

Claudio Corradetti

Relativism and Human Rights

A Theory of Pluralist Universalism

Second Edition

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When he finished writing, he raised his eyes and looked at me. From that day I have thought about Doktor Pannwitz many times and in many ways. I have asked myself how he really functioned as a man; how he filled his time, outside of the Polymerization and the Indo-Germanic conscience; above all when I was once more a free man, I wanted to meet him again, not from a spirit of revenge, but merely from a personal curiosity about the human soul. Because that look was not one between two men; and if I had known how completely to explain the nature of that look, which came as if across the glass window of an aquarium between two beings who live in different worlds, I would also have explained the essence of the great insanity of the third Germany.

Primo Levi [If This Is a Man, pp. 111–112, in, If This Is a Man and The Truce, trans. S. Woolf, Abacus, London, 1987]

If all propositions, even the contingent ones, are resolved into identical propositions, are they not all necessary? My answer is: certainly not. For even if it is certain that

*what is more perfect is what will exist, the
less perfect is nevertheless still possible. In
propositions of fact, existence is involved.*

*Gottfried W. Leibniz [Sämtliche Schriften und
Briefe vol VI pt 4, Deutsche Akademie der
Wissenschaften, 1449A VI 4. Akademie
Verlag, Darmstadt/Berlin. 1936
[1674–76] T.d.C]*

To Valentina, for the joy in life will never end

Preface to the Second Edition

Almost a decade has passed since the publication of this book. A work originally conceived for my doctoral thesis, to read back the original version provoked a sense of surprise but also of distance. Along with the pleasure of unexpected connections comes a feeling of estrangement for some of its elaborations. I have therefore intended to remedy to this difficulty with an overall revision of this text belonging to an early phase of my formation. After all this time, previous interests have found new syntheses in current methodological transformations and ideas. I have therefore written new chapters and reorganized again several chapters and some of the fundamental theses of the original version.

The result has been a new book, a rethinking of the philosophical core of a theory of human rights. An important addition has considered the duplicity of the point of observation in which human rights have been justified. On the one hand, human rights have been argued in terms of formal liberties, that is, as necessary presuppositions to justify rational action through discursive practice; on the other hand, the idea of human rights has been argued in terms of applicative standards of judgment. The mediation between these two levels, then, has required a rethinking of the theory through the consideration of the concept of human dignity as a general principle of the system of human rights (therefore not as a right among the others).

Human dignity, indeed, provides an orientation to the use of reflective judgment in human rights. If something resilient to time is therefore in these pages, this is undoubtedly in an attempt to reconsider some of the points left suspended in the first edition. There is no doubt that a philosophical discourse on human rights cannot avoid considering what is truth (what I define as “experiential truth”), or what are the conditions of normative validity for individual agency.

Human rights represent, in fact, a self-fulfilled philosophical discourse, and even more, a discourse requiring the contribution of a multiplicity of levels of analysis.

In the following pages I will consider the idea that human rights express an epochal and revolutionary character of modernity. They represent, that is, elements of self-reflection of the modern man in the process of defining himself as a worthy subject of equal respect.

I thus welcome with pleasure the opportunity to reflect again on these topics for a second edition. The hope is that this could represent a useful opportunity for future debates regarding the recognition of the fragility of the processes of subjectivization through rights.

Only through the recognition of the reciprocal liberties and capacities to become equal subjects of rights can we also recognize each other as equal members of a society.

This second edition has been expanded with the inclusion of the following new sections:

Part II, “Discursive Dialectic and Processes of Subjectivization,” “Human Dignity as an Orienting Principle of the Universal System of Human Rights,” and “Human Dignity as a Juridical Principle.” The revision of the entire book has been possible thanks to my student assistant Isabel Bianca.

My gratitude goes to my wife Valentina for the patience and the joy in supporting the realization of this work.

This book is dedicated to her.

Rome, Italy,
New York, NY, USA
February 2020

Claudio Corradetti

Introduction

We live in a rule-constrained world. Even our most insignificant practices are somehow dependent upon a socially agreed standard regulating their structures, procedures, and general goals. We can, for instance, appreciate our neighbor's ability to keep her garden tidy and in good shape, but we can also observe the unusual combination of ingredients in the preparation of an exotic dish, or be impressed by the refined style of Chinese pots. We can discuss and disagree about whether our moral judgments are sufficiently argued and produce well-founded contrasting arguments. What happens in all cases is that our diverging opinions are defended on the basis of compliance with a rule, a standard which we consider as deserving priority over alternative considerations. If, in contrast to the experiential pervasiveness of norms, their appreciation was restricted to certain domains of human action, there would be little resistance to the idea of a social construction of reality. My argument, instead, is that the entire domain of human understanding is sensitive to rule-governed practices based upon what I will term "experientialism." To claim that understanding and meaning are strictly embedded within social practices does not amount to say that world's objects do not exist independently from our cognitive activities. Indeed, too often ontological issues, as those concerning the very existence of an external world, have been confused with the epistemological ones. While ontology is existentially independent from our knowledge, this latter always projects classificatory standards on both institutional and non-institutional ontological independent objects.

Standards, as well as values, arise on the basis of social practice. To say that something is a value is to implicitly affirm that there is or that there has been a social practice in support of that something. And yet, while admitting this general background condition, some have advanced the hypothesis that there is still room for at least some "enabling and facilitating values" not subject to any sort of sustaining practice. But even in these cases, one must come to see that "enabling and facilitating values" can *at least partially and indirectly be considered as dependent* upon a social practice, and that their aim is to "[. . .] enable the pursuit and realization of others [values], and, to the extent that the others are socially dependent, so are they, at least in their point and purpose" (Raz, 2005, 34–35). This introduces an important

notion defended in this work, which takes the form of both the idea of *cognitive structures as emerging from experience*, but not of a direct categorization of the experience itself in its cognitive version, and the form of *experiential normative conditions of validity*, as far as its moral-political side is concerned. Throughout the work, I will also show how these conditions bear relevant connections to the notion of contingency and context dependence, as well as how they are connected to the notion of exemplar universality.

