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Critique of violence and theory of justice

1. Introduction

In the last decade the debate on violence has mostly been connected to political events in post-socialist as well as in post-colonialist countries. Civil wars, genocides, mass rapes and ethnic cleansing have controversially indicated that in the age of globalisation there still exist elements of barbarity, which challenges the idea of “civilisation”.

The critique of violence has been developed in public discourse as well as in political/ moral philosophy, but not yet sufficiently considered in the debate on social and global justice. Yet the idea of justice cannot be separated from a critique of violence and reference to moral sentiments.

Therefore, my paper aims to reframe some aspects of the present debate on justice, throwing a new light on the critique of violence. In this regard, I will stress the importance of specific debates in gender studies, which have questioned the traditional boundaries between the private and the public spheres and consequently the traditional way only to condemn “public” violence. The critique of violence should start from the private space of gender relations in the family. Forms of exclusion, segregation and discrimination towards women and human groups in certain cultures deny their capabilities, so that genocides and rapes in armed conflicts are the public/ political continuation of differentiated forms of private subjection.

Rights – and formal justice - always have a moral basis, connected to the respect for the psychophysical integrity of the individual and the development of his/ her capabilities. The processes of “universalisation" of rights and the achievement of claims of validity always arise from the concrete contexts of the real world and from struggles conducted by violated and excluded individuals/ social actors. A more complex approach to justice can contribute to the formation of a new basis for citizenship, democracy as well as cosmopolitanism.

The capability approach is basic for reformulating a moral theory of justice, starting from a critique of private and consequently public violence. A "concrete universalism" becomes thus possible because the critique of violence – based on the normative and counter-factual idea of the development and functioning of human capabilities from a gender perspective - can be generalised in various cultures and times, starting from a "historically situated self", who is intersubjectivelly connected to other individuals.

2. The State: the dialectic between welfare and war

"Rationalising" the shift from the *mythos* to the *logos*, Aristotle pictured politics as a "natural" way of living for all human beings – from the family up to the city-state - , in the construction of a common well-being life and in the organisation of a political government, based on a fair constitution. Yet mythological narratives and tragedies evoke imagines of violence, stories of bloody wars - even within the family and clan - and the brutality on which Greek "civilisation" and the city-states were build.

This dark background was revisited in the early modernity which pined for a return to the imagine of a "natural state": here human beings were supposed to live without law and any political agreement. The figure of the social contract among consenting partners – thematised by Hobbes, Rousseau and Locke, although with different premises and finalities – tries to figure out the birth of politics and the legitimation of the (nation) state. Yet this issue also brings one to the ambivalent dialectic of the state: on the one hand the state must protect citizens from violence and arbitrary acts; on the other hand it is the legitimate holder of force, policing and security.

Indeed, in the last three centuries the state has been the principal actor of two diversified forms of political actions: it has become a welfare entity, involved in the well-being of all citizens, promoting social policies of inclusion, (Calloni, 2004 a; Young, 2000) and interested in peaceful and collaborative relations with other nation-states. But in some cases, the state turned into aggressive political institution within the domestic borders and in international affairs, due to its nationalistic, imperialistic and totalitarian purposes.

Since the XIX century, alongside the fights for national liberation in Europe, there was the increasing of forms of imperialistic politics by nation states towards Asian and African countries. The state violence against “other” populations became manifest. The political idea, which supported these conquest wars, was the interest in manifesting the supremacy of one state over the others. The recognition of the political power of one or more over the others became the leading issue of international relations, while the idea of patriotism was absorbed by nationalistic rhetoric: one had to die for the love of one’s country.

In the modernity the nation state started thus to be connected to diversified kinds of violence and power: on the one hand they were manifested towards citizens in the form of control of their private life up to the dominion over their body and sexuality (Foucault, 1976, 1984, 1984), and on the other hand they acted against different states/ populations in the form of aggressive politics. The critique of power started from the analysis of the political structure of the nation state, focussing attention on the necessity to deconstruct its ideological basis. Marx initiated thus the stream for a political-economic critique of the state, being the expression of the bourgeois dominion. The Marxist approach – in the Leninist revolutionary version - continued this line, radicalising the class struggle at the national and international level and approving violence as a means for building up a communist society. The critique of the state was thus connected to both its nationalistic purposes and class dimension.

