Taking Weber's thesis in consideration, it seems difficult to uphold Habermas' thesis about a happy transformation of the sacred into deliberation. The consequence is that morality can only be successful in so far as the validity claims of communicative ethics can be institutionalized in modern society without any reference to holiness. This seems also to be the general conclusion in Habermas' work – ironically apart from his theory of secularization.

Cornelius Castoriadis' theory of the imaginary institution and Claude Lefort's theory of the empty place of the political as a new insecure moral ground for modern society are presented together as an alternative theory of secularization which can serve as a new framework for Habermas' theory of communicative ethics and deliberative politics in modern society.

- ***Die Versprachlichung des Sakralen***

It has been astonishing to observe over the last decade a growing interest for religion not only in more or less premodern societies around the world, but also in the western world. The many theories about secularization seem to have been shocked by this reappearance of religion and this can give a good reason to reconsider what could be a common ground for a modern secular society. Here I find the German philosopher Jürgen Habermas' thesis about *die Versprachlichung des Sakralen*, the linguistification of the sacred, especially interesting, because Habermas has formulated an optimistic theory about how the sacred could be safeguarded in a harmonious transformation into deliberation in modern society. By discussing this theory the aim should be to try to understand why secular society has not been safeguarded from discussions of religion such as has been the case in the last decade.

In connection with his development of the theory of communicative action, Habermas claims that the sacred is transformed in a positive way and can take the form of free deliberation in

society (Habermas 1981, II: 118 ff.; Habermas 1989, II, 77 ff.). Habermas speaks in this connection about *die Versprachlichung des Sakralen*. The thesis is that the authority which could be found in religion, and which is of fundamental significance for the integration of pre-modern societies, is taken over by modern society in forms of deliberation.

Habermas develops this thesis in a discussion of Durkheim's religious-sociological considerations about the transformation from mechanical to organic solidarity. Durkheim indicates this transformation of the authority of law from unconditional, which is exercised through punishment, to contractual, which is exercised through debate, proceedings and compromise. Habermas interprets this transformation of law in saying that the contract represents a linguistic transformation of law that has similarities with the linguistic transformation of the authoritative character of religions in modern society. But so far as I can see, this argument is not valid because we cannot compare religion and civil law in this way. Law can be compared to religion because law in different ways has its origin in religion. But this argument cannot be turned around. Religion cannot be explained by law. I should like to add that, in my opinion, Durkheim is not the most interesting of the classical sociologists with regard to religious-sociological considerations, because he is mostly occupied with primitive religions, which is the case in his main work, *The Elementary Forms of Religious Life* (Durkheim 1960: 67 ff.; Durkheim 1995: 45 ff.).

Habermas would not have been able to make the same analysis if he had taken his point of departure in Max Weber's religious-sociological investigations, *Gesammelte Aufsätze zur Religionssoziologie*, which in my opinion are much more qualified and differentiated than Durkheim's sociology of religion (Weber 1988). Weber studied most forms of religions to find out what significance they have had for the integration of different societies. Weber's conclusion is that the essential significance of religion in society is to give an explanation of how the divine, and in that sense God's world, can be just when at the same time injustice is dominant in society (Weber 1988a: 242; 571 – 573.). Religion has had the significance to give a solution to this problem of theodicy in all forms of society so that social injustice did not disrupt social integration. The Judaic and Christian religions have here a special status compared to other religions, because the theodicy problem in these traditions is displaced into a demand for a realization of justice in society. This religious claim of social justice is later secularized and integrated in the European tradition of jurisprudence.

- **Weber's theory of secularization**

Weber discusses the question of secularization in *The Protestant Ethic and the Spirit of Capitalism* (Weber 1988b; Weber 1995). He shows in this analysis that the sacred, the absolute authority of religion, is dissolved in the secularization of European culture and that we therefore have lost the relation to religious authority. This is a much more interesting thesis than Durkheim's thesis. It is also this thesis of Weber which is the real challenge for Habermas and which he discusses throughout his theory of communicative action. Therefore, we also find later on in Habermas' analysis of the linguistic transformation of the sacred a discussion where Habermas relates directly to Weber's theory of secularization, rationalization and differentiation of the occidental culture (Habermas 1981, II: 140; Habermas 1989, II, 92). Here Habermas, in the spirit of Weber, points out that neither occidental science nor art can be the heir of religion. The occidental science is founded upon the criteria of objectivity and art is founded upon the criteria of subjective taste.

