ethics of 'content') and to Levinas {in his critique of ethics and moral-
ity as such). In § 5, for the first time and having integrated the falli-
bilist thought of Karl-Otto Apel, I show the meaning of the birth of
a new intersubjective consensuability of the *dominated* majorities
{domination that is justified by most of the material systems that now
appear 'hegemonic') and the *excluded* majorities {exclusion that is
presupposed in the also 'hegemonic' formal procedures). The sense of
an *anti-hegemonic* intersubjectivity of the dominated and/or excluded
thus emerges with clarity before the hegemonic intersubjectivity. In
his way we subsume and integrate critically the 'democratic principle'
in the critical processes, which can manifest itself either *normally*
through the transformation of majority or popular movements, or
exceptionally {very exceptionally, but always possible, and occurring
a few times every century) through revolutionary movements. This is
the theme of the future 'institutionality', declared valid, consensually,
 by the new intersubjectivity. I have not negated the intention of

discourse ethics, but this has been subsumed into a much more complex architectonic that is also material, more realistic and above all, more critical. I believe that in this way I can show that the ethics of liberation is neither anarchist, nor reformist, nor necessarily revolutionary.[2] This level I denominate the 'critical formal morality'. In § 6 I show how it is only now that the ethical-material and formal-moral consensual process of liberation itself can be understood. It is this very process that deconstructs the hegemonic system, a system that excludes and dominates, in order to reconstruct or, in exceptional cases when reconstruction is not possible since the order is a new order, to construct through 'critical transformations' in the diverse 'fronts'[3] of possible liberation (ecological, feminist, political, economic, pedagogical, racial, etc.) a 'new order'. All of these 'transformations', or 'constructions´ of a *'new* order', have to make use of the principle of consensuability, have to employ the institutionalization of argument, i.e. formal principles that supersede in many aspects, but that do not invalidate, the older principle of *phronesis,* which continues to have validity in the individual order.

Due to space constraints, this short contribution will be able only to advance some precise theses, situating the thematic without exhausting it. A more detailed analysis of this architectonic will be presented in the respective chapters of my *Ethics of Liberation: In the Epoch of Globalization and Exclusion* that I am presently writing.

Introduction: the formal architectonic of discourse ethics

The architectonic of discourse ethics faces a critical knot (inasmuch as it is not undone) in the question of the application *(Anwendung)* of the basic norm of the procedural morality[4] (which has a different sense in Aristotle or Kant[5]). But this forced (or impossible) 'landing' is the result of 'taking off' from the ground in an ambiguous flight. The inadequacy of the 'takeoff' determines the impossibility of the 'landing'. That is to say, the architectonic does not begin by subsuming the ethical sense of the *materiality* of the world of human life, it considers only the universal conditions of possibility of the moral validity of decisions, norms or maxims that are adopted concretely. The empirical, historical material is not negated; it is simply relegated to a secondary and unimportant position having no relevance to esting the validity of the rational universality of formal intersubjective consensuability. The question of 'validity' has absolute priority with respect to the question of the 'content' of every ethics of the 'good'.

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Discourse ethics then, as with Kant, does not intend to ground a material ethics. This task is declared unnecessary and impossible, and for that reason both Apel and Habermas situate from the outset the entire problem of ethical philosophy at the level of formal morality, not seeing the importance of the indicated level of the 'contents', of the material, of the *eu bíos* (good life) or the *'bien* (good, *das Cute)'*. Is this because the deaths that face those living in the fields and streets of Malí, Haiti or Bangladesh, the poverty and the lack of established rights in peripheral countries, are not events of great import, day by day, in Europe or the United States? The question is clearly formulated by Kant himself when he writes:

> All practical principles that presuppose an (material) object of the appetitive faculty as determining foundation of the will, are empirical and cannot give *practical laws.*[6]

And in a prior text he expressed it even more explicitly:

> ...to preserve one's life is a duty, and besides this everyone has also an immediate inclination to do so. But on account of this the often anxious precautions taken by the greater part of mankind for this urpose have no inner worth, and the maxim of their action is without moral content.[7]

This position is shared, with certain differences, by discourse ethics and presupposes three reductions. (1) The 'inclinations' (the corporeality *[Leiblichkeit])* are pathological, capricious, and, in the last instance, egotistical and particular -that is, not universal- and therefore do not enter into the determination of the basic norm. (2) The 'good life' of each culture has its own characteristics, which cannot be grounded rationally; this furthermore makes it impossible (a) to ground the content of the particular *ethos,* and (b), when a particular *ethos* is to be compared with the ethos of another culture (taking place in the 'world-system' since 1492), to carry out an intercultural dialogue (since there are no intrinsic transcultural criteria), or to reach an agreement on which of all the 'good lives' is the best.[8] (3) Survival is negated as a material ethical principle.

In fact, after having defined the existence of a 'level A' of the grounding of morality,[9] Apel asks himself how to 'descend' to the concrete:

> Indeed, already with the ultimate grounding *[Letztbegrundung]* of the principle of ethics one must take into account *not only* the fundamental norm of the consensual grounding of norms which is acknowledged in the counterfactual anticipation of ideal relations of

communication, *but also* simultaneously the fundamental
norm of historically linked responsibility, indeed the care *(Sorge]* for the
preservation of the natural conditions of living and the historical-
cultural achievements of every now factically existing real com-
munity of communication.[10]

But when he turns to the application of this principle in order to pre-
serve the concrete 'natural conditions of living and the historical-
cultural achievements', he confesses again and again:

> I must also admit that the elucidation of the reasons that lead me to
> make the distinction between a grounding part A and a grounding
> part B of discourse ethics, is not yet completely clear.[11]

Furthermore, 'the conditions of application of an ethics of the ideal
communication community *...are not in any way given'.*[12] That is,
since the situational and contingent conditions are not given[13] {one of
them is the non-participation of all those whose interests may be
affected[14]), it is necessary to take recourse to an 'ethics of responsi-
bility' -of a Weberian type -in order to create the necessary con-
ditions of equality and symmetry.[15]

Here we must note Franz Hinkelammert's reaction. He discovers
 in discourse ethics a form lacking for the articulation of material
ethics, and writes:

> A norm is valid only to the extent that it is applicable, and it is applic-
> able to the extent that *it allows us to live.* This does in no way chal-
> lenge the validity of the norm as a point of departure, although it
> concerns the decision to apply it. In any event, a norm under which
> one could not live under any circumstance, would be *a priori* invalid.
> This is also true, for instance, in a universal decision for collective
> suicide.[16]

The reproduction and growth of human life is the first criterion of
truth {theoretical and practical). This is the absolute condition of
possibility of existence not only of the subjects of argumentation but
also of the linguistic and conceptual processes themselves. Seyla Ben-
habib makes much the same critique, given that Habermas's *principle
U* defines the rightful participants in argumentation as 'the affected
in their interests':

> The interests that participants in a discourse bring with them to the
> argumentation situation are ones that they already have as actors in
> the life-world. ...If, however, participants in discourses bring with
> them their own interpretation of their own interests, then the ques-
> tion immediately suggests itself: given that the satisfaction of the

> interests of *each* is to be viewed as a legitimate and reasonable *criterion* in establishing the universality of the norm, then is it not the case that universality can only result when a corresponding 'compatibility' or even harmony of interests *really exists* in the lifeworld?[17]

Formal morality always presupposes a material ethics, which determines it through its criteria of universal and concrete truth, not only in the sense that it is *that 'about' which one must argue,* but still, and lastly, because of the fact that the validity of the 'agreement' is decided from {problematic horizon), on {ground), and in {the concretely agreed upon) the 'content' -which in its criteria, principles or imperatives has an autonomy that one must know how to respect.

§ 1 **The material aspect of ethics: is there** a **universal material principle?** '

I have spoken during other phases of our dialogue with Apel of the need for a 'transcendental economics' as a correlate to a 'transcendental pragmatics'.[18] I wanted to indicate that the formal {pragmatics) ought to be articulated with relationship to the material {a decisive example that I put forward was economics *[Oekonomik]),* and that this *material* level was an ontological condition or a condition of survival with respect to pragmatics {just as this is the *formal* condition of the former). In the same way, Karl Marx helped us to discover the lack of attention in pragmatics to the material conditions {of 'content') of the subjects who argue. Now we can formulate the issue with greater precision.