Yet this paradigm changed after the Russian revolution, when socialism became “real” through the power of a centralised party and the composition of a constellation of communist countries under the influence of the Soviet Union. Therefore, the two World Wars in the last century indicated new forms of power and political violence in the redefinition of the world order through terror and repression against both civilians and entire populations.

In her study on *The origins of totalitarianism,* Hannah Arendt traces the historical genealogy of contemporary political violence and the “extreme form of power” through the stages of anti-Semitism, imperialism and totalitarianism, connecting Soviet Communism and Nazism as examples of authoritarian societies. But the end of the Second World War did not coincide with a time of reconciliation among world populations. As Arendt remembers in *On Violence*, “The Second War

World was not followed by peace but by a cold war and the establishment of the military-industrial-labour complex". (Arendt, 1969, 9)

Indeed, the conventional physiognomy of the war was already changed since the beginning of the XX century, due to the interaction between imperialistic expansionism, the economic interests of national industrial sectors and the organisation of standing armies, which were skilled to use new kinds of weapons and means of mass extermination (like gas and poison). From the 1930s, this particular link between politics, economy and the improvement of technology became the basis for the establishment of totalitarian regimes and the practice of genocide. Later, the atomic bomb, exploded over Hiroshima and Nagasaki, opened a new era of militarisation and political deterrence through the fabrication of more powerful weapons at the international level. A new kind of belligerency was inaugurated: the "cold war", which fostered a new disquieting sort of "competition" between human beings and the machines they produce. (Anders, 1956)

The war scenario of the new millennium inherits the political tradition of the last century, even though specific features of war have been radicalised in a global perspective, due to the explosion of ethnic wars in post-communist and post-colonialist countries and the increasing of international terrorism. One of the newly emerging aspects related to the modification of war concerns the augmenting forms of violence against civilians and populations, a trend that differs from past conflicts. In fact, during previous armed conflicts, with the exception of genocides, the majority of the killed and injured were found among the ranks of soldiers not civilians. In the last wars, forms of both private/ public violence, acted massively against local populations and individuals, have exponentially increased.

New reflections upon crimes of war (Gutman & Rieff, 2002), genocide (Power, 2002) and torture (Dworkin, 2004) are thus urgently required. In fact, how could we face and co-exist with this both local and international scenario, where all citizens – mainly after September 11th - are potentially victims of acts of fundamentalist terrorism? How can we cope as citizens and researchers with this new world situation? Could we continue to deny pain and atrocities? (Cohen, 2001) How could a global public sphere influence the modification of this trend against unfair decisions taken by dominant political powers? (Kaldor, 2003) What could be the legitimate role of international institutions?

As Habermas pointed out: "on the one hand the idea of an international community that eliminates the state of nature between nations by effectively penalizing wars of aggression, genocide, and crimes against humanity and punishing violations of human rights has taken shape in the UN and its branches. (…) On the other hand, the world organisation is often nothing more than a paper tiger. It is dependent on the willingness of the great powers to cooperate. (…) The discrepancy between what should and what can be done, between justice and power, sheds a negative light both on the credibility of the UN and on the practice of intervention unauthorized states that merely usurp a mandate – even for good reasons – and turn what would be justified as a police action into an act of war." (Borradori, 2003)

Living under terror produces different kinds of sentiments, belonging and passions but also compassion, which is understood as "an emotion directed at another person's suffering or lack of well-being". (Nussbaum C., 2003) Yet it becomes more and more evident the existing hiatus between aspirations towards a peaceful world and the reality of countries at war. Normativity and realism seems to become the two polarities on which the public discourse is presently focussed. For this reason, the development of a critique of violence becomes urgent, starting from the debate on social and global justice, because, as Walter Benjamin argued: "The critique of violence is the philosophy of its history." (Benjamin, 1965, 63)

