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HUMAN RIGHTS, SOLIDARITY AND SUBSIDIARITY: Essays toward a Social Ontology

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PREFACE

At this point of epic change this work of Prof. Carlos Maldonado on civil society responds to the urgent social need to rethink profoundly the pattern of social life.

Only gradually are we coming to appreciate how strongly this had been warped under the impact of the Cold War on all parts of the world. The decades following World War II were characterized by social conflict, especially in terms of economic ideologies. Universities and even governments were paralysed by strikes of student and workers as surrogates of ideologically defined political parties, each of which strove for absolute domination of social life as a whole.

Upon the end of the Cold War in 1989 this changed abruptly, producing a vacuum of political power. This, in turn, evokes a revival of the life of the citizen and generates a call for the development of civil culture. Distinct from the first world's focus upon market and profit and the second world's focus upon state and power, there now opens a new dimension of responsible exercise of freedom. This consists in the social unities people have created to advance the life of their community at the various levels, and is shaped according to their personal interests and commitments. This is the reality called civil society or civil culture.

We find that the shape of the world is determined no longer by tense ideological combat between super powers in the Security Council of the United Nations, but by the interchange of Non-Governmental Organizations meeting in broad world conferences on the environment in Rio de Janeiro, on the family in Cairo, on women in Beijing, etc. Government policies and the actions of national is well as multi-national corporations must take seriously the standards of action they recommend.

Hence, from the neighborhood to the global level, civil society has emerged as the new voice for the quality of life. Through its voluntary associations in the fields of education and religion, health and culture, environment and labor, it constitutes an increasingly creative agent for the promotion of human life. Along with the political and economic, it has become a third party in the great public dialogue shaping the development of life in our times.

To interchange with government and commerce, civil society brings, first, the specialized competencies of people in such varied fields as health and environment – indeed, the full range of competencies found today in an increasingly specialized populace. Second it brings the interests and concerns of people in their many communities and patterns of human interchange. More foundationally, it brings the values and virtues which have come to form the cultures of the many peoples.

Civil society then is the basic socially creative work of human freedom. As social it is an exercise of community cooperation or solidarity. Moreover, as these many solidarities must interact in a hierarchical pattern of subsidiarity in order protect and promote this exercise of human freedom. In this consists the exercise of responsible civil participation, which is the core of democratic life.

This work of Prof. Maldonado takes up these on the basis of human rights. This might at first seem less promising, for civil rights often are taken as purely legal or formal matters abstract from the concrete reality of life. Prof. Maldonado will have none of this. Instead he follows a phenomenological method to plunge into the reality of the contemporary existential human consciousness. We all live against the backdrop of two World Wars, succeeded by the Cold War, succeeded by ethnic conflict and urban crime. Moreover, Prof. Maldonado writes

from Colombia where "la volencia" describes a special period of national anguish, which is not yet entirely over. Hence, he finds violence as a basic life threatening contemporary experience in relation to which it is necessary to assert and protect the orientation of life toward its ever expanding potentialities for meaning and fulfillment.

I see this as a contemporary mode of the ancient metaphysical wisdom built of reflection upon what it means to be or to exist. Just as to be for a living being is to live, to be for humans as conscious beings is to exercise self-awareness and hence self-determination of one's life; it is in this that freedom consists. This metaphysical insight is required in order that human rights be not merely formal, legal concepts and that the phenomenology of consciousness be not merely a solipsistic idealism, but an opening of the way for the conscious thrust of living in a fully human manner.

Moreover, it has been one of the great misfortunes of human rights discourse that it has been carried on in terms of the single individual, though such a solitary reality independent and unrelated to family and community is absurdly impossible and indeed inconceivable. Human rights if conceived on this basis would dissolve human life into atomic individuals related only in violent conflict. In contrast, solidarity is the basic and indispensable social dimension of human life: people need people and thrive when they are together in communities – from family to neighborhood, to nation, region and globe. This is the message of Aristotle's notion of friendship, whose truths are carried to the general populace in the message of love of neighbor found in Christianity and indeed of all religions.

Prof. Maldonado enriches this notably with Patoka's sense of the solidarity of the oppressed, for truly the needy of this world can teach much about the solidarities which affluent contemporary social units carelessly allow to atrophy and finally abandon creating thereby a social landscape devastated by corruption and neglect.

Moreover, as noted above, solidarities are multiple. If they are not to conflict they must be placed in an hierarchical order that each have its proper place. Prof. Maldonado notes how this has been an essential element of modern Catholic thought and of contemporary theoretical discussions undergirding the development of the European Union.

Here again the metaphysical issue becomes central. Many in post modern thought would try to dissolve the notion of hierarchy supposing all to be a search for power, in which light the exercise authority is the destruction rather than the promotion of freedom. At this turn of the millennia this supposition is being soundly questioned and there is need of metaphysical analysis or the nature of reality as a closed search for oneself or an opening of possibilities as Prof. Maldonado describes in his early chapters. Subsidiarity is not a suppression of freedom in the smaller or lower solidarities, but precisely its promotion. This is a crucial matter for parents with respect to their children in the family, for states in relation to the locality, for the European Union with the regard to its member nations, etc. It is basically the classic metaphysical issues of diversity or pluralism in relation to unity – social, cultural and religious.

It is perhaps then no accident that this notion of subsidiarity should have emerged earlier in Catholic thought which is built on the premise that life is most basically a Trinity of shared life, knowledge and love; that creation is a sharing of this life; and that by nature human life must be lived in solidarity with one's neighbors – now on a global scale – in a pattern of subsidiarity where the ultimate concern is for the weak and the oppressed.

This work of Prof. Maldonado's continues this tradition and unveils phenomenologically its meaning for the newly emerging consciousness that is global not only in its reach across cultures but in the depth of the human freedom lived in solidarity and subsidiarity.

INTRODUCTION

The ongoing process of global development is opening domains of life previously unknown in human history. These entail challenges which, in turn, require further growth not only in the human ability to reason, but also in life as a whole. As these domains are intimately related they and their presuppositions refer progressively to ever more fields and sets of challenges, so that the complexity of the world order increases exponentially in all directions. It is necessary therefore to establish a methodology for entering this net of connections and interrelations which constitutes the contemporary world in order to engage a specific problematic.

This work focuses upon the domain generically called social life and deals with problems belonging to practical reason; its concerns are ethical, sociopolitical and their metaphysical foundations. From this perspective, it is possible to respond to questions arising in our life with others regarding the civil and social *ethos* of our world.

Here we face three challenges of enormous importance, which together constitute a closed unity. Progress in their regard depends upon a correct understanding of these issues and of ways of solving them. The three challenges can be formulated briefly as follows:

(a) Who is the other?

(b) How do I (or we) relate with him, her, or them: what is our direct and indirect concern with the other?

(c) More specifically, how, precisely in the contemporary social context, do I relate with the other, and what consequences derive therefrom?

This work is concerned with laying the foundations for a response to these basic challenges.

The first question engages issues of ethics and metaphysics for it deals with the possibility and necessity of living together. Some differentiation is made between morality and ethics. The former refers to the problems, themes and particularities of the individual's consciousness with regard to one's values and behaviour; thus it concerns each individual as a self-sufficient unity. The Greeks had a specific term to designate this morality, namely, nOmo in relation to which they had the concept of Ooo, which corresponds properly to ethics. This distinction was lost due to the limits of the Latin language, but exists in the German language which differentiates between the rich content implied by the terms *Moralität* for the former concept and *Sittlichkeit* for ethics. For our purposes it is necessary to distinguish between morality and ethics, despite the strong Latin tradition which resists the categorical and thematic separation of the two.

In any case, the problems entailed by the question "Who is the other?" imply and necessarily lead to the domain of ethics, especially because they concern us all (the "we"). That is, the questions do not refer to the other simply as an isolated and absolute self – providing that such a self were even possible. On the contrary, the question presupposes and refers to the whole field of intersubjectivity, for which reason ethics is always and *par excellence* social, cultural or political. More exactly, the real issues contained in the question "Who is the Other?" concern the need for, and the essential interrelatedness with, the other, and hence are equally about the person who asks the question. What is valid concerning A, and concerning the relation of A to B, is equally valid concerning B and the relation of B to A. Such a scheme can and must be

extended also to C, D, and so forth. The possibilities of common life and action depend upon an adequate statement of this issue, as well as upon reasonable solutions thereto.

Moreover, a common life and joint action require truly related and harmonic goals and purposes. Without these there emerges a state of general suspicion, accusation, categorization and, ultimately, the total elimination of the other. In a word, what truly and finally is at stake is the state of peace in relations with the other, and the critique and total elimination of a real or virtual state of war.

The specific task of human rights is to enable people to relate in such wise as to make the difference between war and peace. But this soon engages one in the more fundamental issues of solidarity and subsidiarity. All this demands further explanation.

Human rights: The general object of human rights is human life, namely, the possibility and the need of life dignity with others, that is, one possessed of a quality with exemplary value. Such a life is therefore desirable, and its study hereafter will not be abstract or hypostatized. Aristotle pointed out that, by analogy to *being* which is the highest category for both logic and philosophy, the sciences concerned with the dignity of the human soul or person have as their central idea, *bios*:1"For living beings, to be is to live." For the Greeks human life (*bios*) is fundamentally act or *praxis* (*eupraxein*, *eupraxis*).

Thus human rights are grounded absolutely on the concept of human life as being one of dignity. Thematizing the entire concept is equivalent to understanding and solving the questions: "Who is the other, and what can and must I do in relation with him or her?" Intersubjectivity is not a mere idea; on the contrary, it is the very way in which human existence *de facto* is possible. Hence the importance of both the initial problem and the related questions.

Solidarity: The question about the ontological status of the other – which concern emerges in human rights seen in terms of human dignity and fellowship – is based in turn upon a presupposition whose clarification leads necessarily to yet another domain of problems. The presupposition is sensibility or a sensitizing visávis the other; that is, it is about the very way in which the other engages us in one way or another and the reasons why he or she does so in that way. The term for the set of problems concerning the sensibility and/or sensitizing process visávis the other – or vice versa – is "solidarity". Hence, the issue of solidarity is related intimately to the issues of human rights for it deals essentially with making explicit the conditions of possibility, the meaning and the consequences of human life; it deals with the possibility and the reality of human fellowship or sociality.

A main concern of human rights consists in the openness from one's immediate world to the situations and peoples in other latitudes or situations whom we may or may not know, and perhaps will never know. Hence, the teaching of human rights leads inevitably to being sensitized to others' problems, living experiences and circumstances, The second question is formulated generally in terms of the way in which we relate with the other, as well as the ways in which we are concerned directly or indirectly with him, her or them. Clearly, the emphasis falls upon making explicit and thematizing the direct and indirect ways in which we are concerned with the other, and vice versa.

Subsidiarity: What is certain then is that the other – as we ourselves – does not exist simply in the abstract or in general. Existence is possible only in a very specific form of belonging, somehow, to one or many organic groupings in civil society. Unlike any other moment in the

history of mankind, the development of contemporary life lies in the mediation and broadening of these relations in terms of their social/civil organization, levels, and functions. In this, technology and informatics play a fundamental role.

The concept of subsidiarity is a principle of coordination between the different levels, functions and organizations of civil society. These relations, intermediations and functions are applied under the principle of subsidiarity, mediating between centralization and decentralization through the assignment and distribution of competencies, decisions and tasks. Despite its technical and administrative appearance, the principle of subsidiarity is really about the conditions for the development and affirmation of civil life.

Therefore, human rights, solidarity and subsidiarity constitute a firm and coherent triangle whose concern is with the unity, promotion and actualization of the possibilities of the social world. For this reason the essays which constitute this work concern the construction of the civil society as both a civil and a social *ethos*.

The general thesis of this book is then concern for, and promotion of, the possibilities of human social life. This is precisely the task and indeed the very meaning of philosophy which, as Patocka reminds us, consists precisely in an *epimeleia es psyche*s. This is here understood as the care for and about life; it consists in promoting and actualizing the potentialities of human beings. The two basic forms for this are solidarity and subsidiarity which, in turn, are grounded in the real practice of human rights understood as caring for and about the dignity of life as an exemplary and universally desirable quality.

Human rights have been the subject of serious work directed toward their ever more solid understanding and grounding. This has become true only recently for solidarity. The case of subsidiarity is rather different, for it is a recent concept which encompasses and integrates various new problems of social life. Indeed some would hold that subsidiarity is a new issue belonging rather to law. "Das über Subsidiarität ein Philosoph nachdenkt, bedarf der rechtfertigung; denn in seine Metier spielt der begriff keine Rolle".2

But here we are not dealing with definitions; philosophy is rather about achieving understanding. Only after having reached a proper understanding can the different problems be made more explicit and proper solutions achieved. These problems cluster around human rights, solidarity and subsidiarity, whereas definitions remain more a matter of logic or law.

Be that as it may, from the point of view of conceptualization and comprehension the themes and problems regarding these three all reflect a permanent tension between the demand for defining the concepts in order fully to grasp what they mean and hence what we are talking about and, on the other extreme, simple common sense which may be too close to a skeptical or agnostic posture that finally ends up with "perspectives", "points of view" and "matters of opinion".

Between and also in contrast to these two extremes, here the task is to understand the problems themselves, rather than to look for definitions. However, such an understanding must not be misinterpreted. Hence, in each case, even though much more briefly than what I would have liked, our method will be to elucidate the themes by way of a critique of their underlying presuppositions. The main effort is to grasp the problems regarding human rights, solidarity and subsidiarity without prejudice and preconception. From this standpoint our procedure can be called phenomenological, though not strictly so for our concern is not about determined philosophical schools of thought or a particular thought tradition. On the contrary, the goal is to go to "things themselves", to the problems themselves, which here is precisely the dignity or

quality of the human life of individuals in community. The whole enterprise is to make such a life possible, that is, to enhance its possibility.

To restate the problem and the context more precisely: the central concept of human rights is life with dignity or quality; the central concept in solidarity is social sensibility; while the key concept in subsidiarity – at least with regard to the state – is that of *citizen* or *citizenship* (not federalism as often has been claimed). These three concepts are articulated in the following chapters with both their intrinsic and their extrinsic relations. This gradual process should generate progressively a better understanding of what civil society is all about.

In other words, the thesis of this work is to start from the most fundamental of all concepts, namely, life. In that light, human rights, solidarity and subsidiarity are intertwined in such a way that the axial-concept of solidarity or social sensibility constitutes a step forward in deepening and making more concrete the concept of life – the leading concept in human rights; in turn, the concept of *citizenship* represents a farther stage in understanding and solving the main problem of fundamental ethics in our time.

This enables us to elaborate two additional considerations. First, the articulation and interconnection of human rights, solidarity and subsidiarity place us within, and belong to, an ethics of "ought". In fact, particularly with human rights and solidarity we deal entirely with problems concerning a "must" or an "ought" which in the context of this work is that of the reconstruction of civil society.3

Secondly, and in immediate connection with the previous remark, the idea of the social ontology which we are tracing here is grounded in turn on a more general theory, namely an "ontology of possibilities", though the technical details of this are left aside in the framework of this work.

To conclude, this work is structured of several strongly interconnected essays which together form a seamless unity. Therefore, it is not possible to grasp the thesis of this book without taking into account each of these moments, together with their connection and order. Nevertheless, two of the chapters are not entirely original. First, Chapter II on "The Ethics of Human Rights", here extended and corrected, was presented to the Latin American Seminar on Pedagogy and Human Rights organized by the Latin American Network for Education Toward Peace and Human Rights, CEAAL, in Bogota (Colombia) in December 1995. Chapter III, "Towards a Phenomenology of Solidarity" is a modified and enlarged version of a paper delivered during the International Colloquium on "Philosophy and the Construction of Civil Society" in August 1995 at the University of Lima, Peru. The remaining chapters are original.

Finally I wish to express my gratitude to The Council for Research in Values and Philosophy, and particularly to its Secretary, Professor George F. McLean, for their interest in this book. It was due to their encouragement that this book has come to light. The composition and final version was done while a Visiting Scholar in the Department of Philosophy at the University of Pittsburgh, during the Winter Term of 1996.

NOTES

1. Aristotle, *De Anima*, 415b13.

2. "Dass über Subsidiarität ein Philosoph nachdenkt, bedarf der rechtfertigung; denn in seinem Metier spielt der Begriff keine Rolle," O. Hoeffe, "Subsidiarität als staatsphilosophisches Problem?" in *Subsidiarität Ein interdisziplinäres Symposium*, A. Riklin/G. Batliner (Hrsg.), Verlag der Liechtensteinischen Akademischen Gesellschaft, Vaduz, 1994, p. 21.

3. See C.E. Maldonado, *Towards a Philosophical Foundation of Human Rights. An Openness to the Dialogue* (In Spanish) (Santafe de Bogota; Ed. Instituto de Derechos Humanos/ESAP, 1994). As for the relation between philosophy and human rights, cf. C.E. Maldonado, *The Philosophical Dimension of Human Rights* (Santafe de Bogota: the UNESCO Chair in Education for Democracy, Human Rights and Peace; Luis Carlos Galan Institute, [forthcoming]).

CHAPTER I
TOWARDS A PHILOSOPHICAL FOUNDATION FOR HUMAN RIGHTS

THE CHALLENGE OF SKEPTICISM

Human rights face a singular challenge on which their effective understanding and application depend. This consists in the tension between their normative features and their grounding. On the resolution of such a tension depends the universal destiny of human rights.

The first or normative aspect refers to the relation between human rights and the actually existing judicial and political apparatus which is supported by, and applied in, the political charter of each country, together with its codes, laws, norms, decrees and judicial organizations. The primary function of positive law is to legitimize in a rational manner the social, economic, military and political realities of a determined geographical region for the period of time in which its judicial norms are valid and binding. From this point of view, the guarantee of the rationality of a society and a state coincides completely with the judicial or legal system. The whole set of norms have as their essential function making life possible within society. In developed countries the whole of social ethics coincides completely or is totally mixed with the system of laws and the corresponding apparatuses and mechanisms of the judicial system.1 This is not to suggest an identity between ethics, especially social ethics, and the judicial system, but it is possible to speak of a coincidence between the two. From this standpoint, it is understandable that positive law considers itself self-sufficient with regard to the grounding of human rights. Thus, the law is erected as both the logical and ontological foundation of the whole social, cultural and political reality.

The second aspect, however, is the most difficult and questionable, namely, the foundation of human rights. The problem originates from the "intangibility" of the related themes and philosophical problems due to which human rights appear as an inoperant and ineffective intellectualization. Whether as motivation or as consequence, the problem of grounding human rights ends in, or is raised by, skepticism, which has two practical consequences, first, indifference which ends by being confused with a sort of complicity and individualism, and second, insensibility regarding the whole set of problems constituting or centered around the theme of human rights.

As can be seen clearly the apparent or real difficulty in talking about universality with regard to human rights lies, on the one hand, in the subsumption of human rights under the entire judicial apparatus, which by definition is geographically delimited in terms of geographical and cultural identities. The system of positive law is delimited in various ways and supported by different mechanisms. Clearly, then, tasks related to the universality of human rights depend upon their philosophical foundation whose task it is to demonstrate the possibility of speaking rationally and reasonably about their universality. From many viewpoints, such universality would coincide, and indeed mix, with the universality of ethics itself.2This last consideration shall be put aside for the time being.

Here the sole aim is to study the problem of the meaning of the universality of human rights. Numerous other themes and problems related to the foundation of human rights must be studied: the point of view of human life, or, better, the absolute need to respect human dignity and the affirmation and development of the human life of each individual and every community and

people. We have studied some of these themes elsewhere; here it is studied in terms of problems that engage us in various ways. One problem about the universality of human rights is their epistemological and ontological ambiguity. Skepticism has ever been the great enemy of universality. While I do not deny that skepticism can play a relatively positive role through warning against vacuity and formalisms, here I shall be concerned to refute the skeptical objections to the universality of human rights.

THE GENESIS OF HUMAN RIGHTS

Violence is the origin and, as such, the principle of human rights. This is not to note a *felix culpa* but, on the contrary, to take note of the dialectic between violence and human rights which defines the *ethos* of the contemporary world.

Regardless of the historical or historiographical appraisals of the various Universal Declarations of Human Rights – all of which constitute important contributions to the "epochal" comprehension of human rights along with the object to which the entire set of problems of human rights refer – one specific circumstance marks the destiny of human rights both as theme and problem, namely, the existence of violence with its absolutist pretensions. Around this, cluster areas as diverse as law, sociology, politics, philosophy, ethics, military systems and regimes, and psychology.

Violence is so characteristic a human phenomenon that it is difficult to speak of it in the realm of animal or physical nature. The use of such expressions as "natural violence" with reference to earthquakes or "animal or animal-like violence" in relation to behavior within a biological species is in reality a matter of slackness in language or of anthropomorphism. Moreover, as violence is a cultural as well as an historical phenomenon, criteria for criticizing it correspond to calls for further forms of rationality and of critique, control and suppression of determined systems of violence. Our times are characterized by the systematic presence of violence in various forms, both open such as military or physical violence and such more subtle forms as economic or psychological, as well as different forms of cultural domination. Generally, there is not only one form of violence completely apart from others; open and "subtle" violence constitute a complex unity and it is due to such situations of systematic violence that problems concerning human rights exist.

It is necessary to distinguish two things. On the one hand, there are the problems concerning criminal law or criminology in general. Here several fields are to be distinguished: misdemeanors, common crime or delinquency, etc. Depending on the operative judicial system these can be merely police situations as when a person complains about the next door neighbor. They can also be properly criminal and therefore are referred to such punitive mechanisms as prisons. This first area generally is judicial or at least the forefront is occupied by criminal law of the police; only afterwards is it seen as a matter of human rights.

On the other hand, violence is essentially involved in the constitution of human rights. Such violence can be characterized as systematic and or systematized, that is, violence as a habit, custom or way of life – an everyday reality or *ethos*. Humanitarian International Law (HIL) provides an account of this group of violent acts or systematic violence. The generic title used in this case is the one of "crimes of *lèse* humanity", i.e., all sorts of crimes which come to be a part of human memory as a record of the human species. Such violence is not episodic, but has come to be an everyday principle of reality for a determined place and for one or several individuals or communities.

Clearly in the history of humankind there have been diverse periods of violence, even of systematic violence against individuals, peoples and entire cultures. The Inquisition, the Conquest and Discovery of America, or the whole history of slavery in Africa are examples. However, only recently have human rights come to be at once ethical, juridical and political criteria for assessing a form of government or even a whole culture as respecting or violating human rights. It is not incidental that to the systematization of violence there corresponds as a cultural cross entry the development of informatics and the elevation of technology to one of the several criteria of rationality.3

Systematic violence is the *de facto* imposition of a determined form of violence upon the life of society and of individuals and, as such, as a principle of reality. In this sense, we refer to violence upon individuals and (relatively) large groups within society from two different fronts. First, the State is recognized as the main guarantor or the main violator of human rights. The point here certainly is not to accuse the State or, more concretely, its various legal and security mechanisms of being the source of violence. Behind this idea lies a political philosophy and a philosophy of history treating, usually negatively or destructively, the question of the very need for a state. On the contrary, the fact that the state is recognized as the first institutionalization of violence lies in the real fulfillment, or in the negative case in the nonfulfillment, of the functions that give origin and make sense of the political state. The state's meaning and function is to guarantee the citizen's life and enable the free development of life in society in all its modes. For this reason the state is uniquely responsible for the use of the military forces and of the judicial system. Hence, the accusation of the state as a violator of human rights refers mainly to the military forces, the police and the state security forces. The control of those forces is the responsibility of the different executive, legislative and judicial powers of the state, together with their manifold interrelations. In a word, seeing the state as the source of violence is based on the objective actions it either carries out or avoids with regard to guaranteeing life as well as the citizen's political, economic, civil, and social and cultural rights. These actions correspond to the first generation of human rights (the French Revolution), the second (The Universal Declaration in 1949), the third (our contemporary age), etc.

