PRINCIPLES, MEDIATIONS, AND THE "GOOD" AS SYNTHESIS
(FROM "DISCOURSE ETHICS" TO "ETHICS OF LIBERATION")

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In 1973, Karl-Otto Apel published in Frankfurt his work *Transformation ofPhilosophy.*[1] The same year, in Buenos Aires, appeared the first two volumes of my work *Toward an Ethics of Latin American Liberation*[2] Two weeks after the "fall of the Berlin Wall," on November 24th, 1989, we met in Freiburg. I immediately understood the importance and creative potential of Apel's thought for the project of an ethics of liberation. At the same time, however, I realized the insufficiency of an intersubjective formal morality that could not integrate the material moment of practical truth. At first, it was Marx 's work that motivated me to reach this conclusion. Through six dialogues with Apel, I was able to express in a clearer fashion my original intuitions[3.] Now, after our 1997 colloquium in Mexico, I believe to have advanced to a new level of architectonic distinctions. These new distinctions are what I wish to elucidate in this short work, which nevertheless presupposes all that has already been articulated in the prior works that emerged from our encounters. I will divide the presentation in two parts: fundamental ethics and critical ethics or ethics of liberation. In both parts I will consider three levels: A, B, and C, in counter position to Apel's distinctions between Parts A and B of his discourse ethics.

I. First Part: Fundamental Ethics

As indicated by its name, the "fundamental" (or foundational) part analyzes the problematic of ethics in its basic structure, which was inevitably studied by all schools of ethics, in some fashion or another, whether by articulating aspects, parts or specifications of it. A reconstruction from the perspective of an ethics of liberation articulates its own theses, which will not escape the reader.

1.1 Level A: Abstract "Universality"[4]

To begin, and accepting partly this distinction, although giving it another sense, this level concerns the moment of maximum abstraction or "universality" *(AIIgemenheit)* of every possible ethics, which is arrived at through use of the Hegelian distinction between levels of generality.

1.1.1 The Principle of Discursive Validity or of Formal Morality

Without question, one of the irreversible contributions of modernity to ethics has been the thematization of the moral "validity" (*Gültigkeit)* of the human act. To achieve this decisive level it was necessary to go through the linguistic turn, and in particular, the form it assumed under discursive pragmatics. It is thus that an act is "valid" (*Gultig)* if it is intersubjectively "accepted" by a community of communication, whatever its reach. It is in this way that the first version of the

Kantian categorical imperative is re-interpreted, which now speaks of "validity," and not directly of "goodness" or the "good" *(Das Gute):*

> So act that the maxim of your will could always hold at the same time as the principle of a universal legislation[5].

The condition of possibility of the "validity" of a maxim of action consists in its "acceptability" by the other members of an affected community with respect to that which is under discussion, for which linguistic communication is necessary . The "affected community" includes those who will suffer the consequences of the action were it to be realized. A "valid" act is that which has received the rational and symmetrical assent of all the affected in *actu,* under equal conditions and rights, and not by the mere fact that someone "has assumed the place" of others, as Kant suggests.[6]

There can not exist a "good" act which is not first "valid." Validity is one of its conditions of possibility. But the "good" act, as we will see be- low, is so not only because it can be "valid." It also depends on other conditions. Herein resides the error of discursive formalism, namely on subordinating goodness solely to validity.

The discursive principle of validity could approximately be formulated in the following manner: one who acts morally ought to arrive at a valid decision through a community of communication with the symmetrical participation of all the affected through the medium of rational argumentation, without coercion of any sort whatsoever. The maxim thus intersubjectively grounded would be "valid" for all participants in this process who have been able to exercise their freedom, autonomy and rationality.

At the same time, this basic moral norm can be grounded rationally against radical skeptics, who contradict themselves performatively when they attempt to refute it. When refuting it, radical skeptics make use of reason with a validity claim that attempts to negate reason itself; that is, they at-, tempt to negate the validity of rationality. Validity presupposes the argumentation of the affected. This very same argumentation presupposes the community of argumentation where every participant is recognized as an equal. This ethical insight points to the presupposition of ethics with respect to argumentation itself, and for this reason with respect even to every scientific community also mundane, political, and so Oil); Every "agreement," even theoretical ones, presuppose this fundamental moral norm, which obliges all participants in the discussion.

Apel himself makes a distinction between levels A and B of discourse ethics:

> I differentiate between, part A, an abstract grounding, and part B, the historically dependent grounding of discourse ethics. In addition, within part A, I will make a distinction between the level of the ultimate, pragmatic-transcendental grounding of the principle of the grounding of norms and the level of the grounding of situationally dependent norms of practical discourses, required by principles.[7]

Part B contains the "concrete grounding of norms by the affected themselves"[8] as a "consensual grounding of norms that can be linked to the factual situational relations in the sense of an histori-

cally referred *ethics ofresponsibility.*[9] Although not exactly, this ethics concerns the issue of "application" within ethics:

> It concerns… the collaboration with such natural or social sciences that are capable of providing knowledge that has a *relevant prognostic orientation*[10].