In fact, our thesis could be formulated in the following manner: the 'content' aspect of ethics,[19] abstractly, possesses its own universality and it always determines *materially* all the levels of formal morality. The 'formal' aspect of morality {the *right [richtig])* and the level of universal intersubjective *validity* (*Gultigkeit),* abstractly, determine in turn *formally* all the levels of the material ethics. It is a matter of a mutual, constitutive and always present co-determination with *diverse senses* {one is 'material', the other 'formal', thus giving rise to a *real* unity: the valid-good [*el bien-válido]* and the good-validity *[válido-bueno]).* This is a fundamental thesis of the ethics of liberation, because in this way 'poverty', the domination of women in their corporeality *{Leiblichkeit),* the discrimination against non-white races, etc., could be interpreted ethically from the perspective of the material criteria always already presupposed a priori in all

critiques (negative critique that departs from the 'lack of' material realization of subjects; that is to say, from their unhappiness, their suffering; see § 4).

The material aspect of ethics (as Kant indicates in the text cited above without discovering its relevance) concerns in the last instance the reproduction and growth of human life.[20] For this reason we speak not only of 'life' but also of 'sur-vival' *[sobre-vivencia]*.[21] The material principle of ethics that fulfills the criteria of survival, could be enunciated in the following way:

> Who acts (seriouslyor ethically) has already recognized *in actu* the requirements of the possible survival of humanity in a concrete *good human life* (happiness, values, cultural understandings of being *[Sein-verstäindnis])*, which is shared with all those who form part of a real, historical *community of life* which has a universality claim and co-solidarity with humanity as such.[22]

Without taking recourse to or being inspired by the neo-Aristotelians (from both sides of the Atlantic), I would like nevertheless to recall that Aristotle's *eudaimonia* was not the 'end' of a Weberian instrumental reason, but instead the *telos,*[23] and, as Heidegger put it, an 'understanding of Being as potentiality for Being *(Seinsverständnis als Seinkönnen)'.*[24] In any event, that very same ontological 'understanding of Being' presupposes an access to reality that we will call 'originary ethical reason' (pre-ontological). This thematic requires to be reviewed with care.[25]

Now I would like to refer to the utilitarians, who have been criticized since Moore up through Rawls. This position dates back to the empiricist tradition -thanks to which Kant awakened from his rationalist slumber -that takes pleasure or happiness as the exclusive moment (and in this reduction resides its error) for the material principle of ethics, and as Locke indicated it in his *An Essay Concerning Human Understanding:*

> Good and evil. ..are nothing but pleasure or pain, or that which occasions or procures pleasure or pain.[26]

Jeremy Bentham's utilitarianism, so naive in many aspects, defines in the same fashion the ethical criteria:

> ...[the] *fundamental axiom* [is:] it is the greatest happiness of the greatest number that is the measure of right and wrong.[27]

John Stuart Mill, in turn, declares:

> The creed which accepts as the foundation of morals, *Utility,* or the *Greatest Happiness Principle* holds that actions are right in proportion

as they tend to promote happiness, wrong as they tend to produce the reverse of happiness.[28]

'Pleasure' (as mere sensation} or 'happiness' (as 'background feeling') certainly indicates a subjective aspect of the 'content' of ethics – whose conflicts, contradictions or exceptions ought to be treated by the 'application' of the formal principle, but this is by no means the only aspect of every material ethics.

In fact, all material ethics[29] remind us of the pre-ontological condition of possibility as a necessity in the reproduction or growth of human life, the *'sur-vival'* of every human act. A foundation of this material principle can also be argued against the skeptic[30] who will come forward again[31]} in similar terms to the demonstration that is performed by discourse ethics of its principle through the medium of the performative self-contradiction: anyone who acts does so for the conservation and growth of human life, concretely for some 'good',[32] otherwise that person ought to let himself or herself die (and even one who would let himself or herself die, would self-contradict performatively[33] in any attempt to make explicit the motive of his or her suicide}. But, above all, we must argue against the cynic who in turn argues in favor of the death of those who are 'superfluous', and who do not know how, or are unable, to defend themselves (as Hayek expresses it with reference to the market and competition}. The problem lies in clarifying the position of the suicide and showing how it is not possible to choose to die. One who selects death, selects not to elect absolutely. In any event, all of these material aspects are *necessary but not sufficient.* For this reason we must articulate, must subsume the material aspect of the ethics of 'content', and not simply ignore it, because then we would not be able to take into account the criteria of survival that are the *foundation* with respect to every other formal criterion, principle, norm, decision, institution, argumentation, etc.

There are various objections. For instance, first, no one can indicate concretely and in an exhaustive manner the determinations that make up his or her own 'good'.[34] Second, today it is difficult for someone to say which type of historical cultural 'good life' is the best. Third, the internal criteria to *Sittlichkeit* that would allow intercultural dialogue are not always available.[35] Furthermore, there are some people who sacrifice their lives (for example, heroes}, demonstrating that survival is not their first principle. To all of this we would answer that, in the first place, this principle is *fundamental* and *necessary,* but is far from being *sufficient* and, for that reason, needs other criteria and principles for its concrete 'application'. On the other

hand, the question is not one of determining the 'content' of this 'good life' (or the best), or whether or not it has internal criteria[36] for the external intercultural dialogue (for which Habermas has given good reasons with respect to Modernity[37]), but of simply affirming the fact that no one can act if she or he does not have in view a good, or a good life -it does not matter what kind, but it has to be some good. And, lastly, there is nothing further from egoism than this principle since it is also an intersubjective material principle that raises a *universal validity claim*[38] capable, in the last instance, of reaching co-solidarity with humanity (although this principle can also restrict itself as egoism, ethnocentrism, totalitarian nationalism, etc., and if so is self-opposed to other criteria or co-determining principles). Here the *formal* rational 'procedure' that reaches validity and judges as invalid the act that affirms the mere particularity over universality, is required. The moment of the content of ethics speaks of the question of *practical* truth; the formal moment refers to the moral theme of *validity*. Both moments are necessary and co-determine each other in order to reach a greater sufficiency (but are not yet complete, as we will see) .

Let us reiterate: the criterion of reproduction and growth of human life internal to every culture allows all, in the first place, to be self-critical with respect to the intrinsic moments that hinder this very life; and, in the second place, allows every culture to establish a dialogue with other cultures from the universality of this very same criterion (with respect to the validity or invalidity of its manner of achieving the reproduction or growth of human life). This universality of material ethics has been negated by the formal moralities and has been wrongly formulated by utilitarianism, communitarianism, axiologies and other material ethics -and for this they have been justly criticized.

§ 2 The function of the formal moment of morality: procedural universality

Since the material principle is not sufficient for its own concrete 'application',[39] to explain its conflicts, contradictions, external confrontation with other conceptions of the ethical life, and exceptions, etc., it is *necessary* to exercise the formal consensual rational principle of intersubjectivity that can attain moral validity. But, in contrast to discourse ethics, which attempts to develop an ethics *exclusively* from the formal moral principle, liberation ethics will attempt to subsume all that has been attained by discourse ethics (including its formal

foundation) inasmuch as it makes pragmatic use of the intersubjective principle of universalization (transformed Kantian principle of validity), but inverts its sense. This is not a question of applying the basic norm to the empirical-historical; rather, conversely, the formal basic norm has the function of 'applying' the material principle.[40] That is to say, procedurally adequate intersubjectivity attains the validity of a *material* 'agreement' inasmuch as it departs from the criteria of survival and the ethical principle of content (see the extract beginning 'Who acts. ..' in the next-but-one paragraph).

The formal aspect of morality departs from the criteria of intersubjectivity, from the basic pragmatic norm or principle of universality that attains communitarian validity. But, reiterating, given that it concerns a principle of the 'application' of the material norm, now we invert what has been affirmed with respect to the formal aspect of morality. The material norm is the condition of possibility of a 'content' of the 'application' of the formal norm inasmuch as when one argues it is because one intends to know *how* one can (ought) to survive here and now: the material norm gives 'content' to that which has been agreed upon through consensus (in the last instance, a mediation for survival of 'needing' subjects and thus participants), within the horizon circumscribed by the 'impossibility of selecting death'.

