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## DE IUSTITIA NON EST DISPUTANDUM? SOCIAL JUSTICE IN TODAY'S GERMANY

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### 1. Social Justice – après la lutte?

In the end it seemed almost a bit embarrassing, simply old-fashioned, those well-behaved proclamations of devotion to the goddess of justice. How fortunate that lady justice has her eyes bound. What she would have seen – nicely, and above all colourfully dressed, well-fed trade union bosses in the Germany's West, gaunt and grey party big-wigs in the East – would have shocked her just as much as the monotonous message, delivered by both sides on May 1st before a captive audience, while the workers were off enjoying themselves outdoors. Their tenor: no surprises, but in any case radical. The deplorable economic and social wrongs must be remedied and injustice stopped. As seen from the West, the unfair system, the profit-hungry owners and insatiable capital were solely responsible for this state of affairs. Viewed from the East, socialism had finally prevailed, the working class was in power, and justice reigned: in a word, the message was that all goals had already been attained. But the deeper these officials of justice dipped into their collection of 19th century combat slogans, the more hollow their emotional calls rang, the more forced their political posturing became, the more transparent their playing to the gallery appeared, claiming as they did to be part of that nobility of virtuous crusaders for a better world, and the quicker the shock they expressed at the existing scandalous social situation seemed worn thin.

Change of scene: the German Protestant Church Congresses, where things have always been livelier, more colourful and "closer" to reality. There was the usual eloquent and long-winded designation of all the evils of this world, from unemployment and the unequal treatment of women and foreigners to the exploitation of the third world by the developed countries. But the more powerful the indictment, the more obvious it became that nothing would be changing so very soon. A week later, and this tribunal of justice, this purifying fairness ritual was over, and it was back to business as usual.

Another change of scene: a tribunal of justice reincarnated in the form of a political party, Social Democracy has continued to take a diversified but uncertain stand. Torn between its traditional supporters, the workers, and its new members, the civil servants, the party has developed a policy of the smallest common denominator, a colourful and in part contradictory potpourri: more work and less unemployment, flexible working conditions and better social security benefits, a lean state and equality for women, above all in the civil service, a more dynamic economy and more ecology, etc. etc. The wider and more diverse the list of wishes for social change, the vaguer the political message. The result is a lack of image and vision. Justice is reduced to petitions and minor issues, but everyone must be treated justly by everyone else for the sake of party harmony. Once a force of social change, social democracy has become a desiccated and impotent authority that moralizes about its determination to improve the world.

It is no exaggeration to say that the established forces which throughout the 1980s argued the logic of ethical and social compensation have now been pushed aside. Why is this? How can something that until recently was regarded as good, true and reasonable suddenly look like outmoded political fundamentalism? How can the three pillars of institutional justice suddenly prove unable to offer an interpretation and vision of today's world? Why do their representatives, the trade union bosses and church and party leaders, suddenly look like old-fashioned establishment figures? How could social justice itself, that natural principle of political action in a democracy, be regarded as a misnomer, and fall into such discredit?

As always, whenever respected ideas become worn-out ideologies, it is because reality, that merciless executioner of all political ideals, has overtaken the prevailing vision. Visions become utopian when it becomes obvious that ideals are unattainable, or they become rubbish, ripe for history, when ideals have been reached, at least to some extent. Whether real or imagined, the latter case appears to be exactly what happened in the old Federal Republic of Germany and the former GDR in their final stage. Still not taken seriously by many in the late 1970s, Helmut Schmidt's "Modell Deutschland" had become reality: a flourishing market economy supported by science and technology, a welfare state that attenuated the severity of the market through a moderate redistribution policy and transformed the wealth of the hard-working nation into the individual well-being of its citizens, and an individualistic culture and system of values with attitudes on citizenship and family relegated to the private sphere (Jürgen Habermas). Was this not also typical of the Kohl Republic, which was born of "spiritual and moral change"? And what does it matter if a social democratic vision is realized by Christian Democrats? In the other part

of Germany, that egalitarian and authoritarian socialist republic, Honecker's vision of unity of economic and social policy seemed to offer all its citizens a clear, comfortable existence, glaring bottlenecks in the supply of goods and the gradual collapse of the infrastructure notwithstanding. Comfort and social security in East and West alike – in Kohl's petty bourgeois "Federal Republic of Germany recreation park" and in Honecker's real socialist "workers' paradise", the GDR. When stability prevails, when a sense of comfort, contentment and security predominates, whether real or imagined, the social question is regarded as settled – a source of conflict which in the past was held responsible for scandalous inequalities and used for vociferous appeals and protests in favour of justice. The inescapable conclusion is that social justice is simply not an issue for either late modern affluent societies or proto-modern societies with an ensured supply of commodity goods. Ockham's razor, that sharp-edged criticism, has finished with justice and has turned to new problems. It seems to be an unshakable law of all affluent societies that once survival is considered to be achieved, attention increasingly turns to the good and agreeable life. In societies characterized by shortage, the collectivist identity, centred on the well-being and suffering of social groups and classes, assumes an individualistic form and begins to focus on individual lifestyles. Whereas in the past, the economy, employment, politics and the welfare state were the main subjects of interest as spheres of distributive justice, now the centre of attention is on culture, aesthetics and lifestyles.