According to Habermas, it is only communicative-oriented morals that are able to replace the authority of religion (Habermas 1981, II: 140; Habermas 1989, II, 92). However, this is not valid from Weber's religious-sociological perspective. According to Weber, the authority of the sacred is dissolved through the secularization of modern society. This is the reason why Weber, in the end of *The Protestant Ethic and the Spirit of Capitalism*, concludes that we in the occidental culture are dominated by the technical-instrumental rationality because we no longer have a reference to the sacred, which at the end is necessary to uphold morality in any society (Weber 1988b: 202 ff.; Weber 1995: 180 ff..). The paradox is that Habermas follows Weber in this thesis, although he does not follow Weber in his analysis where he, as mentioned, tries to rescue the authority of the sacred in a new secularized form through his reading of Durkheim's religious-sociological work.

With this background, I will try to sum up my own interpretation. Habermas' first critique of Weber, which formed the starting point for all of Habermas' analyses in his theory of communicative action, was that Weber had too narrow an understanding of the rationalization of the occidental culture, because he confounded the potentials of the cultural rationalization with the technical-instrumental rationalization that has taken place historically. I do not only follow Habermas in this critique of Weber; I try to strengthen it

because I think that the occidental culture has also been historically rationalized in a communicative direction through historical events such as the Renaissance, the Protestant reformations in their various forms, and through political reformations and revolutions such as the British Glorious Revolution and the French Revolution. Weber does not take these forms of communicative rationalization into regard in his understanding of occidental culture; he is only concerned with the technical-instrumental rationalization. On this point, I think Habermas is right in his critique of Weber. However, I follow Weber in his theory of rationalization of the occidental culture in the sense that I think Weber is right in pointing out that the authority of the sacred is dissolved in this process of rationalization, which could also be called a process of secularization. The question is now what the consequences are for the understanding of the authority and validity of communicative ethics.

The question of the validity of communicative ethics depends on the rational communication in which there can be given good reasons for a specific moral opinion. This is a philosophical problem that Habermas to my mind has treated in a persuasive way. However, the problem is that good reasons are not enough. Habermas sees correctly that in moral questions there is also a problem of authority and he tries to solve this problem through his reading of Durkheim's religious sociology. But if we follow Weber, the question is whether communicative ethics can acquire an authority in modern society that corresponds to the authority that religions have in pre-modern societies. In this connection, I think Habermas has too widespread an understanding of religion in pre-modern society. Habermas has the understanding that religion in general could give an immediate authority in pre-modern society. But to my mind this is not the case. We have to take into consideration that the authority of religion in pre-modern society was not a free-floating authority. On the contrary, it was mediated through the practice in religious institutions, first of all through cult and worship and secondly through theology in higher forms of religion. Therefore, the authority of religion was not free-floating but bound to institutions in pre-modern society. In the spirit of Durkheim we could even say that it is the institution that gives the authority to religion.

The consequence of this is that communicative action and communicative ethics should be seen in relation to institutions in the same way. From a sociological perspective the decisive point is whether communicative ethics can be institutionalized in modern society, which means the same as whether the institutions of modern society can take such a form that

they can mediate communicative ethics in practice.

- **A tragic theory of secularization**

The validity of communicative ethics depends upon a philosophical point of view on the tenability of the validity claims. But from a sociological perspective, this is not sufficient. Here the question is whether communicative ethics can be institutionalized in the same way as the authority of the sacred became institutionalized in religion in pre-modern societies. So far as I can see, this is also the line Habermas follows and which he tries to develop in the continuation of his theory of communicative action. But if we do not accept Habermas' linguistic transformation of the sacred, which I, as previously mentioned, do not, then the consequence for the sociological understanding of communicative ethics is that the claim of its institutionalization is radicalized. Modernity has only a linguistic reference to itself; there are no other references. This internal self-reference can only be upheld if the philosophical validity claims can find their place in practice in the institutions of society.