The formulation of the basic norm or the moral-pragmatic principle of discourse ethics is the following:

> Who acts. ..has already given evidence *in actu* ...that the *ideal rules of argumentation* in an, in principle unlimited, communication community of persons who recognize each other reciprocally as equals, represent *normative conditions of possibility of the decision on ethical validity claims.*[41]

What has been gained in the analysis of discourse ethics we must subsume here, but with the caveat that it is not presented as the only principle; its function is also redefined.[42] And, lastly, the formal pragmatic morality is coordinated with material ethics (including its economic instances, as we will see below).

Here we must underscore that since Aristotle, the formal moment of validity (analyzed by the Latins in the theme of *conscientia)* was accomplished by the 'practical argument'. In fact, the understanding of the good (practical horizon that functions as major premise) was the point of departure. The act of practical reason guided by *phronesis* allowed for the application of the principle to a practical goal: the decision taken *(hypólepsis*[43]*),* whose validity was granted to it by the strength of the practical argument. As was the case for Hegel, practical reason (the *praktikos lóos* of the Greeks) worked from within the

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attainment of the 'good'. In other words, for the pre-modern ethi-cists[44] the formal-rational moment was always integrated within the internal constitution of the good or of its 'material content'. This 'good', furthermore, is desired, but this desire was 'selected' -never merely irrational as it was later for the empiricists. Practical reason had been analyzed and integrated in a far more complex fashion (but not so in Modernity, especially, since the dualist Kantian disjunction), and the ethical-material moment was coordinated with the formal-moral moment. Today, it is evident, we can accomplish radical trans-formations to these distinctions and attain a greater precision, but in the line of an organic subsumption, thus not perpetuating reductive rationalisms or irrational material ethics of incommunicability. Practi-cal reason is that which unfolds the ultimate horizon (the intersub-jective 'understanding of Being', the material or the content, the 'good' *par excellence).*[45] Theoretical reason functions within its horizon and only circumscribes abstract systems of greater precision and of lesser reality. Practical-ethical discursivity (formal-material) has to be differentiated from the mere theoretical (or scientific) dis-cursivity. On this point, discourse ethics ought to overcome a certain reductive rationalism.

§ 3 **The proceduralism of the valid-good: the ethical-moral synthesis**

In the prior sections we have considered synchronically and *abstractly* the material aspects of ethics and the formal aspects of morality. Now we will consider them concretely, subsumptively, procedurally or *dia-chronically,* in a more complex unity.

Determining the valid according to the consensual exigencies of intersubjectivity, which allows for the 'application' of the criteria of survival under the communitarian principle of material ethics, we now ought to ascend toward the concrete. It is thus that we discover that the ethical is already procedural (Peirce's pragmatic principle). The following citation can count as a suggestion for the theme:

> Category the First is the Idea of that which is such as it is regardless of anything else. ..Category the Second is the Idea of that which is such as it is as being Second to some First, regardless of anything else ...it is Reaction. ..Category the Third is the Idea of that which is such as it is as being a Third,[46] or Medium, between a Second and its First.[47]

TABLE 1 Possible diachrony of validity and the good

Moments	§ 3	§ 4	§ 5	§6
The formal	The hegemonic validity	The dominating validity	The anti-hegemonic non-validity	The new validity
The material	The legitimate good	The illegitimate good	The good	The new legitimate good

In Table 1, moments

Pragmatic procedural ism is mainly established at the level of what William James called *veri-fication.* What is of interest to us here is the practical process of a material ethics of 'contents' {of *liber-ation),* and moreover, consensual formal and critical since the pragmatists, from Peirce, through James, up to Mead and Dewey will remain within the horizon of the North American *common sense;* although progres-sivist.[48]

The articulation of the valid-good {of the validity of the good) is not always given simultaneously in the diachronic process {see Table 1).

A good point of departure could be Habermas's definition of legit-imacy:

> Legitimacy means that there are good arguments for a political order's claim to be recognized as right and just; a legitimate order deserves recognition.[49]

Antonio Gramsci[50] differentiated between a hegemonic order {when it had ideological legitimacy, in Habermas's sense) and an order of domination {when legitimate coercion, in Weber's sense, becomes ille-gitimate coercion; this is the transition from level § 3 of Schema 2 to level § 4).
Procedurally, then, the concrete content of a project of reproduc-tion and growth of human life, attains procedurally intersubjective validity thanks to the different modes of argumentation in the respec-tive real communication community. The 'good' is developed dia-chronically, historically and concretely. At the political level of late capitalism *{Spätkapitalismus)* {it could also be the family-erotic sexism, or the pedagogical-cultural elitist culture, etc.), the 'demo-cracy principle' replaces the traditional treatment of *phronesis.* In any

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event, it is necessary to recall that the validity of consensual agree-
ments {be they of norms, laws, institutions, actions, etc.) is about
material contents. On this point, economics -and we do not speak of
the sciences of economics[51] (*Oekonomik* and not *Wirtschaftswis-
senschaft)* -obtains great significance in the debate. For this reason,
I began this dialogue with the *material content* {technological eco-
nomic of capitalism, from Marx's critical perspective[52]). Validity,
politically speaking, ought to have always economic content, as repro-
duction and growth of human life, sur-vival. The construction of a
common good, intersubjective valid-good, is the diachronic effect of
a historical process, in which the 'rule of law' attains validity because
a certain number of goods {vital, technical, economic, cultural, aes-
thetics, ethical, etc.) are effectively subsumed by the participants thus
creating a 'common welfare' that makes the established order accept-
able, that grounds *materially* {not only with arguments as Habermas
thinks) the consensual legitimacy of the hegemonic system. In the case
of capitalism, the project of the medieval past and of the first cen-
turies of the bourgeois Modernity {liberty, equality, property for all)
came to constitute the substratum on which the hegemonic validity is
coordinated in a balanced fashion with the legitimate good in the
majoritarian con sensuality of the population of a nation or a state.

The process of constitution of a 'rule of law' achieves a 'classical'
moment when all or the majority support legitimacy with their con-
sensus.

The criterion of proceduralism is included in the definition of the
respective principle: since the valid-good is diachronic, historical,
dialectical, it can never be assured of remaining so for ever. The valid-
good, then, is continuously open to becoming invalid, illegitimate,
unjust.

§ 4 **The architectonic place of critical alterity**

Only now can we begin to glimpse the specificity of liberation ethics.
Before, we could not understand its proposals, although I have
attempted to explain it repeatedly in the dialogue with discourse
ethics. I believe that thus far I have failed because I have not presented
with pedagogical clarity the phases of the theme. Only now can it be
understood, for example, that the *'fact' of poverty*[53] in peripheral
capitalism {in the epoch of central late capitalism) is not an immedi-
ate fact {which would have to be treated abstractly at the level § 1 of
our schema). Only now, in the light of the criteria and material prin-
ciple { of the community of survival, of subjective happiness and of the

objective good, in the last instance, of the whole humanity), legitimated by the intersubjective validity of the ruling system, can a massive fact be discovered: the majority of this humanity finds itself sunk in 'poverty', 'unhappiness', 'suffering', under domination and/or exclusion. The utopian project of the ruling system (economic, political, erotic, etc.) is discovered (in view of its own claims to freedom, equality, property for all, and other myths and symbols. ..) to be contradictory since the majority of its participants find themselves in effect deprived of the possibility of fulfilling the needs that the system itself has proclaimed as rights. It is from the *positivity* of the ethical criterion of survival (and its respective principle in concrete terms) that the *negativity* of death, of hunger and misery, of corporeal oppression by work, of repression of the unconscious and the libido, particularly of women, of subjects' lack of power over institutions, of being ruled by inverted values, of illiteracy, etc., can now attain an exact *ethical sense.* 'The Other' -on whom I have so much insisted -appears as other of the 'normality' presented in § § 1-3: the normal, ruling, 'natural', legitimate system appears now as Marx's 'fetishized capital', as Levinas's ethically perverse 'totality'; and as such it will lose its formal or intersubjective validity, its hegemony. It now appears before the eyes of the dominated and/or excluded only as imposed, as 'dominating validity'. Here Wellmer's[54] proposal can be situated with respect to the universal validity of the 'negation of the non-generalizable maxim(s)': Thou shall not make anyone miserable![55]; Thou shall not inmiserate anyone! (Marx); and Thou shall not take anyone's life! (Hinkelammert).[56]

Here we can pause and underscore an essential moment. (1) Critical and ethical consciousness -which is to listen to the interpellation of the Other in her suffering corporeality -has as first subject the dominated and/or excluded. They, therefore, have a *concrete, historical, existential consciousness,* as is the case with Rigoberta Menchu.[57] This is the beginning of state I of the process of *concientizactlo.*[58] (2) In a second moment, and only by those who have some 'experience'[59] of 'us', *with* the dominated and/or excluded, can the misery of the other be thought reflexively: it is the thematic critique (scientific or philosophical, properly put, but where both are critical). It is the *explicit thematic critique* (the *krinêin:* to take distance in order to pronounce a 'judgment' from the 'tribunal') of the 'great critics', even including the postmoderns.