No "agreement" can be accepted from this communitarian participation of experts before gauging the possible consequences of the act to be realized: "in this consists the known central thesis of the distinction between an *ethics of conviction* and an *ethics of responsibility.*"[11] Here, however, ethics confesses its limitations, since in the empirically real community of communication there does not exist the symmetry required to obtain practical validity:

> It is precisely the *conditions of applicability* of the ethics of an ideal community of communication that are not given at all in a real and historically determined community of communication.[12]

It is here where discourse ethics reaches the conclusion that an ethics of liberation could be "complementary" to it:

> In part B of the grounding of discourse ethics, the principle of discourse ethics itself ought to be considered as a value that can act as a criteria with relation to a *teleological principle of supplementation [teleologischen Ergäinzungsprinzip]* of the discourse principle[13]: ..whose objective would be to achieve the realization of the *conditions of symmetry* in the application of the ethical principle of discourse.[14]

As we will see shortly, the function that discourse ethics delegates to an ethics of liberation (or of responsibility, in Apel's view), illustrates an essential reduction of the ethical problem that leads to its own inapplicability *(Nichtanwendbarkeit).*

Albrecht Wellmer, interestingly, differentiates between "truth" and "validity":

> And in so far as we have really become convinced of something in common, we are able to speak of a *rational* consensus. Thus it can appear as if a *rational* consensus is necessarily also a "true" one. But this is only the way it looks from the point of view of those who are actually involved in the situation: If I have reasons for agreeing, then this *means* precisely that I consider a validity-claim to be *true.* But the truth does *not follow* here from the rationality of the consensus, it follows from the appropriateness of the reasons which I can advance for a validity-claim, and I need to have convinced myself that these reasons are in fact appropriate *before* I can speak of the rationality of the consensus[15].

In addition, Wellmer avers:

> The truth claims of empirical pronouncements en- tails the reference *(den Bezug)*[16] of these pronouncements to a reality that, to a certain extent, is independent oflanguage.[17]

This already introduces us to the second principle of ethics since the truth claim is material (or with reference to a content), while the validity claim is merely formal (or with reference to intersubjectivity as *acceptability).*

1.1.2 The Universal Material Principle or Practi- cal Truth

Within the tradition of ethical studies, ethics are called "material" when they refer to "con- tents" as the grounding of ethics. It is thus that Max Scheler formulated a "material ethics of values" in contraposition to Kant's formal ethics.[18] Aristotle (and more recently A. MacIntyre)[19] de- fended an ethics of virtues! Happiness is there- fore presented, as a grounding of ethics (in Aristotle's *eudaimonia, Aquinas´s beatitudo,* or Jeremy Bentham[20] or John Stuart Mill's Happiness[21] –all evidently meaning different things). Even Heidegger's "understanding of Being" as "potentiality for being" *(Sein-können),*[22] stands in this tradition. It would appear then that the possibility of a universal material principle can not be defended from the standpoint of Kant since all the different versions of a material principle fall in some sort of "particularity" (even the *eudaimonia* or *beatitudo* were in the last instance the exercise of the understanding of a "good life" of the Greeks or the Christians, and thus never identical with the ethical contents of other cultures).

In fact, Kant, who is anthropologically a dualist, conceived human materiality in a "reductive" manner, as did, with him, the Neokantianism of discourse ethics. Influenced by neo-Stoicism, the Lutheranism of Augustinian inspiration (in its Manichean stage), and by pietism, Kant distrusted pleasure, and joy:

> It is by his activities and not by enjoyment that man feels that he is *alive.*[23]

And remembering the Augustinian *libido* that was the source of original sin in human nature, Kant writes:

> Sexual love makes of the loved person an object of appetite; as soon as that appetite has been stilled, the person is cast aside as one casts away a lemon which has been sucked dry. ...Taken by itself it is a degradation of human nature. ..and that is why we are ashamed of it, and why all strict moralists, and those who have pretensions to be regarded as saints, sought to suppress and extirpate it[24].

This text is a commentary on section 275 of A. G. Baumgarten's *Ethical philosophica,* which is highly dualistic.25 For Kant, as for Descartes, the human being as a participant in a "kingdom of ends" is spiritual, and *has* a body as a component that he manages since "only through the body do humans assume power over their lives." The human being is not conceived as corporeal. In reality , one does not *have* a body, one *is* corporeal, because human subjectivity is a moment of corporeality itself. One does not *have* "power over one's life." The human being is a living creature that is delegated life. Kant elaborates:

> We may *treat* our body as we please, provided our motives are those of self -preservation. ...To preserve his person he has the right of *disposal* over his body.26

This type of dualistic expression conceals the fact that we do not "dispose" of our bodies, but rather *that we are our bodies,* and we cannot dispose of it only in order to attain "self-preservation." What takes place is that for Kant, and contemporary neo-Kantians, "survival" is only *animal:*

> We are in duty bound to take care of our life; but in this connection it must be remarked that life, in and for itself, is not the greatest of the gifts entrusted to our keeping and of which we must take care. ... Man looks upon life, which consists in the union of the soul with the body, as a contingent thing, and rightly so... Man's cowardice dishonors humanity. It is cowardly to place a high value upon physical life… If a man cannot preserve his life except by dishonoring his humanity, he ought rather to sacrifice it; it is true that that endangers his animal life, but he can feel that, so long as he lived, he lived honorably, ...The preservation of one's life is, there- fore, not the highest duty, and men must often give up their lives merely to secure that they shall have lived honorably.[27]

