

# The Palgrave Macmillan Luhmann Observed

Anders la Cour  
and  
Andreas Philippopoulos-Mihalopoulos

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Radical Theoretical Encounters



Luhmann Observed

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## Radical Theoretical Encounters

Edited by

Anders la Cour

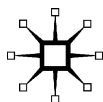
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# Introduction: Luhmann Encountered

*Andreas Philippopoulos-Mihalopoulos and Anders la Cour*

Niklas Luhmann's (1927–1998) theory of social systems is notorious for its degree of complexity and abstraction. It has been regularly misread as conservative, overly structural, positivist and disconnected from other contemporary theories; especially the ones influenced by post-structuralism, gender theory, postcolonialism, and spatial and embodied understandings of society. Such misunderstandings help to explain why, particularly in the English-speaking world, reception of Luhmann's work has been reluctant and uneven. While there is no paucity of introductions, general discussions and handbooks on Luhmann's work, some of the misattributions and ossified readings persist. Part of the problem is the lack of fruitful critical dialogues between Luhmann's theory and other theoretical perspectives that would manage to set Luhmann in a new light, away from received readings and originary orthodoxies, and in line with contemporary theoretical developments.<sup>1</sup> The present anthology is an attempt to establish precisely such connections by critically relating Luhmann's work to a set of other authors and theoretical perspectives – from Jacques Lacan to Jacques Derrida, from Gilles Deleuze to Umberto Eco, and from gender studies to actor-network theory to spatiality – all of which radically new and relevant areas of research to which Luhmann's theory has a great deal to contribute.

The need to bring systems theory into dialogue with other theoretical perspectives becomes palpable when one takes into account the fact that the theory has some serious comprehensive sociological and universal ambitions, in the sense 'that it deals with everything social and not just sections' (Luhmann, 1995: xlvii). Indeed, one of the most significant difficulties is to accept both that the theory is universal *and* that it can never be all-inclusive, since it always leaves out the space from which the theory is observed: this is perhaps the fundamental paradox of the theory. The disconnection from other contemporary theories, therefore, can in part be explained by its paradoxically fragmented universality, and in part by its many counter-intuitive assertions that make it notoriously difficult to situate. This disconnection,

however, is ironic because few theories have been more eclectic in the way they have drawn inspiration from other theories. Luhmann's quotidian bedfellows have included: Karl Marx, Max Weber, Talcott Parsons, G. W. F. Hegel, Immanuel Kant, Edmund Husserl, and Jacques Derrida, as well as cybernetics, autopoiesis, legal positivism, semantics, phenomenology, and deconstruction. From the very beginning, systems theory has been engaged in encounters with other theories in order to create its structured complexity. In this way, its self-reference has been de-tautologized.

Another explanation for the isolation of Luhmann's theory of social systems has been the tendency of systems theorists to succumb to theoretical self-absorption. The reading of Luhmann's work often takes place in closed circles of research environments, well within the confines of highly specialized system theoretical discourse. Systems theory runs the risk of being caught in a fruitless self-referentiality, communicating exclusively with itself, without feedback or even inspiration from the outside, and thus doomed to repeat itself to the point of meaninglessness. The theory has in this way fallen in love with itself, caught in its own admiration under the spell of its own picture, being too busy exploring its own mystery of complexity, and thus ignoring other theories in its environment. Avoiding such self-referentiality is the aim of this volume: rather than allowing systems theory to succumb to its perceived theoretical closure, we open it up from the inside, allowing its various tentacles of potential theoretical connections to unfold. For indeed, it is because of its many lovers that the theory has come to its present state of being, with all its intriguing complexity. Just like every theory, systems theory has developed its own unique autopoietic self-reference; yet, like every closed system, it also constantly draws stimulus from its environment that helps it avoid tautology and stagnation. Theories, and systems theory is no exception, function simultaneously as an open and a closed system.

According to Gertrude Stein's famous dictum, a rose is a rose is a rose. But in order not to be caught in an endless and unproductive self-reference, we will sway from treating systems theory in the same way as Stein's rose. Just as any other theory, systems theory forms its own closed system, with its own ambitions, concepts, mechanisms, limits and limitations: always in contact with itself and precisely because of this closure, increasingly in a position that generates inspiration for and by other theories. Indeed, in order to break away from any bad infinity of a theory's constant mirroring, additional meaning must be recruited in order to interrupt and yet nourish the self-reference. This always concerns a process internal to the system itself, and not just, as Luhmann himself puts it, an external observer that pushes forth her own ideas and positions (Luhmann, 1995: 466). The circulation of autopoiesis cannot be eliminated but it can be used, unfolded and de-tautologized through the reception of new and differently complex stimuli from its environment. This volume addresses both already seasoned

system theorists, as well as scholars who engage in other theories or areas of contemporary sociological and ethical problematization who would like to see how either side of the encounter can be enriched. Just as other theories have and will continue to operate as stimuli for systems theory, we believe that systems theory has reached a level of maturity that enables it to function as stimulus for other theories as well. From the point of view of systems theory, other theories that exist in the environment of systems theory are observed as self-referential social systems in themselves: just as systems theory itself, they simultaneously combine self-reference with other-reference in order to create the necessarily structured form of theoretical complexity. Understandably, this process has generated a host of complex theories that combine a high degree of indifference with regards to their environment – an indifference that is, at the same time, the guarantee for a very specific openness and sensitivity towards it. Thus, the challenge of this volume: how to create an encounter between theories, whose closure is seen as the precondition for being open? This book is about establishing such possibilities for various theories to engage in interacting with each other.