In fact, for the rationalism of discourse ethics,[60] the postmodern critics appear only to launch themselves against reason *as such.* In part this is true, but one ought to distinguish between the critique of *dominating* reason *as* dominating (reason that thus turns irrational)

and the critique of reason *as such.* Extreme rationalism rejects all critiques of reason without taking note that the intention of some of these critics is directed against *dominating* reason (this is the case with Nietzsche, who does not distinguish clearly between mere reason and dominating reason), thus making itself complicit with the domination of modern reason (or at least it does not take sufficient note of Eurocentric domination or that of capitalism since this system not only colonizes the life-world as 'money', but above all does so materially, as the accumulation of surplus value of the workers and as transfer of value by peripheral capitalism[61]).

Liberation ethics can subsume the critique of the 'great critics' (Nietzsche, Freud, Horkheimer, Adorno,[62] Foucault, Derrida, Lyotard, etc., and particularly Marx and Levinas) inasmuch as they criticized the 'dominating' aspects of modern reason. But in just the same way, against the irrationalism of some of these critics {especially against Nietzsche and the postmoderns), liberation ethics can defend the *universality of reason* 'as such'. This double movement of subsumption and negation is possible {which it is not for discourse ethics or the postmoderns) if we situate ourselves outside, before or transcendentally with respect to the system or life of the valid-good (capitalism, *machism,* racism, etc.); we situate ourselves outside, that is from the perspective of the alterity of the dominated and/or exteriority of the excluded, with a critical and deconstructive position before the 'hegemonic validity' of the system (now as *merely dominating),* and judge the 'good' of the dominating/excluding system as illegitimate. Thus, although we had seen the importance of material ethics (of a MacIntyre or a Taylor) they can now be put in question from the perspective of the *dominated.* The alterity of the dominated discovers as illegitimate the material system, the 'content', the 'good'[63] {what we have called in another work the *principium oppressionis[64]),* In the same way, the principle of intersubjective pragmatic validation can also be called into question from the standpoint of the necessary exclusion of the affected whom the dominating system (what I have called the *principium exclusionis)* has not yet discovered to be affected and in need. This concerns a critical intersubjective consensuability of the *second degree.*

The 'great critics' are those indicated in the return to skepticism announced by Levinas.[65] They are skeptical of the legitimacy of the ruling system. To know how to distinguish between the skepticism that emerges from the normality of the system {§ 2) and the skepticism that regards the system as dominating {§ 4), is to distinguish between (1) the skeptic who deserves to be refuted in order to retain the consistency of the discourse, {2) the skeptic at the service of the

cynic (who negates the rationality of the critique that struggles for the new future system; that is to say, the skeptic who opposes the liberator), and (3) the critical skeptic or liberator of a past agreement (today dominating) which has become invalid in view of the future validity of a new and fairer agreement.

The strong point of departure, decisive in this entire critique, is, then, the contradiction that is produced in the suffering corporeality *(Leiblichkeit)* of the dominated (as worker, as Amerindian, as African slave, as dominated Asian of the colonial world, as female, as non-white race, as future generations that will suffer in their corporeality the ecological destruction that the present system inflicts on the planet). This suffering materiality becomes a criterion of material 'content', of corporeality, of survival, of material ethics, at the level of the 'good'. This materiality refuses validity to the system and refuses to project a 'good life' that produces the poverty or the unhappiness of the dominated or excluded (as negative universal imperative or prohibition of a maxim that is non-generalizable, or of the simple 'impossibility to choose to die') whether in the form of norms, acts, institutions, or arguments, as in the case of capital. No one has demonstrated this *fact66* in the last century as Marx has, because it touches a fundamental dimension of the ethical materiality: the exploitation of the ethical subject, who is a member of the community of life, and who is affected in her corporeality through daily work that is concretized in the non-fulfilled basic needs, that is, unhappiness (impossibility of living). The ethical subject who is poor finds herself materially oppressed and formally excluded. Therefore one would have ,to develop an analytic of the ethical-formal critical criterion and to define from it the critical principle. From the criterion of survival is now deduced a negative criterion or the *criterion of the prohibition of the non-survival,* of the ethical prohibition of the empoverishment of the other, of the infliction of suffering, of the killing. ..of the Other. The ethical-critical principle could be formulated in more or less the following fashion:

> Who acts *critically-ethically* has always already recognized *in actu* the dignity of the ethical subject that is negated in a hegemonic community of life that prevents the sur-vival of the dominated (impossibility of living), and in a real communication community that excludes them asymmetrically from argumentation.[67]

The above indicated critique is not possible without the recognition *(Anerkennung)* of the Other (of the dominated/excluded in the hegemonic system) as an autonomous, free, equal, ethical subject, who is a possible origin of dissent and, obviously, of consensus. The recognition

of the Other, the 'originary-ethical reason' (of Levinas), is prior to cri-
tique and prior to argument (to discursive or dialogic reason), is at the
origin of the process, prior to the interpellation or the call of the poor
to solidarity in the system. This 'ethical consciousness'[68] is attained,
above all and before anyone else, in the intersubjective or communi-
tarian subjectivity of the oppressed and/or excluded people itself (this
is the origin of the *concientizaçâo,* Paulo Friere's terms, which is always
politicaI[69]).

§ 5 **Anti-hegemonic formal intersubjectivity**

Now we enter stage II of the *concientizaçâo.* The dominated and/or
excluded (popular movements, feminists, ecologists; that is, the com-
munitarian subjects) attain a *thematized critical consciousness*
thanks to the explicit critical contribution (scientific or philosophi-
cal) of the organic intellectual. Recall here that there are three
moments: (1) an ethical critical consciousness of the dominated
and/or excluded themselves, which is pre-thematic but substantively
originary; (2) a thematically explicit consciousness (critical scien-
tific); (3) an existential thematic critical consciousness, historical or
practical, of the people itself. And, from now on, the moments seem
to form a spiral so that we cannot know which one came first, the
communitarian intersubjective subject of the dominated and/or
excluded in coordination with the 'organic intellectuals' under differ-
ent circumstances. This concerns the entire praxis-theory-praxis
thematic that is now situated in an entirely different manner by the
ethics of liberation.

       Once the critique has been initiated in the dominated groups, an
anti-hegemonic communication community starts to develop (a
communication community of the dominated and/or excluded them-
selves), which begins to work according to the 'principle of demo-
cracy' (consensual intersubjectivity that replaces the older treatment
of *phronesis),* a project of future good (not yet real but possible: the
utopia of the realizable liberation[70]) from the perspective of a con-
sensual proceduralism on the base of agreements not-yet valid for the
hegemonic, dominating society.

       The existential-thematic *critical* proceduralism grows from the
different 'fronts of struggle' of domination and/or exclusion of alter-
ity: from the erotic front (against male sexism), the ecological (against
the destruction of the planet for future generations), the economic
(against the capitalism destructive of humanity and the earth), etc.
It can no longer be the 'normal' application of the pragmatic norm in a

society in equilibrium, in 'normal times'. It ought to move on to an exceptional or 'abnormal' 'application' of the norm. When the majority of a people is dominated or excluded the principle of universality changes subject, and from the established hegemonic communication community it passes to be exercised by the anti-hegemonic communication community of the dominated and excluded. The reflexive and thematic self-conscious (conscienticized) intersubjectivity of the dominated and excluded begins now to behave as a new intersubjectivity of a future validity. This is the process of liberation proper at its formal-pragmatic level. Now the process once again accomplishes the moments indicated earlier, but on its own and with another nature.