Overall, the naïve opposition of objectivist and idealistic understandings of physical and social phenomena is here seen through the lens of the notion of “experience” as an interpretive concept capable of conjoining the two above-mentioned adversarial positions. Intuitively, when one speaks of their own experience, they are immediately readdressed to an idea of privacy which in principle implies incommunicability. This is not how I define the notion of experience and language in general in this work. Wittgenstein offered extensive proof of the inadequacy of the idea of a private language in his *Philosophical Investigations* (1953) and I take his arguments in favor of the idea that experience depends on public use of language – as well as on publicly agreed practices – and what I try to do is to indicate how certain domains of cognitive categorization are primarily sensitive to the specific characteristics of our bodily interaction with the environment, so that cultural variability and different conceptual schemes remain within the constraints of inter-linguistic partial commensurability and epistemic accessibility. In short, I will speak of the embodiment of our minds.

If this element facilitates the task of producing convincing arguments against a strong form of cognitive, linguistic, and epistemic relativism, the reliance on partially commensurable conceptual scheme variations looks much vaguer when applied to possible moral inter-cultural comparisons. I will argue, therefore, that one can show that neither an absolute incommensurability nor an absolute commensurability between competing moral systems can be proved to be at all convincing. Indeed, if persistent moral conflicts upon the goods can be paired with a selective form of reasonable pluralism, then the refusal to surrender to moral relativism is possible only once certain conditions oriented to mutual understanding are satisfied. Such conditions for purposive agency in general, and for communicative agency in particular, are what I will refer to as human rights.

Understanding the conceptual implications of a notion of human rights appears to be one of the most promising research fields for contemporary political theory. Recent literature on the subject has been largely devoted to the impact that any theory of human rights has on the notion of a global theory of justice, development, overpopulation, famine, and war. Yet, even if the extension of applied studies in human rights has acquired great relevance – and certainly urgency – nowadays, there is a lack of proportionate attention to the assessment and justification of the conceptual status of fundamental rights.

One of the main tenets of this study is that the two spheres of analysis cannot be easily separated and that the extent of application of any normative model is to be seen as strictly dependent upon its modality and degree of justification. This work is an attempt to analyze these two aspects and to construct a normative theory of

human rights as dependent both on a model that grounds our cognitive and linguistic possibilities and on a model that validates our moral principles and claims. Indeed, both cognitive and moral elements play a role in human rights judgments, therefore implying, moreover, the necessity of their functional differentiation and asymmetry. This differentiation is certainly an ambitious task, which would ideally require a separate monograph expanding and more fully justifying each chapter. As it stands, however, this work has the advantage of providing several relevant background notions and arguments for a theory of validity of human rights.

The first chapter is oriented precisely to the characterization of the universal validity of truth-claims through the challenges posed by the notion of relativism according to its different dimensions: semantic, epistemic, and ontological.

As far as the cognitive-linguistic dimension is concerned, it is possible to find a justificatory route for inter-linguistic translatability and epistemic partial commensurability on the basis of conceptual bridgeheads, as in the case of color and spatial categories. The first chapter, indeed, addresses the issue of cognitive-linguistic relativism, in particular through the Davidsonian considerations concerning partial incommensurability. On the basis of an extensive use of the discoveries coming from cognitive linguistics a thesis of the embodiment of concepts and of the image schemas is proposed. This allows the defense of partial inter-linguistic commensurability which, unlike the “anti-schematism” of Davidson, can rely on the idea of conceptual schemes as universally shared “bridgeheads.”

In particular, then, the topic of the metaphoric status of thought and of the processes of categorization is addressed. This cognitive aspect is useful for the criticism of philosophical objectivism, and in particular for the criticism of all those linguistic and philosophical theories that have seen in the idea of the correspondence of names with external objects a valid model for the explanation of cognition and of propositional truth. The central idea is that notwithstanding that conceptual schemes do emerge directly from experience and do remain dependent upon bodily structures in their environmental interaction, they are organized in cultural and contextual terms.

The epistemic use of the reflective judgment, then, relaunches an inter-subjective dialogical notion, on the basis of *experientially constituted* conditions, for the construction of meanings and propositional truths. In contrast with previous models, the peculiarity of the present proposal is that dialogically tested cognitions are connected to inter-subjective constructions of propositional validity at an intermediate level, one of which is in between the subject and the object: the experiential interactional processes of categorization. In this case, as it will be for the practical sphere, the notion of truth, far from being considered in terms of its *criteriological* role, is adopted according to its *regulative* function. If the *criteriological* perspective considers truth as based upon a correspondence with the world, the second makes use of a model where the validation of subjective claims is to be measured “as if” it had to be valid for the entire community of fellow human beings.

The second chapter, then, discusses the notions of moral relativism and of objectivism. The initial section offers a general structural picture which distinguishes between descriptive, normative and metaethical relativism. The three spheres can be

combined in various ways and, for instance, when integrated by universalist methodological elements it is possible to formulate a theory which is normatively relativist but remains universalist at the metaethical level. Thus, a general perspective is offered on the different possible articulations within different moralities, which integrate universalist and relativist elements. Some specific positions are then presented and criticized both on the side of ethical relativism and on that of universalism.

Considering Harman's position, it is claimed, among various objections, that he misses to consider both the relevance of the principle of recognition and the normative/factual distinction towards the "ought-can" implication. In the case of Nagel's universalism, it is observed that it is impossible to construct an objectively valid paradigm which can rely on a supposed "view from nowhere." But the abandoning of a form of classical universalism does not necessarily commit us to a defense of a revised form of relativism as the one recently defended by Wong. This allows to elicit some options and to prepare the ground for the form of validity of human rights which will be presented in the third chapter: the idea of an exemplary validity contextually situated and constrained by the experiential presuppositions of communicative action. The result is that of a reformulation of the initial conditions of deliberation as presented by Rawls in terms of primary goods within an original position under the "veil of ignorance," in terms of avoidable "enabling conditions" of communicative action: the right to an equal system of freedoms. The third chapter, in particular, provides a critical evaluation of the Habermasian idea of human rights as presuppositions of the communicative model. Notwithstanding the many advantages of the discursive model resulting from an extremely proceduralized framework for the validity of the ethical-political argumentation, Habermas does not consider that, within the pragmatic-discursive dimension, the always challengeable contextual presuppositions of communicative action do not provide a sufficient ground for reaching his principal objective of subordinating perlocutory functions to illocutionary ones. Such a point connects, within the cognitive aspect, to what is said in the first chapter regarding the truth-validity of speech-acts in terms of the experiential basis of the semantics.