The fundamental error of Kantian anthropological dualism is made patently evident in this citation. Life, if it is human life, and not simply physical or animal life, has as an integral dimension to be lived with dignity. Pure animal survival (such as that of a human corporeality that is maintained by a surgeon, who makes a corporeality "survive" indefinitely even when the brain has ceased to function) is not full human life, but merely physical, vegetative or animal. Human life includes all its attributes, and among them are cultural plenitude or integral dignity. Human life can be sacrificed for a community, as a heroic act, but dignity or heroism that is affirmed or is reached by an act of heroism is not superior to human life itself but rather is it self a supreme mode of living life. Formalisms interpret survival as the mere "being alive" of a body independently of "spiritual" activities of the human being. Without life, there is no human-being. Heroism and a life full of dignity are modes of human life, moments internal to life. The "good life" (whatever its content, even that of the post-conventional society) is a cultural supreme mode of living life. Many (Kant, Apel, Habermas, etc.) when using the, word "self- preservation" also fall into an unacceptable reduction. In contradistinction, when r speak of the material principle of ethics I am referring to the "self-reproduction of *human life"* –not of the body or the ruling system- in order to evade reductivist expressions.

Kant, however, touched adequately on this theme when he wrote:

> If a man destroys his body, and so his life, he does it by the use of his will, which is itself destroyed in the process. But to use the power of a free will for its own destruction is *self-contradictory.* To use life for its own destruction, to use life for producing lifelessness, is *self-contradictory.*[28]

This contradiction, which in addition is performative insofar as in *actu* it attempts to negate life while making use of it, points already to the form of argumentation that will be used in the noncircumventable ultimate grounding of the material principle. This is made explicit insofar as it is demonstrated that suicide, which is the supreme mode of the negation of life, is contradictory.[29]

It is human life, and not virtue (a performative mode of living out life), nor values (the hierarchized mediations of life), nor happiness (the general subjective effect of the well-being of the living being), etc. that is the mode of reality of the human being. A human being, who is

neither an angel nor a stone, nor even a superior primate, is a linguistic, self-conscious, and self-reflexive-and as such self-referential-living entity. It is the only living entity that "receives" the charge of life, or is under the responsibility of life[30]. This self-consciousness of the living human being allows each human being to live life. That which is the-living-organism constitutes itself as a corporeal "I" (whose limit as subjectivity is the skin "from within"), which reflects itself as a corporeal-itself in a world, out of a community of life with other human beings in the midst of reality as nature (as the environment [*Umwelt])* which is discovered as a mediation for human life (nature which is actualized through truth and with use value). Reference to reality as truth is always linguistically, discursively, mundanely and communally mediated (link *a* of Schema I). This discussion is not to be taken as articulating a precritical and dogmatic position.[31]

If human life is the criteria of practical truth, then the universal material ethical principle can be made explicit in the following way: anyone who acts ethically must produce, reproduce and develop human life in community, and in the last instance, of the whole humanity, that is, with a universal claim to practical truth.[33] This is the content and the ethical ought par excellence of every act, micro or macro-institution, or system of cultural ethical life. In its level A, of abstraction and universality, it concerns the treatment of the pronouncement and ultimate grounding of this principle.

Hans Jonas had already pointed to the sense of this question, but merely at an ontologicallevel.[34] It is necessary to go beyond, and it is for this reason that we speak of a trans-ontological realm. In Jonas's works it can be seen how "being" and "value" can be conflated, and both tied to "life." If we differentiate the levels of value (as mediation of life), of "being" (as the ontological horizon of a system or world), and that of "reality" (as the *omnitudo realitatis)* beyond every world or possible system *(realitas* as the "beyond" being *(Sein)*,[35] "human life" is the mode-of-reality *(realitatis modus)* from which values and ends (Max Weber) are hierarchized (Max Scheler), and from which "unfolds" the horizon of the "world"-as a Heideggerian *Welt.* Since the human being is a living entity that has a "world," a being that speaks, eats, drinks, and clothes itself, has a dwelling space, expresses itself through art, con- templates aesthetic reality, and, in synthesis, is a being that is self-responsible, and thus acts ethically. Human life is not only nor primarily a "condition of possibility," rather, it is primordially a mode of reality to which it is intrinsic to argue for humanity: rationality is a dimension of life, and not vice versa. We are living beings that "have" a *logos* (rationality as the "cunning" *of* human life), and not a spiritual *logos* that has a living body as condition of possibility in order to survive or for self -preservation (an unacceptable dualist expression).

Suicide is performatively contradictory not only because it annihilates the condition of possibility of discursiveness; but instead, and simply, because it extinguishes subjectivity itself or the existence of ethical beings insofar as they are real. This is an absolute or terminal limit (the "end" in time) *kath-exokhén* of the "human" as such. Repeating what Wittgenstein has said:

> If suicide were allowed, everything would then be allowed. If something is not allowed, then suicide is not allowed. This throws light on the essence of ethics[36].

As prohibition of a non-generalizable maxim, as Wellmer puts it, "Thou shall not kill!" is the first imperative of ethics, which as negation of the negation of the absolute affirmation it includes as

its grounding: "Thou shall reproduce and develop human life!" which is a universal material principle of any possible ethics. However, a practical truth claim is not yet a *goodness claim,* as we shall see.