The materiality of the sur-vival of the dominated and excluded once again repeats in an over-determined fashion the moment analyzed in § 1. To the extent that it is necessary to 'apply', against the established system, the criterion of survival, the intersubjectivity of the dominated and/or excluded utilizes formally the principle of universality (of the *new* universality against the older dominating intersubjectivity) and proceeds to criticize the ruling valid consensus. This entire formal process is now thematized, the deconstruction of domination counts with the *internal* articulation of the scientist and the critical philosopher (it is only in this fashion that the ethics of liberation can be practiced).

We have to distinguish clearly between the assuming of pre-thematic and implicit consciousness, but remember that it is the radical ethical origin, and the exercise of what we have called in another place 'the originary ethical reason' -based on the recognition of the Other (analyzed in § 4) and the moment at which we are not located. A pure and universal prohibition: 'It is forbidden to impoverish anyone!', is not the same as the complex and positive imperative: 'Liberate the dominated, the poor, the excluded!' Now it is a call to action, to operative responsibility, where the thematization, the scientific-philosophical articulation of the popular leaders, movements, or 'organic intellectuals', ought to be mediated: neither populist spontaneism nor elitist vanguardism. The critical material and formal principle (the 'liberation principle' *[das Befreiung-sprinzip])* could be formulated in the following manner, and this in turn subsumes all the prior principles:

> Who acts critically-ethically from the recognition of the dignity of every ethical subject, from the consciousness of the non-sur-vival of the dominated (from the impossibility of choosing death) and from the non-participation of the excluded, has always already affirmed

> *in actu* the res-ponsibility[71] that they share in solidarity with all those
> who have reached the same degree of lucidity, and their obligation
> To realize transformations (normally) or systematic construction
> (exceptionally), through norms, actions, institutions, etc., of a new
> and more just future community of life and communication.

Before the 'impossibility of choosing death',[72] one has to deploy criti-cally-intersubjectively a concrete alternative for the 'possibility of living'. The 'principle of hope' is the positive future horizon of some-thing more complex: the 'principle of liberation'.

We have demonstrated during another stage of this debate that the imperative: 'Liberate the excluded and/or oppressed!' (the 'poor' of Levinas, as the common denomination for the dominated in general), presupposed always already different levels which can help us as summary of what I have presented thus far:

1 the comprehension of a material imperative good (happiness, wealth, etc.);
2 the validity of a consensual formal moral system;
3 the discovery of the non-fulfillment of this good with respect to the dominated themselves (misery, poverty, etc.) by the domi-nators themselves, first, and the critical intellectuals, later (it is at this level that consciousness of 'new rights' is born);
4 the negation of the hegemonic validity when the asymmetrical exclusion of the non-participating majorities is discovered; the thematizing critics incorporate themselves to the alterity of the dominated and to the exteriority of the excluded;
5 the organic creation of the new critical thematic intersubjectivity (this is the entire question of the relation between 'praxis-theory' and the 'organic intellectual' of Gramsci, analyzed ambiguously in the problem of the party and 'truth' in Lenin's vanguard[73]);
6 the acting communitarially for a project of liberation through a critique of utopias and through a praxis institutionally creative.

The concept of 'fetishism' in Marx speaks to us of all these levels of the naive, false or critical conciousness. The process of 'conscientiza-tion' (in its different phases and articulations, from the everyday exis-tentiality of the poor to the thematic of the intellectual, and their mutual and constant feedback) is that entire intersubjective formal and consensual movement of the oppressed that works *from within* the new project, the new, future, communitarian validity, in a parti-cipative, thematic and organizing fashion, at the political, consensual, thematic levels.

It is in relation and in the interior of this critical-communitarian intersubjectivity of the dominated and/or excluded that the ethics of liberation ought to play its function. It concerns arguing in favor of the ethical sense of the struggle for the sur-vival and the moral validity of the praxis of liberation of the oppressed/excluded. The grounding of the material principle and the moral pragmatic norm is essential for the constitution of ethics as theory, as philosophy, but its ultimate historical and social function is directed to establishing the ethical validity of the sur-vival, of the human life of the dominated and/or excluded.

§ 6 The praxis of liberation: the new democratic institutionalization of the future valid-good

We have finally arrived at the central theme.[74] If the material criterion is reproduction and growth of human life, then the praxis of liberation indicates the second moment: 'growth of human life'. The pure reproduction of 'the Same' -as Levinas might say -can be fixation, stabilization, repetition, domination. Only in the historical-cultural, ethical-political, erotic-pedagogical growth of human life, can human life express itself as *life in exercise.* Now praxis has become equivocal given that it can be domination and/or exclusion of the others (pure reproduction or decay), or it can be praxis of liberation (as critical transformation of growth or radical change of structure), deconstruction of actions, institutions or systems of domination and/or exclusion. The praxis of liberation is the properly said mediation of the critical transformation of institution or construction of the new system.

Here we can also deal with the most arduous ethical questions. Thus, for example, the legitimate coercion of the system becomes illegitimate when this is deployed against the dominated and/or excluded that take consciousness and struggle for the 'new rights' (the levels analyzed in §§ 4-5). Violence is force exercised against the legitimate right (valid) of the Other. Legitimate coercion thus turns into violent domination (public repression) when it is exercised against those who have discovered 'new rights'. The ruling system does not perceive the changing situation rapidly enough. The older legitimate coercion becomes illegitimate before a new social consciousness. In turn, the defense that the dominated and/or excluded make of their discovered 'new rights' cannot be violent (because it is not exercised against any rights of the Other), instead it is a 'just defense' with appropriate means (which maintain proportion with the

illegitimate or violent coercion in order to be effectively a 'realistic defense', strategically and tactically, of right [law] itself). The validation of this defensive action of the community of life and the anti-hegemonic communication community that promotes the sur-vival does not attain validity from the outset in the dominant community -it has always been this way; it cannot be any other way. This is not a question of a 'just war'75 given that war is always unjust because it is violent; rather it concerns the 'just defense' (just coercion) of the oppressed, excluded or attacked in their rights.

Since ethical action is procedural, now we can see clearly that the critical-liberating point of departure is the *'unjust* normality' and the project is that of a more just society or institution, where the dominated and/or excluded will be constitutive and participant agents in the justice that is also material (moments §§ 5-6 of our schema).

The formal 'application' of the principle of universality in the process of liberation, in the elaboration of a new type of society, etc., is played our at the formal level of the new intersubjectivity, of the 'principle of democracy'. Yesterday's 'new community' (of the dominated and excluded) becomes with time the new and 'normal' inter-subjectivity or community of communication. **It** is the social movements, pressure groups, critical political parties, etc., which triumph in the social struggles.

On the other hand, the process continues uninterrupted in history. It is the history of individual, communitarian, institutional acts; it is the history of the struggle of ethnic subjects, of social movements of classes, of national, cultural, global movements. An act, an institutionalization or system, can be judged absolutely 'good' or definitively 'valid' only at the end of history; that is, the goodness and correctness of an act or an institution can never be validated absolutely: neither in its intention nor in its consequences, nor in the short, mid- or long term of global history. For this reason Hegel included world history in his ethics, but he pretended to be able to execute this judgment as the 'court of world history'76: this is a dangerous illusion, one which Soviet Stalinism also fell prey to, and with which today neo-liberal capitalism also flirts when it would like to eliminate every alternative that could supersede it. **In** any event, material, formal, procedural, critical and liberating criteria and principles guide behaviour that is oriented to the determination of the ethical validity of all acts. These criteria and principles inform the uninterrupted process of reflection, 'application' and fulfillment of actions that takes place in view of the furtherance of the 'valid-good', the 'good-validity', from the standpoint of the criteria of sur-vival and in the light of

the critical consensual intersubjectivity of the dominated and/or excluded majorities.

