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## **Wittgenstein, Political Theory and Democracy**

*The goal of this article is to show how a Wittgensteinian perspective could provide a new way of thinking about democracy that departs fundamentally from the dominant rationalist approach which characterizes most of liberal-democratic theory. A democratic thinking that would incorporate Wittgenstein's insights, especially his insistence on the need to respect differences, would be more receptive to the multiplicity of voices that a pluralist society encompasses. Taking off from reflections of Wittgenstein's later work, a series of central issues in contemporary political theory is discussed in order to sketch out this alternative way of democratic thinking.*

### **Introduction**

**D**emocratic societies are today confronted with a challenge that they are ill-prepared to answer because they are unable to grasp its nature. One of the main reason for this incapacity lies, in my view, in the kind of political theory which is dominant today and of the type of rationalistic framework which characterizes most of liberal-democratic theory. It is high time, if we want to be in condition to consolidate and deepen democratic institutions, to relinquish that framework and to begin thinking about politics in a different way.

**M**y argument in this paper will be that WITTGENSTEIN can contribute to such a task. Indeed I consider that we find in his later work many insights that can help us not only to see the limitations of the rationalistic framework but also to overcome them. With this aim in mind, I will examine a series of issues which are currently central in political theory in order to show how a Wittgensteinian perspective could provide an alternative to the rationalist approach. However I want to indicate at the outset that my intention is neither to extract a political theory from WITTGENSTEIN, nor to attempt elaborating one on the basis of his writings. I believe that WITTGENSTEIN's importance for us today consists in pointing out to *a new way of theorizing* about the political, one that breaks with the universalizing and homogeneizing mode that has informed most of liberal theory since HOBBS. This is what is urgently needed, not a new system, but a profound shift in the way we approach political questions.

**I**n inquiring about the specificity of this Wittgensteinian new style of theorising, I will follow the pioneering work of Hanna PITKIN who in her book *Wittgenstein and Justice* argues very convincingly that, with his stress on the particular case, on the need to accept plurality and contradiction and the emphasis on the investigating and speaking self, WITTGENSTEIN is particularly helpful for thinking about democracy. According to her, WITTGENSTEIN, like MARX, NIETZSCHE and FREUD, is a key figure to understand our modern predicament. By examining the craving for certainty, his later philosophy is,

she says, »an attempt to accept and live with the illusionless human condition – relativity, doubt and the absence of God«. <sup>1</sup>

I will also take my bearings from James TULLY who in my view, provides one of the most interesting example of the kind of approach that I am advocating here. For instance, he has used WITTGENSTEIN's insights to criticize a convention widely found in current political thought, the thesis »that our way of life is free and rational only if it is founded on some form or other of critical reflection«. <sup>2</sup> Examining Jürgen HABERMAS' picture of critical reflection and justification as well as Charles TAYLOR's notion of interpretation and scrutinizing their distinctive grammars, TULLY brings to the fore the existence of a multiplicity of languages – games of critical reflection, none of which could pretend to playing the foundational role in our political life. Moreover, in his recent book *Strange multiplicity* <sup>3</sup>, he has shown how such an approach can be used not only to criticize the imperial and monological form of reasoning which is constitutive of modern constitutionalism but also to develop a post-imperial philosophy and practice of constitutionalism.

### ***Universalism versus contextualism***

The first topics I want to examine is the debate between contextualists and universalists. One of the most contentious questions among political theorists in recent years is at the center of that debate and it concerns the very nature of liberal democracy. Should it be envisaged as the rational solution to the political question of how to organize human coexistence? Does it therefore embody the just society, the one that should be universally accepted by all rational and reasonable individuals? Or does liberal democracy merely represent one form of political order among other possible ones? A political form of human coexistence, which, to be sure, can be called just, but that must also be seen as the product of a particular history, with specific historical, cultural and geographical conditions of existence.

This is indeed a crucial issue because, if this is the case, we will have to acknowledge that there might be other just political forms of society, products of other contexts, and that liberal democracy should renounce its claims to universality. It is worth stressing that, those who argue along those lines insist that, contrary to what the universalists claim, such a position does not necessarily entail accepting a relativism that would justify *any* political system. Indeed what it requires is envisaging a *plurality* of just answers to the question of what is the just political order. But political judgement would not be made irrelevant since it would still be possible to discriminate between just and unjust regimes.

