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Victimhood, Denial and Acknowledgment: Transitional Justice and the Search for  
Recognition

by

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“With so many occasions and so much time to consider victims, we have not really improved upon Montaigne and Montesquieu. Victimhood may have become an inescapable category of political thought, but it remains an intractable notion. We are often not even sure who the victims are. Are the tormentors who may once have suffered some injustice or deprivation also victims? Are only those whom they torment victims? Are we all victims of our circumstances? Can we all be divided into victims and victimizers at any moment? And may we not all change parts in an eternal drama of mutual cruelty? Every question about responsibility, history, personal independence, and public freedom and every mental disposition haunts us when we begin to think about victims. That has become especially so thanks to the great massacres of our age.”

Judith Shklar, *Ordinary Vices*

## Dedication

I dedicate this theoretical effort to victims of collective wrong. Particularly, victims from all sides in Colombia who continue their search for true and justice, despite having had to assume great risks to their life and integrity. With unsurmountable courage they have insisted on recovering fully their human agency and achieving a peaceful settlement. No intellectual, legal or political endeavour could equal their dignity and moral strength.

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## Resumen

El objetivo de esta tesis es evaluar las implicaciones ético-políticas de la *justicia transicional* como una respuesta contemporánea posible a situaciones de daño colectivo y violaciones graves a los derechos humanos. Sin duda en los últimos treinta años hemos presenciado la aplicación de instrumentos de la justicia transicional así como también, la consolidación de un campo de estudio orientado al concepto mismo. A pesar de existir suficientes antecedentes históricos sobre procesos transicionales, su teorización es un ejercicio reciente que ya registra importantes contribuciones a un debate todavía en desarrollo.

Cualquiera sea la idea de justicia que busquen realizar los mecanismos transicionales, esta tendrá que ver con la promoción del reconocimiento hacia las víctimas. Se argumentará aquí que es apelando a autores de las denominadas *morales negativas* (Shklar, Margalit, Berstein, Honneth) como **entenderemos mejor** la categoría misma de víctima. Dichos autores anteponen a un concepto unificado de justicia, una reflexión sobre la(s) injusticia(s) en sus múltiples manifestaciones **que permite incluir los elementos morales y simbólicos del daño y la victimización**. El modelo de Axel Honneth en particular, arroja luces sobre los tipos de daño individual y colectivo que resultan de la negación de diversos niveles de reconocimiento. Intentaré demostrar aquí que *reconocimiento* constituye una categoría moral compleja cuyas implicaciones han de tenerse en cuenta para una teoría plural de la justicia en general, y para la justicia transicional en particular. De aquí se derivan obligaciones morales restaurativas que en principio, requieren actos performativos y expresiones públicas hacia las víctimas.

## Palabras Clave

Justicia Transicional, Reconocimiento, Esfera Pública, Derechos Humanos

## Abstract

This thesis is concerned with the problem of clarifying the ethical-political implications of *transitional justice* as a possible and justifiable contemporary answer to situations of collective wrong. No doubt the last thirty years have seen the consolidation of transitional instruments both, as a set of tools to be applied, and as a field to be studied. Despite historical antecedents of transitional justice, its theorizing is a relatively new endeavor that commences to register important contributions to a still pending debate.

Starting with the assumption that whatever justice attempted in transitions has to do with fostering due recognition to victims of collective violence, this work provides a number of reasons to demonstrate that the category of victim itself, can be better understood appealing to authors of *negative moralities* (Shklar, Margalit, Berstein , Honneth ), for whom it is injustice in its many faces, rather than a unified concept of justice, what should be the object of our inquiry. For these theorists, central prominent features of victim ´s predicament are moral damage and symbolic devaluation. Axel Honneth´ s model in particular, is taken here to clarify the extent and types of moral injuries that result from the withdrawal of recognition in individual and collective experience. I argue that recognition and acknowledgement are indeed complex, central moral categories whose implications should be considered for a plural conception of justice in general, and for transitional processes in particular. From these, we **ought to** derive moral, restorative obligations that require performative, public expressive acts towards victims.

## Key Words

Transitional Justice, Recognition, Public Sphere, Human Rights

## INTRODUCTION

We live in a very imperfect world. A world of negation, discrimination, prejudice and misrecognition; of deep serious physical and moral injuries that are not accidental but caused and sometimes, deliberately planned and systematically applied; a world in which not having been victimized is virtually a question of good fortune. Repeatedly through history at different times and places the question is asked of how *goods* are to be distributed or how injustice can be overcome, appealing to what seem to be ideal principles of justice. By contrast we seem to have been less prompted to ask how evils are distributed, or what are we to do about preventable social suffering that are not necessarily the consequence of scarcity, or to what extent are we the receptors of the benefits ( or the damages) of states of affairs we have not produced, but do not oppose either. We do not even know for certain (though we may suspect of many things), what makes us so fearful of at least acknowledging that misrecognition often accompanies our practices and discourses in our dealings with others, even when we are lucky enough to live more or less normal lives.

The situation for political theorist and political philosophers is not so different regarding their object of reflection and there is certain agreement<sup>1</sup> that they have not given enough attention to the analysis of negative moral concepts such as injustice, evil, cruelty and humiliation, nor have they said much about the moral psychology that accompanies these phenomena. The study of the significance of negative moral concepts remains more the exception than the rule,( though it is important not to forget the contribution of the Frankfurt School in general and Theodor Adorno in particular)and yet in the last years, the names of Judith Shklar, Avishai Margalit and Axel Honneth, have begun to exercise greater influence.

Within Critical Theory, *negative moralities* and *recognitive theory* in particular, have attempted to provide an account of moral injuries that are not the product of sheer bad luck or natural disaster, but acts that are normatively wrong in terms of misrecognition, disrespect and humiliation. These, are not counterfactuals, neither are they events of “possible worlds” or even probable “states of affairs” of the world. They are part of our past, present and sometimes all too common experience, and we are physically (bodily) and morally immersed in it. What these moralities express fundamentally, is a concern that in all social suffering, in all collective and individual harm, we must acknowledge our dependency on one another as vulnerable creatures. We may find in others common identities or none at all, friends or enemies, familiar or strangers, domestic or alien, and it is in this dependency that we come to expect from “Otherness” the reciprocity of what is demanded from us. For this very reason we may take from them the best or the worst. Being recognized or misrecognized, respected or humiliated, is fundamentally a moral relation.

But it is curious to say the least that the effort to understand “evils as evils” has had a rather low profile, given the horrors of the past and present century. It is also curious that despite the ever increasing speed and quality of communications, we are still parochial in our perception of negative phenomena and unless we perceive or suffer the consequence of it in our own communities, we overlook or pass them by. Symptomatic of this is the tendency to think of the Holocaust as a unique almost “unreal” event in contemporary history. Quite the contrary seems to be the case since as J.M. Bernstein remind us, we are constantly perceiving the rise of barbaric societies, and it is less likely that we are in the face of a unique event

Perhaps after Rwanda, after the killing fields of Cambodia, after ethnic cleansing in Bosnia. After the rise of global terrorism, after the systematic torture of Iraqi civilians in Abu Ghraib, after the absence of international response to the ethnic

cleansing-perhaps genocide-taking place in Sudan, and after globalization processes have made palpable and effective the subordination of international community to economic system resulting in the superfluosity of social masses over the globe ,perhaps the instance of the Holocaust no longer looks like a self-enclosed event in German history, but begins to look like a precedent, an exemplary instance in which these moments gather round it like a horrible constellation. (Berstein, 2005:306)

And this horrible constellation correspond to past and present political scenarios where the rule of law, fundamental rights( in the modern sense of the term) and the institutional coordination of social life have been removed or affected to a very critical point ,where the recourse to violence, particularly against those who pretend to change the *statu quo* has become common currency. In these scenarios being a member of a cultural, national, religious or linguistic minority becomes extremely dangerous and not infrequently, quite heroic. Ever since these legacies of tyranny, political oppression or unstable political orders have produced victims that struggle for vindication, guilty parties that seek to cover up their crimes, sides in conflict who share responsibility and aspire to a negotiated agreement, or different groups within a society at a particular moment of its history, looking for the resolution of enduring conflicts and the establishment of law abiding institutions, *transitional justice* mechanisms have been used long before the term became common usage. Needless to say it is not about common crimes the contexts to which we are referring here, but to radical and extreme forms of evil and atrocities, mass killings, systematic rapes and tortures, displacements of whole populations and forced disappearance of those who are suspected or perceived as potential threats. These are therefore the kind of scenarios that

constitute the universe where transitional justice inhabits, not just an imperfect world but a “very imperfect world”<sup>2</sup>.

Transitional justice is not a new phenomenon. As a practice it has existed for a long time<sup>3</sup>. It is the concept, the literature and its methods that have grown immensely in approximately the last thirty years, consolidating it as a “field” of study<sup>4</sup>, where theoretical issues have found an important place, if only lately. Transitional justice goals include but are not restricted to measures of retributive and reparative justice, the replacement and overcoming of reactive emotions associated with trauma and the desire for revenge, the elimination of denial and the promotion of accountability, the expansion of dialogue and the opening of political space or a public sphere where previously marginalized or silenced individuals and groups may tell their stories. There are within this ample universe of transitional phenomenon some more specific issues the relevance of which depends on demands that are addressed in particular historical situations such as: claims for restitution of land or property, restitution of human remains and memorialization, restitution of cultural resources to indigenous people, institutional as well as (exceptionally) privately organized Truth and Reconciliation Commissions. Example of the latter is the Greensboro, North Carolina Commission, a body created to investigate and document the murder of five antiracist activists in 1979 for which no one had been convicted<sup>5</sup>. Example of the first is the now justly famous Truth and Reconciliation Commission of South Africa launched in 1995 by the new democratic government.<sup>6</sup>

Definitions as we know, do not usually include all the elements of a complex phenomenon nor do they describe with enough accuracy all the historical developments involved in establishing the concept, but they may help to demarcate the territory of what is being referred to, all the more so if they are the product of a long enduring experience in the

field. The United Nations Secretary General Report, “The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies” offers a thoughtful and today widely accepted definition

The notion of Transitional Justice discussed in the present report comprises the full range of processes and mechanisms associated with a society’s attempts to come to terms with a legacy of large scale past abuses , in order to ensure accountability, serve justice and achieve reconciliation. These may include both judicial and non-judicial mechanisms with different levels of international involvement (or none at all) and individual prosecutions, reparations, truth seeking, institutional reform, vetting and dismissals, or a combination thereof.<sup>7</sup>

There is of course less agreement on how these instruments should be applied, their effectiveness and justification. Not to mention the diversity of experiences, since few transitions if any, are completely alike. Although other definitions could be called in, they do not seem to differ considerably from the one just mentioned, this should not worry us if we consider that the currently growing literature of transitional justice refers almost invariably to the processes and mechanisms just mentioned

At this point however it is also important not to miss John Elster’s observation that although most of the literature on transitional justice concerns transitions to democracy from an authoritarian or totalitarian regime, “there is an emergent understanding that questions of justice also arise in the transition to peace “ (Elster,2012:79) ; post conflict justice and sustainable peace therefore, are today also considered part of transitional efforts. This second group may also include punishment to wrongdoers, reparation to victims and stabilizing efforts of various kinds to prevent reemergence of conflict. If these were not included,

important contemporary civil conflicts (Northern Ireland, Colombia) where transitional instruments have been used, would not classify since they do not respond to transitions from dictatorships.

After Nuremberg, international tribunals and domestic trials for human rights violations, genocide, war crimes and crimes against humanity have been set up in many places. Truth commissions seek to establish what remains unknown, or make public what is only known to perpetrators and victims in cases of massacres, extrajudicial execution, torture, forced disappearance, mass rape and other kinds of human rights violations committed during repression or conflict. Reparation measures have proliferated in the last decades to include official apologies, restitution, material compensation, commemoration and legal protection. All these mechanisms of reparation have value (particularly for victims) once they are made public and become part of the *epistemic collective acknowledgment* of truth or historical truth.<sup>8</sup>

Looking at these complex scenarios it becomes easier to understand the sense of the now famous expression a “*different kind of justice*”<sup>9</sup> in which Desmond Tutu expressed his vision of a new South Africa and inaugurated the Truth and Reconciliation Commission (TRC) in 1996. Without going now into the moral foundation he provided for it, based on Christian ethics and more importantly, African traditions of harmony and community, we know that Bishop Tutu was referring to *restorative justice* over punishment or *retributive justice*; to the possibility of rehabilitating the victim and the perpetrator and being reintegrated to the community. This is certainly great part of what transitional justice is about, but is not the whole of it.

On the whole, it must be said that at least two possible readings may have been derived from this that call for certain caution. The first is that a “different kind of justice” can

be interpreted as if transitional justice had an independent *genus* that is to be established, before anything could be said and advancing any argument. That *transitional justice* is neither *distributive justice*, nor is it *retributive justice* is generally speaking, correct. But at the same time, it is also untrue that transitional justice has no relation to distributive issues and to the very central topics of retribution. There are in fact many links<sup>10</sup> between distributive, retributive and the restorative mechanisms of transitional justice and at the end of the day, it appears as if any general conception of justice, would not be alien to transitional issues or problems of societies in transition.

The second is seen in the tendency to attempt to respond to debates on these issues in terms of dilemmas: either we get truth or we get justice, or we have to choose between truth and peace or between retributions or reparations. But this misses an important point: the complexity of most if not all transitional situations. It is rather the acceptable (to all or most parts) *compromises* that can be achieved that should count in a transitional process. But the logic of dilemmas is paralyzing: for better or for worse societies can neither stop to resolve “dilemmas”, nor put their realities *between brackets* while dilemmas are solved. Political communities have to move on finding reasonable solutions.

Margaret Urban Walker captures well the sense of these contemporary preoccupations that include repairing wrongs and *acknowledgment* as a response to the justified moral resentment of victims and the difficulty of determining what is an adequate response. This makes it more likely that political communities will have to settle for what seems reasonable, given the circumstances,

The tragedy of large scale political violence and of intergenerational historic injustice is that there are not clear measures of “adequate” or “proportionate” response and it is not an idle question whether there could be any truly adequate response. In these

cases, though what becomes important is that there is some morally effective response, and that the response is not perceived as expedient or cheap, given what the victims and heirs to such moral catastrophes have suffered....These measures not only protest the original wrong, but rebel against the cruel possibility for victims that time will bury all wounds, even if no one works to heal them. This respects victims and a community of judgement, even if it cannot entirely satisfy their resentment, grief, and outrage. What is essential in meeting the resentment of victims of injustice is that there be clear practices of communal acknowledgment that assert the victim's deservingness of repair and the wrongdoer's obligation to make amends as well as communal determination to see that meaningful repair is done. Indeed in some instances communal acknowledgment and validation may be reparative even when other forms of satisfaction, such as punishment of wrongdoers or material compensation for injuries, are not easily achieved. A question now widely debated at the opening of the twenty-first century concerns what legal, political, and social institutions and practices provide effective moral action in the wake of large-scale episodes of violence and oppression. (Walker, 2006: 145,146)

And this question it can be said, is still open. There is not one single formula as to how transitional justice should be applied just as there is not a single formula for dealing with most social conflicts. But there is by now accumulated a series of historical experiences on which systematic and enduring reflection has taken place, that contribute to qualify immensely the research on *transitions*, with contributions from various authors and disciplines. This is something not to be overlooked: there is by now jurisprudence as well as political and ethical literature on transitions. This is important even if we agree with Ruti

Teitel that normative changes in transitional jurisprudence are largely symbolic<sup>11</sup>. Wrongs, for example, may not be the object of retribution at least not in the way conventional criminal law would require it, but for individuals as well as groups of victims there is a passage, a normative shift that through public acknowledgment (truth commissions are but one way of doing this), trials, reparation and other administrative measures, bring about possibilities for understanding damage to the individual self and the representation and participation they could have as individuals in the community. Usually after a situation of collective wrong, whole communities have to find ways of restoring themselves. But this is usually a long journey and there is no guarantee that such processes are always going to be successful. A core concern of transitional justice and which is mostly associated with the issue of collective responsibility has to do with situations where governments or those acting on behalf of authority permits, instigate or condone large scale violations of citizens fundamental rights to life and liberty. When these acts of mass violence are permitted or orchestrated by the central state and when state actors fail completely to protect the legitimate interests of the citizenry, we are faced with the very difficult issue of collective responsibility. This is a topic that occupies most transitional efforts and includes also those claims originated in historical injustices.

Speaking from the perspective of a jurist, Ruti Teitel argues that transitional law is above all symbolic, “a secular sanctification of the rituals and symbols of political passage” (Teitel, 2000 :220) allowing for at least a very probable comparison between ritualized forms of communication that characterize primitive society<sup>12</sup> and the phenomenology of political passage. These latter would also have its symbolic counterpart in the relevant political changes in status, membership and community. According to her what is peculiar of transitional practices (that makes them different from primitive rituals) is the processes that construct the

relevant political differences between an *illiberal* and a *liberal* regime. This may be so, but there is more to transitional justice than this *legal constructivism*. Teitel herself is very much aware of this, when she emphasizes, the public, communicative nature that primitive rituals share with transitional processes. Perhaps the “primitive” rituals (we may add though we do not know for certain) put the weight in communal identities, while transitional processes make explicit the changes and movements in the political self-understanding of the individuals which in any case, are also produced in a social reality. Beyond transitional law which understandably is Teitel’s main interest, she sees the moral dimensions all this has when affirming that, “law epitomizes the liberal rationalist response to suffering and catastrophe: that there is, after all, something to be done”. (221) When occupied with the problem of our ethical and political self-understanding in the face of social trauma we have to turn to basic moral relations and possible ways of reconstructing them.

Transitional justice it will be held here throughout, despite its complexities and technicalities, is above all a moral phenomenon, it responds to ethical and political questions that are asked regarding the kind of justice if any, we should be thinking of when reckoning with distant and, especially, recent past wrongs, and for the kind of political projects that can respond to individual and collective damage. Transitional justice is about moral repair or some form of moral repair for damages to individual’s self and also to the self-understanding of whole communities. But it is also about truth (this contentious word) or some form of narrative truth. None of this however could be thought, let alone achieved, without a central moral category and that is the *recognition* that is due to victims who have been receptors of the worst atrocities- this is at least the starting point of effective moral action. And in bringing in this category, I follow Frank Haldemann’s<sup>13</sup> very important insight that a moral project of recognition,

“puts victims negative experiences of domination, cruelty, suffering, and so forth at its center. If as commonly thought, justice is a matter of giving what is due, then this kind of recognition can quite easily be understood as an elaboration of that maxim, for it responds to the injustice of being denied the rights, the consideration, and the concern that is appropriate for a person to enjoy.” (679)

Victims must be repaired not just compensated<sup>14</sup> at a very fundamental level. Experiences of disrespect, humiliation and misrecognition are the object of a phenomenology of recognition in the sense proposed by Haldemann (2008:) and in a more general way by Honneth (1997) and this can also be described as a phenomenology of moral (as well as physical) damage. Central to this, is the experience of what Haldemann calls *symbolic devaluation*: a wrongdoer’s action not only cause victims physical suffering or material loss but a sense of lack of respect and concern. Sometimes it becomes permanent and victims (particularly victims of torture) end up living with a sense of “lack of trust” in the world. The message, the symbolic communication, situates victims here in a reality that Hampton describes as “I count but you do not” (Hampton, 1988:44). As it will be examined in the middle chapters, self-respect is not something that we can acquire privately for reason that may remind us (if only as an analogy) of Wittgenstein’s arguments against the possibility of a private language.<sup>15</sup> Self-respect and respect are, can only be relational, and must correspondingly have some form of public manifestation. Surely Desmond Tutu was in the line of Hampton when he declared publicly that victims had been treated as “less than rubbish” and that the goal of the South African Truth and Reconciliation Commission was to restore victim’s moral worth and civic dignity so that they could not feel any more that they were “not valuable enough to be given better treatment”(Hampton, 1988)).

From this it becomes easier to understand why the topic of reactive emotions<sup>16</sup> becomes so important not only at a level of what the individuals feel subjectively but (to use the descriptions of Margalit of the decent society as a non-humiliating one-), what should concern us is not so much the feelings of humiliation *but the reasons for feeling humiliated*. Victims' own self-perception of a diminishment of moral worth are not trivial or irrelevant for moral and political theory, nor are they purely subjective. All this can be taken as an adequate point of departure: a normative analysis of experiences of vulnerability, misrecognition, and of the damages and injuries is facilitated as will be seen, by *negative moralities*. On the other hand, reactive emotions of victims should help us to understand what are our moral obligations towards them; reflecting on their negative experiences, should *have* normative consequences and be part of whatever compromises and policies are pursued as a result of transitional processes.

A very critical aspect of any transition is that usually victims are expected to move forward with the rest of society in order to achieve stability, democratization and peace. Overcoming long lasting conflicts and setting up democratic institutions are no doubt desirable goals, but this cannot (should not) be achieved at the expense of putting victims aside or having them "postponed" in order to move on, to construct "new futures". There is ample evidence that it is extremely difficult to achieve confidence and civic trust in the whole community when a particular group or a number of individuals, feel a tremendous lack of acknowledgment and feel that the damage they have suffered has not been properly addressed. But it is also a question not just of the self –confidence but the trust that any individual (even those that have not been directly damaged) can have in the institutions of the political community to which they belong.<sup>17</sup>

It is an interesting step forward that authors like De Greiff (2012), Haldemann(2008), Bhargava (2002), Du Toit (2000), Allen(1999) among others, take ON the importance of having a concept of transitional justice as recognition or some aspects of it, for times of radical political change. As we registered before very important developments have taken place in the last thirty years in the way of consolidating a body of knowledge where many scholars, practitioners, institutions and even victim´s representatives, have contributed. This is no small achievement and given the situation of profound degradation and unspeakable cruelty in which many societies find themselves today, where the prevalence of serious violations seems to lose its exceptional character, it becomes a matter of moral and political urgency to reflect on transitional concepts and mechanisms as well as theorizing on it.

Pablo de Greiff is one author who has insisted on the importance of providing a systematic conceptualization<sup>18</sup> and has provided us with a number of arguments on the need to address our attention to a field that (in date as close as 2010) remained “tremendously undertheorized” (de Greiff, 2010:17). In the no too many years that have elapsed since, the situation has improved considerably but it is still true that from the quarters of Political Theory , let alone Moral Philosophy , attempts to work out a systematic conception of Transitional Justice have been rather few . Moreover, we must take into account that the main documents in the field started to appear from 1990 onwards; as an example there is the important statement of UN Secretary General´s Secretariat(2004) that has been referred above. All things considered, there is now as de Greiff notices a kind of common sense around transitional justice that constitutes a first challenge for any theorizing given that, “this is a field which has always advocated the application of a variety of measures,over time, it has come to be characterized by certain “centrifugal tendencies “ at best , or by a lack of

coherence, at worst, exemplified by those instances in which measures are traded off or conflict with one another.”(De Greiff, 2010:2012)

The first challenge would consist then in clarifying the relationship between the constituent elements of a normative theoretical conception. It is true after all, that in the case of transitional justice the constituent elements have been treated as if they had no connection among them or as if the different measures that are produced are the equivalent of a tradeoff of one measure against others. As a byproduct of this we could also understand the not so helpful tendency in transitional scenarios to formulate every problem in terms of *dilemmas*.

The second challenge that de Greiff asks us to address is particularly important and has to do with the *what* of transitional justice. What the goals of its measures are, particularly at the ethical-political level and what norms or basic human goods, this kind of justice is trying to preserve. As he points out is not only a matter of its effectiveness or the quality and quantity of its impact in the social world. Something else is at stake here:

“So the challenge is far from being one about measurement primarily; the challenge the field faces is to articulate explicitly what its very point is. What is it, exactly, that we are trying to achieve in implementing transitional justice measures? It is only after defining these ends that the field can take up questions about whether particular applications of these measures are effective or not.”(18)

This point of view also serves to remind us that the objective of normative theorizing is not to abandon the effort of exercising judgment, but to clarify the nature and the implications of our ethical commitments that is to say, to give the best possible reasons as to *why* we commit ourselves to something: “in the normative domain, it is critical not just to understand *what* we are committed to but also *why* we are so committed. That understanding can make a crucial difference to how we act.” (de Greiff, 2012: 33)

It must be said that de Greiff departure is not to offer a novel definition of transitional justice, nor does he look for single, unified criteria of justice: “giving everyone his or her due” or establishing the link between “effort and success.” In an effort that he denominates “reconstructive”, he attributes to transitional justice two mediate goals: *recognition* and *civic trust* and two final goals *reconciliation* and *democracy*. He holds that such normative conception if reflected upon in a holistic manner would help us understand and clarify the relationship between transitional justice and the concepts just mentioned. It is only by conceiving the goals of transitional justice in a holistic manner that the apparent opposition and weakness of each of these ends taken by itself can be overcome. Transitional justice measures usually include but are not limited to, truth-telling, reparations, criminal prosecutions, institutional reforms, memorialization, and the point of all this “is to show that these are not elements of a random list. Rather, they are parts of a whole”(34).

This central, very insightful aspects of de Greiff’s work has been very influential in the last years both in the theory and practice of transitional justice. Furthermore, his opposition to the idea that transitional justice is “extraordinary” in the sense of being a distinct type of justice, has brought the international attention to a better understanding of the context in which transitional justice operates, its universe or natural place, that he refers to as that of a “a very imperfect word”<sup>19</sup>. Whatever justifies the efforts to achieve transitional goals do not necessarily contravene other more abstract aspects of justice. As he himself has suggested *justice in times of transition* would probably be a better way of referring to it, but common usage has prevailed and the term *transitional justice* refers as much to the field of study as to the realities it examines.

The other very salient aspect of his work is his opposition to the idea that transitional justice is merely a compromise, a kind of bargain that we come to accept out of pragmatic

consideration or benefit calculations. No doubt these elements as well as a Weberian *ethics of responsibility* have been present in the history of most transitional processes. But there is much more to transitional justice than this simple *trade off* and it is interesting that both as a theorist and as a practitioner, de Greiff has appealed to a holistic model by means of which it can be seen that the application of any transitional justice measure cannot be structurally disconnected from other justice initiatives and would prove insufficient if not accompanied by one or more of the others, as illustrated by one of his many examples: “Truth telling exercises, even such a thorough one as the one in Guatemala ( which indeed had two very good true-seeking initiatives), show that justice is not simply a call for insight but also a call to act on the truths disclosed” (36)

This is probably one of the most important contributions of his work since it proposes to go beyond what had been a more limited, “either or” predominant vision of the goals of transitional mechanism in the decades before. In the case that the example refers, it makes clear that the relation between truth-telling and reparations is bi-directional since reparations (that are not mere compensations) call for truth-telling and true-telling calls for reparations if all this is going to have any significant political effects in transitional outcomes. His work constitutes an interesting example of an attempt to work out a systematic theory of transitional justice developed by someone who has been equally at home in the world of theory and practice. Theorizing in transitional justice in a holistic manner may therefore help us establishing what is conceptually fundamental in the midst of a great diversity of situations of collective wrong:

It is not just individual transitional justice measures are less likely to be understood as justice measures if they are implemented in isolation from one another; the

measures seem to be much more tightly related to one another than even this suggests.....the relationship form a thick web. Starting with reparations to illustrate the point, it is clear that reparations in the absence of truth-telling are likely to be interpreted by victims as an effort to buy their acquiescence. (De Greiff, 2012:37)

De Greiff has managed to develop a very impressive and illustrative theoretical construct whose plea for a holistic conceptualization of transitional justice has been very influential for scholars working in the present period of transitional justice.<sup>20</sup> According to this model the basic components of transitional justice could be discerned appealing to its mediate and final goals (not in the Aristotelian sense of “final ends”) but in the sense of what is causally more distant and depends of a larger number of factors for its realization in such a way that,

The elements of transitional justice share two “mediate” aims, namely, providing a complex type of *recognition* to victims, and promoting *civic trust*. Abstracting yet again allows one to argue that a comprehensive transitional justice policy also has two “final” aims, namely, promoting *reconciliation* and *strengthening democracy*. This theoretical construct, then, is supposed to ground the claim that transitional justice is a “holistic” concept. (De Greiff, 2010: 29)

I do not necessarily follow de Greiff in the way he deals with the idea of recognition, since in this work recognition is considered as much a mean as an end in itself and above all, a far more fundamental category that his use of it seems to suggest.<sup>21</sup> This been said, it is important to register that he, along with other political theorist as well as legal philosophers who have and will be referred here frequently, have contributed immensely to normalize the

activity and advance in the much needed enterprise of theorizing seriously on transitional justice. A task that compared to other practical or policy-oriented exercises within the field, had been remarkably absent for many years. Besides this, the idea of *civic trust* he develops is a very important tool for the analysis of transitional scenarios and their ethical and political goals, and something very close to this concept will be illustrated in chapter four.

In considering recognition as a central category in transitional processes it is not difficult to become aware that the effort to clarify it, is also relevant for a general concept of recognition in moral and political theory, since as Axel Honneth's reading of Hegel shows, recognition of others is a "struggle" by means of which the individual comes to recognize himself/herself too. Since "struggles for recognition" appear all along in history and it is in this confrontation that we find "the moral grammar of social conflicts"<sup>22</sup>, it may also include many other vindication processes.

Victims of serious harm and collective wrong are particularly a group that should be the object of recognition. It may even be possible to ask to what extent if any, these victims are different from those who live in extreme poverty or illiteracy and there is no easy answer for this. In a transitional situation usually what is being talked about are victims of terror and atrocities, sometimes they are combined with conditions of extreme poverty, sometimes they are not. At times the possession of property may even bring about greater risks. Overall two things may be said provisionally: First, groups may be under the line of poverty without being submitted to practices of humiliation or disrespect or being the object of collective violence. Second, when there is extreme oppression, pain and humiliation and great risk for the individual's integrity, groups lose the capacity to express their discontent or, when they do, it implies a tremendous amount of risk even if it is the case that their poverty is not so extreme. Victims are therefore a very vulnerable (perhaps the most vulnerable) group

whatever side their situation is evaluated from or independently of the kind of rights that are violated and there are certainly many reasons to believe that they must be a special object of concern for transitional efforts since usually there is a political dimension to it<sup>23</sup> and not just the occurrence of common crimes.

Transitional justice is now a vast territory and recognition is a difficult moral category, and in thinking of it as central to the reflection on victims realities various problems arise which are worth reflecting on. While acknowledging my debt to the authors I have mentioned, particularly those who occupy themselves with recognition in transitional contests, I follow my own path; In defining a route this is the one I follow:

In *Chapter One* the assumption is made that in times of radical political change a “different kind of justice” in the sense already referred to, should be allowed to enter. There is agreement with Haldemann that justice in transitions is what “is involved in giving due recognition to the pain and humiliation experienced by victims of collective violence”(2008: 678) and that “negative morality”<sup>24</sup> is the right place to start an analysis of moral phenomena that does not concern itself simply with justice in the distribution of goods but analyzes evils, disrespect and humiliation in themselves as the general sense of injustice and vulnerability that is experienced by victims. Central to these forms of thinking are authors like Judith Shklar, Avishi Margalit, J. Berstein and Axel Honneth among others. The issues of symbolic devaluation and moral damage as well as the category of *victim* itself are also examined and a first suggestion is made on the importance of recognition but above all, of the moral weight of acknowledgment.

In *Chapter Two* these *negative procedures* (of moralities) are contrasted with the idea of Honneth that “if it is correct to say that the core of moral injuries is located in the refusal of recognition, then that suggests inversely, that moral attitudes are connected with the

exercise of recognition”(Honneth, 1997:27) and that “morality can in a sense even be said to coincide with recognition”(Honneth,2001: 123) This appears to be a good enough ethical and political criteria for an important dimension of justice for times of radical political change. Constructing a “positive” ideal of recognition may take Honneth away from *negative moralities* but what is important at this stage is that his point of departure are the *moral injuries* produced in situations of denial and misrecognition. In doing this, reasons are given to explain why his model is particularly useful to clarify the extent and type of moral injuries as result of the withdrawal or refusal of recognition in individual experience. Honneth develops a model based on three levels (or spheres) of relation-to-self: self-confidence (which ultimately can also be *trust in the world*), self-respect and self-esteem . Starting from a *negative justification procedure* and perhaps unlike other authors of negative morality (Margalit in particular), he ends up constructing a theory of recognition that would be a *moral grammar of social struggles*. The final part of the chapter attempts to show that *vulnerability* is a category to which contemporary liberalism, - even when referring to issues of individual autonomy-, should pay more attention, particularly in the case of victims. To be sure, recognition may not amount to the totality of morality nor is transitional justice the only thing that should concern theories of justice, even when they occupy themselves with torn apart societies. Basically what will be attempted here is to provide an answer to why recognition should be considered a central moral category in transitional justice and particularly in understanding the dimensions of damage to self, disrespect and misrecognition of victims. It will be suggested here that liberalism may be operating under a rather narrow conception of autonomy and that recognition when carefully looked into, is a multi-dimensional category where rights play an important role, but are not the only things that cognitive attitudes are about. Confronted with transitional situations any efforts to restore a political community

should also be multi-level (citizens, governments, media, transnational bodies and independent associations and of course, victims) and take into account the special obligations towards those more vulnerable.