Habermas presents his thesis about the linguistic transformation of the sacred as a harmonious theory of secularization and therefore it has been an easy target for his critics. However, if we follow Weber in his religious-sociological considerations of modernity, we reach a *tragic* theory of secularization that poses the real problem that the social ethical challenge consists in securing the institutionalization of the validity claims of communicative ethics in modern society.

The consequence is that Habermas' theory of *die Versprachlichung des Sakralen* should be placed in an alternative theoretical framework. In this context, it can be fruitful to look at the philosophers Cornelius Castoriadis and Claude Lefort who have pointed at an alternative theory of secularization where they emphasize the imaginary of the political as an alternative to the imaginary of the sacred as the normative ground for modern democratic society.

- **Castoriadis – The imaginary institution of society**

Cornelius Castoriadis developed the concept of the imaginary in his major work *The Imaginary Institution of Society* (Castoriadis 1975; 1987). Castoriadis defines the concept of the imaginary in this way:

The imaginary of which I am speaking is not an image *of*. It is the unceasing and essentially *undetermined* (social-historical and psychical) creation of figures/forms/images, on the basis of which alone there can ever be a question of 'something'. What we call 'reality' and 'rationality' is its works. …… What I term elucidations is the labor by means of which individuals attempt to think about what they do and to know what they think. This, too, is a social-historical creation. The Aristotelian division into *theoria, praxis* and *poiesis* is derivative and secondary. History is essentially *poiesis*, not imitative poetry, but creation and ontological genesis in and through individuals' doing and representing/saying. This doing and this representing/saying are also instituted historically, at a given moment, as thoughtful doing or as thought in the making (Castoriadis 1975: 7–8; Castoriadis 1987: 3 – 4).

According to Castoriadis, society is not only in a permanent historical creation but also in a permanent historical creation of imagination, which forms the ground for a following possibility of creation of objectivity, meaning, etc. that have to be interpreted. Castoriadis speaks of elucidations (*élucidation*), an enlightenment that must be understood in a hermeneutical sense, which harmonizes well with the fact that he takes his phenomenological approach to the interpretation of history from Heidegger. Thus, the imaginary is a critical hermeneutical interpretation of the social, an interpretation (*une élucidation*) that takes place ultimately in the political as a project (*un projet politique*). According to Castoriadis, the political is the ultimate horizon of interpretation for the social and societal.

The important thing is that Castoriadis' definition of the imaginary can be understood as something historically created, which is to be interpreted through critical hermeneutics. The

political forms the general horizon of understanding for hermeneutics. Thus, the political becomes an approach to the interpretation of the social and, secondarily, forms the basis for the interpretation of political institutions in a larger interpretation of social life.

In French, there is a clear linguistic distinction between the political (*le politique*) and politics (*la politique*), which is a limited form of action within particular institutions and systems in society (Interview with Marcel Gauchet, *Philosophie Magazine* N°7). In modern Anglo-American political science, this distinction is, for the most part, lost or maintained as a distinction between political philosophy and empirical political science. The problem with this approach is that the political then loses its meaning as a social fact that is generally determinative for politics, and that political science then loses its relation to the determinative horizon of understanding within the political.

The central point is that Castoriadis' understanding of the creation of the imaginary in the form of the political can be seen as a competing concept to Weber's concept of the sacred. In this connection it should be emphasized that according to Castoriadis, it is only in the Antique democratic city-state and later on in the modern democratic state that politics is conceptualized and, therefore, it is in the Antique democratic city-state that the political historically first is constituted. This coincides with the fact that it is only the democratic city-state and later on modern democracies that have freedom as the central focal point. In Castoriadis' perspective history has mostly been dominated by totalitarian states and societies.

- **Lefort – … from the speech of power to the power of speech**

This is also the premise of Claude Lefort's analysis that most societies in history are of a totalitarian character and that the democratic city-states in antiquity and the democratic states in modern times form an exception or a breach with the dominance of totalitarianism. Lefort develops his ideas in a critique of the totalitarian Eastern European societies and states, and he uses the French Revolution as an important historical example of the transition from a totalitarian society to a free society.