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Notes

Translator's Note The following is an edited translation of a much larger essay a part of which was presented at a seminar organized by Raul Fomet-Betancourt in Eichstätt, Germany. The essay was written both in response to Karl-Otto Apel's criticisms and to form part of a chapter in a book on liberation ethics that Professor Dussel is presently writing. For Enrique Dussel's interventions with and against discourse ethics in English, see Dussel, 1996. For Apel's rebuttals see Dussel, 1996, which contains a lengthy essay by Apel, and Apel, 1996a and 1996b.

1 A version of this paper was presented at the Eichstätt seminar, 4 April 1995, in dialogue with Karl-Otto Apel. I would like first of all to thank the participants in the seminar on the history of Latin American philosophy (UNAM, Mexico), especially Juan Jose Bautista, Enrique Gurría, Mario Rojas, Germán Gutiérrez, Rita Vergara, Marcio Luis Coasta and many others. Furthermore, in this work, in order to facilitate dialogue, I will give to the word 'ethics' its material sense of *ethos* or *Sittlichkeit,* and to 'morality' its formal sense of intersubjective validity; leaving *'critical* ethics' for § 4, on which the sense of an ethics of liberation is based. The ethics of liberation differs from other ethics because it formulates for society a critical transformation or revolution (both positions are possible for it) departing from the dominated and/or excluded as a formal criterion.

2 Again, and lastly, I would like to repeat that the specificity of the ethics of liberation is that it departs from the dominated and/or excluded in normal (here also it is neither reformist nor meliorist, but instead formulates a partial but always critical transformation) or exceptional times.

3 The 'spheres' of justice (Walzer, 1983) are now transformed into the 'fronts' of 'struggle for recognition' (even more radical than that noted by Honneth, 1992).

4 We have already demonstrated how at the level of the foundation

23

Apel includes material moments (e.g. the recognition of the dignity
of the person), which leads him to fall into a certain contradiction
(see Dussel, 1993c, 1994, 1996).

5 See Apel, 1990: 24.

6 Kant, *Kritik der praktischen Vernunft,* A 38 (1968: VI, 127).

7 Immanuel Kant, *Groundwork of the Metaphysics of Morals,* trans.
and analysed H. J. Paton (New York: Harper Torchbooks, 1948),
p. 65 (*Grundlegung zur Metaphysik der Sitten,* I, BA 10; see Kant,
1968: VI, 23).

8 Both arguments in (b) can be refuted. It is not a question of whether
there are criteria for an intercultural dialogue, nor of which 'good
life' is better, but rather that every human act (here is universality)
always already presupposes a priori (a historical but also ontologi-
cal a priori) a 'good life' as a horizon of ethical meaning out of which
one can and ought to act. The universality of material ethics resides
in the uncircumventability *(Nichthintergehbarkeit)* of this ontologi-
cal presupposition.

9 This essay will not return to the theme of the foundation. In Dussel,
1993c and 1994, I have shown that Apel's formal foundation already
includes material moments (such as the recognition of the other
parties in any discussion as 'persons of equal dignity'), which would
in turn imply a certain contradiction.

10 Apel, 1990: 22.

11 ibid.: 26.

12 ibid.: 32. 'The reason for this is simply that the conditions for the
application of discourse ethics have not yet been realized' (ibid.: 32).
'The application of the principle of discourse ethics -for example,
the practice of a discursive-argumentative regulation of conflicts
strictly separated from the application of a rationality of strategic
negotiation -can be attained only approximately there where the
relations of ethical life *[Sittlichkeit]* and law themselves make it poss-
ible' (ibid.: 33). The formula is frequently repeated: application is
impossible if the necessary conditions are not present.

13 See Apel, 1985: 261.

14 In the Third World it is often the case that the conditions of *survival*
(because of poverty) of the possible participants of the real com-
munity of communication are not given.

15 Concerning this problem, see Dussel, 1994: 87-92.

16 Hinkelammert, 1994: 137.

17 Benhabib, 1986: 310-11; emphasis added.

18 See Dussel, 1993a and 1996.

19 It concerns the *good (das Gute)* (and the economic goods also)
objectively, and *happiness* subjectively, the *common good* (as

synthesis) of the *community of life (Lebensgemeinschaft)* (as subject), and of evaluative *values* (this is the locus of the mediation for the preservation and enhancement of life), etc. 'Life' in this paper should always be understood as 'human life': cultural, institutional (familiar, political, etc.) life. With this we effectively abandon the 'transcendental' level and we situate ourselves at a foundational *practical* level, which takes the material as point of departure.

20 Heidegger, commenting on Nietzsche, indicates that 'value is the condition of the enhancement of life *(Steigerung des Lebens)'* (Heidegger, 1961: I, 488); that is, and in Nietzsche's words: 'The standpoint of "value" is the standpoint of conditions of preservation and enhancement for complex forms of relative life-duration within the flux of becoming' (F. Nietzche, *Der Wille zur Macht,* 715 (November 1887-March 1888); in Heidegger, 1961: II, 101 ff.). For Nietzsche, life is 'will to power' and therefore domination. For the Latin American people, 'life' in its strong sense is an instinct *(Trieb)* of extreme ethical positivity. **In** this sense, mediation has value insofar as it offers a real potential for life. **It** is evident that there are no values without cultural intersubjectivity, and for the same reason they constitute an essential part of the 'content' of a historical-concrete 'ethical life'.

21 The 'sur *[sobre]'* of survival indicates, first, life from the perspective of the higher functions of the 'mind' (such as conceptual categorization, conscience, linguistic competence, self-consciousness, autonomy, etc.,) and, second, enhancement, development, new processes of innovation or cultural invention, and the creation of new conditions for human *life.*

22 I have transformed the formulation of the procedural moral principle of discourse ethics into a possible formulation of the ethical material principle (see Apel, 1986: 161).

23 '. ..happiness *[eudaimonia]* is among the things that are prized and complete *[teleion]*. **It** seems to be so also from the fact that it is a first principle *[arkhe];* for it is for the sake of this that we all do everything else, and the first principle and cause of goods *[agathon]* is, we claim, something prized and divine.' Aristotle, *Nicomachean Ethics,* 1,12, 1102a, 1-4, in *The Complete Works of Aristotle,* ed. Jonathan Barnes (Princeton, NJ: Princeton University Press, 1984), Vol. II, p. 1741. See Dussel, 1973b.

24 See 'Un-derstanding as *potentiality for Being'* in Dussel, 1973a: 1,47 ff., where I use Heidegger's theses on Volpi, 1992.

25 Discourse ethics does not have reflexive consciousness of its European presuppositions, of its historical 'understanding of Being'. As we will see later on, the maximum possible critique (due to the differentiation of the cultural world, the natural and the subjective)

allows for the possibility of a 'distance' from the 'life-world'
(Lebenswelt), but at the same time it requires that one have con-
sciousness of Eurocentrism (ethnocentrism of the world-system since
1492). This kind of awareness has not taken place explicitly.
26 Book I, Chap. 28, # 5, in Locke, 1975. In another text, Locke writes:
'Things then are good or evil, only in reference to pleasure or pain'
(ibid.: II, Chap. 20, § 2).
27 Bentham, 1948: preface, 3.
28 *Utilitarianism,2* (Mill, 1957: 10).
29 Today there exist some material ethics that give importance to history
in order to rediscover the ethical sense, as is the case with MacIntyre
(1981 and 1988) or Taylor (1975, 1989 and 1992). There are also
those that describe some spheres of justice like Walzer (1983); and
those of the Hegelian *Sittlichkeit;* etc. However, those already men-
tioned, with the possible exception of Walzer (although he still does
not integrate sufficiently the formal procedural level of ethics) do not
have what I will call the 'critical' sense. From a critical point of view
(see § 4 below), there are material ethics that develop as a complete
categorial system on the *intersubjective-communitarian materiality
of corporality* of the alienating production and accumulation from
out of the relation living-labour/value; this is the case with Marx's
material ethics.
30 Bear in mind that discourse ethics is skeptical of material ethics,
which is required to refute this skepticism, just as rationalist prag-
matism refutes those skeptical of pragmatism.
31 See § 4 below. Levinas notes this return, but we now know when it
takes place: as a new 'skepticism' which emerges before the ruling
system *seen* as 'hegemonic' or as 'dominating'. This is the skepticism
of the *dominating* reason. Its adherents, however, sometimes confuse
it with reason *as such.* On the other hand, the anti-skeptics do not
always have the criteria of discernment that would enable them to
differentiate between both types of skepticism and for that reason
can fall into an acritical rationalism or a complicity with cynical reason.
32 This argument, obviously, applies to discourse ethics, which would
fall into a performative self-contradiction if it did not recognize that
it *also* argues for ethical, material, biographical and historical-
cultural (European) motives (reasons, for a 'good', although this is
no more than the 'ideal of a rational life', which is already a material
content).
33 To act is to postpone death; it is to live; it is to affirm the 'impossi-
bility of choosing death'. Death is not something that can be chosen;
instead it absolutely precludes the act of choice. Suicide is not a mode

of being {Heidegger's 'being-towards-death') but rather the mode
through which one simply abandons existence.