Honneth's model opens up many possibilities, but also raises some questions that are not easily answered. An attempt is made In *Chapter Three* to provide some answer to the problems raised by his model and how it affects the issue of recognition in general and the relation of it to transitional justice in particular. All along the main objective of this effort is not exegetical (or hermeneutical) regarding his work or the work of any other author. Rather the attempt is made to see how central ideas of some authors (provided of course every effort has been made to understand their theoretical position) when put to test, work or do not work when applied to the analysis of the problems discussed. It is hoped that this critical effort will become clear in the development of the argument. A very important aspect of the ethical and political evaluation of the three basic levels that constitute the individual's recognition in Honneth's model is that they are relational and, in order for them to have moral relevance, they require performative, public, and expressive acts. In the case of victims of collective wrong this can only be achieved by means of public acknowledgment on the part of governments or those who have victimized through arbitrary exercises of power or alike practices. To show that this performative element has to be present in the case of self-confidence I propose something that I can only consider as an allegory , when reflecting on the permanence of the object of reality and self-confidence(trust the world) in Honneth's rendering of Donald Winnicott's theory of the transitional object. This is also the relevance of examining the "second person standpoint" in Stephen Darwall's rendering of *respect* which provides the possibility for a relational (and therefore recognitional) reading of Kant's

*categorical imperative*; something which Honneth seems to suggest at times but does not develop.

In Chapter Four I examine cultural claims for recognition a debate that to a great extent orbits around Charles Taylor's work. Although remaining critical of essentialist and particularist views on groups, solidarity is here seen as something congruent and determinant (partially) of the self-esteem of individuals and their sense of (social) identity. This as will be seen, opens up the possibility of suggesting important points on what a public sphere for transitional scenarios should be like. The cases of Northern Ireland and South Africa are mentioned and reasons are given why we can draw important lessons from a *transnational public sphere* in the case of the first, and for *justice as recognition* in the case of the second.

I conclude by affirming that recognition is a strong enough moral category for a plural theory of justice thought out for the complex scenarios of transitions and that it constitutes the condition of possibility for the future a political community may want to construct, on the basis of including also other aspects of justice. Recognition by itself does not constitute political reconciliation, let alone forgiveness, but without it, there is no real starting point to restore those who have taken the worst part of the atrocities and have suffered damage that also has deep collective effects.

## CHAPTER I. INJUSTICE AND RECOGNITION

### 1.1. The strength of negative moralities

It is true that a concern with justice, flourishing of human life or fair distribution of basic goods and opportunities, is not incompatible with the moral sentiments that are produced by injustices and evils. However, the normative bent of moral philosophy and political theory has often been interpreted by some, as a kind of inability to come to terms with the “real” world where cruelty, humiliation and disrespect, are the common reality experienced by human beings in many parts of the world. In many ways it is not difficult to answer to this criticism, since it is evident that the elaboration of moral theories and the defense of moral principles are also motivated by the perception of moral evils and their impact on individual lives.

There is also a tradition in political theory that has made it its task to reflect on war and violence, which by all means are negative moral experiences. Here the point of departure for most political thinkers seems to be that there are principles to constrain violence, or to distinguish between just and unjust wars or between acceptable and non-acceptable conduct in war. What is characteristic of approaches to just war theory, is that they apply positive moral principles to negative experiences and the forms of conduct within it. Many a critic would say, that there is no further interest in understanding here the connections between positive principles and the negative experiences that are produced. Rather all the efforts are concentrated in constraining violence when it is unavoidable.

In cases of extreme forms of evil and atrocities: mass killings, systematic rape, torture or forced disappearance, no possible human response seems to be adequate to the magnitude of these collective harms. Yet nations and communities of whatever nature, seek to come to terms with a past (in many cases a recent past), saturated with unspeakable cruelty and

misrecognition. Restoring decency and responding to the injustices and crimes committed, whether by authoritarian regimes or by the parties involved in civil conflict, in ways that can prevent the renewal of violence and facilitate the rebuilding of the social fabric, is the challenge of *transitional justice*, understood in the broad sense of the term. If transitional justice or a significant parts of it, is “another kind of justice” to use Desmond Tutu’s now famous expression, it makes sense to ask what is the moral phenomena it is trying to address, before attempting to frame the debates in terms of oppositions, or dilemmas that cannot be solved; for when the two extremes of the dilemma are considered, the one seems always to overrun the other: retributive justice versus restorative justice, truth versus justice, a backward looking perspective versus a forward looking perspective.

However, in recent years some authors working in legal, ethical and political philosophy have taken a turn from a concern with just distribution of goods and theories of social justice in general, to accounts of negative morality. By all accounts they express their discontent that moral philosophers and political theorists have not given special attention to the analysis of negative moral concepts such as injustice, cruelty, vice, humiliation, disrespect and so forth; nor have they investigated the moral psychology associated with these negative moral experiences. On the contrary, it is positive concepts like “good”, “right”, “duty”, “justice” what have occupied their attention. Given the horrors of the past century, some find it surprising that the interest in negative moral concepts, remains as the exception rather than the rule.

Drawing on the work of some contemporary authors, it will be argued in this chapter that transitional justice is a kind of justice that should fulfil the fundamental moral goal of giving recognition to the damage, and humiliation suffered by the victims of collective violence. For this, it is necessary both, to investigate the concept of recognition along with

its ethical and political implications, and to take seriously the invitation of those thinkers of *negative moralities* who conceive as the main task of political theory and moral philosophy the analysis of injuries, cruelty, forms of humiliation and experiences of vulnerability. This has consequences in the form we think of transitional justice and of justice in general, but particularly and most important of all, it allows us to identify and respond to victim's perspective on collective social evils. It is a matter of moral urgency that we try to understand victim's claims and their reason for their moral emotions, even when not accepting completely their justification. The measure of the harm of social and political wrongs is not simply the result of deprivation of basic goods. Torture, rape and discrimination among others, produce the kind of symbolic devaluation that belong to a different cluster of experiences, that should be treated independently. Only when experiences of vulnerability and humiliation are given "their due" can we achieve recognition that can be individual or collective, or both (what it is, can only be inferred from each particular context). This is what can and should be expected from a process of transition. This is what is owed to victims.

The work of thinkers like Judith Shklar, Axel Honneth and Avishai Margalit among others, is directed towards the negative experiences of those who have been victimized and marginalized. One of the central arguments of Shklar in *Faces of Injustice*(1990) is that moral, legal and political philosophers have a great deal to learn from victim's perspective, from what they perceive as an injustice committed against them. Giving *injustice* its due, is not simply treating it as the mere negation of justice or the absence of it, since taken by itself, injustice is a complex and persistent moral phenomenon, and therefore something that must be treated in its own right.

From this view, the efforts of many if not most philosophers, to identify the nature and content of justice (particularly justice in distribution) fail to deal with injustice properly.

If we concentrate on central, positive, ethical concepts such as “good”, “right”, “freedom” or “virtue” we miss almost completely the opportunity of reflecting on “negative” moral experiences such as cruelty, domination, misrecognition and humiliation. These form as it were, a different constellation whose understanding have consequences of the utmost importance for the ethical and political outcomes of any community. For Shklar the *summum malum*, the greatest of all evils in human experience is cruelty and this is precisely the object of her analysis in her “liberalism of fear”, Shklar poses the question,

What is meant by cruelty here? It is the deliberate infliction of physical, and secondarily emotional pain upon a weaker person or group by stronger ones in order to achieve some end tangible or intangible of the latter. It is not sadism, though sadistic individuals may flock to occupy positions of power that permit them to indulge their urges. But public cruelty is not an occasional personal inclination. It is made possible by differences in public power, and it is almost always built into the system of coercion upon which all governments have to rely to fulfil their essential functions. A minimal level of fear is implied in any system of law, and the liberalism of fear does not dream of an end of public coercive government. The fear it does want to prevent is that which is created by arbitrary, unexpected, unnecessary, and unlicensed acts of force and by habitual and pervasive acts of cruelty and torture performed by military, paramilitary, and police agents in any regime. (Shklar, 1989:29).

Although Shklar does not refer specifically to societies in transition, it is not difficult to infer that what is at stake in her work is a plea for a more political understanding of law and injustice. This, as will be argued, goes in the direction of thinking of transitional justice in terms of moral conflicts that must lead to acceptable compromises; not just dilemmas that

cannot be solved, or theories that do not take into account moral suffering.; and most important of all , in the case of victims of collective past wrongs, it is an ethical and political project of recognition that is required to give back to victims what is due to them; this normally includes a complex whole, of which financial reparations to give an example, are a valid instrument but certainly not the most important.

As she reminds us, victims have reason for being resentful and humiliated; and when their moral emotions are not taken into account, this may be reflected in a permanent subjective sense of injustice and misrecognition and, in many cases, a motivation for revenge. It is here, through the many negative experiences of victims, that we can have certain empathy and analyze injustice or at least the dimension of the damage. This requires from us a particular moral sensitivity and a capacity for responding to cruelty or collective evil and barbarism. Since victims of injustice are not only damaged (in both a physical as well as well as a moral sense), but also often, ignored or perceived as the recipients of bad luck (Shklar,1990). The subjective feeling of rage is not simply to be measured as the product of the specific damage caused. It is the lasting anger and the psychological harm inflicted what matters most. Racial discrimination is a typical example of a cause for resentment and fury felt at being humiliated. Not to mention the dangers and difficulties any society finds to achieve peace and stability when these matters are not deal with properly. The point about the subjective sense of injustice and the corresponding feeling of revenge is not purely psychological. For Shklar it is one of the things that a theory of justice or injustice should take very seriously.

The normal model of justice, to which we cling is not really given to investigating the character of injustice or its victims. It does not tell us everything we should know about either one. Indeed, its very aims prevent it from doing so. The ethical aims of

a theory of justice, as of justice itself, limit its intellectual range. Both respond to the requirements of juridical rationality, impersonality, fairness, and impartiality...the tasks of political theory are however, quite different and less circumscribed. They can and should raise every possible question about injustice as a personal characteristic, as a relation between individuals, and as a political phenomenon (Shklar, 1988: 50)

If we agree that injustice is part of our social as well as personal experience, be it public or private, then recognition of victims, particularly in transitional processes, does not only imply having to choose between collective and individual recognition. Neither is it a matter of retributive versus restorative measures nor between truth versus justice. It will depend to a great extent, on what decisions a political community takes in order to prevent cruelty and overcome humiliation. We should take seriously Shklar's suggestion that victims and injustice must play an essential part in democratic theory and practice. Those moral conflicts do exist however, and all will depend of the kind of compromises that can be acceptable for the involved parties.

Victims and particularly victimhood is a rather difficult category in political theory and philosophy. On the one hand, victimhood has always been there. On the other, there does not seem to be such straightforward answers to the question of who the victims are beyond the obvious ones, in any given historical circumstances. On some accounts, even those who exercise the violence may be considered victims, since they have also suffered injustice and deprivations. We leave in the "eternal drama" of mutual cruelty, and it is in the particularity and plurality of injustices that "moral universality" as Bernstein says, when reflecting on Adorno's contribution,

has failed us and failed us in tandem with the recognition of the way in which, generally universality squanders particularity; that this pathology of reason requires a renewed attention to suppressed particulars, that suppressed particulars emerge into vision as cases of injustice; that social suffering is a manifestation of this injustice, and hence objective in itself; and hence to orient ethical and political action in relation to this social suffering and injustice is to acknowledge a universality of the living premised upon our dependency on one another as vulnerable creatures (Berstein, 2005: 322)

Various questions arise here. We may remember victims usually by misjudging or minimizing their suffering as it was often done with victims of the Holocaust<sup>25</sup> and conclude that they accepted their fates with resignation; and this is obviously false and tremendously unfair. But the question of responsibility remains ¿could they have done otherwise? ¿could not those around them have done more instead of remaining as bystanders? Following Bruno Bettelheim, Shklar insists that blaming the victims for their fate may be as superfluous as idealizing them and even worse, it may be even a manifestation of our incapacity to face cruelty in general. It is certainly true that not much is gained by expressions like “we can all be victims at any time” which are almost as hollow as “we are all guilty”. There is a condition of victimhood that we must confront, and there are real persons, with their own names and stories who are victims and they are not the products of misfortune or natural disaster. There are also perpetrators and torturers and bystanders.

Transitional processes must be particularly careful with the way all this is handled. The banality or trivialization of the notion of victimhood, can be very dangerous in more than one sense: victims may want revenge or have demands which prove impossible, or they can

be demeaned or stigmatized, or be blamed for their own suffering. But it must not be forgotten that at the end of the day, it is perpetrators and torturers who are guilty. This poses an interesting challenge, since acknowledgment and full recognition of victims ordeal must, at the same time, contemplate the possibility of overcoming this very same condition (of victimhood), in so far as it is humanly possible.

At a more descriptive level, there is also the question of the levels of victimhood, which in reconciliation and transitional justice literature is pretty standard<sup>26</sup>: first, comes the group of persons directly harmed which are referred to as *primary victims*. Then, there is the group of family, friends, relations or colleagues who are harmed by their injury or death; these are *secondary victims*. Finally, there is the broader community whose members may be harmed in various ways; these are *tertiary victims*,

Steve Biko for example was one of the primary victims in the struggle against apartheid. Biko left a wife and children ; in addition to their loss and grief, these family members were harmed economically and socially by his death.. They can be termed secondary victims. Nor does the story end there; there was a loss to black Africans of the talent and energies of this activist leader. Members of this broader community are tertiary victims. (Govier, 2006:30)

This is also one important reason why it becomes so difficult to insist in drawing a final line that separates individual from collective harm, (though individual victims must be of course the objects of special consideration). Damage is done as much to individuals as it is to communities, not to speak of the permanent state of fear and humiliation that is produced through victimization; In general, these notions of victimhood coincide with the United Nations Basic Principles and Guidelines ( U.N .Doc.E /add.11 (19 april2005). Rather than

those with “individualizing” perspective, as Haldemann points out, *tertiary victims* may be the object of collective recognition but as he also suggests, collective recognition is about individuals too. However, the distinction that is far more important but does not constitute an unsurmountable dilemma as will be shown, is between individual and collective responsibility; not only because extraordinary radical evil produces all kinds of harm, but because the question of guilt and group responsibility is extremely difficult (Hadelmann, 2008: 680).. Karl Jaspers in his *The Question of German Guilt*<sup>27</sup> is one of the German philosophers who was struggling as early as 1947 with the question of German political and moral guilt and the responsibility for reparations. In order to make his argument,

Jasper outlined his four concepts of guilt: criminal guilt, whose jurisdiction rests with the courts; political guilt, whose jurisdiction rests with the power and will of the victor; moral , guilt ,whose jurisdiction rests with one’s own conscience; and metaphysical guilt, whose jurisdiction rests with God alone. The differentiation and analysis of different types of guilt offered a vantage point from which one could understand how a person might not be criminally responsible, but still, as a German, have responsibilities as due to political guilt and, to differing extents, moral, and metaphysical guilt for actions of the Nazi regime. Jaspers concluded his treatise with the argument that there was a political responsibility for the German people to make reparations to victims of the Nazi regime. (Wolfe, 2014: 38)

Collective responsibilities do exist and it is important to differentiate them from criminal individual guilt. In transitional situations in general and in the politics of reparations in particular they present themselves as some of the most controversial points to come to terms with the past, or the expectations for a better future.

It is worth noticing that the evaluation of harm of which processes of transitional justice have to occupy themselves should not exclude anyone, be they individuals or groups. Rajeev Bhargava suggests that political victims are those who, besides suffering violence and physical harm, suffer a kind of denial in matters of public significance, their views are not taken into account and they are silenced or excluded as participants from any debate, and he distinguishes political victims from “a person who is robbed in a high way or is systematically exploited on agricultural land or in a factory is a victim but not a political victim”(Bhargava,2000: 47) While there is indeed a number of reasons to consider that *political victims* are extremely important in attempting to restore decency after collective wrong, this idea of victims having to be *political* may be too restrictive . Sometimes political victims manage to have even certain forms of protection that others do not have, because of their visibility. It all depends of the concrete political circumstances. In times of “barbaric societies” to use Bhargava’s expression, a number of ordinary, anonymous individuals with not known or manifested political filiation are also victims; sometimes they become suspected for reason of their profession or activity or they may be related to crime or illegal dealings. Being suspected in situations like this can be extremely dangerous. It also becomes a question of being associated with activities considered subversive or hazardous for the state. We can think of *petit* criminals or minor offenders in a regime of terror where members of the security forces, usually in association with paramilitary organizations decide to “clean” the streets of crime; usually thieves, drug dealers, sex workers or the homeless and often, people who simply are poor enough to have to live in bad neighbourhoods. These are not political opponents, but they are also victims of cruelty and arbitrary treatment under authoritarian regimes.

## 1.2. Disrespect, humiliation and the plurality of evils

Why is the moral appeal to victims so important for recognition in general and for transitional justice in particular? Perhaps, the first answer that comes to mind is because it helps us to prevent and fight cruelty when we become aware of the magnitude of the damage. We could also say that it helps us identify our capacity for evil, indifference or all our commonplace “ordinary vices” (Shklar,1984). It also forces us to acknowledge our sense of vulnerability and fragility (Honneth,1997).For Margalit on the other hand, a decent society should prevent the kind of inequality in respect that along with coercion and manipulation, are “prime examples of humiliation” (Margalit,1997:148). Usually the acts and gestures of inequality and coercion are symbolic acts which are humiliating because in their attitude they see the other as having less moral worth. These may take various forms: others can be ignored, rendered voiceless, made “invisible” or be stigmatized. In extreme cases, others may be perceived as nonhuman. In few words, a decent society is one whose institutions do not humiliate their citizens or permit the dominant group to do so, and this may also include among other things, the treatment given to citizens by bureaucracies.

The humiliation that is involved in inequality is not necessarily “ a function of the degree of the inequality, rather it depends on the meaning of the inequality”.(Margalit,1997:148) Poverty, causes suffering regardless of whether only some are poor, or all are poor. This is a standard view of equality. Margalit differs from it. For him, poverty is not as bad in an egalitarian society as it is in one, where the differences in socio-economic status are pronounced. And the reason is the humiliation that takes place in the latter, not the material disadvantage. Here is his example,

Nomadic tribes in the Spanish Sahara live in dire poverty in a continual struggle to find enough water to drink. The hardship they experience is immeasurably greater

than that of people in, say, poor inner city areas of the United States. But since in some Saharan nomadic tribes all members are equally poor, and their poverty is understood to be a product of harsh natural conditions, they do not feel humiliated. Nature can create hardship, but it cannot be humiliating. The poverty of a small group in an affluent society in contrast, is liable to be humiliating. (Margalit, 1997:50).

The point about inequality in Margalit's example is humiliation, which in his case means also, that there are types of inequality that are not humiliating. Usually humiliation involves the permanent association of certain groups with an idea of "pollution" as it is understood in the system of castes in India with the "untouchables", who receive a treatment of total humiliation. Although in this particular case, this is a complex phenomenon associated to religious ideas and certain "metaphysical" beliefs, the idea of Margalit is that certain human groups are subjected to humiliation that is total and permanent. Immigrants may also belong in certain countries to groups, who are not as poor as they probably were back in their countries of origin, but they never come to achieve status of full citizens or do not go beyond being considered "workforce" in their new countries of residence.

When we characterize a decent society as one that is non-humiliating, we are not simply talking about *feelings* of being humiliated, but of *reasons* for feeling humiliated. Coercion and manipulation for example, are reasons for feeling humiliated. Kant's emphasis on respect also allows, according to Margalit's reading of it, for an idea of humiliation: treating people merely as means would be to humiliate them in Kantian terms. Yet, there are even worse forms of humiliation like certain punishment exercised on soldiers or prisoners of war, or simply, when the Nazis humiliated the Jews by putting them to work in things that had no purpose. Forced labour meant precisely the complete subjugation of the victim to the

will of the subjugator and this is what made it so humiliating. But even in those activities of a completely different nature, whose ends may be to relieve entire populations of disaster, distribution of food for victims of famine for example-, there are ways of performing them that can be humiliating, no matter how equally the resources are distributed. Punishment and therefore coercion, particularly, in the case of inmates of prisons, is also something, that can be acceptable in a decent society, but only when it is not associated with personal humiliation.

The appeal to some Kantian notion of dignity that emphasizes the human capacity for autonomy, does not seem to be Margalit's idea, although he compares his position with Kant. Respect for persons, valuing human beings and the sentiment of respect as such, seem to be what is required to prevent forms of disrespect. This "non-transcendental" attitude seems to be shared by negative morality concerns, that tend to avoid abstract systems of thought. Shklar sees Political Theory as inhabiting a region between History and Ethics. Margalit does not abandon completely some kind of regulative idea of human dignity, but is committed to the idea that only through negative situations of disrespect and humiliation, could we arrive at any understanding of positive moral notions that do not seem to go further than the self-respect and the respect, individuals deserve for the fact of being persons.

But, could we not say that this is what any current of mainstream political theory and moral philosophy is trying to do? Are not notions like human dignity and human respect established by identifying all possible forms of injury and disrespect? Or, could we not even ask if negative morality is self-supporting? or, is it simply the reverse side of positive morality? It is indeed difficult to think of any morality that does not require the support of some kind of positive moral ideals. On the whole, we could say that *negative morality* does not preclude the existence of more principle oriented theories of justice of a more ambitious scope that may include positive formulations of moral ideals or *just distribution*. However,

for a *negative morality*, the task of moral reflection is to “analyse evils as evils (thus implying the need to combat them) and alert us of their presence in the conduct of everyday affairs” (Allen,2001: 341). But how are we to understand this? We could on the one hand, suggest that the content of morality can only be obtained *via negativa* in which case, the claim would be that the substantive truth of positive moral ideals is based on negative morality. This is not far from Margalit’s idea that it is easier to recognize what is wrong with something, without having a definite idea of what is right with it:

While dealing independently with the right and the good and with the wrong and the evil, priority should be given to the negative side. Negative politics should take temporal priority in action, if not necessarily priority in preference, over positive politics, since eradicating cruelty and humiliation is more urgent than promoting and creating positive well- being. Thus the politics of dignity should in my account be understood not as a positive politics but rather as negative politics. It should not address the question of how institutions should promote dignity in every human being by virtue of his or her being human, but rather it should ask how to stop humiliation. In the case of dignity, it seems that the negative turn in politics is almost a must. The code of dishonour is much clearer than the code of honour. In the case of dignity there isn’t even a code of dignity (unless we regard the charter of human rights as such a code). But we recognize dignity by the way we react to humiliation. (Margalit, 2004: 114,115).

Margalit is not saying that once we turn the coin, we see the other side as it were, and this reverse side corresponds here to positive morality or positive ideals. This would be to arrive to it *via negativa*. His claim seems to be different and consists in affirming that negative experiences of humiliation and disrespect should be treated independently of moral

ideals. This is not to be understood in its totality as if the latter do not exist. It is rather the way we come to know about, wrong, injustice, disrespect and humiliation what is self-supporting, as common negative experiences of persons. These are after all the things that motivate us into politics, rather than freedom, equality or dignity.

If we concentrate on the positive idea of justice we get a picture of unity, of something that is coherent and economical: the *good* is associated to one or few core principles. Evils can be many; one way of being *right* makes a very strong contrast with the many ways of doing *wrong*. This according to Margalit is only a picture not an argument, in favour of a positive approach. A picture that has been turned mistakenly into a methodological principle among other reasons because *positive* politics and morality are usually backed by deeply rooted metaphysical and religious narratives. And this is where he marks his difference through a number of analogies:

Health and disease, like justice and injustice, are correlative terms that rise and fall as a pair, that are clarified and obfuscated together; dealing with the one is tantamount to dealing with the other. One cannot know what disease is without knowing what counts as health, and one cannot know what health is without knowing what counts as a disease. And the same must surely hold for justice and injustice.

I beg to differ. First by deferring to theology. The shift from positive theology to negative theology was I believe, a strategic move and not just an stylistic one. The idea was to shift the language of theology from attributing positive traits to God to expressing attributes that God does not have. The idea behind it was that nothing positive can be known about God, for He has nothing in common with other beings. No term that applied to him Him retains its ordinary meaning, and thus His attributes should be glossed negatively...

What is so appealing about negative theology is the idea that on many occasions we recognize what is wrong with something without having a clear idea, or any idea at all, about what is right with it. In moral theory, as in constructivist mathematics, we should refrain from a facile use of the rule of the excluded middle, that is, the belief that just by negating what is wrong we will reach what is right. Right and wrong should be dealt with independently. Only after justifying independently what is right and what is wrong will the negation of the one yield the other".( Margalit, 2004 :113)

Now, If we follow Margalit and argue that negative morality can and must be treated independently (at least conceptually) in the identification of moral priorities, and in the identification of the degree of physical and moral harm, as well as the sense of vulnerability that permeates central spheres of human experience, then, we have to conclude that it is at least conceivable that by way of this *negative procedure* ,we can make some sense of moral ideals and their range of application in the real world. This does not mean less theory. It means theory for a very imperfect world. Even if we agree that the justificatory function of moral theory requires some positive form of moral ideals, we would still need to resort to the diversity and the phenomenological plurality of negative moralities. ¿How are we to be expected to understand human motives, dispositions and moral emotions without an analysis of suffering, cruelty, humiliation, domination, misrecognition and so forth?. In an account as straightforward as Margalit's, we could say that *humiliation* is what finally brings us to the understanding of human dignity. But even if we were to say that such a problematic notion as dignity<sup>28</sup>, can only be accounted for on the basis of some positive moral ideal(s), we would still have to look carefully into the human need for recognition and this, is usually identified through the absence of it: denial, disrespect, misrecognition, vulnerability. Perhaps it is more

precise to say that, the absence of recognition manifest itself through different social evils; and some of these evils are worse than others: If we understand misrecognition as a failure to perceive people, as people with moral claims: a group of immigrants to give an example, this is an act of misrecognition. But if they are put by force on a plane and send back to their country of origin where they probably face great risks for their life and integrity, this is an act of cruelty. Being injured and humiliated goes far beyond misrecognition, and certainly it is a strange “privilege” of negative morality and politics, to be better equipped to describe and interpret these moral phenomena.

This of course is far more notorious in situations of apartheid, discrimination or occupation. Israeli philosopher Adi Ophir offers the following example:

In the autumn of 1988, dozens of Palestinian children living under Israeli occupation in the West Bank and Gaza were denied their ongoing medical treatment in Israeli hospitals. The Israeli military government justified this unusual act by referring to the uncivil, sometimes rebellious behaviour of adults and youngsters in those children’s families; due to their unlawful behaviour, the children of these families lost whatever right they have to receive the special medical care provided to the Palestinian population by the military government through Israeli hospitals. One may well reconstruct the distributive sphere of state provisions in the occupied territories and demonstrate how it accords with this or that theory of distributive justice. But to remove a five year old child who suffers from severe kidney disease from a dialysis machine, or to deny a leukemia patient his chemotherapy. (when there is not sudden shortage of medical equipment) is certainly evil. If conceived as a simple privation of a good, this evil is deceptively abstracted from the complex system of power which

was established through the Israeli occupation and from the distribution of evils for which that system is responsible. (Ophir, 1990: 100 )

Beyond the inequality that may be produced by unjust distribution, there are other degrading forms of disrespect. Margalit thinks of them as humiliating inequalities; Ophir makes a plea for understanding evil but particularly the way society distributes evils (not just goods), in the contest of concrete ethical and political struggles. In all these situations when victim's point of view is suppressed or not heard (and much less acknowledged), particularly in the aftermaths of repression or civil war, there is a message of lack of worth. Victims live the experience of being ignored, of not being taken seriously or not counting. This may be deeply disturbing and is usually expressed in sometimes absolute demands for justice or worse, desire of revenge on the part of those victimized. This may be understandable, but it can also be very dangerous. No transitional process can advance if the victims of today become the alternating tormentors of tomorrow. To overcome this enduring injustice and achieve reasonable compromises, is perhaps the main challenge of transitional justice.

The kind of acts of humiliation that worry Margalit are, what Harry Frankfurt denominates "disrespect". His idea is far from egalitarian and, in a sense, more radical than Margalit's since the latter admits that *inequality* counts, but becomes morally relevant in a more profound sense when it is humiliating. For Frankfurt failing to respect someone is simply a matter of ignoring aspects of his life or her situation which are relevant for him or her. When these are not attended, the person is not taken into account properly. The suffering and dread that is caused when people are treated unjustly has to do more with their personal reality and the denial of impartiality in treatment that is required of respect. Demands for equality are different from demands for respect, "Someone who insists that he be treated

equally is calculating his demands on the basis of what other people have rather than on the basis of what will accord with the realities of his own condition and most suitably provide for his own interest and needs.... In his desire for equality there is no affirmation by a person of himself.” (Frankfurt, 1997:13)

Frankfurt in fact, while recognizing that egalitarian goals may have substantial utility in promoting social goals, considers that it is a mistake to treat equality itself, as an independent moral value.<sup>29</sup>

Despite some conceptual differences, the central claim here is that justice and particularly injustice, is not all about distribution. In fact, *respect* or what Margalit thinks of as *decent equality*, might even conform a cluster of more *primary and fundamental* moral notions, which are to be described from situations of disrespect and humiliation. This is not to say that issues of just distribution are not important and that theories of justice should not have spent so much effort in trying to solve them. Quite the contrary, it is reasonable to assume that many cases of disrespect and lack of recognition are to a great extent the product of not realizing justice in distribution. Social and cultural inequalities do exist (Frazer, 2001).

All that is claimed is that negative experiences and its many faces, which are encountered in concrete social reality, should receive the attention and given the importance that is due. They are, at least epistemologically speaking, a category that should be treated independently. This is not necessarily ontological independence, for some content will probably have to be correlated to positive moral principles, even when we only postulate them, as ideals for the construction of any normative theory of politics, or we give them the prospective value of *utopias*. Societies that are torn apart force us to forms of non-utopian thinking, but this does not mean that more general distributive theories of justice cannot be relevant here. We can even say (though not yet demonstrate) that transitional justice provides

an excellent platform to integrate issues of disrespect and recognition with justice in general (both in resources and human development), without losing sight that its point of departure is negative morality and politics.

Although the ways in which these moral phenomena are described by different authors do not always coincide, there are at least two very important things they have in common. The first is that as philosophers of negative morality, none of them sees cruelty, humiliation, disrespect or misrecognition as simply the absence of positive moral principles.

The reduction of fear and cruelty as in Shklar, the prevention of humiliation as in Margalit, the preservation of respect for relevant aspects of the individual's life as in Frankfurt or the manner of understanding injustice, as the withholding of forms of recognition held to be legitimate as in Honneth, demonstrate that for them, not only should negative moral concepts have value "in themselves" but above all, that there is a kind of moral urgency in responding to painful evils and collective wrong, far more pressing than creating benefits in stable situations, or in situations where the only concern is distributive justice.

On the second thing there is probably more agreement and it is in the importance given to the corresponding *moral emotions*, not just at the level of what individuals feel subjectively, but at the level of justification of their reactive emotions, or evaluation of the real damage to *self*. Whether it is cruelty, humiliation or disrespect, all these authors share an interest in a kind of negative moral psychology, that some like Hadelmann(2008:692), Honneth(1997:22), describe as a phenomenology of moral (as well as physical) damage.

All this can be taken as a point of departure from which we should be able to offer a normative reflection of experiences of vulnerability, misrecognition, and of the damages and injuries that come with it. But reactive emotions of victims, should generate moral obligations towards them, even on the part of those who have not been victimized; reflecting

on their negative experiences, should have normative consequences and be part of whatever compromises are made as a result of transitional policies. In this sense the characterization of Margalit of the decent society as a non-humiliating one, “does not involve *feelings* of humiliation but rather *reasons* for feeling humiliated” is a good example of the kind of analyses that should be pursued. (Margalit, 1997: 157). Moral damage has to do above all, with a self-perception of a diminishment of moral worth; with degradation of human beings, with coercion and manipulation, to name a few wrongs. The *reasons* for these feelings are not trivial or irrelevant even in cases where they are not completely justified or may be caused by wrong perceptions.

### 1.3. Acknowledgment as a basic form of compromise

Recognition is an important moral category that concentrates on what is missing, on what is owed to victims. *A phenomenology of recognition* in the sense proposed by Frank Haldemann (2008) may begin its “mapping” of it, by attending to the experiences of misrecognition. In any serious wrongdoing, “what makes it disrespectful or humiliating, is symbolic devaluation: the wrongdoer’s actions not only cause the victim physical suffering or material loss, but also betoken an absence of respect and manifest a profound lack of concern.”(Haldemann, 2008: 692).When someone wrongs another there is a message, a symbolic communication “I count but you do not”, the victim is not valuable enough to be given better treatment (Hampton, 1988:44).