What is important in Lefort's analysis of the French Revolution is that the prince as the incarnation of the totalitarian state is replaced through the revolution by "un *lieu vide*", an empty place (Lefort 1986b: 27; Lefort 1988b: 17 f.). Whereas power in the totalitarian state is substantial as an incarnation in the prince, it can only be representative and symbolic in the democratic state, because this *lieu vide* cannot be occupied substantially. In this way, a new symbolic order is constituted in which democratic society is instituted as a society without a body (*sans corps*), in which the organic totality in the form of the prince is brought to an end (Lefort 1986b: 28; Lefort 1988b: 18). Democratic society thus becomes a society that, from a philosophical point of view, is in permanent *incertitude*, because it can never have any real substantial definition. Any definition can only stand as long as it is not made problematic.

This is especially clarified in Lefort's analysis in the essay 'Interpreting Revolution within the French Revolution', that the empty place, *le lieu vide*, presents the fundamental change in the imaginary of society from the regime of the powers word to the spoken words power, or with Lefort's word: "But whereas it was once the speech of power which ruled, it is now the power of speech" (Lefort 1986c: 134; Lefort 1988c: 110).

It is this idea that provides the foundation for the understanding that language is the ground of democracy, insofar as it is the essence of language that any statement can only acquire validity by being made problematic. We can say that Habermas develops the idea in Lefort's political philosophy in a differentiated way including the whole problem of practice and institutions in a modern democratic society. It is Lefort's paradoxical political-philosophical thesis on permanent *incertitude* as the cohesive binding in modern society that makes it clear that it is only the possibility of criticism that can lead to the constitution of a morally founded order in modern society. The moral order in modern society is paradoxical; it cannot have a substantial character relating to the sacred or something similar as the moral order has been understood throughout most of history, including our own time. This moral order can only exist in modern society through the possibility for criticism – thus, the moral order cannot ultimately be defined but must be kept open in the sense that it always is in the process of being defined.

It is this abstract definition that we see play out in modern democratic society. Governments are changed regularly, presidents only hold office for limited periods and laws are

reformulated when necessary. From a substantive moral and political point of view, this must all seem irrational and reprehensible. But the rationality consists of the fact that *le lieu vide* has replaced the substantive and, therefore, it would be irrational and totalitarian from this point of view to refer to a positive substantive morality. Norms are constituted by raising questions as to their validity.

- **The union of ethics and politics**

Here we find the mediation between Lefort and Habermas. The central point in Habermas' work is similar to Lefort's, namely that language is constituting society and in that sense is its fundamental institution. Society has to be understood through language. This is the way whereby Habermas gives the key to understanding the mediation between ethics and politics. Ethics and politics become the two sides of one and the same matter.

Communicative ethics is a Kantian form of language-ethics in which it is possible in positive terms to determine the criteria for action. But Habermas goes beyond Kant's ethics in three ways. Firstly, in Kant's ethics, there is an impassable distinction between, on the one hand, the intelligible world, in which the free will and duty in the categorical imperative is found; and, on the other hand, the phenomenal world, which is dominated by desire, subjective motives and institutions (Habermas 1991: 20 f). In communicative ethics, this distinction is mediated through the common use of language. Secondly, communicative ethics transgresses through the public discussion the inner Kantian monologue about the maxims for action. Thirdly, the Kantian problem of the reasonable justification of ethics is transformed into a problem of universal argumentation in dialogue with the other.

The central thing is that discourse ethics is consolidated in the immediate use of language, and that it is not possible to transcend this usage because language is the fundamental instance which is simultaneously used in an immediate sense.

This leads us to the discussion of politics, which according to Habermas is also based on the

immediate linguistic practice in the public sphere. This understanding represents a discourse-theoretical transformation of the Kantian understanding of politics. There is in this understanding of politics a moral dimension insofar as the ethical maxims should provide the basis for the general law. However, whereas Kant's morals are bound to individual reason, morals in discourse ethics are bound to public deliberation where maxims are determined, which should be the basis for common law. In this way the same problems in Kant's understanding of politics find their solution as in his understanding of ethics. These are the contradiction between the idealistic and the phenomenological perspective, the transgression of the monologue and finally the problem of the justification of norms. Following this, politics can, according to Habermas, be determined as a public deliberation between the implicated parties about problems which concern them all, and as a determination of the maxims which should be the basis for determination of the common law. There is in this way an inner connection between ethics and politics that makes them into the two sides of one and the same matter. On the one hand, ethics cannot be sustained without politics because ethical deliberation must take place between people in the public sphere, and this is also the determination of politics. On the other hand, politics can only be sustained on the background of the discussion of the maxims that underlie the common law, and this is also the determination of ethics. The public sphere is the common meeting place for ethics and politics because both ethics and politics demand the possibility of public deliberation.

