

*Justice and Equality:
A Political Dilemma?
Pascal, Plato, Marx*

It is for me a great honor to be delivering the Public Lecture of the Conference on “Spheres of Justice”, organized by the Mahanirban Calcutta research Group. And it is also very moving for me to return to Kolkata – which was still called Calcutta when I came first – and more generally to India, after a long time, which has seen considerable changes here and in the world, but has not altered friendships. I want to express my gratitude to Professors Subhas Ranjan Chakraborty, Ranabir Samaddar, Paula Banerjee, all their colleagues and collaborators, for inviting me and offering me this superb reception. And I want to extend special thanks to Ishita Dey whose assistance today made it possible for me to be ready with my text just in time.

The title of my presentation should not be misleading: I will certainly not defend the idea that we should chose between the values designated by the names “justice” and “equality” which to me are inseparable (in this sense I gladly inscribe myself in a long tradition of republican and democratic thinkers who proclaimed their inseparability)¹. But I want to

draw the attention to the fact that their articulation remains theoretically and practically problematic, and the tighter the relationship we establish among them, which culminates in a definition of each term through the mediation of the other, the more this becomes the case. I want also to suggest that inherent in this conceptual riddle is a methodological question which is not deprived of contemporary relevance, even if it may appear rather academic in its formulation, namely which point of view should have primacy: *moral philosophy* (to which the idea of justice remains traditionally and dominantly attached) or *political philosophy* (whose modern language has been crucially framed around the claim of equality among citizens, albeit in a typical association with the claim of liberty, as we will have to remember). This is where the form of a dilemma could possibly emerge. Interestingly, the roles in this dilemma are not distributed in advance. This is especially the case when we bring in considerations of social structure, social hierarchies, and social welfare. It can appear that considerations of social justice and injustice are much needed, not only to provide the moral background on which political institutions and procedures acquire their political meaning, but to actually force the political to move from a purely formal to a substantial and practical definition. It can also appear that around the issue of social equality - equality among groups in the broad sense and not only individuals - the typical conflicts between opposite conceptions of justice become inescapable, which means that justice appears now as a fully political and not only a moral issue.

The idea of the political thus becomes at the same time intensified and complicated, even destabilized, by any deep investigation of the tensions, choices, and antinomies involved in the association of justice with equality. It has to take into account its internal other, of which perhaps the “moral” issues are only a symptom and an index, which together with several contemporary philosophers I suggest to call the “impolitical” (rather than unpolitical) side of politics.² I will inscribe my tentative remarks in this perspective tonight.

A preliminary remark, which I am not going to develop for want of time, also because it will be illustrated in the continuation, but which I believe is crucial, is the following: each of the concepts with which we are dealing here (justice, equality, but also all the correlative notions, such as order, rights, power, freedom, society or community) is profoundly equivocal, that is constantly shifting between different definitions which are not arbitrary, but reflect practical necessities and constraints, for which there is no final procedure of simplification, although there can and must be decisions of ordering and selecting.³ Elaborating a little on the title of a remarkable essay by Ranabir Samaddar from which I will draw much of my inspiration tonight, this equivocity brings our attention to the fact that there is not only a “game of justice”, but, as he would show himself indeed, there are several competing “language games of justice”, heterogeneous but interfering.⁴ And behind the multiplicity and the tension of the

language games, there is the fact that “justice” and “equality” are irrevocably and essentially “contested concepts”, to borrow an expression from W. B. Gallie that Emmanuel Renault recalled at the beginning of his recent and important book on *L’expérience de l’injustice*.⁵ Not only this conflictual character which is built in the very definition of the notions at stake here gives them a polemical character, producing a feedback effect of politics within its own understanding, and not only are we therefore permanently confronted with the opposition of antagonistic “definitions” of justice and equality, none of which has the capacity to impose itself in an absolute manner from a logical, moral or political point of view (which means that we are bound to make choices, hold a “partisan” discourse - and more so if we seek universality and generality), but that there is a more disturbing effect : although we are not able to *reconcile* all the different points of view concerning justice and equality (because they are in fact incompatible and express irreconcilable claims), also we are not able to *eliminate* any of them, we must constantly face the return of the repressed definitions from within our chosen point of view. This “double bind” situation could be illustrated by every classical “theory of justice” or “theory of equality”. I take it to be a crucial aspect of any *critical* discourse on justice and equality, moral and political conceptualization, not to ignore this discursive constraint, but on the contrary to consciously acknowledge it and elaborate from it.

In the following lecture, which has mainly a philosophical character, I will recall with the help of some classical references what I consider to be three open speculative questions, which have been dominating discussions about justice over the centuries and keep dominating them today, without simple pre-established answers. They concern the relationships of *justice and law*, *justice and subjectivity*, *justice and conflict*. I hope that this way of proceeding, by means of texts and trying to connect their reading with some contemporary debates, will not appear as an academic display of erudition or a dull chapter in the history of ideas. I leave it to you to decide if it is still worth reading Plato, Pascal, and some others.

Before anything else I have to acknowledge here that the references I am using are entirely “western”. I suspect indeed that other references could and should be given as well. This might produce significant changes in the way in which we draw the guiding lines of our discussions on the moral and political issues, adding to our sense of alternatives and to our possibilities of analytical distinctions. Hopefully this will become more and more the case in a near future, through a reciprocal learning process (or becoming reciprocal, therefore egalitarian in an important sense, of the learning process). I am not particularly proud of my own limitations in this respect, but I offer my precaution not to make assertions about what in fact I know only superficially, as a simple proof of honesty.

My first reference, concerning the relationship of justice and law, I draw from a famous albeit enigmatic phrase in Pascal: “Et ainsi ne pouvant faire que ce qui est juste fût fort, on a fait que ce qui est fort fût juste” (proving impossible to give strength – or power – to justice, it was resolved to confer justice upon force – or power -, or to make the strong just).⁶ This is, as often, a provocative formulation, whose full understanding depends on the reconstruction of the complete apologetic project of Pascal, but which has also a specific intention of its own. It certainly encompasses a reflection on the legacies of Augustine, Machiavelli, and Hobbes. It is decidedly anti-Platonician. In fact there are two ways of understanding it, one which I call weak in the logical sense (which however is favored by many critical theorists and particularly Marxists), the other which I call strong, which I find much more relevant for our debates, but which poses more difficult problems.⁷

The weak understanding is something like this: we live in a world, which is both a world of injustices and of appearances, therefore a world of inverted values with respect to the authentic morality (probably inaccessible to human actions, if they are not inspired by God’s grace). In this world, following the ancient motto, what holds true is *summum ius, summa injuria*. This means that nowhere the claim of justice or the exigency of a just order of things can become realized, because it lacks the force, or it finds before itself powerful forces as an obstacle which prevent it from winning a victory, or even which have the capacity to reverse it and to appropriate its language.