When victim’s perspective is ignored or not taken into account particularly in the aftermath of mass atrocity and traumatic social episodes, there is humiliation on the part of the wrongdoer, and given that his acts are intentional they, “Insult us and attempt (sometimes successfully) to degrade us- and thus involves a kind of injury that is not merely tangible and sensible. It is a moral injury and we care about such injuries” (Murphy,1988:25)

There are many ways of degrading or demeaning someone; and the way we can analyse and respond to this , depends to a great extent of which theory of human worth is considered to be a better moral theory, and this is not an easy matter. Part of the answer may lie in a conception of how human beings can gain or lose value. Someone may feel demeaned if she is not treated according to a particular rank and instead receives a kind of treatment based on equality with others. The contrary may also happen. The person may not have seen her *value* and not consider the treatment she receives, demeaning. A typical example are the well documented cases of women victims of rape in many parts of the world , many of which declare that they accepted the aggression because they “thought this was the sort of thing

women had to “take” from men” (Hampton, 1998: 49). The injury received by the rape victim is more severe than being demeaned. She somehow has been persuaded that her value as woman, does not rule out the possibility of being raped, “She is like a princess who believes after receiving treatment appropriate only for a pauper, that she really is a pauper. Such a person cannot feel demeaned, because she has already suffered injury to her sense of self-worth. I will speak of this injury as the experience of diminishment following a wrong doing.” (Hampton, 1998: 49)

Victims also feel diminished. It is indeed a very critical aspect that any process of transitional justice has to face, that victims can be put aside or “postponed”, in order to move on to the transformation and the democratization of their societies. Being trapped in the past, constantly haunted by painful memories is not a very helpful way to move forward and construct socially “new futures”. Victims are expected to “let it go”, to “leave behind”. But as historical evidence shows and not far from now well established therapeutic notions, past wrongs are always present; denial of them almost invariably tends to reproduce conflict, sometimes deepening it. Above all, it is extremely difficult to achieve confidence and civic trust in the whole community, when a particular group or a number of individuals, feel a tremendous lack of acknowledgment and recognition towards them. Humiliation and denial, as well as degradation in worth and self-respect, should be dealt with as objects of moral claims, not just emotions of psychological or subjective nature.

When all these forms of misrecognition and denial take place, societies like individuals, may deceive themselves or be reluctant to be reminded of shameful events; even of those that have occurred in a distant past. Denial is one of the common human mechanisms of response that run opposite to recognition. What *acknowledgment* does is precisely to take

a first step towards recognition by introducing into the realm of the public, those truths which are uncomfortable and often unbearable. Claims for acknowledgment are “calls for those responsible for committing such wrongs to recognize and admit having done so, and to articulate or represent that admission in a public forum so that it becomes an enduring part of the public history of the state and society. The public admission and expression amount to acknowledgment”.(Govier, 2006:48).

Acknowledgment is always aversive in the sense that acknowledging that one has committed wrong is always difficult and unpleasant. But there is also a second element in it, closer to recognition proper: the open and public admission that there are groups or individuals who have been harmed within a political community is also an acknowledgment of their human worth and correspondingly, of the restoration of a kind of treatment that makes them full members of their society. Under a military regime for instance, it is often a widely known fact that certain individuals have been torturers; but it is not until these known facts are publicly admitted that they become visible and are the object of complete scrutiny: what the practices of torture were, who ordered or instigated them and particularly, who were the people who carried out these practices. Beyond the punishment of the perpetrators or any kind of reparations, financial or otherwise that victims may obtain, what matters most in process of social reconstruction, is the moral recognition that is achieved. It is not surprising after all, that a significant group of political theorists who have been mentioned in these chapter, take recognition as a central concept to elucidate, even when their point of departure is a *negative morality*, and their approaches do not always coincide. As for the scenarios of transitional justice, there is no doubt that the vulnerability, the denial and misrecognition, and the depth of the moral damages inflicted on victims, are of such magnitude and sometimes perpetrated at such massive scale, that somehow they retain the “privilege” of

permitting us to better reflect on prospective, possible responses to collective evil. This becomes imperative in the sense proposed by Shklar and Margalit, among others.

Acknowledgment therefore, can be better understood when it is contrasted with denial: The latter can be deception or lying or, in a more complex manner it may express itself as selective attention. The example of Govier may be useful here,

In Canada, the notion of “two founding peoples” (French and English) illustrates denial in this sense: the Aboriginal presence prior to the arrival of French and English is ignored and implicitly denied. Those who assert that Canada has two founding nations are not exactly lying. ( when people lie, they assert to others a claim they believe to be false, with the intention of getting those others to believe it). The problem with the language of “two founding nations” is that no attention is paid to undisputed (indeed indisputable) facts. Aboriginal peoples occupied what is now Canadian territory before European traders and settlers arrived. (Govier, 2006: 49, 50).

Needless to say, through the years the Canadian state has made considerable efforts to redress this situation or at least, to express forms of acknowledgment to set the historical record straight. But the point of the example is not to reflect on this particular case and try to establish how successful or unsuccessful the policies of different governments have been regarding these matters; or, to offer a single criteria of how long into the past a nation or any other political community has to go until finding a bedrock or a single foundational moment; the point is rather to signal in the first place, that nations like individuals, can be selective in the way they write their histories,- whether about a distant or a recent past. Denial in the form of self-deception is certainly a very complex and paradoxical human phenomenon, both

in individuals and groups. Part of the role of a functional *public sphere* (free press included) is to revive uncomfortable memories and unpleasant facts that we would otherwise, prefer to forget or to ignore. Why a public sphere is important and what criteria can be given for it, will be discussed in a further chapter.

In the second place, the value of acts of acknowledgment is not just the historical reconstruction of recent or distant past events in order to name the guilty ones, but rather, to facilitate the kind of narrative a society wants to produce from that moment on, and this is a political decision - for as Margalit says ,

A clash occurs, not just conceptually but in practice, between the impetus to transfer power without violence and the impetus to bring culprits to justice by remembering the past through legal institutions. Transitional justice- how to deal fairly in a newly born or regained democracy that has an undemocratic recent past- is deeply involved with the ethics of memory. Communities must make decisions and establish institutions that foster forgetting as much as remembering. Shredding the personal files of old Stasi (the former East Germany secret services) is an example of a communal decision to forget. (Margalit, 2004: 13).

Any theory of transitional justice must contribute to provide criteria for the kind of narratives a society may decide to construct towards the future, but it cannot be simply a “new start” based on forgetfulness or an imposed state of permanent remembrance, for that matter. Once the unpleasant facts about the damage inflicted on groups and individuals are attended, (something that necessarily implies acknowledgment), the possibility opens up for revising and amending our sometimes unfounded narratives and this, almost invariably,

means achieving some form of compromise, but not all compromises are, or should be, acceptable.

We do not know *a priori* what compromises can be acceptable, but we may be able to describe and in a further step, derive normative consequences, from situations of misrecognition, humiliation or cruelty and this should bring us closer to an idea of *recognition*. Acknowledgment and above all transitional justice as recognition, will depend to a great extent, on compromises that are acceptable to a political community at a given moment in time, and the forms it has come to acquire them. The example of Margalit is interesting for it reminds us that sometimes whole societies may choose to forget or at least, not to remember any further. Not all ignoring can be considered culpable. This is also important in the way reconciliation is to be understood. Reconciliation, particularly political reconciliation, and forgiveness are not the same thing, although they are closely connected. A more political, secular notion of reconciliation that can enter in dialogue with religious traditions when required may also be necessary, but this topic takes us too far from where we are now.

#### 1.4. Negative symbolism and negative politics

Accounts of moral injury must be grounded at least initially, on a conception of denial, misrecognition (Bernstein, 2005), and disrespect. This means that the point of departure for any theoretical conceptions of justice shows that the experience of social injustice, must be assessed and seriously examined, in terms of the absence of forms of recognition that can be considered legitimate. The appeal to *forms of recognition* in authors inclined towards critical theory, (Bernstein 2005; Honneth 2004, Haldemann 2008, Habermas 2003) always bear in mind a common and very accentuated concern with the conditions that bring together human individuality (separateness) and dependence from others (connectedness); independence and autonomy on the one hand, contrasted with the permanent dependence on those with whom we share and *construct* social reality, on the other. It is the attempt to find “forms necessary in order for me to be an independent subject in a world in which I am always dependent on those around me” (Bernstein, 2005, 312).

A phenomenology of recognition should in the first place, help us understand the meaning of symbolic devaluation and misrecognition in general, and in the case of victims in particular, “Negative symbolism” as “acts or gestures that express an attitude of downgrading or degrading: projecting an image of the other as inferior, excluded, wholly other, unworthy of respect and consideration, or simply invisible....When applied to victims of horrific wrongdoing, this sort of negative symbolism risks being as devastating as the original wrong itself”. (Haldemann: 2008:696).

In the second place, it should help us getting closer to a concept of recognition that takes into account the central spheres of human experience. The implications of individuals not being recognized as of equal moral worth, can be very serious and as it is well known, Kant had an interesting answer for this that is not free from theoretical problems, some of

which, we examine in the next chapter and in contrast with the reading of the Kantian solution by authors like Axel Honneth and Stephen Darwall. A negative politics directed to respond to social suffering and injustice acknowledges a “universality of the living premised upon our dependency on one another as vulnerable creatures” (Bernstein, 2005:322). What a phenomenology of recognition does as Hadelmann rightly points out, is to identify those forms of misrecognition, denial and vulnerability that manifest themselves in basic human experience, and this is extremely important in the way it helps communities to offer ethical and political answers to the challenges that are most often encountered in processes of transitional justice when decency is trying to be restored. Bernstein also expresses it in a very vivid manner (316):

If moral and legal norms are social inventions, bound to the historical particularities of a social formation, then to say that injustice is prior to justice is simply to urge that the *demand for recognition*, which is the demand for equal standing in a community of equals is not exhausted by the positive moral and legal terms available at any time. Since the non-satisfaction of this demand causes suffering and pain, social suffering necessarily contains a reflective and a normative dimension: social suffering is a knowledge of the context bringing it about and a negative relation to that context (Bernstein, 2005: 316).

There seems to be no reason to think that social conflicts cannot be understood and reflected upon by taking injustice as the point of departure. Quite the contrary, if recognition is such an important ethical and political concept, in responding to denial, disrespect and humiliation, it becomes imperative, not just desirable, to derive normative consequences from it. Moreover, a negative morality and a negative politics, always present themselves as

reasonable alternatives to contentious issues which are apparently unsolvable or dilemmatic. Transitional processes do not initiate from a counterfactual “original position”. Their point of departure is almost invariably a historical, conflicted and tragic narrative.

## CHAPTER II. SPHERES OF RECOGNITION

### 2.1. Honneth's "quasi-empirical" typology of moral phenomenon

Axel Honeth follows Margalit in the negativist procedure of looking into injustices first; but for him the experiences of social injustice must always be measured in terms of the specific withholding of forms of recognition held to be legitimate and these are phenomenologically, antecedent to economic disadvantage and cultural deprivation, or some other specific goods. Consequences of denial and precariousness in different levels of recognition should reveal "the moral grammar of social conflicts".<sup>30</sup> Honneth proposes specific spheres of recognition which correspond to basic relational capacities, indispensable for a fully human existence. These will have to be looked into carefully below, because they provide an interesting model for understanding the role of negative morality in political theory and for the kind of vulnerabilities we commonly find in ordinary human experience, that are aggravated beyond any bearable threshold, in situations of collective wrong.

It will be argued here that Honneth's understanding of recognition develops upon notions that can be both, conceptually useful and relevant, for understanding the moral and political dimensions of moral injuries in general and transitional situations in particular. His model nonetheless, needs to be discussed, partly because the territory he covers is too vast and it is not always clear how can we remain confident with his general conclusion, that recognition contains virtually, the whole of morality. Honneth himself suggests that a dialogue is necessary with authors of negative morality, but does not do it systematically<sup>31</sup>. Important for us is his renewed theory of recognition that in many aspects goes beyond Habermas's communicative approach and attempts to provide and account of moral injuries in terms of misrecognition. As in the case of other authors of critical theory (Adorno,

Berstein) , as well as Margalit , it is expected that we can derive normative consequences from the analysis of disrespect and humiliation.

Honneth's starting point as the struggle for recognition represents his own elaboration of a program to renew critical theory, and his "moral grammar of social conflict" is at the center of this project. He starts his proposal by looking back into Hegel's early Jena lectures and from these insights he moves to explore other theoretical and empirical resources provided by G. H. Mead's theories of the intersubjective origins of social life, as well as the object-relations school of psychoanalytic theory as developed by D.W. Winnicott and Jessica Benjamin. Making his own free appropriation of these sources, Honneth formulates a framework for analyzing critically the intersubjective relations of recognition, by means of which he expects to elucidate the normative foundations of social and political theory and of course, moral theory. The central Hegelian idea that human fulfillment depends on identifiable and well established "ethical" relations (particularly love , law and ethical life) is assumed by Honneth to a point of fully formulating his own project of investigating all the implications this may have on the life of individuals ,but also adding some empirical or "quasi-empirical" categories of his own.

Injustice and the moral injuries of misrecognition<sup>32</sup> reproduce and deepen because the moral expectations of individuals are violated in aspects that go beyond mere material production (in this Honneth departs from the analysis characteristic of other authors of the Frankfurt School ); But on the other hand, in so far as social relationships contribute to the development and affirmation of personal identity, and that these patterns of recognition can to a great extent, be described and contrasted by the empirical findings of the social sciences, his approach is in harmony with the tradition of Frankfurt, that has attempted to interpret

social struggles on the basis of ordinary human experience while at the same time, providing a normative account of them.

In Honneth at least, questions of “is” and “ought” seem sometimes to be interlocked, but when one reads carefully this is not the product of a confusion. Honneth himself denominates his conceptual categories “quasi-empirical”<sup>33</sup> in as much as they belong to a typology of *levels* in the individual’s relation to self and to others. Moral injuries are more serious, the more they affect fundamental self-relations and it is in the infringement where acts of recognition reveal their importance since what is denied or withheld, is at the core of the basic moral and emotional constitution of individual lives not just of their physical integrity. Needless to say, these kind of injuries are most abundant in transitional and post conflict situations where individual or groups remain constant receptors of all kinds of systematic harms and their vulnerability becomes extreme. This last point however, can be generalized to great extent since potentially at least, all human beings can be victimized in one way or another and not necessarily, as consequence of political turmoil. Honneth himself does not specifically refer to transitional situation of collective wrong but his interest in victims of torture or grave violation makes it manifest that the analysis of moral injuries plays an important role in the formulation of his model.

In this sense, The *diferentia* of Honneth’s approach lies in his examination of individual’s social vulnerabilities in such a way, that a whole picture can emerge on how one’s own individual life is ultimately shaped by relations of recognition that can be described and comprehended in ways that integrate psychological, as well as a moral levels of the individual’s life world. Injustice, misrecognition and humiliation are precisely the kinds of disrespect and damages to integrity, for which we can also describe the corresponding reactive emotions<sup>34</sup>.

A sense of moral worth (often referred to as *dignity*) and agency, requires that one be in possession of certain attitudes towards oneself (practical relations- to -self in Hegelian terms) and these are also dependent on the attitudes of others. Basically, in Honneth's model these are *self-trust*, *self-respect*, and *self-esteem*; when these are absent we have the impairing effects of lack of trust or confidence, disrespect or denial, misrecognition or denigrating treatment at some specific level or sphere of the individual. Honneth leaves open the possibility that there could be other levels of "practical- relations-to -self" but never says which these could be.<sup>35</sup> What remains central is his idea that any level of recognition we may be talking about is always relational and the three basic forms of recognition which he sees as a systematic reconstruction of a Hegelian line of argumentation, provide the elements for understanding social conflict. In adopting with modifications, the early Hegel's theoretical model, Honneth also makes clear that under conditions of post-metaphysical thinking Hegel's idealist assumptions about reason cannot longer be defended,<sup>36</sup> since fundamentally, recognition is intersubjective and not the absolute movement of pure individual consciousness as can be exemplified in Honneth's use of the work of G.W. Mead that will be referred to at the end of this chapter.

But it is the Hegel of the Jena period,<sup>37</sup> in whom we find the idea that the shaping of self-consciousness in human beings is completely dependent upon the experience of social recognition. According to Honneth, the full implications of this, should bring us to the understanding that, apart from the necessary connection between self-consciousness and intersubjective recognition, there remains the task of explaining how recognition could bring about progress in ethical life. This can only be the product of a dynamic relation between the intersubjective acquisition of self-consciousness (as a reflective form of self-awareness) and the moral development of society. Here appears the core of the early Hegelian model of the

“struggle for recognition” on which Honneth tries to construct his “moral grammar” of social conflicts. Hegel’s model of the tree forms of mutual recognition is well known: The first has to do with granting a sphere of individual freedom which for Fichte meant the justification of natural law and for Kant meant the justification of legal, rights- based recognition, that ultimately depended on the notion of “moral respect”; but unlike Fichte when attempting to justify natural law and the formation of subjective legal consciousness , Hegel’s self-understanding of a free person would require more than this, and he adds a second and third form of recognition. The second form of reciprocal recognition is love , in which subjects can recognize each other in their needs and drives and obtain their emotional security ; And finally, there is a third form of recognition that makes individuals esteem one another in their contribution to the social order. This is not simply the enumeration of elements of single whole, or a single movement, as Honneth points out:

In his early writings Hegel seems to have been convinced that the transition from one sphere of recognition to another is generated in each particular case by a struggle for respect for a subject’s self-comprehension as it grows the demand to be recognized in newer and newer dimensions of one’s own person leads so to speak, to an intersubjective conflict whose resolution can only consist in establishing a further sphere of recognition. (Honneth,1997: 22)

The subject grows or develops in stages and her self –comprehension is above all a struggle for respect the demands of which, generate an intersubjective conflict. It not as if subjects had on their own reached a conflict resolution based on law (as formulated in the social contract tradition); quite to the contrary, it is only by ascribing to the parties knowledge of their dependence on each other, that the social meaning of conflict can adequately be

understood. Subjects, in the case of the conflict in the state of nature *presuppose* for Hegel *an implicit agreement* that consist in the affirmation of each other as partners of interaction. In Honneth's reading, Hegel's intersubjectivist innovation is in strong contrast and opposition to the instrumentally rational establishment of sovereign ruling power to which subjects accept and regulate their submission, in order to secure their own individual self-preservation. In the case of Hobbes and Machiavelli,

This socio-ontological premise – which they share despite all differences.....has the same consequences for the fundamental concept of state action. Since both make subjects' struggle for self-preservation the final point of reference of their theoretical analysis, they must, concomitantly, also consider the ultimate purpose of political practice to be the attempt, over and over again, to bring a halt to this ever threatening conflict. In the case of Machiavelli, this outcome becomes visible in the radicalness, relative to the political and philosophical tradition, with which he releases the sovereign's exercise of power from all normative bonds and duties. In the case of Thomas Hobbes's theory of the state, the same outcome manifest itself in the fact that he ultimately sacrificed the liberal content of the social contract for the sake of the authoritarian form of its realization..... The exceptional, even unique place of his Jena writings, however, stems from the fact that he appropriated this Hobbesian conceptual model of interpersonal struggle in order to realize his critical intentions.” (Honneth, 1995: 10).

And Hegel's critical intentions are meant to integrate the obligations of mutual recognition into the state of nature, as a social fact of mutual affirmation between individuals since this is what makes possible the *being-together* of social life and mutual affirmation

also implies certain degree of self-restraint which is the basis for an implicit and still preliminary form of social consciousness. Conflict and in general, hostile competition would be read by Hegel as being a formative process in which individuals may finally learn to see themselves as being endowed with rights that must be accepted intersubjectively. It is this relational condition that provides the framework for the identity formation of individuals. Once patterns of recognition are established it becomes possible to have a formal conception of ethical life, the object of which, would be for individuals to acquire different modes of recognition that correspond respectively to different concepts of the person; as a consequence of this, the *medium* of these developments (the different levels of recognition), become every time more demanding and inclusive. There is in this Hegelian early model a first mode of recognition which could be called *affective* the object of which are the individual's concrete needs of family and love. A second mode could be called *cognitive* the object of which is civil society and law and the formal autonomy of the person. And a third mode which is partly *affective* and partly *rational*, the object of which is the State and a sense of solidarity.<sup>38</sup>

Honneth on his part, develops his three categories along these lines which no doubt reveal their Hegelian inspiration. They correspond to *self-confidence*, *self-respect* and *self-esteem*. These are also seen by him as processes of identity formation that belong to the structure of recognition itself. My claim here is that independently of how successful the exegetical exercise made by Honneth of understanding Hegel's intentions, may be considered, his categories which I interpret as *spheres of recognition* have value in themselves and are important for understanding denial of recognition in general, and the magnitude of disrespect and damage to the self in the case of victims of collective wrong, in particular. No doubt we cannot overlook the difficulties that a project such as Honneth's may represent, especially because of his attempt to give empirical content to patterns of

recognition which are theoretical and conceptual. It is important to take into account here that Honneth's project is defended on the basic assumption that normative theory and the internal logic of social struggles (or grammar of social conflicts) complement and illuminate each other.

Although, not sufficient as a proof that Honneth's project is viable, we could use some of the ideas of *negative morality* authors that we made reference to, back in the previous chapter (particularly Shklar and Margalit) and say that understanding evils as evils is also the consequence of dealing with the plurality and particularity of evils, rather than the unity of a superior principles of goodness. If so, it falls into place to use this "inductive" method drawn from the different experiences of moral damage and see what we can learn from it for moral and political theory. Perhaps Honneth's "quasi-empirical" approach can be better understood once we appreciate his interest in negative situation of exclusion, disrespect and degradation that constitute violations of basic levels of the individual's reality. These experiences usually contain the seeds for collective action that in one way or other try to secure patterns of recognition when expressed in social conflict. Honneth's own categories *self-confidence, self-respect and self-esteem*, are therefore levels of recognition which are

.....neither purely beliefs about oneself nor emotional states, but are emergent properties of a dynamic process in which individuals come to experience themselves as having a certain status, be it as an object of concern, a responsible agent, a valued contributor to shared projects, or what have you. One's relationship to oneself, then, is not a matter of a solitary ego reflecting on itself, but is the result of an ongoing intersubjective process, in which one's attitude to oneself emerges in one's encounter with and others attitude towards oneself."(Anderson J. and Honneth A., 2005: 131).

It is useful to try to be precise about the actual content of these three distinct species of “practical relation-to-self” which I also refer here as spheres of recognition:

*Self-confidence*

Refers to basic self-confidence or trust and the central concept here is love particularly, parent-child relationships but it also includes adult relationships of love and friendship. Basic self-confidence or trust in oneself and the world is normally the result of the first relationships of infants to others, their environment and their own bodies and needs.

From the start this connects us not to the issue of one’s own talents or abilities but to a more primary sense of basic trust in ourselves and our surroundings, the absence of which can be the consequence not only of negative experiences in early years that produce a permanent sense of insecurity or fear of being abandoned, but can also be the product of extreme experiences in adulthood : physical violation ,rape or torture where the sense of “trust in the world” is lost ,sometimes in a definitive manner<sup>39</sup>.(Margalit, 2004) Therapeutic experience has shown that when this most basic relation to self is affected, individuals lose their capacity to access their own needs and express them without being fearful.

At a different level but not unrelated to this, the link between intersubjectivity and self-confidence works first in the early childhood experiences of love and concern where the infant demands for care must result in high degree of emotional and intuitive involvement on the part of the care-giver (not necessarily the biological mother) . Failures to adapt on the part of both in this relational process is determinant in the capacity of infants to cope with their own environment and recognize his or her own needs. Honneth makes his own Hegelian reading of the object-relation psychoanalytical theory of Donald Winnicott in order to find a model of what is a primary level at which subjects relate to themselves and to others, this

kind of elementary certainty about the value of one's own needs can be called "self-confidence" (Honneth, 1997:26)

### *Self-respect*

This sphere is not about one's own opinion of oneself but with one's sense of having moral worth or as many would express it, with the sense of possessing the universal dignity of persons and is therefore, closely connected to the notion of rights. Honneth himself appeals to Joel Feinberg's idea that "what is called "human dignity" may simply be the recognizable capacity to assert claims". (Feinberg,1980: 151). But there is also a strong Kantian import here, since according to this we owe to every person the recognition and respect for their status as agents capable of acting on the basis of reasons. As a consequence of this we can also have self-respect, since this practical self-relation makes us aware that we are accountable subjects. Within this pattern of interaction in the "struggles for recognition" there must take place also the mediation of legal rights. But of course the content of rights and responsibilities may shift over time and there are at least two historical processes here: an increase in the percentage of people who are treated as full citizens on the one hand, and on the other, an increment in the actual content of those rights which are recognized.

Honneth, as we know, emphasizes the non-Hobbesian and recognitional character of social struggles and in this sense rights in connection to self-respect provide the opportunity to exercise the capacities constitutive of moral agency. He is not all that clear about what it is that he considers to be the Kantian elements of recognition, if they were to be read in a non-transcendental way. I will examine some of these problems in the next chapter

### *Self-esteem*

This is the third form of practical self-relation that involves a sense of what makes anyone special (in Hegelian terms “particular”). Individuality and self-esteem are related because to have something of value to offer (for whatever talents skills, traditions or roles we represent) is part of developing our sense of identity. Honneth is here led by G H Mead’s idea that in order to distinguish oneself from others, there must be things that one does better than others. But Mead’s social psychology centered too much on the division of labour in modern industrial societies and obviously, this is too limited a universe to establish one’s sense of self-esteem. In Honneth’s account, this is insufficient, for even in Mead there is more to the individual sense of identity and other factors have to come into play for example, cultural factors that have to do with the way that certain human activities are differently valued as contributions to the common good. This explains why conditions of self-esteem are often associated to fields of contestation and cultural struggles for recognition. In this Honnethian model, *solidarity* becomes a central notion, broadly associated with shared social concerns and interests as manifested in debates over multiculturalism, feminism and sexual identities (among others) and collective struggles against denigration and insult. Self-esteem with its strong component of solidarity is a third pattern of intersubjective recognition that may appear to have communitarian tendencies without remaining there, since for Honneth esteem is accorded on the basis of individual’s contributions to shared projects and not simply for being member of a group, “It is simply impossible to imagine a set of collective goals that could be fixed quantitatively in such a way that it would allow for an exact comparison of the value of individual contributions; “symmetrical” must mean instead that every subject is free from being collectively

denigrated, so that one is given the chance to experience oneself to be recognized, in light of one owns accomplishments and abilities as valuable for society.” (Honneth, 1995: 129,130)

It is a merit of Honneth to attempt to articulate these three forms of self-relation as stages that form a sequence of necessary presuppositions; when one or more are absent, we come to establish by a negative procedure a more complete knowledge of the magnitude of basic damage to self, “to each level in the practical relation to the self there then corresponds a separate type of injustice, which in turn corresponds to a specific degree of mental harm” (Honneth and Farrell, 1997: 25).

And this linking of moral injuries and self-relation which connects a concept of “morality” with a concept of “recognition” is very important for our topic. The moral obligations derived from recognition based on situations of denial leads in the case of Honneth to outline a plural theory of justice based on the circumstances experienced as “unjust”, where some form of recognition is being withheld or denied. Transitional scenarios represent, unfortunately, the maximization of all these phenomena and a plural theory of justice<sup>40</sup> is required that takes into account the complexity of victimization: “it is not solely the bodily pain as such, but the accompanying consciousness of not being recognized in one’s own self-understanding that constitutes the condition for moral injury here.” (Honneth, 1997). As Haldemann suggests with specific reference to justice in transitions, “transitional politics of recognition must reach beyond distributive systems of goods in the society to investigate the full dimension of injustice and the sense of victimization it arouses”. (Haldemann, 2008: 679)

And in attention to this, Honneth’s model has the advantage of seriously attempting to articulate those levels or modes of recognition that correspond to the number of forms of moral injuries that can always be distinguished according to the integrity requirements of

human subjects. It is when we look at these forms of correspondence between recognition and the consequences of moral injuries that are to be found in ordinary human experience, that we can start making sense of why this typology is referred to as “quasi-empirical”<sup>41</sup>.

Honneth is in any case, reluctant to engage in a philosophy of history in the traditional way of suggesting a progression in conquering a posterior moment or the development of *absolute spirit* as the latter Hegel would have it. There is no structural evolution at the level of history; what we have instead, are individual or collective historical experiences of suffering and disrespect, and the goal of this kind of effort should be is the understanding of the “moral grammar” of the basic constituents of social conflicts.

Beyond the hermeneutical exercise of interpreting the early Hegel of the Jena period, or interpreting the attempt of G.H. Mead to establish patterns of interaction that contribute to understanding the relational constitution of the self (the “I”), free from metaphysics or speculative systems but relying almost completely on the division of labour <sup>42</sup>, what Honneth values most as influences for his own approach is that both of them, Hegel and Mead, recognized love and legal rights along with a further form of recognition on which both agree (at least with reference to its specific function): besides affectionate care and legal recognition, human beings need also a form of social esteem that may allow them to relate positively to their concrete skills and abilities. In the early Hegel the term used for this concept of mutual esteem was “ethical life”. In Mead on the other hand, we find instead a purely functional conception of this form of recognition that corresponded to institutional models of the cooperative division of work. In both cases,

using the resources of an empirically grounded phenomenology, we have been able to show that Hegel’s and Mead’s tripartite distinction among forms of recognition did not entirely miss its mark in social reality. Indeed it turned out to be

thoroughly capable of fruitfully disclosing the moral infrastructure of interactions. As a result, it was also possible (as both authors had supposed) to map these various patterns of recognition onto different types of practical relations-to-self, that is, onto ways of relating positively to oneself. It was then no longer difficult to distinguish, in a second step, forms of social disrespect in terms of the specific level of persons' practical relations-to-self they can damage or even destroy. (Honneth, 1995:143).

What this empirically grounded description of moral phenomena manages to articulate in terms of recognition in general and how it is relevant for victims of collective wrong in particular, as well as some of the challenges it signals but does not always solve, is something that I will attempt to examine in the next chapter. In the remaining part of the present chapter I take the intermediate step of examining how the recognitional model can illuminate the problems of the relation between human vulnerabilities and autonomy of individuals.

## 2.2. Bringing in human vulnerabilities

There are important implications that follow from reflecting on the relation between *autonomy* and *vulnerability*. This is a task proposed in thinking “with and against” the liberal tradition (Rawls in particular), in a joint effort led by Honneth’s associate and translator Joel Anderson<sup>43</sup>

One of the most salient aspects of this kind of critique is the question of the relevant *psychological* considerations or if we prefer, the considerations about human nature in deliberating about principles of justice. No doubt this introduces difficulties in the consistency and economy of any theory. Empirical claims about the nature of individuals or the cultural essentials of any group, among other things, condition the agenda to what is considered a particular form of life at a given time or place. Rawls answer avoids having to face these problems by establishing a sharp separation between political and metaphysical claims about the nature of human persons.

¿But is this enough? Can we find other forms of universalism that do not sacrifice central aspects of basic ordinary human experience in order to produce a coherent discourse about justice? Honneth’s model of “quasi-empirical” levels in the individual relation- to- self seems to be one example. Surprisingly, in conjunction with Anderson they both suggest looking into recent “capabilities approaches” that appeal to human needs and are not incompatible with a “commitment to inclusive , universalistic forms of liberalism”( Anderson and Honneth, 2005 :142,143)

Although they make no technical distinction between capabilities and needs , it is clear that they are suggesting the possibility of universal, non-relativistic notions based on human experience <sup>44</sup>.

What seems to be most important in this objection to Rawls' model, is that opening up the possibility of introducing empirical considerations does not cancel political pluralism, simply because claims about human characteristics need not be parochial: empirical considerations about human vulnerabilities, forms of neglect or acts of misrecognition or humiliation, do have deep and lasting effects in personal and interpersonal relations across cultures. Surely "all things considered", the human experience of those affected, would have to be allowed to enter; and this can be nothing different, but knowledge of human psychology. If this were not enough, we could at least say that in situations of profound damage and collective wrong, human beings share in the effects of disrespect, misrecognition and humiliation, regardless of the particularities or forms of expression these may take or the different ways of responding to humiliation and denial.

To a certain degree, it could be said that autonomy is not simply a faculty that flourishes naturally. A great number of initial conditions are required for it to be put into practice. While as an ideal, we do have to assume the capacity for agency of most individuals, in actual human experience, it all depends on multiple outcomes of their personal biographies and the ways they can face different vulnerabilities and in cases of profound harm, on their capacity for recovery. Similarly, self-esteem cannot be reduced to the social relations and voluntary associations in which individuals may choose to participate. Vulnerability in all these spheres of the self, we could adventure to say, has more weight than it is normally admitted. It is in general a factum of individual's lives that they are vulnerable in various ways. It is therefore perfectly valid to reflect on how we come to experience and understand all the phenomena associated to it<sup>45</sup>. The symbolic- semantic contents that are of value for an individual's life and their own self-perception of cultural, religious, sexual or linguistic identity (among others), have far reaching consequences and go beyond choosing freely

(when possible), between different activities in which to put her talents and skills (though this may also play an important role in matters of self-esteem and identity).