The central dependence of purposive action to action aimed at achieving social coordination (communicative action) is also addressed on the basis Gewirth's argument on human rights as universal conditions of purposive agency. From the difficulties that emerge from both Gewirth's and Habermas's arguments, I reformulate the normative conditions expressed in the Habermasian model for communicative action and propose a model of justification which takes into account the idea that illocutionary speech-act validity depends on both a procedural standard of recognition among agents, leading to a formal system of equal liberties, and on the satisfaction of the conditions of exemplar validity articulated along both epistemic and ethical dimensions.

Indeed, by moving from a system of liberties as a non-avoidable system of purposive presuppositions, I propose a model of judgment capable of mediating between the abstract universality of a system of freedoms and the multiple and partially incommensurable conceptions of the good spread along the multiplicity of

conflicting comprehensive views. In this sense the purported project attempts to consider “the necessary disjunction as well as the necessary mediation between the moral and the ethical, the moral and the political” as well as answering the question: “How can one mediate moral universalism with ethical particularism? How can one mediate legal and political norms with moral ones?” (Benhabib, 2004, 119).

Just to simplify, whereas liberals have favored liberty rights as individual rights claimed against the state, and communitarian have favored community rights against individual reason, the relation between liberty and participatory rights is here understood in terms of a deep interconnection and mutual interrelation between private and public freedoms. Drawing on the Habermasian theory of communicative action, the notion of communicative agency adds not only a substantive constraint to pure proceduralism, it also conceives, on the one hand, the liberties of the private sphere as themselves justifiable on the basis of an ideal community of agents and, on the other, the deliberative outcomes of participatory liberties as delimited by respect for the rights to life, security, and freedom of expression. The liberties of the modern cannot be considered, then, as defining a private sphere autonomously without a shareable public notion of justification, nor can public deliberation overrule the basic constraints of the purposive agency. More specific considerations of the characteristics for a theory of human rights are then advanced by connecting the deontological element of human rights with a consideration of the maximization of rights in the case of internal or external conflict among rights. Such a point is strictly connected to the principle of the “finality of rights” previously posed at the normative justificatory level.

It is precisely when individuals can freely reach a form of self-understanding based upon a universalizable frame that human rights can ground a community of right holders. This is not to deny that variations and specificities can be maintained across self-determined communities and groups. Human rights as principles are, indeed, abstractions which, even if universally justifiable, point to specific interpretive applications considering both the political context of implementation as well as the specificities of the cases to which they are applied. If a general and an independent model of human rights can be provided, its validity claims must also be tested through the strategies of application it brings forth. Therefore, a view must not only recognize some rights as fundamental but also combine a deontological perspective with a form of goal-oriented maximization. Consequently, variability can only be admitted to the extent that different equilibria for the maximization of core rights can be achieved through the balancing and eventual restriction of respectively connected duties, thus introducing an element of contextualism within a universalist paradigm.

By considering that even within a political community conflict on human rights is unavoidable, I have then turned to the construction of the conditions of deliberation in the public sphere that would better favor agreement in pluralist societies. The imaginative interpretation of the constraints of freedoms by the constructive activity of the reflective judgment pluralizes the forms of acceptable public reasons within a system of equal cooperation. The result is therefore a pluralization of the public sphere which calls for possible redefinitions of exemplarily agreed forms of civic

coexistence. This process of continuous tension and revision of publicly valid plural judgments refers to what I have termed second-order exemplar judgments. Since the formal system of liberty-rights grants a plurality of publicly valid exemplar judgments, each system needs the possibility to redefine the conditions of mutual understanding in accordance with the reflective use of judgment. This new form of exemplar universality, by taking into account all the reasonable and yet conflicting views confronting each other at the public level, is then recognized by the competing parties as representing a new construction of the political identity of the socially interacting subjects themselves. Second-order reflective judgments do create new political identities by reframing, exemplarily, those same conflicting views satisfying the conditions of reasonableness.

Finally, in the fourth chapter, I consider the legal dimensions that human rights bear both in the domestic and in the international domain. In order to elucidate this issue, I consider the relation between law and morality and propose a distinction into four according to the following criteria: internal/conventional, external/conventional, internal/normative, external/normative. The subsequent section, then, reconsiders the issue of variability of the juridical codifications on human rights from the perspective of a common moral justification of fundamental principles as deduced in the previous sections. It is once again underscored that even if the concepts of the good can remain partially incommensurable, from the perspective of the juridical interpretation and articulation of the fundamental conditions of agency, it is possible to advance an idea of *partial commensurability on balance* which, even if contextually sensible to the socio/cultural environment of reference, does not impede a possible horizontal revision (interstate relation), of the juridical codifications.

To claim that a form of partial commensurability on balance can be advanced without infringing the political autonomy to self-determination of a community of citizens, certainly does not amount to provide rationale for “forced processes of democratization” as advanced by individual states in the name of a liberal *ethos*.

For this reason, while defending the conceptual possibility of mutual cooperation among states in matters of legal reforms, in Sect. 4.4 the widespread idea that international peace and stability can be granted simply by increasing the number of democratic states and coalitions is rejected. Democracies have been capable of exhibiting external behaviors that are as aggressive as non-democracies, even in situations that do not threaten their national security. Also, war and democracy are very complex terms to define, and certainly the so-called democratic peace theorists have not done much to achieve their clarification. While democratic institutional configurations are necessary conditions for the achievement of international peace, they are not sufficient elements. What is required is the development of conditions of regional coordination *within the medium of law* which can bind – internationally – both democratic and non-democratic states. But such external mechanisms of political rationalization, in order to avoid a form of legal imperialism, would have to rationalize democratic external behaviors under the condition that the maintenance of a multilevel constitutional dialogue is granted. Constitutional confrontation and functional differentiation remain the core point for granting pluralist self-determination at the local, regional, and international level.

