

## **The Subject of discrimination: Factual Life, Empowerment, and Being Political**

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My main claim in this paper is that beyond identity politics, the political empowerment of the subject of discrimination is also grounded on acting together as political performativity. The grammar on a phenomenology of injustice calls for new understating on the singularity and the commonality. The departing point here will be the embroiled connection on the process of political subjectivation between identity politics and acting together.

In the current theoretical debate concerning the subject of a theory of justice, the well-known dichotomies run mainly over between formal universality versus substantial localism; abstract equality versus particular identities; Neo-Kantian universalists versus Aristotelian-Hegelian communitarians.<sup>1</sup> It stands, on the one hand, a-historical proceduralist normativity, regulative idea, impartial and instrumental rationality, and neutralization of the political. On the other hand, it stands historical particularism, specific cultural contexts, practical rationality and, identity politics.<sup>2</sup> Summing up, in the complex composition between subject and society, there are two recurrent ways of describing the subject of discrimination, either the predominantly Neo-Kantian argumentative practices presuming universality, or the value relativism and its concrete ethical community (*Sittlichkeit*). In the first case it mainly refers to the

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<sup>1</sup> Among the well-known proceduralist representatives are: Rawls, John, *A Theory of Justice* Cambridge: Harvard University Press, Revised Edition, 1999, 1 ed. 1971; Habermas, Jürgen, *The Inclusion of the Other*. Studies in Political Theory. Edited by Ciaran Cronin and Pablo De Greiff, The MIT Press; Benhabib, Seyla, *Democracy and Difference – Contesting the Boundaries of the Political*. Princeton: Princeton University Press, 1996. For the main contributions on the communitarian side see: MacIntyre, Alasdair, *After Virtue*. Notre Dame: University of Notre Dame Press, Second Edition, 1984; Walzer, Michael, *Spheres of Justice – A defense of Pluralism and Equality*. New York: Basic Books, 1983; Taylor, Charles, *The Ethics of Authenticity*. Cambridge: Harvard University Press, 1991.

<sup>2</sup> See: Rasmussen, David (ed.). *Universalism vs. Communitarianism: Contemporary Debates on Ethics*. Boston: MIT Press, 1995. For a very accurate defense on Habermasian Kantian universalism see: Forst, Rainer, *Contexts of Justice – Political Philosophy beyond Liberalism and Communitarianism*. Translated by John Farrell, Berkeley: University of California Press, 2002. Even Marta Nussbaum, in her new book on justice, still operates in terms of an enlargement of the Rawlsian rational subject. See: *Frontiers of Justice*. Cambridge: Harvard University Press, 2006.

demands for formal equality and abstract pretention of inclusion; in the second case, it stands the identitarian requests of justice by emphasizing or even raising identity minorities. In both structures, the archetypal morphology of the rule of law mainly reproduces the same representational schema. In terms of law representation, the subject of discrimination often adopts, either in the shape of the national state or in the form of the cosmopolitan normativity, the same descriptive diagram.

It is worth noting how depoliticized is the current debate on identity and cosmopolitanism. It attempts to combine moral and cultural discourses, in spite of no reference to the deep conflictive and irreconcilable political dimension on identity politics.<sup>3</sup> This current philosophical process of cultural globalization replicates a sort of universal moral language in which “disagreement” is described as a minor step towards spaces of agreements, evaluations, and translations.<sup>4</sup> Their methods of complex cultural dialogue “promise” an interpenetration of traditions and cultures in such way that blinds the multiple contradictory dialogues within the social goods of a tradition. In such syntaxes, cultural complexity means that the different cultural traditions have been mixed within the cultures themselves. That means, as if it would be possible, to have the other and his/her diversities inside our culture. But this vocabulary still maintains the same ontological structure of a pure *I*, and a pure *other* mixed either historically or culturally. It leaves aside any reference to economic and cultural unreconciled conflictive political scopes.

Being aware of the below structure, this paper aims to give a step further either abstract equality or substantial essentialist identities. It rather underlines an approach often naturalized, as if taken for granted, namely: the relation between the process of political subjectivation and the factual experience of discrimination. My claim here is that one cannot disregard that among the main categories of shaping political subjectivity relies on the own factual experiences. In the case of discrimination, the own experiences of injustice one are exposed to, namely, marginalization, social death and political invisibility. By assuming that neither the abstract subject of law

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<sup>3</sup> See particularly Benhabib’s book on cosmopolitanism: Benhabib, Seyla. “Democratic Interaction: the Local, the National, and the Global,” in *The Rights of Others*. Cambridge: Cambridge University Press, 2004, cap. 5, pp. 171-212.