34 Sartre, for instance, holds this view {1960), with respect to the impos-
sibility of analyzing concretely, exhaustively, the horizon itself of the
totality of being in the world, even with the psychoanalytical method.
See Dussel, 1973: 1,50 and 57.

35 Some contemporary formal moralities list these objections without
taking note that the post-conventional ethical consciousness itself
(Kohlberg) is always a cultural product. Only if Eurocentrism is criti-
cized explicitly can one have a consciousness free of 'conventional-
ism'.

　　　　Furthermore, as we will see, the anti-hegemonic critical con-
sciousness {level of § 4) opposes the 'universality' exercised by an
autonomously ethical individuality, but as ruling, as dominating, and
would thus be posterior to the stage 6 of Kohlberg, for instance. That
is to say, the intent of a 'post-conventional' ethics falls back into a
'contemporary European conventionalism'.

36 The universal principle of the reproduction and growth of human life
is an 'internal' principle to every culture and serves as a principle of
self-correction when a culture 'absolutizes' ethnocentrically its claims
and negates other cultures. In other words, this principle is the
horizon within which *each culture* {whether it be Aztec, Bantu, or
postconventional modern) circumscribes a concrete mode of realiz-
ing *human life.* This will be dealt with in the third chapter of the
'Ethics of Liberation' that I am presently writing. ,

37 See Habermas, 1981: 1,2, 3 {I, pp. 85 ff.) in the discussion with Peter
Winch.

38 This 'universal validity claim' would like to indicate that an Aztec,
or a Bantu, or a modern {each with different awareness of the dif-
ferentiation of the natural, subjective, or social-critical-theoretical or
moral consciousness, but at the same time conscious of the 'system-
atic' or the 'exteriority' -in which case an Egyptian critic of the
medium empire, with practical critical consciousness of ethical alter-
ity, can be more 'critical' than a modern who sppports 'universally'
the status quo) may ground his or her existence from the perspective
of a 'good life', and try to actualize this as *valid for the whole of
humanity.* It is clear that when another culture is confronted, or there
is an irresolvable conflict, we must appeal to an argumentative or dis-
cursive intersubjectivity from out of our own 'resources' {in the sense
of Taylor, 1989), given that no other resources are available. From
this *honest and serious* 'universality claim' of every *ethos* as a con-
cretization of the universal exigency for the reproduction and growth
of human life also present in each culture, it is possible to establish

an intercultural. dialogue {whence the formal principle of the basic norm of discourse ethics ought to be applied). Ethnocentrism is the deformation of this honest and necessary 'universality claim' of every 'good life' -dogmatism or fundamentalism is the transition from the 'honest universality claim' to the effective imposition through violence of this 'world-view' (*Weltbild)* on others. In this last instance, the universality claim is not demonstrated argumentatively (even if it is with mythical arguments, which are rational), it uses an irrational medium: force.

19 I use 'application' in quotes in order to indicate that it does not refer to the classical, Kantian, or discourse ethics applications *(application, Anwendung).* In these cases, application indicates a movement from above (the universal) downwards {the concrete maxim). Instead, dialectically, it concerns *ascending from the partial abstract* (the maxim) *towards the universal concrete* (the principle): to situate the part in the whole. We ought to speak of a subsuming ascending the particular maxim in the universal whole: this which I have to do (partial, abstract, the maxim) as situated particularity in the whole of the survival of the community, of the nation, of humanity (the universal). From the horizon that opens up the 'impossibility of choosing death', one argues intersubjectively about the *concrete* manner of accomplishing a norm, an action, a project, an institution. To 'apply' now is to situate in a 'whole' of *possibilities* for life. Furthermore, the Other as exteriority, as another 'limit' rationality, prevents the traditional application. However, I shall retain the terminology in vogue in order not to confuse.

40 In this case the pragmatic norm (intersubjectively and symmetrically procedural in order to attain acceptable validity) is a mediation that is neither autonomous nor indifferent to the content, whose function is to 'apply' or to subsume the material concrete {the maxim) in the material universal {the 'good').

41 Apel, 1986: 161 {for full translation of the text see Dussel, 1996: 45, n. 69). For the formulation of the 'U' principle in Habermas, see Habermas, 1983 and 1991. See also the excellent critique by Wellmer, 1986. See also Rehg, 1994, and the special issue of the *Philosophical Forum* edited by Kelly, 1989.

42 Given that if it attains intersubjective validity it is *about* that upon which the 'agreement' of all falls: the ethical 'content' which is the object of argumentation. Without 'content' there is neither agreement nor validity. An 'empty' agreement cannot have validity.

43 For Aristotle, furthermore, this act of 'application' of the principle could be corrupted were there to be no 'virtue' or 'moderation' in the subject: '{This is why we call temperance by this name; we imply that

it preserves one's practical wisdom. Now what it preserves is a belief of the kind we have described.)' Aristotle, *Nicomachean Ethics,* 1140b, 11-20; see *Complete Works of Aristotle,* p. 1800.

44 For example, for Aquinas 'the good does not fall within the election *(ultimus finis nullo modo sub electione cadit)'* {I-II, c. 13, a.3, c.), since it is the first material principle and is always already presupposed a priori. For this reason 'the end is desired absolutely *(finis appetitur absolute)' (De Veritate,* c. 24, a.6, r.). On the contrary, 'all of that which is labor by us is possibility *{possibilia)'* {ibid., a.5, c.). To apply the principle in a deliberation is 'a syllogism of operatives *(operabilium)'* {ibid., c. 14, a.5, c.) on 'the singular contingents *{singularia contingentia)'* {I-II, c. 49, a.5, c.).

45 See Dussel, 1973a: I, 64.

46 Already here we can anticipate that the 'praxis of liberation' ought to situate itself in this 'thirdness'; that is, from out of the life-world (firstness) erupts the other with its project of liberation (secondness), which, as a result of exclusion and oppression, brings about a *practical process* of liberation (thirdness). Liberation as process is mediation (thirdness), and moves from a situation of oppression in the world (firstness), which is negated from the counterfactual anticipation of utopia as a goal {secondness).

47 Peirce, 1931: I, 5.66. See the magnificent interpretation by Apel, 1995.

48 Come! West, 1989, executes an interesting effort to reconstitute pragmatism.

49 Habermas, 1979: 178.

50 See Gramsci, 1975: IV, 3191 ff.

51 See the work by Ulrich, 1993, where one would have to distinguish instead between 'economics' *(Oekonomik)* as philosophy (part of a material ethics), 'economic pragmatics *(oekonomische Pragmatic)',* as economic-pragmatic science, and the properly economic (*oekonomisch*) level of the effective materiality of production, distribution and consumption as means for survival.

52 In all of my prior works presented within this ‚ongoing dialogue, I have repeated this argument in order to demonstrate the importance of a material ethics, and especially the position of a *non-standard* Marx, but now reconstructed through a comprehensive and patient reading {see Dussel, 1990 and 1993a).

53 See my response to Apel in Dussel, 1995: § 1, 115 ff.

54 See Wellmer, 1986: I, 'Kantian program'.
Wellmer formulation is stronger: that is, the prohibition of the non-generalizable as negation allows for fewer exceptions {for

example, it is non-generalizable: 'Make others miserable!'). But what Wellmer does not indicate clearly is that this negation is determined from the standpoint of the material affirmation of what is negated: to make miserable or to kill is judged ethically as non-generalizable through comparison to the generalizable {happiness as universally attempted, but with a difficulty of concrete application). In other words, the material *positive* principle of ethics {described in § 1) is the *negation* of what is grounded, its (only in this § 4) critique.