Conversely, no force or power, however materially overwhelming, can remain dominant without “legitimacy”, without “justifying” itself, appearing as the incarnation of justice in the eyes of the dominated and perhaps in its own eyes. Therefore not only it has to claim that it embodies and establishes justice, but it has to define justice in such terms as to appear as its instrument and embodiment. In modern terms such a reversal of the just order of justice and force can be called false consciousness or an ideology covering domination.⁸ Let us note in passing that, from a critical point of view, it is always useful to have a powerfully rhetorical – therefore short and brutal – expression of this essential aspect of the logic of domination.

But this remains a weak sense compared with another one, which is also more complicated. I understand it like this. One: to have justice as such endowed with force or power, or the just being also the strong (politically, socially, ideologically - Bruno Clément would add: rhetorically) represents exactly “the impossible”, which we can also understand as: it is the element of impossibility which will never be realized as such in the realm of politics, or in relations of power, but will also keep haunting them, will not become eliminated from them. Second, or conversely: to have what Pascal calls “force” - probably not so much anarchic or brutal force as a Hobbesian sovereign “monopoly of legitimate violence”, an institutionalized system of political power, therefore the Law and the legal State - be or become “just”,

therefore establish or impose justice among men, within society, this is possible, or this is *the possible*. In other terms, this is the political, understood as a challenge, a practical project, and also a risk. So the formula suggests that the implementation of justice (which may involve its correct definition or redefinition) cannot be thought as deriving purely from its own idea, but can be envisaged, and attempted, through the intermediary of its own opposite, of what immediately contradicts it, namely power in the broadest sense (perhaps we should say in a general manner: empowerment). But this attempt is by its very nature risky; it is in a sense a *wager*, and a wager in which the odds are perhaps overwhelmingly against the initial project. To this description of a “realistic” understanding of Pascal’s phrase, which is also more dialectical, we can immediately associate two classical questions, which form its correlatives. The first question concerns *the negative side* of every endeavor at seeking justice by means of strength, or empowerment: whatever the nature of this strength, its means, forms of organization, etc., the “just” who seeks justice for himself and for others, or the “victim” of injustice who seek redress, restoration of justice, and the establishment of a just order, therefore the destruction of the causes of injustice and the neutralization of its doers, must all mobilize force, that is, must wage force against force (even the “force of weakness”). But which kind of force, internal and external, can become the “impossible” force of justice? Which does not, sooner or later, reproduce the injustice it attacks, or does not create



symmetrically another injustice? Which force of justice does remain “just”?

The second question is best understood in Hobbesian terms (which keep governing the construction of our States and legal systems, especially inasmuch as they are inseparable from a judiciary institution): how can force become “just”, or better said, an institutionalization of justice? This is, as we know, the problem of the *institution of Law*. Institutionalizing Justice or embodying it in institutions (even with limitations, risks, and contradictions) is making it Law. In a tradition that runs at least from Hobbes to Kelsen and which is crucial for the establishment of the Republican State also called “the rule of Law”, Law is best defined in terms of a (transcendental) synthesis of force and justice. The Pascalian formula seems to suggest that the synthesis can become effective only if it begins on the side of power (e.g. as a *transformation* of the institution of power, or its *relations*), but also that the life and the history of power that organizes itself in the form of Law (a rule of Law, a legal system, a constitution) is governed by a dialectics of relationships – perhaps conflictual, why not conflictual? – with its internal principle of legitimacy, that is justice. This may become pushed to the idea that the internal or hidden weak point of any institution of force is its principle of legitimacy, its pretension to realize and embody justice. And the stronger the weaker.

To this Pascalian problematic which is only evoked here, but which I insist is ineliminable from our debates on justice as a political issue, many parallel or antithetic discourses could be compared over time. I will just point at two of them.

Let us first remember Machiavelli, particularly one aspect of his thought which has been particularly influential on contemporary neo-republican and democratic theories which in the post-68 era combined a post-totalitarian reflection on the immanent perversions of revolutionary conquests of power and, more positively, a phenomenology of “new social movements”, which aimed not so much at “conquering power” than democratizing existing institutions or pushing and coercing the State towards its own democratization (thus in a sense retrieving a fundamental tradition of civic mobilizations and movements for civil rights). I am particularly thinking of Hannah Arendt, Claude Lefort, and Jacques Rancière. Machiavelli’s proposition, as we remember, expressed in the first chapters of the “Discourses on Livy”, states that in class societies (he speaks of the “humors” among which the wealth, prestige and power are unequally distributed in the Republics, ancient or modern, Rome and Florence being taken as examples), the objective of the dominant classes is to keep their power and increase it continuously, therefore oppress the dominated mass, but the objective of the mass is simply not to be dominated: it is not to conquer power or reverse the relationship in a symmetric manner, to become dominant in turn, but to *neutralize* the dominant will to power. The

consequences of such *negative* representation of the political quest for justice, whose relative success in the history of Republics Machiavelli would credit for their prosperity and stability, are far reaching as we know, perhaps more than ever in today's politics.

Another discourse which I believe can be fruitfully compared with Pascal's question – I am not saying identified – is to be found in Ranabir Samaddar's essay on the "Game of Justice" to which I have already alluded, which has also been mentioned in this conference previously (by Francisco Naishtat, for reasons which have nothing to do with praising our host Prof. Samaddar would derive from his reading of Benjamin and Derrida a general formulation of justice as *in excess over law* (and as such *the excess over law*), both in the sense that it demands more than legal changes or settlements (particularly it demands practices, modes of life), and that it cannot, accordingly, become expressed in legal terms and "administered" as an object or a domain of conflictual interests in need of a mediation by the legal and especially the judiciary machine. "The legal world produces the subject of justice, yet the justice-seeking subject while caught up in the justice game seeks more than a legal avenue. Inasmuch as justice is located in law yet exceeds law, the justice-seeking subject too combines in its subject-hood the reliance on law yet the dialogic capacity to look for other avenues of justice. The political complementarities and oppositions are reproduced in the world of justice."⁹ But that idea, which I share and find