It is clear that what is at stake in this debate is the very nature of political theory. Two different positions confront each other. On one side we find the "rationalist-universalists" who like Ronald DWORKIN, the early RAWLS and HABERMAS assert that the aim of political theory is to establish universal truths, valid for all independently of the historico-cultural context. Of course, for them, there can only be one answer to the inquiry about the "good regime" and much of their efforts consist in proving that it is constitutional democracy that fulfils the requirements.

It is in intimate connection with this debate, that one should envisage the other one, which concerns the elaboration of a theory of justice. It is only when located in this wider context that one can really grasp, for instance, the implications of the view put forward by a universalist like DWORKIN when he declares that a theory of justice must call on general principles and its objective must be to *»try to find some inclusive formula that can be used to measure social justice in any society«*. 4

The universalist-rationalist approach is the dominant one today in political theory but it is being challenged by another one that can be called "contextualist" and which is of particular interest for us because it is clearly influenced by WITTGENSTEIN. Contextualists like Michael WALZER and Richard RORTY deny the availability of a point of view that could be situated outside the practices and the institutions of a given culture and from where universal, "context-independent" judgements could be made. This is why WALZER argues against the idea that the political theorist should try to adopt a position detached from all forms of particular allegiances in order to judge impartially and objectively. In his view, the theorist should *»stay in the cave«* and assume fully his status as a member of a particular community; and his role consists in interpreting for his fellow citizens the world of meanings that they have in common. 5

Using several Wittgensteinian insights, the contextualist approach dismantles the kind of liberal reasoning that envisages the common framework for argumentation on the model of a "neutral" or "rational" dialogue. Indeed WITTGENSTEIN's views lead to undermining the very basis of this form of reasoning since, as it has been pointed out, he reveals that *»Whatever there is of definite content in contractarian deliberation and its deliverance, derives from particular judgements we are inclined to make as practitioners of specific forms of life. The forms of life in which we find ourselves are themselves held together by a network of precontractual agreements, without which there would be no possibility of mutual understanding or therefore, of disagreement«*. 6

According to the contextualists, liberal democratic "principles" cannot be seen as providing the unique and definite answer to the question of what is the "good regime" but only as defining one possible political "language game" among others. Since they do not provide the rational solution to the problem of human coexistence, it is futile to search for arguments in their favour which would not be "context-dependent" in order to secure them against other political languages games. Envisaging the issue according to a Wittgensteinian perspective brings to the fore the inadequacy of all attempts to give a rational foundation to liberal democratic principles by arguing that they would be chosen by rational individuals in idealized conditions like the *»veil of ignorance«* (RAWLS) or the *»ideal speech situation«* (HABERMAS). As Peter WINCH has indicated with respect to RAWLS, the "veil of ignorance" that characterizes his position runs foul of WITTGENSTEIN's point that what is "reasonable" cannot be characterized independently of the *content* of certain pivotal "judgements". 7

For his part Richard RORTY – who proposes a "neo-pragmatic" reading of Wittgenstein – has affirmed, taking issue with APEL and HABERMAS, that it is not possible to derive a universalistic moral philosophy from the philosophy of language. There is nothing, for him, in the nature of language that could serve as a basis for justifying to all possible audiences the superiority of liberal democracy. He declares that *»We should have to*

*abandon the hopeless task of finding politically neutral premises, premises which can be justified to anybody, from which to infer an obligation to pursue democratic politics*«. 8 He considers that envisaging democratic advances as if they were linked to progresses in rationality is not helpful and that we should stop presenting the institutions of liberal western societies as the solution that other people will necessarily adopt when they cease to be »irrational« and become »modern«. Following WITTGENSTEIN, he sees the question at stake not as one of rationality but of shared beliefs. To call somebody irrational in this context, he states, »is not to say that she is not making proper use of her mental faculties. It is only to say that she does not seem to share enough beliefs and desires with one to make conversation with her on the disputes point fruitful«. 9