- **Bifurcation – negation – validity claims**

The public sphere is constituted through the immediate and free public dialogue between people. It is the use of language that constitutes the public sphere, and there is no public sphere except through the use of language. However, the public sphere can be institutionalized. That means that a possibility can be secured for a public dialogue in advance. This is the precondition for politics and political institutions in modern society insofar as there could not be any politics without a public sphere. This is an abstract ideal type in the Weberian sense, which can be further developed in a philosophical, sociological, political-scientific and historical perspective.

The essential matter is to maintain the fundamental unity between ethics and politics, which in principle cannot be divided. This is the positive Kantian perspective. This is broken up in practice, when we take the Hegelian perspective. Modern society, according to Hegel, is bifurcated (*Entzweiung*), which has the consequence that moral unity cannot be sustained. However, this principle does not abolish the close connection between ethics and politics but it makes the connection more differentiated and complicated. The public sphere can no longer be sustained in the singular. In practice, it takes the form of a plurality of voices that cannot form a harmonious symphony and where it is not consensus but dissent that dominates. Therefore, the public sphere and critical discussion should be viewed as existing together in modern society.

Habermas himself is aware of this and speaks in several works about *das Nein-sagen-Können*, i.e. about the possibility to negate, the determinate negation, and try out the validity of a proposition (Habermas 1981, II, 113 ff.; Habermas 1989, II, 73 ff.; Habermas 1992: 394, 515; Habermas 1996: 324; 427). However, the principle of negation does not suspend the Hegelian bifurcation. The consequence is that it is not possible from a sociological and a political-scientific perspective to retain the thought of consensus as the fundamental condition for politics in modern society. However, this is not the essential point. The essential point is that politics has its centre in the dialogues taking place in the many public spheres and that it is possible from a philosophical perspective to *test* the validity of a statement. This represents a negative reading of Kant and Habermas, which aims at retaining the validity claims that are the fundamental crux of the matter in their political philosophies. This negative reading of Kant's and Habermas' political philosophies is not in principle suspended by the reality principle, such as it is represented in the traditions of sociology and political sciences. In these traditions, politics must be regarded by necessity as a positive concrete matter, which is subject to the reality principle insofar as praxis is bound to positive action. Nevertheless, the validity claims are not sustained by the reality principle. They constitute the instance that makes it possible to justify human action in the perspective of the reality principle.

In this way we reach an understanding of politics that contains both a reality principle, in the form of the linguistic praxis under the conditions that are given in modern society, and a philosophical principle, which concerns the questioning of the validity of this praxis. The concept of praxis must by necessity be a positive determination; the concept of validity must

by necessity be a negative determination. Therefore, there must by necessity be a contradiction in politics between the positive and the negative determinations, which neither can nor should be dissolved. It is fatal only to regard politics under the perspective of the reality principle, and it is an illusion only to regard politics under the perspective of negation, without any relation to the reality principle. It is necessary all the time to take both perspectives into consideration when we deliberate about politics. We have to have both a Kantian and a Hegelian perspective on politics all the time. This is possible in Habermas' political philosophy.

- **Civil society**

Habermas' political philosophy is fundamentally a Kantian political philosophy, insofar as his fundamental problem is to discuss the possibility to raise the validity claims for moral and political action, which he imagines can be done through free deliberation between the implicated parties. The great problem arises when the Hegelian perspective is introduced, where Habermas has to explain how such a deliberation can take place in modern society. It could be said that Habermas introduces a communicative transformation of the Hegelian perspective. Habermas points, like Hegel, at the decisive significance of civil society for moral order in modern society. In civil society the citizens can form associations in which they can discuss their common business. Hegel relates civil society to these associations, whereas Habermas has a much broader concept of civil society, which contains many different forms of associations, societies, unions, organizations, and so on. However, at the same time he also restricts the concept of civil society, insofar as he has a tendency to regard state and economic reproduction of society from a pure systemic perspective, as he describes in his theory of communicative action.