illuminating, can itself become interpreted and applied in two different ways, or with two unequal accents. Either it can be interpreted as saying (and perhaps this is truest to the Derridian inspiration) that the institution of justice will for ever remain beyond the reach of legal structures, especially constitutional apparatuses which need to retranslate the claims of seeking justice subjects into the pre-established language of the law, involving in particular an individualistic and utilitarian a priori definition of the person, in order to provide what they perceive as fair settlements of conflicts – a procedure we know extends a “veil of ignorance” on much of the popular ways of life and actual practices, if it does not immediately deem them unacceptable. So the Law and the legal (or purely legal) procedures will appear defective if not counterproductive from the point of view of justice. But it can also be interpreted in a more dialectical way, whereby justice appears as the *internal lacuna*, or the void, if you like, of Law and the legal system seen as a historical institution moving itself on a contingent path toward democratization or the constitutionalization of rights: therefore it is the name – to be associated indeed with practices, vindications, protests, claims – of the very insufficiency or law, possibly its contradictory character both from the point of view of universality and from the point of view of equity, that is the care of singular persons. This in turn produces uneasiness in the strong sense and keeps law from the possibility of appearing perfect or achieved even in its basic principles. It seems to me that, in his presentation of

this internal dialectics, which focuses in a very detailed manner on the conflict between antagonistic ways of “taking care of justice” in a post-colonial context, Professor Samaddar in fact already insists on the intrinsic link between justice and equality, or justice, equality and capability (which is a particularly concrete form of liberty), inasmuch as he indicates that the essential difference between the legal administration of justice and the demands aiming at “minimal justice” on the side of the powerless resides in the opposition between a unilateral and a reciprocal (or “dialogic”) kind of game. Reciprocity of obligations, therefore the power to obtain reciprocity in the relationship between a State apparatus and the language of ordinary citizens is certainly a very strong political concept of equality based on social experiences.

Let me now evoke, perhaps in a more rapid manner, a second reference, which I have tried not to bring in immediately but which as everybody knows is inevitable. This is the Platonician reference. In a sense every theory of justice, in the Western tradition at least, has always been a rewriting of Plato’s *Republic*, or perhaps I should say rather: any theory of justice that is not a rewriting of the *Republic*, or that does not look for an alternate formulation of the questions it has raised, remains incomplete. This was not easily recognized at a time, still recent, when the history of political philosophy was dominated on one side by historicist and evolutionist representations which attached Plato’s philosophy to

a universe of the Greek *polis* supposedly archaic, and even to a reactionary position within this archaic system of references, and by axiomatic reconstructions of the issue of justice which simultaneously took for granted the association of justice and equality (that is, ruled out the idea that justice could reside in the absolute negation of egalitarianism) and immediately subjected the issue of equality to individualistic or utilitarian premises. This is clearly no longer the case today. I said that the Platonic discourse on justice is still towering over Western or Western oriented debates in political philosophy, but as we know there is something disturbing and unclear in this respect, which has to do with the allegedly “oriental” elements in Plato’s thought, ranging from his defense of the idea of caste in general to the kind of eschatology which forms an intrinsic part of his reflection on the nature of the relationship between individual and group, and between theory and practice. But perhaps also this testifies for the completely inadequate representations of the boundaries and supposed incompatibilities between East and West on which we live, which themselves are a very Western idea. I leave this question open for another discussion perhaps in another place.

Now there are, as we know, different controversial but also exciting aspects in Plato’s philosophy which have strongly oriented the discussion on justice – so that in many respects, later philosophers have had to propose *variations* or *transpositions* or *replies* to Plato, from Aristotle to

Rousseau, from Hegel to Habermas. I will recall three of them, which are obvious, and I will suggest that the one that is most important for us here is the fourth or *additional* one, the “supplement” if you like, which in a sense ties them all together.

The first reason for Plato’s lasting importance is indeed his *radical critique of justice as equality* (which in modern times became the obsession of some who wanted to defend an alternative idea of justice as equality, or equality as the absolute prerequisite of justice, so that they had to refute Plato’s catastrophic vision of the effects of equality, and his understanding of the content of this term - the most interesting among them being those who, like Rousseau again, tried to propose what we might call a Platonic reversal of Plato on this point. But this is an infinite chain, since we should not forget that Plato expressed his own critique already in terms of a refutation: not only a refutation of the “dominant” ideas or ideology of the “democratic” regime of his own city, which he held responsible for the worst catastrophes and injustices, to begin with, the trial against Socrates and philosophy; but a refutation of the contemporary discourse of the Sophists which, in many respects, was already a complete justification of *equaliberty* as a civic principle from a universalistic point of view. Plato’s constant aim, as we see in the developments of Books VIII and IX of the *Republic*, was to identify the position of those Sophists who, in the name of nature (*phusis*), advocated tyranny, with that of others who, in the name of convention or the law (*nomos*),

advocated *isonomia*, i.e. equal liberty, which he translates as “democracy”, in order to show that the two regimes are in fact one and the same, or continuously passing into one another, since their principle is the same: it is the absolutization of individual desire and the equivalence of all opinions or tastes. According to Plato, it is before equality destroys justice, that justice has to therefore establish its rule on inequality... except that – as testified by the importance and the politically subversive function of dialogue - it should be *a kind of inequality emerging through the mediation of equality itself*, or recognized from inside equality, therefore associated with *merit* and not with *custom or status*: a disturbing idea which he pushes to the extreme consequences against many of the “inequalitarian” convictions of his own society (as particularly clear in his treatment of the question of the community among men and women in the lass of “wardens” (Book V), which has considerably puzzled readers.¹⁰

The second reason for Plato’s importance is his radical “holism”, or anti-individualism, in the sense of continuously asserting the primacy of the whole over its elements or parts. As we know this axiom leads to defining justice, in first instance, as an harmonious relationship among the “classes” (or casts, since they should become hereditary) which compose the society and, mirroring this structure which is said to be exhibited in “big letters” (or capital letters) by the political institutions of the (ideal) city, a corresponding harmonious relationship

between the constitutive “parts” of the individual soul (which, with the help of Freud who has largely rehabilitated this model for the understanding of the personality in Modern times, we could also call psychic agencies or instances). According to Plato there are three such agencies within the human soul: a rational agency, a desiring agency, and in the “middle”, acting as an intermediary or a bilateral mediator, a “passionate” agency or a capacity to throw one’s will after a certain object and react to the other individual’s behavior. All this is extremely important among other reasons because it amounts to thinking Justice in terms of *order* and conversely injustice in terms of *disorder* – also by means of cosmological and medical analogies.¹¹ Not only Plato gives a definition of order that is general enough to encompass many possible variations and become translated into various institutional patterns, but he provides three statements from which it will prove extremely difficult to depart:

- 1) The relationship between justice and injustice is one of order versus disorder, therefore a critique of what presents itself as order can only escape the reproach of bringing in disorder by demonstrating its capacity to bring about a superior order, or a genuine order, or an order that is not only apparent but real. All of Hegel and some of Marx are in there already...
- 2) What makes injustice unacceptable and unbearable is not - or not only – the suffering that it causes, but the disorder that it produces; or if you like the suffering itself is an aspect of the disorder; and as a consequence it is unthinkable that a claim of justice, a

demand of compensation and redress for injustice or a “revolution” against injustice take the form of a demand for *disorder* as such. Disorder is what has to be avoided at all costs, or ultimately. But indeed we may admit that the definition of what will be deemed disorder, or “anarchy”, is historically and politically a volatile matter, completely subjected to political debate and choice: this is indeed where Plato’s own antidemocratic ideology enters into play, and even with hysteric tones in some passages.¹² This leads to:

3) A criterion is provided repeatedly in the text: the criterion of *conflict*, or better-said *civil war*. Civil war; which Plato - following a formulation concerning “dissent” (*stasis*) which is crucial for the understanding of Greek politics and beyond – would describe as the emergence of “two nations within the nation”, “two cities within the city”, fighting each other as if they were enemies, and perhaps worse than that, destroying the possibility for the whole, or the common interest, or the common good, to prevail in the end.¹³ Civil war in that sense is perhaps not injustice as such, but it derives immediately from it, and reproduces it indefinitely, therefore it imposes the counterpart: *consensus* at some basic or transcendental level is the other name of justice. No consensus without justice, no justice without consensus, or the possibility of the consensus. Arendt, who was no great friend of Plato, fully endorses this thesis.¹⁴ And Habermas with his notion of procedural justice based on the primacy of the dialogic function is retrieving the same idea in a modern manner, adapted to the conceptualization of the liberal public sphere. In

other terms the idea of a realization of justice through conflict is perhaps not unacceptable, it is even perhaps inevitable, realistic and moral at the same time, but the idea of *justice as conflict* (attributed to Heraclitus)¹⁵ is absurd, it is nihilistic. Who escapes that? Do we escape that? In a minute I will switch to a discourse of social conflict, referring in particular to Marx, which may invert that position, but will have therefore to entirely change at a meta-theoretical level the terms of the relationships between whole, parts, conflict, order and disorder, and not simply refute the (antidemocratic) political consequences derived by Plato from his own premises.

The third reason for Plato's importance lies in his "idealism", or literally speaking in his definition of justice as an *Idea*. We know that what characterizes the idea (or "form": *eidōs*) in Plato is that it forms a model of reality *more real than reality* itself (or after which only reality can be measured, i.e. understood and produced, or transformed). In other terms Justice is *transcendent* and it is this transcendence that commands a certain relationship of theory and practice: a logical anteriority of theory, a subordination of practice and above all – again – a relationship of inequality: practice can *approximate* theory, or the model, but it can never replace it, or become indiscernible from it, or become fully adequate to it. This ontological relationship of immanence versus transcendence, finitude versus infinity, conditioned or conditional versus unconditional, has been almost entirely removed from

Modern epistemology and technology, not to speak of the implicit ontology of the mercantile and consumption society, which is officially based on the exact reversal of this thesis. But on the contrary it is almost inexpugnable from politics, and I would gladly say revolutionary politics, in the broad sense, i.e. in the sense of “changing the word”, the situation, the conditions or the structures or the dispositions embodying injustice, be they personal or impersonal. Sir Karl Popper, after all, was quite right on that point.¹⁶ Reformists may ignore the notion of the transcendence of the model that practice approximates and only approximates, but at the perilous cost of admitting at some point that they “change nothing”, or nothing that matters, or nothing that is not reversible. Revolutionaries in the broad sense can hardly become absolute empiricist-materialists-pragmatists or anti-Platonists in that sense, the famous Marxian 11th *Thesis on Feuerbach* notwithstanding (“Philosophers so long have interpreted the world in various ways, now it is a question of changing it”), because in order to change - and to change for justice - you need a model, even minimal. Perhaps this is one of the reasons – I will return to this – why Marx tried to avoid the term “justice” itself, but he certainly could not completely avoid the idea: communism is an idea, and it is even in a sense an idea of order.¹⁷ If you want to escape this ontological constraint, you have to suppose that justice is not an idea for the mind to understand, but a necessary tendency within history, or the empirical development itself. You fall from Plato into Hegel, at

the risk of making practice itself a superfluous fiction. As we know Marx could never resign himself to such a teleological absolutism, and for good reasons: he remained an *activist*, in both meanings of the term, and therefore an idealist.

An other alternative, philosophically speaking, lies in the performative gesture which simultaneously refers to the *distance* that has to be filled between the model and the effort – moral and/or political, in short practical – to approximate its order, fulfill the exigencies of its internal justice, and *denies* the possibility of identifying the content, the representational or ontological substance of the model in a *particular* way (be it even called the universal as such), therefore suggesting that the movement toward the model is simultaneously an effort to realize it and a questioning of its inadequate or mystifying representations. As we know, in fact, this gesture has also its roots in Plato – which shows the extent to which, as I said, he is still awaiting our critiques and objections from afar - when he redoubles the notion of justice as harmonious order with an Idea of the Good in itself, or the True Good, which lies “beyond” Justice, therefore beyond any knowledge of its essence. Perhaps there is something of that in Marx, at least negatively, whenever he refuses to define communism or the end of history, except in negative terms: “classless society”. Above all this is the kind of gesture that we find in Derrida (in *Force of Law*, or *Specters of Marx*), who in my opinion derives it from a radical interpretation of the Kantian categorical imperative as unconditional responsibility

towards a Justice that is always *other* than all its finite (“constructed”, “constituted”) representations. If we had time, we might now return to Plato and read him from that point of view. Plato’s model of social justice is an amazing combination of revolutionary utopia and conservative elitism or aristocratism, both converging in his critique of democracy (practically unrivalled and therefore continuously repeated until our times, it must be said). In a sense he is the first and the arch “revolutionary conservative”.¹⁸ But there is an element in Plato, which reopens the question of the model, and makes it an *infinite question* so to speak, therefore keeps inhabiting all the successive discussions of the structure or systematicity of justice.