Nowhere is this change of direction more apparent than in the sociological diagnosis of the 1980s. Setting out to identify the essence of the "signs of the times", such an analysis combines trends and sentiments to a "thick description" (Clifford Geertz) – an unmistakable barometer of the mood and identity of society. A quick glance at the transition to regional focus of such interpretations shows that a thematic reorientation was under way. The main setting for interpretation shifted from the traditional birthplaces of intellectual progress, Berlin and Frankfurt, those eastern and western urban breeding-grounds of collectivist doctrines on social justice, be it Critical Theory or Marxism, to rural Bavaria. Idyllic Bamberg, the Bermuda Triangle of sociological research on contemporary themes, quickly saw the birth of research on a society based on risk, experience and choice. With the benefit of hindsight, it now seems that this is where the history of the impact of the 1980s was written. It began with Beck's analysis of risk. With the concrete, convincing example of Chernobyl before our eyes, we learned what it means to live under the Damocles sword of a risk society. The collectivist perspective of social injustice and justice is refuted on two accounts. Firstly, traditional class society has dissolved in the wake of the individualization and growing plurality of lifestyles, replaced by a "society of dependent individuals" interested solely in their own careers



and lifestyles. Secondly, a new “ecological equality of risk” has begun to appear. The risk society has an unexpectedly egalitarian effect: we are all equal in the face of the final, and perhaps fatal, disaster. Whether rich or poor, young or old, man or woman, German or foreigner, city or country dweller, Protestant or Catholic, Christian or Muslim – the risks and consequences are the same for all. The risk society: a completely “just” society, in any rate from the point of view of universal impact. Gerhard Schulze and Peter Gross took the topic of individualization one step further. When the goal is no longer the project of a just life, but merely the good life itself, then no pressure can be brought to bear any more for collectivist egalitarian needs. Those for whom life is risky, rich in experiences and full of options and who only follow the dictate of self-fulfilment in accordance with the choice that they freely make from among various models of individualism are indifferent to problems of justice. It could have been a most exciting project to analyse the differential distribution of experience chances from the point of view of equality and justice: this would have immediately produced a new criterion for cultural justice, the so-called “justice of experience”, and presumably would have made for the highest final stage of an egalitarian and wealthy civilization. But this will no longer happen.

## 2. 1989 and the Consequences

Since 1989, the signs of the times have again changed radically. Nothing shows more clearly than this historical turning point how unpredictable the *Zeitgeist* is. Although the Bamberg school of sociology has not become rubbish, it is no longer in tune with the sense of a new era. *Enten-eller*: fully consonant with Kierkegaard’s “either-or”, in the 1990s an ethical code and normative lifestyle have asserted themselves, ousting the aesthetic code and attention to style of the 1980s. According to Albert O. Hirschman’s successive waves of “shifting involvements”, this was inevitable. Whereas the 1960s and 1970s were times of public commitment, the success or failure of political causes gave way to disillusionment and withdrawal into private life, whether in career, which is often what the “march through the institutions” amounted to, or in the family or personal fulfilment. If we accept the idea of the ups and downs of social movement and individual emotion, then this explains the apolitical nature of the 1980s and the renewed interest in political issues in the 1990s. Niklas Luhmann’s observation is correct when he argues that at the end of the 80s of each century ethical questions take stage centre in society, in any case since the invention of printing. Kant developed his metaphysics of morals and law at the end of the 1780s, Durkheim his sociology of morals and law at the end of

the nineteenth and communitarianism its manifesto of new ethics at the end of the twentieth century. Regardless of the explanation for this shift from an aesthetic to an ethical code, from private to public life, from moral detachment to a new fin-de-siècle, at the beginning there was a new existential situation, and only then did academic awareness follow.

