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The Idea of a Global Civil Society

The argument which I am going to present here, is a follow-up of a more general understanding of democracy as a cooperative scheme. I have argued that democracy should not be understood as a specific form of aggregating individual preferences such that a collective actor representing people's will is constituted.¹ Neither should we understand democracy as a market of political competitors as some so-called pluralist conceptions assume. Instead, democracy is characterized by political institutions which allow for genuine cooperation.²

A vital democratic system is based on a civil society as the all-comprising social frame. Civil society should not be understood as opposed to the state if the state is a democratic one. Recently the renaissance of the notion "civil society" has come up with the experiences of the late communist regimes in Europe. The decay of communist rule was interpreted primarily by neo-marxist thinkers as the result of the rise of civil society which became incompatible with the exclusive social role of the communist state. Transferring this notion of civil society as opposed to the state or shortly the anti-etatist notion of civil society to the west, resulted in a theoretical and political mistake: There is a difference between a dictatorial rule and a democratic rule which can be characterized exactly in relation to the civil society: Democratic rule depends on civil society and should be understood as part of civil society including democratic institutions, whereas communist dictatorship (and other forms of dictatorship) are incompatible with civil society. Genuine democracy is depending on and not opposed to civil society.

1. Civil Society - First Characterization

The civil society overcomes the state of nature, i. e. a state of permanent potential violence, as it was conceived by Thomas Hobbes, with a *stable system of cooperation based on citizens' normative consensus*. *Political institutions* serve as means to maintain the stability of that system of cooperation. Security and peace in such a "status civilis", in which conflicts are usually managed without any use of force, are *not brought about by a concentration of means of force*. Instead, *commonly accepted rules of conflict resolution*, the recognition of federal and judicial authority, mutual respect and the consideration of cultural differences establish peace and security. The monopoly on the use of force of the state is therefore constituted

¹ Cf. Nida-Rümelin (1991) and (1993).

² Cf. my talk at the 19th International Wittgenstein Symposium 1996: (1998).

normatively: It is not constituted by a concentration of means of force, but by compliance, i. e. a sufficient conformity of citizens' behaviour with the legitimate structure of democratic institutions.

Civil society is to be understood as a paradigm of social interaction, different from and sometimes competing with two other paradigms: the market place and the military organisation. Individuals meet on the market to trade goods, and to optimize their interests. The rules of exchange are dictated by conditions of scarcity, and by the ratio of offer and demand. Military structures are characterized by the concentration of decision-making power at the top of a hierarchy, with orders being obediently executed at the base of that hierarchy. The organizational structure of the military is paradigmatic for parts of the public administration and even for companies in capitalist market economies.

In a civil society, however, persons cooperate neither as economic subjects in the market place nor as recipients of orders, but as citizens: they produce (public) goods which the market is unable to provide; they make decisions regarding the whole citizenry in order to settle on the rules of interaction, and in order to pursue common goals. The citizenry is not necessarily a community of shared and equal values. It is rather constituted by a minimal normative consensus on those rules that facilitate the civic management of conflicts of interest, and that foster the cooperation between different cultures. While under ideal market conditions the optimizing rationality of individuals leads to pareto-efficient distributions, and while in power hierarchies one person forces her will upon others, civic interaction is in need of cooperation. Genuine cooperation in that sense is alien to the market as well as to power hierarchies.

The impressive success of democratic movements all over the world reveals that men usually do not understand themselves as economic subjects nor as recipients of orders. Even though the process of democratization is not yet accomplished, it can be ventured to predict that its success will be irreversible. The democratic movements in Southern Europe and South America as well as the rise of democracy in Eastern Europe after the demise of communism contribute to an inner and an outer pacification. The same holds true for the democratic development in the so called "Third World", particularly in Africa, constituting a wave of "second independence". The world-wide process of internal democratization can be understood as a gradual formation of a global civil society. Civil society in general is constituted normatively, backed up by political institutions. Persons engage as citizens based on a minimal normative consensus which tells that they participate in a

(sufficiently) just cooperative scheme. The moral point of view is an element of citizens' life world in a civil society.

2. Conflict and the Moral Point of View

The central problem of modern political philosophy is the resolution of social conflicts that range from interpersonal conflicts of interest over scarce goods and class struggles to moral and cultural differences and finally to the clash of civilizations.³ The theory of the global civil society is based on an ethical foundation to accommodate those conflicts.⁴ It says: Don't wait for convergence of interests and values, but contribute to the establishment of those rules of conduct which are compatible with differences of interests and values.