It is not appropriate to restrict the concept of civil society in this way, because a large part of the interaction in modern society, in which state and economics have a great influence, is excluded. This concept of civil society excludes the many institutions in a modern welfare society such as schools, health care, childcare, care of the elderly, and so on, which are organized by states and municipalities, and economic institutions that also have a central

role in this connection. Therefore, I work with the broadest possible concept of civil society, which not only contains the institutions that are organized immediately by citizens, but also institutions that are mediated through the state and economy insofar as they are related to the immediate life of the citizens. This concept can be claimed when we, in accordance with Habermas, focus on the public sphere as the centre of civil society, in that it is more the form of communication than the function that is essential for the determination of the institutions in civil society.

Civil society is characterized by a plurality of communication in a plurality of public spheres which all relate to the immediate life of the citizens. This interaction includes not only social movements and associations of citizens, but also state-organized institutions and corporations, insofar as they all play their role in the citizens' communication in the public sphere. Herewith is raised the old Hegelian problem of whether it could be possible to sum up this variety of communications in the many public spheres in a common morality.

Hegel tried to solve the problem by saying that it should be the state that mediates the contradictions in civil society. The state was therefore seen as being prior to civil society. However, this had the consequence that there could be a tendency in Hegel's concept of the state to disregard the interaction between state and civil society, and to focus instead on the sovereignty of the state in relation to civil society. This is the reason why Hegel's concept of the state has often been regarded as a totalitarian concept. However, Hegel is right in saying that the state is prior to civil society in the sense that there could not be a civil society without a state. The problem is whether it could be possible to create mediation between civil society and state.

According to Habermas, it is through the political institutions of democratic society that the many discussions in the public spheres of civil society can be mediated to political decisions. Habermas speaks in his chief work concerning legal philosophy, *Between Facts and Norms*, about 'sluices' through which the deliberations in civil society can be mediated and transformed to decisions in the political institutions (Habermas 1992: 431 ff; Habermas 1996: 356). However, Habermas is not able to give a conclusive solution to the Hegelian problem of meditation between civil society and the state. On the one hand, the deliberations in civil society should only seek to influence the political institutions. In that sense, Habermas' understanding of civil society relates very much to Hegel's. But there is

no necessity in this influence. On the other hand, the political institutions can only be representative through procedures which are acceptable to all parties in society (Habermas 1992: 449 ff.; Habermas 1996: 371 ff.). Finally, it seems that we are confronted with the same bifurcation as was thematized by Hegel. Therefore, it is not possible to say that there should be any necessary positive mediation of moral discourses that can constitute a real substantial social morality in civil society.

- **Testing deliberation as the form of morality in modern society**

The question now is what the consequence of this could be. This is the central problem in the discussion of social morality and the solution, as mentioned, cannot be a positive substantial social morality. We here come back to the problem of how we should interpret Kant's ethics. One way is to interpret it in positive terms as an attempt to constitute positive norms. However, it seems as if this way is not passable. The other possibility is to read Kant's ethics in negative terms as a critical ethics, where the crux of the matter is the possibility to *test* the normative validity of the maxims of an action. This is in my opinion the right way to read Kant, and it is the same way that we should consider Habermas' communicative ethics. This should also be read critically as the possibility to test the validity of the normative maxims for an action. The consequence is that it is decisive that the institutions of civil society and the political institutions take such a form that it is possible in praxis to have a *testing deliberation* about the normative maxims for an action. In this connection it becomes decisive that there are public spheres in each institution where such critical deliberations can be raised. It is not possible to constitute a positive substantial moral in society. But it should be possible under the aforementioned conditions to test critically the validity of the normative maxims, if there is sufficient freedom in the public spheres of the institutions to raise the validity claims in relation to dominant discourses and preconceived opinions. For this reason ethics in society can only be secured *indirectly* by the constitution of the conditions which are necessary for *the critical test* of the validity claims.

On the immediate level, we can here refer to Kant, who ascribes the individual with the

capability to ask the reasons for the validity which lie at the root of the determination of social norms. We have to start here, because this is the precondition for posing the question of validity. On the next level there is the possibility that more people can question the validity of the maxims, which form the basis for common action. However, here we are still at a level that does not necessarily have any influence on the public discussions in society. The problem is whether these deliberations can become public and take their place in the political institutions in democratic society.