For after 1989 many new questions were raised, and many old problems reappeared. The unification of a capitalist and a socialist society into one nation was not only a difficult experiment, but also unexpectedly brought with it a return to shortages, created new forms of social injustice and raised problematical issues of fairness. The 1980s, the decade of postmodern individualism, had already witnessed a discussion on the “two-thirds society”. The fear at the time was that in the affluent society of the majority, no room was left for concern about the unemployment, welfare dependence, poverty and suffering of a voiceless minority. If there was any criticism at all, it was in the form of a thriving feminism which, holding high the banner of justice, attacked the patriarchy and male hegemony in relations between the sexes. Women’s studies, a sort of accompanying research field for the battle of the sexes, analysed the extent and forms of sexual inequality in order to develop approaches for an egalitarian gender policy. The economic and social restructuring of East Germany after 1989 and the concomitant de-industrialization of the former GDR economy exacerbated problems on the labour market and put unemployment and justice (Montada 1994) on the agenda. The introduction – some also spoke of the imposition – of the West German legal system and institutions likewise led to political and cultural disorientation for many new citizens and to disillusionment in the civil rights movement, whose expectations to see the old GDR nomenklatura brought to justice were bitterly disappointed. “We wanted justice and got a State based on the rule of law” – this striking remark by Bärbel Bohley summarizes the feeling that political justice has failed. This and other issues, such as unequal wages and salaries in east and west or the return of property and real estate to their original owners, were embraced by the “committees for justice” that sprouted up overnight. Regardless of whether these committees are really suited to serve as the complaints box of the East German nation, they reflect an unease in the East German population. According to recent surveys, more than 80% of East Germans believe that they are not receiving their fair share of the gross national product, whereas in West Germany, fully consistent with the theory of the two-thirds society, only 28% complain about an unjust distribution of national wealth (Noll 1992). On the other hand, the West Germans criticize the injustice of the payment of financial transfers for rebuilding East Germany. The new Germany will ultimately have to accustom itself to living with a sense of justice that is fundamentally different in East and West. The noble goal set forth in the

German Constitution of uniform living conditions, which in the past had not been fulfilled either because of the failure to overcome the "south-north gradient", will not be attained in the near future.

Although we should not read too much into these findings, we must conclude that they at least have the merit of having put "justice" back on the agenda. What seemed resolved in the old Federal Republic poses a problem for the new Germany. Thus, as the issue of justice opens a discussion on the most important questions of the 1990s for which there are no satisfactory political answers, it seems logical to turn to the sciences, to see what impulses can come from sociology, philosophy and empirical research on justice and how the urgent problems are dealt with in the various fields involved in the debate on fairness.

### **3. Social questions and academic answers**

Although contemporary sociology remains strikingly mute about the subject of justice, this was not always the case. Born at a time in which the gulf between the ideal of equality and the reality of inequality was especially large, sociology has had to contend with the problem of social justice from its very beginning (Müller 1994). How did it cope with this question? Social injustice as the fundamental fact and the class society as the central issue define the beginnings of the new discipline. Sociology was not only confronted with, but to a large extent identified with the "social question", which arose out of the dynamic nature of industrialization and capitalism. Socialism, sociology and social questions were linked in the social consciousness in the same way as feminism, women's research and the women's question are today. Class society became the incarnation of the absence of freedom, equality and fraternity, and stood for oppression, exploitation and alienation, the exact opposite of the promises of the French Revolution. It is thus not surprising that class society became the declared enemy, while social justice became the idealized friend, with its goals of equal rights for all, a fair share of social security and equal treatment.

It is interesting to note that classic sociology took up the question of equality in the context of an analysis of inequality, but without considering the notion of fairness upon which it is based. The best example of this balancing act of addressing equality and inequality while disregarding justice and injustice is offered by Karl Marx who, like no other, analysed and condemned the injustice of capitalism and exploitation while ignoring the concept of justice like the plague. What is the explanation for this paradox? Why is Marx, himself a champion of the cause of the just, so mistrustful of the concept of justice? If the economic foundation determines the cultural superstructure, and the

predominant values merely reflect the values of those in power, then any call for more justice is pure ideology whose purpose is to conceal bourgeois rule. From this point of view, social reform and a reform in the distribution of wealth in the name of justice cannot lead to any fundamental change in the capitalist system of “unjust” exploitation. Instead, under certain circumstances they can distract from the real goal of history: revolutionary change to create a socialist society. Hence, justice is an “ideological platitude” which must be combated. Only fully developed communism, which will do away with all economic, social and cultural divisions among people, is “just” per se; for the difference between the ideal of justice and the reality of injustice is then regarded as “overcome”. In Marxist thought, the terms “ideology” and “utopia” replace “justice”, whereas justice itself is considered undesirable.

Emile Durkheim took the opposite position. For him, social justice is not a mere bourgeois illusion, but an ethical impetus for improving social conditions. To demonstrate this, he analysed division of labour to show under what conditions social disparities give rise to solidarity. To sum up his basic idea, if it is possible to organize division of labour and the institutional framework of society in such a way that they are in line with modern, individualist values, then the resulting solidarity can be regarded as the measure of justice attained. It therefore follows that modern-day individualism, which Durkheim describes as the “ethics of justice”, takes on an importance in the area of culture and morals that technology and division of labour have in the economic sphere. Both aspects, the material and the ethical, influence the course of social development. It can therefore be said that Durkheim regards a just society as desirable, and his vision of such a society as reflected in a dynamic market economy, a stable welfare state and the “cult of individualism” is, on the whole, consistent with present conditions in western societies.