1.1.3. The Universal Principle of Feasibility *(Faktibilität)* or the Subsumption of Strategic-Instrumental Reason

If a mediation (or maxim) is true and valid, it is not yet good. Goodness *(das Gute, bondad)* is something other than truth and validity. To obtain goodness we still need that the mediation of ethics fulfill the requirement of the "proof' of its logical, empirical, technical, etc. "possibility." The subject of action(no longer the living subject of the first principle or of the rationality of the second) is the one we shall now consider. The "principle of impossibility" formulated by Franz Hinkelammert turns into a positive ethical- universal principle.[37] Kant put it this way: "Ask yourself whether, if the action which you propose should take place by a law of nature of which you yourself were a part, you could regard it as *possible (möglich)* through your will." The principle of ethical feasibility could thus be formulated approximately in the following way: one who acts ethically must execute an act that is "possible" empirically, technically, economically, politically, and historically, within the framework de- fined by the two prior ethical principles. To at- tempt an impossible act cannot be good. It is, for example, what anarchists attempt when they dream that if we were all ethically perfect, then institutions would not be necessary. And, given that institutions are intrinsically perverse, they have to be destroyed through direct action. The anarchist falls inevitably into a contradiction, since in order to eliminate all institutions a mini- mum of organization, or institutionality, is necessary, which in turn cannot escape its own perversity. The only way in which one could circumvent this contradiction would be to not act institution- ally, that is to say, to not execute any action or act whatsoever. But then, the ruling institutions would continue their destructive action. We are here at the level of the ultimate grounding of the principle of feasibility. Everything departs from an empirical impossibility: it is never possible that all the subjects of an empirical order be perfect. Precisely because we are imperfect, some of us can act badly. Institutions ought to defend the innocent from the perverse actions of the unjust. Institutions, therefore, inevitably involve "disciplinary" or "coercive" measures that we have to learn to organize in order to be able to always criticize and improve them.

As we have seen, we affirm not just one principle, but many. At "level A " or the level of the utmost abstraction or generality (Charles S. Peirce's Firstness), these principles are formulated and grounded. At this stage, we turn to "level B" of greater concreteness: the level of mediations (Peirce's Secondness).

1.2. Level B: Particularity

Apel speaks of a *"Teil B"* which is like a "dumping ground" where everything that is not level A ends up. This would be the hermeneutical horizon of cultures, of the deliberation of experts, of the discussions that morality can not orient. This is the sphere of discourse ethics's particularity, where an ethics of responsibility or an ethics of liberation would exercise their

complementarity. Now, therefore, we will generalize this "level B" and we will extend it to all the already formulated principles (and those that might be formulated in the future). In this extended horizon of level B, all principles meet, crisscross, and mutually co-constitute their deliberative mediations.[39] The material principle discovers truth mediated by valid discursivity. For, there is no truth without a prior valid consensus. The formal principle argues discursively about a content-of-truth that allows that its actualization not be empty, and for that reason, validity presupposes truth. It is a circle: truth materially conditions validity, and validity formally determines truth. Thus are given different exercises and types of entwined rationalities.

Practical-material rationality, whose reference to reality as its "truth" (its controllable mediation), from out of human life, is developed from the linguistic discursivity and intersubjectivity of a prior "validity." What reproduces or develops life has been decided intersubjectively, communitarially, and symmetrically by all the affected.

The valid-true, in turn, ought to be possible or feasible. Factual possibilities (the "feasibility" of an action) are mediated -by strategic, or instrumental reason. (Strategic reason, if it is practical is a communal relation, instrumental reason, if it is technical is a relation with nature.) Strategic or instrumental reason (with its claim to political "success" or "technical appropriateness) now has a full ethical sense if it fulfills the parameters de- fined by the reproduction-development of human life from out of the valid and autonomous decision of the affected. In this way we have attained a maxim of an act, a micro or macro-institution or system of ethical life that is *valid-possible-true.* We would have thus concluded objectively and in-tersubjectively the "deliberative" moment--0f the classics or the discursive argumeptative moment of scientists, experts, or specialists, which has been evaluated in view of its possible consequences. This is the moment of the "particularity" *(Besonderheit)* of cultures, of hermeneutics, of discussions, meetings, gatherings, congresses, etc.. We have in this way accomplished the transition from "universality" of principles to their application, the transition through the "particularity" of their mediations.

1.3 Level C: The "Singularity" of an Act with a "Goodness" Claim

We propose now a third "level C," namely, "singularity," as ultimate synthesis: the good act, micro or macro-institution, or system of ethical life *(Sittlichkeit)* is the synthesis of the practical true-valid-possible. This concerns the "practical syllogisms *(syllogismoi ton prakton)":* universality particularity singularity. o As can be seen, I reject the simplistic oppositions that are in vogue these days. The formalists (a la Rawls, or Habermas) oppose the good-which is purportedly substantive-to justice or rightness--which is purportedly formal. Material ethics (a la MacIntyre or Taylor) formulate their own material ethics of virtues or values as actualization of "the good." However I think that the "good" *(das Cute)* is not to be found at the same level and in opposition to the valid, the formal, or 'justice' (there is justice as formal fairness or material fairness, as in Aristotle and Marx). The "good," or an act with a goodness claim--it should be underscored that this is a new claim that is not identical with the "claims" of truth, validity, rightness, etc.--since we never "know" with certitude real goodness in a human act[41]-is the adequate articulation of the three prior moments we have indicated. This goodness claim is a concrete synthesis that should not be confused with either the universality of principles, or with

the particularity of their mediations in the process of the determination of the ultimate conclusion of the aforementioned practical syllogism: the judged-as desired and desiring-ultimate, concrete, judgement. This is the maxim or the "practical judgment" that has been reached as conclusion.