The second main source of violence and violations of the human rights comes generally from civil society itself and, more particularly, from determined organizations of civil society. The most classical examples are paramilitary groups, large corporations and political parties. How they exist varies from one country to another, for instance the existence of guerrilla or self-defense groups pertains to the particularities of the region or time.

What is significant is that there is an evident correlation between forms of violence. This sets up violence as an every day reality expressed sometimes more sharply and at other times in a more latent form. Nevertheless be it open and declared conflicts within a determined geographical region, or low intensity conflicts, the basis of the origin of the whole problem of human rights in the contemporary world is the fact that violence is erected as a *principium realitatis* or the way in which every day reality develops in a certain place and time.

If it is because there are more or less generalized situations of violence that human rights exist, then the object of human rights is first the critique and then the gradual or total suppression of violence toward individuals and social groups, regardless of the reasons and the interests by which such violence originates or is justified. To say, however, that the object of human rights consists "first" in denouncing the conditions that give rise to violence, and "then" in the gradual or total suppression of those forms of violence is, evidently, an epistemological distinction, never a chronological one.

On the basis of the philosophy of human rights there is, in turn, a philosophy of culture along with a philosophy of history. However, the issue of human rights definitely is not to explain one thing on the basis of something else, namely the reality of violence through factors of a cultural, historical, sociological or political kind. On the contrary, the issue concerns the field where sociology, history and historiography, psychology and biology intersect as a terrain of dialogue and work among various disciplines, sciences and practices. Thus, for instance, positive law, ethics, philosophy, education, economics, politics, social psychology and sociology are some of the areas that converge in human rights or find there a whole set of problems, under the title "respect for human rights," as a common place for dialogue and work.

It is equally clear that the object of the human rights does not consist simply in the critique and suppression of violence, but only makes explicit in a negative way what human rights are about, for otherwise they would coincide with all the major religions in the history of mankind.4 Also it is possible to establish positively, rather than merely negatively, the meaning of human rights. Via the critique and the negation of violence, human rights are really the defense and acknowledgment of the value and dignity of life in absolute and hence necessary terms. This can be explained as follows.

DIGNITY AND THE QUALITY OF LIFE

Regarding the object and meaning of human rights there are different criticisms. The most corrosive of these, because the most alien and coming from skepticism, is that "Human rights are a defense of the right to a dignified human life. But what kind of life, whose life; how are the criteria to be defined and who is to define them?" In the background is the question, charged with irony: "After all – what is life?"

The central concept that constitutes all human rights is in fact the concept of life. However, this is not life in merely biological terms, but human life. Therefore, the issue here is to establish not, as is generally done, what is specifically human in contrast to what is nothuman or inhuman (as in situations of total degradation of human beings in conditions of sheer violence and "animality"), but what bestows upon human beings a dignity superior to the rest of the beings in nature.

In the context of human rights, the discussion about the dignity of human beings in relation to the rest of nature not only is a deviation from the framework of human rights, but introduces us to metaphysical discussions extraneous to the issue of human rights. The basis of human rights, as well as of solidarity and subsidiarity, is the metaphysics of the human person. Such metaphysics operates as the meaning giving source concerning the rationality of the discourse and praxis of human rights, solidarity and subsidiarity. But such a metaphysics must not begin from a definition or preconception – whether philosophical, religious, or judicial – about human rights, which would be to presuppose from the start the point of arrival. Hegel’s position about this problem always should be kept in mind.

This is the reason why, in order to understand human rights as universal and efficacious in resolving situations of violence and to avoid possible skeptical objections, here the founding of human rights will be not upon definitions but, on the contrary, upon comprehension of two levels of the problematic. The first is to understand what situations are evidently and incontestably ones of respect and/or of violation of human rights in order to provide reasons for acting in one direction or the other. The second and more fundamental is to understand in what consists the human dignity we are to rescue when it is under challenge or endangered – or to defend and

stress when the circumstances are not unfavorable. This road is necessary in order legitimately to undertake a study of the philosophical foundation for human rights.

However, the effort to establish from the very beginning what human dignity is relative to the other animal species is challenged by two very difficult obstacles. One is a casuistry bearing either strong anthropomorphic or naturalist tendencies. The second is the danger of a *regressus ad infinitum* in founding human dignity. Generally, in the order of explanation one encounters epistemological "leaps" which represent the bankruptcy of the rational and justified explanations being sought. But the foundation of human rights must rest not on criteria of faith, but on rational evidence and on statements and judgments solidly argued and rationally justified.

The issue therefore is to obviate one or the other path. The real challenge in grounding human dignity lies in establishing how human beings achieve dignity in themselves,5 which corresponds exactly to the problem concerning the universality of human rights. Particularly in the context of human rights, to talk about human dignity is no different from talking about the quality of life. In fact, the critique, denunciation and negation of violence in positive terms is the effort to thematize human dignity, as well as the quality of life that the individuals living in society have or could have.

The kind of life that concerns and constitutes human rights is by no means the hypostasis of an idea; on the contrary, preoccupation for human life is defined in immediate and direct relation with really existing individuals in the concrete situations in which they live. Kant claimed that the full exercise of reason consists in being able to grasp the universal in the particular; the universal is life, and the particular are the concrete individuals, men and women, children and old people, whatsoever be their conditions of life and their cultural, political, ontogenetic and other features. Thus, preoccupation for human dignity and for rationally thematizing the quality of the life of individuals always means considering the specific situations in which human individuals exist and strive. The point then is to attend always to experience in general and to living experiences in particular (*Erlebnis*), leaving aside any prejudices in their regard, for human dignity is pursued in the way in which life is lived. In other words, human dignity is not a value which transcends living human experience; on the contrary, it derives from, and is grounded in, existence itself. I shall return to this later.

The logic of the quality of life is an internal logic or logic of immanence. The issue always concerns one's immanent life experiences and their connection with others. In fact, only after living does it make sense to thematize it, to question and reflect upon the whole set of special problems which cluster around the theme of the quality of life. With regard to human dignity and the quality of life there can be no strategy, because the elaboration of strategies in their regard would be to instrumentalize them and make them into an object or thing.

In other words, talking about human dignity and the quality of life always and necessarily refers to everyday life, for not only do human beings actually exist in daily conscious activity, but it is precisely because of this that we can speak about the dignity of the human being. Any other analysis of human dignity and the quality of life, namely, one that is not grounded in everyday conscious experience or that does not at least refer thereto, ignores the intersubjective, interpersonal, public – in the sense of the Greek *politeia* – political character of the dignity of human beings. Reference to the lifeworld means saving life from being taken for granted and from anonymity. E. Husserl's phenomenology brought to light that reference to the lifeworld and to everyday experience is equivalent to stating the social, cultural and political meaning of the quality and dignity of human life.6

From this standpoint, the achievement of human dignity and the quality of life in one's own conscious experience, that is, in one's individual and social life and on behalf of others living in community, is precisely concern with the ability to live humanly. Dignity then is not a value, a conscious experience or reality that is given once and for all; and the same is true of the quality of life of individuals living in community. The task of describing what human dignity is and how it exists in a particular place and at a specific time is precisely the effort to regain a lost dignity; it is the effort to defend and broaden the conditions that enable human dignity to be acknowledged as having exemplar value, that is, as something to be sought in and for life. Hence, to be a subject of human dignity and of a human life with quality which can be recognized universally as desirable is precisely to be one who cares for human possibilities.

To deepen insight into the fundamental problem of human rights and their source of meaning and importance, namely, the problem of the defense of human life as one of dignity with a universally desirable quality, we shall now seek to make explicit in what this "care for human possibilities" consists.

POSSIBILITY AND LIMITS OF HUMAN RIGHTS

Preoccupation for the very possibilities of human beings is the specific form of the defense of the entire set of fundamental rights. That is, preoccupation with the violation of human rights implies that human beings are not and cannot be understood or reduced exclusively to something that simply happens, that is, to a fact devoid of self-awareness and hence of self-respect.

Indeed, the philosophy of human rights is opposed to all kinds of reductionism of human existence, whether it be naturalist, historicist, religious, biological or other. Reductionism is commonly the unilateral affirmation of one aspect over all others. Thus to reduce a human being to a mere fact is to do violence to its human dignity, indeed to its very existence. A feature common to all kinds of reductionism is to comprehend the human being in terms of its conditions, stressing according to the dominant interest in each case one set of conditions over the others. This forgets that even though the human being is indeed conditioned in a manifold sense, he or she constitutes at the same time the condition of possibility of his or her own conditions. What interests us here is, therefore, the possibilities of human existence and the way they ground human rights.

There are two steps in constituting human rights which enable us to understand best what we are calling here the "care for possibilities". One is to understand the human being as gifted with possibilities, all of which are to be actualized and developed through solidarity and subsidiarity (see later chapters). This in turn, enables one to see what is possible also as the limit of human rights. Let us proceed step by step.

That human life neither exhausts nor consists uniquely in what happens to one at each place and every moment means that existence as free and dignified has movement temporal horizons and, hence, meaning. The basis of human rights is the specific life of each and every individual of the species, which means that precisely in human rights each one's life acquires a necessary and absolute character. Still better, the dignity of human life can by no means be reduced to anything else, whether a value, an idea or an empirical fact; on the contrary, everything else serves as a means, tool or device contributing to unfolding the possibilities of human life. This coincides with the Kantian ethical theme that only human life is an end in itself, in relation to which all the rest are simply means.

But the human being is not of itself an end; through action it *elevates* itself to becoming an end. The human being makes of himself an end through the constitution of horizons through which the meaning of his or her existence, along with that of others, becomes ever more clear in multiple mutual relations. The horizons are constituted by the individual's setting out on his behalf new tasks to be fulfilled or projects to be achieved. This founds the idea that it is the future, rather than the past, which gives meaning to the present. In turn, this means that the meaning of both past and present, along with their mutual relations, is to make this future possible in as many ways as can be imagined. Thus, the future emerges as the time dimension in which existence not only fulfills itself relatively to the past, but moreover discloses new and better alternatives or possibilities. An existence exclusively turned back to the past and "charged" only with the past is an existence for which the future appears only as utopia, fantasy or madness.

In turn, the present is a time of choices, the meaning of which is to make possible other acts and the horizon for further acts. In other words, any choice that is equivalent to closing off further actions and horizons of action can be called irrational. The rationality of choices consists in their being constitutive of further possibilities of actions. Human existence is the summation of human actions, both those fulfilled and those that were not fulfilled, along with the consideration of how they were or were not fulfilled. We shall have the opportunity to enlarge upon this in the coming chapters.

From this standpoint, horizon, future and possibilities imply each other – so much so that it is in understanding their multiple relations that the meaning of the world and of human existence is manifest as a life gifted with possibilities, rather than being reduced merely to facticities or happenings. Hence, in facing the threat of reduction to such a set of facticities, the issue is how to rescue and bring out the whole sphere of possibilities.

Indeed, this is the real meaning of human rights, which consist in the elaboration of a solid, coherent and systematic critique of all kinds of violence in order to generate and enlarge in every situation all possible room for human life, that is, in order for its dignity and possibilities to find conditions more favorable for their realization. Through that movement the human individual makes himself an end.

As was said earlier, the negative meaning of the human rights consists in the radical critique of any kind of violence; this is a condition of possibility for both acknowledging and affirming human dignity. To be sure, the gradual limitation and then the total suppression of systematic violence cannot be achieved immediately or directly, but is the process upon which the basis of civil society is built or enlarged.

In the process, the specific role of human rights consists in generating the room for respecting the fundamental rights and guarantees of individuals where those rights and guarantees do not exist or are very limited. On the contrary, in the case where there is room, even if relative, for respecting fundamental civic, economic, political and social rights, the task of human rights consists in enlarging this space. In reality both generation and enlargement are two moments of one and the same historical and cultural process, namely the defense of life as having a universal and necessary character.

Skepticism accuses the generation and extension of human rights of being tainted by relativism. In response it should be said that actual praxis with regard to human rights shows that denouncing, criticizing and gradually suppressing violence is no small matter. In the logic of the modern world, such a task encompasses various domains immune to skeptical refutation. In fact, denouncing and eliminating violence constitutes the very first condition for the development of

human life, at both the filogenetic and ontogenetic levels. Further, in the task of generating and enlarging the space for the dignity of the human person, denouncing violence and the violation of human rights is a task in which converge the concepts, practices and interests of such diverse domains as ethics, law, politics, economics, philosophy, and religion. Hence multiple sciences, disciplines and practices merge in extending the field of human rights.

However, regardless of the epistemological and methodological characterization of human rights, what is truly relevant is the fact that this confluence in the task of making life possible and dignified constitutes a permanent dialogue with daily life in the historical lifeworld. This cannot be understood simply as a metaphor, for what is at stake is the real existence of women, children and older people; the object is the concrete life of individuals living in specific community situations. It concerns, for example, the conditions of respect for human dignity in the street, in the company, in the family, in the hospital and in jails as the concrete circumstances in which human beings exist.

The task is not to compare one situation with another, pretending perhaps groundlessly that the conditions of such marginal or minority groups as prostitutes, homosexuals, ethnic minorities and prisoners can be assimilable to socially normal conditions. This would convert human dignity into an abstraction or an hypothesis with negative consequences for effectively uniting in a call for respect for human rights. On the contrary, work in human rights must recognize the particularities of each situation and be able to situate in those terms the whole set of problems which converge under its title.

This, in turn manifests the limits of the concept and practice of the human rights. The task remains of generating and enlarging the space in which life is possible. However, human rights are in no position to answer the question of what human individuals will do with the freedom achieved and guaranteed, that is, of what they will do with their own life when the space for freedom is created or enlarged. It is unfair to condemn the silence of human rights with regard to such questions; let us then restate the question.

The effort for human rights consists in fighting that the space of freedom and dignity be guaranteed by the State and by all the organizations and forces of civil society, both within each country and in relations with others. The negative expression of that task is the gradual or total suppression of violence; its positive expression is making life possible and enlarging its possibilities. However, within the space that human rights have generated or enlarged, what individuals or the different organizations in which they gather and function decide is quite beyond the field of human rights. Some feel that the answer belongs properly to such sciences or disciplines as sociology, psychology and pedagogy. But what each one decides in the space opened by respect for his or her fundamental rights is, after all, each one's matter. Indeed in that terrain the sciences do not enter, but only ideology in the broadest sense of the word. The whole task of human rights is to assure that sphere of autonomy of the human person. Chapter III will concentrate on making more explicit this notion of striving to keep open the possibilities.

ETHICS OF HUMAN RIGHTS

In the specific language of human rights, respect for a person's dignity is equivalent to respect for his or her fundamental rights. Freedom of human action is the common field in which the various forms of human freedom, namely, of association, thought, religious belief, free speech, movement, work, etc. converge.

Intersubjectively, the human being is nothing more or less than one's own actions; other considerations of the person remain outside the field of human rights and belong to poetry or literature, to psychology or psychiatry, or to religion. It is precisely in this sense that the whole problem of human rights is essentially political, that is to say, it is the problem of the person's relationships to others, with and to organizations, and to the state – all of which constitute the political reality of human beings. To comprehend human beings in terms of human rights one should focus on human action by which one constitutes the sphere of social and political relationships, which remains true even though one does not act or acts or avoids acting. This is precisely to understand the ethics of human rights.

Thus, the meaning of human rights consists precisely in respect for the other's possibilities or even for the other as possibility. Throughout the manifold interactions which constitute modern society, the other represents a possibility for everyone else and, therefore, for the whole society. In the context of discussions of human rights respect for the other implies an acknowledgment, implicit or explicit, that the other's existence boosts the possibilities for one and all. Regardless of any further considerations of presuppositions, whether ethical, metaphysical or religious, in the framework of the philosophy of human rights respect towards the other is grounded on the acknowledgement that each one's existence bears possibilities for everyone.

First and negatively, the ontological consideration of the other in terms of possibilities cannot and must not be subject to any kind of strategies. That is, there is no room whatsoever for *a priori* predetermination with regard to the finalities, meanings or consequences of the possibilities that are the other; nor is there room for strategic predetermination of the significance of the other's possibilities. If, on the contrary, the problem is to understand, thematize and make explicit those possibilities in relation to the interests of a community or of a determined social group – or even in relation to the general development of the species – the problem demands careful delimitation.

The intensive and extensive meaning of the other's possibilities – or of the possibilities that the other is – can be determined rationally and reasonably only in the field in which those possibilities either develop or remain truncated and end up being eliminated, that is, in the field of the general conscious life experiences lived out by the other, always in relation with the social, political, cultural, and historical context.

That human rights both enable and at the same time demand the *care for the possibilities* of everyone else, implies that it is the task of the entire society and particularly of the state to permit and enable those possibilities to exist and to be actualized. The realization of such life experiences requires rigorous respect for the right to actualize or exercise them. This is nothing other than respect for life, and with it for the whole set of fundamental rights including those that are written in the Universal Declarations of the Human Rights and in the various Treaties, Conventions and Agreements on human rights at different levels. At the same time it includes also fundamental rights that are not written and which properly speaking do not need to be written in order to be recognized and respected.7 This issue will be treated more extensively in the following section.

In this context, caring is equivalent to the joint effort to enable life and for the possibilities of each individual to be actualized, promoted or deployed in the best possible way. This theme of possibilities is expressed by the traditional philosophical and juridical title of individual freedom, but however it be termed it is in the basic decisions at every moment and stage that life is made possible.

Human beings do not make themselves at random, but existence is exercised through actions which it is legitimate to presuppose must be rational or at least reasonable.8 Human actions are empowered thanks to "faculties"9 such as that of choice which becomes the rational ground of human actions and their horizons.

In a word, the impetus for human rights lies in the bold struggle to enable life to become always more possible via everyday decisions by individuals living in community. The object of the philosophy of human rights is not the content and mode of choices, but making room for persons to be able to choose freely. The object of these decisions and what do the consequent actions escapes the whole sphere of the human rights regardless of the philosophical foundation provided for them. Thus, human rights arise as an ethics concerned with generating and enlarging the necessary and sufficient guarantees for human beings responsibly to exercise their freedom. Human rights do not make decisions; to pretend the opposite would be their imminent and flagrant violation. For this reason human rights are the subject of many diverse disputes in which what is at stake is their universality.

THE LETTER AND THE SPIRIT

To establish their universality human rights have a singular characteristic in contrast with all other ethics in that they exist and operate both as externally normative (*foro externo*) and in one's internal conscience (*foro interno*).First, human rights are among the norms of social life where judicial norms excel, including, of course, the systems and structures which accompany and articulate a nation's or society's judicial system in the form of written texts, constitutional provisions, etc. The judicial system of a society constitutes, at the same time, the effective guarantee of respect for human rights by such means as constitutional, civil, criminal and administrative law. This first feature is difficult to describe in terms of other ethical systems and theories. Though human rights do not coincide with, or rest uniquely upon, judicial systems, it would be ethically and politically dangerous to affirm the opposite, namely, that human rights can exist and be applied outside or at the margin of the legal system of any social and political regimen.

Nonetheless, it is equally true that human rights have, moreover, a strength that completely escapes the positive character of judicial norms. While they operate in the form of, and rest upon, the judicial system beyond the force of merely positive law, human rights have force at the level of the internal conscience. However, in sharp contrast with individualist ethics, and particularly with Kantian ethics and its derivatives, as well as with religious ethics, the internal conscience does not operate simply at the individual level, but on the contrary works at the level of the public conscience.10 This second distinctive feature of human rights is shared by traditional ethics which rely essentially for their strength on the human conscience, that is, on the person's internal conscience.

At the very center of the double feature of human rights, lies a strong difference between two major parties. On the one hand, there are the partisans of a certain normative positivism of human rights. This would be circumscribed by clearly established cultural patterns. From this point of view it is very difficult to speak of a universality of human rights, for no formal validity would be compatible with the cultural specificities of any one country, region or continent. The universality of human rights would be identical with the formal character of its principles, but both universality and formalism would be totally incongruent with specific problems concerning ethnology, cultural or social anthropology, linguistics, etc.

On the other hand, human rights can be seen as closer or equal to natural moral law. From this point of view, human rights would be conatural to the human person, so that by the mere fact of existing human beings would have fundamental rights which, therefore, are inalienable. Their suppression would be equivalent to the total suppression of life as human or its value. Certainly, it is possible to distinguish between the positions of a strong and a moderate *ius naturalis*. In any case, in this second posture, the universality of human rights is based on a transcendental or metaphysical community that surpasses any geographical barriers, or traditional or cultural frontiers.

Whether one adopts one posture or the other, undeniably human rights exist and are guaranteed by a political and juridical force, as well as by their strength at the level of internal public conscience. Hence, one speaks of denouncing at both the national and the international level, and through various media, violations of human rights. Generally the transmitters and articulators of the moral force of human rights are the various Non-Governmental Organizations (NGOs) in the specific forms in which they work and coordinate with each other on an international scale. Everyone knows the extent to which, for example, states reject and are really bothered by the various campaigns denouncing their violations of human rights.

In any case, instead of seeking a simple agnostic or syncretic compromise between the defenders of a positivization, and hence a juridical circumscription of human rights, on the one hand, and, on the other, the defenders of a certain *ius naturalis*, the truly relevant problem here is to understand the specificity of human rights. As has been said above, such specificity is the necessary or *factual* combination of the juridical reality and ethical power of human rights. This specificity marks the ontological, logical and epistemological contrast of human rights visàvis any other normative system or ethic.

NOTES

1. Such a tendency exists also with equal strength in the so-called developing countries or underdeveloped countries. However, the situation I am sketching for the countries belonging to the "First World" can be a much better illustration of the state of the matters I am presenting.

2. Cf. C.S. Nino, *Etica y derechos humanos. Un ensayo de fundamentación*, Barcelona: (ed. Aries S.A., 1989).

3. Regarding technology as a criteria for rationality, see among others the already classic book by J. Ladrière, *The Challenge Presented to Cultures by Science and Technology* (Paris: Unesco, 1977).

4. I do not mean to say by this that the meaning of all the major religions of the world consists in rejecting violence; however, such a rejection is one of the minimal common denominators of all sorts of religions.

5. I recognize the virtual links between a philosophical foundation of human rights – and particularly in the present case clarifying transparently the universality of the human rights – and possible metaphysical and religious interests. Concerning the former I have already said something, without precluding further possible references to the subject. Such however is not my main goal in this text.