This book collects and organizes all my recent enquiries into human rights and cultural diversity of the last 5 years. While initial seeds were contained in some of my previous works, here I offer a systematic philosophical framing for a post-metaphysical conception of human rights.

As so happens in the arts and in scientific discoveries, intellectual improvement is sensitive to the influence of several occasions of exchange, both formal and informal, such as public readings, presentations, and private conversations. Even if the solitary dimension of research scholarship is unavoidable, it is only through critical debate that ideas flourish and improve. For this reason, first of all, I'd like to thank the directors and the academic committee of the annual conference "Philosophy and the Social Sciences" at the Czech Academy of Sciences of Prague where in the last few years I had the chance to present two papers that are now part of this work: in particular, I would like to thank N. Fraser, W. Scheuerman, D. Rasmussen, and M.P. Lara. The questions and the criticisms received in such occasions allowed me to improve some of the crucial points defended in the book. Additionally, a challenging international exposure to contemporary philosophical theories of human rights came from speakers at the Colloquium "Philosophy & Society" at the American Academy in Rome. I'd like to thank the advisory panel for offering such excellent opportunities of discussion, and in particular L. Cedroni and D. Archibugi. Further, thanks to a fellowship granted by Istituto Italiano per gli Studi Filosofici Luigi Pareyson of Turin, I had the possibility to follow an intensive training seminar with J. Searle and to discuss with him some of my central theses. I would like to thank U. Perone for this splendid initiative. Finally, as a visiting fellow in law at the European University Institute in Florence, I had the chance to complete some of my earlier drafts on the legal dimensions of human rights and to present part of this work in the advanced seminar in philosophy of law. I wish to thank G. Sartor and W. Sadurski for their seminars in legal theory and political philosophy as well as A. Pizzorno, M. Rosenfeld, and G. Postema for their comments. This writing, though, would have not existed without the profound inspirations of the works of A. Ferrara. I am grateful to him both as a scholar and as a person for his encouragement and for the innovation he has inspired in my research. Finally, a thanks goes to K. Fischer for the proofreading and to the anonymous referees of Springer. Both have provided me not only with the chance of substantially improving many parts of the manuscript, but also with the possibility to make myself more understandable to potential readers.

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Part I

Chapter 1

Cognitive Relativism and Experiential Rationality



Abstract Along this chapter I discuss different theories of epistemic relativism. I argue that it is possible to construct a theory of knowledge that is both experientially situated and subjected to a regulative standard of validity. To this purpose, I adopt some of the basic processes of categorization proposed by cognitive linguistics and I extend Kant's reflective judgment to the epistemic domain. This strategy allows to support Davidson's views against total incommensurability, but it also develops alternative reasons to explain why this is so. All in all, the chapter set the initial ground to reject forms of epistemic under determination which would undermine the possibility of constructing public truth of human rights.

In the attempt to defend a notion of pluralist universal validity of human rights, the first, perhaps unintuitive step, consists in rejecting relativist claims regarding the cognitive-epistemic condition of our faculties. The relevance of this starting point lies in two reciprocally interconnected reasons which compel any research into the philosophical justification of human rights to consider the challenge of cognitive-epistemic relativism. The first reason is related to the Habermasian difference between 'mutual understanding' (*Verständigen*), as a form of understanding the subjective reasoning of an interlocutor which is valid only for itself, and 'agreement' as a mutual acceptance of a validity claim (*Einverständnis*).¹ Any form of agreement must presuppose a pattern of mutual understanding which can either proceed to justification, or to a suspension of a process leading to agreement. In practical discourses, the possibility to reject contrasting beliefs depends on the satisfaction of a preliminary condition oriented to the construction and definition of the cognitive context which validates judgments. In order to achieve an agreement on shared definitional context, agents must be capable to clarify and exchange their respective semantic frames of reference that are adopted for the justification of their beliefs. This implies that the option of an absolute form of cognitive incommensurability be ruled out, and that with the overcoming of such obstacle, a clarification of the presuppositions of discourse validity will also follow. This is what I will clarify in the present chapter.

¹This distinction is adopted in Habermas (1984).

The second reason concerns the very possibility of epistemic certainty, a crucial element upon which are based those reasons that can sometimes be in conflict, or, as often happens in our case, in the balancing of the different principles of human rights. Take, for instance, the case of the recent debate in bioethics in genetic research, or in environmental law, or also the considerations concerning health risks derived by certain cultural beliefs, or finally, practices such as female genital mutilation or, for some, the forbiddance of receiving blood transfusions. The importance of the interconnection between our epistemic and moral dimension, together with the presumption of satisfaction of certain standards, therefore represents the general theoretical presupposition for the justification of an approach primarily *cognitively non relativist* of our judgments of human rights.

These cases certainly do not exhaust the spectrum of possibilities which should be assessed epistemically, before it discloses a space of reasonable controversy in the domain of the public sphere. Another interesting research laboratory, in which historical truth acts as a precondition for the reconstruction of processes of ascription of responsibilities is that going under the name of ‘transitional justice’, that is, those processes generally directed to realize the transition of democratization in post-war countries. Transitional justice encompasses all those institutional and non-institutional changes which are required for transitioning a society, and its institutions, from a phase of internal conflict to a new condition of dialogue among the political forces. The relevance of the anti-relativist cognitive aspect at stake in these contexts becomes apparent in the relevance that is assumed in historical reconstructions, and therefore, in the verification of the facts and in the overcoming of presumed cognitive frames that would be divisive. There is, indeed, no chance to rebuild the democratic functions of a country characterized by conflicting groups, without a prior assessment of past violations and reciprocal responsibilities. But this requires the activation of adequate judicial procedures, narrative praxis aimed at the sharing of historical truth, as well as the reconstruction of events and of a shared recognition of individual and collective responsibilities. The occurrences of praxis and social facts must be subordinated to an attribution of significance, that is, they must be reconstructed in the light of an epistemic knowledge of relevant institutional facts.