Unfortunately, we must leave to the side, due to space constraints, the entire simultaneous intervention of the "order of the instincts" (the *ordo amoris* as Max Scheler would put it) and of "vir- rues" (as suggested by MacIntyre), since nothing that has been already indicated ceases to be co- constituted by the organs of habitual and effective tendencies, because good human praxis (*eupraxia)* does not occur without rationality and character, to paraphrase Aristotle. In fact, as Aristotle himself notes, isolated rationality does not bring about anything. It can only be ethically motivated when "reasoning [is] true *(alethe)* and the desire right (*orthén*)"[42.] Here we could call to our aid Nietzsche and Freud, but this would extend us beyond these few pages.

2. Second Part: Critical Ethics or "Ethics of Liberation"

An act, micro or macro-institution, or complete system of ethical life (culture) with a goodness claim cannot, however, objectively judge said act, micro or macro-institution, etc. as completely "good." This is due as much to the extreme complexity of human interaction, and to the complexity of effects and consequences that cannot be immediately anticipated or foreseen, as to the long run of human institutions, which in order to be exhausted would have to be mapped and anticipated to the very end of universal history. Furthermore, even if it were good it could not be a perfect act, institution, etc., since to know this, making use of the Popperian argument, we would need a perfect operating agent, with infinite practical intelligence and with infinite speed. Because this perfect act is "impossible," apodictically, every act is "imperfect." The degree of imperfection produces a certain degree of proportional but inevitable error, evil, or injustice. Someone will suffer this imperfection and will be, in some inevitable way, a victim. Evidently, the consequences of some action, for which the agent is responsible (this is the moment of the ethics of responsibility, albeit not exactly in Weber's sense), will become unbearable. In the same way, the "fact" that there are victims appears relevant (as is the case today in the peripheral postcolonial world because of the massive poverty of the majority of the global population due to the process of globalization of late capital- ism). From this moment we begin a second moment of ethics: the acted "good," which is in itself defensible, becomes indefensible from the perspective of a victim who judges it as the "cause" of her suffering, negativity, or injustice. The "affected" victim, in addition, discovers that she is excluded from the deliberations that concern the causes of the negativity of her suffering. In this way, the prior good turns evil, the true un-true (Adorno's *Unwahrheit),* the valid non-valid, and the feasible "non-efficient" (or at least it is no longer feasible or efficient for the reproduction of the life of the victim at the level in which she is a victim). We have here thus passed over to a "critical ethics" or, more properly, to an *ethics of liberation.* Everything that has been presented up to now is necessary because the positivity of the first part (1 of this essay) allows the disclosing of the negativity of the second part (2).

2.1 Level A: Universal Critical-Abstract

We place ourselves, as in the first part (1), at an abstract, universal level of principles. The three principles (material, formal and of feasibility) are now "negative." Let us now turn to how this can be approached.

2.1.1 The Critical Material Principle

Instead of considering the simple effect of an action, let us consider, as a more relevant example, the systemic unintentional consequences of a historical institution. Let us take the case of capitalism. This economic institution, a historical system like that of the tributary and the feudal systems, has been organized in order to "repro- duce human life" in a concrete manner. That it can do so is demonstrated by its persistence and survival over centuries, including millions of members and struggling for its globalizing development against other historical systems. But, when an institution such as capitalism begins to create victims in an intolerable number (through marginality, the poverty of the postcolonial world, the exclusion of masses in the process of globalization), it has fallen into a contradiction. The institution that had been created in order to reproduce human life begins to mean merely the "self-preservation of the system" itself, thus put- ting in jeopardy the reproduction of human life in its totality. Fetishization, collapse and crisis of the system are produced. It is then that there emerge critics like Karl Marx, who "explain" the "cause" of the "negativity" of the victims (their misery) as the unpaid part of their production (surplus value), where the value of a product is the objectification of human life which is not recuperated by the producer. Or, in tandem, we have a Nietzsche who criticized the moral system that has produced inverted values that hinder the growth of the life of Dionysus. The happy and Socratic- Apollonian "self-conservation" of the system hinders the invention of "new" values that are the fruit of creative joyful instinct. The Dionysian instinct confronts the "human who transcends her- self" *(Übermensch)* to the possibility of pain and death, although she lives the experience of the "joy" of creating something new. In the same way, Emmanuel Levinas, from the perspective of the poverty of the Other, critiques the Totality that in its totalization justifies the death of the other.

Horkheimer and Adorno demonstrated clearly how the "self-preservation" of the system stands in opposition to the reproduction of human life. The victim -as Walter Benjamin puts it- as "material negativity," manifests its total contradictory character. The agricultural system, for instance, organized in order to keep in abeyance the pain of hunger and premature death by collective famines of the nomads, later on causes farmers without land who are impoverished institutionally and "systematically" (who suffer and die before their time). "Critique"-which emerges from this suffering material negativity-is born out of those who cannot live (a fact which is censured by the first material universal principle).