We firmly believe that Luhmann's theory of social systems has something to offer not only to readers who are looking for a new theory to subscribe to, but also, significantly, to the ones who are looking to be intellectually challenged by new sources of inspiration within the particular field in which they are engaged. This kind of theoretical opening of systems theory required that the authors included in this volume were engaged in the specificities of systems theory. At the same time, however, contributors were required to keep a distance from it, thus attempting to transgress the limits of both systems theory and whatever other theoretical development they engage in, in order to push the thinking process further. Indeed, the volume devotes itself to exploring how systems theory can be developed internally, in order to be able to couple itself to other theories and develop new analytical strategies within different research fields.

## **Radical encounters**

The idea behind the volume is rather simple: to provide for a space where encounters take place between Luhmann and systems theory/autopoiesis on the one hand, and other theorists and currents of thought on the other. This is by no means a neutral space between theories. Rather, it functions as a tool in order to deepen the understanding of Luhmann's work and at the same time enable other schools of thought to be brought into productive confluence with it. This does not preclude critical stances or indeed distances from systems theory. In fact, these were encouraged since we think that an encounter is not merely a meeting of ideas but rather a space of emergence, as Gilles Deleuze and Félix Guattari would have it, which enables

differential thinking on both encounter and encountered to be generated. However, the concept of encounter, seen now through an autopoietic lens, does not distinguish between encounter and encountered but allows the generation of spaces on both sides. We want to imagine these encounters as the preludes to potential structural couplings, namely shared but separate structures across systems that give rise to a certain predictability, closer observation and reciprocally induced creativity.

We begin with the common knowledge that Luhmann has shamelessly ‘encountered’ other theorists and integrated their thinking in his own systemic thought. What places this kind of encounter at a distance from traditional theoretical conversations between theorists across eras and spaces is that, in Luhmann, the encountered becomes absorbed and very nearly hidden from view. As a result there are numerous nods and waves and winks to a host of theorists in Luhmann’s texts, yet their thoughts are not the usual platform of agreement or disagreement, as is the case with most theorists who enter a productive dialogue with other theorists, but a space of veritable emergence. The encounter in Luhmann becomes itself a performance of autopoiesis, dissimulating its production and presenting itself as always already part of the theory. It is in this sense that we have stumbled across the epithet ‘radical’ that preceded the encounters of the title. Apart from the obvious radicality of some encounters (for example, Luhmann and space, Luhmann and bioethics, Luhmann and Deleuze, Luhmann and Lacan) the term has been thought in its etymology as the condition without which the emergence cannot take place. ‘Radical’ comes from the Latin *radix* (gen. *radicis*), which means *root*, the condition without which the flora cannot ever come to being. This is a gesture of appreciation to what Luhmann has been unfailingly doing in his writings, namely to employ encounters with other theories as the condition without which his own theory would not come about. However, this radicality is dissimulated, spread over the plane of autopoiesis, thus losing its origin and its original meaning. The movement goes from *radix* to *ρίζα* (rhiza, rhizome = root), namely from Latin back to Greek, and thus away from a sense of formal hierarchy and deeper into an acentral and horizontal diffusion of rooting. Luhmann’s roots are spread underground like the root of grass, picking here and stopping there, yet managing to create a tight horizontality. Not unlike Derrida’s or Deleuze’s reading of other theorists, Luhmann’s readings fluctuate between solid loyalty and productive ‘misreading’, namely an autopoietic, plastic reading that as soon as performed, is already part of the text in which it appears. In that sense, radical means both originary and non-originary, namely both the essential basis of it all and, at the same time, a refusal of its being the basis of it all. This is Luhmann’s rather obvious but still effective ‘cheating’ (Philippopoulos-Mihalopoulos, 2011), in turn part of a grander scheme of paradoxification that only nominally succumbs to feeble attempts at de-paradoxification.

In short, like a rhizome, this volume follows on Luhmann's radical encounters with other theories. We have tried to include concepts that we believe Luhmann would have integrated in his work today, such as materiality, psychoanalysis, gender, spatiality, even a revisiting of what the human is. We carry on with the embedded radicality of Luhmann's thought and with the help of our contributors, we hope to multiply these roots thus providing for more spaces of emergence and theoretical proliferation.