**D**emocratic action in this Wittgensteinian perspective, does not require a theory of truth and notions like unconditionality and universal validity but a manifold of practices and pragmatic moves aiming at persuading people to broaden the range of their commitments to others, to build a more inclusive community. Such a perspective helps us to see that, by putting an exclusive emphasis on the arguments needed to secure the legitimacy of liberal institutions, recent moral and political theory has been asking the wrong question. The real issue is not to find arguments to justify the rationality or universality of liberal democracy that would be acceptable by every rational or reasonable person. Liberal democratic principles can only be defended as being constitutive of our form of life and we should not try to ground our commitment to them on something supposedly safer. As Richard FLATHMAN – another political theorist influenced by WITTGENSTEIN – indicates, the agreements that exist on many features of liberal democracy do not need to be supported by certainty in any of the philosophical senses. In his view, »Our agreements in these judgements constitute the language of our politics. It is a language arrived at and continuously modified through no less than a history of discourse, a history in which we have thought about, as we became able to think in, that language«. 10

**R**ORTY's Wittgensteinian approach is very useful for criticizing the pretensions of Kantian inspired philosophers like HABERMAS who want to find a viewpoint standing above politics from which one could guarantee the superiority of liberal democracy . But I think that RORTY departs from WITTGENSTEIN when he envisages moral and political progress in terms of the universalization of the liberal democratic model. Oddly enough, on this point he comes very close to HABERMAS. To be sure, there is an important difference between them. HABERMAS believes that such a process of universalization will take place through rational argumentation and that it requires arguments from transculturally valid premises for the superiority of western liberalism. RORTY, for his part, sees it as a matter of persuasion and economic progress and he imagines that it depends on people having more secure conditions of existence and sharing more beliefs and desires with others. Hence his conviction that through economic growth and the right kind of "sentimental education" a universal consensus could be built around liberal institutions.

**W**hat he never puts into question, however, is the very belief in the superiority of the liberal way of life and on that count he is not faithful to his Wittgensteinian inspiration. One could indeed makes to him the reproach that WITTGENSTEIN made to James George Frazer in his "Remarks on Frazer's *Golden Bough*" when he commented that it seemed impossible for him to understand a different way of life from the one of his time.

## ***Democracy as substance or as procedures***

There is a second area in political theory in which an approach inspired by WITTGENSTEIN'S conception of practices and languages games could also be very fruitful. It concerns their set of issues related to the nature of procedures and their role in the modern conception of democracy.

The crucial idea provided by WITTGENSTEIN in this domain is when he asserts that to have agreements in opinions, there must first be agreement on the language used. And the importance of alerting us to the fact that those agreements in opinions where agreements in forms of life. As he says: *»So you are saying that human agreement decides what is true and what is false. It is what human beings say that is true and false; and they agree in the language they use. That is not agreement in opinions but in forms of life«.* 11

With respect to the question of "procedures" which is the one that I want to highlight here, this points out to the factnecessity for a considerable number of "agreements in judgements" to already exist in a society before a given set of procedures can work. Indeed, according to WITTGENSTEIN, to agree on the definition of a term is not enough and we need agreement in the way we use it. He puts it in the following way: *»if language is to be a means of communication there must be agreement not only in definitions but also (queer as this may sound) in judgements«.* 12

This reveals that procedures only exists as a complex ensembles of practices. Those practices constitute specific forms of individuality and identity that makes possible the allegiance to the procedures. It is because they are inscribed in shared forms of life and agreements in judgements that procedures can be accepted and followed. They cannot be seen as rules that are created on the basis of principles and then applied to specific cases. Rules, for WITTGENSTEIN, are always abridgements of practices, they are inseparable of specific forms of life. The distinction between procedural and substantial cannot therefore be as clear as most liberal theorists would have it. In the case of justice, for instance, I do not think that one can oppose, as so many liberals do, procedural and substantial justice without recognizing that procedural justice already presupposes acceptance of certain values.

It is the liberal conception of justice which posits the priority of the right over the good but this is also the expression of a specific good. Democracy is not only a matter of establishing the right procedures independently of the practices that makes possible democratic forms of individuality. The question of the conditions of existence of democratic forms of individuality and of the practices and languages games in which they are constituted is a central one, even in a liberal democratic society where procedures play a central role. Procedures always involve substantial ethical commitments. For that reason they cannot work properly if they are not supported by a democratic ethos.