The relation between the foundation of human rights and virtual religious interests and presuppositions is, perhaps, more delicate. At first glance, at least for a certain number of "theologians" belonging to some major contemporary religions to pretend to establish both rationally and reasonably the dignity of the human being in terms simply of oneself could be

seen as a real scandal. However the line of argumentation followed here does not wish to be atheist in any sense of the word, and hence neither in the sense of any of the present major religions. This is partially because that would be to presuppose somehow precisely that which is to be avoided, namely departing from definitions and/or presuppositions of any kind, but mainly because establishing links between human dignity and a possible "transcendent dignity", namely, God in any of the possible understandings and denominations is the task neither of human rights, nor consequently of the foundation of human rights. From this standpoint the problem concerning the relation of the human being with transcendence of any sort is the exclusive concern of each person. In contrast, the fundamental problem of understanding and establishing the dignity of human beings in terms of humans themselves, rather than being a self-referential hypothesis (which some religious horizons would consider to be "immanentist") truly opens upon further religious or metaphysical problems which, regardless of the sphere of human rights, could be derived by, or from, each individual. My claim is that the fundamental problem concerning the universality of human rights allows no other alternative than stating the problem about the individual transcendence relation in these terms; any alternative sooner or later reveals a *petitio principii* vitiating the universality of the principles and the realization of respect for human rights.

6. Reference to the lifeworld is also reference to the historical character and to the transcendence of the lifeworld. We do not want here to take such a reference for granted; it does not belong to the immediate frame of our analyses in this book. However the connections between the lifeworld, everyday experience, and history or tradition, in spite of ourselves, remain here as a footnote.

7. In view of the need to present here some example of fundamental human rights not explicitly registered in the universal declarations, whether international or national, there is, for instance, the (natural) right to subversion. In the *Leviathan*, Hobbes considers the right to subversion on the behalf of a people or a nation as having the status of a natural right, and hence to be of the same level as the right to live, to express ideas, etc. However, along the path that leads from Hobbes to Locke, or more concretely to Rousseau and the French Enlightenment, the natural right to subversion falls into total oblivion and ends by not even being mentioned. The details of this history need to be left aside here, but it serves as an example of other rights not "officially" and "explicitly" registered which nonetheless can reasonably be conceived.

Concerning the right to subversion, the task of a philosophy of human rights consists in pointing out its possibility and rational validity in view, for instance, of the existence of unjust laws, oppressive and repressive regimes, and the like. The issue about the "power to convoque" this right to subversion at a certain moment, however, escapes the frame of human rights and is rather the task of the politician, the sociologist or pedagogue. This is analogous to the right to live, in the sense presented above.

8. I do not pretend to enter here into the very technical distinction between "rationality" and "the rational", on the one hand, and "reasonability" and "the reasonable", on the other. The idea of rational is much more "classic" and definitely typical of modernity. The distinction from this of what is reasonable is the result of more recent analyses; what is really at stake is the justification and argumentation of what is rational itself. In other words, what is reasonable concerns in what is rational. Concerning this distinction see N. Rescher, *Rationality: A Philosophical Inquiry into the Nature and the Rationale of Reason* (Oxford: Oxford University Press, 1988).

9. The use of the expression "faculty" should not be understood here in the medieval sense still valid in Kant's analyses of the "faculties" of reason. On the contrary, by "faculty" I refer to making possible and promoting. For a criticism of the category of faculty see my "What is the Need for Reason" (forthcoming).

10. There are several difficulties around the main idea of this paragraph. I want to point them out without entering into the discussion of their acceptability or the details and the background that explain them or make them possible. First, I want to leave aside here the question concerning the validity of individual ethics. There is a burning and ongoing debate among those who assess ethics to be a matter regarding individuals or also every individual, and those who see ethics as eminently social, cultural or political. The point of difference lies in the issue of the rationality of values and of ethical actions. Second, and closely related to the former, is also the philosophical issue – which extends as well to such other domains as ecology, sociology, psychology – of whether the idea of consciousness as eminently individual in some traditions should be extended to the idea of a collective, social, or generic consciousness. The debate focuses on the hermeneutics of tradition, the general theory of consciousness and an ontology of consciousness. The first and the second points require major attention, not possible in the present context.

CHAPTER II
THE ETHICS OF HUMAN RIGHTS IN A CIVIL SOCIETY

THE SPECIFICITY OF ETHICS

Ethics as part of philosophy plays such a fundamental role in contemporary reflection that some philosophers would claim that whoever wants to think seriously about the modern world cannot do so without going into ethics. Others, with or without a touch of cynicism, hold that just as epistemology was the central philosophical problem of the seventies and a large part of the eighties, it is ethics in the nineties and for the years to come.

Beyond these impressions, it is clear that, in conjunction with ecology and human rights, ethics constitutes one of three fundamental axes of the state of the contemporary world. Here, however, we shall concentrate on showing the relationships between ethics and human rights. For this it is necessary to situate ethics within the triangle of three closely related issues.

Ecology considers our habitat, the surroundings in which we live, which is both the result of our way of living and the condition of possibility for human life as well as the life of our planet. The fundamental problems of ethics concentrate upon two chief spheres. On the one hand, in bioethics the issue is to determine adequately in what a human life of quality consists, and the minimal sufficient and necessary criteria of a policy to favor this. On the other hand, discussions concerning ethics are found on two main fronts. In one the main preoccupation is normative, from which point of view the relationships and thresholds between ethics and law, economics and politics are foremost. In facing the normative problems of ethics the second problem concerns the grounding of ethics; this is perhaps the most urgent for our days. Here, however the aim is rather to study the situation of ethics and ethical problems in the frame of Latin American culture, while recognizing that there are analogous situations in other regions. In order to bridge common or analogous circumstances it is necessary to circumscribe the present analysis to the Latin American domain. Hence, instead of elaborating general analyses and inferences, I shall concentrate on the specifics of Latin American and then build bridges and similarities to other regions and situations. Nevertheless, even such a task needs to be narrowed.

One of the most important philosophical problems in the history of human reason is to track relationships between what can be characterized in logical terms as common, on the one hand, and distinct, on the other. In various other fields or languages this is as the relation between what is one’s own and what is foreign, between the specific and the generic.

In no other area of knowledge is this such an urgent problem as when we try to speak of ethics in Latin America, or about a Latin American ethics. In order to broach this problem I would advance the following hypothesis. In Latin America ethics continues to be an agonizing, vital and everyday reality, in sharp contrast with Western Europe or particularly the United States. Indeed, in the so-called first world, ethics has become a "discourse" – in Ricoeur’s expression a "discourse of action". This chapter will explain that hypothesis.

An article by J.L. Aranguren tracks philologically the meanings and evolution of the term "ethics";1 it has two main understandings. On the one hand, it deals with the way in which we live. Thus, ethics refers to the specific behaviors of either individuals or their social groups, which define one’s home, one’s surroundings or, in sum, one’s world. On the other hand, ethics deals with the way in which we should behave or act with regard to an ideal or goals, whether

ontogenetically or filogenetically. From this standpoint, ethics refers to an oughttobe that constitutes the criteria or meaning of an action or series of actions.

In Europe a gap has arisen between ethics as a reflexive activity in the academic or scientific community and ethics as lived outside those circles. In contrast, in Latin America fortunately the links between the academy, whatever be its form, and society (the streets, the companies, and so forth) are not yet broken, but remain sufficiently solid. Hence, the question of ethics in Latin America entails at the same time both an epistemological and a methodological problem, namely, the difference between what one wants the human being to be, and what a specific human being effectively is. To understand this problem it is necessary to clarify what ethics deals with; what it is all about.

Ethics does not deal with the human being, that is, with the human essence or nature, but with the explanation of action as it takes place effectively in the world. But even here ethics does not deal with human acts in whatsoever manner for many aspects are better treated by particular sciences. Thus, economics deals with human acts insofar as they are specifically acts of production, distribution and consumption of goods; medicine deals with human acts in terms of health and/or disease; law gives an account of the legality or illegality of human acts; while politics deals with the legitimacy or illegitimacy of human acts.

What is specific to ethics is the fact that it deals properly with the value of actions. This is defined by ethics in terms of the good, for example, whether or not actions are free, or correspond with justice and equality. Hence, the chief problem in ethics nowadays is whether the value of human actions is arbitrary or can be established in accord with certain criteria. If the latter, then what are those criteria and how are they determined? If the former, is it indifferent which value(s) one adopts? This situates us plainly on the terrain of ethical problems and discussions.

These problems cannot be answered abstractly and independently of experience. In fact, there would seem to be no *a priori* idea concerning human actions or human situations. Today the real problem of the entire universe of ethics is that of the relationships between ethics, life and the project of individuals living in determined communities. In other words, the challenge is to begin from, and build upon, the real possibilities of life instead of from what we would like it to be with the consequent risk of arbitrariness. To understand this we shall proceed in four steps: first, to clarify the object of ethical concerns; second, to propose and argue that human rights are the ethics of our time; third, to situate the problem and proposal within the Latin American context in order to consider its specificities; and finally, to suggest a few implications.

WHAT ARE ETHICAL PROBLEMS?

Certainly one of the fundamental problems now being encountered by the human race is ethical; namely, to understand who the other is and can be, what are my own possibilities visàvis the other and, in turn, his or her possibilities visàvis myself or ourselves. The entire destiny of individuals, as well as of peoples and cultures, depends upon the comprehension and resolution of these questions.

Ethics evidently is a human problem,2 more specifically its task is to determine the value of our human actions regarding others which define the ways we relate to society and, hence, our own possibilities and those of others.

The only authentic way to relate with others, to value and judge those relations, and to determine the conditions of their possibility, in brief the only way fellowship or solidarity with

others is possible, is to begin from human acts and the way in which they take place. In other words, the value of the other in relation to me, of me for him or her, is established in accord and whether or not they are carried out. Indeed, the only way truly to relate with, and value, others is in accord with his or her actions. That is, even though it is impossible to ignore the importance of intentions, emotions and the like, what really counts in the realm of ethics are the actions themselves. All else is relegated to such other spheres as psychology or psychiatry, religion or poetry, and the like. The internal human being does not exist; on the contrary, the human being exists in the world and as such is expression.3

In ethics the value of human life is not established in accord with its intentions, its projects never achieved, or its dreams and fantasies. The value of human life is established in a determined period of time always and necessarily *post factum*, that is to say, once the human actions have or have not been carried out. This is to say that there is no *a priori* of human life, human acts and human situations. They always and necessarily are judged after – never before – they take place and always in accord with whether they take place and the way in which they occur. In a word, an *a priori* ethics is not possible. The possibilities, reality and necessity of ethics are grounded precisely upon whether human actions take place or not.

This is valid not simply when one pays attention to individual considerations, but also in evaluating or making ethical judgments regarding organizations, institutions and organisms. It is from this point of view beyond epistemology that ethics has its guarantee of rationality and its space for action with regard to, e.g., politics, economics and law. The point is really a much more delicate and broader problem. Judgments for or against the state or parastate are legitimate ethically precisely in accord with, and after, the acts of the state and its organisms – including, though not exclusively, acts of individuals – which have been carried out or omitted, and the way in which they have occurred.

Human individuals as well as organizations and institutions are judged ethically and evaluated not in accord with their intentions or programs, but based upon their real expressions. Those expressions are called acts or actions, so that individuals and their organizations, including their state, are but their acts as taken or omitted.

As such, ethics adopts a clear ontological character; it recognizes or eliminates the being of human individuals as well as of their organizations and institutions on the basis of what they are socially and intersubjectively, that is on the basis of their acts themselves. Thus ethics is not simply about values, ideas or ideals, ends or goals; beyond this, ethics is basically about the very being of individuals, groups and human communities and finally about the very being of society, culture and political regimes or government.

The importance of human acts, and therefore also of the judgments and evaluations concerning them, lies in the fact that the meaning of a human act is both something to be fulfilled in itself and also in its making other acts possible. An act or series of acts that simply is fulfilled and then dies does not have great import, and may even be meaningless. On the contrary, what is of interest to human beings and their politics, philosophies and organizations is that while their acts are being fulfilled new horizons are being made possible through those very actions.

Hence, the meaning of a human act lies at the same time in the fulfillment of the intention which motivated it, in setting up new possible actions and, therefore, in the enlarging of the horizons of the world. The value of ethics in general lies essentially in ever making new acts possible and hence in making life possible, that is, in exalting the best of human existence in the world and contributing thereby to the constitution of new and better horizons. Any other ethic that is simply an affirmation of the state of matters that actually prevail or has happened does not

do this or even care about the possibilities of, or for, human life. Such an ethic must be rejected and criticized to its very foundations. In other words, not all ethics fulfill the task of exalting and understanding human life, rather some ethics are at the service of other interests or goals, thereby converting the value of human existence into a means for other ends. Attention to ethical principles does not necessarily translate into making possible and exacting human life.

Therefore, what truly is at stake in ethical discussions concerning, for example, a method of research, its impact upon the world order, relationships between individuals and society, or tensions between the normative and the foundational are the modes of evaluating human actions and thus also the values adopted as grounds, criteria or ends of human acts. For it is upon those evaluations that depend finally the meaning of a human act, a series of acts, or a human life.

Not every value is equally valid or desirable; and no value which is reasonably accepted and legitimately recognized is *a priori*. Disputes about the various, even numerous, coexisting ethics in a society or in a culture generally are insubstantial due to the incommensurability of values or of diverse ethical theories. This comes to be seen as a challenge to human life and fellowship and, ultimately, in an indirect apologetics for death, as well as for systems of exclusion and elimination. Hence, at the very heart of ethical reflections must be placed the problem of the commensurability or incommensurability of ethical values supporting a determined way of life, a particular politics and administration for planning common or individual actions. Such a problem cannot and should not be omitted or left aside, not even temporarily. Without the full clarification of that problem from the very start, no reasonable form of ethics would be possible and ethics itself would be reduced then to mere instrumental normativity. Finally, what really is at stake is not so much a dispute about ethical values, principles and methods, but human life as such – the life of individuals, groups and communities belonging to a determined society or culture.

HUMAN RIGHTS AS THE ETHICS OF OUR TIME

The basic problem for an ethics nowadays is to overcome objections from axiology about its theoretical or its practical implications or consequences, that is, to assure an ethics that makes possible an affirmation of life as such. This is the issue of the axial value of all its propositions and statements, its principles and in general its entire theoretical corpus. Hence, the importance of a sufficient clarification of such an ethics does not lie simply in the theoretical order, but in its consequences or very ground: human life.

Indeed, we are living in a century of war, an epoch of death in which life is being threatened; it is a time of ever greater and more diversified dangers. We are living an epoch of violence, the presence of which demands serious reflection upon ethics.

Violence has become a reality for the individual, for large human groups and for whole communities. It becomes ever more anonymous, but at the same time increasingly systematized. In such a situation the individual has become perfectly superfluous and accidental: "useitandtossitaway". In this situation such large structures and organizations as army, company, church or political party are taken as ends in themselves; the individual can disappear provided the structure perdures. Violence therefore means the total or virtual elimination of individuals and is imposed, despite themselves, on entire peoples, societies and cultures. Notoriously that is what is happening with indigenous groups, retired and terminally sick people, ethnic and religious minorities, and the like.

It is in such circumstances that human rights have taken on an importance never before known in the history of mankind. To say that violence is the principle of human rights4 is equivalent to stating that it is because there is a violent regime – whether political, social, military or psychological – that problems of human rights exist. The meaning of human rights consists in first criticizing, and then gradually or totally suppressing the state of violence against human dignity which impedes the full affirmation of human life and reduces it merely to striving for survival. The basis of human rights is then human life as an absolute value in the sense mentioned above.

From this standpoint, the meaning of human rights consists in recuperating the existence of the individual as an absolute and unquestionable reality, rather than taking it for granted. It is not necessary that there be a regimen of open and unbridled violence, but simply that the dignity of human life is threatened, or that the possibilities of life with sufficient quality be endangered, in order for concern over respect for human life to come to the fore and, with it, the right to life and other fundamental matters.

However, effective respect for human rights and denunciation of violations of human rights presuppose elucidating who the other is, and in which way we relate with him or her. Human rights demand that we be sensitized with regard to the other and his or her situation and condition so that we are affected by his or her state as if it were our own, for were things different we could well be in their place. Hence, one is concerned even about situations in which we have never been and may never come to experience. Grasping this means understanding how the individual represents the species, and how the possibility of a life with dignity for an individual or a group is equivalent to that of the species.

Human rights are the ethics of our time for we confront a unique situation in the history of ethics and of ethical ideas. For the first time in the history of mankind, there is a demand for an ethics not simply as the work of a particular school or individual author, but as a common and universal task. The difficulty lies in the foundation of human rights, but that is a matter outside the immediate interest of this text.

That human rights stands as the ethics of our time means that the objective to be reached, namely the dignity of human life, the expansion of the possibilities of human life and respect for the improvement of the quality of life as an absolute value is no longer an individual problem, but a preoccupation common to all so that each one's concerns are everyone's concerns. The relationship between the individual and society was never so close as in our time.

The ethics of human rights is unquestionably of universal reach. One of the paradoxes of all prior ethics is that because they were not universal neither was their normative power, but only hypothetical according to Kant's distinction. In contrast, human rights penetrates the internal forum as well as national or international public forums; they are registered also in positive law and in the political charters of countries alongside their juridical system with its administrative and penal system.

The ethical strength of human rights lies in the fact that the life and personal dignity of individuals in the community has its proper value which can neither be dissolved in nor derived from, anything else. The goals of human existence can be discussed, but unquestionably human life has a value grounded solely on its acts and their very possibility. From this standpoint, the aim of human rights consists in enlarging the general conditions of life in order for the existence of human beings to be ever more full and improved, and for the possibilities of human life to develop in as many ways as possible for individuals, communities and cultures.

What each one decides to do with the possibilities created or broadened by human rights and their enhancement of respect for the dignity of life is beyond the frame of human rights. This matter concerns educators, politicians, sociologists, psychologists and the like. Human rights only make it possible for human life to achieve better and richer horizons. The broader the horizons the greater the dignity of human existence, but what each one decides to do within those horizons is each one's own matter. This is the limits of human rights, as of any other ethics. To be sure, in the actual state of affairs, and perhaps for the future, such a task for human rights is no little thing; nor does this escape those working in this field.

THE PROBLEM IN LATIN AMERICA

In general terms, life in Latin America is restricted in its possibilities; its value is yet to be fully established. From the standpoint of human rights, we can say that the history of Latin America is a search to make life possible in terms of its individuals as well as its different ethnic, linguistic and religious communities. The case of ethics is no different; in this part of the world ethics is still an agonizing matter. Talk about values and the absolute value of life, striving for dignity, questioning the state of violence and pleading for peace confront real dangers and are matters of life or death. Life is at stake and in one way or another is to be rescued. Truth is not yet a way of life, but rather silence, suspicion, conformism and accommodation.

Ethics in Latin America when radically grasped becomes a field of battle between death and life, atomism and solidarity, silence and the ability to denounce and criticize, between exile, forced displacements and the disappearance of people and human fellowship. The challenge is to create social space and a national conscience, with horizontal and vertical unity of individuals and their environment.5

We are living a Cartesian epoch, in pursuit, however, not simply of apodictic certainty, but of human existence itself. In our time each individual's existence is in principle questionable and must be proven, but this is true also of determined communities and human groups. In this culture the individual exists only as a representative of another reality which is sufficiently established. When one is asked on whose behalf one comes and answers 'I come in my own name' one is obliged to wait, but when the answer is: on behalf of an important company or a well-known public or private person then one soon is attended to, for in that case one "represents" another reality. But representing someone or something else is not to exist oneself; we are challenged6 to demonstrate our own existence or reality! In the history of humankind this had never before been known; it is a pathological situation! What is really dramatic here is that the demand to demonstrate our existence falls upon whole groups of individuals, communities and, more generally, upon peoples, societies and entire cultures.

It can be said that Latin America is a continent upon which has been imposed the historical destiny of having to demonstrate its own existence. As there is no ethics without a parallel philosophy of history or of culture, to construct or criticize an ethics is to enter into a problematic relationship with other subjects concerning both history and culture. A pure ethics does not exist; it is a sophism.

From several directions voices call for a Latin American ethics. Generally, they think of the problem in terms of "creating" a specific ethics different from that which was imported from other regions, usually in the context of political, economic or cultural domination or dependence. Beyond those aspirations, however, the primary imperative which cannot be put off consists of a shared and determined effort to make life more and more possible. In cases such as Colombia, El

Salvador, Guatemala and Mexico this is the foremost task. This defense of life is not a reductionism or a mere strategy, rather the effort to achieve jointly a determined quality of life which promotes human dignity constitutes the very core of ethics for Latin America and characterizes and typifies its central problem. In sum, the defense of human dignity and the effort to recognize the absolute character of human life, namely, of children, old people, men and women of different conditions and situations, simply cannot be a matter of balancing strategies or programming possibilities. The ethics of human rights is not a question of strategies because neither is the rescue of human dignity a question of logistics. For the first time and for all, ethics ceases to be a mere question of "discourses".

BY WAY OF CONCLUSION

In what then does the ethos of human rights consist, which is to ask what is the specific ethical problem of Latin America? This question cannot reasonably be formulated nor intelligently and sensitively answered without considering at the same time a community of meaning. This is the process of individual and social sensibilization with regard to a general or generic conscience, first in each community and then at national and subcontinental levels.

Against the vague incommensurability of ethical values one must start from life as experienced by socially related individuals. In other words, against an undifferentiated state, human rights ethics is the configuration of an open space for deliberation, critique and common action, that is, the constitution of a unity of diverse life experiences. The big weakness of all previous ethics lay precisely in the difficulty of affirming simultaneously a unity in the multiplicity. Recently, such different proposals as dialogical ethics or a certain version of communitarian ethics have tried to solve this confusion – thusfar unsatisfactorily. Their error has been to start from a determined axiological or philosophical perspective in order to undertake an analysis of social reality.

Human rights does not begin with any preconceptions, but holds to the evidences from individual and intersubjective life. In the face of a determined state of violence, threat or disrespect for human rights there is no room for theoretical discussion or abstraction. The ethical principles of human rights are grounded upon intersubjective life experiences with their linguistic, ethnic, religious or cultural characteristics. In this way it is possible to unravel the central problem of the logic of human rights, namely, combining the universal and the particular: the universal is the absolute and unconditioned value of human life, the particular is the specific way in which life exists in a determined space and time, in accord with the determined tradition and common horizon of that way of living.

In Latin America ethics is no longer possible in separation from the elaboration of a community of meaning. This is to acknowledge the absolute character of human dignity and the horizons of constant amelioration of life and its possibilities. The best contribution of Latin America to the history of humanity consists exactly of this: in it lies our whole future and destiny. Hence, for us ethics is an agonizing problem.

NOTES

l. Cf. Jose L. Aranguren, "Ethics and Its Etymology" (in Spanish), in *Themata*, pp. 1–16. For the philological developments that follow herewith I am in debt to Aranguren’s analyses.

2. Within the general frame of ethics other new problems concerning the relationships between individuals and the human species with the rest of nature are now included, though they must be left aside here. The generic titles for these problems cluster around ecology and bioethics.

3. I borrow this thesis from Sartre's existentialism as well as from M. Merleau Ponty's phenomenological philosophy. See mainly J.P. Sartre, *The Transcendence of the Ego*, and, M. Merleau Ponty, *The Phenomenology of Perception*.

4. Cf. C.E. Maldonado, *Towards a Philosophical Foundation of Human Rights*. (Bogota: Instituto de Derechos Humanos/ESAP, 1994).

5. We cannot ignore the similarities existing with other parts of the planet, especially with Central and Eastern Europe. However, I shall leave aside these similarities which are not the main object of this analysis.