3. Political power, gender relations and justice

The growth of a debate on justice in Western countries was strongly influenced by the publication of the book by John Rawls on *A theory of justice* in 1971. The aim of this study was to indicate the possibility for liberal and pluralistic states to be fair and able to develop re-distributive policies, starting from neutral and universalistic principles, shared as such by all interested citizens. Principles of justice – difference and equal liberty – were the institutional basis for improving democratic governments. But in this case, the just had to be given precedence over the good. In fact, formal justice cannot imply contents of moral belief, because they would deny the possibility to find a common agreement on shared principles. Social justice was thus connected to the experiences of Western welfare states and the search for fairness, equity and equal opportunities for all citizens. *De facto*, Rawls referred to a legitimate state in time of peace, capable of self-correction and the avoidance of violence. Due to different kinds of criticism mainly regarding the issues of the good, pluralism and international relations, Rawls reconsidered his previous studies in *Political Liberalism* (Rawls, 1993) and *The Law of Peoples*. (Rawls, 1999)

Yet a point remains open: how can justice, as a "procedural" matter, be related to ethics, politics and rights (Habermas, 1992; Ricœur, 1995)?

Amartya Sen stressed the limits of a purely formalistic and constructivist approach on social justice and international relations, questioning the main idea of "equality" (Sen, 1980) and introducing the point of view of countries in development and the notion of the functioning of human capabilities. This concept contains a strong normative and counter-factual meaning, which allows for the development of social criticism, referring to moral sentiments. In this case, universalism is not an abstract reference, deducted by formal principles, because it is rooted in the context of daily life, starting from the family sphere. (Moller Okin, 1989)

This issue was re-enforced from a gender perspective by Martha Nussbaum (Nussbaum 1995, 1999), who argues that the capability approach in the political sphere means that the development of specific human capabilities have moral contents and implications. In this case justice is normatively interconnected with morality, obligations (Korsgaard, 1996), the respect of human rights and the promotion of human development. (Fukuda-Parr & Shiva, 2003) Freedom is "freedom from fear – of threats to personal security, from torture, arbitrary arrest and other violent acts." (UNDP, 2000, 1)

The capability and development approach (Sen, 1999) is thus able to reframe a purely formal approach to justice, implicating moral sentiments and referring to the concrete life of people, starting from gender relations and the social inequalities they imply. Therefore, before being "public", the critique of violence should be "private", starting from the gender-based violence.

In recent studies (Kean, 2004), violence is analysed in both political and anthropological senses, trying to individuate its roots, the reasons for its revival in periods of crisis and the motivations of its perpetuation over time. These books continue the theoretical and analytical tradition initiated by Hannah Arendt in On *Violence*, where she does consider the increase in violence due to wars, revolutions, and technological advances, but ignores its "private and gender" meaning. Therefore, in many present books on political violence there is no mention of the idea of sexual/ domestic violence. There are then studies, which analyse the meaning of global justice (Pogge, 2001) from the institutional viewpoint and international relations, reframing the main Rawlsian concepts of justice, but without any reference to concrete experiences of daily life. In both cases violence and justice are not connected to gender issues. At the same time, many surveys in gender studies do refer mainly to practices conducted by women in facing domestic violence. On the contrary, I think that the critique of private and political violence should be always related to a normative idea of justice, which takes into account inequalities and deprivations arising from unfair daily relations among human beings. The capability approach can contribute to integrate this gap in recent literature and studies.

Violence is a deprivation of capabilities, which limits the functioning of human beings and access to a full citizenship. In fact, "the connection between physical security and citizenship is perhaps indirect. But in order to be citizens, people need a degree of independence and immunity from private and public violence. Otherwise they are entirely subject to the whim of others. Protection against sex-based public and private violence is therefore a precondition for the status of citizenship." (Sunstein, 1995, 357)

Women's movements and feminists in a global civil society (Anheier et al., 2003) have stressed to the entire world over recent decades the political significance of sexual violence and they have promoted campaigns and civic mobilisation with the scope to precipitate recognition that gender-based violence is a crime against human rights. (Calloni, 2002) Moreover, some feminist scholars have pointed out that conventional cultures maintain forms of violence against women, as emerged in a debate about the limits of multiculturalism, which can be "bad for women". (Moller Okin, 1998; Cohen et al. 1999) One of the key issues of feminist theory has thus become the analysis of the possible relation between sexuality and the male violence/ domination. (Kelly, 1988)

After many years of struggles and campaigns, the United Nations has finally deliberated a resolution against gender-based violence. Article 1 of the UN Declaration on the *Elimination of Violence against Women*, proclaimed by the UN General Assembly in its resolution 48/104 of 20 December 1993 (and included in the *Platform for Action,* signed in Beijing in 1995 during the Fourth World Conference) (UN, 1996), defines the term "violence against women" as: "Any act of gender-based violence that results in, or is likely to result in physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life."