This last point is very important since it leads us to acknowledge something that the dominant liberal model is unable to recognize, i.e, that a liberal democratic conception

of justice and liberal democratic institutions require a democratic ethos in order to function properly and maintain themselves. This is, for instance, precisely what HABERMAS' discourse theory of procedural democracy is unable to grasp because of the sharp distinction that HABERMAS wants to draw between moral-practical discourses and ethical-practical discourses. It is not enough to state as HABERMAS does, criticizing APEL, that a discourse theory of democracy cannot be based only on the formal pragmatic conditions of communication and that it must take account of legal, moral, ethical and pragmatic argumentation. What is missing in such an approach is the crucial importance of a democratic *Sittlichkeit*. 13

### ***Democratic consensus and agonistic pluralism***

The main point I have been trying to make in this paper is that, by providing a practice-based account of rationality, WITTGENSTEIN in his later work opens a much more promising way for thinking about political questions and for envisaging the task of a democratic politics than the rationalist-universalist framework. In the present conjuncture, characterized by an increasing disaffection towards democracy – despite its apparent triumph – it is vital to understand how a strong adhesion to democratic values and institutions can be established and rationalism constitutes an obstacle to such an understanding. It is necessary to realize that it is not by offering sophisticated rational arguments and by making context-transcendent truth claims about the superiority of liberal democracy that democratic values can be fostered. The creation of democratic forms of individuality is a question of *identification* with democratic values and this is a complex process that takes place through a manifold of practices, discourses and language games.

A Wittgensteinian approach in political theory could play an important role in the fostering of democratic values because it allows us to grasp the conditions of emergence of a democratic consensus. As WITTGENSTEIN says: »*Giving grounds, however, justifying the evidence, comes to an end; but the end is not certain propositions' striking us immediately as true, i.e. it is not a kind of seeing on our part; it is our acting, which lies at the bottom of the language-game.*« 14. For him agreement is established not on significations (*Meinungen*) but on forms of life (*Lebensformen*). It is *Einstimmung*, fusion of voices made possible by a common form of life, not *Einverstand*, product of reason – like in HABERMAS. This, I believe, is of crucial importance and it not only indicates the nature of every consensus but also reveals its limits: »*Where two principles really do meet which cannot be reconciled with one another, then each man declares the other a fool and an heretic. I said I would 'combat' the other man, – but wouldn't I give him reasons? Certainly; but how far do they go? At the end of reasons come persuasion.*« 15

Such a perspective represents an alternative to the current model of "deliberative democracy" with its rationalistic conception of communication and its misguided search for a consensus that would be fully inclusive. Indeed, I see the "agonistic pluralism" that I have been advocating 16 as inspired by a Wittgensteinian mode of theorizing and as attempting to develop what I take to be one of his fundamental insights: what it means to follow a rule.

It is useful on this point to bring in the reading of WITTGENSTEIN proposed by James TULLY because it chimes with my approach. TULLY is interested in showing how WITTGENSTEIN's philosophy represents an alternative worldview to the one that informs modern constitutionalism so his concerns are not exactly the same as mine. But there are several points of contact and many of his arguments are directly relevant for my purpose. Of particular importance is the way he presents how in the *Philosophical Investigations*, WITTGENSTEIN envisages the correct way to understand general terms. In his view, there are two lines of arguments. The first consists in showing that *»understanding a general term is not a theoretical activity of interpreting and applying a general theory or rule in particular cases«*. <sup>17</sup> WITTGENSTEIN indicates, using examples of signposts and maps, how I can always be in doubt about the way I should interpret the rule and follow it. He says for instance: *»A rule stands there like a signpost. – Does it show which direction I am to take when I have passed it; whether along the road or the footpath or cross-country? But where is it said which way I am to follow it; whether in the direction of its finger or (e.g.) in the opposite one?«* <sup>18</sup>