6. The ambiguous expression "imposed upon us" is used in economics, but comes from the social, political and administrative orders. In this sense, H. Marcuse pointed out that it is the system of total administration and control that causes the pattern of relations we are generally analyzing here. According to Marcuse the system of total control and administration characterizes postindustrial society. Such a designation connotes also a political principle. See H. Marcuse, *The One Dimension Man*, and *Eros and Civilization*.

CHAPTER III
SOLIDARITY AND CIVIL SOCIETY

THE PHENOMENOLOGICAL TOPOS OF SOLIDARITY

World constitution accompanies and presupposes the constitution of a community of subjects which in turn must be constructed solidly in terms of justice, harmony and agreement. Such solidarity is the subject of this chapter, whose purpose will be to examine its conditions of possibility. The strategy here is based upon the fact that in both political and social philosophy and ontology solidarity has received little examination although it has become one of the leitmotifs of social life in relation to the political state. I shall not deal with these relationships, nor with the theme regarding the state. Rather, this chapter will elaborate the most fundamental features of philosophical reflection upon solidarity as both a social and a political phenomenon. To do that, I shall begin technically within an Husserlian phenomenology, mainly, *Phenomenology and Intersubjectivity*, in order to trace out the component elements of our issue. In this my goal is not to establish fully all the elements of his phenomenology of intersubjectivity, but only to draw upon the cardinal elements that can be identified through a phenomenology of solidarity.1

The most serious attempts to thematize the theme of solidarity phenomenologically or according to a determined phenomenological reading of the construction of society have fallen into quite unexplainable oblivion, e.g., the works by A. Schulz, T. Luckmann, and perhaps also P.L. Berger.2 Drawing from those works it would be possible to make inferences regarding problems, structures or attitudes characteristic of solidarity, but no explicit consideration of the subject is to be found there.

In contrast with Husserl, however, in J. Patocka's work one can find a proper space for solidarity which though quite limited is very suggestive. Here I shall reflect upon the phenomenological significance of solidarity according to Patocka and in extrinsic dialogue with Husserl; this will make it possible to establish the bases for a phenomenology of solidarity. Unfortunately, the phenomenological movement generally has diverted its attention from the importance of solidarity to intersubjectivity. It is my first hypothesis, that the times in which we now are living require that a space be opened for philosophical reflection on solidarity.

Once the general lines regarding solidarity according to Husserl and Patocka have been set out, I shall the compare their views in order to draw out the basic elements of a phenomenological reflection upon solidarity. But we will stop first to consider the liberal position on solidarity by studying Richard Rorty's position in order to see what solidarity is not or should not be. Only then will it be possible to determine the appropriate terrain for a discussion of solidarity, namely, social ontology, ethics and human rights. These three constitute the proper spheres in which the whole set of problems which cluster around "solidarity" are to be found. Finally, we shall discuss the role of solidarity in the construction of civil society.

The history of humankind provides two major considerations of intersubjectivity. In chronological order, these are by Aristotle and Hegel/Marx.3 Both consider sociability, intersubjectivity or the political character (*politeia*) of human beings as givens, that is to say, as matters of fact: for both the sociopolitical character of human beings goes without saying. The central object for analyses, in one case, is how to reach happiness in the midst of political life; in the other case, assuming the history of humanity to be the history of class struggle, it is how to

realize freedom through overcoming exploitation, so that in history human beings instead of their alienating products can come to the fore.

It is the great merit of phenomenology to be able to formulate as an issue what the community of both philosophers and scientists has taken for granted. Though philosophical reflection is characterized by its avoidance of presuppositions, nevertheless – and contrary to some misinterpretations – the phenomenological requirement of an absence of presuppositions does not imply their total and complete elimination. On the contrary, it means bringing them to the fore or into the light and subjecting them to criticism based on rational evidence. In this the starting point is the lived experience of the presuppositions of each class.

Without doing violence to the concept, we could translate the phenomenological question addressed to intersubjectivity as follows: rather than assuming gratuitously or without reflection a critical human sociability, what is it that makes humans social or political beings; what constitutes human intersubjectivity? As will be pointed out later, this question does not differ from the issue of the constitution of a human world.4

THE PHENOMENOLOGICAL ELEMENTS OF INTERSUBJECTIVITY

The constitution of intersubjectivity occupies a considerable place in E. Husserl's work.5 Here I would trace in summary the way in which Husserl sees human intersubjectivity being constituted. In various texts and periods, four modes can be distinguished. In general, subjectivity is constituted via analogy, coupling or placing ourselves in the place of the other and with them living the shared situation. The two first modes are found particularly in the *Cartesian Meditations*, the two last modes appear in the *Phänomenologie des Intersubjektivität.* It should be noted, however, that the four modes are barely suggested in his works and are by no means extensively developed; nevertheless, I would extrapolate his indications along the following lines:

a) The other is conceivable as an analog of each person's own sphere (Cf. *Hua* I, No. 52, *Hua* XIII, Nr. 9), so that the other appears as a modification of ourselves. Hence, analogy is the first mode in which we refer to others; it is always after and in accord with what constitutes our own sphere or property. Here, "property" connotes the real and possible experiences already had or taking place at the present moment, not its judicial meaning.

b) Coupling (*Paarung*) reflects that the contact or encounter with the other is always present and living (*Ibidem*, No. 51) and can be either individual or plural. This kind of association is established on the basis of the body, that is, of physical contact of any kind. It is through an interchange of the objective senses and of what is given therein that the other acquires for us a reality of his or her own.

c) By the same token, the other is given as long as we place ourselves intuitively in his or her position or, literally, "in his or her shoes" (the term used by Husserl is *Hinversetzung* [Cf. *Hua* XIV, p. 317]). This mode is similar to analogy, but differs in that we do not start from our own experiences, but try to understand the other's experiences "as if" we were experiencing them or had ourselves experienced them. Essentially, we carry out imaginary representations, for we cannot count on our own stream of lived experiences or our own memory about them.

d) Finally, the other appears effectively as an other and not merely as an image or resemblance of our having common lived experiences (cf. *Ibidem*). Even better: we can assert without any doubt that the other acquires greater reality for us the more living experiences we

have had or are having with him or her; this appears valid for encounters with others, whether an individual or a group.

The givenness of the other understood phenomenologically is the constitution of the other, that is, the way in which we have a non-objectifying and non-objectified knowledge. The study of constitution is therefore of the way in which the meaning the other had for us before reflection becomes clear. In other words, constitution takes place athematically and is the very process of living. Alongside this constitution we can speak also of a transcendental constitution through which we understand the process through which the nonthematic experience of the other becomes a problem. In this way the problem regarding the world's objectivity is brought to the fore and corresponds to the problem concerning the community of subjects.

Husserl calls "Entropathy" (*Einfühlung*) the experience through which the other is given to us. Entropathy is a manner of a presentation in which what is given to us in an experience is not just a thing (*Ding*) or mere animal, but a personal subject provided with a body charged with expression and meaning referring both to one's personal biography ("stream of consciousness") and to a tradition and surrounding cultural world in which one has been living and from which one emerges.

The study of *entropathy* demands extreme care, so much the more because it is possible to distinguish a two-fold *entropathy*, one authentic and the other inauthentic (cf. *Hua* XIII, pp. 4578). Inauthentic entropathy (*uneigentliche Einfühlung*) for Husserl is any naturalizing experience or comprehension of the other as alongside oneself and part of a natural world susceptible of explanation in terms of causality, that is, of functionalism, behaviorism, social engineering and social cybernetics. In contrast, Husserl focuses upon authentic entropathy (*eigentliche Einfühlung*) through which truly personal and human experiences (*Geistiges*) come to the fore. These result from reflection upon one's own actions jointly with reflecting upon what follows from them in the sphere of affectivity, producing results and life. Husserl is concerned with inauthentic entropathy only in order to clarify authentic entropathy, for it is in the latter that philosophical reflection makes clear what constitutes the properly human character of every person, community and culture.

In Husserl's analyses these topics are severely fragmented, but remain mainly at the level of phenomenological epistemology; their relation to practical philosophy remains at best a mere suggestion. As for Husserl practical reason is secondary, it is not possible to find these topics in analyses of practical problems; that remains the task of each of us.6

J. PATOCKA'S UNDERSTANDING OF SOLIDARITY

As a philosopher, J. Patocka has received little attention except at best within the circle of philosophers whose work is dedicated to phenomenology. Hence, it would be helpful first to present his thought and then to make a critical assessment of his ideas. Here, however, we are concerned only with highlighting his contributions to a phenomenology of solidarity to which there are some extremely suggestive references, particularly in his text on the philosophy of history.7

Solidarity is not simply a transitory phenomenon, but constitutes one of the fundamental structures of the human being, as has already been brought out by anthropology and historiography.8 However, it is in the twentieth century, according to Patocka, that solidarity emerges as one of those features ontologically constituting the human being.9 It is the merit of

contemporary philosophy that, while sinking its roots in the history of human thought, it confronts new phenomena which never before had attained such decisive importance.

Patocka calls solidarity a state of being moved: "solidarity of the ones who have been moved" (*solidarité des ébranlés*), that is, of those who have suffered the clashes of history with violence and loss of rights" (cf. *Essays*, pp. 122, 144). This is a favorable context for overcoming the state in which the individual is subject to violence whether as an end in oneself or as a means to attaining peace.

What "moves" is the belief in the light of day, in "life" and in "peace" (*ibid*.). Hence, solidarity ceases to be a simple reaction to sates of conflict in which life is chained to fear; on the contrary, it becomes a state of openness allowing one to see from everyday life that illtreatment, outrage and fear can and indeed will come to an end "only he who is able to understand, who is capable of the transformation (*metanoia*), is a spiritual person" (Seul celui qui est à même de comprendre cella, celui qui est capable de ce revirement (*metanoia*), est un homme spirituel" [*ibid*., p. 144]). Thus, the solidarity of those who are moved is the solidarity of those who understand *(ibid*., p. 145).

In the present state of affairs, what binds one to life, says Patocka, is death and the fear of dying so that human beings have become highly manipulable. Solidarity is the experience of life that makes it possible for us to say "No" to a general state of war regardless of the modes it may adopt. This has been discussed in the previous chapters. "The solidarity of those who are moved is built up in persecution and uncertitude (La solidarité des ebranlés s'edifie dans la persécution et l'incertitude), (*ibid*.). Thus, the dignity brought out in solidarity is the appreciation that the sole and the optimal conditions for reaching a state of peace are by liberating ourselves from the impositions of everyday life and its promises, which – though Patocka himself does not note this – are selfreferential promises of everyday life in which war is the norm. For everyday life is lived in terms of war and is about a war that has become a way of living. Against such a state of affairs the language of solidarity, says Patocka, does not directly provide positive programs, but rather plays the role of Socrates's demon with warnings and prohibitions ("sera celui tout en avertissements et intermits" *idem*.). In this way solidarity opens the way to the courage to live which consists simply in knowing what we should and should not fear (*ibid*., p. 150).

Facing the natural state of war and its evolution in our time through the liberation of forces implied in both science and technology, Patocka calls for a "problematic attitude" which is the care for the soul (*epimeleia tes psyches*). This is precisely the concern of philosophy; its special concern is how to enable humans to make this a world of truth and justice (cf. *Plato et l'Europe*, p. 44).

ANALYSIS LEADING TO A PHENOMENOLOGY OF SOLIDARITY

To establish the nature of solidarity it is necessary first to clarify some misunderstandings originating from common sense and perhaps also from the mass media. We must distinguish the experience of solidarity in a rigorous sense from three concepts with which often times it is gratuitously associated, namely, favor, charity and help.

A favor is a purely individual and, in principle, gratuitous relationship by which one person accedes to solicitations from another person. Generally, a favor operates on the basis of friendship; yet it can take place also between two persons who barely know one another. In this last case, it is more an act of courtesy than of service, and is based on reciprocal acquaintanceship. In any case, a favor presupposes a theoretically disinterested attitude; indeed,

in principle a favor is done in the absence of any kind of reciprocity. Nonetheless, such gratuity and disinterest are conditioned in one way or another and in the course of time a favor "is to be paid back" or "should be paid back". One ends by "owing a favor" to someone else.

Charity, even though a particularly Christian concept, is already a sediment in everyday language where it refers to an act of donation based on a voluntary or, if you wish, a free decision which does not expect any retribution whatsoever. As such, in general charity is an individual act, even if it can be realized through volunteer organizations, institutions and others. That charity some times is assimilated to acts, beliefs and sentiments of piety and compassion does not essentially alter its character. Therefore, as gratuitous the experience of charity is grounded on more or less explicit consciousness of the benevolence of the act. That is, it is founded on the belief that the act of charity has not been meaningless or useless, but basically is fulfilled; charity does not admit reneging or deception, for it is upright and absolute.10

Help, unlike favor and charity, is characterized by a major ambiguity. On the one hand help can be volunteer and express solicitude. It operates both at the level of the individual – for instance when someone helps somebody else voluntarily and disinterestedly – and at the level of organizations or institutions, groups or collectives – such as various kinds of organizations which in the face of catastrophes offer various forms of help to the affected population. Help can respond not only to unforeseen circumstances but also to policies and plans. Thus budgetary provisions can be destined for permanent help or to cover eventualities of different kinds. When a personal initiative, it can be absolutely gratuitous, but one can also expect that the efforts invested or the time spent produces works, solutions or products that can be verified, even though there is no direct or immediate retribution.11

The traits elaborated here regarding these three concepts do not pretend to be exhaustive, but sketch out the main lines. In any case, here we are dealing with favor, charity and help in a negative way in order to clarify step by step what solidarity is not about.

Concretely, the difference is that in favoring, charity and helping the world is not made; in contrast solidarity is a construction or constitution of the world – assuming for now that both terms are equivalent. Charity and favor are expressions of, or in, the world; they are ways of living in the world, but do not construct it – certainly not in the sense of an architect or civil engineer. Help is much more ambiguous for in it converge both an expression and a will to construct reality and to make it better – which indeed is one form of constructing reality, whereas favor and help can encounter refusal, in solidarity there is a kind of reciprocity which renders that refusal impossible in principle. Solidarity is an eminently horizontal relationship in which any form of hierarchy or hierarchization is totally put aside. This can be made more precise through a comparative analysis drawn from Husserl and Patocka.

Understanding the phenomenon of solidarity means understanding at the same time the way or the ways in which human intersubjectivity is constituted. My claim in this chapter can also be stated as follows: the form *par excellence* in which life in society is constituted by human beings is solidarity; without a sincere experience of solidarity it is impossible, or at least extremely difficult, for any human community to exist.

Of the four ways analyzed by Husserl in which intersubjectivity is constituted, undoubtedly analogy is the weakest or most problematic. Examining directly the lived experience between human beings, Husserl himself made a critique of that mode, with which he was never satisfied. The problematic character of the constitution of the other by analogy becomes evident for it emphasizes one’s own sphere, which inevitably would lead to solipsism. This problem becomes evident in its practical translation, namely, in the way of living and the attitude it connotes when

facing others. Translated into the ethical or political domain, the theoretical difficulties entail practical consequences which literally are impossible to live. In sum, approaching the other – his or her problems, living experiences, needs and possibilities – based on one's own sphere and by analogy not only makes his or her acts of subjectivity unexplainable, but in the end makes fellowship with the other impossible. Analogy leads inevitably to fundamentalism, imperialism, subjugation and, ultimately, in view of the difficulties in understanding the other as an other, to his or her elimination. Perhaps the best analysis of this phenomenon is that by T. Todorov.12

In contrast to analogy, the constitution of the other by coupling (*Paarung*) seems to have much more practical importance. This is founded in the role the body plays in the constitution of the other, not simply as a condition of possibility but as the reality which constitutes at the same time both the other and ourselves with him or her,13 by which I mean physical contact of whatsoever kind, depending on the case and denoted in English by the term kinship or tenderness. The process of bodily contact, including reference to space (environment), clothes and housing, of course, plays a role which cannot be ignored or undervalued and which already has been brought to the forefront by anthropology, as well as by psychology and ethnology. The reference to the body in the broadest sense of the word, including also the environment, housing, etc., enables the other to acquire for us more or less factual or virtual reality. The other's reality in the strongest sense of the word is founded in, and through, his or her body inasmuch as one refers first to one's body and from that also to us (or to ours).

How, on the basis of the other as an embodied being, we can set ourselves in his or her situation cannot be grasped without further difficulties. However, by recourse to the imagination the living experiences of others can challenge and liberate us from the purely here and now so that through space and time we arrive at the subjectivity of other persons and cultures, and finally to other experiences that are not necessarily actually available in our place. In fact, this mode is the more foundational to the degree that the intellectual and spiritual development of a person or group of persons is established by access to other subjective experiences than those of their immediate surroundings: one's family, circle of friends and acquaintances, country, (mother) language and beliefs of any kind. This enables one to get beyond them to experiences which transcend one's time and space, that of one's tradition, and one's own sedimented culture. In the present state in which the planet has become a "global village" (M. McLuhan), the majority of experiences of otherness presupposes or builds upon our capacity to understand and be sensitive to experiences we have not yet had or to which we might never come.

On the basis of the explosion of information the reality of the human species as a whole has ceased to be an intellectual abstraction or just a mere noun. It is precisely by placing ourselves intuitively in the other's situation that his or her experiences can challenge us. Of course, the experience is not necessarily without a mode of analogy, and can even be accompanied thereby. The possibilities for a rational discourse, like bioethics, human rights and ecology just to mention three of the most vibrant issues of our time, depend entirely upon our capacity to live other experiences from within as if they were our own.

On the basis of what has been said above we are in position to understand better the fact that all live in the same situations. This living in common situations is the definitive and most fundamental requirement for the other to be more real to us. As a matter of fact, reality itself is intersubjectivity, which guarantees the objectivity of the world. Thus, for example, the fact of having lived in a situation together with one or several persons binds us to them in various ways; the more intense and extended the time the more close the ties. In this sense, if we do not overcharge the concept, but allow it to be taken in its primary sense, fellowship is evidently the

preeminent mode not only of our relationship to others, but precisely for that reason of the constitution of one's own specifically human world.

For Patocka solidarity is the mode *par excellence* in which human community is constituted; it is the very process through which we are moved. For this reason Patocka's concept of solidarity encompassed and clarified concepts studied by Husserl – particularly its constitution of the other by fellowship, situations of living together with the other, and coupling.

According to Patocka, solidarity is a characteristic only of those who can understand, which is the positive foundation for a vital experience or practice of solidarity. Such understanding is neither an intellectual act nor a rational elaboration such as is found in the formal or positive sciences. Rather understanding is the best and most authentic way to know the other without reducing him or her to a thing; it is the act of identifying with the other's goals and aims.14

Properly speaking, knowledge is a phenomenon that happens to things; in other words, the being of things consists in being known. The fact that in a second instance knowledge may assume a practical connotation and enter into a physical transformation of things does not affect our explanation here, but, on the contrary, verifies it. The most adequate kind of "knowledge" of other subject, neither objectifying nor reducing it to a thing "like us but different from us", is understanding. Appreciation of this was found as early as Socrates, but was forgotten in the development of positive knowledge and practice, particularly since the seventeenth century.

Understanding then coincides with the very act of Entropathy (*Einfühlung*); inversely no one can understand (anything) from outside; in a word, no one can understand without this being based on a living experience or series of living experiences. Only having lived the genesis, life process and hazards of the other can we say legitimately that we know or understand him/her. Thus, whereas knowledge is grounded in an intellectual act, understanding is properly rooted in living experience. This distinction gives meaning to, and explains, the entire work of Husserl in *Formal and Transcendental Logic*. Though an objective and an objectifying act, in the end knowledge is grounded in a subjective logic whose essence is to understand.

On the other hand, if it is true that the being of existence consists in understanding (Heidegger), then a community of beings that is both sensitive and rational is possible only in terms of understanding. Therefore, human spirituality is grounded upon and fed by the living experiences in which solidarity operates as a central motive or chief motivation. A social world is constructed through the very processes of solidarity. Yet, solidarity remains in need of further explanation for so far we have made only a genetic analysis establishing solidarity through living experience as a basis for a common life, and hence, for a common world. However, to better elucidate what solidarity is, it is necessary to establish that solidarity is basically the constitution of a world, for it implies community, reciprocity, fellowship, understanding and affectation from the other as from oneself.

CRITIQUE OF RORTY'S POSITION

Richard Rorty is the best model of a lucidly elaborated liberalism, related to his intelligent retrieval of pragmatism. Hence, I shall stop here to trace the main features of what liberalism can say about solidarity, or in what a liberal reading of solidarity consists.15

For Rorty, solidarity is a goal to be reached; it constitutes the utopia to be built, "Solidarity is not discovered, but it is created by means of reflection".16 The construction of solidarity is the task of society itself, or of the liberal world; to be a liberal means to adopt solidarity as a task

pertaining properly to every one of us. With J. Shklar, Rorty sees a liberal as whoever thinks that cruel acts are the worst that can be done (*ibid*., pp. 17, 164).

The best way to construct the liberal utopia is to abandon the "vulgarity" of being obsessed by general ideas, universal structures, and the theological metaphysical notions and definitions supporting belief in an immutable "human nature" common to all human beings, and the like. In this view, it is not possible to state reasonably, i.e. lucidly, that there are moral facts in the world, nor that there are truths independent from the concrete, determined language used in any given circumstance by any group of individuals whatsoever. Therefore, the construction of the liberal utopia is based on the language we *de facto* effectively use, namely, the language which serves for argumentative interchange. This alone situates us in common with other persons. At core, "Simply because we are human beings, we lack a common link. For the only thing we share with the other human beings is the same we share with other animals: the faculty to experience pain" (*ibid*., p. 195). According to Rorty, philosophical discussions about whether human nature is naturally good or evil, human rights, the representative function of the mind or the objective truth of language are perfectly inoffensive matters; politically and socially these are ineffective and perhaps also unproductive issues. Precisely because of this, for Rorty, the task of the philosopher consists in making stories or narrations which through establishing bridges between private and public life can make our contingent existence more livable. This is a subject of immense concern to H. Arendt, an author more radical and deep than Rorty.

This eminently political issue is a question not merely about Rorty, but about the construction of human solidarity, which is the same as bringing philosophy to the service of a democratic polity. However, what will be the nature and status of governance in the future, what political system or systems might be possible – in fact, what is the future and what might be its character – all these are matters of purely contingent fact. When confronting those questions, discussions concerning justice, human nature and its relation to truth do not contribute in any way, nor do they determine the specific meaning of the socialization of human beings. Human socialization is contingent and subject to contingent phenomena, the most important of which, and the one on which Rorty bases his overall analyses, is language.

Human solidarity for Rorty basically is a feeling addressed to "one of us", in contrast with "one of them", that is, to "something more restricted and more local than the human race" (*ibid*., p. 209). "Us" suggests a contrast for it is geographically, culturally and rationally delimited. The task consists henceforth in "creating a larger feeling of solidarity than the one we have presently". "We must begin with the place in which we are", that is to say, where we are not referred to other obligations besides the ones we have toward the communities with which we are identified (*ibid*., p. 216).

This briefly is Rorty's position and the tasks and pedagogy he presents for liberal social ideals. Against such a position numerous criticisms have been raised, one of which and perhaps the most encompassing is made by A. Cortina.17 I agree on one basic aspect, but there are three other extremely delicate and weak items in Rorty's position which are to be criticized.