## **Luhmann observed**

What we have encouraged here, therefore, is a less puritan, more eclectic approach to systems theory. This is very important if we are to open up new spaces within the theory's complex structure. The volume shows how this theory can challenge and be challenged by other theories, thus contributing to theoretical and empirical discussions within different domains that exist outside systems theory itself. This requires a reading that is both loyal and disloyal to the various theories. The readings are 'loyal' in the sense that they are faithful to the originality of the theory, but 'disloyal' in the sense that they transgress the boundary that the theory has set up for itself. This transgression, however, is not undertaken for its own sake. It is in each case performed in order to confront an important theoretical question that dominates a particular societal field, which at least according to a traditional reading, Luhmann has ignored or has nothing to contribute to. All the authors have engaged in the difficult task of opening systems theory up while maintaining their immersion in it. This is the task of autopoietic observation par excellence, namely the simultaneous immersion in and distance to the object of observation.

In this sense, the space of observation becomes also a space of critique: Luhmann observed is also Luhmann criticized. But from within, and while within, at a loving distance, if that were possible. This kind of positioning required that the authors were engaged in the specificities of systems theory. At the same time, however, contributors were required to keep a distance from it, thus attempting to transgress the limits of both systems theory and whatever other theoretical development they engage in, in order to push the thinking process further. Indeed, the volume devotes itself to exploring how systems theory can be developed internally, in order to be able to couple itself to other theories and develop new analytical strategies within different research fields. None of the authors is ready to 'overlook' Luhmann's indifference towards some of the most politically ardent issues of our time. Yet, such indifference is taken as a selection performed by Luhmann, rather than an Achillean omission that will bring the whole edifice down. In that sense, each author selects differently, observes differently and finally positions him or herself differently in relation not only to Luhmann, not even only to other contributing authors but even to some of the all important

editorial desires. We could not have been happier of course. The proliferation of encounters has led to a proliferation of Luhmanns, and this is the only way to deal with this interminably complex yet all-inclusive theory, perhaps the last theory that manages to build itself on such a perilous and continuous use of the paradox yet never lose its sense of balance.

Consequently, it would be incompatible with the very idea of the book, if this introduction were structured as an attempt to establish a correct or uniform reading of Luhmann. Luhmann himself had on several occasions emphasized that systems theory is not a complete and finished theory, but it was up to the next generation of system thinkers to be engaged in its further development. This is exactly what we are trying to do. In this sense, the volume invites the reader to approach systems theory in an adventurous and even experimental way. For this reason, the reader will not find a consistent 'Luhmann' throughout the contributions to this book. Instead the volume represents the first opportunity for an encounter between several theories and areas of theoretical inquiry, benefiting from the contributions of some of the most distinguished Luhmann theorists that operate in a variety of thematic areas. Solidly interdisciplinary and with multiple methodologies, the volume has one unifying theme: that contemporary social challenges represent a level of complexity that force individual theories beyond their limits and into a space of intense, perhaps conflicting, but always productive exchange.

Enabling these encounters between Luhmann and other thinkers, therefore, has a number of advantages. First and rather obviously, it allows the theory to open up to a comprehensive dialogue with other theories. Second, it translates Luhmann's work into a less hermetic, self-referential language. Third, it allows the reader to become deeply engaged with the theory without however reducing her to a disciple who would contribute only to the internal coherence of systems theory. Instead, the whole volume manifestly shows the plethora of riches that are to be had if the traditionally closed systems theory circles open to encounters with other contemporary theories.

## **The encounters**

In editing the various encounters between systems theory and other theories, we are reminded of an old tourist guide introduction to Paris. It reads, 'there exists no one Paris, but a variety of different Paris'. The sprawling megacity that is Luhmann's theory is not one city but an explosion of urban folds that come forth and take to hiding as the searching light of the various observers scan their skylines. The encounters take place at many different places within the theory of social systems, such as organizations, spatiality, corporeality, sensorial semantics, psychoanalysis, economy, biopolitics, gender, and politics. Some of these places are well trodden by anyone who



has visited the theory before; others are places that even regular visitors or even permanent residents might not know existed. But the encounters are not only for people who already have an interest in systems theory. As already said, it is an invitation that addresses itself even to the ones without any affiliation to systems theory as such, since there do exist places worth visiting, and souvenirs to take back home wherever that might be.

The various encounters are arranged thematically in four parts: radical paradoxes, radical materiality, radical semantics, and radical politics. We understand the concept of 'radical', not so much in its contemporary sense, but in the sense outlined above as diffused and acentral. In this manner, we steer clear of wanting to express an orthodoxy of reading Luhmann or indeed of suggesting the right way in which the encounter is to take place. We have been painfully aware of the violence of clustering the texts in boxes that only partially describe their focus but we felt that this would help orientate the reader a little better. The clustering is not arbitrary. Each one represents a core aspect of the theory. The first theme on paradoxes is at the very heart of systems theory, in the form of the unity of a difference. But instead of being paralysed by the fact that the system cannot simultaneously observe the very distinction which makes the same observation possible, a system develops various kinds of processes of de-paradoxification that represent the very dynamic of the system (Luhmann, 1993, 1995, 1999a).