Whereas Durkheim seeks to overcome the crisis of anomie of modern times through legal and ethical regulations for all areas of social existence, for Max Weber such an effort is futile. Social development is so dynamic that the various areas of life all follow their own rational criteria. Neither a coherent moral framework nor a global standard such as justice can be imposed upon these disparate value systems and ways of life. Modern existence is so splintered that it results in a plurality and, indeed, an antagonism of values that no global standard, however complex it may be, can ever reconcile. There simply is no conversion formula to determine which “mix” of values is optimal and as such “just”. These objective reasons – the complexity of modern society – are the basis for his methodological conclusions. His argument in favour of a strict separation between what is and what ought to be, between factual analysis and value judgements, which he cites as a reply to Gustav Schmoller’s reform

socialism in the Verein für Sozialpolitik, is based on the idea that no serious sociological approach is capable of deciding questions of justice. Sociology can and should take part in the discussion of values and is in a position to consider the meaning of values and to assess their implications and consequences and even to calculate the costs of giving substance to such values, but it cannot and should not single out one value as particularly “just”. Weber’s position is that it is impossible to define a just society.

It would appear that the conclusions reached by Marx and Weber – that justice is an ideological question or a futile one, or both – have, by and large, been embraced by contemporary sociology. This is still a burning issue and has yet to be resolved. The skills demonstrated by sociologists in researching all imaginable forms of inequality, from the gulf between the north and the south to gender-related inequality – is out of all proportion with their analysis of justice. Durkheim’s position has never found much support in Germany, a situation that might change in the wake of the discussion on communitarianism, of which he can be regarded as an early proponent (Durkheim 1991). Be that as it may, the sociological discourse has come up with two important distinctions: between a normative analysis of justice and a descriptive assessment of social inequality, and between a macro- and micro-sociological approach. The result, however, has been that this perspective has created a barrier between sociology and philosophy that continues to exist to this day. It has drawn attention to equality/inequality and has left the question of justice/injustice, which is in the normative sphere, to the realm of philosophy.

This division of labour between philosophy and sociology is not unjustified, for principles and fundamental arguments on social justice go back as far as Aristotle. Ever since his time, we distinguish between distributive justice, justice in the exchange of goods, political justice and correctional justice, notions which are based on the community, the market, power and law. New developments in the philosophical discourse are thus not the result of completely new criteria of equity, but arise instead from historically relevant and culturally dependent concepts of justice which emanate objectively from the predominant image of man or methodologically from new analytical procedures. For example, the older theories of the social contract of Hobbes, Locke or Rousseau were revolutionary because they linked a new understanding of state and natural-law ideas of freedom and equality of mankind with well-known principles of justice within a new methodological framework of a fictitious natural state and a social and political contract. Any radically new historical situation or a fundamentally new methodological approach for identifying equitable norms creates a need for action in the philosophical discourse on justice.



Given these “generators of progress”, it becomes clear why today attractive arguments can be found above all in modern political philosophy and political economy. The time-honoured democratic tradition and the market-based logic of production and redistribution are linked together with the methodological instrument of public choice in order to outline the principles of a just social system. The old concept of “social contract” has been revived – that shows the renaissance of social contract theories (Kern and Müller 1987; Koller 1987) – as a way of describing how consensual agreement is reached among free and equal persons with the help of a just constitution for social coexistence.

In the wide-ranging discussion that has been in full swing for the past quarter of a century, two positions stand out: that of John Rawls and that of Michael Walzer. Why these two? They are the ones whose ideas gave rise to the discourse that today is known as the debate between liberalism and communitarianism. As opposing figures in philosophy, they mark not only two different positions, namely the primacy of freedom over good or the contrary, but also two opposing methodological approaches: on the one hand, the idea of justice as fairness, based on principles, and on the other, a pluralistic view, namely justice as complex equality. Both positions are characterized by their openness to the social sciences, as the lively interdisciplinary discourse shows (Brumlik and Brunkhorst 1993; Frankenberg 1994; Honneth 1993; Mulhall and Swift 1993; Zahlmann 1992).

Rawls woke the philosophical discourse out of its long hibernation with a dramatic bang (Rawls [1971] 1979; 1992). What until then had been left to the guardians of philosophical tradition – the legacy of teachings from Aristotle to Kant – suddenly found itself placed on a new footing. This synthesis succeeds, because Rawls constructs the hypothetical “original position” in a new way that sets out good reasons for the choice of freedom and equality as principles of “justice as fairness”, thereby defining the normative framework of a well-ordered society. Let us imagine, he says, that free and equal, willing and capable subjects come together to work out, freely and without constraints, the principles of their social system. In this original state, they do not know their future position in society and they have no particular notion of good in mind. Under this “veil of ignorance”, as Rawls puts it, they will be able to agree upon the normative core of a just society with the following basic principles: every person enjoys a set of basic social rights and freedoms; social and economic inequalities are only justified if they come into being under conditions of equality of opportunity and are to the greatest advantage for the least privileged members of society.