I agree for purposes of analysis and critique, but more specifically as regards the problems themselves, in rejecting all kinds of deductive postures. Assuming precomprehensions or prejudices visàvis the theme of solidarity not only deforms the comprehension of solidary acts, but, more seriously, twists the efforts and atomizes the practice of constructing intersubjectivity in its various modes and levels. Such deductive postures would condition solidarity from the very beginning and hence make it "interested" in the sense of Kant and Habermas. As a result solidarity would be quite the opposite of an exercise of freedom and the striving to make

freedom and hence life more and more possible. Put simply, precomprehensions of solidarity would mean that it would be possible to sell, buy or interchange solidarity for various other products, or at different rates and the like.

However, there is an ambiguity in Rorty at the very moment in which he criticizes deductive and prejudiced postures, which he calls theological and metaphysical. This lies in the outcome of his critique of such postures, for even if that leads to the suspicion of general ideas in contrast to concrete circumstances and existing institutions, his comprehension of solidarity is vitiated by his own starting point: the "Iwe" in contrast and opposition to the "they". Indeed, Rorty is still victim, at least at this point, of the criticisms he addresses to positions other than pragmatism. As with Kant's position that from experience we get only experience, with Rorty from the "we" we get only ourselves. Rorty's solipsism is social or cultural certainly, not individualist or personalized, but still it remains a solipsism or relativism on a larger scale. He is victim of the same mistake Heidegger pointed out against Cassirer in the debate at Davos,18 though with a different context and finality. Just as in the Cartesian manner Husserl's phenomenology makes out of the I the primordial sphere in accord with which we have access to, and constitute, the other *(alter ego),* analogously Rorty makes out of each "we" the primordial sphere beyond which we enlarge the space of fellowship and democracy. The difficulties that are to be found in Husserl's philosophy at the level of the individual I are not different from those we encounter in Rorty at the level of the Iwe.

To this first and most important difficulty in Rorty's position one should add a simplistic comprehension of solidarity as a feeling, perhaps a moral feeling. The strongest and most effective critiques of moral sentiments of any kind and also of moral feeling is the Frankfurt School, and particularly Horkheimer, Adorno and Marc, on the one hand, and Sartre, on the other. From the standpoint of the present analysis, solidarity can by no means be reduced simply to a matter of feeling or sentiment, nor of unclear sensibilities. The contemporary culture of violence works at precisely this psychological level whence it manipulates and manages the individuals' sensibility. Mass media, along with publicity and propaganda, are essential vehicles for the way of life characterized by immediacy, reification and "eagerness for novelties" (Heidegger) or oppositely by boredom (Levinas).

Certainly, the human being is contingent and in various senses conditioned. But what Rorty forgets is that the human being is at the same time the condition of possibility of his or her own conditions and, hence, aware of his or her own finitude and contingency. It is precisely because one knows and understands the gratuity of existence, the contingency of life and the finitude of possibilities that the experiences of solidarity are possible in the midst of (and in spite of) disasters, violence, cruelty and indifference. For Rorty human solidarity is a reaction against violence and cruelty, and as purely reactive continues to be their victim. Extrapolating violence, persecution and ignominy fulfill in Rorty the role of *felix culpa* by making solidarity possible.

Finally, for Rorty human solidarity is perhaps the most contingent of all realities insofar as it is always a mere reaction to violence and cruelty, even though it may not be substantiated but be only a "solidarity as doubt". The liberal utopia in the end seems condemned to being another dreamt dream, and solidarity only a "social hope". Though willing to open its geographical, political, cultural, religious and linguistic spaces, inevitably it is led to a predetermined imperialistic practice.

SOLIDARITY, HUMAN RIGHTS AND PEACE

Returning now to our own analysis, the concept of solidarity has as a specific context for its contemporary discussion and analysis: ethics: and, more specifically, human rights. As such, solidarity refers to the encounter and relationship with the other, dealing thus with the problem of otherness. Even better: with regard to solidarity the real issue is about our sensibility to the situation and living experience of the other. To be sure, in the contemporary state of affairs the problem of the other or others supposes two referential axes which increasingly imply one another, namely, social ontology and ethics. Thus, social ontology, ethics and human rights come to configure the *medium* which, like the triangle, establishes the conditions of possibility for talking about, and practicing, solidarity.

For reasons of space I cannot deepen here the links and mutual references between the three sides of this triangle. Still, it is possible to trace loosely the main characteristics of each which effectively articulate solidarity.

In its primary sense, social ontology does not refer to the study of social functions, orders, norms, values or origins, nor does it consist in the study of these features of society. Quite the contrary, it is concerned with elucidating the subject according to which there is society, namely: the other or others. From this standpoint, the analyses in social ontology are addressed to making explicit the presuppositions which make it possible for the other to be; and the implications and the ontological structures deriving from the encounter with the other and the other's possibilities, as well as from one's own possibilities visàvis the other. These implications and structures cluster around the theme "world" which is the outcome of the encounter with the other. Thus, what the world is or might be necessarily is derived from, and grounded in, the modes of encountering and the relationships with the other. Or, to put it the other way round, the subject of intersubjectivity constitutes the presupposition itself for the understanding of, and living in, the world. Therefore, the world's destiny originates in, and derives from, the nature of relations with the other: whether they be conflicting, harmonious or ambiguous, etc. The destiny of the world is the encounter and form in which that encounter "affects" or moves us. The point of encounter is the living experiences according to the mode in which they are lived. At that moment solidarity plays a fundamental role. Thus, the comprehension and the living of solidarity derive necessarily from the sort of living experiences subjects have in the world.

The encounter with the other is not a merely natural outcome, without tension. On the contrary, to use an expression of M. Merleau Ponty, it is preceded and led by an "Ontology of the lifeworld", that is, by a determined view of the world and of reality. Without knowing it or making of it an explicit theme for reflection, everyone bears values sedimented by tradition, religious views or ideas concerning nature – a determined kind of encounter with his or her gods and God – in sum, a nonconscious but lived practice of culture, including all the elements this implies. It is at this level that the study of relations with the other, whether or not they belong to our culture, comes into play in ethics. In this sense, ethics deals not with human acts, but with their value, or, as was said in the previous chapter, with whether they are good or bad, just or unjust, free or conditioned, and the like – always in relation to another or others. Thus, the roots of ethics are found in everyday life, which is the space where one lives with others and hence is the way the world is constructed or ceases to be constructed. An ethics that does not find its roots in everyday life is merely edifying discourse and becomes a *petitio principii*, a doctrine or a deductive speech.

Hence, the other's life experience is not something one can simply either adopt or put aside, it belongs already to our human facticity. The problem then becomes how to assume that

facticity: what shall we do with the feelings the other produces in us when he or she touches our sensibility. This is the point at which human rights come upon scene.

Violence as a kind of relation with the other is a permanent possibility. Human rights exist because violence not only exists, but becomes a way of life, a principle of reality.19 They will exist as long as there are violence, cruelty and persecution, for the meaning of human rights is the gradual but eventually total elimination of violence, moving toward an ever more harmonic and peaceful life. The goal of human rights is peace because this provides the best conditions for life to become ever more possible. The whole preoccupation of human rights is human life: they are from, with and for the life on the entire planet; conversely, a preoccupation for human life and for overcoming violence and its conditions leads necessarily to a preoccupation with human rights. The effort to affirm harmony and peace according to a determined context of principles and experiences of solidarity is the process itself by which a world of nonviolence is constructed. Here human life is recognized as an absolute value, that is, as not conditioned by anything else nor dissolved into other principles, ideas or values.

Therefore, it makes sense to say that it is possible and even necessary to make a politics–in the Greek sense of *politeia,* and not just of *polítike* – of solidarity and that a truly rational, legitimate and just politics is one based on a philosophy of solidarity. Such a politics of solidarity, which really is an ethics of solidarity, is from the start a critique of indifference as a psychology or way of life. This is the most subtle form of cruelty because of its invisibility and the most dangerous because, as well-intentioned, it provides a culture for other technically and logistically more developed forms of violence.

Indifference is the total absence of a sensitivity with regard to the other. Or the other way round, when the other cannot be moved we fall into total indifference in the sense that between me and the other there always will be a gap of meaning due to which the other always will be a closed reality, ununderstandable, unreachable or simply indifferent. His or her life experiences are not ours, and if they find comparisons in the memory of our own experiences, this perhaps has already lost the strength of their first impression. Indifference thus becomes a block, for then not even an act of imagination is able to place us in the other's situation or enable us to understand that eventually that situation could be ours. Finally, indifference will never allow us to have with the other real bodily contact of any sort, whether of friendship, help, charity, favor, and even less of solidarity.

Thus, indifference is the prime form in which the importance and the necessity of solidarity is discredited or deprived of import. A social regimen, political system, organization or community which makes possible or somehow promotes indifference generates violence. Sartre claimed that "we all are guilty of everything". Thus, against indifference as a way of life, responsibility and a conscious multifaceted commitment (or engagement) visàvis the world must be brought into the forefront.

TOWARD THE CONSTRUCTION OF CIVIL SOCIETY

The construction of civil society evidently is a political task, for the real issue is to set up the spaces that make fellowship possible in order that life always will be increasingly possible. But this political task requires also a defense of the spaces and achievements already realized which allow for the effective development of individuals in community. Precisely because of this the theme of solidarity is not simply a political and ethical necessity, but a real joint experience.

In contrast to such policies and programs as emergency plans against calamities – all of which, of course, are advantageous and indeed necessary and which would appeal on occasion to ideologies of "social or state charity", – solidarity is not an immediate or an immediatist practice, but extends through time. In fact, it is based on the time of fellowship and understanding.

A solidarity that refers to past experiences understands that the past is not a static point which has already flown past once and for all, but on the contrary is still pulsating and engaging us. Solidarity in the present reflects experience that has so affected us that our options visàvis the future are fully, totally stamped by the lived present. But true solidarity is addressed to the future; it is the common effort to make the future possible and for life itself to acquire better conditions and guarantees for its future affirmation and development.

Solidarity is understanding; only where there is understanding does solidarity exist. This requires a common and clear language, shared codes and symbols which sum up and unite rather than separate and divide. The language of solidarity is public, transparent; it is of daylight.20 By it the inheritance of social experience, on the one hand, is transmitted horizontally and vertically and, on the other hand, is conserved as living experience which motivates solidary acts. As the political and ethical task is to promote solidarity, the construction of the world is based upon the possibility of translating the contents of this language from verbal to written form, from the latter to musical language, and so forth. Such translatability of language constitutes a multiplication of experience.

Why are we busy nowadays with the construction of civil society? It was the central theme in the nineteenth century, but has come back today in different terms and within a different framework for life today is not the same as when the problem originally arose. Further, I shall not trace the historical explanations marking the differences between the nineteenth century and even this end of the twentieth century for the construction of civil society is the leading theme not of the twentieth century, but of the beginning of the twenty first century. It is precisely in that framework that the meaning and the status of solidarity becomes relevant.

Human society is not formed of ideologies or based upon common credos; it is not founded on moral sentiments or other universal structures; nor is it constituted on the basis of a common language and communicative action. Fundamentally, human groups are constituted on the basis of their common lived experiences and of their understanding thereof. These can be of the emotional or affective order (H. Maturana), linguistic or communicative (Habermas's discursive ethics), etc. In any case, there are common lived experiences in which the body and the understanding play a founding role which is transmitted in multiple ways, both horizontally and vertically, that is from one group or community to another, as well as from one generation to the following. Solidarity exists insofar as the strength of the first impression that originated solidary practice and discourse is conserved and able to affect still other larger human groups, as well as subsequent generations. In other words, human solidarity is not guaranteed once and for all. Nor is it possible to make out of human solidarity a matter of principle, for that would risk the same error as Rorty, which is to say that it would fall once again into the limiting relativization of an "Iwe" relationship against in contrast with "they". Human solidarity does not admit such relativizations, but neither is it simply a moral feeling. On the contrary, it is and always will be affective practice of shared intersubjective lived experience. In other words and from another standpoint, to speak of an individual solidarity is a sign that language is on holiday; it is a deformation of the very problem. The same is true of speech about an institutionalized solidarity by the state. The practice (*praxis*) or living experience of solidarity is, on the contrary, an open

experience or openness towards new experiences. In sum, it is not a mere reaction but an act of initiation or constitution and hence of openness to the world.

No ideology regardless how strong, no language not even the most transparent, constitutes a solid and stable community. Certainly it is not a common credo and language, but good fellowship and understanding of what is lived that generates a world. Such was the experience of the first Christians as well as of the first revolutionary groups in the nineteenth and at the beginning of the twentieth centuries.21 That those communities, for example, were founded on a community of beliefs and on a language accepted by each of their members cannot be ignored. However, what is definitively meaningful is the shared living of different experiences, and with it the understanding of those life experiences. Evidently, the understanding to which I am referring is not a synonym of intelligence, but life that understands itself before passing through reason and intellect. This is what is meant by preontological comprehension.

ON CITIZENSHIP

From the above and as a transition to the next chapter, it becomes clear that solidarity is carried out by the organizations of civil society. This means that the concept and practice of solidarity do not belong to the state, though they need not be understood as in opposition to the state. Hence, the problem arises of the coordination of the different social organizations among themselves, as well as with the state. Such a question belongs essentially to the principle of subsidiarity. But before taking up that question, it is necessary to clarify the complex significance of citizenship.

The task of reconstructing civil society corresponds, first, to elucidating theoretically the concept of citizenship and, secondly, to the effective initiation and exercise of the forms of citizenship themselves. In the derivation of the concept of solidarity the strongest emphasis in citizenship22 falls upon the idea of participation, an idea around which a democratic society and state are configured. Consequently, democracy in its most radical or root form is participative democracy – not simply representative or merely deliberative democracy. Conversely, the idea of participative democracy gives meaning, that is possibility and acceptability, to the representative and deliberative forms of democracy.

Participation at once presupposes and is founded upon sensibilization toward the other. More directly, it is because the other engages us in manifold ways and because we have lived analogous situations that we are impelled, so to speak, to undertake social and political actions in favor of others. But, at the same time, the processes of sensibilization of, or toward, others are expressed effectively in commitments in which participation plays a centripetal or nuclear role.

Evidently there are two main ways in which the individual acts in the world: with personal motivation, or as belonging to social associations and organizations in the broadest sense of the word. There is an evident mediation between the two forms of human action. But what is really relevant is that in the framework of such a complex and mediatizated culture as ours several actions and commitments are undertaken in terms of one or various organizations. Hence, there arises the problem of the relationships and articulations among the different social organizations, or between all and each of them and the state. The mediating and diversified character of the structure and functioning of civil society leads to the need to look for integration and unity among the different civic and social organizations. Thus, the real problem is the rationalization of individual and collective actions, and hence an economy of efforts. The issue is not so much to sum up experiences as to evoke the best experiences actually being put in practice, or to create

new forms of experience and organization which correspond to such specific tasks as social solidarity, the rationalization of society and the state, political and ethical legitimation of experiences, and so forth.

Whether the general theme of the citizenship, and with it the construction of civil society, demand categorically setting up norms and plans, tasks and projects, cannot be established *a priori*. Just as there is no *a priori* of human situations, so too there is no *a priori* of civil society as such. Let is skip over the positivist debate which would stress the ontological preeminence of social norms translated and hierarchized according to juridical norms. This is seen as a fundamental guarantee for the development and unity of life in community on behalf of individuals, and for rational relations among the different organizations of civil society.

There is another more urgent aspect to be stressed, namely, the heterogeneity of contemporary civil society. The big challenge for the development of solidarity, as for its combination with human rights and subsidiarity, lies in comprehending the relationships between the unity of social life and its *de facto* multiplicity which grows ever more complex. Never before has the reality and importance of the philosophical idea presented by Heraclitus been so important, namely the combination of unity and multiplicity. Evidently the logic of civil society can no longer be understood on the exclusive basis of the tools of traditional formal logic.23 Without having to resolve the specific character of the new logic demanded and presupposed by the contemporary world and society, the real challenge consists in understanding *de facto* the multiplicity of social life. It is evident that the heterogeneity of social life, including the expressions, structures and functions it may or does adopt, can no longer be left as merely a question of taste to be accepted or rejected in some or several forms. Such attitudes are merely *desiderata* which, though subjectively legitimate, in practice are obsolete and useless.

In reality, however:

The real problem is the fellowship at the very center of heterogeneity, which is due precisely to multiplicity.

The moral title of the problem is "tolerance".

Politically this is translated as the legitimacy of a socially sensitive state of law which both makes possible and develops the form of heterogeneity.

In religious terms, the problem comes down to the terms of dialogue between the various forms of belief.

The problem itself exists and is expressed in the form of the principle of subsidiarity which is the subject of the following chapter.

NOTES

1. It is not a casual matter that the concept and the problem of solidarity is lacking in Husserl's work; quite the contrary, it is analogous to the subject and category of politics which, according to K. Schuhmann, is found in Husserl's complete works for the first time only in volume X of the *Husserliana*; cf. K. Schuhmann, *Husserl und der Staat.*

2. To mention only the most relevant texts: A. Schulz, *The Problem of Social Reality. Collected Papers, I* (The Hague/Boston/London: ed. Martinus Nijhoff, 1962); A. Schulz, *The Meaningful Construction of The Social World;* A. Schulz and T. Luckmann, *The Structures of The Life World*; P.L. Bergen and T. Luckmann, *The Social Construction of Reality. A Treatise in The Sociology of Knowledge* (New York/London/Toronto: Anchor Press, 1967).

3. Unquestionably, there are shades of difference between the social and political philosophy of Hegel and Marx. However, here we attend more to what they have in common than to their differences or contrasts.

4. We are using the term "constitution", here, in its most general meaning without entering into the particularities of the Husserlian philosophical frame. As an "operative concept" "constitution" refers both to creating and to determining. In other words, the term is valid both for the ontological and the epistemological sphere. Our present context, however, is properly speaking that of social ontology.

5. As is wellknown, the Husserlian *Nachlass* volumes XIII–XV in the *Husserliana* are devoted to intersubjectivity:*Phenomenologie der Intersubjektivitaet,* edited by Iso Kern (La Haye: Martinus Nijhoff, 1971–75). However, in the remaining work by Husserl published thusfar we find analyses and references to the problem of the constitution of intersubjectivity; the main such texts are: *Cartesianische Meditationen und Pariser Vortraege, Hua 1,* particularly in the Fifth Meditation; *Formale und Transzendentale Logik, Hua XVII,* particularly No. 96 and 104; *Erste Philosophie (1923/24), Zweiter Teil, Hua VIII*, No. 53 and *Beilage* XII.

6. Some steps for fulfilling such a task can be found in my *Introduction to Phenomenology after the Idea of the World* (Santafe de Bogota: ed. CEJA, 1996) (Spanish), Chapter IV.

7. J. Patocka, *Essais hérétiques. Sur la philosophie de l'histoire* (Paris: Ed. Vernier, 1981). Regarding the subject with which we are dealing, see also J. Patocka, "Les fondements spirituals de la vie contemporaine", in *Etudes Phenomenologiques* (No. 1, 1985, pp. 65–94), and *Liberté et sacrifice. Écrits Politiques* (Grenoble: Ed. J. Millon, 1990).

8. Perhaps the most classical text referring to an experience of solidarity in modern and contemporary historiography is V. Gordon Childe, *Los origenes de la sociedad Europea (*Madrid: Ed. Ciencia Nueva, 1958); from the same author see also *Que sucedio en la historia?* (Buenos Aires: Ed. Leviathan, 1956).

9. We could establish here the same analogy as with Sartre's study in *Being and Nothingness* of bad faith which has never before been studied as such. Sartre's analysis shows it to be an ontological structure in the dialectics of human freedom.

10. Note that in the previous analysis the issue was to understand what could be called "bad charity", which is precisely the one that has been traced. This is to be distinguished from what provisionally could be called "good charity". The latter consists in the act of selfgiving without any interest, motivated by reasons of religious conscience and sincere practice. (I owe this remark to Gerardo Remolina, S.J.)

11. In the United States this kind of practice is very extensive: to *volunteer* (as a verb). The practice of volunteering is promoted by numerous civic and social organizations. The big contradiction though lies in the fact that in the United States's social consciousness in terms particularly of solidarity seems low and is wrongly confused with volunteering. In not a few cases that confusion leads to seeing the specific problems of social solidarity in strongly psychological or psychologizing terms, where the very problems as well as their solutions end up losing their focus. Such a difficulty is to be found equally when the particular problems of social solidarity are referred to the development of civil society alongside the adequate comprehension of problems concerning relationships with social policy. Cf. Th. Zeldin, *An Intimate History of Humanity (*New York: Harper Collins, 1995).

12. I am referring to his excellent book, *La Conquête de l'Amerique. La question de l'autre,* (Paris: Ed. Du Seuil, 1982). Todorov says: "I want to talk of the discovery that the *I* make of the *other*. . . . The discovery of America or rather of Americans is indeed the most

astonishing encounter in our history. . . . It is indeed the conquest of America that announces and founds our present identity". ("Je veux parler de la découverte que le *je* fait de *l'autre*. . . . La découverte de l'Amerique, ou plutot celle des Americains, est bien la rencontre la plus étonnante de notre histoire. . . . C'est bien la conquête de l'Amerique qui annonce et fonde notre identité présente", pp. 11).

13. We refer here to MerleauPonty's analyses which, even if partly grounded on Husserl's, are much more meaningful regarding the role played by the body in the constitution of the other, of nature and of the human being himself; cf.*Phenomenology of Perception*, trans. C. Smith (London: Routledge & Kegan, Paul, 1986).

14. Cf. J.P., Sartre, *Cahiers pour une morale* (Paris: Ed. Gallimard, 1983), pp. 287–88.

15. Rawls does not even consider the existence of the concept of solidarity in his A *Theory of Justice.*

16. R. Rorty, *Contingency, Irony and Solidarity (*Cambridge, New York: Cambridge UP, 1989), p. 167. Cf. the review of this book by J. Sloane Pinilla in *Isegoria (*nr. 2, 1990, pp. 196–199). In what follows I shall concentrate on the subject of our interest: solidarity, leaving aside references to the other problems, namely, contingency and irony.

17. Cf. mainly *Etica sin moral (*Madrid: Ed. Tecnos, 1992) *passim*, and "Presupuestos morales del estado social de derecho", in *Etica y conflicto. Lecturas para una transición democratica* (Santafe de Bogota: Ed. Tercer Mundo/Uniandes, 1995), pp. 185206. See also *Etica aplicada y democracia radical (*Madrid: Ed. Tecnos, 1995), in particular the second chapter. Of Cortina's critique of Rorty I am most interested in highlighting that solidarity cannot be institutionalized. "Given the fact that solidarity can by no means be institutionalized, it must be noted that only a democratic civil society makes possible a democratic state, only a civil society which is *motu propio* solidary makes truly possible a socially sensitive state of law." ("Ahora bien, puesto que la solidaridad no puede institucionalizarse, sera preciso recordar que solo una sociedad civil democratica hace posible un Estado democratico, solo una sociedad civil *motu propio* solidaria hace realmente posible un Estado social de derecho" (1995), p. 19).

18. Cf. M. Heidegger, *Kant and the Problem of Metaphysics*, trans. R. Taft (Bloomington: Indiana UP, 1990), (translated by R. Taft).