As it results from all these cases, it is evident that the shift from a situation where the process of shared understanding of social and political facts has collapsed, to a phase where this is reestablished, requires a process of consolidation of collective truths that precedes the reconstruction of a new public sphere.

In other words, the use of public reason, contrary to some skeptical implications of the Rawlsian notion of the ‘burden of judgment’ later discussed,² requires an *amount of cognitive truths* (of historical and social facts) that link *public disagreement* to common starting assumptions. Certainly, these same elements can be questioned in turn, but the relevant point for the reconstruction of a new public sphere is

²Rawls (1996 [1993]).

establishing common presuppositions on the base of which to articulate one's practical discourses.

Given this premise, is it possible to claim that truth consists simply in the correspondence of concepts and facts or, rather, that it is connected to a socially constructed procedure?

I will defend this latter option and argue that the congruence, that is, the plausibility of practical-moral visions, finds external support in scientific-epistemic evaluations, without this implying the adoption of a form of naturalist reductionism, nor the adoption of forms of justification of hermeneutical-cultural kind.

I will not exclude the idea that such dimensional perspective of truth, so to say, pushes us to some form of subordination of the practical domain to the epistemic one. The epistemic and the ethical sphere remain separate.

With this, it is not my intention to claim that the validity of ethical theories *depends on empirical facts* – such a relation of corresponding fact with ethical principles simply does not exist. What I claim, instead, is that the practical activity of judgement (relevant from the moral standpoint) can be correctly applied to a given context and to the objects that are there relevant only starting from a (pre-) understanding of cognitive-experiential kind, indeed, both of the context and of its objects.

Accordingly, in the first section, I will attempt to refute several versions of relativism advanced within the sphere of epistemic-cognitive pre-understanding for the practical problems. The goal will be to clarify the relation between the idea of validity of epistemic certainty (derived from the epistemic use of judgments), and the validity of human rights judgments. My argument will primarily address the development of Davidson's thesis against the principle of "total incommensurability".³ Differently from Davidson, though, I will maintain a universalist understanding of the idea of "conceptual scheme".⁴ I will claim that such schemes are part of our bodily interactions with the environment and do ground, from the cognitivist-epistemic perspective, our understanding of physical and social phenomena. It is important to clarify that this level of experiential interaction is somehow 'imaginative', constructed that is starting from an analysis that avoids the pretense of reproducing the structure of our existing languages and cognitive frameworks. Rather, it intersects a 'pre-cultural' approach to reality based on the notion of "conceptual embodiment"⁵ of our faculties.

Diversification of our linguistic systems occurs at a second stage, that is, when forms of social and environmental adaptations organize and reformulate this first level of bodily interaction. Partial commensurability of our cognitive faculties is thus the result of such common precognitive grounding, so that the meta-condition of mutual understandability is defended.

As already mentioned, the second central idea defended in this chapter is that of epistemic truth as part of a broader framework of public reason. Relativism in truth

³ Davidson (1984, 183–198).

⁴ Ibid.

⁵ Lakoff (1987).

can broadly amount either to the so called ‘standard-related’ hypothesis or, to the ‘no neutrality’ hypothesis.⁶

Here, the argumentative strategy which I defend is oriented, on the one hand, towards the rejection of possible forms of epistemic solipsism – as for example those attached to the idea of an internal standard of validity conceived as private in principle; on the other hand, instead, I will argue that the ‘no neutrality’ hypothesis does not necessarily commit us to relativism. This last point will be defended through the critical discussion of several authors, such as MacIntyre, Rorty, Putnam. The conclusion is that while a contextual approach can coexist with a non-relativist account of our faculties, the defense of a criterion of truth can be defended without the need to resort to an objectivist paradigm of explanation. The concluding remarks will point to the idea that the standard-related hypothesis must to be understood in relation to a notion of truth based on the principle of subjective universalism and exemplarity. These two elements maintain solid the notion of ‘situatedness’ with the idea of universalizable subjective validity typical of exemplar universality.

1.1 Beyond Cognitive and Linguistic Relativism

There is a version of the notion of relativism that must be considered in order to understand the epistemological difficulties involved in the notion of cognitive and linguistic relativism. Some of its most renowned representatives are Lyotard, Malinowski, Wittgenstein, Kuhn, Whorf, Herskovits and generally all those who have been interpreted, rightly or wrongly,⁷ as proposing a notion of meaning, or an epistemic category, as strictly determined by the non-universalizable conditions attached to the contextual practice of a community.⁸ According to this version of relativism, cultural diversity implies that diversity of images of the world is such that it leads to a complete incommensurability of epistemic categories. Such a form of relativism conceives of each epistemic category as referring to different conceptual schemes which, in their turn, are taken as totally untranslatable.

⁶Moesteller (2006, 2).

⁷For example, it is not clear at all that Kuhn can be read as proposing a strong form of relativism: “Kuhn nowhere shows that meaning shifts are necessitated by paradigm shifts. His historical examples support only the weaker thesis that limited meaning shifts have occurred as paradigms have been replaced or transformed”. Harré and Krausz (1996, 80). Later in this chapter I will provide a non-relativistic/solipsistic reading of Wittgenstein.

⁸In the Italian debate over the issue, Zolo represents one of the most tenacious defendants of the incommensurability of values, when he writes: “Within differentiated societies, social complexity appears as a process of increasing semantic discontinuity among languages, knowledge, and values that are practiced within any social subsystem. The meaning of an experience lived in a specific domain is hardly translatable in terms of an experience which is possible within a different domain. And the relative functional codes are therefore in principle incommensurable and incommunicable”. Zolo (my translation, 2002, 82).