The advantages of this idea are obvious. The normative framework, used by this construction in an abstract fashion, does not presuppose a specific



notion of good, makes do with a minimum of ethics and thus gives pluralism of lifestyles and ways of living the best opportunities for flourishing. Justice as fairness can be regarded as a universalistic approach which in principle could be used for all possible forms of society. Despite this openness, Rawls' "social-liberal" synthesis is ideally designed for liberal free-market democracies, because it brings together the principle of individual rights and freedoms and the principle of distributive justice.

No wonder both poles of this synthesis attracted criticism. Whereas Rawls was not liberal enough for one school, the other sought to strengthen the social components and, in so doing, distributive justice, because a society is always the reflection of a community of values, opinions, products and redistribution. And every theory that does not give sufficient emphasis to public spirit misreads the essence of citizenship, the nature of civil society, the sense of patriotic community and the meaning of egalitarian democracy. What began as a criticism of Rawls now continues on as communitarianism against the ultra-liberal notion of society as a sort of self-service shop, a "republic of choice" (Lawrence Friedman) instead of a "republic of virtue". Opposed to both an abstract liberal individualism and a conservative community ideology, communitarianism argues in favour of a revitalization of republican traditions, the strengthening of civil society, the creation of intermediate associations and communities, and democratic participation in matters of public and political concern. The entire thrust of criticism directed against Rawls refers to the contexts of justice (Rainer Forst). Four contexts are said to be insufficiently conceptualized: 1. the concept of the person; 2. the primacy of law over good; 3. the problem of political integration and legitimacy; and 4. the question of universalism or contextualism.

In response to criticism, Rawls contextualized his universalistic doctrine. The result was an idea of political liberalism that takes the primacy of democracy over philosophy (Richard Rorty) seriously.

The result of the revision is a paradox: on the one hand, he comes a good deal closer to communitarianism, in that he politically contextualizes his theory in line with the new *Zeitgeist* of the late 1980s – here, Rawls is almost a communitarian; on the other hand, he strengthens the liberal basis. His approach which, given pluralism, is quite unable to offer a comprehensive set of ethical principles for modern democracies, defines a minimal framework for its impartial functioning, for which, to be sure, he asserts that a wide consensus exists: Rawls the liberal. Has he succeeded in squaring the circle? Hardly. Although his revision is certainly skilful, it can scarcely satisfy the communitarians. Basically, he has merely fallen into step with the new language and clarified the scope of his theory: from abstract universalism to multicultural

democracy. The basic idea, that a comprehensive notion of justice should be able to fit all the parameters of redistribution into a single idea of justice, was left untouched. But the question is whether a standard such as “simple equality” can ensure justice in complex societies. Where a society is composed of many spheres, which distribute goods according to their own standards, to cite Michael Walzer’s fundamental intuitive idea (1992; 1994), then notions of justice must also derive from the standards of specific spheres. Of course, certain acts can immediately and unproblematically be regarded as just or unjust. They fit Rawls’ universalistic core, which a minimal notion of fairness can easily contain in a “thin” description. Justice is concrete – the problems therefore usually begin in specific historical situations and social constellations. To this end, we need a complex concept of justice which allows us to produce “thick” descriptions. An example as illustration: whereas the events of Tiananmen Square triggered unanimous outrage and feelings of injustice worldwide, how the Scandinavian, American or German welfare system should be reformed in a relatively equitable manner is clearly a matter for the citizens of the societies concerned. The former case is unjust, but poses no problems, and thus does not constitute a challenge to a theory of justice; the latter case is difficult and problematical, because the boundaries of the competence of justice must first be determined between the conflicting notions of efficiency and compassion; this often entails a painful discussion process.

Consequently, it can be said that complex societies follow a standard of justice based on “complex equality”, as the analysis of many spheres shows. But what is this criterion of “complex equality” composed of, and what form does it take? Does a unit of measurement called “complex equality” exist, and what criteria of justice is it subject to? Walzer does not give a definitive answer to these questions, and the logic of his theory suggests that he would not want to do so. On this question as well, his position is defensive and minimal: what we must be very careful to bear in mind is the diversity and autonomy of the spheres, so as to prevent one sphere from being colonized through the hegemonic encroachment of another. Although he tries to stress the multiplicity and equal importance of the various spheres, he argues that there are two areas which, like two poles, play a vital role: the political sphere and the state on the one hand, for the state is the body which distributes the highest good in a society, namely citizenship. And, on the other hand, the economic sphere and the market, for it is the market that distributes the material resources and goods of a society. Drawing upon these central spheres, the power/property complex, he makes clear how important the boundaries between them are if complex equality, a delicate balance of different distribution systems, is not to be greatly disturbed.

It can of course be argued that complex equality is a “black box” and that as a result the concept (Miller and Walzer 1995) remains unclear, even though a precarious balance can be associated with it. And the focus on the corresponding relevant rules specific to the sphere and the moral intuitions in force is open to the criticism that it no longer has universalistic standards which can be generalized and which transcend the society concerned.