All this implies from the kind of arguments that Anderson and Honneth are providing, that in the case of autonomy, the standard liberal account may be insufficient: that there are preliminary conditions for autonomy and self-respect, is something difficult to deny and these conditions are not simply resources to be distributed; self-respect and self-esteem that Rawls treats as equivalents, are not just a question of a positive disposition towards oneself in the sense of accepting one's own responsibilities or one's role in society. On the other hand, self-confidence (trust) as we will see, is in Honneth-Winnicott's, Hegelian inspired model, something which requires of the intimate and recognitional conditions of early childhood, among other things. If such be the case, we would have to say that even from the original position, there could be a revision of the object of a theory of justice. When reflecting about human vulnerabilities in relation to autonomy and liberalism, the authors go on to claim that

from the perspective of asking what the conditions are that equally guarantee the personal autonomy of all members of society, and equally protect them in their intersubjective vulnerability, the main focus of application for principles of justice becomes the structure and quality of social relations of recognition".As a result this liberal conception of justice loses its character as a theory of distribution. It becomes instead to put it *somewhat provocatively*- a normative theory of the recognitional basic structure of a society. What comes, then, to take the place of principles of just distribution are principles governing how the basic institutions of society secure the social conditions for mutual recognition. And that is a profoundly different-and largely unexplored- way of thinking about social justice. (Anderson and Honneth, 2004:144).

Of course, suggesting the need for a recognitional theory of justice is not the same as producing it. Surely Rawls's theory has contemplated the conditions for mutual recognition as one of its aims. Nonetheless, it becomes important to register that different emphasis do exist and that Margalit has reasons to suggest that granting equality of resources (if such was the case) is not enough to prevent humiliation. Margalit appeals to negative politics: our duty is to support only institutions that are able to prevent and avoid *humiliation*<sup>46</sup>. Honneth appeals to a "struggle for recognition" that should enable us to acknowledge and eventually, reconstruct the basic practical relations- to- self, from situations of denial and misrecognition.

Both of them have to treat *negative morality* in its own right. I would add that with transitional scenarios we need no further proof that issues cannot be simply about distribution, since the basic constituents of life and ordinary basic experience have been disrupted to a point that it appears that talk that concentrates exclusively on distribution, misses the point completely. If one follows, at least conceptually, the project Honneth presents of thinking the relation between recognition and justice as an outline of a plural theory of justice<sup>47</sup>, then it becomes easier to find support for their claim that in the case of autonomy, liberalism faces as yet the challenge of doing justice to its "profoundly intersubjective nature"(Anderson and Honneth, 2004:145). This appears as if a communitarian turn had been taken here yet, as will be seen below, Honneth tries to distance himself from this position too.

The question arises here whether the recognitional understanding of the individual's relevant vulnerabilities should add anything else to liberal theory, particularly Rawls's. Both Anderson and Honneth defend that to some extent it should mean something like this; and rather than addressing the whole discussion of why or how the parties may be motivated to abide by agreed upon principles, they direct their criticism to the more specific issue of how

Rawls's device of the veil of ignorance limits too much the fact of human intersubjectivity as it is made, "to disappear more than necessary from view. Don't the parties need to have some awareness—even within the procedural constraints that are to generate impartiality- of their intersubjective vulnerability if they are to qualify as human, as the sort of creatures for whom the institutions of justice are so essential?" (Anderson and Honneth, 2005:14)

Rawls could answer that the parties do know some basic aspects of human psychology, their vulnerabilities and their need for reciprocity. Besides as the authors themselves acknowledge, he could always make the move of taking up the issues of vulnerabilities in the legislative stage, as he thinks it should be done in analogous manner, with the consideration of various illnesses in issues of health care policy for example, which are not as yet deliberated in the original position. So ¿why not apply the same Rawlsian criteria to vulnerabilities? According to the authors, "the autonomy –related capacities that are vulnerable to injustice are so widely and deeply implicated in central aspects of deliberation that it would be foolhardy to trust this to a subsequent legislative stage"(141)Rawls on the other hand, has made it clear that the notion of a person that is essential to his conception of justice as fairness "needs not involve questions of philosophical psychology or a metaphysical doctrine of the nature of the self" (Rawls,1985:231). That we cannot do away with quasi empirical aspects of human personhood in the breach of any form of justice and particularly, in situations of extreme collective harm is something that Rawls himself would consider. What would be pendent is to investigate if the multi-dimensional model of recognition that Honneth proposes does in fact bring other elements to what according to this recognition bound theory, has been a very narrow conception of individual autonomy.

Rawls on his part, is not alien to the idea of self-respect and self-esteem (he treats the two as equivalent), as being positive dispositions to oneself. Parties in the original position must be aware in any case, of their need for recognition in their deliberations over the structure of a just society since they possess basic understanding that the pursuit of their life plans depends in great measure on the esteem of others.

we may define self-respect (or self-esteem) as having two aspects. First of all...it includes a person sense of his own value, his secure conviction that his conception of his good, his plan of life, is worth carrying out. And second, self-respect implies a confidence in one's ability, so far as it is within one's power to fulfill one's intentions.....It is clear then why self-respect is a primary good. Without it nothing may seem worth doing, or if some things have value for us , we lack the will to strive for them .All desire and activity becomes empty and vain, and we sink into apathy and cynicism. Therefore the parties in the original position would wish to avoid at almost any cost the social conditions that undermine self-respect. The fact that justice as fairness gives more support to self-esteem than other principles is a strong reason for them to adopt it. (Rawls, 1971: 440)

However, the question remains unsolved if we maintain a sharp divisive line between what Rawls denominates *political* and "*metaphysical*" claims regarding human nature or the nature of human persons. As was already mentioned, some human needs are more or less universal as defended in capabilities approaches<sup>48</sup> (Nussbaum 2004) and we obtain this knowledge from human experience. I would add that the consequences of torture, rape, forced disappearance or a life of permanent insecurity, are also universal. Empirical considerations about human vulnerabilities are therefore necessary if we are to understand

for example, how certain forms of neglect or denial are potentially destructive for forming healthy and rewarding personal relationships. Empirical considerations about individual's needs or vulnerabilities do not have to be perceived as working against political pluralism.

All knowledge relevant to issues of justice or for that matter, injustice, has to be “psychological “ or at least, knowledge based on the real experience of humans and the ways they obtain or fail to obtain recognition and Rawls could agree with this too, since the veil of ignorance does not have to mean that basic aspects of human psychology have to remain hidden. The moral power of *self-respect* that we have just quoted from Rawls as contributing to acquire a positive disposition toward oneself is not something that grows spontaneously in human beings; a great deal of recognitional conditions are required, to achieve self-respect and self-esteem (in Honneth's sense) under more or less normal circumstances and conversely, a lot of pathologies can be developed on the way. One interesting aspect of Honneth's work is the manner in which he pays due tribute to this and other equally important, and even more basic spheres of human existence: maintaining self-trust for example (which in a sense is more basic than self-respect) , is directly related to inner dynamics and to early life, relational , and intimate phases of any individual's development. In this sense he is asking for a more detailed, articulated and empirically based knowledge of human vulnerabilities

A great deal of what we understand as the best mechanisms to protect autonomy is formulated (in the liberal tradition) in the language of rights. Rights based approaches seem to be sufficient for addressing any aspect of social justice and justice in general. No doubt this is one of the greatest moral advancements of modernity if there be such thing as moral progress. But rights have focused mainly on issues of providing the conditions for self-respect usually leaving aside self-trust and self-esteem. ¿How could rights accommodate the

fact that individuals need to be loved or esteemed and not just as a product of having a legal claim to it? No doubt rights are instrumental for this to be possible. But these are fundamentally relational properties, not simply goods that can be individually possessed. Symptomatic of this is the tendency of contemporary liberal societies to bring every problem of abuse, mistreatment or lack of care, to the discourse of rights. Children's rights<sup>49</sup> are an outstanding example of this. No one would wish to deny that children have rights the protection of which, is an important legal tool in the face of exploitation or abuse or other threats to their integrity. But rights, important as they are, do not what actually prevent these misdeeds from happening. There are plenty of examples of societies where the care and protection of children is a common traditional practice without having to appeal to respect for rights. In fact, we may even adventure the hypothesis (without minimizing the importance of legal instruments) that there has to be something profoundly wrong in societies that have to appeal to rights in order for children to be respected, let alone loved or valued.

Cultural or linguistic traditions are also the objects of discourse such as the "protection of the rights of minorities"; all this in the midst of general indifference or ignorance about the forms of life of the individual members of these groups. This may explain why questions of self-esteem (in Honneth's sense) regarding one's own identity as member of a group, are often treated with what looks like a communitarian discourse of particularity, that claims for recognition of cultural rights. This of course, is not to deny that in a situation of disrespect or humiliation the language of rights (usually but not exclusively legal), provide important input for protection of minorities, but this is not the same as valuing and truly recognizing these cultures.

A third example that presents similar problems can be raised regarding the question of the "side" of victims. Victims are not always the state's victims. They can also be the

victims of armed opposition groups. Because in the classical doctrine of International Law of Human Rights it is states (not particular individuals ) that have to be accountable for the protection and maintenance of at least civil and political rights (accountability for social and economic rights is far more ambiguous), it becomes very difficult to find a language for crimes that are committed by other non-state actors. But the extension and depth of physical and moral damage for victims is virtually the same, independently of whether it is caused by official agents, paramilitary or guerrilla fighters; one very tragic example of this is the situation of those who have had their loved ones disappeared by different factions.

Often there is a complaint on the part of victims of armed opposition groups, that they do not receive the attention that is due to them, when compared to victims of official agents. While it should remain clear that the distinction between official-state responsibility (when it is the case) ,for human rights violations and the crimes committed by opposition groups (even when politically motivated), still holds and is necessary, groups of victims should not be played off against each other in transitional processes. The debate over who violates human rights more or who committed major atrocities first, should be to some extent, replaced for a better understanding of the meaning and implications of the damage inflicted upon whoever is a victim. Unfortunately, often political groups who oppose the outcomes of transitional measures and negotiations are very professional in exploiting for their own purposes these tensions, or apparent antagonisms between types of victims.

As should be clear by now, these examples are not meant to diminish the importance of the language of rights.<sup>50</sup> Their purpose is rather to point out that other things should also be taken into consideration when thinking about these matters. Establishing the possible connections between vulnerabilities and recognition, is certainly a promising route to achieve a more complete understanding, not only of the conditions of self-respect but also of self –

trust and self-esteem and their importance for exercising autonomy. In examining more closely these *spheres of recognition* and how they can be used to account for the experience of victims of collective wrong in particular, interesting challenges appear, some of which are particularly important for the universe of transitional justice. Before proceeding to the examination of those problems, something must be said in the final part of this chapter about the relation of Honneth to Mead symbolic interactionism, his similarities and distances with some aspects of communitarian theory (this will be examined more thoroughly in chapter four) and the manner in which Honneth's theory succeeds or does not succeed in providing additional critical elements to liberal theory in the way he and Anderson have been suggesting.

### 2.3. An intersubjectivist conception of autonomy

In Honneth's reading, Hegel never returns to his more interesting earlier notions where individual and society develop and constitute themselves mutually<sup>51</sup>. In the latter Hegel patterns of recognition are seen as mere stages in the process of Spirit formation in favour of a more accentuated reliance on a "philosophy of consciousness" that remains within the model of subject-centred metaphysics as can be traced from Descartes to Husserl. Honneth concludes that Hegel's earlier and latter Jena's writings negate each other, a claim that can of course be controverted but it helps to understand why he turns to the social psychology of George Herbert Mead in order to achieve what he expects will be a translation of Hegel's theory of intersubjectivity into a postmetaphysical language, closer to our intellectual situation and the experiences of social struggles for recognition.

From the very beginning Honneth's assumption is that Mead reconstructs a Hegelian account of recognition by means of which it becomes possible to abandon the framework of idealist philosophy and translate Hegel into a post-metaphysical vocabulary, one more prone to empirical research. This may of course bring us to the kind of questions that have marked a great part of the debate between liberals and Hegelian inspired communitarians. Unlike Hegel he does not want to subordinate individual freedom to general social community ends, rather his purpose is to inquire into the social conditions under which individual's freedom and his/her sense of identity can be secured without having to consider individuality and social integration as irreconcilably values. This would not seem to differ much from views like those defended by Charles Taylor.<sup>52</sup>

It is worth trying to clarify the sense in which Honneth's categories can be understood as quasi-empirical and what alternatives they offer. As he has expressed in reference to Mead's work

thus far, his studies-still largely related to questions about the foundations of psychology-enabled him to develop an intersubjectivistic conception of human self-consciousness: a subject can only acquire a consciousness of itself to the extent to which it learns to perceive its own action from the symbolically represented second-person perspective. This thesis constitutes a first step towards a natural justification of Hegel's theory of recognition insofar as it can indicate the psychological mechanism that makes the development of self-consciousness dependent upon the existence of a second subject. (Honneth, 1995: 75).

It is therefore a question of empirical science (social psychology in this case) that the relationship between the ego and the social world is now inverted as it were, and the perception of the other is given primacy in the development of self-consciousness while at the same time, this brings about the movement Mead makes towards an investigation into the practical relation to self. It is not only the issue of self-consciousness but the issue of the subject moral identity formation which has to be resolved and this orbits around the conceptual distinction between the "I" and the "Me" by means of which the normative dimension of individual development could be accounted for. In Honneth's reading of Mead the "me" is what represents the "community" within the self: "as the representative of the community, the "me" embodies the conventional norms that one must constantly try to expand, in order to give social expression to the impulsiveness and creativity of one's "I". (Honneth, 1995: 82)

This is a distinction that permits an elaboration of Hegel's intersubjectivity : Mead situates the self in a reality in which struggles for recognition can be seen as the result of how subjects acquire self-consciousness since for him, "This inner friction between the "I" and

the “me” represents the outline of the conflict that is supposed to be able to explain moral development of both individuals and society” (Honneth,1995:83).

The broader implication of this according to Mead is that the structure of moral conflicts reveal the inner demands of the individuals to act in ways that contravene the rigid norms of society and which at the same time, may imply the extension of individual rights if such demands are to be satisfied. Identity formation and with it the demands for expanding individual rights receive their impulse from the creative demands of the “I” which in many ways is resisted by the “Me” that represents the convention of the community or the “general” other. There is here an idea of individuality, that Honneth interpretation wants by all means to preserve without falling back into the classical idea of an autonomous (exclusively rational) subject: The I of Mead, Honneth suggests ,is not very different from the unconscious in psychoanalysis<sup>53</sup> and it corresponds to the forms in which subjects are “decentered” intersubjectively in language and society(The Me) on the one hand, and on the other through the psychic inner impulses that also produce the creative individual responses (the I). Patchen Markell emphasizes this point in describing the relation Honneth- Mead:

It is because the “I” and the “me” are independent though they interact- that the “I” can serve as the locus of an individuality irreducible to the “collective will” embodied in the “me”. Second, the distinction between the “me” and the “I” also helps Honneth negotiate the problem of teleology, and in a parallel way . The separateness of these two aspects of the self, one might say, is a version of what I earlier called the division of labor between the concepts of actuality and potentiality ; on the one hand, the “me” represents actuality , in the sense that the self needs its “approval” –needs the support of really existing relations of recognition- in order to be able to put its impulses into

action; on the other hand the “I” represents potentiality the domain of not yet realized possibilities. (Markell, 2007: 111)

This independence guarantees that the “I” remains as a permanent source of challenge to existing forms of recognition . This is generally speaking the way Honneth understand Mead’s naturalization of Hegel’s ideas and the apparent conflict between recognition and socialization in the fourth chapter of *The Struggle* (N). As have been said here Honneth’s model attends to different spheres of recognition (some problematic aspects of it will be examined in the next chapter) that reveal a multi-dimensional conception of recognition , as opposed to a One- dimensional conception as when for example, recognition is restricted to *respect* in the Kantian sense. By the same token, it could be said that Honneth’s conception of recognition is *par excellence* a multi-dimensional one explicitly formulated through its three types of recognitive attitudes: love, respect and esteem. If we follow Honneth’s three dimensional reconstruction of Hegel’s concept of recognition we obtain respectively, three different modes of taking someone as a person in three distinct dimensions of personhood. This is expressed by Ikäheimo and Laitinen: “Axel Honneth’s conception of recognition is the most explicitly multi-dimensional conception of interpersonal recognition that we are aware of, and is, in this respect of exemplary clarity.....love , respect and esteem are types of recognitive attitudes which, according to the dialogical conception are potential constituents of different types of recognition.”(Ikäheimo and Laitinen,2007: 39)

But they are pointing at a more important aspect: The definition of the genus of “recognitive attitude” would be *taking someone as a person* while at the same time, the general term person (given all the “personalizing attitudes” towards someone: loving, respecting or holding in esteem) is better described adopting the dialogical conception of

recognition, where the definition of the term is added something else along the lines of “taking someone as a person, the content of which is understood and which is accepted by the other person”.(Ikäheimo and Laitinen, 2007:42) .

This is close enough among other things to Darwall’s idea of the *Second Person Standpoint* that will be examined in the next chapter.

Recognitive attitudes are expression of recognition in its multi-dimensional conception but they should also help us thinking out the various institutional spheres where they may take place. A typical example of this is the *family* where attitudes of love between different individuals are of the utmost importance but equally important, are attitudes of esteem and respect. This last one in particular, has to do with the rights and responsibilities that the members of a family owe to each other if they are to exist as a family and also with the fact that legally speaking, the family is a juridical institution recognized by members of a society, not only by the members of the family. There can be in Honneth’s multi-dimensional conception of recognition (and it is to be expected), a constant tension between the obligations to care emotionally (love and care) and the obligations of universal equal treatment (rights), and the collisions of duties and moral obligations cannot be done away with because they originate in different social relationships. This is not to mean that rights should not be considered a central element but only that they are not the only things to be taken into account in deliberations about our own obligations.

It is this multi-dimensional and dialogical aspect of recognition what appears to bring us closer to giving an answer to the difficult question of the reality of categories that are *quasi-empirical*. There is on the one hand, a general sense in which this can be understood if we presuppose the complexity and plurality of practical relations to self in actual human experience. On the other hand, there is a more specific sense that would be related to the

question of whether recognition corresponds to something preexisting or if it brings about its objects by granting certain kind of status. Both possibilities are problematic and I will not examine this problem in detail here but to put it succinctly, we do not discover a quality or set of qualities in recognizing, nor is recognizing “pure creation”. We can follow here Patchen Markell recommendation that we must appeal to the distinction between the “potential” and the “actual”<sup>54</sup> that place Honneth’s project in a line that goes back through Hegel to Aristotle conception of human flourishing as an unfolding or actualization.

Recall the stakes of the problem. If potentiality is to serve as the criterion of proper recognition, it cannot be mixed up with the actuality it is supposed to govern without risking a dangerous form of relativism. Honneth sees this threat lurking in his own invocation of a historically alterable lifeworld, to fend it off, he falls back on the thought that relations of recognition are not only historical but progressive- that is they can be judged in a transhistorically valid way according to whether they constitute an advance along a development path and Honneth anchors it in the idea of a general human capacity for autonomy, which stands behind the permutations of history.....For Honneth, progress takes place when recognition is extended either to formerly obscure human powers, or to previously unrecognized persons or groups.(Markell,2007,104).

The notions not far from Aristotle, of potentiality and actuality would permit us reading recognition as a process that ultimately leads to the acknowledgment of agency ( this seems to be Markell’s reading of Honneth’s idea) and I would add that there is an element of transition in this, that exemplifies the movement from what is thought that should be recognized at a given moment ,as for example the right to vote for males with literacy and

property, to the widened right to vote for all males and then, the historical extension of the same right to women, to give but one example.

Recognition therefore matters and serves as a vehicle for historical development because among other things, those who have obtained all or most of it in actuality, remain divorced from potentiality (from those individual or groups that have obtained none). By appealing to it, we are neither identifying a set of preexistent (essential) qualities nor are we “creating” a new status for anything. Rather we constructively postulate an agency that has to do with the actualization of our potentialities through the activities that we and other individuals perform. This also points at some strengths of Honneth’s model in as much as it allows for a Multi-dimensional conception of recognition (Practical relations-to-self) and different levels of self- realization that become possible only through processes of unfolding subjects capabilities in social and historical struggles. It must also be admitted that Honneth is at pains when trying to explain in what sense his categories are transhistorical or belong to a Philosophical Anthropology that transcends historical contingencies or the privileging of any particular form of life.<sup>55</sup> Alternatively, there can be some coincidence here with Markell that injustice is to a great extent a matter of “what I have elsewhere called “a failure of acknowledgment” – a failure to see and respond to the conditions of one’s own action –rather than a failure to recognize the qualities of others” (132).

The emphasis in this work is slightly different since the accent will be put (Chap 4) in the public, performative aspect of *acknowledgement* and how it provides the conditions of possibility of any further recognition processes in transitional situations. I do not disagree though with Markell statement that in delimiting the scope of a theory of recognition, more weight should be given to acknowledgment. All things considered, Markell’s answer to the question of whether recognition identifies a set of qualities or “creates” them would seem

correct; his view is that in acknowledgment we respond to the conditions of our own action or more precisely to our individual capacity for action: to our agency.

In the final chapter of the *Struggle* Honneth makes strong emphasis in that both thinkers Hegel and Mead, proposed a (post-traditional) relationship of recognition that integrates legal and ethical patterns into a single framework(171) if subjects are to be recognized as autonomous and individualized beings. In practical terms this means that morality as conceived in the Kantian tradition is too narrow to be able to include all the goals of recognition, if it does not go beyond the imperative that all subjects be accorded the same respect. Honneth's proposal here is to speak of , "a formal conception of ethical life" (understood in the Hegelian sense, also as a good life). Re-appropriating the intentions of Hegel and Mead to bring relationships of recognition at the center must mean to safeguard the intersubjective conditions that are necessary in post traditional societies for the individual's self- realization. From then on it is easier to see how Honneth's original intentions are to some point, to distance himself from the Kantian liberal tradition of abstract autonomous individuals who are guided by universal principles on the one hand, and on the other, from those who want to reverse this tradition by making situated historically variant conceptions of the good life the ground of morality. As will be seen, he explicitly marks his points of distance from both positions.

Honneth's claim to have situated himself at some middle point between Liberalism and Communitarianism could be responded but many a critique by affirming that this is done at the cost of taking upon himself the very difficult task of defending *a formal conception of ethical life* that is full of complexities and not completely independent from cultural or socially constructed interpretations. No doubt he also takes distance from Habermas when making his own reading of social recognition. While admitting that his mentor's work is

something that belongs to the structures of communicative action, he marks his own project as something that would “require solving the difficult problem of replacing Habermas universal pragmatics with an anthropological conception that can explain the normative presuppositions of social interaction” (Honneth, 1994: 263) .

This, it can be presumed amounts to an anthropology of recognition that leads from the development of personal identity to the preconditions for human self- realization. A form of Recognition that is three-dimensional is what makes identity possible and refers to primary relationships (love, family , friendship), legal relations (rights) and communities of value (solidarity) and correspondingly to three positive relations to self, that involve self-confidence, self-respect and self-esteem as have been described already . Heidegren makes a point here when he attributes to Honneth the formulation of an Anthropology of Transcendence<sup>56</sup>: in the face of disrespect the corresponding moral emotions of shame, harm ,conflict and struggle seem to be basic human traits independent of culture but the idea here,

is not , as in the tradition of German philosophical anthropology .....how the necessity of a social-normative and institutional-order can be derived from human nature, but rather how the enduring readiness to transcend existing institutions ,to put into question and disrupt the established social order, can be explained with reference to human nature. What is at stake here is an anthropology of morally motivated conflict and struggle. (Heidegren , 2002: 437)

There are at least two profoundly articulated conceptualizations that can be mentioned if only to exemplify the way Honneth has attempted to reconstruct the inner dynamics of recognition in aspects in which the attention of other theorists has not been captured.(it is a

different thing with rights). The first can be seen in the attempt he makes to use the Medean conception of the “I” as a counterpart of a more socially determined (and conformist) “me”.

This in the interpretation of Honneth would account for the dynamics of recognition at the level of the individual’s development. The second is Honneth’s turning to psychoanalytic theory, particularly Winnicott’s Object Relations theory on how interplay with others in early stages of life particularly the “mother”, shapes the individual’s future capacity to “be alone” and in creative relations with others. The sphere of self-confidence and trust will depend on this.

It goes without saying that a number of difficulties are raised here. When Honneth affirms in the *Struggle* that

the forms of recognition associated with love, rights, and solidarity provide the intersubjective protection that safeguards the conditions for external and internal freedom, upon which the process of articulating and realizing individual life-goals without coercion depends. Moreover, since they do not represent established institutional structures but only general patterns of behavior, they can be distilled, as structural elements, from the concrete totality of all particular forms of life (Honneth, 1995: 174)

One could ask to what extent if any, is such process of “distillation” possible as a byproduct of a weak, formal anthropology? Would personal and cultural identity, as well as individual’s self-realization not require from a more substantial and stronger form of anthropology? But this brings about all the well-known problems associated to the not very compatible options of moving between a “thick” account of forms of sociability that would depend more heavily on *situated* notions of the common good or “thin” accounts, that would

dependent on universal notions of rationality and the autonomous individual or even on negative situation.<sup>57</sup> As a possible alternative Honneth remains confident that

a formal conception of ethical life encompasses the qualitative conditions for self-realization that, in so far as they *constitute* general prerequisites for the personal integrity of subjects, can be abstracted from the plurality of all particular forms of life. But since, for their part, such conditions are open to possibilities for normative progress, a formal conception of this sort does not escape all historical change but rather, quite the opposite, is tied to the unique initial situation presented by its period of origin. (175)

However, some other questions are raised here. To start with there is a central question that outweighs many others: ¿ how can Honneth account for normative progress that surpasses historical changes and yet is not immune to them? And even more difficult ¿ how is he to defend that his formal categories that presuppose human identity development are quasi-anthropological and quasi-transcendental and therefore transcend history and cultures as regard their normative implications? <sup>58</sup>

Honneth insists that the ideal of democratic ethical life as it was proposed by Hegel and given post-metaphysical premises by Mead, becomes visible under the historical conditions of the present while at the same time, it is here that further normative developments regarding relations of recognition are possible. The struggles for recognition cannot be accounted by a substantive anthropological theory simply because the changes have to be historically discerned and the process of differentiation of the three spheres of recognition that have been discussed here show that this has evolved and continues to evolve into the present time in modern societies.

All along his theorizing Honneth seems to remain within this unsolved tension between the potential and the actual <sup>59</sup>, between “a formal conception of ethical life” that appears close to a weak anthropology and struggles for recognition and moral progress that take shape only in a situated historical perspective, and although he is at pains to emphasize this historical contingent mark of human subjectivity he claims that common experiences like bodily integrity and the need for love and care are things that we all share independently of the differences in cultural and historical contexts. In further works and also as a consequence of this ethical turn in critical theory that has stimulated a rich debate and as response to his critics, he has had to refine some of his central categories. In this investigation the main concern is not with the evolution or the interpretation of Honneth’s work *per se*. Overall, Markell’s judgement that Honneth’s work since the *Struggle* shows a commitment to the integration of ethical and political philosophy, taking up the task of examining existing forms of experience and motivation that offer themselves as responses to injustice, is shared here as well as the appreciation of the role of its most central concept: “The idea of recognition serves as his bridge between these levels of analysis. For Honneth, recognition is what we owe to each other, yet it is also that, towards which our social interaction are already oriented, however imperfectly” (Markell,2007: 100).

One important aim of this work is to extend these levels of analysis to transitional realities and victims. Instead of the hermeneutical exercise of interpreting the whole of Honneth’s thought and its evolution an effort is made here (Chapter 3) to try to respond to some of the challenges it opens and the ways recognitive categories and transitional justice can be linked. As was mentioned before at different instances Honneth claims to have found a third way between moral relativism (or at least the possible relativistic consequences of

communitarian ,contextual ethics) and the liberalism Kantian based models of ethics. At the end of *The Struggle* he is quite explicit on this no doubt, difficult and\_ambitious project:

Our approach departs from the Kantian tradition in that it is concerned not solely with the moral autonomy of human beings but also with the conditions for their self – realization in general. Hence, morality, understood as the point of view of universal respect, becomes one of several protective measures that serve the general purpose of enabling a good life. But in contrast to those movements that distance themselves from Kant , this concept of the good should not be conceived as the expression of substantive values that constitute the ethos of a concrete tradition- based community....Rather it has to do with the structural elements of ethical life , which ,from the general point of view of the communicative enabling of self-realization, can be normatively extracted from the plurality of all particular forms of life. To his extent , insofar as we have developed it as a normative concept, our recognition- theoretic approach stands in the middle between a moral theory going back to Kant, on the one hand, and communitarian ethics on the other. It shares with the former the interest in the most general norms possible, norms which are understood as conditions for specific possibilities; it shares with the latter, however, the orientation towards human self-realization as an end” (Honneth, 1995: 172,173)

Honneth certainly has offered a very interesting model that manage to integrate fundamental aspects of human experience that are usually left out by other theories. Whether he has managed to situate himself in some sort of middle point respect to two central traditions of modern thought as seems to be his claim, is something that requires further examination. Some problems derived from his very interesting notions of self-confidence

and self-respect will be examined in the third chapter. I have left out self-esteem for to a great extent, this is reflected upon in the examination and criticism of the “politics of recognition” in the fourth chapter. In the remaining part of this chapter something else should be said about the relation and critical contribution of Honneth’s model to liberalism and its relation to Rawls’s theory.

#### 2.4. Honneth's Hegelian liberalism

As editors of an important volume<sup>60</sup> on Honneth, Bert van den Brink & David Owen have expressed that

with Kant, Habermas and Rawls, Honneth shares a strong commitment to the notion of the autonomy of the person understood as a source of justified social claims that are brought into practices of public moral reasoning ..... he has been remarkably consistent over the years in criticizing these authors for an understanding of autonomy that is both too narrow and too abstract (having the character of a mere "ought") to inform us adequately about the way in which autonomy is thought to be embedded in the complex structures of the historically developed ethical life characteristic of modern societies. (van der Brink & Owen, 2007: 7,8).

It would seem therefore that Honneth has made an interesting effort to distance himself from formal and transcendental reflection on moral and purely cognitive conditions of reasonable action (as in the case of Kant and Habermas). He has also taken distance from the counter-factual design of Rawls on how we would resolve questions of justice once that knowledge of our actual position in society is hidden from us. By contrast Honneth situates individuals in the social preconditions of an actual embedded autonomy, the purpose of which is to avoid a purely abstract understanding of the subject of morality. According to this view and its pluralistic account we are (partially) autonomous beings endowed with mutual expectations for recognition and secondly, our legitimate moral expectations for greater recognition as subjects is derived from the moral grammar of struggles for recognition, socially and historically present.

As for the differences with communitarianism it is easier to see that the pre-existing values and commitments that originate in traditional world views or the situated self-understanding of particular communities are replaced in Honneth by a kind of ethical lifeworld that consists in the three spheres of intersubjective recognition, that are not simply the product of cultural background but the very *medium* through which personal autonomy tries to realize itself. On the other hand, It is more difficult with Rawls's liberalism since as Anderson and Honneth admitted when examining among other things, the relation of *vulnerability* and *autonomy*, Rawls has got plenty of resources from his theory to respond to the problem of a supposedly insufficient demarcation between *self-respect* and *self-esteem*.

It is clear that autonomy as well as self-respect play an important role in Honneth's theory, ¿what is therefore his contribution to liberalism?¿ is his as some propose (Honneth himself) a form of Hegelian liberalism?<sup>61</sup> This is a complex and long debate and I will only make reference to two central aspect of it which are clearly interlocked. The first is too visible in Honneth's model and has already appeared and will continue to appear in the context of this work, and has to do with the plurality of forms of injustice and the moral obligations derived from them (whether this is enough for considering that Honneths proposes a complete or at least a plural theory of justice is another matter). The second, points more directly to the question that interest us here ¿in what way a recognition bound theory makes a contribution if any, to contemporary discussions of liberalism?<sup>62</sup>.