Thus, the first part of the book, *Radical Paradoxes*, begins with Jean Clam's continuing work on the paradox, this time bringing together Luhmann and Lacan. The paradox is shown to be at the heart of any theory of normative order. Luhmann and Lacan's insights into meaning and structure of this essential paradoxicality lead to the recognition of the co-originary of Law and social communication. Indeed, any scheme of theoretical reconstruction of both concepts generates them in structural simultaneity. Much like Luhmann, Lacan situates the problem of normativity (of the symbolic order) not so much in the subsistence, the validity and the efficiency of the prescriptive body of the Law, but in its originating moment from factual, unquestionable, arbitrary violence. The old figure of the Father – ferocious and cruel – gave the one adequate view of the 'why' of castration (that is, of normative inflexibility and the rule of Owing (a price) for any actuation of desire). The emergence of an acute consciousness of a paradoxicality of the Law must then directly be linked to the fading of such a figure of arbitrary and violent origin. The paradox of Law holds then in a very compact formulation: The only symbol for an Auctorial Other at the origin of the Other is the figure of a castrating Father; when such a figure declines and recedes out of reach of the social discourses of legitimation of the Law, there can be no substitute for it at the depth of the Law; current deparadoxization of Law takes then the form of a current-processual diffraction of those kernels of meaning in which the question of the origin of the barring of *jouissance* is impenetratingly coagulated.

William Rasch's 'Luhmann's Ontology', is a rather perverse title by admission of the author. While Luhmann explicitly claimed that his speculations were epistemological in nature, Rasch shows in his chapter that this is not necessarily incompatible with ontology. Instead he translates the question of ontology in Luhmann's work to the following question: how does reality return or rather remain as an ineradicable blind spot inaccessible to knowledge but in an unknowable way constitutive of it. Thus the title of the chapter is not a claim but simply a question: what status might an unknowable yet necessarily negentropic condition of possibility have in Luhmann's implied philosophy? And what might it mean to call the formulation of this condition of possibility, against Luhmann's own practice, *Luhmann's ontology*? Rasch shows how the relationship between epistemology and ontology rests on a paradox. On the one hand, reflection in modernity has liberated itself from the role of the handmaiden of Being, and has assumed autonomous, even 'constructive' status. On the other hand, this seemingly paradoxical nature of contingently chosen starting positions gives to each of these initial distinctions its own autonomy.

Andreas Philippopoulos-Mihalopoulos's 'The Autopoietic Fold: Critical Autopoiesis between Luhmann and Deleuze' is an experimental text that targets the emergence beyond the paradox. The author continues here his work on Critical Autopoiesis but from a Deleuzian perspective. In the text, Deleuze's theories on the monad and the fold become co-extensive with Luhmann's understanding of closure and environment. The result is one that takes standard systemic notions, such as closure, system, environment, distinction, communication, function and so on, and indeed *folds* them into themselves in order to yield a torsion with a newly felt materiality. Beginning with Gottfried Leibniz's figure of the monad with its formula 'no windows', Philippopoulos-Mihalopoulos sets the site of the paradox of the fold: a monad is 'an inside without outside', but the outside is folded within. The monad is filled with the folds of the outside, but it includes them in its closure and all its actions are internal. Although an internal doubling, the fold is not a reproduction of the Same but a repetition of the Different. It is not an emanation of an 'I', but something that places in immanence the material continuum between self and other. This monadic figure appears in Luhmann's work through the concepts of re-entry and autopoiesis expressed as the difference between system and environment. At the end, Luhmannian and Deleuzian concepts fold into each other, deeper into their immanence, and give rise to what Philippopoulos-Mihalopoulos calls *critical autopoiesis*, namely an autopoiesis that is acentral, nomadic and thoroughly material. The concluding chapter of this part on radical paradoxes thus eases the reader into the materiality of the following section.

Radical materiality represents an important theme when observing systems theory, but for exactly the opposite reasons to those of paradoxes. In contrast to the question of paradox, materiality is not something that

comes to mind when thinking about autopoiesis. The latter has been traditionally read as abstract and distant from material considerations. Indeed, Luhmann's main assertion that humans are excluded from society, except for being the thorniest issue, also blocks any consideration of materiality from entering the autopoietic boundary. Along with humans, autopoiesis turns its back to nature, buildings, space, and bodies. It has therefore become a traditional critique of systems theory, that materiality, whether it presents itself as mind, body or space, is being marginalized and delegated to the blind spot of the theory's observation of modernity. The criticisms rightly emphasize that by de-privileging these dimensions of modernity, the theory inevitably limits its own analytical capacities. This volume as a whole, and its section on *Radical Materiality* in particular, argues that it does not have to be this way. In continuing the previous chapter on material folds, Christine Weinbach's 'Gendering Luhmann: The Paradoxical Simultaneity of Gender Equality and Inequality', questions the social status of gender in the functionally differentiated society. On the one hand, this society features universal criteria of inclusion into the different social systems; yet on the other, gender studies have revealed that these universal programmes are undermined by the autonomous logic of social levels such as organization or interaction. Luhmann's theory of social systems delivers an analytical framework for systematic considerations on this issue of the simultaneity of gendered and un-gendered expectations in social contexts. The horizontally functional differentiation in functional systems (for example, political, legal, and economic systems) and the vertical level differentiation of systems (functional system, organizational system, and interaction system) are co-evolving. Thus, organizations are located in functionally specified environments (for example, as political parties, banks, and courts), and organize the inclusion of their members into the particular function system both by providing functionally specified conditions of membership roles and by transforming the programme of inclusion of 'their' functional system in organization structures. In doing so, organizations establish the guidelines for the structure or functionally specified interaction and constitute the interactive environment. The chapter brings both strands together in order to show how the employment of Luhmann's systems theory can be fruitful to analyse the social critique emerging from gender studies and thus gain insights into the possibility of a gendered systems theory.