The relativist argument that will be considered here underscores, first, the dimension of cross-cultural variation in the notion of ‘conceptual scheme’ and, secondly, the idea according to which different schemes imply seeing the world through different eyes. All this bears as a consequence the view that there are different and incommensurable systems of life and thought and that no mutual understanding nor agreement can bridge such epistemic gulfs. What is philosophically interesting in this argument is that, by asserting cultural diversity, this version of relativism also declares a mutual conceptual inaccessibility among cultures.

In order to provide an answer to the difficulties encountered by such a position, in the following sections I will first proceed by reconstructing the Davidsonian theory against total incommensurability,⁹ which indeed addresses the general problem of the “dualism between scheme and content”,¹⁰ that is, the dichotomy between a non-conceptualized datum and a conceptual scheme organizing the empirical datum. This will provide the starting point for subsequently analyzing, autonomously, the issue of cognitive relativism through a new frame provided by cognitive linguistics, in order to rehabilitate, *contra* Davidson, both the notions of conceptual scheme and of partial commensurability.

Davidson’s argument proceeds as follows:

1. The notion of conceptual scheme and empirical content must be reciprocally interdependent.
2. A conceptual scheme is possible only if a plurality of incommensurably alternative conceptual schemes result possible.
3. Conceptual schemes are necessarily associated with languages.
4. If conceptual schemes are incommensurable, then their related languages are untranslatable.
5. But since total failures of inter-translatability are not the case, then conceptual schemes are not totally incommensurable.

From this, it follows that the problem of linguistic incommensurability may assume two different versions, that of total incommensurability (I) and that of partial incommensurability (II), which may, respectively, be addressed as follows.

Argument (I):

1. Total failures of inter-translatability are the necessary and sufficient conditions of radical divergence of conceptual schemes.
2. Total failures of inter-translatability are inconceivable.
3. Therefore, either it is not possible to conceive total untranslatability between different linguistic systems in terms of a radical divergence of conceptual schemes, or one is presented with a case of total untranslatability, such as a language spoken by an alien, which is impossible to recognize as a language and therefore as a conceptual scheme.

⁹Davidson (1984).

¹⁰Davidson (1984, 183).

Argument (I) runs counter to the possibility of total failures of translatability.

Davidson supports this consequence by demonstrating that it is not possible to separate the notion of linguistic capacity from that of translatability in such a way that something may be recognized as a language without being, at the same time, an object of translation. In other words, what Davidson underscores is that it is contradictory to attribute a linguistic capacity to someone based on the principle of charity of interpretation¹¹ while at the same time declaring the impossibility of interpreting such utterances. If the notion of linguistic capacity is strictly dependent on that of inter-translatability, wherever one recognizes the property of linguistic capacity, one is also obliged to admit the possibility at least of partial inter-translatability.

This leads directly to the consideration of Argument (II) which, in turn, can be presented as exhibiting the following structure:

- (i) Partial failures of inter-translatability are not sufficient conditions for the existence of different conceptual schemes.
- (ii) Partial failures of inter-translatability do not prove neither radical incommensurability nor total commensurability of the conceptual schemes.

According to Davidson, a partially incommensurable conceptual difference can arise only when one presupposes, simultaneously, and as a background condition, a common system of coordination. This is because whenever someone engages in interpretive activity, they engage in the ascription of beliefs and concepts. According to this precept, which follows from the Davidsonian principle of charity of interpretation, any interpretation implies the projection of one's own concepts and beliefs and consequent adjustment and alteration of one's projections. Hence, any ascription of belief, as well as the possibility of disagreement, presupposes a large area of agreement.¹² As a matter of fact, individuals or social systems, can diverge in belief, for instance, with respect to the different referents of their shared beliefs, but this simply means that concepts are used in different ways, without implying radical incommensurability. In such cases of disagreement, reciprocal understanding is still possible, since endorsement of a larger number of undiscussed beliefs is not ruled out. The charity principle, while not implying that we need to share all the beliefs of a different culture, establishes only that it is not possible in principle to conceive any difference in beliefs, without simultaneously assuming agreement over the majority of shared background beliefs.

But whereas Davidson seeks simply to prove that condition (i) concerning partial incommensurability is not sufficient to demonstrate the existence of different conceptual schemes and of schemes in general, I for my part intend to claim that, so far as the cognitive domain is concerned, this is due to the existence of universally shared conceptual schemes and also that partial incommensurability does not prevent the possibility of an indirect epistemic access of what appears as

¹¹ This is the principle of optimization of an agreement on the basis of an attribution of true beliefs to those whose speech is being interpreted.

¹² Davidson (1984, 197).

incommensurable in the cognitive target domain. Indeed, just as an intuitive exemplification, one can take the case of a sentence *S* in a language *L* which lacks a corresponding translation in a language *L1*, but even so, speakers of *L1* are not deprived of an epistemic access to the linguistic content of *S* in *L*.

This means that partial failures of inter translatability are not necessary conditions of failures of epistemic access. Indeed, notwithstanding a lack of direct linguistic correspondence, it is still possible to provide an interpretation of the word in *L*, as well as of the beliefs and of the concepts connected with it. While one can still say that linguistic accuracy is lost in translation, it cannot be claimed that this prevents epistemological access either with respect to the linguistic meaning of the word or to concepts connected to it.

Following a slightly modified version of this argument against translatability, one could proceed by considering whether from the evidence of *actual* failures of interpretation it is possible to conclude in favor of the notion of cultural epistemic incommensurability. My conclusion is that not even in the extremely rare cases of asymmetrical epistemological inaccessibility, as for example in the case of two numeric systems, it is possible to conclude against epistemic accessibility.

In particular, in the case of epistemic asymmetries, one may lack *present* access to a different numerical system without precluding *in principle* future access to that system. This implies that contingent diversity cannot be taken as preventing potential conceptual access to diversity itself and that cognitive competence can be maintained as something distinct from its individual linguistic and conceptual realizations.