In this way we come to the discernment of a critical universal material principle that can be formulated approximately in the following way: Every institutional system (or act, or micro or macro-institution) that does not allow its victims to live, its potential negated members, excluded ones of the system that have a life claim, ought to be criticized. The "imperative" of critique, as a negative universal material judgment, is the beginning of every process of "development" or "transformation" of human life in historical systems as the liberation of all victims.

In the ultimate grounding of this principle, the argument is turned against the "traditionalists" who are of the opinion that every existing system is the best possible one (the Popperian "open society',) and that all critique is necessarily destructive. But the traditionalist contradicts himself performatively because, although he remembers with self-satisfaction and solemn celebration the epoch of the birth of the system that he defends, he forgets that it is not eternal. The traditionalist capitalist liberal knows that John Locke, in chapter 19 of the *Second Treatise on Government,* defended the bourgeois revolution (even by arms) against the ancient feudal order in England. Furthermore, since no order can be perfect it cannot not have an end, and as such it will come to it in its own time. In said moment, to be in opposition to the transformation of the system is to act against the "development" of human life, of history. It is, in short, to have become an anti-traditional traditionalist.

2.1.2 The Critical Principle Of Validity

We will be brief since it is our intention in this essay to illustrate the architectonic of the "levels" and not so much that of each principle, which is dealt with in greater detail in other works.[43]

When the victims, excluded from the hegemonic community of life and communication, assume consciousness of their situation as victims, when they appeal to each other (also with the participation of critical-organic intellectuals), and come to constitute a critical community in which they discursively ground a negative judgement (which is evident, with the help of experts and the collaboration of the social sciences and critical philosophy) of the system that has "caused" their victimization, they thus elaborate a possible utopian, real, and historical alternative.

In this way a fifth principle, the critical discursive one, could be formulated in approximately the following way: when the victims organize symmetrically a community of life and communication, they ought to criticize the system that has negated them (negativity) and project a future alternative that will transform or substitute that systems (positivity). Here a Paulo Freire (with his pedagogy of liberation), an Ernst Bloch (with his principle of hope) are indispensable thinkers.

Now it is the dogmatic person (whether conservative or vanguardist) who does not want to put in question the achieved valid truth. For fundamentalists or dogmatists, their hegemonic valid truth must be so for ever and for all. In contradistinction, the critic or the community of critics, by the fact that they have a claim to reality as truth (which is always discursively mediated), must always tolerate opposition, dissent, or the non- consent of the Other so that in time it might lead to the acceptability of their "truth" as "valid" even for the Other. Tolerance is not relativism before one's own truth claims, but the "giving time" to the Other so that a deliberate rational validation might be possible. The same with critique. The supposed "vanguard" can not arrogate "truth" for itself alone (as in Lenin's theory of the party), be- cause the consensus of the critical community (of the workers that are not members of the party or even of the central committee) does not follow necessarily from the "claim to truth" of the party or central committee. The party and central committee with a truth claim must seek out the consensus of the people (validity). It is possible, as it is to be expected, that they will receive many counter-arguments to the effect that their "truth claim" is false, and through the way of the ..validity claim" (democratic consensuability) they can arrive at establishing that the party's truth claim is false, and for that

reason also invalid. Critics must be open to falsification and invalidation, and have no other reference than reality which is accessed through democratic-communitarian discursivity, as we will see.

2.1.3 The Critical Principle of Feasibility: The "Principle of Liberation"

We are no longer at the level of the subject of life that can not live, or of the subject of rationality that can not argue, but rather we are once again at the level of the "subject of action" who must transform the institutions of victimization. Now, it concerns the moment of the critique of the system and of the future alternative that stands beyond the system, under the ethical exigency of its transformation. This transformation is to be Drought about by the critical community that has now to go through the "proof' of the empirical, technical, economic, political, and historical possibility of the action (or act). Here critical strategic (taking into account the frame- work defined from the perspective of a system that is an opponent of life, and the victim as the one who can not live nor participate in the deliberation concerning the reproduction of her life, which is always "development of human life" in general and of the hegemonic system itself) studies examine the concrete feasibility and work- ability of the de-construction of the negative and, in tandem, consider all "possible transformations." This sixth principle, the critical principle of feasibility, could be formulated in the following way: the critical community ought to de-construct effectively the system in its negativity and thus transform it (in order to produce a new system) so that its victims might live, while participating in all decisions that pertain to that process of de-construction and construction.

The one who opposes the grounding of this principle is now the anti-utopian conservative, who thinks that the necessary and possible transformations that would take us beyond the ruling system (and which are to this side of the "impossibility" attempted by the anarchist) are "impossible." Against the conservative as skeptic of what is possible and against the anarchist who thinks possible the "impossible," the liberator supersedes positivity from out of a possible historical "utopia" so that the victim ceases to be a victim, without falling into impossible utopias.