As heavy as this criticism weighs, the value of this approach is that Walzer takes the complexity of society seriously from a philosophical point of view, not resigning as Max Weber does, but responding with a complex conception of justice. What his theory loses in formal elegance, it gains in realistic content. With his approach, he throws open the doors to an empirical study of justice.

When the highest principles of justice are no longer sufficient and demand normative validity, it is necessary to examine separately the areas in which they aspire to empirical value. That includes the study of redistribution in practice, the reconstruction of the implicit rules and explicit notions of fairness on the part of participants and victims in a sphere. The main conception of complex justice has an enlightening effect on the empirical study of the acceptance of redistribution forms from different spheres, as well as their overall social assessment as just or unjust.

This is precisely the domain of so-called justice studies (Kluegel, Mason and Wegener 1995). Research has shown that there is no single way in which the public arrives at its judgement of the principles of merit, need and equality. Instead, such judgements are greatly dependent upon the political culture of a given country: Germans are more egalitarian than Americans, Scandinavians more than Germans, and East Germans more than West Germans. Moreover, the judgements on this question are contingent upon the redistribution sphere involved. For example, the principle of need is found above all in communities based on solidarity, such as the family, the principles of merit in instrumental associations, for instance at work, and the principle of equality in the rules of citizenship. Apart from the results of the actual redistribution, the way in which these results have come about also plays a role for the perception of fairness – whether these are arrangements that were agreed upon from below by consensus or whether they were imposed from above in an authoritarian fashion. As modern diversified societies are “organization societies”, goods and burdens are redistributed primarily in organizations. That is the subject of institutional justice studies, which analyses local, and not global, justice (Elster 1992) in various spheres. For example, what criteria are important for the allocation of donated organs? Who receives the donated heart – Fürst von Thurn und Taxis, old and in poor health (and who has since died), but promi-

nent and wealthy, or a young welfare recipient, a single mother or a working father who is a family's only breadwinner? These issues and dilemmas involve fatal decisions of life and death, health and illness. Less dramatic, but equally contested, are conflicts concerning promotion at work. Does a boss decide on the basis of performance, seniority, popularity among colleagues, ability to fit in or willingness to follow orders? Which mixture of criteria emerges, and what does local justice mean in the given context, situation and type of decision? Studies show that justice criteria range from efficiency to performance and merit, even including such social factors as need, and are greatly dependent upon the philosophy of the firm and its organizational culture. Micro-justice, on the other hand, is a matter of subjective judgements. It is not the abstract distribution principles of a society that are at issue, but whether the results of distribution are equitable in each individual case. Am I receiving as much as persons and groups with which I am comparing myself? Research on relative deprivation seeks to answer this question and asserts that a sense of fairness is present if the answer is "yes". Is there a reasonable link between my own effort and my returns and a similar effort of someone in a comparable position? If so, proportionality prevails, as equity research would say, and this situation is felt to be just. Operating with theorems of this kind in numerous studies and experiments, socio-psychological justice research has found typical regularities and a surprising symmetry in respect of what is felt to be just. Thus, there is in fact something akin to a sense of justice, which functions as a practical and reliable means of judgement. In everyday interpersonal relations, we apparently find it easy to say spontaneously and without long hesitation what is just and what is not. Yet how a just society should look like is controversial and contradictory. Rawls' world exists only in the minds of philosophers and intellectuals, whereas ordinary people have no uniform notion of what form an equitable system would take. Justice here is localized, context-dependent and relative. Trivial at first glance, these results of empirical research are not without consequences. If modern political philosophy is responsible not only for what ought to be (a normative project), but also for ensuring that what ought to be must imply that it can be (its realization), then this argues in favour of Walzer rather than Rawls: justice as a complex balance in a complex society.

#### **4. Social justice today**

Although anathema to the modern age, the role of fairness is never independent of the political and cultural consciousness of a specific society. The meaning and importance of justice and the way it is perceived in an everyday setting and in intellectual thought can only be revealed by focusing on a particular period



in time. Even the notion of justice is subject to change. In good times, for example in the 1980s, in which an aesthetic code held the social consciousness prisoner, the subtle contrasts of different lifestyles prevailed. Starting-points for fairness in this context were, at most, novel ideas on equality of risk and the justice of experience. It is therefore no surprise that the gloomy predictions of the most loyal proponents of justice, with their warnings about the impoverishment of a large segment of society, fall on deaf ears, seem out of date and do not disturb for long the postmodern fascination of pluralistic differences and the interplay of distinctions and disparities. In difficult times, for example those that arrived in the 1990s, an ethical code has a strong impact on social consciousness, and the scene changes. The drama of social inequality in the form of a status-oriented and multicultural class society is now in the centre of interest. Although this wins new followers for the notion of justice, its high priests are not automatically rehabilitated. Old and new problems are intermingled in such a way that the contours of the emerging picture remain fluid. The agenda of social justice seems to have become completely "post-postmodern": on the one hand, there is the return of problems thought to have been overcome, such as unemployment, ethnicity, nationalism, fundamentalism and war; on the other, new issues have arisen, such as caring for the surplus reserve army of the working world and changing ideas about democracy and civil society, as well as multiculturalism. Nothing is as clear as it was in the good old modern age, when the social question was the problem and social democracy, the welfare state and social justice the ready-made solution. New problems of fairness, requiring thorough analysis, have emerged between the bottom line, the baseline of peace and civility, on the one hand, and the blurred upper vanishing point of the good life on the other.