From gender inclusion to human inclusion at large, Todd Cesaratto's 'Luhmann, All Too Luhmann: Nietzsche, Luhmann and the Human' begins with Luhmann's ostensible lack of concern for the human and explains Luhmann's motivation by arguing that Luhmann's approach protects humanity from humanist theories and human-rights dogmas that instrumentalize and essentialize the human. Those passages in Luhmann's work that would seem, at the level of first-order observation, to exclude the human, can in fact be re-described as arguments for how we might more

adequately understand the human in a functionally differentiated society. Not only does Luhmann present forms of the human implicitly, but also – contra the received wisdom – explicitly, as couplings of mind, body, and social person that are more humble and more flexible than the forms found in most theories of the subject and subjectivity. This contribution makes the case that, even though Luhmann is reluctant to admit it, he knows that mind, body, and person – three parts contained in one vessel – do more than ‘disturb, rouse, or irritate’ each other. This emerges more clearly through an encounter between Nietzsche and Luhmann, which is the main focus of the chapter. The affinity manifests itself in rhetoric, argument, and narrative that evince a Nietzschean quality, which in turn reveals Luhmann to be caught in performative paradoxes where he is actually doing what he says we cannot do – that is, breaching system borders. Luhmann’s rhetorical reserve and Nietzsche’s rhetorical exuberance achieve the same effect: they attempt to overcome the values of their respective traditions in order to establish new, more adequate values in their shared tale of (devil’s) advocacy for nobler forms of being human in a democratic modernity.

In ‘Only Connect: Luhmann and Bioethics’, Sharon Persaud takes Luhmann’s work to the field of bioethics, thereby challenging both theory and empirical field. She sets as her case-study the new reproductive technologies and regulation in the United Kingdom of ‘saviour siblings’, where parents of a child with a serious medical disorder apply for permission to select a tissue-matched embryo for implantation in order to have a second child as a source of donor-compatible tissue. The first part of the chapter sketches some alternative Luhmannian reference points, with a reading of Luhmann’s distinctive notions of technology, structural coupling, and morality and ethics. In particular, she suggests that structural coupling is key to Luhmann’s narrative. The second part of the chapter is a reading of three very early ethical texts, written in the period immediately after saviour siblings became a practical medical possibility. Using the concepts set out in the first part, the reading explores what one can see through a Luhmannian lens. This includes how different systems (regulatory, bioethical, and medical) internalize and project ‘the ethical,’ and the consequence of different types of systemic reflections. The final section draws the strands together, and looks at how an attentive reading of Luhmann might enrich both ethical and sociological reflections on this and similar, distinctively modern and complex, issues.

The final chapter in the part brings in spatiality as a form of materiality that is often perceived absent from Luhmann. Christian Borch’s ‘Spatiality, Imitation, Immunisation: Luhmann and Sloterdijk on the Social’ sheds some light on what might be called the politics of theory of the respective positions between Sloterdijk and Luhmann. This refers less to the ideological underpinnings of their theoretical architectures, and more to how specific analytical choices in the two theories foreclose particular kinds of

observations of the social. What is, in other words, left in the dark? This is explored in four steps. First, the chapter demonstrates how the ambition of Sloterdijk's spheres project, namely to place spatiality centrally for the understanding of the social, stands in stark contrast to Luhmann's de-privileging of spatial matters. Second, the chapter examines how Sloterdijk's spatial analysis suggests that, contrary to what Luhmann holds, spatiality can impact communication. Third, the chapter focuses on imitation, which is attributed a key role in Sloterdijk's project. The chapter argues that the notion of imitation, too, challenges a fundamental idea in Luhmann because it demonstrates that communication might itself be conditioned by underlying dynamics. Fourth, the chapter suggests that Sloterdijk's spheres project is guided by a problematic emphasis on the need for immunization and that his analysis of contemporary spheres does not permit an observation of the kinds of immunization Luhmann identifies. The encounter between the two results is an emerging autopoietic spatiality and a spherological immunization thoroughly affected by autopoiesis.