In spite of all that, which is certainly crucial, I believe that the reason why our reflection on justice and equality – however polemically, conflictually – permanently owes a question to Plato, remains to be said. It remains to be added to the preceding indications, for which as I suggested earlier it forms the binding element. As I said, it concerns subjectivity, or the implication of the subject within the structure (or model) of justice, or better said the impossibility to isolate the understanding of justice, its definition or essence, from the understanding of a *process of subjectivation* that forms an intrinsic part and a condition for the realization of justice itself. I borrow a modern, or even a post-modern terminology which I think is perfectly acceptable here, because precisely Plato is pre-modern, i.e. there is no idea in his philosophy of a *given subject*, as an originary reference

or an invariant element, either as a living individual or as a point of moral responsibility. Which is not to say that there is no idea of subjectivity, either as interiority or reflection or as power of “framing” the world or as center of initiative. But nothing is given: or if you like what is given is a complex system of forces, tendencies, capacities, virtualities, which have to combine one way or another, orienting their combination in one or another direction to produce a different kind of “self”.¹⁹ It is interesting to quickly compare this with the Aristotelian transformation, and I would say Aristotle’s *rationalization* of this, itself also expressed in terms of the importance of the “educational process”, or the “education for justice”, which basically takes it for granted that the various “parts” of the Soul (redefined as a “vegetative”, a “sensitive/moving” and an “intellectual” soul, which here means function or faculty) form an always already fixed “natural” hierarchy, anchored in the finality of Life). But what Aristotle (and modern Aristotelians) thinks, is that the accomplishment of the actions that are just, individually and collectively (for instance in the form of reciprocity of obligations), requires a certain disposition (*hexis*) of the individual, a certain quality or virtue²⁰, and that, conversely, this disposition should be formed, prepared, become embodied in individuality itself, so that the realization of justice becomes more likely: itself a “natural” consequence. But the just man, or the good citizen, remains an instrument, a “virtuous” voluntary instrument, of the realization of an objective order, a “just measure” (for example a just

distribution of goods) which can be defined outside his action and previous to it. Whereas in Plato we have a complete reciprocity and interdependency of the subjective and the objective: the constitution of justice is nothing else, from another point of view, than the constitution or formation or recognition of the just man, and the constitution of the just man is nothing else than – from another point of view, psychological or anthropological if you like – the emergence of the just order. None of these two aspects can exist apart from the other; can even be thought apart from the other. The subject-object relationship is a *vanishing distinction*, continuously expressed, in order to become dialectically suppressed. Which also means that to *transform the social structure* is to *transform the Human (change the Human Nature)*, and conversely, either from justice to injustice, in the sense of degeneracy, or from injustice to justice, in the sense of perfection. This is absolutely clear, and it even becomes the guiding thread for the whole exposition in the comparative discussion of the different political regimes and their corresponding “Human Type”.²¹ Now I want to make two brief remarks on this. One is: the way in which Plato has established this intrinsic correspondence between justice as social order and justice as subjectivation (starting with the famous analogy between the *big letters* in which we can read the composition of the city, or the relationship which it establishes between needs, powers, capacities, and the *smaller letters* in which we try to decipher the contradictory movements of the human soul and the meaning of

individual attitudes toward different kinds of “goods”) is closely linked with his famous doctrine of the philosopher-king, i.e. his idea that the transformation of man and society in the direction of justice depends on the highly unlikely event of a perfect fusion of power and knowledge. Power, which is the opposite of knowledge (therefore utterly undesirable for those who naturally are attracted by knowledge – the exact opposite of what we today call “experts”) would nevertheless become its attribute. What is more likely (and probably in the end inevitable) is that not only the multitude, not to say the mob, deprives the philosopher from any access to power, but, worse than that, succeeds in perverting his goals and his use of knowledge, transforming in fact the philosopher into a Sophist (or an “expert”). Here Plato is not only idealist, he is also elitist and intellectualist. But more than that, we discover – perhaps to our own surprise – that behind the obvious holism of his representation of the just social order (where every class has its hierarchical function and every individual has to be located and reproduced within a single class), there lies a deeper element of individualism. This is true at least at the top, where the fusion of power and knowledge, which marks the extreme point or form of subjectivation, on which all others are ultimately depending, becomes characterized in the form of a singular individual, separated as such from all others.

This immediately leads me to the other question that I want to ask: what I suggest is that any

theory of justice, as a *political theory* in the strong sense, has to provide an alternative for this conception, or must remain “Platonician”. But it cannot ignore the general problem, contenting itself either with definitions, rules and models of objective justice as a social order, or with moral considerations on the individual virtues, the tendencies predominant in this or that individual and most likely encouraged and heightened by education, to behave in a just or unjust manner (and let us never forget that, however structural and material a certain social order is considered, especially an order of injustice, such as capitalist exploitation, patriarchy, or colonialism, it could not exist if it were not implemented and carried on by subjects, who make themselves the instruments of its reproduction or non-reproduction, transgression and critique. It has to devise an alternative concept of subjectivation. Now this seems to have been the case with a certain conception of *action against injustice*, which simultaneously is part of the revolutionary tradition and results from its critical revision, that we commonly associate with three categories: a primacy of *practice* as opposed to the primacy of theory, a primacy of *the collective*, or the transindividual, as opposed to the primacy of the singular within the very constitution of the subject, and a primacy of *experience* as opposed to the primacy of the “model”, which means a reopening of the issue of transcendence. All this is in particular to be associated with a difficult conceptual move, which concerns the inversion of the relationship between

the concepts of *justice and injustice*, and its limits of validity. This will be my last point.

Let me now introduce my third reference. It will be a complex one, in the sense that it is not attached to a single name, but rather to a collection of names which I want to organize in the form of a critical dialogue. That is, I will present a third issue around the notion of conflict, or the articulation of *justice and conflict* – therefore in a sense equality, inasmuch as conflict aims at “equalizing” conditions but also constitutes a basic pattern of equalization itself: equalization as confrontation, agonism, antagonism. I will present it not simply as deriving from the question asked by one philosopher, but rather deriving from the rectification, or complication, of his question to which he has been progressively submitted. His name is Marx because I believe that he remains responsible for the forms in which contemporary social critique performs the crucial reversal from a primacy of justice into a primacy of *injustice* (at least epistemological, if not ontological), leading to a new understanding of *conflictual justice* as a form of political critique and not only a moral one. (I observe already in passing, to return to it later, that albeit they are inevitable and perhaps encompass a vast majority of contemporary critical discourses, therefore allow them to at least formally unite or gather representatives of many social movements in so-called “social forums”, the notions of “social critique” and “social justice” are profoundly equivocal: they tend to become either moral or

political, and this is a subject of debate in its own right, which will remain incomplete here).

Probably I should take two precautions immediately. When I say that Marx (therefore Marxian discourse, Marxian theory, Marxian activism) remains emblematic for the idea that there can be no idea or even model of justice that is not deriving from a certain *experience* of definite *forms of injustice*²², I must avoid suggesting that the idea would originate with him, and I must take into account the fact that he himself seems to have carefully avoided this vocabulary.