2.2. Level B: Particular-Critical

In level B, that of particularity, the abstract and universal principles are articulated through particularity, that is, in the horizon of concrete history, of the facticity of social reality. Historical subjects (intersubjectivity) emerge as new social movements in civil society, struggling for the recognition of their "difference." It is thus that we have the feminist, anti-racist movements, but also the movements of poor nations for national liberation, the movements of oppressed classes, of the marginalized, of the dominated cultures, of the elder, and homeless kids, of immigrants, of future generations whose case is argued by those in the ecological movements, and so on. All of these communities of victims do not frequently call for "revolutionary changes," and those who are non-revolutionary are not necessarily "reformists," as Rosa Luxemburg used to note. It is for this reason that an ethics of liberation grounds the necessary transformation in order to negate the negation of all victims. All of this calls for a de-construction of the system and the construction of

novelty, either within a system (if it is open to transformation) or in a new system (if the prior is not open transformation).

The empirical "place" of the Rousseauean "general will" is now in the critical, discursive, and democratic community which is responsible for carrying out the struggle for the recognition of difference and construction of a "transformation," of what is true, valid and feasible. Once again, practical-material reason, now critical, is mediated by critical-discursive reason -and vice versa- by strategic-political reason and by the technical-instrumental reason that allow the successful actualization of the liberating community of the victims.

2.3. Level C: Concrete-Critical

In the end, the indicated critical community of victims decides what is best to realize *hic et nunc,* the *hypolepsis* (that which "falls under" the ultimate decision, in concrete) of the concrete, critical, strategic choice, within the parameters of the already formulated six principles which always raise a *"new* goodness claim." This is level C, which is singular, and final. The new act, micro or macro-institution or every system of ethical life *(Sittlichkeit)* (in this last case the action of a George Washington who emancipated the colonies from England, or a Fidel Castro who faces up to Washington's liberated nation which is now an Empire) is de-constructive of effective negativity. Heroes run the risk of death for the sake of a better future communitarian life (as it was the case with Joan of Arc in France and Miguel Hidalgo in Mexico). This is not suicide. It is the giving birth to a new life. The system will defend itself to the point of assassination. But the liberating heroes achieve their success (not all and not always! Triumph is never guaranteed, especially at the beginning of a movement): they liberate their communities of victims, and accomplish a new act, micro or macro-institution, or new cultural or political system. This is the issue of a "new good," which claims to be a qualitative "development" in contrast to what came before. This is the claim to progress in human history, the theater within which actions, micro and macro-institutions, or systems of ethical life produce new consequences that can in turn once again produce new victims. The "claim to a new goodness" is not absolute, and to recognize all the effects of the transformed "good" would require us to arrive at the very end of world history itself in order to have fully realized responsibility over all the possible effects of our actions. Since this is impossible, however, ethics only reflects on honest, serious, finite, human "claims." We can in all seriousness say: "This act which I now perform, I *claim* has fulfilled all the conditions of its possible *goodness*" -universal conditions (principles), particularities (mediations), and concretenesses that in their complexity require always extreme serious- ness, but at the same time honest doubt and uncertainty concerning its structure, parts, and possible consequences. This is the claim to a "new good- ness," it is Ernst Bloch's *novum.* Ethical action develops in the "chiasm" (so fruitful in Maurice Merleau-Ponty) of the responsibility for the Other, especially when it is a victim, even unintentionally, of our own institutionality.

ENDNOTES

1. See Karl-Otto Apel, *Transformation der Philosophie,* 2 vols. (Frankfurt: Suhrkamp, 1973).

2. *Para una ética de la liberación latinoamericana,* vols. 1-2 (written in 1970-1972) (Buenos Aires: Siglo XXI, 1973); vol.3 (written in 1973) (Mexico: Edicol, 1977); vols. 4-5 (written in 1974-1975) (Bogotá: USTA, 1979-1980).

3. Some of these have been published in German, edited by Raul Fomet-Betancourt: *Ethik und Befreiung* (Aachen: Augustinus, 1990) (orig. in K. 0. Apel and Enrique Dussel, eds., *Fundamentación de la ética y filosofía de la liberación* (México: Siglo XXI, 1992); *Diskursethik oder Befreiungsethik?* (Aachen: Augustinus, 1992) (orig. in E. Dussel, ed., *Debate en torno a la ética del discurso de Apel. Diálogo filosófico Norte-Sur desde América Latina* (Mexico: Siglo XXI, 1994); *Die Diskursehtik und ihre late- inamerikanische Kritik* (Aachen: Augustinus, 1993); *Kon- vergenz oder Divergenz? Eine Bilanz des Gesprächs zwischen Diskursethik und Befreiungsethik* (Aachen: Augustinus, 1994). Portuguese translation: Antonio Sidekurn, ed., *Ética do Discurso e Filosofia da Libertacáo* (Sao Leopoldo, Brasil: Unisinos, 1994); *Armut. Ethik. Befreiung* (Aachen: Augustinus, 1996).

4. This theme is dealt with in the first part of my work *Ética de la Liberación* (Madrid-Mexico: Trotta-UAM, 1998).

5. Immanuel Kant, *Critique of Practical Reason and Other Writings in Moral Philosophy,* trans. Lewis White Beck (Chicago: University of Chicago Press, 1949), p. 142.

6. This is already a "transformation" of Kantianism and an improvement on the execution of the principle of universalization.

7. Karl-Otto Apel, "Oiskursethik als Verantwortungsethik: Eine postmetaphysische Transformation der Ethik Kants;' in Fornet-Betancourt, ed., *Ethik und Befreiung,* p. 18.

8.lbid.