19. Cf. C.E. Maldonado, *Hacia una fundamentación filosofica de los derechos humanos. Una puesta en dialogo, op. cit*.

20 Cf. C.E. Maldonado, "Estado de la razon y la razon de estado", in *Politeia. Revista de la Facultad de Derecho, Ciencias Politicas y Sociales* (Santafe de Bogota: Universidad Nacional de Colombia, 1995), pp. 204–212.

21. For an historical and sociological study of solidarity, see the already relatively classic text by J. Duvignaud, *La Solidaridad. Vinculos de sangre y vinculos de afinidad* (Mexico: Ed. F.C.E., 1990).

22. Most classic texts in social theory distinguish three traditional forms of citizenship. Civil citizenship establishes the necessary rights of individual freedom, such as the rights to property, to personal freedom and justice. Political citizenship is founded on the right to participate in the exercise of political power. Social citizenship is centered around economic rights and those of social security. In relation to these three main forms, very recently it has become necessary to distinguish the ideas of ecological and cultural citizenship. Unlike the first three sorts of citizenship, these last two forms correspond to world realities of citizenship, in that they are not circumscribed uniquely to the traditional idea of the nationstate. Cf. B. van Steenbergen

(Ed.), *The Condition of Citizenship* (London/Thousand Oaks/New Delhi: Sage Publications, 1994).

There is a certain parallel between the different forms of citizenship and the recent classification of human rights in terms of a first, second and third generation which we pointed out early on. To establish the essential and necessary links between both aspects is a task that still awaits fulfillment.

23. J. Elster points to this issue in a certain sense in *Nuts and Bolts for the Social Sciences* (1989). However, Elster's intuition and intention are not sufficient for understanding or solving the present problem.

CHAPTER IV

SUBSIDIARITY: AN ORGANIZATIONAL PRINCIPLE FOR CIVIL SOCIETY

PRESENTATION OF THE SUBJECT

Recently, one term has come to occupy an ever more visible place in discussions at the various organizational, administrative, political and even theoretical levels within the European Union, namely, the "concept" of subsidiarity.1 From other standpoints to be discussed below, the concept is the object of theoretical reflections in other latitudes. Here the focus will be mainly upon the "extra-European" discussions regarding Latin America, the countries of Central and East Europe, Africa, etc. In accord with the preceding chapters, our aim is to think out the ways in which life is made possible in the real instances inside and outside civil society – "outside" referring to the State or, better, to the relationships between the different spheres of civil society and the State.

This chapter has six sections. First, because there is little knowledge of the concept itself of subsidiarity within the Spanish language (as well as in English outside the European framework, there will be a sketch of the most recent history of the concept as well as of its origin and the discussions through which it developed. This will introduce the problem itself of subsidiarity.

The second section will establish succinctly in what the problem of subsidiarity consists, as well as its universal significance. The third section will identify and discuss some presuppositions of subsidiarity, without whose serious study understanding the problem and its significance would be very difficult outside of the European framework and its internal discussions of a "Europe of nations" or a "Europe of peoples". This section will discuss the conditions of the universality of the concept of subsidiarity, and then consider its possible development and its practical meaning in the social, political and economic domains.

Fourth, the concept and practice of subsidiarity will be situated in the specific context of the construction of civil society or, if one wishes, in the construction of a civil ethics. The use of the concept of "construction" should by no means be interpreted here or in the following as recourse to "constructivistic" principles and methodologies in the Kamlah or Lorenzen sense. On the contrary, such expressions as the "construction of a civil society" or of a "civil ethics" refer to a common problem and task, namely: the construction of those necessary and sufficient stances that make possible life in community, that is, the construction of the conditions in which individual and social life build up a spiritual, cultural, political and historical world.

The fifth step will be to situate the concrete analysis of subsidiarity in relation to its great "metaphysical" presupposition, namely, a philosophy of history. That is, on the basis of the conceptual problem of subsidiarity there is a determined philosophy of history which, though not thusfar made explicit, pervasively shapes the meaning of subsidiarity as a leading principle of social and political life. The analysis of that philosophy of history, also called a philosophy of culture, is all the more important inasmuch as an elucidation of that presupposition unveils the whole set of time problems of everyday life in which meaning itself and the significance of history or historicity variously intersect.

The final section will draw out the general conclusions from the previous analyses. Those conclusions, however, are not intended as conclusive; rather they point out a series of tasks and

problems whose resolution and understanding is the task of all – men, women, children and old people – in the present generation and especially in those to follow.

ORIGIN AND CONTEXT OF SUBSIDIARITY

In studying the origins and context of subsidiarity it is possible to distinguish two extrinsically related steps. First, subsidiarity has a religious origin, or even a specifically Catholic origin. Second, it has another origin within the ongoing discussions concerning the construction of the European Community or the European Union. The way in which these two origins are interrelated will be left aside in order to focus on briefly sketching both origins. The structure of this exposition will not make a precise dividing line between the two, but proceed rather in a chronological sequence identifying the chief steps in which the history of subsidiarity has been articulated.

Subsidiarity reflects originally a specifically Catholic preoccupation and a well determined historical reflection as both the outcome and the answer to the political climax that preceded World War II. In a narrow political and institutional sense it could be thought that the effort to think out and to make subsidiarity possible responds to three well defined challenges:2 the defense of the church's authority in a political situation ever more hostile, the reconciliation of Catholicism with the goals of social progress and the state's political policies, and the analysis of the lay Catholics' commitment in an ever more secular or laicized political order. But the broader and real concern of the encyclicals was to save place for persons and their group exercise of responsible freedom in the face of the countervailing emergent polarization of various forms of totalitarian and liberal threats to social participation.

The concept of subsidiarity in these circles appears first in the encyclical *Quadragesimo Anno* from Pope Pius XI, and is found in all subsequent related encyclicals up to the present date.3 These original conditions have become much more elaborate as can be seen from subsequent writings by both Catholics and non-Catholics, believers and atheists, religious and lay people. The Synod of 1985 was called to study the applicability of the principle of subsidiarity inside the Catholic Church herself.4

Outside the directly or immediately Catholic spheres, the study of the concept of subsidiarity has been the subject mainly of jurists, administrators and politicians. In almost all cases the studies converge in pointing out the influence of the French school of institutional jurists and the German school of Catholic economists upon the introduction and acceptance of subsidiarity as a concept and principle by Pius XI. He charged the young German Jesuit, B.v. Nell-Breuning, to write the Encyclical *Quadragesirno Anno* where the twin French and German influences converge. Subsidiarity is introduced as a principle for creating harmony among the different social groups which together constitute civil society. This balance of forces is to control the abuses of power by the main axes of the power: political, military and economic. Thus the introduction of the concept of subsidiarity originally had a strong antistate charge in the sense of a rejection or at least a critique of the concentration and abuse of power by relating the political state to the civil society.5

In other words, subsidiarity arose as explicitly pointing out that no stance, decision, power and reality of the state is sovereign. Its point, however, is not to discern in which particular stances and spheres of the state are autonomous and in which it is not; on the contrary, subsidiarity points out that the rights of the states and other social institutions have an origin external to their own reality and exercise of power. That external origin directs us to the domain

of civil society, to its different component groups and, in a last but authentically founding instance, to the reality of the human person. Civil society is a matter not of individuals but of groups, or of persons as free and social rather than as atomic individuals each with autonomous rights. This is quite other than the libertarian or liberal idea of individuals as adversaries competing according to the blind hand of the market. A philosophical ground and source for this concept of subsidiarity might be found in E. Mounier's personalism, where appeal to the principle of subsidiarity reflects the need to favor and stimulate human persons in their social relations.

The history of subsidiarity throughout the documents of the Catholic Church is one of gradual enlargement and deepening. If at the beginning it was introduced in an explicitly political and/or social context, it has come to be applied to ever more domains. Thus for example, in 1961 John XXIII extended subsidiarity from the economic field to public authority, calling for the primacy of regional responsibility rather than leaving all to the central government. In 1963 the same Pope extended subsidiarity to the sphere of international affairs pleading for the idea, then still incipient, of a form of world government. Ultimately, subsidiarity would be applied also to the fields of education and culture.

How was this extension of subsidiarity carried out? As almost all authors point out, until 1940 the concept itself was scarcely known by large Catholic minorities. Only after World War II, thanks specifically to the Christian Democrats, did subsidiarity reach domains of discussion beyond the Catholic church. However, the main vector lending importance to the concept problem of subsidiarity continues to be the same, namely: the acknowledgment of a distinctive legitimacy and sovereignty on behalf of the various social groupings visàvis a hegemony and certain arrogance on the part of the state.

As can be seen clearly, the underlying principles advocating the rights to development of certain so called "minor" or "more basic" civic organizations is a natural law conception. In the face of positive law which is the patrimony *par excellence* of the political state, its ever expanding apparatus and powers always need other forms of social and/or civic organization which come to be formed naturally or spontaneously. Thus, the concepts and practice of solidarity and subsidiarity imply each other reciprocally and in ever growing proportions.

Solidarity has been proposed as the virtuous mean between extreme individualism and such extreme collectivisms as concretely by, Fascism (Italy), National Socialism (Germany) or Corporativism (Spain). But this does not warrant forgetting the other collectivisms in the form of the Dictatorship of the Proletariat of Real Socialism or the all powerful blind hand of the market. In its turn, then, according to Nell-Breuning, the function of subsidiarity is to safeguard the "autonomy and responsibility characteristic of the human individual visàvis society. By the same token, it is about safeguarding the autonomy and responsibility of the smaller circles of society visàvis the largest and more encompassing processes of socialization which thereby are set up in clearly ordered and layered levels".6

Only in the 1980s did the concept of subsidiarity acquire a place of its own in the language of the European Community.7 We can thus speak, but only methodologically, of a second origin of the concept of subsidiarity. In the context of the formation of the European Community or European Unity8 the concept of subsidiarity is set in the center and clarified as such, alongside the main concepts and problems from social and political philosophy. In this way, subsidiarity has become increasingly associated with the elucidation of the problems concerning common interests, democracy and federalization. Or, to put it the other way round, what is discussed in

terms of subsidiarity generally are problems of decentralization of power and decision making, federalism and even the subsequent confederalism, and the concept of the common good.

Inside the process of European construction, Jacques Delors has been one of the main sources and promoters of discussion regarding subsidiarity. On the basis of Canadian, American and German experiences, each with their own characteristics, subsidiarity supposes the distinction of two spheres: the private on the one hand, and the state on the other, and the distribution of tasks among those different levels of political power. From this point of view, according to Jacques Delors himself, subsidiarity encompasses two essential aspects: on one level, the right and/or duty of everyone to exercise his or her responsibilities so as to be able to act in the best way; on another level, the obligation the public authorities to provide all with the means to develop and reach their own capacities.9

This implies a whole series of reforms within the National Constitutions of every European country to assign subsidiarity its place in the social construct according to the Treaty of Europe. Beyond the specific juridical particularities, discussion concentrates on two main fronts. One is the whole series of legal reforms and modifications at both the national and the confederate level. In this sense, the discussion concentrates mainly on the necessary reforms of national constitutions to include the principle of subsidiarity, either in the form of a recommendation, declaration or directive, or as an amendment regarding the role of the European Constitution. Around those two fronts the debate is whether the ultimate competence is to be left to the European Tribunal and Commission, or to the regions and national states. Here four areas are of immediate concern: economics and monetary integration, the social and environmental issues, foreign policy, and the Europe of peoples (or from another perspective, the Europe of nations).

In any case, the history of subsidiarity in the framework of European construction is neither lineal nor uniform. On the contrary, it is an issue in whose discussion different interests converge with equally multiple goals. The comprehension and application of subsidiarity is really a story of multiplicities, rather than of simple unity.10 In such a state of affairs the clarification of subsidiarity is a task which lies ahead. In this task clearly there are two groups. On the one hand, there are those who believe that it is necessary to define what subsidiarity is, not only for its actualization but as the most expeditious way to clarify the range of its possible applicability. This is an eminently juridical reading of subsidiarity, from which point of view "philosophies" are too vague to determine the exact meaning and significance of the concept. On the other hand, there are the understandings of subsidiarity not so much in juridical and constitutional, but in sociopolitical, terms, as for example in the ecologists' positive concern for subsidiarity. From this point of view, it is not so much an already established and determined concept, but a leading principle or a guide to action. The former is an objective or objectivist definition of the problem; the latter is a subjective or subjectivist reading of the concept. The issue of subsidiarity lies in the tension between both positions, to which for the immediate future there is no foreseeable simple solution. This is typical of the specific tension found in liberal Western democracies, to which I shall return below.

A BRIEF RECONSIDERATION: WHAT IS SUBSIDIARITY ABOUT?

The principle of subsidiarity11 then has a quite determined place, date, author and situation of origin. There is general agreement that its political and philosophical roots can be traced back without doubt to the work of Proudhon and J. Stuart Mill;12 others would trace its antecedents as far back as St. Thomas Aquinas and Aristotle. However, here we shall consider two fundamental

aspects now being discussed with regard to subsidiarity. First, we shall move beyond the theoretical and philosophical reference to such authors and philosophical schools such as Mouniers' personalism or Aristotle and St. Thomas Aquinas. Rather we shall try to specify the reason why the principle of subsidiarity appears at this determined moment in the development of human society. Conversely, this will explain why it was impossible or at least extremely difficult for it to emerge in earlier formations of citizen consciousness. Secondly and on this basis we shall try to determine as accurately as possible – avoiding speculation or at least adoption of any "point of view" – the most characteristic features of subsidiarity both its general and in its particular traits. On the contrary, our effort will be directed not to definitions, but towards understanding what in truth we are dealing with when we treat subsidiarity.

There is a very clear sociological picture explaining solidly and coherently the social and cultural framework that gives rise to the principle of subsidiarity.13 It locates the origins of modern society in the process of structural and functional differentiation (Durkheim) by which two powers are to be distinguished and separated: the political and the religious. As a consequence of that separation a differentiation between the social processes and the psychic process takes place (Simmer). This differentiation means that the individual can take some distance from the different forces and groups of society – family, church, political parties, unions, etc. This process of individuation constitutes the basis for any social contract14 and takes place in as much as the individual separates from the ties that "naturally" bound him. Where the individual typically had been completely bound to determined social instances in medieval societies, "the breaking up of segmentary and comprehensive structures and the resulting ability, consequently, to participate in different groups is an effect accompanying the processes of structural and functional differentiation."15

In contemporary society individuals participate in a multiplicity of functional systems, which due to their relative autonomy are without a major inter-coordination. Even better: the various functional systems are no longer in a hierarchical relationship, but in the best of the cases can be said to be in multiple complementary relationships. However, the various functional systems are organized on the basis of a more or less rigid or inflexible bureaucratic structure which in technical terms determines hierarchies, distributes competencies and responsibilities and enjoins a professional character for the personnel and a relatively impersonal character to their services (Weber). Nonetheless, this picture should not be interpreted in rigorous terms due to the open character of organizations, so that there always are more chains of action and greater interdependence. Here, the development of technology and the informatic processes plays an ever more central role. By enlarging the chains of action and the interconnections the outcome reflects especially the sophistication of the control processes and hence the increasing complexity in the organization of the instances responsible for decision-making. The social functions in their interdependence end up configuring highly sophisticated and complex social cybernetics. The key seems to depend on the combination of the processes of centralization and decentralization, in an effort to rescue the advantages of each.

From various angles that organization of the social cybernetic has been the object of numerous critiques.16 Over against the highly organized and structured society, the qualities of the lower scale communities have emerged more recently as the merits of elementary solidarities with their different modalities and aims are rescued. Moreover, some times over against major and minor indifference or impotence on the part of the state and its forces, apparatuses and powers to confront the needs of the communities and instances of solidarity reinforce the idea of a possible "communitarian ethics". From this perspective, in contrast or reaction to the principles

long defended and promoted by the central powers, a certain ethical pragmatism seems to be being rediscovered at the most basic scale of society. The tension is between large scale planning policies and the needs and urgencies of everyday life.

This framework explains the great contradiction encompassed semantically by the concept of subsidiarity. The term comes originally from Latin *subsidium,* that is, "help". Against this simple interpretation of subsidiarity in terms of help, along with the subsequent analyses concerning specific helping mechanisms and responsible competencies, there stands an understanding of subsidiarity as "substitute". Thus, the point becomes an appeal beyond law to the actions, responsibilities and decisions of organizations in a lower scale as a more rational and efficient way to resolve the demands that the state and large scale organizations in general cannot satisfy: the big organization and the state are hence substituted by the smaller.

It becomes evident that around this principle of subsidiarity cluster the most important problems of social and political philosophy, as well as those of social ontology. Precisely for this reason subsidiarity turns out to be the crossroads of problems concerning not only economy, law and public and business administration, but also sociology and the theory of the state. As such, the effective comprehension and solution of what is implied by subsidiarity constitutes a vast set of tasks in which all social forces and actors participate.

For strictly heuristic reasons the problems arising from, or originating around, subsidiarity are stressed here. But it is to be noted that above all the common and truly substantive elements in the description of subsidiarity include, among others: a) the priority of person as both origin and end of society; b) that the person's development is through social relations; c) that social relations and communities must provide all the necessary conditions for the development of individuals; d) that by the same token large scale communities must fulfill the same function for low scale communities; e) that the sense of personal responsibility must be promoted at all levels; f) that therefore subsidiarity fulfills a regulative role in the distribution of competencies in the various levels and scales; and g) that subsidiarity is a formal principle whose metaphysical ground is the person.

Against a possible generalization of the concept that could lead to its abstraction, it is necessary to point out the main problems which subsidiarity implies or entails.17 As has been said above the effective comprehension and solution of those problems call for different sciences, disciplines and practices. There is a necessary relation in the understanding and solution of those problems to political structures. The fourth section will treat their logical structure; here I shall identify only the list of related problems.

The first problem of the principle of subsidiarity is its relation to the principles and practices of a pluralist democracy. This is all the more evident in the politics of liberal western democracies which are grounded on conflicting priorities and principles. The essence of a pluralist democracy is the acknowledgment and acceptance of conflict. In contrast, as notes H. Arendt, it is characteristic of totalitarian systems that individuals are not eliminated, but become banal, which is perhaps the most subtle form of suppressing conflict.

The first form of conflict in pluralist democracies is between the different instances in charge of decision-making, and the clear acknowledgment of responsibilities. This is reflected technically by expressions which points to different levels of hierarchy and their competencies.

The second problem concerns the judicial and constitutional reforms that make possible the articulation of subsidiarity. In the most accurate way possible, these reforms should point towards regional, national and international powers – in each case according to the particularities of place and moment. The technical expression of this second problem is the process of

centralization and decentralization, along with processes of unity at each level and among the various levels themselves.

On the basis of the two powers just mentioned and in accord with the way they are understood and exercised, the third problem is the elucidation of common interest, the common good and hence (social) justice. Subsidiarity consists also in this problem, though not solely, for subsidiarity is a combination of efficiency (or efficacy), flexibility and differentiation.

On the basis of the differentiation between the private and public spheres along with their characteristics and needs, the fourth problem is to enable joint or collective, as well as individual, action. This engages the theory of action and of rational choice;18 issues of technical functions, hierarchies and articulations involved in subsidiarity both "top-down" and "bottom-up." The technical expression of this problem is the comprehension of the functions, hierarchies and "top-down" or "bottom-up" articulation of subsidiarity.

Finally, a fifth problem lies in relationships between subsidiarity, solidarity, cooperation, and – in more encompassing analyses – human rights. Thus the work converges in treating the administrative, judicial, social, economic and ecological significance and difficulties of subsidiarity. We have not found reference to the relation of subsidiarity to human rights, but this could be related to the more technical and time conditioned preoccupations of the construction of the European Union.

CRITIQUE OF THE PRESUPPOSITIONS OF SUBSIDIARITY

In the present state of affairs, the principle of subsidiarity corresponds to a well-determined aspiration and goal, namely, the construction of a European Confederation in the (present) form of the European Union. However, the importance of the conceptual problem involved lies in the series of challenges and tasks this entails. This encompasses different areas of action, decision and knowledge which should not and cannot be reduced uniquely and exclusively to the construction of the EU. Similarly, though it certainly responds to real preoccupations on the part of the Catholic Church in particular and Christianity in general, the principle of subsidiarity should not be reduced only to those domains. More than to determined patterns and criteria in the largest sense of the word, the principle of subsidiarity responds rather to the modern transformations in progress in societies and states. Thus the concept engages us all, both believers and nonbelievers, Catholics and defenders of other religious ideas, religious and lay, public functionaries and normal citizens and the like.

Alongside the destiny of political states themselves, another forceful element which seems increasingly to mark the destiny of peoples and societies, and of such organizations of civil society as political parties, churches, universities, and others is the strong tendency to integration and unification both regional and sub-regional, first, at the subcontinental level in Latin America and Africa and then continental and worldwide. In the first forms of those processes of integration and unity economic motivations are the main mobilizing factor for constituting subsidiarity. But along with economic motivations there are others, such as the integration and sharing of common cultural or ecological interests, which go beyond the natural consequences of the process of economic, commercial or financial integration. This can be illustrated by the most recent experiences in the history of Latin America which manifest the universal vectors of subsidiarity. But the import of the following observations should not be reduced solely to the Latin American framework, for they can be validated analogously also in other latitudes.

Increasingly, the destinies of entire governments are decided and executed in "dependence" upon "macro" policies of unity and integration, so that there is less hegemony in decision-making at the national level. Instead of focusing on this relative loss of hegemony by national governments and states, however, the issue is to discover the potentialities implicit in the processes and tendencies of integration and unity. This has become a patent tendency at all levels of social, cultural and political life. As mentioned above, technology and the information processes play a fundamental role in that processes.19

More and more, the life of individuals and the existence and development of various groups and communities are engaged with, and dependant upon, those processes of unification. In Latin America as in Europe those decisions come, as it were, upon individuals "from above" in the form of governmental policies. At least, this is the case in the beginning and over a relatively long period of time, but after considerable cultural education those processes are interiorized as the basis of society and assumed into everyday life.

As began to appear from various angles some decades ago, the destiny of the nation-state which characterized in the nineteenth century and was projected from some decades into the twentieth century clearly tends to disappear. Beyond the technical aspects belonging to a general theory of state or to economic theory in general and to economic politics in particular, this phenomenon is not without interest for us because of its evident consequences for the destiny of civil society and, with it, of the individual's life and solidarity and subsidiarity in community.

Regardless of whether this tendency to regional, subcontinental or continental integration by the states comes from the suggestions and initiative of some regional power center20 or in accord with their own programs, what truly is meaningful is that from different angles it has made desirable the setting up of policies of integration and/or unity. Usually those processes of integration first and of unity afterwards, are preceded by long juridical and normative preparation of the field according to an agenda set in advance to make possible viable processes of integration. In a broad sense those legal reforms can be characterized in a twofold manner. On the one hand, they deal with the modification of already existing legislations so that they no longer are obstacles to the subsequent steps of integration. On the other hand, but always parallel to the first, the creation of new normative systems facilitates the tendency towards unity among nations and states. In this process it becomes clear that almost all judicial norms preexisting the steps leading to integration and unity in the political, administrative economic and cultural orders are no longer valid, for the spirit that originally animated them was according to criteria and patterns typical of the nineteenth century.