Referring to both Taylor's (and also Sandel's) critique of liberalism, Honneth affirms that "his critique of liberalism originate in an "anthropological" concept of the human person which in common with Sandel's notion, concentrates on human evaluative self-understanding. To this extent , the formation of inner freedom presupposes the existence of a social community whose members know that they agree on the positive evaluation of the

self-realization” (Honneth,1994:26).And in the case of Taylor particularly, our self-understanding has to be favored by a culture of empathy and solidarity that is to be realized through republican forms of political morality. As seen by Sandel<sup>63</sup> on his part, the problem that is detected in Rawl’s liberalism is an atomistic conception of the moral person: a subject that is theoretically untenable. Besides this, the idea of a community cannot be developed within the framework of liberal tradition since it has always insisted that normative status may not be granted to any specific moral-ethical value and this neutrality (where moral subjects are uncoupled from intersubjective reference to values) cannot clarify the social preconditions in which individuals can effectively put their liberties into practice. So far these are the consequences of a communitarian critique that Rawls according to Honneth would have to concede as something that is lacking in liberalism,\_but at the same time he formulates what he considers would be a Rawlsian reply:

He can now in return, put the question to the communitarians as to which normative principles they can deploy in order to provide justifications for distinguishing between right and wrong notions of the good life.....Rawl’s counter question is the question of how I can assign normative validity to one of the numerous models of a commonly shared good once I concede that well integrated communities play a constitutive part in the realization of individual freedoms. However this question to a certain extent affects both sides in the politico- philosophical debate. (Honneth, Limits 29, 30)

The shadows of relativism and particularism remain for communitarian authors without them being able to provide a clear answer as to what can give universal legitimacy to a general conception of basic freedoms and universal autonomy, but this shadow also

obscures Rawls, for if it is true as Honneth holds, that Rawls himself has had to limit the claim to universality of his own theory to the domain of the tradition of Western democracies, the question remains as to what reasons can be given “for granting the tradition of ethical life of this particular community a normative status above all others,” (Honneth, 1991:30)

It is in “Justice as Fairness: Political Not Metaphysical”<sup>64</sup> where, Rawls emphasizes that his conception of justice is context-specific. It starts from certain political tradition: “Justice as fairness is framed to apply to what I have called the basic structure of modern constitutional democracy” (Rawls, 1985: 224). This political tradition defines the turning point, away from any metaphysical project. Rightly or wrongly, Honneth concludes that “This contextual link of the “original position” back to a certain tradition of morality can be understood as a compromise between his original proceduralism and the objections of his communitarian critics” (Honneth, 1991: 25). More would be required to show that these were Rawls’s intentions and whether or not he was trying for a compromise. The important point for us is that he is not alien to context-specific realities. Interestingly, this very same point is made though from a slightly different perspective, by Onora O’Neill who also refers to *Justice as Fairness* as a political conception (in Rawls’s terms) of justice,

The ideal of the person on which his argument rests is not that of the abstract individual (as certain critics had supposed), but that of persons as citizens of a modern democratic polity..... This vindication of justice does not address others who, unlike “us”, do not start with such ideals of citizenship, it has nothing to say to those others. It is “our” ideal and “our” justice. Worries about Rawls’ relativism come flooding back.

And she goes further,

“Rawls now appeals to the judgements of “our” tradition. Kantian constructivism it seems, claims only to offer a coherent articulation of the outlook of modern liberal societies. The Kantian ideal of the person is socially embedded, and antirelativism is not attainable. We are offered a coherent articulation of the deep moral commitments of “our” society....(O’Neill 1989: 8)

Both O’Neill and Honneth are emphasizing the context- specific, now *situated* subject of Rawls theory that takes a more defined political turn , from “Justice as Fairness: Political not Metaphysical”(1985) onwards. In signaling the proximity of their conclusions nothing is said that would pose a problem for the internal coherence of Rawl’s theory itself. But it is important to at least see what motivates their apparently common concerns. Honneth is proposing to work with what he names the *structural elements of ethical life* that once they take up as one of its main endeavors to integrate the goals of human self-realization along with individual’s autonomy, “can be normatively extracted from the plurality of all particular forms of life” (172). He can follow the communitarians only in so far as they point towards the goals of human self-realization, but not in their lack of a stronger normative criteria. He can follow Kantian liberal theories in their interest for the most general norms possible but he cannot follow Rawls in his renunciation to go beyond a domain of “universalizability” that can only be valid in the tradition of Western democracies. Charges of particularism and contextualism, not to talk about relativism can be elevated against Rawls, something that O’Neill also brings up from her analysis. In reviewing Rawls’s against the background of Kantian *constructivism* and characterizing a central aspect of his work<sup>65</sup> from *Justice as Fairness to Political liberalism* she affirms that,

The form of constructivism that Rawls reached...was deeply political in its focus on justice to the exclusion of other ethical issues , in the role assigned to public reason

in justifying principles of justice, and in its insistence that such justification is internal to a bounded society (plausibly, a state) rather than universal or cosmopolitan. Such justification does not address others who are not fellow citizens, who are excluded from or marginalized within a polity, or who do not accept democracy and its constraints. In many ways its resonance is more Rousseauian than Kantian, more civic than cosmopolitan. (O'Neill, 2003: 353)

It is only by appealing to the unrestricted public of Kant (the "world"), not to the Rawlsian restricted public of a bounded liberal democratic societies that we can see how certain ethical concerns are cosmopolitan. (In O'Neill's reading this explains why Kant's commitment ends with a radical constructive account of practical reason). In an earlier work<sup>66</sup> O'Neill also points out to a distinction that may prove to be an interesting line of investigation though it will not be pursued here to the full, but its relevance to the category of victims is worth mentioning: The construction of the subject of Rawls cannot be criticized for being too abstract since abstraction is a genuine and necessary process of any theory, but idealization is a different matter since such reasoning,

makes claims that apply only to objects that live up to a certain ideal". The veil of ignorance described in *A Theory of Justice* was tailored to hide the interlocking structure of desires and attitudes that is typical of human agents.....The construction assumes a mutual independence of persons and their desires that is false of all human beings. Such independence is as much an idealization of human social relations as an assumption of generalized altruism would be. (O'Neill, 1989: 5)

But O'Neill is a sympathetic critique who also attributes to Rawls to have tried to vindicate his specific ideal of the person in his movement towards *Political liberalism*. What

interests us here however, is her suggestion that other moral constructivisms are possible and that Rawls himself may have acknowledged this. One of them is her own proposal that she also refers to as Kantian constructivism which, “must start from the *least determinate* conceptions both of the rationality and of the mutual independence of agents.” (9). It goes without saying that we cannot leave out here her reference to victims made into a *modal* question:

“What principles *can* a plurality of agents of minimal rationality and indeterminate capacities for mutual independence live by ?”. No plurality can choose to live by principles that aim to destroy, undercut or erode the agency (of whatever determinate shape) of some of its members. Those who become victims of action on such principles not merely do not act on their oppressor’s principles: they cannot do so. Victims cannot share the principles on which others destroy or limit their very capacity to act on principles (10, 11)

Potentially interacting beings who share a world, perhaps “a very imperfect world” are a plurality of agents of whom *indeterminacy* in their rationality and capacities for mutual independence can be predicated. This is not merely the appeal to gain a more prominent role to vulnerability within liberal theory, nor is it simply the demand for a more strongly drawn distinction between self-respect and self-esteem or the recognition of cultural differences. It is a different *construction* with *non-ideal*, less local subjects what we seem to require, one in which the obligations towards those who have been most vulnerable and where certain forms of cosmopolitanism based on a transnational public sphere could have a more prominent role. This is far more akin to the universe of transitional justice, and the universe of transitional justice is not Rawls’ universe nor is the device of the Original Position at hand<sup>67</sup> and therefore, there is no quarrel here with Rawls’s *Theory of Justice*, the circumstances of which are different.

At the same time, if the restriction of Rawls to the universe of Western constitutional democracies makes more plausible for Honneth his suggestion that Rawls like the communitarians “also confronts the question as to what reasons can be given for granting the tradition of ethical life of this particular community a normative status above all others “ (Limits,1991: 30), this would not liberate him from having to provide a coherent scheme on how in methodological terms, his “formal conception of ethical life” is to be possible. From its first formulation in *The Struggle* onwards Honneth has acknowledged this difficulty. It remains to be seen how his Hegel inspired patterns of recognition can be formal and abstract enough and not inclined to particular interpretations of the *good life* and at the same time, how they can have substantial content and go beyond purely formal Kantian references to individual autonomy. Honneth’s contribution is particularly important for the idea of recognition in general and from the perspective of this work, for recognition of victims in transitional situations. However his is an ambitious and difficult project that poses some important challenges some of which have been mentioned.

As it must be clear by now the experience of personal freedom in Hegelian theory of recognition that Honneth retakes is best described as the feeling of “being at one with oneself in another”: the pursuit of our own purposes must be facilitated rather than obstructed by other actors pursuit of theirs and, there must be forms of social interaction to facilitate each other’s self-realization. But in Honneth this is a form of decentered autonomy that is to be defined negatively, as Bryce Weber describes it :

Unlike Habermas, then, Honneth stresses the role of the unconscious and the negative in the production of autonomy under the conditions of late modernity .In both these respects, his position is one that provides a means for negotiating a passage between a symbolic interaction-based account of the development of reflexivity and a renewal

of a more psychoanalytically informed style of critical theory that , once again , takes affect into account in a serious fashion,(Weber,2006 : 337)

In an interesting contribution on Honneth's relevance for feminism<sup>68</sup> Iris Mary Young has expressed that, "In contrast to most other theorist of justice, moreover, Honneth makes relations of love and care constitutive for his conception of Justice" (Young, 2007:193)

Honneth's liberalism is Hegelian and is committed to the idea that he has continued to develop, that liberalism can only acquire a formal model of ethical life "if it takes on the great challenges of Hegel's philosophy for a second time"(Honneth,1994:30) and this accordingly, would be the manner in which contemporary societies could counter react to what is often *overlooked* in public discourse and theories of justice: That human experiences of recognition and autonomy have a multi-dimensional *complex* nature.

## CHAPTER III RECOGNITION IN CONTEXT

### 3.1. Towards a phenomenology of recognition

Axel Honneth makes an interesting approach to the basic constitutive elements that are manifested in the phenomenon of recognition and attempts to establish a kind of epistemology of the act of recognition. Any act of recognition as it appears (as phenomenon), has according to him two elements: cognitive identification and expression. The first does not go beyond the manner in which a particular individual with particular properties is cognized or at least, not confused with others. The second is realized only when the cognition is given some form of public expression; this may consist of actions or gestures by means of which, the person's existence is confirmed before those who are present. The question that follows is whether these latter expressions are something quite different in meaning, from the expressions that confirm the perception of any individual's existence. The expressions we use to make ourselves "visible" to one another (not just perceptually, but in order to receive social confirmation) seem to be meaningful in a different ways.

The reason is that they do not designate simply a cognitive fact but a social state of affairs. A typical case of this kind of invisibility is vividly described in Ralph Ellison's novel in which the central character is, as a black person, "socially invisible"<sup>69</sup> and like those servants who could remain in the room in seventeenth century Europe while their patron undressed because they simply "were not there"; he also goes around knowing that his presence does not count. They, as well as Ellison's character were "seen through" and not as a consequence of a perceptual failure, "Ellison's novel which is a treasure trove for a phenomenology of "invisibility", again offers a preliminary answer to this question.....the first person narrator attempts over again to counter his own invisibility through an active "striking out" that is aimed at prompting others into cognizing him"(Honneth,2001:114)

A basic, important difference here consists in that cognizing is a non –public act, while recognizing is dependent on the media that signals or expresses that the other person possess some form of social value. If we turn to the interaction between a child and her caregiver (normally but not exclusively, mothers) during the early stages of his or her growth, a broad repertoire of gestural and facial expressions will appear, that have been the object of close scrutiny on the part of pediatric analysts<sup>70</sup>. The readiness to interact is something that is fundamentally *expressive* on the part of the adult; something that is not the simple cognizing process of *identifying* a subject. The small child on his part, manifests here the capacity to react in a reflex- like activity that responds to the stimulation of the caregiver. In normal circumstances, this develops into the early forms of social response. Smile and other forms of facial expression on the part of adults, communicate to the child a signal of encouragement, and willingness to help. This can be related to the automatic responses with which adults signal to each other when greeting, paying attention or expressing sympathy. Greeting rituals and the spontaneous practice of changing facial expressions, indicate the particular social relationships in which adults stand to one another, although this may be more or less complex, across different cultures.

To this extent, recognition possesses a performative character because the expressive responses that accompany it symbolize the practical ways of reacting that are necessary in order to “do justice” to the person recognized. In the felicitous formulation of Helmut Plesner, one could say that the expression of recognition represents the “allegory” of a moral action.” (Honneth,2001:118).

The performative element in recognition, is what interests us here. There is according to Honneth, a kind of conceptual continuity (perhaps congruence) between the smiling gesture of the caregiver towards the child, and the welcoming gesture among adults: both of

them express a disposition towards benevolent actions. In fact, these expressive gestures are themselves actions, in as much as they signal a type of behavior that those who are addressed may rightly expect, “If recognition in its elementary form represents an affirmative gesture of affirmation, it follows, to begin with, that it also represents a meta-action: by making a gesture of recognition towards another person, we performatively make her aware that we see ourselves obligated to behave towards her in a certain kind of benevolent way” (Honneth, 2001: 120)

It is therefore useful to direct our attention to the negative experiences, when misrecognition occurs, for it is here by contrast or in the absence of recognition, where Honneth’s phenomenological analysis of it becomes the most relevant. Misrecognition and similar phenomena, may refer to situations of social invisibility of entire groups<sup>71</sup> or as in Ellison’s novel where the narrator is “seen through” in his condition as a black person in North-American society, or in the many ways that human beings as individuals, may suffer disrespect by not being given any of the worth attributed to persons.

If we can affirm with some confidence as Honeth does, that acts of recognition represent *meta-actions*, this has therefore to refer to a kind of “second order motivation” that is manifested through gestures of affirmation or their opposite, when these are absent. Though we cannot claim that this constitutes an uncontroversial demonstration of Honneth’s moral core of recognition, it is no doubt an impressive fact that many of the pathologies human beings manifest in their emotional constitution, reflect, when examined closely, a deficit as receptors of expressive gestures that signal first order recognition, particularly in the early stages of their lives<sup>72</sup>. This is indeed an important source of moral reflection, as well as Honneth’s insight that there is common content in the act of smiling lovingly to a child or greeting an adult respectfully, in so much as both are instances of gestures of affirmation

by means of which, the actor expresses his “second order” motivation to act on motives of benevolent nature.

Expressive responses therefore are signals, that go beyond mere claims about existence or properties of a being; presumably, this is what we are to derive from Honneth’s claim that morality can, in a sense, be said to coincide with recognition because adopting a moral attitude is possible only when the other person is given an unconditional worth by which one’s own behavior is to be appraised (Honneth, 2001:123). No doubt Honneth’s insights are promising but ¿ how are we to guarantee that they have consequences for a normative understanding of intersubjectivity ,beyond the reactive responses that individuals may manifest at a given moment?

The expressive gestures a subject addresses to others at a given time are accordingly a different assessment of worth by means of which the addressee may be considered worthy of love, of respect, or of solidarity., among other possibilities. The aspect of recognition formulated in Kantian terms when referred specifically to respect (and to rights claims), corresponds to “the representation of a worth that infringes upon my self-love.”<sup>73</sup> The second clause of Kant’s sentence according to Honneth “infringing upon my self -love” can be read as the kind of decentering that takes place in the recognizing subject, for she concedes to another subject a “worth” that is the source of legitimate claims that limits as it were her own self-love. Because the addressee (the other) is equipped with moral authority over us, we feel obligated to carry out or abstain from certain classes of actions.

Of course ,this formulation should not be allowed to obscure the fact that here “allowing oneself to be obligated” represents a type of voluntary motivation: by recognizing someone and conferring on him a moral authority over one in this sense ,one is at the same time already motivated to treat him in the future according to his

worth.....“At times this representation of a worth refers more to the way life is coped biographically(love) and at other times, more to a practical commitment (solidarity ),in the case of respect it pertains to the very fact that human beings have no alternative but to be guided reflexively by reasons; to this extent, the last of the three attitudes mentioned is not susceptible to further gradation ,whereas the other two forms of recognition may be increased to various degrees. (Honneth, 2001:122,123 )

There is for each of these three spheres, (at times Honneth seems to suggest that there may be other levels, but never develops this), a kind of epistemology of recognition by means of which, the direct acts (of recognition) are expressed in the multitude of gestures that evaluate aspects of that which Kant in his own terms referred as the “intelligibility” of the person. In some ways Honneth’s proposal offers an interesting alternative notwithstanding the liberties he takes in the interpretation of Kant. Apparently he puts the emphasis in a different place: recognition and consequently, respect is realized when the moral significance of the individual’s personal experience is fully understood, taking into account its ever present and diverse intersubjective elements.

Granted that this pluralistic account of moral obligation is one of the most interesting parts of Honneth’s work mainly because it explicitly states a phenomenological analysis of moral injuries, and what is at the core of this “negativist procedure” as he calls it, is that the circumstances experienced by individuals as *unjust*, are the kind of situations that permit us elucidate the internal connection between morality and recognition : basically it amounts to say that moral injuries are a denial (*refusal*)of recognition or inversely ,moral attitudes are actually, the exercise of recognition. From this he concludes that many types of moral injuries have correspondingly, as many forms of recognition. Margalit on his part also points to this

plurality of evils (2004), though he prefers (taking certain distance from Honneth), to restrict himself to a “thin” conception of recognition that advocates negative politics <sup>74</sup>

It must be said that When Honneth refers to this negative proof procedure, as specifications that only have (provisionally) a moral-psychological or anthropological character he is no doubt, making some bold claims. In the first place because the relation of morality to the psychological make up of human beings is certainly a complex issue. In the second place ¿ to what extent if any, could one talk of a level of generalization(not to speak of univerzalitation) of a morality of recognition based on the diversity of moral injuries ? No doubt Honneth is at pains to describe all this phenomena as it appears, appealing to resources that were not available to Hegel : Social theory and the processes that constitute the individual’s identity with regard to others based on the social psychology of George Herbert Mead, and some currents of post-Freudian Psychoanalysis, as well as contemporary theories of negative morality ; but at the end of the day his essential argument remains Hegelian in inspiration: a morality of recognition is justified because moral injuries follow from the intersubjective, relational character of human life; this is its central feature and human beings are morally (as well as physically) vulnerable since, from the very beginning , their identity is the product of practical self-relations. No doubt there is great value in the way he articulates a model that is open to every day’s experiences of damage and also open to further developments. But this is not without difficulties, some of which I propose to examine in the following pages.

### 3.2. Public things and the “transitional object”

Here we will examine in the first place, the category of love that in the language of Honneth corresponds to self-trust or self-confidence, to pass then to respect and self-respect. It seems that from the perspective of victims it is on the first level (love, care), and second level (moral respect) of practical relations-to-self that we need to reflect more in transitional situations. I will leave aside for the moment the third sphere of recognition self-esteem, (capabilities, solidarity), mainly because it will be discussed in the next chapter when dealing with topics of public sphere and issues of collective or cultural identity.

The first, most basic relation of recognition is “love”, the understanding of which, should go beyond the romantic valuation of intimate sexual relationships to include primary relations such as parent–child as well as friendship. For Hegel love represents the first level of reciprocal recognition since in the reciprocal experience of loving, subjects see themselves united in their dependence of each other “This recognition relationship is thus also necessarily tied to the physical existence of concrete others who show each other feelings of particular esteem. The key for translating this topic into a context of scientific research is represented by Hegel’s formulation, according to which love has to be understood as “being oneself in another”” (Honneth, 1995: 95,96 ).

Now, since love has to do with that basic self-confidence, which is the product of open and trusting relationships and the intimacy of feelings, desires or emotions that human beings experience since the early stages of their lives, it involves perceptual capacities mediated by affectivity and at a most basic level, it refers to physical well-being, which constitutes an immediate and evident threat when the certainty of being able to enjoy it, is robbed from a person. In adult life this manifests itself as a lack of self-confidence or self-trust, analogous but not identical, to the traumatic experiences of those who have been

deprived of a loving relationship on the part of caregivers during the first years of their lives<sup>75</sup>. It is not an accidental fact that victims of physical abuse, torture, and rape, continue to live for a long time and often to the end of their lives, with a feeling of “lack of trust” in the world.. All the more so when the torments and the humiliation have been constant and systematic. Honneth claims that there is strong clinical and scientific evidence for this.

And the context of scientific research here, represents for Honneth no more, no less than the turn of psychoanalysis to interactions in early childhood, particularly, object-relation theory as developed by Donald Winnicott. Characteristic of this kind of theory is the therapeutic analysis of relational pathologies or conversely, the conditions that can lead to successful forms of emotional attachment to other persons, rather than the orthodox Freudian emphasis on instinctual, libidinal drives and ego capacity according to which, “the child’s interaction patters that were significant only to the degree that they acted as the objects of libidinal charges stemming that reveal the individual from the intrapsychic conflict between unconscious instinctual demands and gradually emerging ego-controls (Honneth,1995 :96)

A vast territory is covered here in the search for the developments of Psychoanalysis after Freud; sometimes the enterprise seems closer to a history of ideas, rather than a firsthand valuation as such, by the author. But the effort made by him to translate Hegelian categories, into a more empirically based conception of a first, basic form of human recognition, on the basis of the interactions of “mother” (or any other caregiver) and child, where both achieve through practice, a precarious balance between independence and attachment, is no doubt, insightful and to some degree , one could say, original.

Honneth also bases here his conclusions on the work of Jessica Benjamin but especially on the work of Winnicott, and goes on to claim that with the latter author “ the intuitions of the young Hegel are confirmed to a surprising degree”. (Honneth , 1995: 98), a

perspective that is shared by Benjamin's theoretical and professional research.<sup>76</sup> Leaving aside the scientific exercise of evaluating this claim, (something that would require a different kind of expertise), we should look into what seems to be central for the understanding of recognition, and the consequences it could have for the views defended here.

If I understand him correctly, what Honneth values most of the work of Winnicott is the attempt he makes as a psychoanalytic oriented paediatrician, to understand the "good-enough conditions" for the socialization of young children; all this, in the context of treating mental behavioral disorders. In practice it meant that it was a misleading abstraction from previous psychoanalytic research to study the infant as an independent object of inquiry, in isolation from significant others. Important notions here are those of primary intersubjectivity and pre-linguistic communication<sup>77</sup>. The central question that occupied Winnicott all through his life's work was, in the words of Honneth this: "¿how are we to conceive of the interactional process by which "mother"\* and child are able to detach themselves from a state of undifferentiated oneness in such a way that, in the end, they learn to accept and love each other as independent persons?" (Honneth, 1995: 98)

And this is something to be accomplished collectively, in the interplay of mother and child both of which, share a common place of departure described as a state of symbiotic oneness and where as a result of interaction, they should learn (at least under normal circumstances), to differentiate (and recognize) each other, as independent entities. Therefore in the phases that Winnicott describes, there comes first (immediately after birth) a phase of absolute dependency, "undifferentiated intersubjectivity"(Honneth,1995:98) or symbiosis where the child is incapable of separating between self and environment, helplessly dependent on the "mother"<sup>78</sup> to provide her with love. In a second phase of development, described as relative dependence (should occur at around six months of age),

the child should start experiencing the mother as something in the world outside of his/her omnipotent control but at the same time, it constitutes the occasion to form attachments and orient impulses, towards specific aspects of the mother's care.

It is with reference to this second step, where Honneth's Hegelian reading of Winnicott's analysis, is most forcefully stated since "they depict the emergence, in the relation between mother and child, of the *"being oneself in another"* that represents the model for all mature forms of love" (Honneth, 1995:100). In terms of psychological development, the child must begin to come to a recognition of the object (mother, caregiver) as an entity in its own right.

The child works his way emotionally through this new experiences by means of a first mechanism of "destruction": through certain aggressive acts towards the mother (hitting, biting, kicking), the infant is unconsciously "testing" whether the emotionally charged object, actually belongs to an independent reality. The child "hallucinations" of omnipotence (there is no other's reality beyond his), ceases to be here. The Hegelian "struggle for recognition" becomes an explanatory model; for it is in the attempt to "destroy" his or her "mother" (in the form of a struggle), that the child integrates the knowledge, that he is dependent of the loving care of another subject who stands on its own, as an independent person. When this first step of mutual demarcation has been successfully achieved, mother and child can acknowledge their dependence on each other's love "without having to merge symbiotically" (Honneth, 1995: 102).

There is second part to it, that consist in the capacity of the child to actually strike a balance, between independence and symbiosis, appealing to other coping mechanism. It is interesting to say the least, that Winnicott refers to this second set of mechanism as "transitional phenomena" and denominates "transitional objects" those physical elements

that belong to the intermediate realm , in which both child and caregivers participate. This manifests itself, in the tendency of children to form attachments (affectively charged relationships to some object in the environment, toys , pillows or his own thumb); And a whole theory is developed by Winnicott on the centrality of this mechanism . The point to highlight here, is that according to this, there would be enough evidence to assume that these objects represent surrogates for the “mother” who have been “lost”, and is now part of an external reality.

Not without some sense of irony, Margalit in an exchange with Honneth’s epistemology of recognition refers to this as “Winnicott’s triangle of mother –baby –teddy bear (“transitional object “, in Winnicott ’s lingo) in any case is love that makes the recognition go round, until the baby starts gaining the rudiments of self-awareness” (Margalit, 2001: 138). While at the same time, admitting that Honneth has its own Hegelian version of the struggle for recognition, based on Winnicott’s triangulation; and this version has of course, an antecedent in the family structure that Hegel presented of love as the first stage of evolving recognition; the second stage in this Hegel-Honneth scheme is based on rights and the third, is recognition based on solidarity . This last one is “a continuation by other means of the recognition based on family relationships. The big worry is how to move from thick “tribal” relationship to recognition based on formal rights of people who are stranger to us” (Margalit, 2001:139)

From the perspective of this developmental phase of the child, the discovery of intermediate (transitional) objects, can be used in a playful manner, either to keep omnipotence fantasies alive or, simultaneously, to probe(creatively) reality. In many ways this is something that individuals continue to face as a task all through their lives and in adulthood, this mediating mechanisms manifest themselves as cultural objectifications such as

art or religion. This relation, between recognition and creativity, is a matter that Honneth investigates no further and it does not directly concern us here.

What is of central importance, in the reconstruction of love(self-trust) as a first, very basic form of recognition is “Winnicott’s claim that the ability to be alone is dependent of the child’s trust in the continuity of the “mother’s” care” (103). There will always be according to this, a need for human beings to develop (as a product of the human faculty of imagination in general), a capacity “to be alone”, which is the product of basic confidence in the care of loved ones, or basic trust in the world in general. Apparently this is what the moral and not just physical damage to self, that affects victims of rape or torture and various forms of trauma consist of, and there is strong clinical evidence that they all seem to lose “trust in the world” as well as in their own feelings and desires<sup>79</sup>. It appears that this lack of confidence has to do with the permanence of an “object”, of a reality that as a consequence of being victimized is usually shattered. “Trust in the world” means also a sense of “permanence” and a capacity of control over our bodies and emotions.

Honneth on his part, considers that the conclusions he offers here are not just of a speculative character, they are based on Jessica Benjamin’s psychoanalytical research on the pathological disorders of the love relationship. It is difficult to assess this claim in light of all other developments of Psychoanalytical theory, nor is it our concern. What is important and can reasonably be considered a well established insight, is that structures of interactions in early life, are essential to the formation of successful bonds between adults or the opposite. Object-relations theory (and probably other variation of relational psychology), have contributed to draw conclusions on the successful “separation” of mother and child, from which the individual should emerge, (addressee and addresser). Benjamin’s work on her part, concentrated on the pathologies of the love relationship, namely “masochism” and

“sadism”. This Hegelian element of Winnicott’s scheme has effectively played an important role in the work of many of those who adopted the intersubjectivist turn, as she herself registers it.<sup>80</sup>

If we follow Honeth’s model of an ideal of interaction, the basic practical relation to self, manifested in the mutual recognition of love, is what opens the way for trust and self-trust in adulthood. Besides this, as has been mentioned, there are other forms of damage and denial, by means of which, human beings can lose their sense of self-confidence and can be affected in other spheres of recognition. We can affirm that we are dealing here with a fundamental moral category,

...because this relationship of recognition prepares the ground for a type of relation-to-self in which subjects mutually acquire basic confidence in themselves, it is both genetically prior to every other form of reciprocal recognition. This fundamental level of emotional confidence—not only in the experience of needs and feelings, but also in their expression – which the intersubjective experience of love helps to bring about, constitutes the psychological precondition for the development of all further attitudes of self-respect. (Honneth, 1995: 107)

Wary as I am that metaphors are often a deceptive and misleading instrument, and that analogies require, virtually full knowledge of what is being compared as to avoid falling easily into confusions, I want to retake the idea of the expression of recognition, as representing the “allegory” of a moral action, that was mentioned at the beginning of this chapter and that Honneth attributes to Helmut Plessner (1970). If the schemes of interpretation of the phenomenon of recognition are, broadly speaking, useful in providing us with a better understanding of what is at stake in the reciprocity of recognition in situation

of collective wrong, typically portrayed in Transitional Justice situations, there is or must be, correspondingly (to the degree of basic damage to self), an expressive act or rather, a series of expressive acts, that correspond to the performative element of recognition. Those acts should find expression in *collective acknowledgment* that by definition is always public. There may be reparations or compensations or whatever measures, but none of these need be public.

The basic damage to self which a theory of mutual recognition addresses, and that in the case of love, is described basically as the caregiver-child interdependence has (in our allegory), its counterpart in the dimension of damage and particularly destruction of trust (in the world) and self-trust of those who are victimized. There are no transitional-objects for adulthood in collective trauma that would help build up a sense of trust, where relational disorders have affected the categories of mutual recognition. But there are processes of transition or even rituals of passage<sup>81</sup> which, difficult and defective as they usually are, may help to reconstruct a sense of *civic trust* and overcome the causes of conflict and fear. It follows that there is an order, not a temporal but a genealogical order, (though the first kind of order may also be important in a transitional process) in the manner this is conceived and carried out. And that order is inspired in the recognitional model that we have been presenting. There should be towards the victims first and foremost a kind of “expressive gesture”, a performative, which invariably brings about public awareness, and eventually, should contribute to materialize ethical and political commitments (though this latter may not always be achieved). This is in fact, the whole point about acknowledgement; it brings to the surface, in this case to the public sphere, what has remained hidden or repressed in the political life of a community. This is not a simple therapeutic analogy (though therapeutic practices are usually important in post-conflict situations); It has to do with the way we go

about with recognition, in societies where individuals and groups have become victims of profound wrongdoing.

Acknowledgement , close to apologies<sup>82</sup> and expression of regret, but in a more fundamental way than these, (as a consequence of its performative element expressed in a first step of public admission), and alien to exclusively prudential calculus of possible consequences represents , if our allegory holds, the function of a transitional object. True, there is not a physical object here, and not “mother –baby-teddy bear triangle” as Margalit describes it; But precisely the breaking point towards the overcoming of denial of social trauma that would permit the reconstruction(starting point for it) of the political community, or even the total reinvention of it (as in the example described by Honig), is acknowledgment that reinstitutes(even when only simbollically) individuals lives both in their self-respect and self-trust. Chana Ullman expresses it from a therapeutic, as well as a political perspective, “Thus, as with our individual patients, who deny and dissociate while their action continues to carry or reveal what has been dissociated, it may be incumbent upon us to draw attention to what is denied in our sociopolitical context to enable an end to the repetition of the trauma.” (Ullman, 2011:187)

Acknowledgement then (final part of our allegory), is the “transitional object” of recognition, its point of departure, not the complete story of it; but without this starting point, there is not real movement, to what is morally accountable and politically transformative, since there has been a contest “a world” where this occurs. Jessica Benjamin uses the image of the “moral third”, when referring to this form of recognition.

An underlying meaning of being part of an exchange of recognition.

...is that the individual involved reconnect with what I call the moral third. In such reciprocal affirmation of the other, especially acknowledgment of suffering that has been denied, there is an implicit affirmation that two or more humans are linked by a third. This third contains or rests on certain principles; that the suffering of humans matters, no matter what their different origins or status; hence that the acknowledgment of pain and suffering gives dignity even to wounds that cannot be repaired; that the recognition of suffering connects or reconnects us to the magnetic chain of humanity in which suffering is our common denominator. (Benjamin, 2011: 208).

Reconnecting or connecting is a good expression since it accounts for the fact that most processes of transitional justice try to construct or reconstruct some kind of collective order, based on some form of political legitimacy and respect for lawful practices, where these have been suspended; but given the complexities of the moral individual and social harm, this effort can neither concentrate exclusively on punishment or retributive justice, nor solely on the distribution of goods as way of reparations. There is practically no aspect of justice that is not relevant for a transition, but of course a balance (more than a tradeoff) has to be achieved, without there being a unitary formula on how this is done. Looking into the phenomenology of recognition, into the ways it manifests itself in its different levels is I believe, an important step towards understanding and responding to transitional phenomenon. It is also through this kind of analysis that can we make sense of Honneth's claim that recognition has to be based on a plural theory of justice. In the case of the intersubjective experience that love (Hegel's *being oneself in another*) "helps to bring about, constitutes the psychological precondition for the development of all further attitudes of self-

respect.” (Honneth,1995:107). There are all kind of reasons to suspect that in the case of victims, damage to self-confidence may affect also self respect, to give but one example.

As it is known, one of the central consequences of Kant’s ethics is that it postulates universal equal treatment ( persons as ends in themselves are ascribed the same moral accountability as any other human being). Honneth’s interpretation of Kant’s definition of respect which we mentioned before “the representation of worth that infringes upon my self-love” (Kant,1997:14) invites us to read the second part of the sentence “infringing upon my self-love” as if “respect” were an act that has the power of suppressing(necessarily) egocentric inclinations in the subject. But¿ in what sense is it necessarily so ?. It seems that Honneth perceives a kind of “symbiotic” as well as “synchronic” relationship in recognition, in as much as second-order motivation establishes a link with the expressive gestures that normally indicate first order recognition. . Their mode of appearance as it were, is not the product of applying a rule, thinking of the consequences, consulting the categorical imperative or remembering the Ten Commandments (or whatever other reasons or imperatives we have come to accept). Rather what happens is that expressive gestures are also expression of the motivational readiness to concede to another subject a worth that is a source of legitimate claims. Consequently, in this sense, we could say that recognition is necessarily performative or at least, that it has a central performative element in it. But at the same time we have to admit that, regarding respect ,things may be more complicated since this is not always the product of natural inclination or a reactive emotion.