56 In a different way, the horizon of the material ethics remains circumscribed as *possible* by an empirical universal principle of impossibility, in this case as: It is impossible to choose death! Ethics presupposes this impossibility because in the case of suicide, the ethical subject is no longer alive and therefore can no longer choose. Ethics therefore disappears as a possibility. From this principle the following principle is derived: 'Who acts affirms always the impossibility of choosing death.' The *cynical principle* of the system of domination {or that excludes), is formulated in the following manner: 'In this system {i.e. capitalism) it is impossible for the majority to live {this is the impossibility of the impossibility of choosing death), therefore, let them die' {as is explicitly suggested by Friedrich Hayek, the father of neo-liberal economics). From the contradiction between the 'impossibility of {choosing) death' and 'the necessity to die' {'impossibility of living'), there emerges the critical consciousness and the recognition of the negated dignity of the victim. Dignity is discovered only through its negation, as the dignity of life before the possibility of losing it {before death through the robbery [a way of killing little by little] of the surplus value of the dominated, or also ethically as heroism or martyrdom of the liberating critic; and in all of these cases as effect of an unjust act that causes these deaths).

57 See Dussel, 1994: § 2.

58 See Freire, 1968; and in addition my essay, Dussel, 1994: § 2.

59 This 'experience' is not that of Hegel's *Phenomenology of the Spirit,* but that of having gone over to, been submerged within and lived among the poor, the needy, the dominated and excluded people. See Paulo Freire, 1993. Many Euro-North American philosophers (and also others from the peripheral world) have not 'had' this experience or do not give it any ethical-philosophical value. But, all of the 'great critics' to whom we are referring have had some such 'experience': Marx as an exile and living among the workers in Paris {from 1843), Levinas as an uprooted Jew, Foucault as a persecuted homosexual, etc.

60 See Habermas, 1988.

61 See Dussel, 1988: Chap. 15.

62 These representatives of the 'first Frankfurt school', critics of modernity, lacked the possibility of linking up with historical groups (popular, social movements, or political parties) in whose communitarian subjectivity they could have performed the function of 'organic intellectuals'. The Germany of their time did not grant them this opportunity. In this they differ from liberation ethics. Nevertheless, . they were 'critics'. The 'second' Frankfurt school, although it still retains many merits, has lost its critical edge.

63 The 'Good' becomes equivocal: slavery seen as a 'good' by the Pharaohs becomes a 'dominating system' for the slaves. See Walzer when he writes: 'So pharaonic oppression, deliverance, Sinai, and Canaan are still with us, powerful memories shaping our perceptions of the political world' (1986: 149). Walzer recognizes his debt to the Latin American idea of liberation when he cites my friend Severino Croatto (ibid.: 4)

64 See Dussel, 1993c.

65 See Levinas, 1974: 210 ff., especially when he writes: 'Le scepticisme qui traverse la rationalité ou la logigue du savoir, est un refus de *synchroniser* l'affirmation implicite contenue dans *le dire et la négation* que cette affirmation énonce dans *le Dit'* (1974: 213). 'The said' is expressed in the hegemonic system. 'To say' is the interpellation of the Other, in § 4, as exteriority seen diachronically, from the future, for the system that turns from hegemonic into dominator and from legitimate into illegitimate because of the *negative* presence of the poor, of women as sexual objects, etc., demonstrates the non-coincidence of the 'dominating reason as past' and the 'liberating reason as future'. Who inhabits the new world, with objects that are non-observable by the older paradigm (to speak like Thomas Kuhn), becomes sceptical of the prior moments of reason that begin to be superseded: scepticism makes itself present once again when there are radical historical changes. Now it is a scepticism that identifies with the ethical critique of the dominating order. For this reason it does not accept the 'truth' or the 'ratio' of domination. Is this not all found ambiguously in Nietzsche, for example?

66 A 'Fact' which is non-immediate, but which is mediated by the already indicated levels and formally by the *critical* material reconstructive sciences. Thus, Marx called '*Critique* of Political [capitalist] Economy' this ethical type of social science. Discourse ethics has provided us with sufficient criteria in order to perform a formal critique of validity (sociological, for example, but not economic). This is its achilles heel, which calls into question the entire project.

67 The hegemonic communication community leaves the dominated in

the situation of the *impossibility of arguing* on the possibility of living.
68 For a long time we have been distinguishing between 'ethical con-
sciousness' or critique, which listens to the 'clamoring of the people',
and the mere 'moral consciousness' that applies the moral principles
of the system (in § 2). See Dussel, 1973a: II, 52 ff.
69 Paulo Freire begins his pedagogical experience in 1947 {Freire,
1993), which culminates with his seminal work {Freire, 1968). It
could be said that Rousseau, with *Émile,* laid down the foundations
for solipsistic bourgeois education. Freire lays down the foundations
for the critical intersubjective and communitarian education of the
oppressed. His entire work goes beyond the sixth stage of Kohlberg's
developmental psychology (see Kohlberg, 1981-4, and Kohlberg and
Colby, 1987; and Habermas, 1983: 127 ff.), given that ethical con-
sciousness reaches a stage that has not been described as of now; it
concerns an 'anti-hegemonic universal critical ethical consciousness
of the oppressed'. It is not only individual, autonomous and universal
(and in the case of Habermas, discursive inasmuch as it reaches for
agreement), but in addition it transcends the *'dominating' universal-
ity* -of which Kohlberg does not take note -and that presupposes
a 'global *universality'* over and above post-conventional modern
[Eurocentric] consciousness. It demands from ethical subjects an
'ethical-critical consciousness' that also requires greater maturity
since they must then oppose the *'ruling* universality': the individu-
ality and the communitarian intersubjectivity of this critic demand
greater clarity, a social and historical judgement {scientific and politi-
cal) of greater universality, and thus face greater risks. This, in the
case of the heroes and martyrs, means risking death, since they dared
the 'imprudence' of going against the laws of the 'established order':
they are the Washingtons {USA), or the Hidalgos {Mexico), or the
Lumumbas {Zaire), or members of the 'Resistance française´ against
Nazism and the resistance against Stalin; they are such as Oscar
Romero {El Salvador) in the face of the military dictatorships con-
trolled by the United States; or the Amerindians rebelling on Chiapas
in 1994. In my 'Liberation Ethics' I shall articulate the question of a
more critical and liberatory ethics in opposition to the mere post-con-
ventional morality {which is, in any event, 'conventionally' Eurocen-
tric without being aware of it, as we have noted repeatedly).
70 See Dussel, 1973a: II, § 25: 'The Other, the common good and the
infinite' {pp. 59 ff.).
71 This refers to Levinas's res-ponsibility {see Levinas, 1968), and not
to jonas, 1982.
72 Let us repeat. It is impossible to choose death because someone who

chooses death does not choose something, but chooses not to choose
any more; chooses not to choose. Thus, in practical terms the chooser
would fall into a performative contradiction were he or she to
pretend to provide an argument for his or her suicide. But what if the
chooser were not to pretend and were, without argument, simply to
let himself or herself die? He or she does not fall into self-contradic-
tion, but nor is he or she in opposition to the ultimate grounding of
the material ethical principle.

73 Habermas studies this but without sufficient complexity (see Haber-
mas, 1963, 1968).

74 See Dussel, 1973a: II, 65-127; 1994: § 2, b and c.

75 Walzer attempts to justify this ambiguous alternative (Walzer, 1977).

76 Hegel, *Elements of the Philosophy of Right,* § 347: 'The nation
[Yolk] to which such a moment is allotted as a *natural* principle is
 given the task of implementing this principle in the course of the self-
development of the world spirit's self-consciousness. This nation is
the *dominant* one in world history for this epoch, *and only once in
history can it have this epoch-making role* (see # 346). In contrast
with this absolute right which it possesses as bearer of the present
state of the world spirit's development, the spirits of other nations
are without rights, and they, like those whose epoch has passed, no
longer count in world history' (p. 374; see Hegel, 1971: VII, 505-6).

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