Three contexts of violence are then differentiated in Article 2: family, community and state:

1. "Physical, sexual and psychological violence occurring in the family: wife-battering, sexual abuse of female children in the household, dowry-related violence, marital rape, and female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation.
2. Physical, sexual and psychological violence occurring within the general community: rape, sexual abuse, sexual harassment and intimidation at work and in education institutions, trafficking in women and forced prostitution.
3. Physical, sexual and psychological violence perpetrated or condoned by the state, wherever it occurs." (Committee on the Status of Women, 2004)

If we conceptualise a critique of violence starting with the private sphere, we can better understand its roots, its political reflexes and the reasons for its survival. If we want to rethink the concept of evil (Lara, 2001), we should also reconsider the meaning and impact of mythological imagines of violence and collective imaginary in the present. In fact, conquests and new political orders have been often built up over the rape of local women, but traditional imagines of these acts continue to survive in an often uncritical or even heroic way. In this regard we can think of the paintings of Europe kidnapped by Zeus transformed into a bull, or at the pictures of the Sabines, women from the autochthonous people of Sabin, who were won by the Roman tribe. The Sabines were raped in order to allow the birth of new citizens but with the Roman seed. The same story was cruelly repeated during the recent ethnic wars in the former Yugoslavia: rape had the double function of humiliating subjected women/populations and initiating a new ethnicity through the seed of the winners. Yet this also implies that subjected populations can survive and resist in the mind and in the blood of new generations over time.

Violence has symbolic roots (Mackinnon, 1989; Bourdieu, 1998), which permits it to be re-actualised in times of war, crisis and conflicts, as experiences in post-communist countries have demonstrated. (Calloni, 2004 b) And in many cases the sexual connotation of violence is evident.

In recent wars – like in Bosnia – men were also raped. But differently from women, who often talk about their experiences and attend psycho-therapeutic practices, men do not traditionally talk about the sexual abuse they have suffered: while torture is often remembered by the victims as a sign of heroism, rape is a hidden trauma, lived as a matter of shame. Another case: tortures against Iraqi civilians and soldiers were based on sexual abuse and referred to a Western pornographic imaginary with the aim of humiliating the prisoners (Sontag, 2004), despite the "traditional finality" of torture (whose international definition is*: "*any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession."). (UN, 1984)

4. Towards a new approach to citizenship

Justice, ethics and politics should be reconsidered in the light of a reformulated critique of violence and a broader notion of (social) citizenship.

Criticising violence I want to refer to the normative idea of the respect of the psychophysical integrity of a non-humiliated (Margalit, 1996) individual and to support the concept of reciprocal recognition among human beings. (Fraser & Honneth, 2003)

If we start from normative principles, we can also critically comprehend contexts in which they are denied and to individuate pragmatic proposals in order to face them. But we can also start *ex-negativo*, defining the meaning of lack of recognition, which can be meant as: "Every attempt, whatever the purpose or intention may be, of exerting control over the body of another person against that person's will constitutes a certain degree of humiliation that will, more than any other form of contempt, harm the relationship that this person has with him/herself. It is not only the physical pain that distinguishes similar forms of physical offence - e.g. torture or rape - but rather the combining of the pain with the emotional offence of being exposed without protection to the will of another (to the extreme of being deprived of the experience of reality). The physical abuse of another person is such a powerful affront that it cripples the victim's capacity to independently co-ordinate his/her own body; resulting also in a kind of social shame, in a loss of trust and faith in the Self and in the external environment to the point of adversely affecting the physical level of relationships with other people." (Honneth, 1993, 20)

An abused and violated person is crippled not only with respect to his/ her self-esteem. This human being is also deprived of a life worthy of being lived. Primo Levi mentions this feeling in *The Truce*, defining it as the "incurable nature" of the offence, so that:

"No thing could ever come to pass that would be so good or pure enough to erase our past. The signs of the offence we suffered would be in us forever and in the memory of those who witnessed, and in the places where the atrocities were enacted, and in our recounting of the events. Because, and this is the great and horrible privilege of our generation and of my people, no one more than ourselves could better understand the incurability of the offence that spreads like a plague (...), it is an inexhaustible fountain of evil; it cripples the bodies and souls of those who are drowning in it, it extinguishes them and makes them ignoble; it goes back to the oppressors in the form of infamy; it is perpetuated in the form of hatred in the survivors, in different times and ways, against the will of every person, like a thirst for revenge, a moral collapse, refusal, exhaustion, a renunciation." (Levi, 1997 a, vol. 1, 206)

Referring to the three mythological divinities who exacted revenge on wrongdoers, known as the Erinnyes or the Furies, Primo Levi returns to the topic of the "memory of the offence" in *The Drowned and the Saved*:

"Once again it must be recognised that, with a sense of mourning, the offence may never be cured: it goes forward in time, and the Erinnyes, in whom we must believe, do not only harass the torturer (if they do harass him, aided or not by human punishment), but perpetuate his work by denying peace to the tortured (...) A drift in memory may be observed even in the larger sphere of the victims, but in this case, obviously, there is no malice. Who is treated unjustly or with offence does not need to make up lies in order to rid him/herself of the guilt for a sin (s) he did not commit (even if by some paradoxical mechanism (s) he may feel shame); but this does not mean that even his/her memories may not be altered." (Levi, 1997 b, vol. 2, 1007)

Levi's tragic testimony acquires a certain meta-temporal value that sheds a different light specifically on ancient Greek civilisation (through the Erinnyes) and on modern society (through reference to the Holocaust) and, in general, on the process of Western civilisation. History, politics and the life of individuals are here interconnected. Levi's words help to give a more complex answer to the feeling of guilt and violence that connotes the daily life of many people. They refer constantly to specific acts of violence they experienced and their bodies and souls indirectly or directly carry out the indelible signs of the crimes committed against them. As Primo Levi himself states, the fact of having been subjected to violence does not “mean that his memories have not been altered.” An indelible trace remains in the shape of a legacy and reminder that such violence should never again be perpetrated.

Therefore, the meaning of citizenship should be reframed in a broader sense, because in an age of globalisation it cannot be any longer related only to the holding of political rights but to the cosmopolitan perspective. (Held, 2004) The concept of citizenship should imply, besides the idea of the respect of all individuals, also the aim to empower human capabilities and the free will of social actors, associated in different groups and communities. It is therefore necessary to abandon the idea of citizenship as based on the *jus sanguinis*, which was the basis of nationalism and political fundamentalism.

A purely distributive model of justice based solely on the fair distribution of “common goods” is no longer sufficient. The notion of justice cannot be deprived of its ethical foundations. No political or social innovation may be considered satisfactory or as having achieved its redistributive goals if individuals are first violated, segregated, excluded, discriminated or humiliated, starting from what happens in their own home. *The quality of life* (Nussbaum & Sen, 1993) does not consist only in the elimination of poverty, but in the possibility for each individual to develop his/ her own capabilities. Gender inequalities are the key examples used to show the limits of the traditional theories of justice: utilitarism, rationalism, liberalism. The struggle against (economic) misery becomes both a critique of (moral) injustices, in relation to possible normative (legal) and pragmatic (political) solutions. Social policies should be thus founded on diversified interventions and forms of a “well-tempered universalism”, grounded in a sort of “inclusive selectivity.” (Pennacchi, 2004) Universalism can be “contingent”, originating in concrete and contextual experiences. It is not only the “positive”, but also the “reiterative” or the “negative” (Walzer, 1990), of which individuals bear the marks.

A re-formulation of the critique of violence and a re-founding of a (cosmopolitan) citizenship should start from concrete interpersonal relations up to the state and international organisms. The moral principles of a reciprocal recognition and respect of the dignity of all human beings should be supported also by the ideas of freedom from domination, oppression and dependency, in the critique of violent patriarchal cultures and gender domination. These ideas are not merely theoretical or normative, because their content should refer to pragmatic strategies for ending violence. (UN, 2004)

On the reconstructive and interpretative train of thought, I have tried to argue in this paper that gender-based violence in particular as well as psychological, military and state violence in general are determinant aspects of politics, from which we must take leave. It is true, however, that in order to take leave of violence we must also completely rethink and revise the meaning of "social bonds", recovering the value of our emotional ties in a different light, as it is the inescapable aspect on which our daily life and the respect for groups and individuals are founded.

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