<sup>4</sup> See: Walzer, Michael. *Thick and Thin: Moral Argument at Home and Abroad*. Notre Dame: University of Notre Dame Press, 1994.

nor the communitarian skeleton of fixed identities can fulfill the representational gap left by the concrete experience of injustice, it leads us to inquire its *anthropos*.

The attempt here is precisely to assure that the creative processes of subjectivation and political action are bounded together in framing subjectivity and political community, the singular and the common. Then, my statement is that this process brings to the fore a new protagonist on the approach of singularity and community: the empowerment of the subject of discrimination, beyond his/her biopolitical capture.<sup>5</sup> And I did not mean here bounding subjectivity and political community by negative common misrecognition,<sup>6</sup> but rather, by empowering subjectivity throughout political action beyond representational politics, either neo-Kantian or Neo-Hegelian.

My emphasis relies on the own process of political subjectivation. I am giving a particular attention to the status of political experience/event/act in framing subjectivity.<sup>7</sup> Beyond the abstract subject of law, one of the few alternatives left for legal inclusion has been mainly done by identitarian verification. Let me briefly take into account the discussion around the notion of *universal singularity*, framed by Allan Badiou, beyond identitarian and communitarian singularities and, of course, outer of Kantian's prevailing abstractions. According to Badiou, universal singularity

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<sup>5</sup> I am quite aware that in terms of developing a grammar on biopolitical captures of the vulnerable lives in order to consider injustice, much has already been done, on a large scale, by referring, among others authors, for example, to Agamben's terminology on the biopolitical *nomos* of insignificant lives. Agamben's sharp approach on the defeated subject denounces the historical mechanisms of the production of bare life and its juridical-political apparatus. This paper however aims to reach another dimension on a phenomenology of injustice. The main claim here is that beyond biopolitical capture, concrete experiences of injustice can politically empower the subject as well. See: Agamben, Giorgio, *Homo Sacer – Sovereign Power and Bare Life*. Stanford: Stanford University Press, 1998.

<sup>6</sup> See particularly: Honneth, Axel. *The Struggle for Recognition: The Moral Grammar of Social Conflicts*. Studies in Contemporary German Social Thought. 1st MIT Press ed edition, 1996.

<sup>7</sup> Here I follow a messianic trend current in contemporary political philosophy to deal with the issue of committed or engaged subjectivity (mainly by Giorgio Agamben and Alain Badiou). One of the common key references here relies on the analysis of messianic temporality in the works of Walter Benjamin – but also in the current philosophical readings on letters of Paul. It is meaningful to explore the paradoxical foundation of Pauline notion of community, whose anachronous reference is established between a non-identitarian subject and a law whose main component is the impact of law's own adhesion, the impact of its proclamation (*Euaggelion*), rather than its prescriptive and mandatory form. See mainly: Agamben, Giorgio. *The Time That Remains – A Commentary on the Letter to the Romans*. Stanford: Stanford University Press, 2005 [*Il tempo che resta. Un commento alla Lettera ai Romani*, 2000]; Badiou, Alain, *Saint Paul – The Foundation of Universalism*. Stanford: Stanford University Press, 2003, pp. 1-15; 75-106. See also: Agamben, Giorgio, *La Comunità che viene*, 1990; Agamben, Giorgio, *Il Regno e la Gloria – Per una genealogia teologica dell'economia e del governo*. Homo sacer, II,2, Neri Possa Editore, 2007.

derives from the reinforcement on *factual life* in the process of subjectivation. Subjectivity molded not by essentialist attributes/identities, but rather shaped *by the order of what occurs*, by experience, essentially neither structural, nor axiomatic nor legal. The commitment here is towards a situated claim, even though not reduced to that claim (petition), between singular and universal at once.<sup>8</sup>

By universal singularity it is alleged the reverse of the set of features normally attributed to modern universality. This latter can be mainly portrayed as innominate equality, differences' abolition, the production of sameness, and humanity as our least possible differentiation, beyond which no other division is conceivable. Badiou's notion of universal singularity relies rather on a sort of situated universality, modeled by each concrete political experience one is connected with. It recalls for the constant reassignment of that which differentiates us, the uncertainty of our own predicates, and a permanent condition of not establishing lasting identities. I call it provisional Identities. It by no means suggests we establish no political identities, but rather that those identities are provisional, non-essentialist, in the sense that they are articulated through punctual concrete political demands, rather than substantial determinations of "who we essentially are". Therefore, singularity is approached neither as a domain of essentialist identities politics nor in terms of mere abstract universality.