As a consequence, notes TULLY, a general rule cannot *»account for precisely the phenomenon we associate with understanding the meaning of a general term: the ability to use a general term, as well as to question its accepted use, in various circumstances without recursive doubts«*. <sup>19</sup> This should lead us to abandoning the idea that the rule and its interpretation "determine meaning" and to recognize that understanding a general term does not consist in grasping a theory but coincides with the ability of using it in different circumstances. For WITTGENSTEIN *»obeying a rule«* is a practice and our understanding of rules consists in the mastery of a technique. The use of general terms is therefore to be seen as intersubjective "practices" or "customs" not that different from games like chess or tennis. This is why WITTGENSTEIN insists that it is a mistake to envisage every action according to a rule as an *»interpretation«* and that *»there is a way of grasping a rule which is not an interpretation, but which is exhibited in what we call 'obeying the rule' and 'going against it' in actual cases«*. <sup>20</sup>

TULLY considers that the wide-ranging consequences of WITTGENSTEIN point are missed when one affirms, like Peter WINCH, that people using general terms in daily activities are still following rules but that those rules are implicit or background understandings shared by all members of a culture. He argues that this is to retain the view of communities as homogeneous wholes and to neglect WITTGENSTEIN's second argument which consists in showing that *»the multiplicity of uses is too various, tangled, contested and creative to be governed by rules«*. <sup>21</sup> For WITTGENSTEIN, instead of trying to reduce all games to what they must have in common, we should *»look and see whether there is something that is common to all«* and what we will see is *»similarities, relationships, and a whole series of them«* whose result constitutes *»a complicated network of similarities overlapping and criss-crossing«*, similarities that he characterizes as *»family resemblances«*. <sup>22</sup>

I submit that this is a crucial insight which undermines the very objective that those who advocate the "deliberative" approach presents as the aim of democracy: the establishment of a rational consensus on universal principles. They believe that through rational deliberation an impartial standpoint could be reached where decisions would be taken that are equally in the interests of all. <sup>23</sup> If we listen to WITTGENSTEIN advice we should not only acknowledge but also valorize the diversity of ways in which the

"democratic game" can be played instead of trying to reduce it through the imposition of an uniform understanding of citizenship. This means fostering the institutions that would allow for a plurality of ways in which the democratic rules can be followed. There cannot be one single best, more "rational" way to obey those rules and this is precisely such a recognition that is constitutive of a pluralist democracy.

»*Following a rule*«, says Wittgenstein, »*is analogous to obeying an order. We are trained to do so; we react to an order in a particular way. But what if one person reacts in one way and another in another to the order and the training? Which one is right?*«

24 This is indeed a crucial question for democratic theory. It cannot be resolved, pace the rationalists, by claiming that there is a correct understanding of the rule that every rational person should accept. To be sure, we need to be able to distinguish between »*obeying the rule*« and »*going against it*«. But space needs to be provided for the many different practices in which obedience to the democratic rules can be inscribed. And this should not be envisaged as a temporary accommodation, as a stage in the process leading to the realization of the rational consensus, but as a constitutive feature of a democratic society.

**D**emocratic citizenship can take many diverse forms and such a diversity, far from being a danger for democracy, is in fact its very condition of existence. This will, of course, create conflict and it would be a mistake to expect all those different understanding to coexist without clashing. But this struggle will not be one between "enemies" but among "adversaries" since all participants will recognize the positions of the others in the contest as legitimate ones. This type of "agonistic pluralism" is unthinkable within a rationalistic problematic because it, by necessity, tend to erase diversity. WITTGENSTEIN, on the contrary, can help us to formulate it and this is why his contribution to democratic thinking is invaluable.

### ***Wittgenstein and responsibility***

**I**would like, however, by raising a word of caution concerning the need to bring to the fore the more radical aspect of WITTGENSTEIN's reflection if our aim is to develop a new thinking about democracy. Indeed, within the broad framework of contextualism, many different perspectives can be adopted. There are, indeed, several roads that can be followed by those who share WITTGENSTEIN's understanding of the centrality of practices and forms of life. Even among those who agree on the significance of WITTGENSTEIN's later work, there are significant divergences and they have implications for the way in which one is going to develop a new way of political theorizing under Wittgensteinian lines.