According to a common opinion in modern ethics the moral standpoint is universal. Its universality entails (i) that moral demands concern each person equally, (ii) that it is morally not significant *who* makes a moral statement, and *to whom* it is addressed as long as the relevant moral context is determined. There is quite a variety of partly compatible, partly incompatible attempts to explicate the universality of the moral standpoint in greater detail. For our purposes, it proves sufficient to reject a widespread misunderstanding of the universal moral standpoint according to which it doesn't allow for any differences. In fact the most extreme version of that misunderstanding, i. e. utilitarianism, exerts still a considerable influence on the ethics of international relations.

If our actions were guided exclusively by values and beliefs regarding the appropriate means to realize them, then the moral standpoint could only be approached by including the values of others in one's own. Utilitarianism is the most radical consequence. It requires that there should not exist any differences whatsoever regarding the action-guiding values of moral persons. But even if we all were saints, capable to take this kind of the moral standpoint, the results would not be socially attractive, because with the convergence of action-guiding values, cultural differences, the differences of life-forms, subjective goals and commitments would evaporate, too. But there is another more attractive conception of the moral standpoint which is less challenging and less destructive for individual differences: This version of the moral standpoint is content with differences in values but requires a normative consensus on certain rules which make cooperation possible. Still it is a moral standpoint because individual conformity with these rules in many cases cannot be motivated by personal interests alone. In many cases personal interests

³ Cf. Huntington (1996).

⁴ Cf. Rawls (1985).

would advise to defect in sufficiently many cases, such that this "deontological" conception of the moral point of view would become pragmatically inviable.

Decision theory seems to be at variance with the resulting conception of the morally acting person. But this is true only if decision theory is reduced to a consequentialist interpretation as I have tried to show elsewhere.⁵ We act in order to realize subjective goals. We can attribute these goals to a sufficiently rational person on the base of her decisions. The preferences of that person are expressed in her actions, given her options. The whole of her subjective goals determines the interests of the person. Preferences reflect the interests of (sufficiently) rational persons. The subjective good of a person is represented by her utility function which is nothing but the combination of her rational preferences. The determination of the individual good does not presuppose a moral standpoint, but only rationality understood as the coherence of preferences - as decision theory maintains. The moral standpoint requires to refrain from the maximization of personal interests. As long as we do not leave the subjective standpoint, conflicting interests cannot be mediated, and interaction remains entirely interest-based. The circumstances of our actions which are influenced by other, equally rational persons, make us move from parametric to strategic rationality: our environment is neither simply given, nor is it a dependent variable of our actions. Instead, other agents pursue goals in a way which we cannot anticipate. Rationality and anticipation are only compatible in certain types of interaction. The famous game theoretic paradoxes derive from there.

3. Coordination and Cooperation

It is possible to reach agreements on joint strategies that result from coincidence of subjective interests. However, strategies of this kind do not yield sufficiently stable interaction in the long run. They are based on mutually perceived advantages of coordination. Coordination is characterized by strategic equilibria (i. e. individually deviant behaviour would be disadvantageous for each individual). It secures an equilibrium which is preferred by the participating agents. The agents act strategically rational by coordinating their actions. They do not cooperate, however. Cooperation presupposes that the agents refrain from individual optimization: they settle on a common strategy which is not an equilibrium point (i. e. deviant behaviour would be individually advantageous). The subjective standpoint precludes cooperative reasons for actions from the outset.

⁵ Cf. Nida-Rümelin (1993, 21995) and (1997, esp. chapter 6.1.: "Two Kinds of Economic Rationality"), and (forthcoming).

Agents who do not content themselves with mere coordination are therefore forced to leave the subjective standpoint. The moral standpoint objectifies subjective interests. It considers all subjective interests in question before it abstracts from the respective individual situation, thereby reaching an impartial evaluation. The weighing of individual interests from the moral point of view has to be justified such that it becomes acceptable by each person and from each perspective.

The egalitarian anthropology which is prevalent in modern democratic societies suggests to equally weigh the subjective interests in question. Consequently, the moral standpoint encompasses two elements: (i) the moral evaluation of goals, which is directed to the sum of individual, equally weighed evaluations, and (ii) the selection of the optimal action with respect to this moral evaluation. The rationality of that conception would still be consequentialist with the evaluative base having changed from the subjective to the moral. The attractiveness of this conception lies in the combination of utmost neutrality with regard to subjective life forms and goals, and its decisive turn to the moral. Despite the fact that persons remain free to choose their subjective goals, each individual action undergoes moral scrutiny. The moral standpoint in this version, however, entails the paradoxical consequence that individuality is jeopardized: all moral persons optimize the same value function. Individual interests cannot be ascribed any more, since the chosen actions express the interpersonally identical preferences. The aggregated base of the moral evaluation dissolves.