One interesting implication of this view is that if grammatical constructions encode semantic elements, then ‘superficial differences’ among languages are no longer easily reducible to linguistic structures but reflect differences of semantic categorization and of cognitive experiential categorization. Grammatical differences are thus experientially grounded differences in meanings, and the possibility of translating one language into another involves the possibility of having partially commensurable forms of semantic structures. If translation is possible, then one must admit the presence of some universal experiential frameworks structuring the cognitive domain.¹³ The further relevance of this for the notion of externalism in meaning is noteworthy. Putnam has suggested that philosophers were mistaken in running together two points: first, that meanings are simply ‘internal’, and second, that they are analogous to what one defines as beliefs (the latter normally identified

¹³“What kinds of concepts is one most likely to find as one surveys conceptual systems? First kinesthetic image schemas: concepts like ‘up-down’, ‘in-out’, ‘part-whole’, etc. Second, basic-level concepts for things, states, activities in one’s immediate experience: body parts, plants and animals, basic-level artefacts, basic colors, basic emotions, etc. Third, metaphorical concepts based on universal experiences: thus it would not be surprising to find ‘more’ being ‘up’, or ‘anger’ being understood in terms of ‘heat’ or ‘pressure’. There are a fair number of such things that one would not expect to vary much. All of these are tied very closely to well-structured experience”. Lakoff (1987, 336).

through their relations to other objects and events ‘external’ to the subject himself).¹⁴ The short reply to this is that meaning is “experientially” based and cannot be conceived beyond the subjects’ interaction among themselves and with the environment, or in any individualistic way. More in detail, Putnam¹⁵ presents his idea through the example of Twin Earth: we are invited to imagine two people with the same physical properties, and who are therefore identical as far as their restricted psychological states are concerned. One of the two, the person on Earth, has learned how to use the word ‘water’ by watching water and playing with it etc.; the other, on Twin Earth, has learned to use the word ‘water’ in similar circumstances, with the sole difference that the substance he refers to, even if apparently similar to Earth-water, possesses a different chemical composition. Even if the restricted psychological states of the two subjects are the same, the extension of ‘water’ on Earth and on Twin Earth is different, thus ‘meanings are not in the head’. What results from this version is a reduction of the authority of the first person, given that we could always be wrong about the meanings of the words we use without being aware of it. But simply from the fact that meanings are partially determined by external objects, it does not follow that they ‘are not in the head’. Putnam’s mental experiment nonetheless leaves open the possibility of an interactional construction of meanings which depends both on physical interactions with the environment and on interpersonal constructions of meanings. Therefore, while his explanation sheds light on the fact that the micro structural components of a meaning can obviously play a role, so that ‘water’ on Earth and ‘water’ on Twin Earth can be differentiated, this differentiation can occur only whenever interactional and experiential reasons require it. Until then, there is no possibility of a view from anywhere, nor of a ‘God’s point of view’ under which not interpreted substantial physical properties are the only pertinent elements to meaning construction. The idea is that physical properties do not escape conditions of *intentionality* and *indexicality* in meaning with the consequence of subordinating meaning validity to standards which can be either satisfied or violated with reference to a situated self.¹⁶

This revised interpretation of meaning construction is able to connect both the authority of the first person, the partial fixing of meanings by external objects, and the social character of language through the relevance given to the second person (I can judge that you are following a rule if you proceed in the same way I would, or more generally if you make yourself interpretable to me).¹⁷ Compared to the standard against which other subjects are to be measured, there is no need to establish a criterion independent of the interpretative activity of those subjects themselves. As a matter of fact, this would simply constitute an infinite regress, and require an

¹⁴Putnam (1975).

¹⁵Putnam (1981b, Chap. 2).

¹⁶For the presentation of a clear argument against externalism, see Searle (2004, chap. 6).

¹⁷The thesis presented here is broadly compatible with the views recently expressed by Davidson (2001, 66–67 and 155 ff.), even if relevant points of difference can be found in the foundational role played in my analysis by the spatio-temporal categorization and the Davidsonian interactional perspective of category construction.

additional standard from which to interpret the former standard. Intersubjectivity relies, therefore, on the interactional interpretational activity of the community of speakers with the surrounding environment, bearing only a difference of degree, but not one of kind, with respect to the necessary capacities for the interpretation of another language.¹⁸ According to this view, the environment comes to assume a regulative function which precludes any possibility of considering meanings in terms of a mere correspondence with an independently constituted world.¹⁹ The

¹⁸On this point Davidson claims: "A creature may interact with the world in complex ways without entertaining any propositions. It may discriminate among colors, tastes, sounds, and shapes. It may learn, that is change its behavior, in ways that preserve its life or increase its food intake. It may 'generalize', in the sense of reacting to new stimuli as it has come to react to prior stimuli. Yet none of this, no matter how successful by my standards, shows that the creature commands the contrast between what is believed and what is the case, as required by belief. What *would* show command of this contrast? Clearly linguistic communication suffices. To understand the speech of another, I must be able to think of the same things she does; I must share her world. I don't have to agree with her in all matters, but in order to disagree we must entertain the same propositions, with the same subject matter, and the same conception of truth. Communication depends on each communicator having, and correctly thinking that the other has, the conception of a shared world, an intersubjective world. But the concept of an intersubjective world is the conception of an objective world, a world about which each communicator can have beliefs. I suggest, then, that the conception of intersubjective truth suffices as a basis for belief and hence for thoughts generally. And perhaps it is plausible enough that having the concept of intersubjective truth depends on communication in the full linguistic sense. To complete the 'argument', however, I need to show that the *only* way one could come to have the belief-truth is through having the concept of intersubjective truth. I confess I do not know how to show this. But neither do I have any idea how else one could arrive at the concept of an objective truth. In place of an argument for the first step, I offer the following analogy. If I were bolted to the earth, I would have no way of determining the distance from me of many objects. I would have no way of determining the distance from me of many objects. I would only know they were on some line drawn from me towards them. It might interact successfully with objects, but I could have no way of giving content to the question where they were. Not being bolted down, I am free to triangulate. Our sense of objectivity is the consequence of another sort triangulation, one that requires two creatures. Each interacts with an object, but what gives each the concept of the way things are objectively is the baseline formed between the creatures by language. The fact that they share concept of truth alone makes sense of the claim that they have beliefs, that they are able to assign objects a place in the public world". Davidson (2001, 103). It is quite clear that what Davidson admits he cannot explain is straightforwardly explicable if cognitive systems are afforded an experiential foundation.