While materiality is a traditionally marginalized aspect of Luhmann's theory, semantics is a standard field of analysis. Together with the concept of structure, semantics represents Luhmann's analytical strategy for conducting historical and empirical research. In his published series entitled *Gesellschaftsstruktur und Semantik* (Societal Structure and Semantics) Luhmann investigates how changes in semantics and structures influence each other and through various complex processes become the driving force in the development of society (Luhmann, 1980, 1981, 1989, 1999b). In contrast to many other, perhaps more insular concepts of systems theory, semantics have strong and readily obvious affiliations to concepts developed by other theories, notably discourse theory, history of ideas, cultural studies, and institutionalism. Semantics seems therefore the perfect locus for the kind of encounters facilitated in this volume. In the third part of the book called *Radical Semantics*, we attempt to give a different understanding of systemic semantics, one that emancipates the concepts and practices of interpretation, history, and intrasystemic semantic production from orthodox systemic readings. Elena Esposito's 'Limits of Interpretation, Closure of Communication. Umberto Eco and Niklas Luhmann Observing Texts' establishes an encounter between the two scholars that revolves around the central point of interpretation of interpretation: the idea that there is (or not) an outer limit that allows one to distinguish a priori correct readings from incorrect (or even 'aberrant') readings of a text. The chapter reconstructs the central role of the problems of interpretation in Eco's theory since the famous definition of the open work, which is actually much more a research on the conditions and the forms of closure. Eco's difficulty, one might say, is to manage a theory which includes at the same time 'open work' and 'aberrant decoding': the recognition of the multiplicity of interpretations and the possibility of establishing when this freedom of interpretation

produces a sense too distant from the intentions of the sender. Luhmann's concept of communication is an indirect response to these difficulties, which dissolve when one takes as a reference the autopoiesis of communication. Communication constrains itself eliminating any arbitrariness, but maintaining the whole freedom of interpretation. The constraint does not depend a priori on the world or the text, but is produced a posteriori by the course of communication, accepting or rejecting what was understood before. Only communication constrains communication – not the sense intended by the author and not even the one intended by the recipient.

Anders la Cour and Holger Højlund's 'Organisations, Institutions and Semantics: Systems Theory meets Institutionalism' brings Luhmann's concept of semantics and James G. March's and Johan P. Olsen's concept of institutions into an encounter. Both theories are engaged in discussions on how organizations of modern society develop and adjust themselves to the general development of society. The interplay between institutions, cultural semantics, and social structures becomes central in these discussions. The chapter shows, on the one hand, what sociological institutionalism can gain from a system theoretical understanding of the way in which semantics and structure establish a dynamic relationship that escapes any simple determinism between them; and, on the other, how the theory of sociological institutionalism on the emergence of institutions can in its turn inspire systems theory to free the concept of semantics from the iron cage of Luhmann's cogent but also limiting universe of functional systems. Luhmann has restricted his own research on semantics in the area of emergence of different kinds of functional systems. Focusing on these specific systems, however, meant that he neglected the many different forms of semantics that emerge outside and in between the boundaries of established systems. What this encounter brings forth is a reinvestigation and a need for reconceptualization of systemic semantics.

Niels Åkerstroem Andersen's 'Conceptual History and the Diagnostics of the Present' carries on where the previous chapter stops, namely on the emergence of the semantic reservoir of the individual function systems, such as the semantics of politics, love, and art. The encounter between Luhmann and Reinhart Koselleck brings another path for the development of a semantic strategy where certainty regarding concept and semantic is precarious. The guiding idea is that the constitution of social systems and social forms is reflected in semantic development. Through Luhmann's sociologically informed conceptual history, Koselleck's guiding distinction between conceptual history and social history is replaced with a distinction between semantic and social structure. The latter is here interpreted as the form of communicative differentiation and structural coupling within society. Andersen suggests that Luhmann's concept of semantics can become more sensitive empirically and thus make itself more appropriate for the observation of contemporary semantic changes. As opposed

to Koselleck, Andersen argues that, in principle, one can conduct a semantic historical analysis of any concept. Koselleck's work has contributed to the exploration of 'neu-zeit', namely conceptual transformations in the transition to the modern political order. The criterion for whether a concept was worth studying, therefore, was whether its transformation was constitutive for modern political concepts and categories. The encounter with Luhmann shows the potential and contingent relevance of any historical semantic analysis of any concept.

With this political statement, the volume moves on to its fourth and last part on *Radical Politics*. Luhmann's understanding of politics as representative of just one function system among others, without privileged status to observe the totality of society, remains a continuous inspiration for the observation of society's complexity and multicentrality. One of Luhmann's provocative observations is the powerless power of the political system. While the political system has the power to make collectively binding decisions, it has no power to determine what happens once its decisions have been made (Luhmann, 2000). The last part of the volume deals with Luhmann's understanding of political communication, while bringing it into a productive confrontation with other theoretical perspectives regarding law, complexity, and freedom.