9. Ibid., p. 24.

10. Ibid.,p.25.

11. Ibid., p. 27.

12. Ibid., p.31.

13. Ibid., p. 34.

14. Ibid., p. 35.

15. Albrecht Wellmer, *The Persistence of Modernity: Essays on Aesthetics. Ethics. and Postmodemism,* trans. David Midgley (Cambridge: The MIT Press, 1991), p. 161.

16. The question of "reference" finds itself at the center of a theory of truth. See the works by Cristina Lafont, *La Razón como lenguaje: Una revision del "Giro Lingüistico" , en la filosofía del lenguage alemana* (Madrid: Visor, 1993), and Ernst Tugendhat, *Der Waherheitsbegriff bei Husserl und Heidegger* (Berlin: de Gruyter, 1967). It is evident that "truth" can never be reached without linguistic-discursive mediation.

17. Albrecht Wellmer, *Ethik und Dialog: Elemente des moralischen Urteils bei Kant und in der Diskursethik* (Frankfurt: Suhrkamp, 1986), p. 203.

18. See for example Max Scheler, *Formalism in Ethics and Non-Formal Ethics of Values* (Evanston: Northwestern University Press, 1973).

19. Alisdair MacIntyre, *After Virtue. A Study in Moral Theory* (Notre Dame: University of Notre Dame Press, 1981).

20. See, for example, Jeremy Bentham, *A Fragment on Government and An Introduction to the Principles of Morals and Legislation* (Oxford: Basil Blackwell, 1948).

21. See John Stuart Mill, *Utilitarianism* (New York: The Liberal Arts Press, 1957).

22. See my work *Para una ética de la liberación latinoamericana,* vol. 1, for a treatment of Heidegger from the perspective of Aristotle's *Nichomachean Ethics.*

23. Immanuel Kant, *Lectures on Ethics* (New York: Harper Torchbooks, 1963), p. 160.

24. Ibid., pp. 163-64.

25. See Alexander G. Baumgarten, *Ethica philosophica* (Hildesheim: Georg Olms, Hildesheim, 1969 [1763]), p. 174: "crimina carnis sunt peccata ex libidinis intemperantia."

26. Kant, *Lectures on Ethics,* p. 149.

27. Ibid., pp. 154-56.

28. Ibid., p. 148 (emphasis added).

29. But this is no longer the performative contradiction of the skeptic that pretends to demonstrate the uselessness of reason. Now, it is about the uselessness of life itself.

30. In Latin *re-sponsabilita* means the "reflexivity" of *(re)* "taking-charge") *(spodeo pro aliquo):* to respond for someone, to assume charge of someone.

31. I first formulated the problem of "universal material principle" in a recent essay presented at our meeting in Münster, September 1997: "Is a Critical, Universal, and Material Principle Possible?" (to be published in the near future).

33. See my *Ética de la Liberación* (1998), § 1.5.1.

34. See among other writings by Jonas the following: Hans Jonas: *Das Prinzip Verantwortung* (Nördlingen: G. Wagner, 1982); published in English as *The Imperative of Responsibility* (Chicago: The University of Chicago Press, 1984); *The Phenomenon of Life. Toward a Philosophical Biology* (Chicago: The University of Chicago Press, 1982), and *Mortality and Morality* (Evanston: Northwestern University Press, 1996).

35. See my *Método para una filosofía de la liberación,* 2nd. ed. (Guadalajara, Mexico: Universidad de Guadalajara, 1992), where I treat the problem of "reality" beyond "being" in Schelling, Xavier Zubiri, and Emmanuel Levinas.

36. Text from January 10, 1917, cited by Franz Hinkelammert.

37. On the critique of utopian reason see F. Hinkelammert, *Crítica a la razón utópica* (San Jose, Costa Rica: DEI, 1984); published in German as *Kritik der utopischen Vernunft* (Luzern, Mainz: Exodus-Grünewald, 1994). In chapter 5, section a, Hinkelammert writes: "Perfect knowledge of all an event's results within interdepedent human social relations is impossible. This impossibility holds as much for each human being as for any human group."

38. Kant, *Critique of Practical Reason and Other Writings in Moral Philosophy,* p. 178.

39. This is what Aristotle called "things about which it is possible to deliberate" *Nichomachean Ethics,* VI, 7, 1141b9.

40. See Aristotle, *Nichomachean Ethics,* VI, 12, 1144a32.

41. The finitude of the human practical judgement can never pretend to know that a concrete act is absolutely good. What can be known is that it was attempted to fulfill satisfactorily (!) the conditions of its goodness. Therefore, the just (the "good" human being) is she who has given permanent attention to her acts' "goodness claim." The just is of the opinion that this or that act of hers was by fulfilled honestly, within her empirical limitations, with a "goodness claim;" that is to say, "attempting" seriously to fulfill the conditions that would make it good (the satisfactory application of ethical principles). She "claims to be good" and if someone demonstrates otherwise

(with respect to a practical truth, validity, or feasibility claim of the act), since she maintains a constant "goodness claim", 'then she will accept the criticism and will in turn transform the maxim or what- ever component of the act.

42. Aristotle, *Nicomachean Ethics,* VI, 2, 1139a24.
43. See the entire 2 part of the new architechtonic of my *Ética de la Liberación* (1998). ,