¹⁹The internal connection between the notion of a world as a regulative concept and the notion of the validity of experience has been very clearly described by Harré and Krausz: "It is possible for an internalist, one who holds that all existential categories are created within theoretical contexts, to project these categories onto an external world, a world which exists independently of its being examined. From within an internalist framework, one can make intelligible the idea of something to which we can have no direct epistemic access. We can talk of the intelligibility and of the inaccessibility of a particular or of a type of entity in virtue of a well-constructed theory, which posits the existence of the relevant type or particular; that is, we might argue that it is necessary to assume the existence of a certain class of entities so that the phenomena which we know to exist should be possible. If there are to be electro-magnetic interactions, there must be virtual photons. If there are to be earthquakes there must be tectonic plates. By the same token one may hold to a theory of truth in terms of a correspondence between discursively constructed cognitive objects and some aspect of the world, yet agree that one has no direct access to the world-in-itself, and so no way of

quest for truth can be placed only within the horizon of experience, which comes to be the never completely exhaustible condition within which an internal critical process of dialogical reflection occurs.

A cognitive-relativist counter argument against the idea of a general trans-linguistic accessibility might also take the form of ontological relativism, in particular as it results from the Quinean notion of *under-determination of translation*. Here the thesis assumes that, for two languages L and L1, there exists an infinite number of translation manuals from L to L1 all respecting the general condition C that each manual must respect in order to be correct. Quine claims that if there is a translation manual from L to L1, then an infinite number of translation manuals which are all correct exist in relation to C and yet are incompatible with each other. If this argument is sound, then the reference of each translation manual could be different, invalidating the relevance of the notion of linguistic reference itself. Let's consider the following argument:

1. If T1 is a correct translation of S, then T1 and S have the same reference.
2. But since, according to Quine's argument, one can obtain a multiplicity of correct translations of S such as T1, T2 etc.
3. Then, it is not possible to establish which is the reference of T, due to the multiple references exhibited by translations T1, T2 etc.

For the sake of elucidation, if in the traditional version of cognitive relativism, a sentence S is believed to have different truth-conditions operating at different social contexts, Quinean relativism avoids incoherence by admitting a multiplicity of valid translations that maximize and predict equally well the behavior of the society in question. In the first version, relativism is supported by a notion of radical incommensurability and un-translatability, whereas in the second version, there are too many translations that are equally right. Indeed, the Quinean thesis on the indeterminacy of translation does not claim that singular translations are themselves indeterminate, since each translation is a determinate, equally valid interpretation of sentence S. But if Quinean relativism, on pain of an infinite interpretative regress must admit that multiple translations of a sentence S are multiple determinate translations of that same sentence, then it must also admit in principle that there is a way of establishing whether a translation is more correct than another on the basis of a specific meaning that the translated sentence represents. I believe that the crucial point in Quine's argument is the relevance assumed by the notion underpinning the general conditions of correctness according to which a translation manual should conform to in order to produce valid translations. This brings us back to the postulation of the notion of experience as a normative standard framework of our bodily experiences with the environment and the social world.²⁰

making judgments as to the truth of particular hypotheses about the world beyond all possible experience". Harré and Krausz (1996, 139).

²⁰More specifically: "From the commonalities of our visual systems and motor systems, universal features of spatial relations (image schemas) arise, whereas from our common capacities of *gestalt* perception and motor programs basic-level concepts arise. From the common color cones in our

This notion provides a common cognitive framework for the development of experiential meanings and conceptual scenarios. For instance, establishing relations of symmetry between parts of our body allows us also to assign negative or positive values to each of the orienting spatial vectors. If in many categorical spheres the bodily-cultural experience is variable, as concerns the space-bodily experience, such variability is reframed within a *framework of conceptual comparability*. This emerges clearly in cases of perceptive asymmetries which allow for an orientation choice that is reducible to front-back, above-under, raised-underlying.²¹

Such bodily-constrained conceptual elements can be taken as instances of the well-known notion of “rational bridgehead” as introduced by Hollis,²² and can be used to defend of the necessity of a common core of equivalent perceptions and beliefs shared inter-culturally which allow for the inception of translation activities. Rational bridgeheads, according to Strawsonian terms, through their provision of a “direct attack on meaning available”²³ and “a massive central core of human thinking which has no history”²⁴ would break a vicious circle consisting both of the assumption of understanding a belief before being capable of translating it and of the prerequisite of translation before the possibility of understanding the meaning of a different linguistic system.

1.2 Epistemic Relativism Refuted

Moving now from the notion of translatability to that of truth and reason, the first observation is that relativism is neither a coherent nor a good explicatory theory. The central thesis of a certain epistemic relativism is that it is perfectly fair to defend the claim that there are cases in which what is true for a culture X is false for a culture Y. This implies that, for the relativist, the truth of a sentence is relative to a group’s assumptions and varies according to its characteristic truth-claims. This

retinas and the commonalities of our neural architecture for color vision, the commonalities of color concepts arise. Our common capacity for metaphorical thought arises from the neural projections from the sensory and motor parts of our brain to higher cortical regions responsible for abstract thought”. Lakoff and Johnson (1999, 463).

²¹ “[...] The correlation hypothesis implies that since P-space [perceptual space] is a human universal, it should condition L-space in every language. The L-space of each language should therefore exhibit properties that are consistent with the P-space as briefly described in this paper. This hypothesis does not imply that each language should have the same spatial terms (except for translation) or terms drawn from the same small inventory of spatial terms. Rather, the hypothesis implies that the possible rules of application – those spatial conditions presupposed by the spatial terms – should be universal. Since these rules of application can be combined in a number of different ways, many systems of other languages that I am at all acquainted will appear to be very similar to the English L-space”. Clark (1973, 54).

²² Hollis (1982).

²³ Hollis (1982, 75 ff.).

²⁴ Ibid.