In 'Luhmann and Derrida: Autopoiesis and Immunology', Willis S. Guerra Filho discusses the impossibilities of a world society as constitutionally grounded. In Luhmann's concept of the world society, namely a systemically understood globalization characterized by hyper complexity and multicentrality, structural couplings between systems are instrumental. Guerra Filho focuses on the structural coupling between the legal and the political one and how they maintain their stability and growth in their environment simultaneously with each other yet independently of each other. The two are connected through a State Constitution, namely a particular medium of operative closeness. Constitutional Supreme Courts ultimately define what is to be seen as constitutionally grounded. These courts become then co-responsible with the operation of the binary code of both systems, that is to say, the lawful or non-lawful code in the case of legal system and the government or opposition in the case of political systems. This structure becomes significantly enriched when one reads Luhmann in combination with Derrida's concept of auto-immunity, a deconstructive sort of closure that is also an aporia. Through a careful reading of both theories, the chapter reaches nothing short of a paradigm shift that requires a new consideration of systemic violence in view of the manifest inability of politics to maintain the structures of society as promised.

The next chapter in this part discuss, in another vein, the impossibility to create a privileged position of *über*observation from where everything can be observed in its totality. In 'In the Multiverse what is Real? Luhmann, Complexity and ANT', Barbara Mauthe and Thomas E. Webb examine

whether it is possible to engage the theories of autopoiesis, complexity, and actor-network theory in dialogue. To do so, the authors challenge each approach and their individual understanding of reality as one that manages to capture the total reality. The authors contend instead that each theory offers only a partial account of the social and that by engaging the theories in dialogue the limitations of the respective approaches of each theory can be identified, creating the possibility for self-reflection in the light of the newly discovered viewpoints. The medium for achieving such a connection is the notion of the multiverse. The multiverse allows for the existence of numerous worlds where differences and similarities co-exist. There is not one reality but many, thereby facilitating its application in respect of Luhmannian autopoiesis, complexity, and ANT. There are similarities in terms of the origins of the theories and their underlying structural view, which is essentially systemic. The conclusion reached by the chapter questions whether it is appropriate for academics interested in systems theory to accept that there can only be one form of reality, that of Luhmannian autopoiesis. The chapter suggests that by reconceptualizing the understanding of the real, it becomes possible to question what the social represents, and how that representation is identified. The outcome is the inclusion of diversity extending beyond that of the singular universe represented by Luhmannian autopoiesis to include the multiverse represented by complexity, ANT, and Luhmannian autopoiesis.

The concluding chapter of the book is Chris Thornhill's 'Luhmann and Marx: Social Theory and Social Freedom', fittingly brings the discussion back to where the critique begun. Thornhill shows how Luhmann's work on politics shares vital common ground with Marx. This is reflected in Luhmann's theory of ideology, in his functional construction of human consciousness, in his systemic hostility to the metaphysical traces of humanism and voluntarism, in his rejection of anthropologicist patterns of societal explanation, and in his analysis of social systems as obtaining a high degree of apersonal autonomy in modern society. In fact, Luhmann's work can easily be read as a theory that places Marx at the beginnings of sociology, while at the same time attempting to think beyond and correct Marx by envisioning a systemic construction of society in which all human foundations for social meaning are stripped away, and in which the positing of original human causes for the formation of society is finally renounced. According to Luhmann, in binding society to a single ideal of freedom as human self-ownership Marx undermines the ability of his theory to understand society, and he forecloses the possibility that his theory might become sociologically adequate to the multiple meanings implied in the form of modern society. It is only by imagining society as comprising multiple freedoms, none of which can be made transparent to agents endowed with capacities for integral self-ownership, that sociology obtains access to its own object: society. For Luhmann, Marx stands at the origins of sociology – yet his



vision of freedom prevents sociology from becoming sociology. Sociology is itself a mode of interpretive liberty, which frees action and understanding from simplified foundationalism, and it emerges, like all freedom, through an originary rejection of societal metaphysics.

## Note

1. Luminous exceptions of course confirm the rule. Thus, from a selection of Anglophone literature, one could turn to Moeller, 2012 and Borch, 2011, for explanatory texts with interesting theoretical connections; for a theoretical treatment that places Luhmann in the wider context of theory, see Rasch, 2000; for a complexity-material take, see Rasch and Wolfe, 2000; for an alignment of autopoiesis with post-structuralism, see Philippopoulos-Mihalopoulos, 2011; for an object-oriented ontological take, see Bryant, 2011; and for discussions about systems theory analytical possibilities compared with other theories of discourse, see Andersen, 2003.

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# **Part I**

## **Radical Paradoxes**

# 1

## Contingency, Reciprocity, the Other, and the Other in the Other Luhmann–Lacan, an Encounter

*Jean Clam*

Paradoxes of normativity are at the heart of any theory of normative orders. The deepest theoretical insights into meaning and structure of such an essential paradoxity lead to the recognition of the co-originary of law (and indeed this to a certain extent applies to all other subsystems), on the one hand, and social communication, on the other. That means: any scheme of theoretical reconstruction of both concepts generates them in structural simultaneity.

In my approach, law has to be tentatively reconstructed from its understanding in Lacanian psychoanalysis as the universal rule of Debt under which desire as such is constituted. Social communication, the other fundamental concept, corresponds to the systems theoretical understanding of social intersubjectivity as a self-organizing poesis of meaning originating from the matrix of double contingency which generates all possible modes of structuring expectations and actions.