We have every reason to believe that the idea of injustice, not only corresponds to an age old experience, both collective and individual, but also, as a concept or a “theoretical idea”, forms something like a shadow of the elaborated definitions of “justice”. If I had time I would suggest that this hidden face, time conscious and times unconscious, specifically relates to the *sovereign element* of justice, which is profoundly associated with the notion of righting wrongs and compensating for sufferings, which is inseparable from the figure of the “arbiter”: the Sovereign as Judge and the Judge as Sovereign. This figure has always been accompanied by the repressed anxiety – or not so repressed in some cases – that the Judge himself could become supremely unjust and cruel, inflict wounds and humiliations, and embody injustice in a diabolic manner. As profoundly a rationalistic legal theorist as Hans Kelsen himself

alluded to this in his fascinating dialogue with Freud.²³ This would draw our attention to the long series of mythological and theological representations of justice as *Last Judgment*, which, in a sense, have found a secularized transposition in modern social criticism. But since we aim at identifying certain elements in Marx, there are more recent ancestors to be traced back, particularly during the period of the Renaissance and the Enlightenment. Thomas More's *Utopia* (1516) and Rousseau's *Second Discourse* "on the Origins of Inequality" (1755) are exceptionally interesting landmarks in this respect. So the move that we observe in Marx is not something derived from no precedent at all.

It is no mystery, however, that Marx himself was not very fond of the vocabulary of social justice and injustice: not to say that he depreciated it – which many Marxists after him, following what they believed to be the indications given in a famous chapter of Engels' *Anti-Dühring*, pushed to a completely one-sided attitude. There could be several reasons for that reluctant attitude of Marx. One of them may have to do with the extent to which, in his own time, the category of Justice was associated to one of his intimate adversaries, namely Proudhon, and quasi-appropriated by him.²⁴ There is a bifurcation in the Rousseauist legacy here, since Proudhon is an absolute egalitarian, claiming that *Justice, Equality* (or "mutuality", as he also calls it), and *association* are absolutely reciprocal and interchangeable notions. This is not the place to discuss Proudhon's

philosophy – more alive than ever today.²⁵ We simply remember that its egalitarianism, however radical, is perfectly compatible with some amazing *exclusions from equality*, notably in the case of the situation of women, and that it aims, not at suppressing the structural conditions of the exploitation of workers, but rather at *equalizing* the forces of workers and capitalists in their relationship, by limiting the possibilities of capitalist concentration and symmetrically, reinforcing the associations and unions of the workers. Who says this is absurd? Only it is difficult, because it requires a State sufficiently autonomous from the capitalist's corporate interests to “correct” the initial inequality or “counteract” the effects of the class domination. But this leads us back to Marx: the main reason why he does not speak of justice is probably that, for him, the forms of injustice are clearly on the side of the *effects*, depending on a more decisive structural cause or set of structural causes. So, much as justice and injustice are beyond the realm of law, the modes of production and appropriation are beyond their effects in terms of justice and injustice.

But here we must pause and invert the argument. Since for Marx there was an originary experience of injustice, which logically preceded the analysis of the structure of exploitation, or whose introduction into the analytical pattern of exploitation, evolution, and transformation, in fact commanded its critical character. In the intricacies of the enormous “theoretical machine” constructed by Marx under the title *Das Kapital*, which he also left unfinished,

therefore open to many diverse continuations, this point of introduction can be very precisely located: it is taking place on Book I, chapter VII, when the quantitative notion of the *surplus-value* (*Mehrwert*) or “increment of capital” becomes “translated” into the qualitative notion of *surplus-labor* (*Mehrarbeit*), therefore also when the “eternal” cyclical forms of the accumulation of capital uncover their hidden face: the historical forms of the coercive organization of labor and the alternate movements of proletarianization, deproletarianization, and reproletarianization of the working class. With this shift in his analysis, Marx, willingly or not, also performed a philosophical gesture, which “revolutionized”, in the proper sense, the issue of justice. And by the same token he would intensify the tension between its *moral* and its *political* aspect, which I have already signaled.

But this could become apparent, I believe, only inasmuch as a general form of Marxist critique had been transferred to *other forms* of oppression and domination. And this meant that, without losing or destroying a certain intentionality of Marx’s critique of capitalism, other social critics associated with struggles, resistances and social movements, both criticized its one-sidedness or absolutization, and extracted from his discourse a more general model (at the risk, undoubtedly, of losing some of its practical specificity).

This is a movement that in a sense has become common sense and even commonplace in

today's criticism, ranging from feminism to subaltern studies. I could quote from many different authors, but for the sake of brevity and also to pay homage to an admired colleague and militant intellectual who recently passed away, allow me to simply quote from Iris Marion Young's classical study on *Justice and the Politics of Difference*.²⁶ Criticizing what she calls the "distributive paradigm" in moral theory, but without pure and simply adopting a holistic point of view for which each group would have to "administrate" the issue of justice in terms of its internal order and division of labor, she focuses on experiences or "faces of oppression" (chap. 2), which cross the boundaries of institutions and solidarities (thus renewing in a sense with respect to injustice the gesture that we find in Plato with respect to traditional hierarchies), of which she broadly distinguishes five types: *exploitation*, *marginalization*, *powerlessness*, *cultural imperialism* (or production of stigmatized otherness through the imposition of a dominant cultural norm), *violence* (as a social practice, both physical and moral, against weaker individuals and groups). Then she proceeds to analyze the symmetric problems related, on the one side, to the *institutional character* of these forms of injustice –a point that Emmanuel Renault, after Axel Honneth, also particularly emphasizes) and, on the other side, to the *modes of insurgency*, that is, resistance turned active, collective, and political, corresponding to each of them. The conclusion that she reaches is that not only "difference", or the singularity of groups, but also the freedom of choice for each individual *within* the solidarity of her group, is an

essential component of that insurgency. She thus identifies *social equality*, not with homogeneity but with a “representation of the heterogeneity” in the public sphere (chap. 6).

What I find particularly interesting in Young’s description is that, in her phenomenology of injustice defined as “domination and oppression”, which generalizes and diversifies a Marxian concept of exploitation and alienation of labor, she is keen on stressing the fact that there are in fact always *two faces* of the processes of injustice, conceptually distinct albeit hardly separable from one another – reason for which two different terms are needed (p. 32 and sv.). They are tentatively called “oppression” in the strict sense, which relates to the discrimination that prevents some individuals from “developing and exercising one’s [= their own] capacity and expressing one’s experience”, therefore to the “institutional constraint on self-development”; and “domination”, namely the “institutional constraint on self-determination”, preventing individuals and groups from participating [effectively] in determining one’s actions and *the conditions* of one’s action” (ibid. p. 37). Whereby she seems to me to retrieve in her own way what I described more abstractly as *equaliberty* in the “insurrectional” sense, since I had insisted myself on the fact that there is no possibility to simultaneously assert in a direct and positive manner the *political identity of equality and liberty*, but only a possibility to demonstrate (and in fact experience) that their *negations* are producing simultaneous effects which

amount to emptying citizenship of its reality.²⁷ Now I would very much agree with the idea that, if oppression and domination, or the negation of equality (equal capacities, equal chances) and the negation of liberty (freedom of choice, freedom of expression, and above all political participation in an effective sense), contribute to a general and complex definition of *injustice*, the *critical definition of "justice"* – which will be also of necessity a *polemical* one, or a *conflictual* one, or will have a tendency to make the content of justice internally dependent on the development and modalities of conflict – can be dialectically expressed only as negation of the negation. This was in fact Marx's own terms towards the end of *Capital*, Book One, in the famous passage on the "expropriation of the expropriators", where he explicitly says: "this is the negation of the negation" (*Capital*, Book I, Chap. 24, section 7)..