Thus, tacitly or explicitly, what is at stake is the notion of the common good, or even better it is in function of a new notion of the common good that common actions are undertaken which evidently favor unity and integration. All that implies a total revision of the criteria, parameters and contents of the previous idea of the common good. The issue of subsidiarity – the problem itself, its definition and solution, and the way in which it is understood and articulated – consists in this. For the study and systematic thematization of the presuppositions, conditions and consequences of the actions to be undertaken by the different public and private organizations are in accord with the idea of the common good that can be reached by the modes of integration and unity.

Thus, for any further technical interpretation, whether juridical or merely administrative, the underlying presuppositions of the creation of new conditions for a better development of society and its living standards are based on the principle of subsidiarity. Therefore, the more adequately these are thematized and brought to the public light, the more the conditions for the development

of society, its organizations and individuals, improve. Over a long period of time this almost always has adopted the form of merely economic, financial, commercial and juridical processes. This image generally prevails in the consciousness of citizens, who consequently do not feel directly or immediately concerned as they see only the big companies, multinational enterprises, and main service and financial sectors benefiting. Under such a state of affairs, subsidiarity remains distant from the consciousness of citizens, who care much more for the most immediate, everyday decisions and actions. Of course, such a situation can change in favor of an appropriation of the principle of subsidiarity in the various communities in which civil society is constituted. But in the meantime the principle will continue to be a technical category without many roots in the life world. Hence, the destiny of the principle of subsidiarity depends completely on the way it is referred to everyday life.21

Therefore, what truly is at stake concerning subsidiarity is finally the quality and the conditions of social life. It is precisely in function of the generation and/or broadening of the conditions of life and the development of social life politically, civil, culturally and ecologically – that an account of the origin, concept and definition of subsidiarity is possible? Here subsidiarity entails two basic presuppositions: the separation of responsibilities and the existence of a hierarchical order of social units. What is to be understood by those presuppositions, how they are articulated and in which way they are to be thematically or conceptually developed depends upon the meaning and nature of the increase and/or generation of better conditions of life for individuals and social organizations. Thus, at the center of the problem of subsidiarity, as its engine and source, is the much more fundamental problems of the rationality of social organizations and institutions, of decision-making, of understanding and solving the problems of social and political life in general, and finally, of the rationality itself of actions – all of which in general terms are problems of practical reason. Primarily the relationships between normativity, free agreement (contracts and the bargaining processes), flexibility and the capacity for adaptation to new circumstances all are grounded in, and completely derived from, what practical rationality is or can be.

To put this in another perspective, if what is at stake concerning subsidiarity is the whole set of problems, challenges and themes defining what it is to facilitate in the best or the most rational way the development of social and individual life, then what is finally at stake in the principle of subsidiarity is the concept itself of citizen and citizenship in the multiple modes noted above in note 22 of chapter III.22 Therefore, it is necessary to distinguish between the different concepts of the citizen, and hence of the rights involved in each case. Thus, for example, we have to differentiate not only the general spheres of the state and civil society, but more specifically the spheres of political, economic, and civic and social rights. Implicitly this parallels the classification of human rights into those of the first generation (political), the second generation (economic and civic), and the third generation (social, cultural and ecological).

Thus, the point is not simply to establish criteria for assessing whether society exists a priori in order to serve individuals, or whether individuals develop fully only in function of, and in accord with, the levels of development and of possibilities entailed by a determined society – and hence whether finally they are obliged to surrender completely to society. Nor does the point – important, but Byzantine in its technical nature – concern whether or not subsidiarity should be legislated and have a normative juridical status, which in the best case would be Constitutional. Whether or not subsidiarity can become law as a principle, amendment or directive, or can become part of eventual international constitutions neither enhances nor diminishes subsidiarity, nor does it solve satisfactorily the problem of subsidiarity itself; in this sense, the juridical status

of subsidiarity within a constitutional framework is analogous to that situation of human rights. Nor does it consist in the simple fact of being written into national and international legislation; though that contributes to respect for rights and to the denunciation of their violations, it is not the reason why the theme of human rights acquires the great status we saw in the first chapter. Human rights, solidarity and subsidiarity are similar in their juridical, social or political status, as well as logically, epistemologically and ontologically. Nonetheless, as we shall see immediately, the concept of subsidiarity does have a clear and distinctively determinable status in whose light the significance of the social, political, cultural and ecological issues in constructing civil society are made manifest.

THE TASK OF CONSTRUCTING OF CIVIL SOCIETY

It can be said that the principle of subsidiarity has various dimensions and can be studied from different angles. Nonetheless the interest here, motivated by the task of thinking out the features and conditions of possibility of a social ontology, is to concentrate on its ontological status, in terms of which it is engaged in the construction of civil society. Due to its recent emergence in constructing of a union of states at the international level, the principle of subsidiarity is seen as dealing with the new construction, integration or formation of a big federation of several states or nations, notwithstanding their linguistic and ethnological particularities. Behind this, however, lies its basic meaning in the generation or the expansion of the conditions for the development of economic, political and social life by already existing organizations and individuals. This consists in the effort to transform and create other organizations in response to the challenge of unity and integration. In a word, if subsidiarity is a sociopolitical concept, its meaning is to elucidate the themes and tasks of the construction of civil society.

Furthermore, the expression "the construction of the civil society" is not a kind of *deus ex machina* in the sense that before the principle of subsidiarity – along with the principle of solidarity – there was no civil society. On the contrary, the expression suggests, rather than a temporal beginning, the common task of broadening and developing the space and real conditions that make life in community possible in the specific context of the contemporary world. However, where that space is closed, as in the analogous case of human rights, then the task is to generate that space.

The principle of subsidiarity consists precisely in the constitution of the problem and its possible real solution of defining the new criteria for regions and the optimal conditions for the multiple processes of integration and unity among peoples and states, and the organizations that compound them. "Regions" refer to determined geopolitical spaces juridically delineated, but with a clear and irreversible tendency towards integration and unity in all possible and necessary domains. "Conditions" refer to precise articulations of that tendency which focuses on such problems as those mentioned in presenting the origin and context of subsidiarity. The evident, clear and irreversible tendencies towards integration and unity should not be understood in fatalist or determinist terms, for it is precisely at this point that all the criteria of rationality previously mentioned, that is, the rationality of decisions, of responsibilities and of collective and individual actions come into play. This rationality ultimately is judged in accord with whether the achievements have been reached and in the time and way in which they were reached. Therefore, the social, economic or other policies of a regime, or the need for a determined form of action and organization, may be accepted as legitimate, or, on the contrary, they may be

criticized and rejected as being no longer sufficient or satisfactory. The criteria finally defining such judgments are the achievements and the efficiency or efficacy of the plans previously traced.

The problem of the enlargement and/or development of ever better conditions of possibility for the evolution of life in community, or in behalf of individuals in the organizations in which they relate to one another "inwards" or "outwards" toward other communities–that problem is the exact equivalent of, and is translated as, the task of constructing civil society.

Now, in order to understand precisely in what civil society consists in its contemporary meaning it must be noted that civil society is compounded of, and necessarily articulated through, multiple groups precisely as plural. This is the basic feature distinguishing contemporary society from others in the history of humanity; it is a nuclear part of social ontology.

Certainly, within the whole set of problems concerning the distribution of competencies and responsibilities and the forms and levels of decision making and the actions deriving therefrom, the principle of subsidiarity refers also to the state and, in general terms, to a general theory of the state. Nonetheless, by a methodological delimitation, it is possible also to restrict subsidiarity and consider mainly its contributions to the construction of civil society.23

Two basic traits are to be distinguished in order to study the reciprocal connections and correlations between the two. That the contemporary Western or "westernizible" society is the determinant present form of society in the world is easily observable, though not uniformly, on the five continents. Such a society is organized around, and at the same time constituted by, its own units, namely, contemporary cities. Such societies are characterized, on the one hand, by multiplicity and plurality and, on the other, by the existence of dynamic unities in permanent transformation. This transformation has two main simultaneous vectors: one is accelerated processes towards the globalization and internationalization of life in those societies; the other is the conformation of "microscopic", multiple and varied unities. Let me explain.

Civil society is in principle a democratic unity constituted by the existence of multiple structures, and by the defense or pluralism or diverse order. In one and the same geographical space designated generically as the city24 the presence of multiple styles of life and of organizations of all kinds, in many cases without intrinsic relation with one another, is unquestioned. The coexistence of multiple unities is no longer a matter of principle, taste or preference. On the contrary, multiplicity and pluralism shape the situation of life in contemporary society. The fact that inside society there are associations, ideologies and even actions that define themselves as different from, and more or less in open opposition to, other organizations, ideologies and attitudes, not merely affects the evolution of society, but constitutes it. However, as will be shown immediately, the touchstone that serves to define the legitimacy or illegitimacy of those associations, ideologies and behaviors within the life of a society and its development is the absence or presence of violence, the way in which violence exists, and how it is exercised.

Besides the coexistence of multiple unities, a second basic trait typical of the construction of contemporary society is the existence of a pluralism. Thus, we can speak of a relatively large, organic space for the exercise of an ideological pluralism in the broadest sense of the word; that is, as social representations and images, a cultural pluralism (psychological, for instance), a political pluralism (attitudes), and a philosophical pluralism (principles). Hence, factual multiplicity and pluralism imply each other. The problem therefore is to think the unity of society in its different forms: political, economic, juridical, military, cultural and so forth. In

other words, the more general the subject of the construction of a unity (such as a generic "social consciousness") the less possible it is to work out in terms of traditional formal logic any real identity, such as a national identity.

The big challenge consists in conceiving unity with multiplicity, or unity with plurality. Upon the way in which we may be able to solve that logical or philosophical problem depends the destiny of the life of society and of the communities existing therein. By the same token, on this depends as well the destiny of the forms of unity and integration of one society with another, or of one culture with another. Thus, the problem of sensibilization visàvis the other, as observed in the chapter on "Solidarity", acquires connotations of a larger scale when referred to in terms of subsidiarity. However, instead of giving intellectual priority to this problem, it is possible also that in the development of the social, political and cultural life of individuals and communities, the problem of unity and multiplicity, can be solved *de facto*, that is to say, from living experiences. Such a *de facto* solution to the problem is meant to put aside as ineffective and senseless any farther discussion concerning "principles". In reality, the practical solution to the problem is translated in terms of, and consists exactly in, social fellowship and the rational or reasonable interrelation among the different forms of organization of their activities and decisions.

Therefore, the big challenge of constituting subsidiarity is the adaptation of organization, unities, plans, and policies that correspond to the flexibility and the more or less accelerated transformation of the life of societies and of their organizations and structures. Implicit here is an issue which can be stated as follows: are human societies mechanisms for conserving the life of those same societies or, on the contrary, are they open to change? Instead of answering those questions, *a priori* and from predetermined positions, it is necessary to refer to the present vectors of the transformation in course in human communities. The questions just asked will constitute, in part, the content of the next section.

Two main vectors mark the processes of growing, conforming and constructing contemporary civil society. The first vector is more general; it is an evident process of globalization which translates into a clear tendency first towards integration, and afterwards ideally towards unity. The second vector is more particular and supplies the general tendency to globalization and internationalization on two basic plains. On the one hand, there is the interest of the state itself and of what is known in English as the "establishment" towards integration and unity with other nations and similar organizations. The form this adopts is one "open frontiers" and the gradual or total diminution or elimination of all kind of barriers, such as tariffs, to free movement, etc. This challenge implies, and at the same time plainly leads to, the problem of subsidiarity.

On the other hand, this tendency towards integration and unity is equally visible at the nonstate levels of the life of nations and peoples, especially in the specific structures and organizations of civil society (the world of academic, cultural, civic and political organizations, of churches, labor unions, etc.). In such cases the issue is mainly that of an interchange of experiences on the basis of which there is the task of "extra-state" integration among different organizations at the national level from one region to another, or at the international level from one country to another and among various states or peoples. (Nonetheless, sooner or later, whether in an affirmative or a critical sense, it is necessary to encounter the presence of the state and the ruling normative mechanisms it establishes.) Examples of processes of integration and internationalization in this second case are religious, political, cultural and academic organizations.

To be sure, "between" both the above vectors, and perhaps out of identification with a determined organization of civil society – which belonging can be taken in the strongest sense – at the level of individuals there also can be processes and tendencies of integration and unity. Such is the case, for instance, of personal contacts among individuals of different nationalities either orally through international broadcasting, or via different media. Other cases could be mentioned, such as tourism or other trips abroad, etc. But all that remains outside the domain of subsidiarity.

A second vector present in the transformation and constitution of contemporary society is the conformation – sometimes it is natural even to use the expression: "rediscovery" – of social unities and practices which, at least quantitatively, are more basic and at a lower scale. Usually, cooperation, solidarity and high ideals, with a heavy charge of idealism, constitute the basic motivations for creating such low-scale communities. In some cases they are "experiments" of various kinds in search of better options, as well as of more effective and rational action than that currently sedimented in the common life of societies. In some other cases, on the contrary, they are negative attitudes of reaction or escape from the marginal or marginalizing attitudes, practices, habits and beliefs sedimented and ruling within society.

We might, however, put aside such phenomena as the duration in time of those communities, their extension, the major or minor openness towards other individuals and social groups and linguistic concerns. What is truly relevant is that the vector of that creation and proliferation of groups in a lower scale is contemporary with, and parallel to, the previously mentioned vector of the coexistence of multiplicities and pluralities within society, thus constituting the very complex unity which is life in contemporary civil societies.

Accordingly, whether on a major or a minor scale, whether in the public or the political sphere, and whether in relation to the state or to civil society, the coexistence of different temporal structures is irrefutable. Subsidiarity is the outcome of this and also must provide an answer to the complex problem of their coexistence. This is the precise dilemma to which point two related problems: either of assigning responsibilities or of necessarily entailed decisions which have normative implications, along with the actions which set those decisions into practice. Once again, the fact that the expression of the problem is mainly juridical, economic or administrative does not mean that the problem is exhausted or consists exclusively in those representations. Such is precisely the importance and the challenge of the conceptual problem of subsidiarity. In this sense it can be said that the concept of subsidiarity evolves as does the concept of human rights.

For the effective comprehension and application of the principle of subsidiarity, the acknowledgment of differences within the overall social and political universe sets up the task of recuperating and acknowledging these internally in the organizations. The suppression and negation of the importance of the principle of subsidiarity goes hand in hand with the more or less open defense of the anonymity of social and political life in which the distances between people is the very outcome of the efficiency of the services of the organizations. The great enemy of subsidiarity, in other words, is the concept and reality of bureaucracy, which has its own system of values and psychology.

A democratic society is quite the opposite of an anonymous society or one which directly or by way of omission promotes an anonymity and distancing of individuals, social organizations and structures in the lifeworld as such.25 Clearly the larger and more extended a social and political unity, the more possibilities there will be for citizens and for the members of that social and political unity to constitute democratic and social structures.26

THE PRESUPPOSITION OF A PHILOSOPHY OF HISTORY

An important presupposition of the principle of subsidiarity is that it is charged with, or accompanied by, an air of optimism consisting in the implicit sense that human society, its construction, possibilities and problems make sense and that this is disclosed in the course of time and in the evolution of social life itself.

The idea may seem a truism, but more is to be said of the process by which it is made an explicit presupposition of a philosophy of history or of culture based upon the principle of subsidiarity. For the social optimism based on subsidiarity does not go without saying; in fact, there are other positions which are opposed or at least definitely indifferent to the implications and consequences we have been examining as the principle of subsidiarity. These opposite positions with their implicit psychology are not always marginal or easy to rebut. On the contrary, it is rather within the processes that mobilize and execute the principle of subsidiarity that, perhaps in a sly form, there is mistrust, indifference or skepticism as regards the whole set of problems which define the concept of subsidiarity. A generic title to designate this variety of postures is "instrumental reason" or "instrumental rationality."

There are two concepts or notions of instrumental rationality. On the one hand, in a negative sense, instrumental rationality has been defined and criticized to its foundations especially by the Frankfurt School of Horkheimer and Adorno, and from another perspective or with other aims by Habermas. On the other hand, in a positive or at least a not necessarily negative sense, the concept of instrumental reason is used in recent developments of Anglo-Saxon philosophy and social sciences. This is not the place to trace exhaustively the similarities and differences between the two comprehensions. However, to clarify the sense in which we are associating instrumental reason with the rejection of, or indifference to, the principle of subsidiarity, we shall identify the general features of instrumental reason current in Anglo-Saxon philosophy. This brief detour will allow us to explain our critique of the concept of instrumental reason regarding subsidiarity.

In Anglo-Saxon philosophy the general theory of rationality is a compound of two, or really three, theories: a theory of rational choice, a theory of rational beliefs and, for both, a theory of instrumental reason. The main problem in constituting a theory of instrumental reason is the relation of means to ends, for the central problem of instrumentality is that of the effects and results – concrete, verifiable, and productive – of reason. Thus, the strong form of instrumentality is causal in which on the basis of determined "inputs" "several outputs" can be predicted, controlled and hence obtained. What is important is that for a causal instrumental account of rationality, the standards of rationality must depend upon one’s view of the character of this world and upon the view of what people are like, with their capacities, powers, disabilities, and weaknesses27 In this sense instrumentality is constitutive of subsidiarity, especially if, even in a limited manner, one understands the principle of subsidiarity in eminently administrative, juridical and political terms. Nonetheless, as mentioned, the significance of subsidiarity is moreover also ecological and social, namely, to generate and enlarge the effective conditions for the development of citizenship and of life in community. In a word, subsidiarity is a "tool" created to apply, enlarge, improve and render more rational the founding idea of the common good in the name of common interests. In spite of the functionaries’ complaints, subsidiarity is hence fundamentally an ethical and therefore a philosophical problem.

Subsidiarity has technical reason as a *medium* through which it exists and is realized; this exists under the specific form of functionaries and bureaucracy. Its negative facet has been

criticized sufficiently and clearly by Horkheimer, Adorno and Habermas, who object that knowledge is thereby manipulated by certain interests: economic, political or military. In this second sense, instrumental reason consists of, and is carried out in, two characteristic and closely interrelated modes. One the one hand, there is a tendency towards gigantism in accord with a very strong tendency towards self-sufficiency and the consequent exclusion of such other forms of rationality as the symbolic, axiological, communicative and the like. On the other hand, instrumental reason exists under the exclusive form of representative or representational thinking, whose model is material and economic production. As a consequence interest is superimposed over any other activity or capacity such as free speculation, emancipatory knowledge, and others; persons are instrumentalized; and social mechanisms and structures are generated for the sole purpose of making society a large cybernetic system. The analysis and the political outcome of such social cybernetics is to be found, as a distinctive example, in the work of K. Popper.28

The tendency towards gigantism is one of the aberrations in the development and the application of subsidiarity.29As already has become evident in similar cases, the great challenge here is centralism in decisions making, assigning competencies and the distribution of responsibilities. "The bigger the better," in the sense of more rational and more efficient. The demand for checks and critiques comes from the so-called "minor" instances in, and from outside, bureaucratic structures.

The strongest critique of the instrumentalization of individuals and of different forms of social and civic organization by public or private, vertical or cybernetic structures, comes from Kantian philosophy and others who find in Kant a solid defense of the human person. The Kantian principle is to consider everyone else as oneself – not as a means but an end in him or herself. This implies that all else, whether the state, civil and religious organizations, or any other principle or value, has the function of a means for the affirmation and development of individuals and their possibilities.

To be sure, instrumental reason in this second sense is directed as a means to the end of social life as a whole, presupposing therefore a relative indifference towards the ulterior "progress" of civil society as well as of its component individuals and organizations. Rationality sees everything as subject to various strategies in a permanent game of means and ends, cost, benefits, etc. On the other hand, when well understood, the principle of subsidiarity presupposes in the evolution of civil society a certain convergence of its diverse organizations and of the connections and associations among individuals. It is at this level that we reformulate the question: is civil society a conservative unity, or is it open to change?

There is a general assumption that society is conservative and has as its function the preservation of life and institutions, that when left to itself it has an inertia resistant to transformations, sudden leaps and in general to any form of revolution. Such an idea is based upon the belief that human nature is by essence conservative and, therefore, that the creation of civil society with its organizations and functions has the purpose of protecting life from sudden shocks and uncertainties that might perhaps produce a "state of nature". From such a point of view, the creation of society, as of the state, tends to eliminate or control as much as possible an "originary state of violence".

In contrast there is the opinion that the goal of society is, and must always be, to contribute by all means to the development and affirmation of individuals in the various forms of association they adopt. Whereas the first idea was based on a preventive natural law approach,

the idea that society has the expressed purpose of promoting the development and affirmation of individuals has an underlying progressive natural law approach.

The principle of subsidiarity corresponds to the latter, for the individual can develop in the best and most rational way only in conformity with social norms of fellowship and within a universe of values and behaviors guaranteed not only by the whole of civil society, but by the state as well. For this reason the processes of integration and unity are fully justified and give birth to the entire set of problems that constitute subsidiarity. (In contrast, positive law assumes the state to be the axis of any principle of reality and rationality, and therefore that the individual and social and civic organizations are to subsumed under the state in a peripherical manner.30)

Hence, it is important to center upon the existing correlation between the principle of subsidiarity and a certain optimism in individual, social, public and political life. On the basis of the principle of subsidiarity there is a determined philosophy of history or of culture. Whatever be its form, the course of political, administrative, economic and social decisions is always pulled forward by confidence that "things can and will be better". `How' and `in which sense' is, of course, the core question, but thusfar remains outside our present scope. Our purpose here is simply to make explicit that connection; its explicit thematization in the whole set of themes and problems which cluster around the theme of subsidiarity, along with the philosophy of history that underlies it, for now remains unexplored.

In this same sense, it is not immediately relevant to situate exactly the form of the optimism which latently underlies the comprehension and application of subsidiarity. The optimism which accompanies it can be formulated in terms of a certain confidence in community life as an open or generous horizon full of promise. That subsidiarity is a variation of the ancient myth of "progress" seems too evident to doubt, but the discussion of its cultural, metaphysical and religious roots, as well as of how that myth lost its vitality at this end of the second millennium and of how solidarity and subsidiarity bespeak its renewals for the millennium to come is a task for the future.

AN INITIAL CONCLUSION

Is the principle of subsidiarity finally a juridical, political or administrative principle? If not, is it an ethical principle, and if so then how are we to understand "ethics"? Clearly the principle of subsidiarity is defined in terms of a heuristic value with evident consequences and implications, both theoretical and practical. Rather than being clearly defined and delimited, it is in our own view a heuristic problem.

The recent revival of the principle of subsidiarity is a matter of discussion by the various political, juridical and administrative competencies in relation to the processes of integration and unity at a national, international and, ultimately, world or global scale. But its genetic analysis here makes it evident that the real problem is different, namely, to elucidate in what the theme of the common good consists, how it is articulated, and what are its implications; in a closely related manner the problem consists also in making clear what is the common interest. The great difficulty is clarifying the point of view from which we can speak of the "common good" or the "common interest".

There are three basic possibilities. In one case, there is a generic Godlike view. But such a formal, universal "view from nowhere" does not contribute to solving the specific problems to which one alludes when talking about common good and common interest.31

A second and sharply contrasting view is tied to each particular case, moment, region and specific community. This, however, is a mere *desideratum*, not a reasonable and practicable alternative. The economic and administrative sciences make clear that this second option, perhaps practicable at a very restricted range, is insufficient and irrational.