It is evident that the form that politics and political institutions take should be understood positively at first. The social must always be understood in a positive way. But the characteristic of the political institutions and the political system is that they cannot only be understood in a positive way, because they have to be legitimized. The question of legitimization always concerns the validity of the political action in the institutions. Here, we come back to the problem of a critical reading of Kant. According to Kant, political institutions are legitimate insofar as there is a fair chance to participate. This does not necessarily mean that political interaction in the institutions takes an ethical form. According to Kant, we have to make a distinction between ethics and politics (Kant 1966: RL § 43 – §49, p. 311 – 318). Therefore it is not possible to claim that there should be a necessary positive connection between ethics and politics. The consequence is that ethics cannot be directly secured in a positive way in the political institutions. This does not mean that it should not be possible to sustain ethics in the political institutions; but there is not necessarily an internal positive connection between ethics and politics. The connection between ethics and politics can only be created *indirectly* through the possibility of questioning political action from an ethical point of view. However, this demands that there is a real possibility of raising such a question. According to Kant, this should be possible, and Habermas is of the same opinion. However, we have to take into regard that this is a political and philosophical claim that cannot necessarily be argued from the perspective of political science and sociology. In reality, politics takes its own institutional forms, where it is not deliberation but power which is in the centre. This is the general opinion in political science and sociology. The discussion is whether legal order can be understood by itself or whether it necessarily implies a form of legitimization. As long as we regard the political institutions from a positive perspective, they can be regarded as a part of the legal order, which can be seen as a self-sustaining institutional arrangement without need of further legitimization. This is Hegel's and Weber's perspective. But when conflicts arise, this

perspective becomes insufficient. It becomes necessary to question the legitimacy and thereby the validity of the political order. This is Kant's and Habermas' perspective. Such a questioning does not only concern the political order but also the ethical validity of political action.

- **The open society and the totalitarian temptation**

Herewith we return to the problem of whether a critical ethics can be institutionalized. So far as I can see, this is not possible insofar as this would mean the same as that critical ethics could be regarded as a pre-given substantial ethics, which could be determined in positive terms. However, this does not have the consequence that the critical ethical investigation is excluded from the political institutions. On the contrary, it is part of the understanding of the political institutions in a democratic society that they should be a constituent part of the public sphere. This gives the possibility to formalize the rights to question the political institutions, and this is the case in a modern democratic constitutional state. However, we again have to take into regard that such rights are formal rights and therefore do not necessarily say anything about how they function in practice. In this connection Kant would say that it is not possible to go further from a philosophical point of view. In Habermas' perspective, things are different because he takes Hegel's perspective, in which the political culture is essential for the understanding of the political institutions in society.

The conclusion is that there should be a close relationship between ethics and politics in modern society. However, this connection can only be secured *indirectly* through the formalization of civil rights to take part in political deliberation and through the cultivation of these rights in the public spheres of society. Therefore, a philosophical discussion of the relation between ethics and politics is insufficient; at the same time we have to introduce the empirical perspective of political sciences and sociology. It is not enough to have the correct Kantian idea; we must conclude with Hegel that ideas have to be well-founded in social and institutional practice in society. Habermas has created this mediation between Kant's and Hegel's perspectives, which should be interpreted critically.

Here we meet the difficult problem which can contribute to explain why religion anew has become a central topic in the discussion of moral norms in modern society. In modern society, it is not possible to present the positive mediation of norms that could give a justification of positive substantial norms. Therefore one could say that there is a fundamental normative insecurity in modern society, or along Claude Lefort's understanding, an insecure ground of an empty normative space, that can be upheld only as empty so long a time as there is in praxis a living that does not end discussion about norms and their justification, and concerns all forms of normative problems in democratic society. In praxis, it can be difficult to fulfil such a living discussion in a modern democratic society and therefore there can always be a temptation to revitalize substantial norms grounded in tradition and religion. From a modern perspective, this represents what Lefort would describe as an attempt to reinstall a totalitarian formation of society, which falls behind the French Revolution.

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