In such an uncertain and, as such, unclear situation, one is always grateful to be able to call upon the high judge of social problems, the sciences. Casting a glance into the workshop of philosophy and the social sciences, we discover analogous situations. Just as society seems diversified, complex and pluralistic, so does the discourse on justice. To the extent that there is a theory of justice, it is appropriate for the good old modern age, but not for the "post-post-modern" situation. Hence, social justice today is a broad field. But that is no reason to despair. Perhaps it is naive to assume that all one has to do is simply to pick out any theory of justice from the arsenal of the sciences to solve society's burning problems. Our cursory outline at least provides a few ideas and proposals for deciding what is on the agenda of social justice today.

The discussion of fairness focuses on four areas. It should come as no surprise that social justice has become more complex and now includes ecological justice and the question of the environment, social justice and the issue of

community, political justice and democracy, and cultural justice and the question of citizenship and multiculturalism. By no means new, the issue of the environment has been a topical one since Meadows' "limits of growth" at the latest. But it was only when, following in the footsteps of the Third World, the former communist bloc likewise set out upon the stony path to modernization that it became clear that the western style of life can no longer serve as a model. Steady economic growth as a way of solving global and local redistribution problems – the pie from which everyone gets a portion, even if the slices are not the same size – and consumerism as a guaranteed market for obsolete goods inevitably lead to environmental collapse. One need only take the example of the spread of automobiles throughout China – an ecological nightmare. Even if it is not possible to set definitively the absolute contamination limits of "spaceship earth", maximum tolerances for energy consumption, pollutant emissions, automotive traffic and waste production worldwide can be determined and would need to take on a "moral" value, compliance with which would then have to be enforced. That might sound like ecological utopia, but just as respect for human rights has become an important, albeit repeatedly compromised criterion for international relations, in order to control how people treat each other, in the same way it should be possible to sanction how we treat nature. The latest magic formula is "sustainable development", a notion which could become the categorical imperative of the future. A new synthesis between economy and ecology, sustainable development calls for living on the interest and not spending nature's capital, presupposes a new debate about affluence and consumption and implies, to put it simply, that above all the western world must be prepared to reduce production and consumption. For the moment, this is a normative postulate, and ecological economics and the social sciences will have to develop models that give life and substance to ecological justice.

In the past, social justice was invariably measured as a function of the growth of the welfare state. One might summarize the development by saying "We wanted social justice and got the welfare state". The welfare state may well meet with the same fate as Keynes' idea of global regulation and management by the state. The state was able to stimulate the economy through investments as long as the private sector did not grasp the rules of the game of an anti-cyclical fiscal policy. But once the underlying monetary illusion was understood, the trick quickly lost all effect. This might also happen with the welfare state. Created as a response to the vicissitudes of life, a kind of insurance for the needy who cannot fall back upon their family, the welfare state has long ago come to be a part of people's plans and lives. Instead of supporting the needy, the welfare state promotes temporary lifestyles. For example, unemployment benefits and welfare aid are used to raise children, complete one's doctoral thesis or simply serve as a break from the world of



work. Moreover, certain social groups and lifestyles are no longer able to do without the assistance of the state: this includes single mothers, unmarried couples that are living together but are officially living separately because of the social benefits, and persons in early retirement. The discussion on so-called welfare abuse overlooks the nature of society's transformation into a far-reaching, all-inclusive welfare state (Forsthoff), as though the growth in expenditure could be decisively pruned back through a stricter bureaucratic control of undue payments. If this leads to the "injustice of justice" (Rüthers), then the real burning question must be the following: how future society intends to deal with the relation between what is work and what is not. Given growing technological and structural unemployment, the issue of ensuring a minimum level of welfare is posed again and must take the status of citizenship as its point of departure. If this is to be the inevitable consequence of the "crisis of working society", then perhaps younger people who without any inhibitions avail themselves of their "right" to social security benefits have recognized the signs of the times better than those who criticize abuse. Then, the "reform of the welfare state" would not concern whether to increase social security benefits or to curtail them, but what form an equitable allocation of the fruits by the state – that second-most important redistribution mechanism after the market – would take.