In a third view, the common good and the common interest are interrelated concepts studied in accord with, and in view of, certain political, economic and ethical principles. This subsumes the concepts of common good and common interest under other more general theoretical frameworks. This makes it possible to situate the concepts which cluster around the theme of solidarity, but we are in no position to solve the problems to which they allude. The big difficulty with this third view is that what is defined as common good has no corresponding reality, leaving unfulfilled such concepts as justice – whether social or distributive – equality, equity, legality or legitimacy, and mechanisms of representation, participation, centralization and decentralization.

Accordingly, these three views leave the problem without a satisfactory solution. This suggests that subsidiarity implies an intrinsic reference to problems, themes and concepts such as solidarity and human rights. This is the more true in that it is truly about what, philosophically speaking, we call establishing a social ontology. What is really at stake is the entire rationality of systems, functions, decisions and actions of persons and of social and political organizations in their relations with one another. Also, at stake are the possibilities for unfolding the properly human, that is, free life of individuals and communities. In the end, these are possibilities for the development of personal, social and cultural life as a whole.

From this standpoint, effective comprehension and application of the principle of subsidiarity does not consist in, nor is it exhausted by, administrative, economic or juridical procedures. Yet, neither is it possible to say simply that ethics alone can generate the meaning and effective mobilization of subsidiarity. On the contrary, subsidiarity is the intersection of two large areas of discussion and action. On the one hand, this is the whole set of problems constituting the reality of the marketplace (*Polis*) – whether in its commercial, economic or financial configuration, or in its social and political representation. (The category of "*Polis*" is very useful in grasping the multiplicity of meanings to which we are referring.32)On the other hand, subsidiarity encompasses also the area of social ethics, along such particular derivations as "business ethics", "political ethics", and the like, in contrast with a merely individual ethics. Here it is not important whether business or political ethics, as well as such other professional ethics as medical or legal, correspond or not to an ethics in the rigorous sense of the word or deal simply with deontological procedures and problems. The primary intention here is simply to identify an area, which also presents some ambiguities.

The concept of subsidiarity helps us to understand and develop a series of problems and areas which are absolutely fundamental for understanding the possibilities of social and political life. What is truly meaningful is that the concept responds to a manifest tendency towards integration and unity at the neighborhood, local, regional, national, international and, ultimately, world levels for the promotion of personal and community capacities. Certainly, it is an epochal concept, but if we are to take seriously the possibilities and their urgency for enlarging the juridical, economic, political, military and cultural frontiers in order to enable the improvement of life, then the concept of subsidiarity will continue to demand a common effort of understanding and application. Both in the proximate future and in the long run the processes of integration and unity constitute our best possibility and demand rational and reasonable decisions and actions. It is both an individual and a collective task. This is not to say that the destiny of societies and of individuals depends on this task, as is clearly the case for solidarity and human

rights. To affirm that the destiny of persons and communities is grounded on subsidiarity would be to extrapolate too much. But subsidiarity does correspond to the set of mechanisms and procedures through which that destiny is set to move; this is its importance.

NOTES

1. The placing of such categories as "term" or "concept" between quotation marks suggests that the first uses of subsidiarity are introductory in character, perhaps even heuristic. We shall not from the start clarify exactly in what subsidiarity consists, for that is the aim of this chapter. On the contrary, the "term" or "concept" should be accepted provisionally and as having merely denotative value, namely, as dealing with the problem with which the following pages are concerned.

2. Cf. A. Adonis and S. Jones, *Subsidiarity and the Community's Constitutional Future,* Discussion Paper No. 2 (Center for European Studies; Oxford: Nuffield College, 1991), pp. 4 ff.

3. One of the most important documents in this sense is the *Nature and Future of Episcopal Conferences*, H. Legrand, J. Manzanares and A. Garcia y Garcia, ed. (Washington, D.C.: The Catholic University of America Press, Washington, D.C., 1988.

4. These are, among others: *Non Abbiamo Bisogno,* also from Pius XI, and *Mater et Magistra* (1961) and *Pacem in Terris* (1963) by John XXIII. The Second Vatican Council also makes reference to subsidiarity, particularly in the field of education. The subsequent writings of by Paul VI and John Paul II contain specific room for subsidiarity. In any case, here these indications have only indicative value. Those with other interests or purposes might wish to trace back the Vatican documents in order to determine whether there are linguistic or other changes between one document and another, or between one period and another, for instance, between one Pope and another.

5. Hence, it becomes evident that the introduction of the concept of subsidiarity by the Vatican is by no means a neutral formula. On the contrary, as explained in *Quadragesimo Anno,* subsidiarity "is as concerned with circumscribing the sphere of the political *per se* as it is with devolving political power to the lowest level possible within the political realm". At the same time, the principle of subsidiarity is governed by such Catholic principles as willing subjection to the authority of the Church itself. A. Adonis, "Subsidiarity: Myth, Reality and the Community's Future", in "Subsidiarity as History and Policy," in *Inquiry* (London, Institute of Economic Affairs, 1990), pp. 2–3.

6. The task is to safeguard "die Selbstandigkeit und die Eigenveranwortlichkeit des menschlichen Einzelwesens gegenüber der Gesellschaft wie auch den kleineren gesellschaftlichen Lebenskreise gegenüber den grösseren und umfassenderen und dadurch den klar geordneten Stufenbau die aufeinander übergreifeinden Vergesellschaftungen". Quoted by A. Adonis and S. Jones, *op. cit.*, p. 9 (Translation enlarged, C.E.M.).

7. There is an evident though unmentioned historical presupposition concerning the multiple connections between earlier Catholic and, in a very broad sense, Christian history up to its recent generic extension to the construction of the European Community or Union. Beyond the merely economic preoccupation of responding to the strong pressure of Japanese economic, commercial and financial power, on the one hand, and their American counterparts, on the other, there is as well a desire to become an independent world block. In this there has been strong influence from Christian Democracy as well as from Catholicism itself in forming the European Community or

Unity. This should not be taken as if the influence of liberal and Social-democratic forces were necessarily minor. The point is rather to make a bridge between the "religious" and the "lay" origins of subsidiarity. Both origins correspond to one and the same vector, and there is really much more of a continuity between the two. The Liberal, Socialist and Social-democratic forces came to contribute to that process of formation after the first efforts and pillars had been established particularly by Christian Democracy.

8. There is a difference between the concepts of European Community and European Unity which consists in an ascending path from the first to the second. For reasons of language economy the two concepts will be used here without discrimination, especially as the immense majority of texts about subsidiarity refer to the construction of the European Community. Only after the Maastricht Treaty and the Agreements from Schengen has the second concept come to be more widely used over the first one. This reflects the strengthening of the European Unity. But as this is a unity in progress other concepts can be added afterwards; hence the use of those concepts here is less categorical and more denotative.

9. Cf. J. Dolors, The Principle of Subsidiarity: Contribution to the Debates," in *Subsidiarity: The Challenge of Change.* Proceedings of the Jacques Delors Colloquiums (Maastricht, The Netherlands: European Institute of Public Administration, 1991), p. 18.

10. Cf. among others, *Subsidiarity within the European Community,* A. Duff (Ed.) (Federal Trust for Education and Research, 1993), and A. Tyrie, "Subsidiarity – What Should The Government Do", in *Subsidiarity as History and Policy, op. cit*.; R. Sinnott, "Integration Theory, Subsidiarity and the Internationalization of Issues: The Implications for Legitimacy", in *Working Paper RSC, No. 94113*, (Florence: European University Institute, Robert Schuman Center).

11. As used here, the expression "principle of subsidiarity" is really a generic designation used without assigning to it further ontological or logical consequences. However, a principle is generally a guide to meaning or action. In this sense, it is perhaps implicit that the principle of subsidiarity contains a reference to a series of theoretical and practical tasks. Their nature will be clarified in the following.

12. By Proudhon, cf. *Du principle federatif et la necessité de reconstituer le parti de la revolution* (1863). Usually there is agreement in stressing the importance Proudhon gives to subsidiarity understood as a contractual principle for establishing and guaranteeing the social and political coherence of social and political life. – As for J. Stuart Mill, cf. *Consideration on Representative Government* (1872).

13. Among the best studies see firstly, F.X. Kaufman, "The Principle of Subsidiarity Viewed by the Sociology of Organizations"; then, L. Vote, "Subsidiarity from a Sociologist's Point of View". Both texts are to be found in *The Nature and Future of Episcopal Conferences*, pp. 275–291, and 292–297, respectively. Cf. also H. Geyser, "'Subsidiaritaet' im gesellschaftlichen Wandel", in *Subsidiaritaet. Ein interdisziplinaeres Symposium, op. cit.*, pp. 163–191.

14. Contractualism as the basis for social and political unity not only exists in the classical versions of Hobbes, Locke and Rousseau, but recently has received further shades of meaning and more structured development. The most important representative of this "new" contractarianism is doubtless D. Gauthier; see his *Morals by Agreement* (Oxford: Clarendon Press, 1986). As the basis for any agreement, treaty or contract it supposes the autonomy and independence of the individual.

15. F.W. Kaufman, "The Principle of Subsidiarity . . .", *op. cit.*, p. 283 (Underlining, C.E.M.).

16. One of the most severe criticisms of the closed structuring of society, along with its relatively interdependent functional systems, has been in the work of R. Sennett; see particularly his *The Uses of Disorder* and *The Fall of Citizen.*

17. Cf. J. A. Komonchak, "Subsidiarity in the Church: The State of the Question", in *The Nature and Future of, op. cit.*, pp. 301–302.

18. Cf. among others, J. Elster, *Ulysses and The Sirens* (Cambridge: Cambridge *UP,* 1984), and *The Cement of Society,* (Cambridge: Cambridge UP, 1989).

19. Unfortunately I must leave aside here a more developed analysis concerning the importance of technology, not only for the general development of subsidiarity, but also and more generally for solidarity and human rights. The importance of technology is noted here for later clarification; such an analysis implies a philosophy of technology, though this is not the proper place for its elaboration.

20. It should be mentioned that in the case of Latin American, African or Central and Eastern European countries despite their differences and particularities the tendency to integration and unity responds to "suggestions" and invitations from certain highly developed centers. The term "suggestion" or "invitation" hides definite economic, political, cultural or other dependencies of the peripherical countries visàvis the major centers of power. Notwithstanding, in the present case clearly there are two major vectors in the processes of unity and integration. One is the processes motivated by the national governments themselves independently of the influence from the developed centers. Generally, those attempts are made in a spirit of "self-protection", but end in failure. In Latin America the clearest example of this is the Andean Pact. In contrast with those failed attempts, the processes of integration and unity sponsored somehow by the centers of development have a much greater probability of consolidation and expansion – for obvious reasons.

21. This is the root of the proposal of J. Dolors, who is perhaps the main proponent of the idea of subsidiarity within the process of the creation of the European Union: "Subsidiarity comes from a moral requirement of respect for the dignity and responsibility of the people who make up society and are its final goal", "The Principle of Subsidiarity: Contribution to the Debate", in *Subsidiarity. The Challenge of Change, op. cit*., p. 9.

22. Cf. *The Meanings of Citizenship* (1994). In what follows I shall have the opportunity to refer to this book which consists of a very good selection of articles on citizenship in general.

23. There remain a series of questions: Is it possible to be a good citizen when living in a bad state? Is it necessary to be a good citizen in a good state? And, in the absence of state, what kind of citizen is one to be? The most general question regards the necessity of the state itself. Though important, I shall omit these questions here, but wish to thank Nicholas Rescher for his suggesting their importance.

24. However, this should not make us think, erroneously, of the "city" as a unit opposed to, and independent of, the "countryside". That is a typical image from the nineteenth century which it is difficult to verify, particularly in developed countries. It is also unclear whether that is going to be the destiny of the city-countryside relations in so-called Third World countries.

25. Husserl's phenomenology carries out a critical analysis of European culture by distancing or even contrasting the sciences and/or scientific rationality over against the lifeworld so that neither can provide any satisfactory answer to the general question concerning meaning. Conversely, the phenomenological project needs to be completed or developed towards technical rationality and its alienation from the lifeworld. To be sure, technical rationality as distinct from technological rationality, exists and is reproduced under the guise not only of state bureaucracy,

but also of other organizations and structures. Further characterization of the bureaucratic form of technical rationality (such as accommodation, opportunism, etc.) is beyond the present frame of reference. What is truly relevant though is to point this out as the greatest danger to subsidiarity.

26. Cf. H. Hill, "The Social Dimension and Subsidiarity", in *Subsidiarity: The Challenge of Change, op. cit.*, pp. 148ff. From another perspective, cf. A. Adonis, *Subsidiarity: No Panacea* (London: European Policy Forum, 1994), and Ch. Giordano, "So viel Staat wie notig, so wenig Staat wie moglich: Ein interkultureller Vergleich", in *Subsidiaritat . . ., op. cit*., pp. 131–161.

27. R. Nozick, *The Nature of Rationality* (New Jersey: Princeton, 1993), pp. 134–135.

28. I am thinking specifically of *The Open Society and Its Enemies.* However, it is possible to identify some other clear elements of that social cybernetics in other texts by Popper.

29. That is a generalized remark in the process of the construction of the European Union, but it can be found also in other latitudes and on other scales. Gigantism consists in this specific case in a strong tendency towards centralization despite the intention of federalization or decentralization.

30. Cf. M. Wilkes and H. Wallace, *Subsidiarity: Approaches. . ., op. cit*.

31. Cf. T. Navel, *The View From Nowhere* (Oxford: Oxford UP, 1986).

32. The adoption of the concept of *Polis* also contains some ambiguities within the specific framework of contemporary societies. Thus, for example, the concept of *Polis* demands that we stipulate the place or *typos* of the public market place, and with it, the very *typos* of life. Whereas in ancient Greece the *Polis* had a specific place, as the public site, namely, the *Agora* or market place, in contemporary western societies the notion of the *Agora* tends to disappear. In fact, where are the "people"? Clearly they are not only and exclusively on the street or in the market place in the literal sense of the word. There is a strong tendency to see the people as being where the media of communication (radio, television, etc.) are. Thus, people are both nowhere and everywhere, even in everyone's home, etc. It is necessary to define exactly the concept and the *typos* of the *Agora* in as much as the *typos* of the *polis* has fundamental significance in establishing the guarantees and conditions of possibility for democracy, and with it, ultimately, of social or political ethics.

The use of the concept "people" is at the same time too generic and has simply a denotative value. "People" corresponds to a loose, though valid, translation for the French *on* and the German *Der man*. Therefore, the concept of the "people" is characterized by the authenticity and anonymity Heidegger analyzed in *Being and Time.* This is true also of all other readings deriving directly or indirectly from him, for example, E. Canetti's analyses in *Mass and Power*.

CONCLUSION

That the individual is absolute, that his or her reality must be recognized unconditionally and necessarily lies at the basis of human rights. However, some clarification is needed. What is required for each individual consists in the possibilities he or she has or must unfold and develop. Violence consists in individuals not being able to actualize their possibilities or to open ulterior possible horizons. Human rights are addressed not only or exclusively against open, generalized and declared forms of violence. More properly, they are addressed in principle against any form of *everyday* and hence systematic violence. Therefore, it is not necessary that there be situations of torture, of the "disappeared" or of violations of International Human Law, for there to be generalized violation of human rights. Indeed that false idea led to the erroneous belief, spread broadly among social circles in the countries of the First World, that human rights typically is a problem of under development belonging exclusively to the so-called Third World. The issue of human rights is raised as a flag of caution addressed to "others" in order to mark their difference, such as for instance in dialogues between Western countries and some countries of the Middle East or Asia.

The big difficulty implied by the commitment to respect human rights consists in the capacity to feel for the other, for situations of human rights call not just for understanding, but for sensibility. This is so, even though the road to the foundations of human rights goes from understanding to sensibilization, not the other way round. In fact, the greater our capacity for understanding, the greater our sensibility. The opposite road from greater sensibility to greater understanding is neither necessary nor wholly guaranteed because when left on its own sensibility can readily be manipulated. The recent history of propaganda and publicity provides sufficient evidence.

There is a necessary implication in both the theoretical and the practical orders between human rights and solidarity. The combination of comprehension and sensibilization can generate an *ethos*. What is truly relevant regarding the principle of subsidiarity is that, relative to human rights and solidarity, it provides the necessary tools for the "realization" of ethics. By this should be understood not that subsidiarity is the only mode of realizing ethics, but that in the ongoing state of affairs it is the most expeditious one.

Indeed, it is characteristic of ethics – in contrast to philosophy in general – that it points one beyond oneself. Thus, first, to understand the world's problems exclusively in terms of values, ideas, ends and ethical attitudes; and secondly, to pretend that therefore the solutions to the most urgent problems of the contemporary world are to be solved exclusively or primarily on the basis of ethical tasks, behaviors and formulations is as groundless as it is dangerous. It is in fact ineffective for ethical solutions to the problems of society and the world, though theoretically valid, are "idealist". On the other hand, to pretend that the problems and solutions for society and the world consist exclusively in practical measures in the technical sense of the word, and in actions susceptible of tactical or strategic planning is equivalent to an instrumentalization and a reification of human individuals. Such solutions also are equivalent to an abstraction and a loss of focus on the human situation; neither is satisfactory for facing our challenges. As recent history shows it is quite the contrary: though such measures may be relatively effective in the short run, in the medium and long run they end up being even more damaging.

The great problem consists then in the transition, or bridging, between the ethical problems and solutions, on the one hand, and, on the other hand, the economic, political, military,

administrative, and technical problems and solutions. In common language an expression whose value is denotative, but whose signification is far from being transparent is that solutions to the problems of the lifeworld depend, finally, on "political will". The accent falls on two terms: "finally", and "will". The adverb "political" refers generally to executing decisions. This context is better for understanding the importance of subsidiarity.

Well understood, subsidiarity brings to the fore the challenge of bridging between ethics and the "concrete" themes, the problems and the areas of civil society. On this plain, nothing is clarified by the framework of the multiple tendencies towards integration and unity found alongside the internationalization of various levels of the life of the state, civil society and individuals. The appropriate comprehension of this framework with its particularities, interdependencies and differentiations is rather a cultural and historical matter. To pretend to plead in favor of an out-and-out nationalism in any sense, or of regionalism *tout court* at any level whatsoever, for instance, is in practice irrational. Such is, for example, the all-out rejection of technology, the exaggerated defense of one's own principles (read "fundamentalism"), or the overvaluing of one's own ends or of ends *tout court* – to mention but three of the most obtuse instances.

As should be clear from the preceding chapters, there is here no quick solution, but the beginning of a series of problems, and thus of a dialogue. With this all are concerned regardless of differences in occupation, participation in national or international decisions making or level of education, but also regardless of belonging, with or without a certain level of responsibility, to a political, religious or civic organization of civil society. The following concepts focus the characteristics, challenges and realities in the triangle of human rights, solidarity and subsidiarity on the political concept of pluralism, the cultural concept of heterogeneity, the sociological concept of diversity, the logical concept of multiplicity, and the ontological concept of alterity or the otherness. In various ways these refer to one and the same field and problems. What is truly relevant about these concepts is their application, their validity and legitimacy and their reach visàvis the concept of unity. But we must no longer think multiplicity in one time (T1) and unity in another (T2), or the other way round, not even when we conceive of them, say, in mental, chronological or methodological times.

The challenge nowadays is increasingly to be able to think and make possible at the same time both unity and multiplicity. This is doubtless the great merit of the triangle formed by human rights, solidarity and subsidiarity which has been sketched in this text. This is not to suggest a closed field; broadly speaking the general field of work that opens before us is that of social ontology. However, fundamentally for theoretical reasons, the interest here has been to elaborate this in accord with, and in view of, an explicit thematization of the possibilities of life for individuals, society and, indeed, the world in general. The present thematization is directed toward the effort to actualize and promote those possibilities.

In a vertiginous manner the technological and informatic processes have accelerated the processes of globalization, that is to say, of the integration and unity of the life of humankind.1 The most recent explanations of this global tendency towards gradually forming low scale unities with a clear consciousness of the ultimate horizon of a worldwide unity points up two generic factors or present forces enabling such unity. On the one hand, there is the "invisible hand" of the market; on the other hand, there is the "visible hand" of responsible persons and units in social and political life. Doubtless, in distinction from, but together with, the "invisible hand" of the market, responsible political and juridical apparatuses also are needed, for the life of society depends on both. That is to say, the issue is not the life of a determined

governmental regime, of a political figure, of an enterprise or of a sector of the economy. These are deceptive appearances because they have interests, whereas what is in question is the life of individuals in community, their realities and possibilities. At the international or world scale it is the life of global society that is, not finally, but ideally, at stake.

Thus, the three challenges mentioned in the introduction should be read not in literal terms, in which case the mistake would be only personal, but in terms of their spirit. These three challenges can be formulated in the following questions: (a) "Who is the other", (b) "How do I relate with him or her and how am I directly or indirectly concerned with them?" and (c) "In which way do I relate with the other effectively within the framework of contemporary society." These three questions have validity and meaning not only in ontogenetical terms, but also filogenetically. In other words, the problem is the same when dealing with the dialogue, relations and actions between one society and another, between one state and another, between one continent and another and, more generally, between one culture and another.

There is therefore an authentic philosophical problem regarding the comprehension and articulation of the relation between human rights, solidarity and subsidiarity. It regards the possibility of speaking meaningfully of a social, cultural or generic consciousness at the corresponding levels, for example at the national, international, and finally worldwide or global level. Whatever be the possibility of an answer by philosophy, it is necessary to point out the consequences and the real implications of these problems.

They are not simply theoretical, or matters of preference or of preestablished interests. The repeated use by us of "the generation and/or enlarging of spaces" points to the authentic significance and implications of the whole problem. The point is to make life ever more possible at exemplary levels with criteria and standards of quality, that is, with universally desirable value. To understand this means to grasp that in which society, state and culture consist, both in rational and in reasonable terms.

But life is not possible *tout court*, certainly not when the point is to make possible a rational and reasonable life. Though the general problem of meaning is evident here, I would direct attention to another issue: the respect and guarantee of human rights, the sensitized enablement of an effective practice of solidarity, and the comprehension and adequate application of subsidiarity. All have one and the same finality, namely, to make it possible for individuals to choose freely, in their specific situations. This implies not only responsibility and hence awareness that the other is always at the horizon of one’s decisions, but the development of reason or intelligence. At bottom the real subject is unveiled as the theme of the decisions or the rational choices, the big decisions in life which mark our existence as well as that of others in the long and short run. These are also the small everyday choices in life, since this is the only way humans exist.

Finally, human rights, solidarity and subsidiarity – the three themes considered in this text – in their specificities and reciprocal relations deal with the spaces and guarantees that enable our decisions to make sense and therefore to construct our life and our world. Multiple seams and lines of analyses could still be raised, or remain in need of further development. The analyses here require additional investigation of which these essays are but the beginning.

NOTE

1. On the basis of that tendency towards unity there is a determined metaphysics which can be drawn out clearly by a teleology of reason and natural teleology, as in the thought of Kant and

Husserl where teleology plays a more fundamental role. Here it remains at the margin for it entails historical philosophical interests and the history of ideas where it might be possible to discover additional proximate sources. Though this is of high speculative value, we must omit such considerations in the present context. Leaving them in suspense, however, does not means that we are alien or indifferent to their possible contributions to explaining the bases upon which the tendency towards unity and integration is grounded. Here, we have concentrated only on the phenomenon of globalization without entering into the explanation of the causes or the reasons for its teleology.

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