4. Rules and Difference

Critics of universalist ethics are right when they emphasize the social embeddedness of our actions and life forms, maintaining that the universal moral standpoint is incompatible with particular relationships. This critique, however, is also based on an error: it hinges on the wrong assumption that morality resolves every kind of conflict. The moral person is taken to evaluate from a "view from nowhere"⁶, while the actual member of an actual society is incapable to take the moral stance. Morality is understood as some kind of calculation which might be helpful for welfare economists and social engineers, but which does not seem to have any significant bearing on our daily life. Individuality is tied to the situated self, and thus limited to intimate relationships. Hence, the individual person in her real life does not seem to be within the reach of universal morality. The demands of universal morality seem hopelessly alienated from real life situations. Accordingly, the moral agent would have to distance himself from his relationships. The universal moral standpoint appears to

⁶ Cf. Nagel (1986).

destroy the essence of our human life: its particular relationships and projects, commonly shared values and goals, engagement, sympathy, affection and pity. The ideal moral person distances herself from the particular other person, from her specific life plans, hopes and fears. She becomes the executive instrument of an impartial, universal value system. The moral standpoint, understood in this way, eliminates all conflicts. What remains are coordination problems which can be solved through mere rational agreement (without the need of sanctions). The costs for this form of conflict resolution through morality are, however, high. Either morality asks for more than reason can demand, or it tacitly accepts that individual differences vanish with the resolution of conflicts. This aporetic view of a universalist ethics results in a specific conception of morality which promotes the moral standpoint to the detriment of individual differences. It consists of two essential elements: (i) it is based on a theory of rationality according to which an action is rational if it optimizes⁷ the subjective goals of the agent; (ii) it implies a particular conception of intrinsic value which is limited to the impartial evaluation of consequences resulting from individual actions. This consequentialist version of the universal moral standpoint is responsible for the justificatory crisis of universalist ethics - particularly with regard to the realm of political action.⁸

In fact there are interpretations of the moral standpoint which are still universalist, but yield quite different moral qualifications. *Contractarianism* can be considered as its most influential strand. Contracts which are modelled according to a conception of fairness put the universal moral standpoint into practice by finding a procedure of rational choice which determines rules and institutions under fair conditions. The idea of a fair contract - as it was envisioned by the normative political theory of J. Rawls as well as by the rule utilitarian version of J.C. Harsanyi⁹ - allows for the conceptualization of a universal moral standpoint which does not entail the equal evaluation of states of affairs. Rawls as well as Harsanyi content themselves with the equal evaluation of common rules of interaction. They both leave a consequentialist conception of rational action behind. Therefore, the universality of the moral standpoint does not entail the interpersonally equal evaluation of actions and their consequences. Only common rules are evaluated equally. While Harsanyi defends a game theoretic account of rule utilitarianism, Rawls takes rules as part of the institutional basic structure.

⁷ Cf. Rawls (1971).

⁸ Cf. for a more detailed critique: Nida-Rümelin (1993, 21995).

⁹ Cf. Harsanyi (1958) and Harsanyi (1977).

The fair contract as the fundamental underpinning of normative political ethics has to reflect reasonable practical deliberation. Each person knows about the conflicts between her subjective goals and the goals of others. She also knows that no general agreement can be reached over what is the desirable good. She knows about differences of morals and of opinion which cannot be totally attenuated. At the same time, she views herself as part of a frame of social cooperation. She wishes a life which is shaped by confident cooperation beyond all differences, by mutually desired joint projects and actions, and by the recognition of particularities. She therefore wants that only those conflicts of interest and of value are dealt with which are compatible with the maintenance or development of a fair social cooperation. She is forced to abstract from her own subjective standpoint, i. e. her own values and interests, if she wants to evaluate those rules that are constitutive for cooperation. Cooperation does not neglect differences. It only presupposes the limitation of our choices and interests by commonly accepted rules. This limitation is put into practice with the help of institutions.

5. Global Civil Society

The order of a civil society is in need of institutional support. Institutions reduce the moral underdetermination of rules (rule systems) of cooperation. The necessary conformity with those rules, however, will not primarily be enhanced by the threat of sanctions, but by a shared sense of justice which also allows for moral evaluations (and integrates them). Institutional support is still largely restricted to the nation-state. Given the globalization of our interpersonal, political, economic, and cultural interactions beyond national boundaries - which already has been fostered by the improvement of transport and communication means - a global civil society already takes shape.