Respect is what suppresses egocentric inclinations necessarily and to some degree, Honneth seems to suggest, naturally. Any expressions of respect is at the same time a motivation, in face of the respected value or worth of something, that implies certain kind of treatment, a willingness to forgo all actions that would be the result of egocentric impulses

and, to carry out or abstain, from certain kind of actions. “Of course this formulation should not be allowed to obscure the fact that here “allowing oneself to be obliged” represents a type of voluntary formulation : by recognizing someone and conferring on him a moral authority over one in this sense, one is at the same time already motivated to treat him in the future according to his worth” (Honneth, 2001:122)

No doubt this can be called into question . Honneth’s reading of Kant seems to suggests at times, that in recognition, *inclination* and *duty* converge. Surely this is going to be rejected by many a Kantian scholar as a very bold claim. I do not think, however, that Honneth is naïve about this and it is worth asking the question; ¿what can we derive from Kant’s notion of respect and self-respect, for the whole issue of the conception of recognition? According to Honneth, “recognition cannot be comprehended as the mere expression of a cognition, because it means more normatively than the simple reinforcement of an individual identification; what occurs in recognition is rather the expressive (and consequently publicly accessible) demonstration of an assessment of worth that accrues to the intelligibility of persons.” (Honneth, 2001: 124)

On the other hand,It is not difficult to agree with Honneth’s claim that even for Kant, it is not completely clear how we should understand the “representation” of the worth of a person or her” intelligibility” which in the Kantian tradition would be considered the prerequisite of all respect. We do not know for that matter\_if representation is the result of ascription or , if it is simply the result of the perception of a cognition .Honneth does not solve the problem and it will\_be necessary to turn here to Stephen Darwall’s analysis of the sense in which respect can be understood on the basis of Kantian ideas

But before doing this, it is important to insist that a great part of the difficulty with Kant's view of respect and human worth is that he assumed the notion of the autonomy of morality on the basis of a transcendental quality. This, as Bernard Williams sharply observes, comes at a very high cost,

The very considerable consistency of Kant's view is bought at what would generally be agreed to be a very high price. The detachment of moral worth from all contingencies is achieved only by making man's characteristic as a moral or rational agent a transcendental characteristic; man's capacity to will freely as a rational agent is not dependent on any empirical capacities he may have....accordingly, the respect owed equally to each man as a member of the Kingdom of Ends is not owed to him in respect of any empirical characteristics that he may possess, but solely in respect of the transcendental characteristic of being a free rational will. (Williams, 1997, 235 )

Adorno makes a similar point:

For all the oscillation of the concept of humanity in Kant's Critique of Practical Reason , one of its major functions is that pure reason, being general is valid for all rational beings; this is a point of indifference in Kant's philosophy . The concept of generality was obtained from the multiplicity of subjects and then made independent as the logical objectivity of reason, in which all single subjects- as well as , seemingly, subjectivity as such –will disappear (Adorno, Negative Dialectic: 281-2)

Even in their self-perception individuals are not as autonomous as many liberals believe but vulnerable to contexts, since it is a fact that we are dealing with fragile, vulnerable beings, not with the abstract rational, autonomous individuals that will choose to act

motivated exclusively out of a *good will*. Those who have been misrecognized, humiliated or disrespected like the victims of collective wrong may often be profoundly affected in their own sense of self-respect or have lost it. Williams comes to diagnose it on the basis on the degraded individuals` own perceptions:

.....there seems to be further injunctions connected with the Kantian maxim, and with the notion of respect , that go beyond these considerations . There are forms of exploiting or degrading them which would be thought to be excluded by these notions, but which cannot be excluded merely by considering how the exploited or degraded men see the situation. For it is precisely a mark of extreme exploitation or degradation that those who suffer it do not see themselves differently from the ways they are seen by the exploiters ; either they do not see themselves as anything at all , or they acquiesce passively in the role for which they have been caste. Here we evidently need something more than the precept that one should respect and try to understand another man`s consciousness of his own activities; it is also that one may not suppress or destroy that consciousness “(Williams, 1997 :237).

### 3.3. The Kantian categorical imperative as a second-personal competence:

#### Darwall's insight

It looks then as if Honneth wanted to preserve subjectivity (and all the complexity that comes with it) but does not go beyond the abstract notion of Kant when trying to explain respect. It is interesting that Honneth has referred to respect as that "assessment of worth"(122) that unlike love or solidarity is not subjected to further gradation: "human beings have no alternative, but be guided reflexively by reasons"(Honneth 123) No doubt this contains the strongest Kantian component of his model but ¿How are we to understand respect from this perspective? . An answer is required to this question,since it seems, so far, that Honneth has proposed a non-transcendental model of moral categories of recognition, but when it comes to respect ,he does not make it clear at what point ,he departs from Kant . He turns to analytical attempts to clarify i; particularly to Stephen Darwall's proposal on how to demarcate more clearly, the interpersonal form of respect. Honneth does not go very far with this, but in fact Darwall makes a very thorough examination of the matter in his most extensive works<sup>83</sup> and advances some interesting insights that argue for a recognitional model of respect that, according to him, can be based on Kant's own work.

There is according to Darwall a distinctive phenomenology in Kant's notion of respect: respect for the moral law restricts self-love (understood as a natural propensity to expect normative consequences from subjective inclinations of the will), but above all respect humiliates self-conceit. This latter one is more dangerous since, understood as arrogance or narcissism, it has the consequence of bringing into practical reasoning the idea that one can address what one wills, as good enough reason for not being constrained by the moral law ; but even further, that one can address these reasons to others and expect compliance , as if one had a unique authority to address second-personal reasons,

Self-conceit is thus a fantasy about second-personal status. It is the conceit that one has a normative standing that others don't have to dictate reasons just because of who or what one is.....this is far from an innocent illusion, although Kant follows Rousseau in thinking that it is depressingly expectable whenever social comparison engenders *amour propre*. (Darwall, 2006: 135)

It is this according to Kant, (the presumptuous illusion of one's own status (social or other) that constitutes the real danger and not so much self-love that, after all, may be not more than an error in perspective . However, once we defeat *self-conceit* this necessarily implies that we are recognizing the others as members of the moral community, as mutually accountable equals and as *beings* of equal moral worth or as some would prefer to say (Darwall himself) , of equal moral dignity ; accordingly, we should see in this nothing else but the “irreducibly second- personal character of both our dignity and the respect that is our fitting response” (Darwall,2006: 121) Second personal reasons are based on the common experience we can share as mutually accountable persons and this also implies that others exercise authority upon us(moral authority) This move permits Darwall to maintain the perspective of recognition respect (as distinct from appraisal respect)<sup>84</sup> and interpret the Kantian categorical imperative as a second-personal competence : the most natural way of interpreting the categorical imperative, according to him since we are responsible to one another to do what is morally obligatory ,we can preserve autonomy from a possible charge of heteronomy, for we have to accept responsibility in the face of others who are also accountable,

in the capacity to make demands on oneself from a second person standpoint, in being able to choose to do something only if it is consistent with demands one (or anyone)

would make of anyone (hence that one would make of oneself) from a standpoint we can share as mutually accountable persons ..... but isn't acting on the demands that others can make of one heteronomy rather than autonomy, being governed by them rather than by oneself? or, to put it in another way, how could autonomy consist in a law that comes from nothing outside of the will itself if it is realized in second-personal interaction? the response to this objection is that the second-person perspective of a member of the moral community is as much one's own as it is anyone else's. One demands the conduct of oneself from a point of view one shares as a free and rational person. (Darwall, 2006: 35)

This makes at least conceivable the possibility of a non-transcendental interpretation of the categorical imperative, provided recognition respect for persons is actually an attitude towards individuals, towards others in general and not just towards a fact or a quality in them. The true role of respect is mediating second personal relations (relations) between individuals, and Darwall's proposal is to trace back this interpretation in what Kant himself has to say about respect<sup>85</sup>

At least two consequences derive from this on which Darwall has insisted all along: respect is relational and recognition respect is not about excellence or merit or possessing a particular quality (about how *something* is to be evaluated or appraised), It is about dignity or authority. In the recognition sense we respect something when we give it standing (authority) in our relation to it, and this authority that the other person exercises upon us and the respect it generates, must be second personal and, interestingly, it must also involve acknowledgment. This last point is important for our topic, since there are forms of recognitions that do not involve acknowledgment: I may recognize the epistemic authority

of an author I read in a particular field, I may even be guided by his views on relevant matters, but this does not mean any form of second- personal acknowledgment. (And we have insisted here that when it comes to moral injuries, recognition in the form of acknowledgment is by definition public and contains performative elements in it).

The second consequence is that “authority” must of course have here the moral sense of respect (the compliance of which) persons are entitled to demand. Any individual can demand that respect, simply by virtue of being a person and we recognize the other’s equal authority to make demands (to make claims in Feinberg’s sense) and in this way we are mutually accountable, and being accountable is neither a question of esteem, nor is it an admirable quality that some have, it is something we simply recognize even in scoundrels and as Strawson reminded us, *reactive attitudes* (blame, indignation ,resentment),have an inclusiveness that is derived from their second personal character . Those of us who can be held accountable, remain for that very reason as members of the moral community. Reactive attitudes therefore involve a form of respect for the others who like us are persons with the very same authority to hold themselves and others responsible as well (Strawson, 1968: 93). Not being accountable would make it impossible to have respect for anyone.

We have mentioned that there is a public performative element here in recognition: respect consists in acknowledging a person’s moral worth, although this acknowledgment does not always have to be explicit and much less in situations in which there is certain stability in common social practices. But this is not always the case for individuals or particular communities,

.....think of situations in which the dignity of persons say of some group in particular, is under attack ,not just in the sense that they are subjected to various forms of injury, but also in the sense that their claim to dignity , their second-personal status as

persons ,is threatened or not generally recognized . To maintain in such situations , that one respects the dignity of members of this group without being willing to acknowledge it publicly will be difficult.”(Darwall, 2006:143)

I hold that independently of whether we are talking about individuals or groups, the heart of the matter for transitional processes is to retribute for victims all that is relevant for their sense of self-respect and self-confidence, though admittedly there are questions of identity (cultural or other forms of identity) that may determine their sense of *self-esteem*-(the third conceptual category that Honneth associates with a sense of *solidarity*). I will not say much about it here since I start the next chapter with the problem of the so called cultural identity and the importance it may have for collective recognition. Some authors have suggested (Honneth himself, if only very discretely) that questions of *self-esteem* and *solidarity* could be better explained by the model of *human capabilities*.<sup>86</sup> But even if this was the case, it would not affect his basic intuitions (that we have followed without taking them for granted) that recognition should be based on a plural theory of justice. I will therefore say something on questions of groups identity, cultural identity and self-esteem in the next chapter.

On the whole it seems that Darwall is right in affirming that equal moral worth (or dignity) is nothing anyone can bestow, nor is it anything anyone can remove through disrespect. However, in his analysis, somehow close to Margalit’s, he comes to affirm that “humiliations that aim to degrade, depersonalize , and dehumanize must work differently. They must seek not simply to lower someone’s standing in others eyes but to demean someone in his own eyes so that he loses self-respect” (Darwall 2006: 144,145). While it may be true that conceptually speaking, respect and self- respect that correspond to the moral

worth and dignity of persons cannot be destroyed, it is also true that insult or misrecognition, domination by violence or permanent threats of violence and humiliating practices even by institutions, can undermine self-trust and self-respect to the extent that second-personal capacities (as Darwall calls them) that are necessary for accountable living can be cancelled.

This seems to be the case of many victims of serious wrongdoing. As expressed before, I understand equal dignity of persons as equivalent to equal moral worth of persons. A *second-person* interpretation of the *categorical imperative* would complement what Honneth suggested but left unsolved when dealing with a Kantian based idea of respect, since he never clarified in what sense it could be made compatible with his own framework of recognition. I believe Darwall does a much better job here since the strength of his argument lies in demonstrating that to be accountable to others is impossible outside of a second – person relation. In what Darwall calls Pufendorf’s Point this would apply even to God and his commands since “genuine obligations can result only from an address that presuppose an addressee’s second personal competence.”(Darwall,2006:23). Therefore even God would have to respect us in order to expect compliance. All the time Darwall is reminding us of this second- person standpoint of any respect relation that we find even in the root of the word *respicere* (to look back). This is what we do when we return someone’s address and look back at her or him: we establish a second personal relationships and acknowledge the other’s second personal authority.

This has brought us to the very important topic of acknowledgment and its relation to what Darwall refers to as Public Space. We respect someone as a person when we acknowledge her dignity or moral worth. It is however, an important point often overlooked, that we do not need to make our acknowledgment explicit under normal circumstances. At times it may even interfere with the space of our personal privacy when we want to be let

alone. When I wait in line to be served lunch at the restaurant I do not need to tell the others who are there queueing before me that I acknowledge their advanced position over mine. Recognition of this practice is sufficiently well established. It is very different for victims of grave damage to their integrity, of serious violations of rights or misrecognition of their value as members of a community or a particular group. I have insisted that acknowledgment is a very important moral category that creates the condition of possibility of effective recognition. In this sense it is a basic, fundamental conceptual category and while we can think of transitional processes as occasions where any society, has to revise its own narratives with respect to its past and also with respect to its future, it is not always easy to establish how collective, not just individual recognition works, and to what extent is the role of groups in claiming rights indispensable in the construction of identities. This is a great part of what is examined in the next chapter.

## CHAPTER IV. RECOGNITION, GROUPS AND PUBLIC SPHERE

### 4.1. The “politics of recognition” and its limits

Charles Taylor is undoubtedly one of the most important contemporary authors who has retaken the issue of recognition in an attempt to fully work out the political implications of this concept. In his now famous essay “The Politics of Recognition,” Taylor states how demands on recognition come to the fore

on behalf of minority or subaltern groups, in some form of feminism and in what is today called the politics of “multiculturalism”. The demand for recognition in these latter cases is given urgency by the supposed links between recognition and identity, where this latter term designates something like a person’s understanding of who they are, of their fundamental defining characteristics as a human being. The thesis is that pure identity is partly shaped by recognition or its absence, often by misrecognition of others, and so a person or group of people can suffer real damage, real distortion, if the people or society around them mirror back to them a confining or demeaning or contemptible picture of themselves. Non-recognition or misrecognition can inflict harm, can be a form of oppression, imprisoning someone in a false, distorted, and reduced mode of being.(Taylor, 1994:25).

It is reasonable to affirm that most of what justifies Taylor’s appeal to recognition is already contemplated in Honneth’s three modes of intersubjective recognition: *self-confidence*, *self-respect* and *self-esteem* (the last one is specially close to the contents of cultural identity). Both authors draw heavily on German idealism, particularly on Hegel. Taylor’s concept of recognition, however, took a different direction since it ended up

referring exclusively to the sociocultural movements and subcultural struggles of contemporary feminism, cultural, national, sexual or linguistic minorities and similar contentious causes. No doubt these are important topics and there are illuminating trends that Taylor's work presents. He shares with Honneth a concern with the symbolic dimensions of harm, which play such an important role when we bring these reflections to transitional situations of mass atrocity.

Granted Taylor's relevance, we would also have to question the validity of treating issues of identity formation of groups as kind of macro-level processes that nonetheless, in most other respects, would be similar to individual identity formation. Taylor's proposal in the face of oppression of minorities or groups characterized by difference, would be to enact politics protecting those which are most vulnerable: in practice this means to institutionalize forms of recognition. There is in fact to take one example, a great amount of truth in holding that the denial of equal rights of participation may have damaged the sense of self-respect of African Americans before the Civil Rights movement and, that it was precisely this latter struggle, that made it possible for them to restore what have been damaged. Certainly there are plenty of examples where the "struggle for recognition" has been about collective identities and recovering for the group a sense of self-respect and self-esteem. Not all of them correspond to transitional situations but certainly, collective damage has been inflicted here on a particular population that implies both material and moral damage. In any case we seem to be confronted with two different, though not completely unrelated levels, in claims for *recognition*. On the one hand we have the individual claims to rights and self-expression that may or may not coincide with collective aspirations for cultural recognition. On the other hand, we have the more specific contexts of transitional situations where groups of *victims* demand special recognition following serious wrongdoing. It may of course be the case (and

it often has been), that victims belong to the same cultural, ethnic or religious group that has been the object of mass violence, ethnic cleaning practices for instance, or open racial discrimination that may end up affecting other minorities too; South African apartheid would be the typical example. But this is not always the case and victims may also be members of other groups, they may be real or suspected political opponents, journalists, academics or community leaders. There can be many different features that operate at a given time to target anyone and they depend on the concrete historical situation under course.

A first claim can be made here: the condition of victims does not have to depend on a single collective identity or membership in a particular group, though this can also occur when this is the distinctive feature that identifies the “enemies”. Recognition of minority or culturally differentiated groups is by no means a small matter, but it probably creates more expectations than what can in actual fact be delivered, when attempting to respond to the diversity of evils in transitional situations. It all depends of course on how we understand recognition once we have to reflect upon groups and individuals. In responding to Taylor’s “Politics of Recognition” Seyla Benhabib warns on the obscurities of imprecise differentiations:

Despite the plausible analogy between the individual and collective significations of *recognition*, however, the term permits an all too easy slide between different levels of analysis and evaluation. Just as oppressed minorities may have the individual and collective resources to bear with pride and fortitude the wounds and the indignities inflicted upon them individual claims to authentic self-expression need not run in tandem with collective aspirations to cultural recognition. They may even contradict one another. Taylor’s theses rest on the ambiguities of recognition, as this term slides between individual and collective spheres. (Benhabib, 2002: 52)

To be fair, Taylor himself has seen this problem when referring to the modern principle of universal dignity that underlies all demands and denunciations of discrimination when directed by those groups (usually minorities) that constitute second-class citizenship. A “politics of dignity” for cultural minorities and its consequent demands “are hard to assimilate ...for it asks that we give acknowledgment and status to something that is not universally shared” (Taylor, 1994: 39). The antecedent of all this, is his reconstruction of the development of modern subjectivity. There is a shift from the aristocratic pre-modern code of honor to the modern notion of dignity in the first place, and in the second place, there is a further shift from the modern notion of identity to a politics of difference.<sup>87</sup> It remains to be seen if Taylor’s claim that

“The politics of difference grows organically out of the politics of universal dignity through one of those shifts with which we are long familiar, where a new understanding of the human social condition imparts a radically new meaning to an old principle (Taylor 39) is in fact something on which we can rely. It is difficult to think that the individual’s unique identity or search for authenticity to use Taylor’s own terms, coincides always with collective identities. Some concerns are expressed that particularist authenticity claims and shared identities may stimulate “cultures of victim-hood” and victims group elites, who could subordinate other members of the group or internal sub-groups (women, religious diversity etc.). In such cases, principles of ethical self-realization like those advocated by Taylor would not provide us with sufficient criteria to distinguish between legitimate and illegitimate claims on the part of victims.<sup>88</sup> I do not necessarily agree that this is always the case, because many struggles are about establishing less oppressive conditions for minorities who appeal to democratic reforms; not all collective claims are particularist or at least not in the sense of affecting individuals’ own identity.

In the face of these problems, a more constructive, though not less critical view, is taken by Benhabib. She has little doubts that claims of collectivities for recognition of group's identities may compete with individual identities. The examples are not difficult to find: the goals of nationalist movements have very often conflicted with the goals of women's pacifists movements during World War I and during many wars of liberation and unless there was according to her, some ontological or hierarchical ordering of the various groups to which the individual belongs, how are we to determine which of them represents best one's own individuality? Can Taylor with all his emphasis on the self-assertion of particular groups avoid the charge of adopting illiberal positions?

This latter question is one that Benhabib proposes to examine when considering Taylor's appeal to politics of recognition and multiculturalism. Her answer is I think, a better alternative to simply suggesting that Taylor falls into the dimness of particularism. It is in her view, the ambiguities of the term *recognition* that leads to the theoretical mistake of drawing a homology between individual and collective claims. And this move entails the danger of subordinating moral autonomy to the goals of collective identity: ".....the right of the modern self to authentic self-expression derives from the moral right of the modern self to the autonomous pursuit of the good life, and not vice versa" (Benhabib, 2002:53)

There are plenty of examples where the assertion of group rights may conflict with the claims of individuals for autonomy; many of them orbit around the conflicts between nationalist and feminist or women's claims regarding certain rights that that are only granted to males when it comes to some aboriginal groups. These kind of examples are in actual fact a good illustration of how diversity is always present in groups respect to other groups, but also in individuals respect to other members of their group. So according to Benhabib it often happens that the pursuit of strong "collective goals "such as nationalism has come at great

cost to cultural, ethnic, sexual or religious minorities. She is nonetheless aware that the Herderian vision that Taylor embraces, according to which language and discursive practices in general, are essential to our sense of selfhood, is what makes him so sympathetic to movements that seek the preservation and enhancement of cultures.

If it is accepted therefore that human identities as Taylor conceives them, can only be formed through “webs of interlocution” (Benhabib, 2002:56) and if it is communities of language that define us in a critical sense on a social plane, then we would have to ask for the available criteria to attribute moral value to cultures,

the understanding that identities are formed in open dialogue, unshaped by a predefined social script, has made the politics of equal recognition more central and stressful.....Equal recognition is not just the appropriate mode for a healthy democratic society. Its refusal can inflict damage on those who are denied it, according to a widespread modern view, as I indicated at the outset. The projection of an inferior or demeaning image on another can actually distort and oppress, to the extent that the image is internalized. Not only contemporary feminism but also race relations and discussions of multiculturalism are undergirded by the premise that the withholding of recognition can be a form of oppression (Taylor, 1994:36)

Benhabib’s main objection to this seems to be that we cannot derive any normative argument from the general principle that human identities are linguistically constituted that is, we cannot establish which web or *webs of interlocution* should be normatively privileged, in which universes and by whom. All we could say is that every individual depends for his or her successful socialization upon certain communities of discourse. But at the end of the day, it is not collective life forms but the claims of the individual to be worthy of equal

treatment and respect in the pursuit of her own self – realization that define what is morally justifiable. Taylor however is not naïve about this and he identifies the important role that a politics of equal recognition has come to play in the public sphere. Cultural recognition aspires to a politics of difference but at the same time, demands that we give acknowledgment and status to something that is not universally shared.

On the basis of this, some have suggested that Taylor's claims (and to some degree Honneth's too) for ethical self-realization, are particularist<sup>89</sup>. This is in my view a rather simplistic idea. What Taylor asks us is to make a "presumption" of the equal worth of all cultures, while warning us that this is only a starting hypothesis that can only be demonstrated in the actual study of a particular culture. At the end cultures will have to be evaluated by the degree of respect to the equal moral worth of individuals; And regarding this, Benhabib's response is more sophisticated and supersedes the charge of particularism.

She argues I think correctly, that it is an analytical error to judge cultures as wholes and therefore it becomes incoherent to use a language of "superiority" or "inferiority" of cultures. It is only about certain practices at a given time, that we can make judgements or compare and we may qualify these as being just or unjust, hierarchical or egalitarian, tolerant or closed; but it is an analytical error- the logical mistake of "substituting the part for the whole" (*pars pro toto*). Intercultural dialogue and understanding, in this view, is only possible with respect to the evaluation of specific assertions and practices which have propositional content.

"Holistic statements about the presumptive equality of cultures as wholes are not less misguided than statements about their worthlessness. Defenders as well as detractors of cultural recognition claims still commit this holistic fallacy" (Benhabib, 2002 : 58)

This is indeed the kind of fallacy we should not commit when evaluating the situation of victims in transitional situations. While it is true among other things that symbolic misrecognition tends to affect groups and that denial and discrimination as well as historically unsolved conflicts are treated as if a whole collectivity was responsible (and often this tend to disseminate the seeds of what sometimes become serious collective wrong), this is not sufficient argument for defending an essentialist view of groups affected or parties in a civil conflict, as if individual victims responded to the same characterization or there were no dissidences among them. It must also be taken into account that many times identities are imposed or forced in order to single out the “enemy”. Sometimes even historical accounts are falsified or exaggerated on the face of a “common” enemy. But this would take us in a different direction.

Struggles for recognition may take different forms, we can neither minimize the importance of *cultural* recognition nor can we overemphasize the essential definition of *groups*. Cultural patterns are always complex and cannot save us the trouble of facing the burdens of ethical and political evaluation (as well as other forms of appraisal) when it comes to collective identities. Amy Gutmann makes this point succinctly when considering demands for public recognition from her own context,

full public recognition as equal citizens may require two forms of respect 1)respect for the unique identities of each individual, regardless of gender, race, or ethnicity, and 2) respect for those activities, practices, and ways of viewing the world that are particularly valued by, or associated with, members of disadvantaged groups, including women, Asian-Americans, African-Americans, Native Americans and a multitude of other groups in the United States.(Gutmann ,1994:8)

Issues of cultural or collective recognition cannot be detached from individual claims for respect and the implications of this seem to reiterate the importance and the complexities of recognition when attempting to articulate its relation to justice and morality in general. On the whole it is not difficult to imagine why many of these debates on multiculturalism had and still have such a forceful impulse in the context of societies with strong presence of diverse groups, who make claims that are based on their own particular cultural identities. This would be the case of the Canadian constitutional state or similar states (not so much transitional societies) where these public debates have taken place under a reasonable liberal expectation for ethical neutrality of the law, in relation to the ethical-political self-understanding of the different communities. In assessing the struggles for recognition and the way Taylor approaches this phenomena, Habermas sees different levels of analysis,

Feminism, multiculturalism, nationalism and the struggle against the Eurocentric heritage of colonialism are related phenomena that should not be confused with one another. They are related in that women, ethnic and cultural minorities, and nations, and cultures defend themselves against oppression, marginalization, and disrespect and thereby struggle for the recognition of collective identities, whether in the context of a majority culture or within the community of peoples. We are concerned here with liberation movements whose collective political goals are defined primarily in cultural terms, even though social and economic inequalities as well as political dependencies are also always involved. (Habermas, 1994: 116,117)

It would obviously be a great mistake to try to sort out from this universe to which Habermas refers, what cases may correspond (or be closed to) transitional situations, because many of them do not. Rather, it goes the other way around, some of the motives for

oppression or collective wrong have their origin in cultural denial or racial discrimination among others, or may simply be product of authoritarian regimes attempting to subjugate or eliminate political opponents. The assumption I make here is that there is not one single essential attribute or cultural quality that defines the condition of *victim*. It all depends on the depth and extension of the basic damage and this goes beyond membership in a particular group, even though sometimes this may be a decisive factor, or worse, it may provide perpetrators with an ideological or “historical” justification as has been the case with ethnic cleansing. There is however such a thing as collective actors and collective recognition and as Habermas observes: “in this “struggle for recognition” collective experiences of violated integrity are articulated, as Axel Honneth has shown. Can these phenomena be reconciled with a theory of rights that is individualistically designed?” (Habermas, 1994 :108).

Neither Habermas nor Honneth are specifically referring to recognition in transitional situations, but from the latter’s theorizing we can infer that it applies just as well . Habermas’ question can be answered in the positive if we consider recognition in its relational dimensions as I have tried to argue drawing on Honneth’s model in the previous chapter . It was suggested there how *self-confidence* and *self-respect* could be understood in the case of victims and why it was important for recognition in general. I will say here something about the third primary mode of intersubjective recognition, that Honeth usually relates to solidarity: *self-esteem*. The reason to treat it here is that it is all the more relevant to those aspects of the life of individuals associated to their communal identity as members of a group or a particular culture, on the one hand. On the other, because it has to do with esteem, with what we value cognitively in others as members of a group or as possessor of individual talents or skills; esteem can be had in a corporatized form or in an individualized form. I can

be esteemed as a member of a group or, I can be esteemed as a musician or whatever talents or skills I am praised for.

The struggle for recognition in the case of esteem may take different directions: when in the past or the present the wider group or community to which we belong has suffered from lack of respect or esteem or our ways of life have been demeaned, then members of the group may come to esteem each other for the contribution to the struggle and demand corporative esteem. In this case, membership in the group may be an act of self-assertion, a way of convincing others of the distinctive value of our group or of gaining respect for our capacity to stand for ourselves. This is basically how we can account for solidarity or as Haldemann says,

Unlike self-respect which is a matter of viewing oneself as a bearer of equal rights, self-esteem involves resources for thinking about one's way of life as something that is meaningful and significant....The sense of being socially worthwhile can be seriously damaged if a socio-cultural environment is openly hostile to considering one's life style as a valuable contribution to the common good. (Haldemann, 2008: 686).

Even if we agree that solidarity is more the product of the development of certain human capabilities as has been suggested elsewhere<sup>90</sup>, in the sense that we cannot demand solidarity as we do with respect or rights in general, we can admit that it is undoubtedly a practical relation to self by means of which we can neutralize misrecognition and put to good use our valuable capacities. Something close to this is what Taylor must have in mind when he talks about self-realization of individuals and the common good. The problem seems to be that he makes this discourse all too dependent on cultural identities and becomes therefore

liable of all the criticism that Benhabib directs at him. When she holds that “Taylor, Honneth and Benjamin have contributed to our understanding of moral and psychological processes through which one’s sense of self-confidence, self-respect and self-worth develop” (Benhabib,2002: 51), she certainly subscribes to the general thesis of the intersubjective constitution of the *self* through dialogic practices that these three authors represent, but remains uncertain as to the implications for politics and particularly, “the implications that assumptions at the level of ontology or moral psychology may or may not have for contemporary politics of identity/difference.”( 51)

Very close to her preoccupations, Ernesto Verdeja makes the important point that Taylor and other neo-Hegelians (among whom he includes Honneth) view cultural identity as largely homogeneous and in this respect, fail to capture the way that groups constitute and reconstitute their identities through complex interactions. This may seem too obvious by now but in highly conflictive contexts he is I think justified in warning us on the possibility of “cultures of victim-hood” developing on the basis of shared identities that end up bolstering claims that are particularist. This acquires some importance in questions of collective recognition and responsibility. It is however more difficult to agree with his concern that

regarding reparative justice...the principle of self-realization advocated by Honneth and Taylor provides us with no practical criteria to distinguish between legitimate and illegitimate demands.....while the general theory of intersubjective identity formation is a convincing account of subject development ....and recognition is fundamental for peoples who have suffered massive wrongs, the neo-Hegelians endorse a robust notion of ethical life that is ultimately particularist (Verdeja,2008: 212)

I think that even in the case of Taylor the charge of particularism is better encountered by Benhabib for the reasons that have already been mentioned. But in the case of Honneth this charge seems to me misplaced. It seems to leave aside two central assumption of his model. The first is that it is based on a plural conception of justice where modes of recognition, love, respect and solidarity and their different spheres attend to central relations to self: self-confidence, self- respect and self-esteem. The second and as a consequence of the first, is that these modes only provide a general framework of reference and a phenomenology of recognition as it appears in basic human experience. They provide a *formal conception of ethical life* which have normative implications for mutual recognition. It is in the struggles for recognition where individual and collective identities are formed. There is neither a single ideal formula here nor is there a need for them to be limited to a particular form of life. Referring to the work of Honneth, Anthony Simon Laden puts the emphasis on the nature of these relations,

In such relationships, each person is confirmed in her understanding of her own identity and value through the recognition of that identity and value by others. As was noted already by Rousseau, and more famously by Hegel such relations must be mutual and reciprocal for the following reasons : the recognition of the other can serve to sustain my own self-conception only if I regard the other as having the identity and value of someone capable of conferring proper recognition.(Laden, 2007: 272)

True, it could still be argued that the challenge of particularism has not been properly met since societies and for that matter individuals value different things at different times, and the most we could expect is to use the different levels of recognition according to what is

contextually valued. Some societies value more individual autonomy, while others place the emphasis in participation on the life of the community. This could be so and there is some evidence that people express different levels of dissatisfaction or its contrary, about their own needs and priorities. Still, this would not invalidate the understanding of the human self through relations of recognition. It does tell us however that we have to be careful when attempting to use the analytical tools of any complex model. But beyond this, and somehow paradoxically, it is easier to identify what goes on in negative situations where the extension of collective wrong and the depth of damage to self in the case of individual victims, is too evident and one could say, universal. The experience of victims in transitional situations confirm this. The charge of particularism in the case of Honneth becomes here redundant. Margalit's concept of respect for persons, based on a negative and skeptical (negative) justification of human dignity according to which a decent society is one that prevents cruelty and humiliation, points in the same direction and should help us understand that some evils make groups and individuals completely vulnerable, even if we see great differences in the capacity of some to resist. In any case, the fact remains that without a conception of misrecognition there cannot be an adequate account of moral injury. Experiences of injustice and violations must take into account all relevant practical relations to self. This should of course leave open the possibility that other things must enter into consideration <sup>91</sup> But I will not explore these routes here.