Now I want to conclude by stressing the importance and the difficulty of three types of problems with I see associated, at a general level, with such a conflictual idea of justice:

The *first problem* is related to the articulation of negativity and subjectivity. The experience of injustice (which of necessity is a lived experience, which is not to say a purely *individual* experience: on the contrary, it must involve an essential dimension of "mutuality", sharing, identifying with others, and witnessing the unbearable in the person and the figure of the other), is a necessary condition for the

recognition of the reality and existence of institutional injustice. This is particularly important, as Young rightly insists, inasmuch as it involves the experience of the *repetition* of identical injustices, which itself testifies for their institutional or structural character, that pure moral or legal characterizations lack (“Violence is a social practice. It is a social given that everyone [= who is subjected to it] knows happens and will happen again”) (p. 62). Thus Marx was describing the *reproduction* of the conditions of exploitations, the permanent “attraction and repulsion” of the worker from the factory-system. But the recognition, on the “victim’s” standpoint, is not the analysis of the structure. I am not going here to bring in back the “epistemological break”; I am just saying that there is a problem of *how the conflict develops*, through collective sharing of experiences, confronting the structures of power but also being confronted with *heterogeneous* experiences, to pass from the experience of injustice to the project of institutional justice itself. A *scheme of conflict* and the transformation of conflict – such as the “class struggle” with its various “degrees” – seems to be required here. But this scheme does not arise from the experience itself.

This is also where, once again, the “experience of injustice” finds itself at the crossroads, between a *moral* and a *political* discourse, or rather, between two *different articulations* of the “moral” and “political” elements within critical discourse which might explain, but not validate, the fact that Marx tried to escape the dilemma by choosing a third term:

“science”, which precipitated him and even more his followers into *scientism* (from which Althusser paradoxically tried to recover through “epistemology”, or a scientific discourse in the second degree).

This first difficulty is closely related to *a second one*, which we can call in Lyotardian terms the effects of the “differend”. It is not by chance that Lyotard, when formalizing his idea of a wrong that is redoubled by the fact that it cannot become expressed in the dominant language of the Judge (or *spoken to the Judge*), the established system of Justice which becomes identified with the representation of the social interests as a whole, first referred precisely to Marx’s concept of the proletariat whose perception of *surplus-labor* is in fact “incommensurable” with the capitalist’s notion of profit or accumulation.²⁸ The word “incommensurability” is also central in Young’s phenomenology (p. 39). And it is not by chance that Spivak and others have borrowed and re-elaborated the Lyotardian notion of the *differend* in order to conceptualize the “heterogeneity” or “paradox” of a subaltern condition of oppression which expresses itself while being deprived of the instruments of collective and public expression: the language in which *consensus* in the Arendtian sense or *communicative action* in the Habermasian sense can be anticipated. This is the problem of the “alternative public sphere” and, consequently, rationality. The other side of the *differend*, namely, is the fact that what is incommensurable will be only indirectly brought to

the fore in the language of metaphor or metaphrasis. Not only conflicts about crucial issues of injustice are dissymmetric, but they are continuously repressed or pushed back into the unconscious. Or if it is not the case, they become retranslated in the language and the categories, the modes of regulation and administration of conflicts, which form the establishment of power, for example, what is today universally known as *governance*.

And *finally* this brings me back – or would bring me back – to the issues of *totality*, *totalization*, and the relationship between the “whole” and the processes of subjectivation. I will leave it for another occasion, not only because I have abused of your patience, but because I am very uncertain myself about the terms in which the question has to be renewed from Plato. I don’t want to reduce the *idea* or the *model* (or the “form”) to the minor status of a “dream” or even a “utopia” (however much I value some insurgent uses of mottoes like “I have a dream”). I can only suggest that if processes of subjectivation which represent the other dimension of justice on the side of collective and individual practices, are virtually converging towards the imagination of a “just society”, they are also bound (because inseparable of conflicts which feed them and give them meaning) to remaining indefinitely embedded in *displacements and new beginnings*, rather than recognitions, reconciliations or final revolutions. But this seemingly negative or aporetic character also means something positive, which is very important to

us: justice as emancipation from injustice, or negation of the negation, is not only an *effort*, it is also a permanent *invention*. While it is running after emancipation, it is also practically running, already in the present, after the *forms and contents*, the *institutions of justice*, which are not imposed from outside the effort (the struggle); not “remembered” like a lost ideal, but rather “discovered” like an insurrection without models.

The three lines that I have been following (relating respectively to Pascal and the antinomy of justice as force and force as justice, Plato and the constitution of the subjectivity as psychic image of the whole, Marx and Young and the articulation of justice, injustice, and conflict) seem in fact to indicate a common question, albeit very speculative I must admit: that of an articulation of immanence and transcendence through the emergence of an “internal void”. What was suggested by Pascal and retrieved by Derrida and Samaddar was not an accidental “excess of justice over law”, but an *internal excess*: it does not affect the realm of Law from the outside (from some theological or social other realm that, by nature, would be *non-legal* or *il-legal*), but from the intrinsic heterogeneity of the legal realm. This could also become rephrased as: Law is never anything else than the *permanent conflict* between opposite practical representations of Law. For that reason those who are *excluded from Justice by the Law* are led to “include” or “incorporate” themselves into the public sphere by changing the Law, or imposing a change in the “rule”

of the Law. What was suggested by Plato and his legacy was the necessity to find a convergence between the “metaphysical” question of what still lies “beyond the realm of essences” (or pure ideas) and the political-ethical question of the element of (hyper) individualism paradoxically inhabiting the platonic “primacy of the whole” (the group, the city, over the individual), which culminates in the model of the Philosopher-king who incarnates the identity of contraries, knowledge and power). A modern problematic of the collective processes of subjectivation as *anonymous effects of communication*, does not solve or suppress this question, but it certainly displaces it and rearticulates it. Finally the (hardly sketched) discussion of Marx’s notion of the primacy of injustice and its “generalization” by Young and some other contemporary social critics as “justice in conflict” or “justice through struggle against injustices” leads to a difficult moral and political riddle concerning the condition of “victim” and the place of the victims in the discourse: we are not returning before the “political institution of justice” as allegorically depicted once for ever by the Greek tragedies (Aeschylus’ *Oresteia*) to identify Justice with the claim of the victims, or their vengeance, but we must take into account the fact the conflict itself (the reality of injustice and the necessity of justice) is made *visible* and *audible* only by the “void” that the victim creates or performs within the “plenitude” of the social fabric. The analogies that I am suggesting here do not amount to delineating a new metaphysics of Justice. But they have a family air, which, I believe,

makes it more likely to understand in which sense, to imitate a Spinozistic formula, the “just” effort or struggle towards justice or “non-injustice” is indeed already justice itself.