**I** consider, for instance, that the criticisms levelled by Stanley CAVELL against the assimilation between WITTGENSTEIN and pragmatists like John DEWEY have important implications for envisaging the democratic project. For CAVELL, when WITTGENSTEIN says »*If I have exhausted the justifications I have reached bedrock, and my spade is turned. Then I am inclined to say: 'This is simply what I do.'*« 25, he is not making a typically pragmatic move and defending a view of language according to which certainty between words and world would be based on action. In CAVELL's view, »*this*

*is an expression less of action than of passion, or of impotency expressed as potency».*

26

**D**iscussing KRIPKE's reading of WITTGENSTEIN's as making a sceptical discovery to which he gives a sceptical solution, CAVELL argues that this misses the fact that for WITTGENSTEIN *»Skepticism is neither true nor false but a standing human threat to the human; that this absence of the victor help articulate the fact that, in a democracy embodying good enough justice, the conversation over how good its justice is must take place and must also not have a victor, that this is not because agreement can or should always be reached but because disagreement, and separateness of position, is to be allowed its satisfactions, reached and expressed in particular ways«.* 27

**T**his has far-reaching implications for politics since it precludes the type of self-complacent understanding of liberal democracy for which, for instance, many have criticized pragmatists like Richard RORTY. A radical reading of WITTGENSTEIN needs to emphasize – in the way CAVELL does in his critique of RAWLS 28 – that bringing a conversation to a close is always a personal choice, a *decision* which cannot be simply presented as mere application of procedures and justified as the only move that we could make in those circumstances.

**U**sing Wittgensteinian insights, CAVELL points out that RAWLS' account of justice omits a very important dimension of what takes place when we assess the claims made upon us in the name of justice in situations in which it is the degree of society's compliance with its ideal that is in question. He takes issue with RAWLS' assertion that *»Those who express resentment must be prepared to show why certain institutions are unjust or how others have injured them«.* 29 In RAWLS' view, if they are unable to do so, we can consider that our conduct is above reproach and bring the conversation to a close. But asks CAVELL, *»what if there is a cry of justice that expresses a sense not of having lost out in an unequal yet fair struggle, but of having from the start being left out«.* 30 Giving as example the situation of Nora in IBSEN's play *A Doll's House*, he shows how deprivation of a voice in the conversation of justice can be the work of the moral consensus itself. He argues, faithful in that to his Wittgensteinian inspiration, that we should never refuse bearing responsibility for our decisions by invoking the commands of general rules or principles.

**I** consider that CAVELL is right to stress that what WITTGENSTEIN's philosophy exemplifies is not a quest for certainty but he quest for responsibility and that what he teaches us is that *»entering a claim is making an assertion, something human do; and like everything else they do, something they are responsible, answerable for«.* 31

**W**hen he is read in this way, many important points of convergence are brought to the fore between WITTGENSTEIN and DERRIDA's account of undecidability and ethical responsibility. For DERRIDA undecidability is not a moment to be traversed or overcome and conflicts of duty are interminable. I can never be completely satisfied that I have made a good choice since a decision in favour of some alternative is always to the detriment of another one. In the perspective of deconstruction, *»The undecidable remains caught, lodged, a least as a ghost – but an essential ghost – in every decision, in every event of decision. Its ghostliness deconstructs from within any assurance of*

presence, any certitude or any supposed criteriology that would assure us of the justice of a decision«. 32

For DERRIDA as for WITTGENSTEIN, understanding responsibility requires that we give up the dream of total mastery and the fantasy that we could escape from our human forms of life. Both of them provide us with a new way of thinking about democracy that departs fundamentally from the dominant rationalist approach. A democratic thinking that would incorporate their insights would be more receptive to the multiplicity of voices that a pluralist society encompasses and to the need to allow them forms of expressions instead of striving towards harmony and consensus. Indeed it would realize that, in order to impede the closure of the democratic space, it is necessary to abandon any reference to the idea of a consensus that, because it would be grounded on justice and rationality, could not be destabilized.