#### 4.2. Relational (non-essentialist) definition of groups

I have presented in the middle chapters a relational account based on Honneth's multilevel spheres of recognition. I have looked into the conceptual tools it offers in trying to understand the damage inflicted upon victims and the consequences this may have for our understanding of justice in transitions. In the previous chapter I tried to meet some of the challenges that Honneth's model left unsolved and pointed to a very central argument that is basic in accounting for the ethical and political evaluation of what transitional justice may offer: all the three basic levels that constitute the individual's recognition are relational, and in order for them to have moral relevance in the practical realm, they require performative and expressive acts. In the case of victims of collective wrong this can only be achieved by means of public acknowledgment. To show that this performative element has to be present was the purpose of the *allegory* I proposed in the previous chapter when reflecting about the permanence of the object and self-confidence (trust in the world) in Honneth's rendering of Winnicott's theory. This was also the purpose of examining the relational "second-person point of view" in Darwall's rendering of respect. And finally, in examining cultural claims for recognition, although remaining critical of essentialist and particularist views on groups, *solidarity* is seen as something congruent and determinant (partially) of the self-esteem of individuals and their sense of (social) identity.

Something else must be said however about how groups and individuals assume their cultural difference and communicate it. Basically, I find myself in agreement with Iris Marion Young's idea that, granted that members of groups that are oppressed or discriminated against share a common interest in the elimination of this dehumanizing imagery, we must be aware that there is great disagreement among members, on matters of political ideology and the divergent and even contradictory interests they may have. In response to this she

suggests to disengage the social logic of difference from the logic of identity, “Critics are right to argue against defining groups in terms of essential attributes that all members share. They are wrong, however to reject conceptualization of group differentiation altogether. Groups should be understood in relational terms rather than as self-identical substantial entities with essential attributes.” ( Young, 1997 :389)

This idea of Young could be contrasted with the objections that Benhabib makes to the understanding of groups as unified identities from which it is not clear that we can derive normative consequences for the equal moral worth of individual members. It is this relational element that interests us for the issue of victims, even in cases where racial, religious-or whatever forms of identities-, leaves little space for doubt. Beside this, at the other end, political opponents to a racist regime, for example, need not be and often are not, members of the oppressed racial group in order for them to be victimized.

These “relational terms”, to follow Young, are what we must have in mind when trying to understand and evaluate victim’s claims. And victim’s claims have to do of course with being vulnerable in the many ways we have explored. But it is important to realize that we are vulnerable (particularly to psychological harm or moral damage), only at the hands of those we recognize as being in the position to give us moral value, that is to recognize us. We go back here to the old problem of the relation victim-perpetrator that is expressed in terms not too distant from each other by different authors. Strawson (1968) , Barshava (2000) For Honneth, paradigmatic of this kind of disrespect, are denials of rights and exclusion but not, the non-systematic failure of recognition found in common crime. The thief clearly disrespects my right to my property but this does not have to damage my sense of self – respect provided the state continues to recognize my status as citizens. There are of course circumstances that as a consequence of uncontrolled crime citizens may feel abandoned by

authority or feel that they are too poor or marginal to get the protection that is given to those who are economically “functional”. But even in these cases what would undermine their sense of self –respect would be the failure of authorities to consider their needs and interests and carry on as if they need not be taken into account, not the robbery itself. This remind us that most if not all the claims that are made by victims in transitional situations imply the recognition of certain status of those who are responsible ,either because they are in power or represent the state and their institutions, or because they were military or politically responsible as leaders of armed opposition groups or paramilitary militia that acted under the patronage of the state<sup>92</sup>. Sometimes even, the demarcating lines between political and non-political victims are fuzzy and a similar thing may occur with perpetrators. *Negative moralities* have been more acute in the description of all these possible evils.

This brings us to one of the most important issues that transitional justice has to face and that is, the manner in which it produces a sustainable and operative concept of collective recognition. This is what is to be expected from the publicity aspect of it that is particularly important, \_for it must be directed to a wide, open audience as much as to the victims. Haldemann makes an important point on this:

“As a particular form of social intercourse, it speaks to society-at-large- its institutional context and history-and entails public representation of the collectivity ´s moral position in a broader social web. Thus, the offering of collective recognition is quintessentially a public event-one that puts things on record and cultivates a sense of shared collective interest.” (Haldemann,2008:724)

This pubic response to collective evil has to have a performative element (just as in Honneth´s analysis, greeting someone respectfully is performative). Without *acknowledgment*, we could not talk about recognition. Acknowledgment to be real needs a

public forum in which those responsible for committing wrong, recognize and admit having done so. This is yet more important when there has been official responsibility or complicity with these deeds. Therefore, for there to be acknowledgment it is absolutely necessary that there must be public admission and expression of it. The second element has to do with the expression made by society and the state that the persons harmed possess equal moral worth and merit full and equal human rights granted to them. Usually this derives in some or all, of the restorative and reparative measures that have become the current instruments of today's transitional processes. These are important but can only come as a consequence of full public acknowledgement. If financial compensations for instance, were given in these cases, to avoid publicity or buy the silence of victims, we would not be recognizing them properly or doing them justice.

The relation between recognition and justice, and *acknowledgment* as a first basic step towards achieving it, is still a complex one but it is not impossible to elucidate it, if victims are put at the center of all efforts and are given their voice. South African philosopher André du Toit reminds us that the point of *truth* in transitional justice (leaving aside for the moment the elements of ideological manipulation that *truth* may have in political contexts and which make it a contentious world), is not only a question of knowledge of the relevant facts of the killings and tortures, rather it is more a matter of finding appropriate ways of acknowledging them. It is inevitable that somehow, societies in transition have to move forward, but in order to do so, they also have to look backward. This, one could say, is the cost of trying to construct an ethically and politically acceptable narrative.<sup>93</sup> The distinction that is attributed to Nagel between *knowledge* and *acknowledgment* refers to two different senses of truth : factual truth which refers to particular events and truth as acknowledgment which normally is not so much about establishing the facts (which in many cases are well established) ,but

about dealing with the initial refusal to acknowledge the existence of political atrocities . This refusal is primarily a political issue,

Precisely because at one level the reality of the atrocities and violations will be known only too well to those concerned ,the effective refusal to acknowledge them on public amounts to a basic demonstration of political power .For the victims, this actually is a redoubling of the basic violation: the literal violation consists of the actual pain, suffering and trauma visited on them ; the political trauma consists in the refusal (publicly) to acknowledge it. The latter amounts to a denial of the civic and human dignity of the victims. (Du Toit, 2000:133)

For the perpetrators at the other end, it redefines their power while at the same time, sending a very damaging message to society that they not only can do terrible things , but that they can do them with impunity, particularly if and when the perpetrators are known.

This twofold aspect of *truth* (knowledge and acknowledgment) in transitional justice, both during the processes or after a settlement, is something without which victims cannot achieve any acceptable standards of individual or group recognition. This public acknowledgment of atrocities would account for the fact that *truth commissions* or similar instruments do not usually direct their efforts to punish the guilty in the sense of the retribution searched by ordinary criminal law but rather, to provide a forum for the restoration of victim´s civic dignity and moral worth. This, can only be achieved by acknowledging what was done to them and allowing their stories to be told. This was at least the spirit of the Truth and Reconciliation Commission (TRC) In South Africa.

Of course all this can be controverted, as in actual fact has been.<sup>94</sup> The pain and suffering of the victims, the trauma of torture and abuse is something that cannot be undone

and the knowledge (sometimes incomplete) of what happened, does not seem to be a good enough argument to leave out other measures on perpetrators (retributive justice for example). All along, the claim made here has been that public *acknowledgment* and *recognition* of victims is something that must be achieved, a *sine qua non* in any serious transitional process that is worthy of being referred to as transitional justice. It has not been claimed that this is all that must be achieved, for there is always a space in which retributive measures and reparations among others, can be *deliberatively accorded*. The relations between *truth* and *justice* and *peace* and justice do not necessarily have to be treated in the “dilemmatic” manner in which they are often considered especially, by those who want to prioritize the punitive instruments of criminal law or, as insurmountable opposites where no compromises are possible.

It is important to say at this point that the participation of victims in public hearing is not equivalent to their own personal healing of the traumas suffered as a consequence of serious human rights violations. The primary purpose of restoring victims social or “civic” dignity is not therapeutic, (though this may contribute in this purpose). Referring to the South African Process Du Toit makes the point that it cannot be a private process of “healing” where victims and perpetrators meet and are reconciled. The difference is political:

Personal healing and social reconciliation at this level need to be distinguished from the political significance of truth as acknowledgment. ....at the personal level victims and perpetrators would, by definition ,be “healed” or “reconciled” – but without any public acknowledgment of the truth of the gross human rights violations or some measure of accountability for the political atrocities concerned. If personal healing and interpersonal reconciliation were the primary objectives ,then it did not matter that the double denial of the victim´ s human dignity had not been publicly addressed

or the perpetrators called to some form of accountability-so long as victims and perpetrators alike were individually healed and reconciled.(Du Toit,2000 :135)

This coincides with the point Haldemann makes that recognition in these cases depends on the performance of a behavior that can be interpreted publicly as expressing moral regret, regardless of what the real motivation of the actor is, for he may be insincere or felt obliged to do so. What counts is that the “mere doing of certain “performative” acts or rituals bring about recognition” (Haldemann.2008:700) and this is the importance of public expressions and the political significance of truth as acknowledgment since there is as in South Africa, on the part of representatives of the state and civil society , an open acceptance of the breach , or the failure to officially protect and respect the moral worth or what De Toit denominates in this case, the “civic dignity” of the victims.

There is a further element that will not be explored to the full here but it is worth mentioning: bringing these painful accounts of wrongs to the public sphere contributes to build up a culture of respect for human rights since it allows truth commissions or similar bodies to translate the legalistic terminology of human rights violations into common terms of human experience and suffering. Disturbing personal narratives illustrate more concretely and effectively the human and social costs of violence and repression. It is not just a point of demonstrating in discourse what human rights abuses are, but making the public have the “feeling” of why they matter. The discourse of human rights violations with individual or group testimonies is often dramatic, but at the end of the day it is what has the capacity of bringing about emphatic feelings in others. Victims have usually high expectations on this that have to be managed responsibly in an adequate forum. As Margarit Walker says, “That

too, is a pedagogy of the equal moral worth and dignity of individuals within a human rights culture.” (Walker, 2013: 270).

### 4.3. Transnational public sphere and multi-level deliberation

The question of what kind of public forum should we have for victims of collective wrong is in itself a very big question but some things can be said that could provide us with some normative criteria.

Based on a central idea of Amartya Sen on *capabilities model* that the most basic measure of equality must consider the differences in the capabilities of agents to convert resources into the means to achieve their goals, James Bohman<sup>95</sup> suggests a link between *deliberative democracy* and effective social freedom. One of his central claims is that decisions made under conditions of persistent inequality cannot claim democratic legitimacy. Inequality here, of course, refers not just to resources but to being able to exercise on the part of every citizen a sufficient degree of political capabilities. According to this, “deliberative theories need to develop an account not only of adequate political functioning, but also a minimum threshold of shared capability the absence of which leaves one politically ineffective and hence “impoverished”” (Bohman, 1997:332). If, as a failure in educational institutions, for instance, many individuals are not capable of perpetuating democratic life, whole groups and even generations can be impoverished in the political sense. All the more so if they have been victimized, we may add.

The consequences of this *political poverty* are twofold: On the one hand politically impoverished groups cannot participate of public deliberation, so they suffer public exclusion. On the other hand, these groups are *included* only in so far that they are the object of legal or public measures that are addressed to them as result of external or institutional agreements, over which they have had no control or participation. In this negative sense they cannot avoid political inclusion either. Now, the capacity to initiate public deliberations on matters that concern us most should ideally be a central feature of democratic deliberation

but more often than not, this is not the case. However, because of their very difficult experiences, victims are usually inclined to participate could they feel that they can act within a threshold of political equality and recognition and certain guaranties on their life and security. Nowhere else therefore, does the morally undesirable practice of passing over those who have suffered most and have been directly damaged, becomes as serious as in the case of societies in transition, because it leads to a loss of trust and legitimization of the processes, regardless of agreement on many other matters. Institutional legitimacy depends especially here, on participation of those most affected by contentious issues.

Victims are *per excellence* the most disadvantaged group and continue to be vulnerable for a long time, even when there ceases to be eminent treats to their physical integrity and security. Following Sen<sup>96</sup> and Bohman, *capability equality* suggests that even when distribute measures are employed ,they must have a different purpose than simply providing disadvantaged groups with more resources and this purpose is even more demanding in its political implications for, among other things, citizens or groups of citizens may lack certain capabilities to make effective use of their rights and liberties. If this lack of capacity for political participation does occur in well- ordered and more or less functional societies, it is far more acute in situations of authoritarian regimes or civil conflict where citizens have been politically impoverished, to the extreme of not being able to make effective use of their rights and liberties or, facing great risks when attempting to make any claims .These, one would presume, is what transitional justice tries to restitute and would be part of what Du Toit has referred as “civic dignity”. Recognition must therefore contribute to bring back through public acknowledgment the capacity of victims for political agency and participation, even when they do not agree or have disagreements among themselves on their expectations on justice and political reform. Recognition here also means not to be ignored

since the more victims are ignored, the more the legitimacy of any transitional process weakens

the advantage of the capability approach is that it better captures persistent inequality as interpersonally comparable liberty deficits, thus making the principle of equal liberty useful in cases of the failure of democratic institutions to provide for common citizenship. The persistent inequalities produced by capabilities failures are especially troubling for the deliberative ideal. According to the deliberative standard outlined ...decisions made under conditions of persistent inequality could not claim democratic legitimacy. (Bohman, 1997: 332)

As it was expressed particularly in the previous chapter, in order to deliberate reasonably with others (second person standpoint) we must fully respect the other as co-author of *our* relationship. This is an element that must be present in all social struggles for fully equal respect, and it would not be less, but probably more compelling, in the case of victims. On the basis of this, Simon Laden considers that a theory of reasonable deliberation can make an important contribution to Honneth's theory of recognition. The general question would then be ¿what kind of strategic moves are available to groups or social movements that struggle for recognition, and what kind of institutional design may grant this deliberative exercises a proper space? Public hearing of victims through the institutional enacting of South African TRC may be one example. Transnational Civil Society efforts to influence issues of *global justice* like the World Social Forum (WSF), may be another.

It remains a truly great challenge to find the reason why powerful groups or why those who represent or benefit from the *status quo* may at least consider changing things at home. From a theory of reasonable deliberation it would be the equivalent of asking ¿ On what

grounds can they be persuaded to treat in this case victim's claims, as reason or demands that have authority on them? There are various possibilities here but this example will suffice: those who are in power, may have an interest in stability out of prudential considerations not to fall into a state of nature (broadly Hobbesian) or, they may think it more beneficial to find a settlement in the long run (broadly utilitarian), but Laden thinks that there is a further possibility. In what he proposes,

According to the theory of reasonable deliberation, a claim becomes a reason when it appeals to a feature of the relationship that binds the reasoner's together. We can thus appeal to a feature of the identity of the powerful, perhaps independently of their interests, but nevertheless not external to them in the way that a moral imperative may appear to be.....to take an example, the presence of white supremacist attitudes and social structures in the United States society serves to leave non-whites invisible and thus not fully recognized. As a result reasonable deliberation between non-whites and whites is impossible. If, however both whites and non-whites regard themselves and each other as democratic citizens, then non-whites can appeal to whites in the name of their common citizenship to heed their call for recognition and act to redistribute power to bring it about. In such case, whites are appealed to on the basis of their identity as citizens, an identity they regard as racially neutral. (Laden 2007:283,284)

It must be said that this is already found in the Honneth-Darwall recognitional model, for after all whoever fails to recognize the others is depriving himself of their recognition too. There is however, one important element which the reading of Laden adds, since citizens may develop a concern for living up to the standards of a democracy and this may be

motivated by many different things: citizens may be touched by literature or films or personal narratives on the evils of racism; they may feel shame when traveling abroad or having white foreign visitors in their country who find their practices unacceptable or, they may simply worry about their children or grandchildren growing up in the midst of racial distrust and hatred and decide in favor of common citizenship. In few words, members of a group do not have to remain conditioned by a racial or cultural, not even a national identity or common characteristic, if as a consequence of social movements or cognitive developments they come to persuade themselves that other forms of coexistence, in this case with those who are racially or religiously different-, are politically and morally better alternatives. But of course all this becomes possible only when groups in power come to assess deliberative claims on them, not only in terms of their pre-existing interest as the dominant group, but in terms of their intersubjective interest as beings dependent on the recognition of others. Laden's analysis that is inspired in Honeth's work comes very near Bohman on the importance of deliberative skills and finding the space for social movements to express themselves. He rightly points out I believe, that a great deal of the harmful effects of structural misrecognition<sup>97</sup> may originate in unequal relations of power that also contribute to political impoverishment.

There is more often than not, a problem with this confidence in domestic elites' intentions to want to transform their own societies out of moral considerations (though sometimes it may happen), not only because it leads to a rather parochial view of transitions, but above all because the state as a "third party" that grants neutrality is not yet functional or shares also responsibilities for the crimes or, transitional regimes and institutions are just beginning to consolidate and their judicial systems (unlike well-ordered societies) are still

too weak to handle massive crimes. A more ample, less circumscribed public sphere is required. Here James Bohman proposal is extremely useful:

In the case of transitional justice there is often an inherent deficit of legitimacy given the fact that elites and officials representatives ultimately negotiate the terms of such settlements, often without the constructive benefits of publicity. Now that the glare of publicity is fully global the role of non-state actors has greatly expanded including actors and organizations that aim at a global audience in making demands upon states in these processes. Such new actors, I shall argue, reveal the emergence of an active transnational society that now empowers the involvement of various local and general actors. A genuine peace can no longer be pursued by states alone, especially given the inherent asymmetry of the situation. Transitional justice shifts the dynamic toward popular, deliberative and multitrack peacebuilding. Peacebuilding does not merely concern the asymmetrical deliberation of the states' parties but must for that reason also involve a variety of transformative actors, networks and publics that make up transnational society. (Bohman, 2013:286,287)

Northern Ireland is, accordingly, a good example of multilevel processes and transnational institutions (the latter understood as the collective actors of "international society" that make judgments on the achievement or failures to achieve justice and peace; these may include international courts, human rights international NGOs, specialized media, academia, international professional associations, churches) where non-state actors played a prominent role in promoting a just peace accord. Few things could have more moral power than women (particularly mothers of victims) both Catholic and Protestant, marching together through neighborhoods of both denominations, demanding mutual acceptance and exercising

what IR scholars call “second track diplomacy”, which here meant connecting old enemies to the public in general, and facilitating dialogue and deliberation between conflicting groups. Here ordinary citizens provide a kind of counterweight to the official political process and in many senses complement it. As a matter of fact, all evidence seems to indicate that transitional and peace processes that are lasting (though not perfect), are those where this transnational perspective has been present. Northern Ireland seems to be *a case in point*.

Two more aspects must be taken into account: first the reason why *transnational society* and *transnational public sphere* are better terms is that they involve a number of communities groups with different identities but common interests, and not simply relations between sovereign states. The presence of a variety of actors may seem to some to complicate things more, since the form dialogues take here, must be multi-level and as inclusive as possible. Many reasons could be given for this, perhaps the most important one is that “peace accords and settlements bear the burden of legitimacy” (Bohmann,2013:288) and this must mean in practice strong acceptability across communities. Considering victim’s critical situation this is an extremely difficult issue, but experience has shown that in most cases victims, once they feel their claims are being addressed, are capable of overcoming the feelings of revenge,<sup>98</sup> while never abandoning their search for truth and some form of reparation. Acceptable accords should mean here particularly in the face of moral authority of victims, acceptable to those who must live under them.

The second has to do with the complexity of transitional and post conflict situations. This poses at the same time an interesting challenge that should be reflected in the capacity of multiple actors to achieve acceptable compromises and go beyond the impoverishing rhetoric of unsurmountable *dilemmas* that can never be solved and would only radicalize the confrontation. “Transnational society” is a more appropriate term because it involves a

variety of organizations, communities, associations and individuals beyond the sovereignty of states and it cuts across the local, regional and global levels. There is also the question of the independence of central powers with which many of these actors can act: civil society, community and religious leaders (when is the case), women's and victim's associations, are after all the ones who can be intermediaries in the creation of new bonds where there probably was none before. In the Women's International League for Peace and Freedom founded after World War I and particularly in Northern Ireland these mediating roles were fundamental in resolving the conflict( in the case of WILPF they did not solve conflict but their role in publicity and maintaining public interest was enormous).It is these multi-level actors and organizations who facilitate the intersections between the local and the external, making possible the creation of a transnational public sphere, which has proved very important for transitional processes. How this is to be done is something that is still "work in progress". There are important experiences as the ones mentioned and others to which we may refer, but not a single available formula as yet. These and similar reason make us more sympathetic to Bohman's claim that "a more complex conception of political legitimacy that includes an understanding of transnational legitimacy in the society of states is required if we are to understand why such processes of peacemaking succeed sometimes even in the face of deeply entrenched conflicts.(Bohman , 2013 :289)"

Usually in transitional situations the overcoming of conflict or the consolidation of a more democratic regime implies its transformation and not just the imposition of a *modus vivendi*. Some form of institutional authority (not necessarily governmental or not in its totality) is required that must be perceived by citizens as possessing also sufficient moral weight to initiate processes of reform. This was the case of the Truth and Reconciliation Commission in South Africa that could rely on its legitimacy even for those victims who had

suffered most from violence and oppression and found some of its decisions controversial. This is what Du Toit expresses when reflecting on the moral goals of the Commission, “Without a TRC, where would that have left the victims of gross human rights violations and the perpetrators of political atrocities? Former victims and killers or torturers alike would have counted among the henceforth –equal citizens of this new South African Democracy. The TRC reflects a moral and political diagnosis that- a general and formal restoration of citizenship alone would not be sufficient. Something more needed to be done: justice required a particularized procedure of public acknowledgment to restore human and civic dignity, and to exact some measure of accountability from the perpetrators.” (134)

This is therefore the relevant sense of justice deeply connected to that of *truth as acknowledgment* where victims should be able to tell their own stories in an atmosphere different from that of the “rules of evidence” required in ordinary criminal proceedings. The relevant sense of truth becomes here a “narrative truth” originated in the victim’s own “story”. Being a public hearing that relies on events that have been previously established and in many cases as product of *voluntary* confessions on the part of perpetrators, it is not any more a problem of double checking facts (*true as knowledge*) but of giving its due (performatively in the public sphere), to this narrative reconstruction of an individual’s self.<sup>99</sup>.

Acknowledgment therefore, is a fundamental step in transitional processes as it has been held here all along. Metaphorically, it is the inaugural public opening of recognition. In transitional scenarios, *justice as recognition* is the complete performance: it should mean the restoration of the moral worth and civic dignity of victims and- provided, we know that not all transitional processes are successfully completed due to political realities or lack of resources-, it must also be taken into account that this specific sense of transitional justice

does not mean that no relations can be established with *criminal and retributive justice* and *social and distributive justice*. It only means that we must distinguish conceptually the different senses of justice and this, probably takes us closer to Honneth's idea of a plural theory of justice with recognition as the point of departure, of which he provides an outline. A full theory would have to be worked out at different levels since the complexity of transitions bring about the need to reflect on questions of distribution and criminal prosecution. Recognition cannot simply be about moral qualities, it must also mean restoring through forms of material reparations and, prevention of new violent outbreaks. The more of the many faces of injustice, disrespect and humiliation are properly addressed, the better.

One can of course share the preoccupation Du Toit expresses that "abstracted from the circumstances of transitional justice, the idea of a need for the restoration of the civic and human dignity of victims of human rights violations may well seem incoherent if not tautologous"(137). It is indeed an objection that occurs to most of us, at least from the perspective of liberalism and the Kantian tradition, that is difficult indeed to think that victims of serious human rights violation, could ever lose their moral status as persons and as ends in themselves. This moral worth can never be "lost" one could say. But precisely, the universe of transitional justice cannot take this for granted since in these scenarios the rule of law and the coordination of institutional and social life have been *actually* degraded to a point, where individual victims of political atrocities and gross human rights violations have had their human and civic dignity "suspended" as it were. They have not been treated with the (Kantian) moral respect that we should expect from others when they recognize us in our moral worth. All the more troubling, if the disrespect come from those in positions of authority. This is what transitional justice in general and justice as recognition, tries to restore. An imperfect and yet indispensable way of restoring it is by affirming it publicly

How this is done and how imperfect a justice a community is willing to accept in order to move towards the future without overlooking its past or leaving victims aside, is something that we cannot determine *a priori*. Each historical experience has to be evaluated individually. Even when a society manages to make the transit from an authoritarian to a democratic regime or to achieve peace after an enduring civil conflict a lot of issues remain to be dealt with that have to do with reparation and distribution of benefits for the victims, retribution and criminal justice when it is the case, as well as memorialization and general education on the scope, historical and moral significance of the injustices suffered.

What *acknowledgment* in the public sphere and *recognition* in all its complexity do, is to provide the conditions of possibility for transitions that can claim legitimacy. They are not the whole story and they do not automatically bring about complete reconciliation, a task the pursuit of which may continue for a long time even if a settlement is achieved. But recognition as a plural, performative form of doing justice to victims, along with acknowledgment as the door of entrance to the public sphere, are giant steps without which, it would be extremely difficult to make sense of any social struggles that attempt to overcome disrespect and humiliation.

## CONCLUSIONS

“It is not about history it is about restoring our dignity”. This was a recent declaration by a Catalan nationalist who narrated how his grandparents had been disappeared by one of the factions during the Spanish Civil War. Independently of how we assess the adequacy of his political positions respect to what is happening now (he may be a separatist nationalist or he may simply be a cultural and linguistic nationalist) we can perceive that his claim is about “old wounds” of a distant, maybe not too distant past. Bringing back what has been taken from victims, not only in a physical but mainly in a moral and symbolic sense, is at bottom what transitional justice is about. We may call it *dignity, human condition or moral worth of persons* but whatever claims are encountered, particularly in the aftermath of mass atrocity where radical political changes are taking place, sometimes at a rate that is predominantly determined by the urgencies of ending a conflict or finding ways to set up more stable and democratic institutions-, they reveal almost invariably this demand for a vindication of individuals or groups who have been victimized.

In the midst of these turbulent realities often the impression is produced (intentionally or not) that a political community must “leave behind the past a move forward to new futures”. There are many explanations and even justifications for this kind of attitudes and in some cases there is also a fear (not completely unjustified) that too much effort to establish the *truth* or remembering the past, may render it impossible to initiate and maintain a new political deal. And ¿who would want to deny that the rule of law, stability and social peace are valuable goals in themselves? ¿What is there to be gained by having a number of individuals (few or many) being recognized, remembered or mentioned in a report or even

repaired, when the “majority” (usually to the detriment of a minority) simply want to move on to a new chapter ?

Many things could be said in attempting to answer these questions but two seem to be the most relevant. The first is not a *moral* argument (though its consequences have moral implications) and corresponds to a general tendency or some kind of empirical generalization that can be drawn from historical examples: societies where individuals or groups have reason to be resentful tend to reproduce conflicts or recreate situations of social unrest. The second is properly speaking a *moral* argument ; Why should a society that generally speaking has failed to protect those who have been victimized, expect that they go on carrying the burden of evils they have not always produced in the first place? or, if they have contributed or participated or benefited from the unrest, they have not been dealt properly within the domain of legal and legitimate instruments. This seems extremely unjust, an act of disrespect and misrecognition towards those who have taken the worst part. Simply forgetting the past and negotiate a general amnesty by a dictatorship upon the transition to civilian government, or even making financial reparations in a post conflict situation, to avoid further demands or buy the silence of victims will simply not do. Truth, some truth is needed, but above all victims must be recognized in their moral worth.

Recognition of victims’ experience of harm and moral damage, has been given here a central role in the way societies can come to terms with a recent (or even distant) past of collective wrong and serious human rights violations. An attempt has been made here using Honneth’s model of the conditions necessary for identity formation with its three levels or spheres of recognition and in dialogue with other thinkers, to throw some light on how this central category is not only important for moral and political theory in general but also specifically, for understanding victim’s experience in transitional situations.

Recognition brings us to a better understanding of the relational and intersubjective nature of all social struggles. Since the damage to self in the case of *victims* affects individuals at such fundamental levels, we may do well in examining how this can possibly operate. At the level of self-confidence, victims (particularly victims of torture) may lose a general sense not only of confidence in their own intimate and bodily self but also of “trust in the world”, in the permanence of the “object” of reality. This is not simply a therapeutic metaphor (though it was treated here as an allegory by means of the *transitional object* of Winnicott’s psychoanalytical theory). It also has to do with potentially reconstructing the capacity to be a member of the political community; the notion of *civic trust* is not an exact equivalent but there is a deep connection: put bluntly, a lack of confidence in their own institutions make it close to impossible that citizens find some sense of stability, of “permanence” in the making of their society and this usually develops into many forms of unhealthy relations to others : fear, distrust, stigmatization or animosity. There is no need to be reminded of how these and other emotions, have often been used perversely and effectively against individuals and minorities, or to dehumanize those who are blamed for past or present realities.

At the level of self-respect, the attempt was made to answer what Honneth left unsolved regarding the Kantian notion of respect and contrasting it with Darwall’s (relational) second-person standpoint. If respect is absent we cannot relate with others as equal members of the political community and benefit from the reciprocity this generates. In the case of self-esteem (solidarity) the response was that even collective identities and the shared self-understanding of groups, are relational (with members of other groups and with other members within the group). This avoids the charge of particularism or essentialism of groups , but it is also important to perceive that collective demeaning exists and self-esteem

depends also on the recognition that one's own cultural identity and ways of life are considered valuable .

All along this work, it has been emphasized that recognition is or rather, should be, fundamentally a public performative act. From greeting someone to acknowledging publicly wrongs committed against individuals or groups, it is this external, almost ritual *performance* of a behavior that expresses friendly attitudes or moral regret, depending on the case. It must also express that those who have been damaged are worthy of moral respect and in this case, it is the open acceptance of responsibility that counts. This acknowledgment is the opening gate to the public sphere and is perhaps the most important step in order to achieve full recognition . In the last part, reasons have been given to explain why Bohman's link between deliberative democracy and effective social freedom and Laden's idea of reasonable deliberation (the latter formulated in the context of Honneth's work) can be considered as responding to the needs of transitional situations. Some central aspects of the experiences of a public forum in the cases of Northern Ireland and South Africa have been examined. From the first we can take the idea of the importance of a *transnational society* and *transnational public sphere* operating in these kind of scenarios. From the latter we can conclude that *truth as acknowledgment*, and *justice as recognition*, are not only possible, but are the kind of responses a society should produce in order to overcome conflict and move on, without putting victims aside and treating certain groups of citizens as if they did not count or were simply invisible or inferior. A great part of the contents of transitional efforts is directed to overcome this negative symbolism that can end up re-victimizing those who have been wronged in the first place.

As it was mentioned at the beginning of this work by authors of negative morality and particularly by Frank Haldemann, "macro" instances of evil, genocide and ethnic cleansing

are individual and collective at the same time, by virtue of the systematic dimensions they take. Besides, often those in position of power or authority are the ones responsible for terrible crimes like extralegal executions or forced disappearance of targeted individuals. It sometimes takes years until relatives or loved ones come to know the truth and obtain some form of justice. Hence, the importance of international and transnational mechanisms that help investigate these serious crimes or prevent them from happening, particularly, when directed against those who are most vulnerable.

Paraphrasing Hume in his famous example that if we had a world of unlimited abundance we would not need to worry about justice in distribution, we could say that in a world of well-ordered societies we would not need to worry about justice in transitions. But the world in which we live is a very imperfect one, and until better and more effective institutions are set up and other aspects of justice are better attended, societies which have suffered collective wrongs and serious human rights violations must have the opportunity to confront their past and present, through mechanisms that permit their survival as communities in the future.

Transitional justice seems to play this role in particularly difficult scenarios, no matter how imperfect or incomplete it is perceived by some. It goes without saying that “transitional justice” is not a *formula* if we mean by this, a “set of instructions for making something”. As a *form* of justice it defends among other things, the possibility of constructing a new social narrative, just as individual selves produce a narrative through living a life. Political communities cannot brush aside their past or present injustices and “start all over again” but they cannot be doomed to accept a sense of collective fatality that condemns them ever after. There are always in transitions these forms of temporality that imply retrospective (backward looking) and prospective (forward looking) dimensions. And this is so whether we are

dealing with “historic injustices” or recent past injustices, although there might be differences in degree according to how distant in time are the events that originated collective wrong, but also according to how much or how little they influence the self-understanding of a political community in the present.

Finally, also paraphrasing Rawls’ Second Principle in that inequalities should benefit those who are worst off, we could say that transitional justice should be thought of as restoring those who are most vulnerable and have suffered the most: *victims* particularly victims of repression and systematic human rights abuses in many parts of the world.

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 NOTAS

<sup>1</sup> See Allen, J. “The Place of Negative Morality in Political Theory” in *Political Theory*, Vol 29 N° 3, June 2001 pp 337-363

<sup>2</sup> The idea of characterizing the natural place of transitional justice as a very imperfect world was formulated by the Colombian-American philosopher Pablo De Greiff. He defines it in this manner, “a very imperfect world is one characterized not just by the massive and systematic violation of norms but also by the fact that they are huge and predictable costs associated with the very effort to enforce compliance. At the limit in such a world, that effort puts at risk the very existence of the system that is trying to enforce its own norms. This I think, is the primary domain of application of the term transitional justice.” See De Greiff, P.(2012) “Theorizing Transitional Justice” in Williams, M. Nagy, Rosemary and Elster J(Eds.)*Transitional Justice*. New York University Press.