It leads us to a core question concerning which conception of situated universality can be conceived without following either an essentialist approach, or pure and static identity politics. The criteria for identities in the process of political subjectivation must not be claimed fundamentally from the domain of a cultural essence or concept. It rather may be considered as parts of the process of subjectivation in which operates an ontological symmetry with concrete political actions; a permanent political ontological dimension that *realizes itself in act*, in performance. In the political time of an event, subjectivation and political action happens at once. In another words, I claim that what puts us in common is precisely acting politically together as a form of

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<sup>8</sup> Here Heidegger's reflections on Paul on his phenomenology of religion will be crucial. His description on the factual experiences of primitive Christian communities historically begins by proclamation. It highlights the original experience; the way worldly relations are lived (carrying-out, *Volzug*), the way of living, outside classic conceptual foundation, dogma or theory. See: Heidegger, Martin, *The Phenomenology of Religious Life*. Indiana: Indiana University Press, 2010.

life, engaged on concrete political demands. Acting together could be then described as an identity in action without essentialist identity.<sup>9</sup>

A *political form of life* instead of permanent properties could be explored as the theoretical ground for the common, a new approach on political community.<sup>10</sup> It brings to the fore another fundamental issue. How can social bonds, the idea of the common, be considered outside the scope of either identity politics or pure normative commitment towards abstractness? And even further, in the core of theorizing an approach on discrimination stands the challenge of how to preserve singularity and at the same time to combine it with a notion of non-substantial commonality, in which the affections for the suffering of the stranger/other/enemy may play a relevant role.<sup>11</sup>

If we contextually explore the distinctions between *Gemeinschaft*, *Gesellschaft*, and *Gemeinde* to explore the semantic sociological discussion on community, and also consider the post-Weberian discursion on the Social World of Early Christianity on primitive communities, one could see how the factual experiences of primitive Christian communities were reintroduced into the sociological conceptualization on community versus society.<sup>12</sup> My argument here is that the main vocabulary of community about *Gemeinschaft* was massively reduced to identitarian cultural communities, based on the recurrent “grandiose” relentless searching for what either historically or culturally essentially “identities” us.

Let me explore Giorgio Agamben’s conception of the *remnant*, as a key way to theorize subjectivity intersected by the *political*. The figure of the remnant entitles the

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<sup>9</sup> Even though, beyond the scope of this paper, it leads us to the current debate around Paul’s political theology on notions such as singular exteriority (singularity without inward concept, without properties); the distinctions between make use (*klēsis*, *usus*) and property (*dominium*), distinctions on the notions of *haecitas* and *principium individuationis*.

<sup>10</sup> Still under the influence on the current debate on Paul’s political theology, such distinctions lead to a sequence of concepts around the notion of community as *ekklesia*: from the epistemic on *klesis* as “calling, vocation” towards utopian Community / Community *a venir* / *kairos* Community. See: Agamben, *La Comunità che viene*, op.cit.

<sup>11</sup> See: Levinas, Emmanuel, *Entre nous: Essais sur le penser-à-l’autre; Éthique comme philosophie première*. Préfacé et annoté par Jacques Rolland. Paris: Éditions Payot & Rivages, 1998 ; *Le temps et l’autre*. Paris: Quadrige/Puc, 7 édition, 1998 ; *Éthique et Infiniti*. Paris: Libraire Arthème Fayard, 1982. Besides Levinas, it is interesting to consider the debate between Slavoj Žižek and Eric Santner in *The Neighbor*. Chicago: The University of Chicago Press, 2005.

<sup>12</sup> I am referring particularly to the work of Helmuth Plessner, Ferdinand Tönnies, Martin Buber and Mark Weber.

description of political subjectivity as engendering a tension within herself/himself, in the heart of the own idea of identity, which cannot be “reconciled” by providing some other substantial identity. Agamben’s characterization of Paul as the figure of *non-non-Jews* (neither properly inside or outside the law, neither *ennomos* nor *anomos*) promotes a deactivation of law (*katargein*). Here I call a particular attention to the central figure that incarnates such factual singularity of discrimination: the excluded, the factual life experience of the excluded who stands at the opposite side of the predictable *nomos*.<sup>13</sup> The invisible and vulnerable subjects of discrimination embrace the unrepresentability and unmediability ungraspable by law narratives. Considering that the suffering experience of discrimination is structured precisely by the subject self-declaration, his/her own testimony, legal narrative cannot effortlessly grasp the subject of injustice/discrimination. It turns secondary the debate on normative demands of justice versus subjective suffering for social indeterminacies.<sup>14</sup>