That the main obstacle to such a democratic vision is constituted by the misguided quest for consensus and reconciliation is something that WITTGENSTEIN's insistence on the need to respect differences makes us see very clearly. Let's listen to his advice when he says, scrutinizing our desire for a total grasp: »*We have got on the slippery ice where there is no friction and so in a certain sense the conditions are ideal, but also, just because of that, we are unable to walk. We want to walk: so we need friction. Back to the rough ground!*« 33

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## Notes

- 1 Hanna PITKIN (1972): *Wittgenstein and Justice*. On the Significance of Ludwig Wittgenstein for Social and Political Thought, Berkeley: University of California Press, 337. ♣
- 2 James TULLY (1989): "Wittgenstein and Political Philosophy". In: *Political Theory* 17.2, 172. ♣
- 3 James TULLY (1995): *Strange Multiplicity. Constitutionalism in an Age of Diversity*. Cambridge – New York: Cambridge University Press. ♣
- 4 Ronald DWORKIN in: *New York Review of Books*, 17th of April 1983. ♣
- 5 Michael WALZER (1983): *Spheres of Justice*. New York: Basic Books, XIV. ♣
- 6 John GRAY (1989): *Liberalisms: Essays in Political Philosophy*. London – New

- York: Routledge, 252. ♪
- 7 Peter Winch (1991): "Certainty and Authority". In: A. PHILIPPS GRIFFITHS (ed.): *Wittgenstein Centenary Essays*. Cambridge – New York: Cambridge University Press, 235. ♪
  - 8 Richard RORTY (1994): "Sind Aussagen universelle Geltungsansprüche?". In: *Deutsche Zeitschrift für Philosophie* 6, 986. ♪
  - 9 Richard RORTY (1997): "Justice as a larger Loyalty". In: R. BOTENKOE / M. STEPANIANTS (eds.): *Justice and Democracy. Cross-Cultural Perspectives*. Honolulu: University of Hawaii Press, 19. ♪
  - 10 Richard E. FLATHMAN (1989): *Toward a Liberalism*. Ithaca: Cornell University Press, 63. ♪
  - 11 Ludwig WITTGENSTEIN (1958): *Philosophical Investigations* I,241. Oxford: Blackwell. ♪
  - 12 Ibid., I,242. ♪
  - 13 A similar argument is made by Richard BERNSTEIN in his paper "The Retrieval of the Democratic Ethos" (to be published by the *Cardozo Law Review*), but Bernstein believes that HABERMAS' discourse theory of procedural democracy could accommodate such a recognition of the need for a democratic ethos while, in my view, this proves that the project of HABERMAS is doomed. ♪
  - 14 Ludwig WITTGENSTEIN (1969): On Certainty. London, 204. ♪
  - 15 Ibid., 611-612. ♪
  - 16 See at that respect Chantal MOUFFE (1993): *The Return of the Political*. London – New York: Verso. ♪
  - 17 James TULLY (1995), 105. ♪
  - 18 Ludwig WITTGENSTEIN (1958), I,85. ♪
  - 19 Ibid. ♪
  - 20 Ibid., I,201. ♪
  - 21 James TULLY (1995), 107. ♪
  - 22 Ludwig WITTGENSTEIN (1958), I,66-67. ♪
  - 23 There are many versions of the "deliberative democracy" model, some more rationalistic than others. But they all share the view that the western form of democracy is the superior one and that its institutions have a culture-transcending validity due to their higher level of rationality. For a modified Habermasian version of that model, see: Seyla BENHABIB (1994): "Deliberative

- rationality and models of democratic legitimacy". In: *Constellations* 1. ♣
- 24 Ludwig WITTGENSTEIN (1958), I,206. ♣
- 25 Ibid., I,217. ♣
- 26 Stanley CAVELL (1988): *Conditions Handsome and Unhandsome*. Chicago: University of Chicago Press, 21. ♣
- 27 Ibid., 24. ♣
- 28 For this criticism of RAWLS by CAVELL see chapter 3 of his *Conditions Handsome and Unhandsome*. ♣
- 29 John RAWLS (1971): *A Theory of Justice*. Cambridge/Mass.: Harvard University Press, 533. ♣
- 30 Stanley CAVELL (1988), XXXVIII. ♣
- 31 Stanley CAVELL (1979): *The Claim of Reason: Wittgenstein, Skepticism, Morality, and Tragedy*. Oxford: Clarendon Press. ♣
- 32 Jacques DERRIDA (1992): "Force of Law: The 'Mystical Foundation of Authority'". In: Drucilla CORNELL et al. (eds): *Deconstruction and the Possibility of Justice*. New York: Routledge, 24. ♣
- 33 Ludwig WITTGENSTEIN (1958), I,107. ♣