Democratic movements in almost every part of the world are at the core of a global civil society. Interestingly, they converge on their fundamental political goals and values. Our historical experience teaches us that democratic states never declared war to each other.¹⁰ For the first time in history the majority of mankind lives in democratic states. The international pacification through democracy - a hope already cherished by I. Kant - seems therefore within reach. If we consider that the democratization on the state level already proves sufficient to domesticate potentially belligerent conflicts between states, the old conflict between conceptions of a world

¹⁰ Cf. Doyle (1986). See also Dixon (1993) and Chwaszcza (1996).

state, and models of international federations or systems of collective security appears to be less severe.¹¹

The pacification achieved by the democratization on the state level can only be adequately understood as a moral phenomenon. Democratic orders are characterized by commonly accepted rules as they are reflected in various constitutions. These rules specify procedures of collective decision-making which enhance the competence for political action despite all differences in opinions, values, and interests. Democratic orders are based on mutual recognition of autonomy, and on principles of cooperation which have to be respected even if they run against individual interests and values. These moral rules which are constitutive for a democratic order require the readiness of its citizens to let their actions be passed muster by a (deontologically interpreted) universal moral standpoint. One has to take the universal moral standpoint individually and case by case in situations of insecurity and moral conflict. It cannot be kept within national boundaries. Given that it has to integrate diverging interests with the help of commonly shared rules of moderation and mutual recognition, the universal moral standpoint will encompass everything which proves propitious to be part of a cooperative structure. Since totalitarian political orders represent a potential threat, they must be excluded from the model of a fair contract. Hence, on the international level, the danger of instability looms even more behind the idea of cooperation exclusively based on morality. Although actions in the international arena are subject to basic legal norms, they are not secured by commonly accepted means of sanctions. The lack of institutional structure in the international sphere appears to be a threat to a global civil society. The institutional backing by legal norms, and their execution by a monopoly on the use of force seems indispensable.

The sense of justice, however, which is closely coupled with a universal moral standpoint, operates on a more fundamental level. At first sight, it fulfills an explanatory function for the necessary conformity with the moral and institutional rules that are constitutive for a civil society. The criteria, however, according to which these very moral and institutional rules are evaluated as just cannot be directly related to a subjective standpoint, particular life forms, values and cultural embeddedness. A sense of justice motivates each individual to comply. Their evaluation presupposes the detachment of each individual from her own partial standpoint and from her particular sense of justice. Consequently, a fundamental problem arises for the concept of a global civil society consisting of nation-states: a civil society which is structured according to democratic rules with sufficiently just

¹¹ Cf. Chwaszcza (1995) and Nida-Rümelin (1996).

institutions can only be the model for a global system of cooperation if an overlapping structure of moral and institutional rules between different civil societies is established. This overlapping structure has to correspond to a supranational sense of justice.

If we want to take the idea of a fair contract seriously, the realization of the moral standpoint with regard to a conception of political justice must be global. John Rawls' conception of an international political justice in his "The Law of Peoples"¹² therefore has to be modified: according to Rawls, representatives of nation-states choose the conditions of a just international order under the veil of ignorance. However, if the principles of international justice are legitimized by ideal representatives of collective entities like nation-states - as Rawls assumes -, the chosen principles are normatively binding only for representatives of this kind. Rawls' reconstruction of the moral standpoint with regard to a global conception of political justice lacks foundation. His attempt to globalize the idea of a fair contract breaks with the universalist tendency of *A Theory of Justice*¹³. The fair contract should be understood as a filter through which only those moral judgements concerning political justice pass which are compatible with an impartial moral standpoint. The global contract is the base for the evaluation of moral and institutional rules of global interaction in general and not just of the interaction of representatives like presidents, chancellors or secretaries of state.

If the global contract should fail because the divergence of interests and values is too large to allow for commonly shared principles for a global civil society, not only the ethical concept of the contract itself, but also the idea of a global civil society would fail.

Against this sort of scepticism, there are theoretical as well as pragmatic objections. On the national level an inclusive understanding of political justice is necessary and even constitutive for a democratic civil society. Otherwise, the members who do not belong to the dominant culture would be excluded from any concept of political justice. There is no principle difference under that respect between a multicultural nation-state and the global society. Pragmatic reasons call for an ethical cosmopolitanism as well. It seems to be common knowledge that the normative foundations of human and civil rights, democratic decision-making, public control, political competition, free speech and plurality are not specific to European culture. On the contrary, they can be regarded as sufficiently neutral, being compatible with a

¹² Cf. Rawls (1993).

¹³ Cf. Rawls (1971).

variety of different cultures and life forms. Wherever these normative foundations of a global civil society prevail, the state of war looms behind the absence of commonly shared rules of conflict resolution. Political ethics can contribute to the development of a global civil society through moral pacification.

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