Singular narratives confirm the intellectual value of those who testifies, beyond all normative horizons of representation, in which the main account of injustice is at most metrical distribution, a quite recurrent vocabulary on normative justice. The petition of this impossible *ad equation* rather calls for the commitment with what I will call the politics of the extraordinary. It is a voice “as if” without mediation, a temporal unforeseen political manifestation of words and acts towards a potentially open empowering process of subjectivation. Since thinking and announcement cannot be equalized, it is precisely by such lack of equalization that narrative keeps the present in a continuous commitment of endless renewed expectation.<sup>15</sup> Thus, to speak out, to bear witness, endorses a sort of political narrative self-constituting dimension of subjectivation. That is a way to express the possibility of spread a universal

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<sup>13</sup> See: Derrida, Jacques, “Force of Law: The Mystical Foundation of Authority” in: *Deconstruction and the Possibility of Justice*, Cardozo Law Review, Vol. 11, July/Aug. 1990, Numbers 5-6, pp. 919-1039.

<sup>14</sup> Even though very meaningful, the grammar of recognition and redistribution do not focus on the process of political subjectivation and its testimonial powerful dimension on political action. Parity of participation (Fraser) as well as suffering for indeterminacy (Honneth), both remain framed to normative demands of justice and to recognition. See particularly: Fraser, Nancy, & Honneth, Axel. *Redistribution or Recognition? A Political-Philosophical Exchange*. London: Verso, 2003. Honneth, Axel. *Suffering from Indeterminacy – An Attempt at a Reactualization of Hegel’s Philosophy of Right*. Spinoza Lectures. Amsterdam: Van Gorcum, 2000.

<sup>15</sup> See: Gérard Bensussan, *Le temps messianique. Temps historique et temps vécu*. Librairie Philosophique J. Vrin, Paris, 2001. See also: Stéphane Mosès, *The Angel of History – Rosenzweig, Benjamin, Scholem*. Translated by Barbara Harshav. Stanford: Stanford University Press, 2009 [*L’Ange de l’histoire: Rosenzweig, Benjamin, Scholem*. 1992].

experience potentially liberated in each and every individuation, not as a universal rule, but as a unique act; as an act of universal singularity, to use Badiou terminology on the event.<sup>16</sup>

Let me finish with a last word on the Jewish epistemology on testimony, on speaking out, which aims precisely to promote a disjunction in the linear historical time.<sup>17</sup> Upholding new expressions of subjectivation, the self-revealing narratives, the common unsuspected speaking out, holds a political domain that empowers the defeated, those so far faceless. Here, it comes my last claim. Instead of victimizing the wounded, the invisible, as a mere injured ingredient of a massacre of historical events, as a human rights victim of a fact, a government, or an economy, at the very core of biopolitical capture, at the same time, it takes place an authentic process of empowerment within the process of political subjectivation of the subject of injustice. As already pointed out, I believe it operates an ontological symmetry within concrete political actions, in which subjectivation and political action happens at once. It entails a process of subjectivity that gathers the novelty of the political action and expands political emancipation.

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<sup>16</sup> See: Badiou, *Saint Paul – The Foundation of Universalism*. Op.cit.

<sup>17</sup> The main literature here approaches the temporal schema of Central European intellectuals from the 1920s. Mainly: Walter Benjamin, *The Arcades Project*. Edited by Rolf Tiedemann, and translated by Howard Eiland and Kevin McLaughlin, Belknap Press of Harvard University Press 2002. [Walter Benjamin, *Das Passagen-Werk*. Band V, 1 and 2 *Gesammelte Schriften*. Ed. Rolf Tiedemann and Hermann Schweppenhäuser. 7 vols. Frankfurt: Suhrkamp, 1991]; Walter Benjamin, "Theses on the Philosophy of History" in *Illuminations. Essays and Reflections*. Edited and with an Introduction by Hannah Arendt. Translated by Harry Zohn. New York: Schocken Books, 1985 [On the Concept of History/Über den Begriff der Geschichte, *Gesammelte Schriften*, Band I,2]; Franz Rosenzweig, *Philosophical and Theological Writings*. Translated and Edited, with Notes and Commentary, by Paul W. Franks and Michael L. Morgan, Indianapolis/Cambridge: Hackett Publishing Company, Inc., 2000; Rosenzweig, *The Star of Redemption*. Part One, Book Two, Reality of the World. Translated by Barbara E. Galli. Wisconsin: The University of Wisconsin Press, 2005, p.57 [*Stern der Erlösung*].