Political justice has always been and will continue to be measured on the basis of the criteria of democracy and the participation of citizens in public life. The British sociologist T. H. Marshall found a succinct way of describing the historical experience of western societies when he postulated that citizens enjoyed civil rights (equality before the law), political rights (the right to vote) and social rights (the welfare state). Today, political and cultural aspects of citizenship are being put to a difficult test. If the communitarians are correct, then disillusionment with the state and political parties can only be overcome through a greater public and political commitment, which strengthens civil society as a yardstick of democratization and creates post-traditional community bonds. Active rather than passive citizenship might be able to relieve the state apparatus of political and social tasks and raise the political identity and consciousness of citizens. Admittedly, that is not everyone's cup of tea, and it presupposes above all a new understanding of the public and private spheres, which should at least be rendered easier by the reduced volume of gainful employment. The unacknowledged model for these republican virtues are social movements and mass-movement parties that promise to meet a multitude of needs, whether self-fulfilment, political commitment, community or the search for cultural meaning.

Cultural justice, the cultural aspect of citizenship, takes on greater importance in multiethnic societies. In the wake of the European Union, migration and immigration, the experiences of one's own identity and culture and those of others must be digested and become part of civic education. "A country without foreigners is like a country without friends" says graffiti on the wall of a primary school in the Berlin neighbourhood of Kreuzberg. If "multi-kulti" as we say in Germany is to become the happy, carefree vision its proponents see in it (Leggewie) and is not to lead to tribal fundamentalism or ethnic purification, it would seem that a "politics of recognition" (Taylor 1993) is urgently needed that guarantees the rights and distinctiveness of ethnic and regional groups. Multicultural ethics of tolerance and acceptance of contradictions will only develop if economic, political, social and cultural integration succeeds.

For the time being, this post-postmodern agenda for social justice remains a compositum mixtum of empirical developments and normative demands and is still a long way off. But it points the way to the development of a new understanding of fairness. A self-critical study of justice, a "justice of justice", will have to analyse this new concept further. Sociology will need to identify where and to what extent this new understanding has already taken root.

Written off in the 1980s, social justice in our fin de siècle again finds itself in the limelight. *De te fabula narratur*.

*Translation: John Bisk*

## REFERENCES

- Brumlik, Micha und Hauke Brunkhorst (eds.) (1993), *Gemeinschaft und Gerechtigkeit*, Frankfurt/M.: Fischer.
- Durkheim, Emile (1991), *Physik der Sitten und des Rechts*, Frankfurt/M.: Suhrkamp.
- Elster, Jon (1992), *Local Justice. How institutions allocate scarce goods and necessary burdens*, New York: Cambridge University Press.
- Frankenberg, Günter (ed.) (1994), *Auf der Suche nach der gerechten Gesellschaft*, Frankfurt/M.: Fischer.
- Honneth, Axel (ed.) (1993), *Kommunitarismus*, Frankfurt/M.; New York: Campus.
- Kern, Lucian und Hans-Peter Müller (eds.) (1987), *Gerechtigkeit. Diskurs oder Markt?* Opladen: Westdeutscher Verlag.
- Kluegel, James R.; David S. Mason and Bernd Wegener (eds.) (1995), *Social Justice and Social Change*, New York: Walter de Gruyter.
- Koller, Peter (1987), *Neue Theorien des Sozialkontrakts*, Berlin: Duncker und Humblot.
- Miller, David and Michael Walzer (eds.) (1995), *Pluralism, Justice and Equality*, Oxford: Oxford University Press.
- Montada, Leo (ed.) (1994), *Arbeitslosigkeit und soziale Gerechtigkeit*, Frankfurt/M.; New York: Campus.

- Mulhall, Steven and Adam Swift (eds.) (1993), *Liberals and Communitarians*, Oxford: Blackwell.
- Müller, Hans-Peter (1995), Abschied von der Klassengesellschaft?, in: C. Görg (ed.), *Gesellschaft im Übergang*, Darmstadt: Wiss. Buchgesellschaft, 120–140.
- Müller, Hans-Peter und Bernd Wegener (eds.) (1995), *Soziale Ungleichheit und soziale Gerechtigkeit*, Opladen: Leske und Budrich.
- Noll, Heinz-Herbert (1992), Zur Legitimität sozialer Ungleichheit in Deutschland, in: P. Mohler und W. Bandilla (eds.), *Blickpunkt Gesellschaft 2*, Opladen: Westdeutscher Verlag, 1–20.
- Rawls, John (1979, English 1971), *Eine Theorie der Gerechtigkeit*, Frankfurt/M.: Suhrkamp.
- Rawls, John (1992), Die Idee des politischen Liberalismus, W. Hirsch (ed.), Frankfurt/M.: Suhrkamp.
- Taylor, Charles (1993), *Multikulturalismus und die Politik der Anerkennung*, Frankfurt/M.: Fischer.
- Walzer, Michael (1992), *Sphären der Gerechtigkeit. Ein Plädoyer für Pluralität und Gleichheit*, Frankfurt/M.; New York: Campus.
- Walzer, Michael (1994), *Thick and Thin. Moral Argument at Home and Abroad*, Notre Dame: University of Notre Dame Press.
- Zahlmann, Christel (ed.) (1992), *Kommunitarismus in der Diskussion*, Berlin: Rotbuch Verlag.

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