<sup>3</sup>On this topic see Elster, J.(2004)*Closing the Books: Transitional Justice in Historical Perspective*. Cambridge University Press

<sup>4</sup>For a general perspective see Kritz, N. ed. ((1995) *Transitional Justice: How Emerging Democracies Reckon with Former Regimes*. United Nations Institute of Peace Press; Prager, C. and Grover, T eds.(2003) *Dilemmas of Reconciliation : Cases and Concepts*. Wilfrid Laurier University Press; Teitel, R. (2000)*Transitional Justice*. Oxford University Press; Rotberg R, and Thompson, D eds.(2000) *Truth vs. Justice: The Morality of Truth Commissions*. Princeton University Press.

<sup>5</sup> See Commission site <http://www.greensborotrc.org/>.

<sup>6</sup> Boraine, A. “Truth and Reconciliation in South Africa: The Third Way” in; Rotberg R, and Thompson, D eds.(2000) *Truth vs. Justice . The Morality of Truth Commissions*. Princeton University Press pp. 141-157

<sup>7</sup> UN Secretary General “The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies” S/2004/616 pp. 4

<sup>8</sup> “Epistemic collective acknowledgment of historical truth” is an expression used by Claudio Corradetti. He proposes a counterfactual understanding of which principles of justice should have governed the unjust scenario with rights as truth-constraints. See his Corradetti C (2012) “Transitional justice and the truth -constraints of the public sphere” in *Philosophy and Social Criticism* 38(7) pp. 685-700

<sup>9</sup> Tutu, D, (1999) “No Future without Forgiveness”. New York: Doubleday. pp.54-55. All along Tutu repeated that “we are bound up in a delicate network of interdependence because as we say in our African idiom, a person is a person through other persons. To dehumanize another inexorably means that one is dehumanized as well”(35)

<sup>10</sup> Elster emphasizes the relations between *different forms of justice* particularly between *distributive* and *transitional justice*: issues of unfair distribution of land for instance, are typically the cause of many conflicts and as for *retributive justice* he also thinks that there is a relation between *justice* and *truth*, since *justice* may serve the goals of *truth* and this latter may sometimes serve as a substitute for *justice*. See his Elster J(2012).“Justice, Truth, Peace” in Williams, M., Nagy, R and Elster, J. *Transitional Justice*, Nomos LI, New York University Press.

<sup>11</sup> On this matter see Teitel, R, (2000). *Transitional Justice*. Oxford University Press. Pp.219-223

<sup>12</sup> An example of this is given by Jonathan Lear “so if there were to be such a thing as a courageous response to these radically altered circumstances, it would seem to require a transformation of the psychological structure with which we “face up to reality”. At a time of cultural devastation, the reality a courageous person has to face up to is that one has to face up to reality in new ways.” This he has called in his study of the Crow people of North America, “Abysmal Reasoning”. See his Lear, J.(2008) *Radical Hope: Ethics in the Face of Cultural Devastation*. Harvard University Press.

<sup>13</sup> To my knowledge, Haldemann is the first scholar to have explicitly proposed that *recognition* should be the central moral category for transitional justice See his Haldemann, F. (2008) “Another Kind of Justice: Transitional Justice as Recognition,” *Cornell International Law Journal*: Vol. 41 :Iss.3, Article 3.

<sup>14</sup> According to de Greiff the difference between mere compensation and reparation is that the latter must be accompanied by some sort of acknowledgment of responsibility (not necessarily of culpability). See de Greiff (2010) "A Normative Conception of Transitional Justice in *Politorbis* Nr 50-3. Pp. 20

<sup>15</sup> Cook, J. "Wittgenstein on Privacy" (1968) in George Pitcher (ed.) *Wittgenstein: the Philosophical Investigations*. London Macmillan. pp. 286-323.

<sup>16</sup> Strawson, P. (1968) "Freedom and Resentment" in *Studies in the Philosophy of thought and Action*. Oxford University Press

<sup>17</sup> For the concept of *civic trust* in transitional contexts see De Greiff, Pablo. (2012) "Theorizing Transitional Justice" in Williams, M and Nagy, R (Eds) *Transitional Justice*. NOMOS LI. New York University Press. pp. 31-77

<sup>18</sup> De Greiff, Pablo. (2010) A Normative Conception of Transitional Justice. *Politorbis* Nr 50

<sup>19</sup> De Greiff, *Supra* Note 2

<sup>20</sup> For the periodization of transitional justice see Teitel, R. (2003) "A Genealogy of Transitional Justice" in *Harvard Human Rights Journal*. Vol. 16, pp. 69-94; Leebaw, B.A. (2008) "The Irreconcilable Goals of Transitional Justice" in *Human Rights Quarterly* 30 pp. 95-118

<sup>21</sup> Probably de Greiff has many ways of responding to my objection when clarifying the sense in which he uses the vocabulary of immediate, mediate and final aims and how these terms refer to proximity or distance not in time but in "causal chains". See de Greiff, P. " *Supra* note 2 pp. 41-44

<sup>22</sup> Honneth, A. (1995) *The Struggle for Recognition: The Moral Grammar of Social Conflicts*. The MIT Press

<sup>23</sup> Regarding this collective agency F. Haldemann expresses "These considerations point to the inherently collective, indeed political, dimension of the crimes under consideration. Characteristically, episodes of massive evils, such as massacres and genocide, are rooted in ideology-in some collective conviction, however misguided-about how a society should be shaped or transformed. A purely individual-based approach, focused exclusively on the personal responsibility of individual agents, cannot tell the complex connections among people that makes widespread collective violence possible. Rather, it is necessary to think in terms of policies and institutions so as to contextualize the experience of those who have been brutalized in the larger "system". The relevant point is that collective wrongdoing, as a social and political fact, represents more than just an aggregation of violent acts. It symbolizes a society's sheer lack of respect and contempt for some group and individuals." See Haldemann, *Supra* note 13, at 715, 716.

<sup>24</sup> See Allen, *supra* note 1

<sup>25</sup> For an excellent sociological account of the shifts in the estimation of the reality of victims of the "Holocaust" not based on the presupposition that it was a unique event in history, see Alexander, J. (2002) "On the Social Construction of Moral Universals: The Holocaust from War Crime to Trauma Drama". *European Journal of Social Theory*. 5(1) pp. 5-85

<sup>26</sup> See The United Nations Basic Principles and Guidelines on the Right to a Remedy and Reparations for Victims of Gross Violation of International Human Rights Law and Serious Violations of Humanitarian Law, where the term *victim* also includes "immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims" (U.N. Doc. E /add. 11 (19 April 2005))

<sup>27</sup> Jaspers, K. (1961) *The Question of German Guilt*. New York. Capricorn Books. pp. 27-32 A good example of the problem of racial injustice in the USA and not having dealt adequately with the past which also approaches the debates in the 1980s in which Habermas and other left-liberal intellectuals participated against historians of a more conservative leaning in what became known as the *Historikerstreit*. See McCarthy, T. (2002) "Vergangenheitsbewältigung in the USA: On the Politics of the Memory of Slavery" in *Political Theory*, 30 pp. 623-648

<sup>28</sup> As it will be seen through this work, my view on *human dignity* is rather "agnostic". I do not affirm that there is such a thing as *human dignity*, but I do not deny that some sense can be made of such expression and in general follow Margalit among other authors, in holding that whatever understanding we can have of it, will come from situations of denial. In his account a politics of dignity should be understood not as a positive politics but as negative politics since "we recognize dignity by the way we react to humiliation" See Margalit, A. (2004). *Ethics of Memory*. Harvard University Press. pp. 114. I do not object however, to the use of the term, if by dignity is meant a kind of regulative idea or moral desideratum we must strive for. What I definitely do not embrace, are those definitions of *dignity* that attempt to base it on a metaphysical idea, or an essential quality that beings must possess. Alternatively, and for reasons that will become clearer in the next chapter, I much prefer to talk about the equal moral worth of persons, though it seems unavoidable that many authors use the expressions "equal moral dignity" and "equal moral worth" as equivalents. This should not represent a great difficulty; the reason is that for me, once there is respect and self-respect and other conditions of recognition, then we have

dignity, and not the other way around. If at all, *dignity* would be a result or a point of arrival, rather than a point of departure.

<sup>29</sup> Frankfurt view may run into difficulties since he would have to account for the criteria employed in each particular case so that each and every individual come to feel that he/she is being treated with *respect*. His view contrast strongly with Ann Phillips view that, “We humiliate when we make people occupy lesser-more humble positions; we degrade them when we force them into lower grade; we express our contempt when we treat them as less worthy than ourselves. As the very language indicates all this refers to states of inequality, to exercises of power that have positioned others as less worthy than ourselves”. See her Phillips Ann (2015) *The Politics of the Human*. Cambridge University Press pp.86

<sup>30</sup> Honneth, A.(1995). *The Struggle for Recognition. The Moral Grammar of Social Conflicts*. The MIT Press. Where the categories Honneth presents correspond to the author’s intention with this sub-title. See especially Section 5 and 6, pp.92-139.

<sup>31</sup> Honneth finds that his work is in line with Tzvetan Todorov, Michael Ignatieff, Avishai Margalit, Barrington Moore among others in so far as they all perceive that the experiences of social injustice must be measured in terms of withholding of forms of recognition held to be legitimate and in the second place, that the opposition between “distribution struggles” and “recognition conflicts” is of not help, since issues of economic distribution cannot be understood independently of all experience of social disrespect. See Honneth A. 2004. “Recognition and Justice”. *Acta Sociologica*. Vol.47(4).351-364

<sup>32</sup> For a good and extensive examination of these problems within Critical Theory see Berstein J.M.(2005). “Suffering injustice: Misrecognition as moral Injury in Critical Theory”. In *International Journal of Philosophical Studies* Vol 13(3),303-324

<sup>33</sup> see Honneth A. (1997) and John Farrell “Recognition and Moral Obligation” in *Social Research*, Vol.64, N°1, pp. 29,30. A thorough statement of what these categories consist of, can be found in Anderson, J. and Honneth, A.(2005). « Autonomy, Vulnerability, Recognition and Justice » in *Autonomy and the Challenges of liberalism*. Cambridge University Press.

<sup>34</sup> A parallel is drawn with Peter Strawson’s account of responsible agency. We react to others with ordinary feelings such as resentment and implicitly recognize them as responsible agents. In this sense our attitude is not “objective” and this is part of the way we respond to each other morally. See Strawson, P, “Freedom and Resentment”, *Proceeding of the British Academy*, 48 (1962), pp.1-25.

<sup>35</sup> The criteria Honneth offers is that moral injuries are the more serious, the more fundamental is the level of relation-to-self, they affect or destroy. See Honneth, A and Farrell, John(1997) Recognition and Moral Obligation in *Social Research*, Vol.64, N° 1, pp.16-35

<sup>36</sup> For a clear and detailed statement of his program of research see Honneth A.(1995). *The Struggle for Recognition* The MIT Press. Introduction and First part, pp.1-64

<sup>37</sup> Hegel, G.W.F. (1983) *Jena Lectures on the Philosophy of Spirit*. Wayne State University Press

<sup>38</sup> See Honneth A. 1995. *The Struggle for Recognition*. MIT Press. Especially Fig.1, p.25

<sup>39</sup> This process of “loss of trust in the world” is described by Avishai Margalit in his moving narrative of the experience of torture of the philosopher Jean Amery after being arrested by the Gestapo in 1943. Like many others he took his own life many years after being liberated. See Margalit, A.(2004) *The Ethics of Memory*. Harvard University Press, pp. 116-118

<sup>40</sup> Honneth considers that in order to have an appropriate point of departure for a recognition-theoretical conception of justice two steps must be taken: “In a first step it must be shown, following on from a series of investigations (Todorov, Margalit, Ignatieff, Moore) that the experience of social injustice is always measured in terms of the withholding of some recognition held to be legitimate. To this extent the distinction between economic disadvantage and cultural devaluation is phenomenologically secondary in character and refers more to differences in the respects to which subjects can experience social disrespect or humiliation. . . . . it must be shown in a second step that the establishment of the liberal capitalist order is to be described as a process of differentiation by three spheres of recognition. Accordingly, we can reckon with different types of morally substantive struggles or conflicts in contemporary societies, with the differences between them depending respectively on whether the dispute is about the “just” application of the recognition principle of love, of equality of rights, or of doing justice to achievements. As a direct consequence of these considerations it naturally result that the opposition of “distribution struggles” and “recognition conflicts” is of little help, since it gives the impression that demands for economic redistribution could be understood independently of all experiences of social disrespect. To me however, it seems much more plausible to interpret distribution conflicts

as the specific kind of struggle for recognition in which dispute is about the appropriate evaluation of individuals' or groups' social contributions". See Honneth, A. (2004) "Recognition and Justice: Outline of a Plural Theory of Justice" In *Acta Sociologica* Vol 47(4): 351-364

<sup>41</sup>According to this, the "moral point of view" has to encompass not just one but three independent modes of recognition "(a) With reference to the first level of its practical relation-to-self, the individual whose needs and desires are of unique value to another person, for this kind of recognition, which has the character of unconditional concern, concepts such as "care" and "love" can be found in the tradition of moral philosophy. (b) with reference to the second level of its practical relation-to-self, the individual is recognized as a person who is ascribed the same moral accountability as every other human being, for this kind of recognition which has the character of universal equal treatment, the concept of moral respect has meanwhile established itself in deference to the Kantian tradition. (c) With reference to the third level of its practical relation-to-self, finally, the individual is recognized as a person whose capabilities are of constitutive value to a concrete community; for this kind of recognition, which has the character of a particular esteem, there are no corresponding moral concepts in the philosophical tradition, but it may well be a good idea to refer here to concepts such as "solidarity" or "loyalty". see Honneth A. (1997) "Recognition and Moral Obligation" in *Social Research*, Vol. 64, N° 1, pp. 29, 30

<sup>42</sup> See Habermas, J. (1992). "Individualization through socialization: on George Herbert Mead's theory of subjectivity", in *Post-metaphysical thinking*. MIT press, pp. 149-204.

<sup>43</sup> The position defended by the authors here is that standard liberal accounts (including Rawls) fail to take seriously the individuals' autonomy-related vulnerabilities and the obligations to reduce them to an acceptable minimum. See Anderson J. and Honneth A. (2005) "*Autonomy, Vulnerability, Recognition, and Justice*" in *The Challenges of Liberalism*. Cambridge University Press, pp. 127-149.

<sup>44</sup> Nussbaum provides a list of universal human capabilities that she thinks are compatible with liberalism and non-relativism. See Nussbaum M. (2000) *Women and Human Development: A Capabilities Approach*. Cambridge University Press.

<sup>45</sup> See Honneth, A. (2001) "Invisibility: On the Epistemology of Recognition". In *Proceedings of the Aristotelian Society* Volumes, Vol. 75, pp. 111-139

<sup>46</sup> Margalit, A. (1997) *La Sociedad Decente*. Paidós, pp. 77. Where he puts forward his view that a *negative justification* is not a skeptical one but rather one based on the fact that human beings are capable of experiencing suffering and pain, and not just physical but also moral pain as a result of acts that can be symbolically demeaning. In line with this, a decent society is negatively defined as a *non-humiliating* one and not positively, as a society that protects *human dignity*.

<sup>47</sup> Honneth, A. (2004) *Recognition and Justice*. In *Acta Sociologica* Vol 47(4), pp. 356

<sup>48</sup> Nussbaum, *Supra* note 16

<sup>49</sup> See the Convention on the Rights of the Child. United Nations General Assembly Resolution 44/25 of 20 of November 1989.

<sup>50</sup> It is not as if rights did not have their own sphere and were not fundamental to protect the other spheres. It is that they "cannot be adequately explained without appeal to the same mechanism of reciprocal recognition. In the case of law Hegel and Mead drew this connection on the basis of the fact that we can only come to understand ourselves as the bearers of rights when we know in turn what various normative obligations we must keep vis-a-vis others: only once we have taken the perspective of the "generalized other" which teaches us to recognize the other members of the community as the bearers of rights, can we also understand ourselves to be legal persons, in the sense that we can be sure that certain of our claims will be met" (Honneth, 1995: 108)

<sup>51</sup> Hegel, G.W.F. (1983) *Jena Lectures on the Philosophy of Spirit*. Wayne State University Press. pp. 110-115

<sup>52</sup> See his Taylor, Ch. (1989) "Cross-Purposes: The Liberal-Communitarian Debate" in Rosenblum N. (Ed.) *Liberalism and the Moral Life*. Harvard University Press.

<sup>53</sup> See Struggle pp. 81-83

<sup>54</sup> Markell, P. (2007) "The potential and the Actual" *Recognition and Power: Axel Honneth and the Tradition of Critical Social Theory*. Cambridge University Press pp. 100-135. This view is worked more thoroughly in the first chapter of his Markell, P. (2003) *Bound by Recognition*. Princeton University Press

<sup>55</sup> This problem is discussed by Heidegren, C.G. (2002) *Anthropology, Social Theory and Politics: Axel Honneth's Theory of Recognition in Inquiry*, 45 pp. 433-46

<sup>56</sup> Heidegren, C.G.(2002) Anthropology, Social Theory, and Politics: Axel Honneth's theory of Recognition. *Inquiry*, 45 pp.433-46

<sup>57</sup> Margalit is an author who affirms that his own approach to recognition is "thin" while Honneth's is "thick", See his Margalit, A.(2001)"Recognizing the Brother and the Other" In Recognition. *Proceedings of the Aristotelian Society*, Supplementary Volumes, Vol 75

<sup>58</sup> On this matter see Kompridis N.(2004) "From Reason to Self-Realization? Axel Honneth and the Ethical turn in Critical Theory", *Critical Horizon*,5:1,pp. 323-360

<sup>59</sup> Markell, *Supra* note 52 at 111.

<sup>60</sup> See van den Brink, B and Owen D.(2007) *Recognition and Power*. Cambridge University Press pp. 1-30

<sup>61</sup> See Ivkovic, M. (2017) "The intersubjectivist conception of autonomy: Axel Honneth's Neo-Hegelian critique of Liberalism." In *Filosofija I Drusto* (1) pp. 74-89

<sup>62</sup> Honneth, A. (1991) "The Limits of Liberalism: on the political-ethical discussion on communitarianism" in Massachusetts institute of Technology, N° 28

<sup>63</sup> Sandel, M.(1982) *Liberalism and the Limits of Justice*. Harvard University Press.

<sup>64</sup> Rawls, J.(1985) "Justice as Fairness: Political not Metaphysical" in *Philosophy and Public Affairs*, Vol 14, N°3, pp. 223-251

<sup>65</sup> O'Neill (2003) "Constructivism in Rawls and Kant" in *The Cambridge Companion to Rawls*. Cambridge university Press. Pp 362

<sup>66</sup> O'Neill (1989) "Constructivisms in Ethics" *Proceedings of the Aristotelian Society*, New Series, Vol.89, pp.1-17

<sup>67</sup> For a divergent view on this, see Vaca Paniagua Moises(2014). *Rectifying Wrongs : the Problem of Historical Injustice*. PHD Thesis. University Colleague London

<sup>68</sup> Young I M.(2007) "Recognition of Love's labor: considering Axel Honneth's Feminism" in *Recognition and Power . Axel Honneth and the Tradition of Critical Social Theory*. Cambridge University Press

<sup>69</sup> "I am a man of substance, of flesh and bone, fiber and liquids--and I may even be said to possess a mind . I am invisible, understand, simply because people refuse to see me . Like the bodiless heads you see sometimes in circus sideshows, it is as though I have been surrounded by mirrors of hard, distorting glass. When they approach me they see only my surroundings, themselves, or figments of their imagination—indeed everything and anything except me.....Nor is my invisibility exactly a matter of bio-chemical accident to my epidermis. That invisibility to which I refer occurs because of a peculiar disposition of the eyes of those with whom I come in contact. A matter of the construction of their inner eyes, those eyes with which they look through their physical eyes upon reality. I am not complaining, nor am I protesting either. It is sometimes advantageous to be unseen, although it is most often rather wearing on the nerves. Then too, you are constantly being bumped against by those of poor vision .Or again you often doubt if you really exist. You wonder whether you are simply a phantom in other people's minds. Say, a figure in a nightmare which the sleeper tries with all his strength to destroy. It is when you feel like this that, out of resentment, you begin to bump people back. And, let me confess, you feel that way most of the time. You ache with the need to convince yourself that you do exist in the real world , that you are part of all the sound and anguish , and you strike out with your fists, you curse and you swear to make them recognize you. And, alas , it is seldom successful." **Ellison, R**(1952) **Invisible Man** . Signet Books. The New American Library

<sup>70</sup> The most influential of all is Donald Winnicott. See his *The Maturation Process and the Facilitating Environment*. London. Hogarth Press, 1965. For the use of Winnicott's object relations theory in the understanding of relational pathologies, See Honneth, A. (1995) *The Struggle for Recognition* , pp 95-107

<sup>71</sup> See for instance Mourlane, S and Regnard, C(2014): "Invisibility and Memory" In *Borders, Mobilities and Migrations*. P.I.E. Peter Lang Editions.

<sup>72</sup> See Winnicott, D.(1965). *The Maturation Process and the Facilitating Environment: Studies in the Theory of Emotional Development*. London: Hogarth Press

<sup>73</sup> Kant, I .(1997) *Groundwork of the Metaphysics of Morals*. Cambridge University Press. pp, 14.

<sup>74</sup> Margalit, A.(2001)"Recognizing the Brother and the Other" In Recognition. *Proceedings of the Aristotelian Society*, Supplementary Volumes, Vol 75 .pp 111-139

<sup>75</sup> See Benjamin, Jessica (1988). *The Bonds of Love*. New York: Pantheon

<sup>76</sup> For an excellent, first-hand account on how this seemingly disparate currents collided and influence each other see Benjamin, J (2013). *The Bonds of Love : Looking Backward*. In *Studies on Gender and Sexuality*, 14, pp 1-15

<sup>77</sup>See Bullowa, M.(1997) Prelinguistic Communication: a field for scientific research.in *Before Speech. The beginning of interpersonal communication*.Cambridge University Press

<sup>78</sup> Honneth follows Winnicott in writing “mother” between brackets to mean that it does not necessarily have to refer to biological mother.

<sup>79</sup> Scarry, E(1985).*The Making and Unmaking of the World*. Oxford University Press.

<sup>80</sup> See Benjamin , Supra note 76, at 3.

<sup>81</sup> Until recently I had thought that I was alone in proposing this allegory. But **Bonnie Honig** makes what she considers an *analogical* use of it when reflecting on the work by **Lear,J.**(2006) *Radical Hope. Ethics in the Face of Cultural Devastation*. Cambrige.Harvard University Press. It is worth quoting her at length: “Given the democratic need for objects of common concern or public things, I propose we think about the issue alongside the school of psychoanalysis known as *object-relations*. The inaugural thinker of object-relations D.W: Winnicott (1971),2005),calls our attention to the development of resilience in relation to objects, which lend permanence to a human world of flux. Those objects transfer their resilience (or whose resilience we fantasize) to us..... *Radical Hope*, asks what allow the Crow people to pass through a catastrophic destruction of their world and somehow come out the other side with some semblance of a future. The Crow people, aboriginal to the United States , stood on the brink of destruction in the mid nineteenth century, facing white supremacy, an environment deprived of its capacity to sustain their way of life, and a politics of settler conquest. Recounting the story of the Crow, Lear develops an account of the repertoires of resilience drawn upon by this people threatened with catastrophe, and on which others might draw. The result is an account that ,notwithstanding its focus on catastrophe or, as Lears calls it,” cultural devastation”, tries to ritualize rather than catastrophize radical change, which is a useful counter to the catastrophizing tendency of a great deal of contemporary left theory.....The hero of Lear’s story is the perspicuous and pragmatic Crow Chief, Plenty Coups, who leads his people through the end of life as they know it and out the other side.....Crow’s courage once involved a communal life of intertribal warfare, horse stealing and buffalo hunting. But under white occupation these were criminalized. Consequently, Crow courage had to be resignified, redirected; it had to give way to a more thinned-out concept of courage, unembedded in a way of life now lost, yet no so unmoored as to be meaningless, mere utopianism or anomic recklessness or a covering term for collaboration. The mechanism for the switch from thick to thin courage is Lear’s “radical hope” which enables transition. Indeed we could analogize it to D.W. Winnicott’s “transitional object”-the blanket, the stuffed animal,or the Big Bird that enables a child to manage the trauma of transition-and we might perhaps even think of radical hope as a transitional affect. On Lear’s account this is what the Crow clung to as they moved from one form of life to another through an abyss.

Like Winnicott’s transitional object,”radical hope” provides the world with the permanence it lacks. Radical hope, though, takes the place of the object, because the transition in question is forced on us by the fact that the object has gone missing.. Where for Winnicott, such transition requires a ”holding environment” which is the performative product and postulate of transitional activity ....radical hope is Lear’s responds to the unavailability of such environments. It is his name for the resilience that gets us through potentially traumatic transitions without the objects and environments that Winnicott thought were central to healthy transitions and the capacity to develop repertoires of resilience. Thus radical hope is a key element in anyone’s repertoire of resilience.” See **Honig,B.**(2015)”Public Things: Jonathan Lear’s Radical Hope, Lars von Trier’s Melancholia, and the Democratic Need” in *Political Research Quarterly* 1-14.

<sup>82</sup> On the difference between acknowledgment and apology se Grovier.T(2006) *Taking Wrongs Seriously*. Humanity Books.

<sup>83</sup> Particularly his Darwall, S.(2006) *The Second Person Stanpoint : morality, respect and accountability*. Harvard University Press

<sup>84</sup>Basically Darwall distinguishes between “two kinds of respect” . On the one hand there is what he calls “appraisal respect”: we give credit to an individual on those features which merit a positive appraisal or are considered good qualities or characteristics of a person. On the other hand, there is what he calls “recognition respect” for a person, which is not necessarily to give him credit for anything in particular, for in having recognition respect for a person as such we are not appraising him or her as a person or her qualities. We are only affirming that the fact that he or she is a person places moral constrains on our behavior and in this last sense we would expect reciprocity.

One interesting consequence of this, among others, is that the distinction demonstrates that there is no incompatibility between thinking that all persons are entitled to respect by virtue of their being persons and

deserving more or less respect (appraisal), by virtue of their personal characteristic or achievements. This I believe, is what Honneth has in mind when he affirms that self-esteem unlike respect and self-respect admits of gradation. However, in the analysis of Darwall the reasons which are relevant to our assessment of character (appraisal respect), bring us closer to the idea that inevitably, only those who are capable of acting deliberately are capable of *recognition respect*, since we may admire for instance someone's professional skills or artistic talents but have strong reservations about the way she treats her colleagues. Our initial admiration may be affected by this. The point is that the two kinds of respect are after all related, though conceptually they have to be differentiated. See Darwall, S. (1977). "Two Kinds of Respect" In *Ethics*, Vol 88, N°1, 36-49.

<sup>85</sup> If I understand him correctly, Darwall's interpretation (or rather the use he makes of the idea of Kant) is this: according to Kant we will be making rational judgments or reasoning, when our judgments on any area are not being simply directed from without; but the reasons on the basis of which we judge are to some extent also drawn from features of our judgement's object (it is easier to think of this with theoretical reasoning where freedom is not required, analogous to autonomy of the will). But autonomy according to Darwall's argument, cannot be assumed of just any intelligible practical reasoning. He imagines the example of a "naïve" practical reasoner who might take his desires or practical experiences, as epistemic access not to the world as it is, but to how the world should or should not be. His case is analogous to a theoretical reasoner who takes his experience as evidence of states of an independent world (which is the object of correct beliefs). In the case of a naïve practical reasoner "a desire that P" will seem to him to imply that the world "should be such that P". Naïve practical reasoning would see the objects of desire and volition as reasons for acting and this, would not presuppose autonomy in the Kantian sense.

Darwall's point here, seems to be, that any argument attempting to prove that autonomy is an inescapable assumption of any practical reasoning, (as was in fact, one of the tenets of Kant in the *Groundwork*), must fail. It is only deliberation from the second-person standpoint that requires us to assume autonomy of the will. Apparently such position is possible because Darwall attributes to Kant to have abandoned in the **Critique of Practical Reason** the strategy that he had previously used in the **Groundwork** of trying to establish the moral law from a prior premise of autonomy: our consciousness (awareness of our freedom) of being bound by the moral law, assumes morality's supremacy and cannot be used to found it. The consequence that Darwall derives from this, is that consciousness of autonomy involves being bound by reasons of a different kind, and these are (must be), second-personal.

It does take a lot of Kantian scholarship to demonstrate this, a task I am not going to pursue here, but it is interesting to register that a relational, second-person standpoint interpretation of the Categorical Imperative with reference to rights claims, can be coherently formulated (at least in Darwall's model) without appealing to transcendental presuppositions. The emphasis of Darwall is on the role of reciprocity and mutual accountability. See **Darwall Id.** Particularly at Part I, pp 26-38 and chapt and Part II, pp 119-150. For a very scholarly work on these matters, see **Kitcher**, Patricia (2017) "A Kantian Argument for the Formula of Humanity" in *Kant-Studien*. Band 108. Heft 2.

<sup>86</sup> Anderson and Honneth, *Supra* note 32 at 127, 149; Nussbaum, *Supra* note 33; Calderón, G. (2013) *Bioética, Derechos y Capacidades Humanas*. Editorial Pontificia Universidad Javeriana. Bogotá

<sup>87</sup> Taylor, Ch. (1994) "The Politics Of Recognition" in Guttman Amy (Ed.) *Multiculturalism*. Princeton University Press.

<sup>88</sup> See Verdeja, E. (2008) "a Critical Theory of Reparative Justice" in *Constellations* Volume 15, N° 2, pp. 208-222 for an example of this position.

<sup>89</sup> See *id.* at 211

<sup>90</sup> Calderón, *Supra* note 56, at 119, 147

<sup>91</sup> Alternatively Nancy Fraser suggests that parity of participation regarding the distribution of material resources for each individual, and equal cultural value for all participants should be the guiding notions for a critical theory of society. See Fraser, N. "Rethinking Recognition". *New Left Review*, May/June 2000. pp 107-120.

<sup>92</sup> This is not to be interpreted as if other kind of responsibilities, such as those of ordinary crime could not be established, but these must be dealt with by ordinary criminal law and have nothing to do with serious violations. It is also important not to lose sight of the fact that those who exercise power with legitimacy (when is the case),

are accountable in far more demanding ways. See Bhargava, R. 2000. "Restoring Decency to Barbaric Societies". In *Truth v. Justice*. Edited by Rotberg R. and Thompson D. Princeton University Press. See also Teitel, R. 2000. *Transitional Justice*. Oxford University Press

<sup>93</sup> Jeremy Webber refers to it as a tension between a "retrospective" (Backward looking) and "prospective (forward looking) forms of justice. See Webber, J.(2012)"Forms of Transitional Justice" in Williams, M., Nagy R, and Elster, J. *Transitional Justice*. New York University Press.

<sup>94</sup> Mamdani, M(1998) "When Does Reconciliation Turn into a Denial of Justice?" Human Sciences Research Council Lecture, Pretoria.

<sup>95</sup> See Bohman, J.(1997) "Deliberative Democracy and Effective Social Freedom: Capabilities, Resources, and Opportunities" in Bohman J and Rehg W (Eds,) *Deliberative Democracy*. The MIT Press

<sup>96</sup> Sen, A.(1992) *Inequality Reexamined*. Cambridge: Harvard University Press. Pp.4,5

<sup>97</sup> Laden, A.S.(2007) "Deliberation, Power and the Struggle for Recognition" in *Recognition and Power: Axel Honneth and the Tradition of Critical Social Theory*. Cambridge University Press

<sup>98</sup> To object that it is not always the case may be true, but is not a good enough reason to reject inclusive deliberation. It is however, part of the exercise of not idealizing transitional justice. A distinctive, original approach to reconciliation is made by Susan Dwyer who proposes a more modest model of reconciliation than the one prevailing in the Christian conception while at the same time, defending a clear cut distinction between political reconciliation and forgiveness. See Dwyer, S.(2006) "Reconciliation for Realists" in *Ethics and International Affairs*. Cambridge University Press.

<sup>99</sup> Perhaps a further exploration is required of the analogy of the self as narrative, and whole societies being able to "construct" their own narratives in a sense similar to Anderson's *imagined communities* The point here would be that societies particularly nations, may benefit from coming to terms with the fact that they are "imagined communities" build on some foundational myths. This would avoid the empty calls to "new futures" or extreme patriotism or ethno-nationalism, since the awareness of a "past construction" would make it possible to think with less fear of new narratives. This may be one of the advantages of societies in transition since they have to look forward and backward. On this forms of self-understanding see Anderson, B.(2006) *Imagined Communities .Reflection on the Origin and Spread of Nationalism* London. Verse