¹ Rousseau : « Le premier et le plus grand intérêt public est toujours la justice. Tous veulent que les conditions soient égales pour tous et la justice n’est que cette égalité » (cité par Boyer, in *Notions de philosophie*, sous la direction de Denis Kambouchner, III, Gallimard 1995, p. 9).

² I borrow this terminology from Roberto Esposito whose works unfortunately are not yet translated into English that I know (but “only” into French and Spanish partially).

³ A perfect example, also particularly relevant for our debates here, being the discussion between Nancy Fraser and Axel Honneth around “justice as equalitarian distribution” and “justice as equalitarian recognition”, where the equivocality of equality is involved as much as that of justice.

⁴ Ranabir Samaddar, « The Game of Justice », in *The Materiality of Politics*, Volume II, *Subject Positions in Politics*, Anthem press 2007, p. 63-106.

⁵ Editions La Découverte, Paris, 2004.

⁶ It is an interesting coincidence that, in this same Conference, Bruno Clément has proposed an extensive commentary of the same phrase, and its broader context, in order to discuss the paradoxical relationship between « justice » and « rhetoric ». I found his commentary illuminating, and I hope that we will continue the discussion over the interpretation of Pascal in a near future. This is “Pensée” n° 103 (Editions Lafuma) or 298 (Editions Brunschvicg). It is also commented at length by Derrida in his *Force of Law*. Complementary formulations are given in *Pensées* n° 81/299, 85/878, 86/297.

⁷ My reading is partly inspired by the excellent book by Christian Lazzeri: *Force et justice dans la politique de Pascal*, PUF, Paris 1993.

⁸ Derrida also remarks this affinity in his commentary of the Pascalian formula.

⁹ Samaddar, cited, page 102.

¹⁰ To begin with Aristotle, a firm supporter of the traditional *oikos* vs. *polis* distinction, and the gender inequality as a “natural” basis of equality itself, among citizens.

¹¹ We must remember here that the Greek term *cosmos* has the two meanings: *the world*, and the (beautiful) *order*, each being the other’s model. The medieval concepts of order as equilibrium bring in a third term: the (living, especially human) *body*.

¹² See *Republic*, VIII, 562 a sv., on the abolition of all hierarchies in the democratic city governed by “unfettered liberty” (including the command of humans over domestic animals such as dogs and donkeys).

¹³ See *Republic*, 422^e to 423a. On the concept of *stasis* in Greek thought, see Nicole Loraux : *The Divided City: On Memory and Forgetting in Ancient Athens*, Zone Books, New Ed edition (2006), who also makes use of a comparative reading of Plato and Freud.

¹⁴ See Arendt’s *Tagebuch* (Heft X, September 1952, §18).

¹⁵ See among others Stuart Hampshire : *Justice is Conflict* (Princeton University Press, 2000), chapter One (“The Soul and the City”).

¹⁶ In his polemical writing, which traced back the sources of Totalitarianism (i.e. communism and fascism) to Plato’s philosophy : *The Open Society and Its Enemies* (first published in 1945 in London). See the refutation by Victor Goldschmidt, the greatest Plato scholar of his generation.

¹⁷ Remember Brecht in one of his finest writings, *Mé Ti, The Book of Transformations*, a philosophical fiction written under the influence of Karl Korsch during the War period, presenting itself as a dialogue among Chinese wise men, called dialectics the “Great Method” and Communism the “Great Order” which arises from the contradictions of the “Great Disorder” or Capitalism itself)

¹⁸ Among the German philosophers who, in the pre-Nazi and Nazi periods, were more or less durably attracted within the circle of “Revolutionary Conservatism”, the one who especially worked on the idea of “justice” in Plato was Hans-Georg Gadamer : see Teresa Orozco, *Platonische Gewalt. Gadammers politischen Hermeneutik der NS-Zeit*, Argument-Verlag, 1995).

¹⁹ Perhaps there is something “oriental” there? In any case there are affinities both with psychoanalysis and with a certain “mystical” tradition.

²⁰ Or *capability* as Amartya Sen and Martha Nussbaum would say.

²¹ All these ideas are prefigured in another famous dialogue: the *Gorgias*, where Plato explains (against a fictitious or “syncretic” Sophist, Callicles, that “it is better to suffer injustice than commit it”. To which Brecht, in the already quoted imaginary dialogue, has proposed an interesting alternative : it is worse to accept the injustice (committed towards others) than to commit it oneself (*Mé-ti. Buch der Wendungen*, Bibliothek Suhrkamp, 1974, p. 61).

²² I am borrowing from the title and the contents of the book by Emmanuel Renault: *L'expérience de l'injustice. Reconnaissance et clinique de l'injustice*, La Découverte 2004

²³ See my forthcoming essay on « The invention of the Superego », commenting on Hans Kelsen’s critical review of Freud’s « Group Psychology and the Analysis of the

Ego » (published in German in 1922, translated in Vol. V, part I, January 1924, of the *International Journal of Psychoanalysis*, under the title, “The conception of the State and Social Psychology, with Special Reference to Freud’s Group Theory”), and on Freud’s reaction to that critique..

²⁴ Proudhon published in 1860 his major work : *De la justice dans la Révolution et dans l’Eglise*. But the theme of justice and the « dialectical identity » of justice and equality are already dominant in his earlier works, starting with *Qu’est-ce que la propriété?* (1841). Marx defended him in *The Holy Family* (1844), and attacked him violently in *Misère de la philosophie* (1846) (written in French).

²⁵ See for example the recent and very interesting book by Prof. Guillaume Le Blanc : *Vies ordinaires, vies précaires*, Editions du Seuil, Paris 2007 (with a chapter on “L’égalité comme mutualité”).

²⁶ Iris Marion Young: *Justice and the Politics of Difference*, Princeton University Press 1990.

²⁷ Etienne Balibar: « ‘Rights of Man’ and ‘Rights of the Citizen’: The Modern Dialectic of Equality and Freedom”, *Masses, Classes, Ideas. Studies on Politics and Philosophy Before and After Marx*, trans. By James Swenson, Routledge, 1994.

²⁸ J. F. Lyotard: *The Differend. Phrases in Dispute*, trans. By G. van den Abbeele, University of Minnesota Press, 1989.