My chapter proposes a recasting of both concepts and in so doing reveals the crucial link existing between them. They then appear in a sense as complementary, social communication being enlightened by the Lacanian conception of a 'reciprocity of feelings'. At stake is a structural reciprocity in which *ego* and *alter* are involved in a process of mutual actuation. It is a process of subjectivation where no subject pre-exists the other, but both are produced by the mirrorings and entanglements of their demands and desires.<sup>1</sup>

The structuring of the space of their reciprocal constitution rests on an all-supporting axis which establishes and applies the rule of Debt. It supplies the ground for symbolic exchange as such. This axis is the Father-Instance as the Authorising principle of law and the binding principle of social communication as such. The crisis of modernity is the process of decline of that instance. It culminates in its utter failure.

Much like Luhmann, Jacques Lacan situates the problem of normativity, that is of the symbolic order as such, less in the possible subsistence of law and of a functioning legal system, than in the vanishing of an instance which could generate and legitimize it. It is not Law as the demanding Other that imposes, in normative inflexibility, the rule of Owing (a price) for any actuation of desire which is imperilled or losing presence and concretion. It is the emergence of an acute consciousness of a paradoxity of law which is at stake: it leaves law uninhibited in its function and efficiency, but inscribes everywhere in it the sense of paradox and of incomplete and ungrounded meaning. This has to be directly linked to the fading of the figure of an Other in the Other (of Law) as the arbitrary and violent instance, out of which Law itself is born.

### Law and society

The *relationship of law and society* is only apparently, *deceptively obvious*. Dealing with intuitive understandings of both concepts, we are drawn into a somewhat constraining line of thought with a long tradition of self-evidence and authority in the classical theories of law. According to this understanding, society is represented as the greater and substantial set (of individuals and relationships) including a smaller one (of arrangements) which is law as an organ of governance and regulation responsible for the establishment and current maintaining of a just order. The functionalist and systemist theories of law in late modernity did not fundamentally change this frame of representation. Law is still envisioned as a *subsystem* whose function it is to *regulate the expectations* put on social communication. To *reach* minimal or functional *congruence* of expectations within social communication, some sort of norm setting, norm verifying, and norm enforcing activity is needed. All those operations related to norm and its constraints are seen as constituting a social system of action corresponding to a well-defined, self-delimiting and autonomous social function capable of a very high degree of logical and operative closure, that is law.

There is a *need to de-spatialize such figures* of thought in order to free the perspective for a vision in which *law and society may appear in their co-originaryity*. Law is not only fundamental in society because social communication would come to a halt without a minimal congruence within the expectations of those who take part in it. A breakdown of law is always conceivable and has often occurred in the history of more or less large and strictly organized societies. Such breakdowns have, in all cases, utterly dysfunctional consequences and make all sorts of transactions profoundly insecure. However the *reference of society to law is not only functional*.

The social function of law is like all other functions around which social communication is operatively crystallized in modern (that is: functionally differentiated) societies necessary and non-substitutable. Our insistence on

the *originary of law* must be distinguished from that which systemist theory puts upon the necessity and non-substitutability of functions with which modern communication is differentiated. That means that the originary of law is more than that self-substitutability (that is, non-substitutability except by itself<sup>2</sup>), characteristic of all functional subsystems. In effect, it would be easy to develop a similar argument as the one I am unfolding for law and to claim that, let us say, politics or economics are cardinal subsystems without which society would not be able to sustain itself in being. Without power, without means and relations of production, without collectively binding decisions or goal attaining co-operations, a collective action system cannot subsist. Marxist theorists would argue that 'material life' is the universal and constant foundation for the formation of collective entities. That is why one should beware of replacing a claim of materialism by one of legalism. Originary has, in our understanding, nothing to do with a criterial indispensability. Human societies have lots of components and contexts without which they would not be able to exist. However, *law is at the root of that which makes human societies something else than simply social constructs* – which are thinkable as mere organizations of congruent communication involving a multitude of individuals and functioning in a variety of ways, like those of certain animal species which share with human ones the basic necessities of an organization of material life and a crystallization of power.

The legal theory of Niklas Luhmann tries to come along with the originary of law without transcending the horizon of function and functionalist thought. But it re-encounters the co-originary of law and society at the other end of its descriptions and theoretizations of legal facts as operations of a self-referential legal system, fundamentally autopoietic and closed on its own specific logic. It is the *emergence of paradox which leads back to the problematics of the simultaneous advent of law and communication*. In previous essays on Luhmann's legal theory,<sup>3</sup> I have had the opportunity to show the regressive-fundamental nature of the paradox of law and its embranchments into subparadoxes or constituting structural moments in which it unfolds itself. At this level the theory re-encounters the originary dimension of law without spelling however the equivalence of meaningfulness and legality. Luhmann does not 'cross' to that dimension in which meaning and 'justness' (*justesse*), significance and measure, being and right (*themis*) are equivalent.

In effect, law is at the foundation of meaning as such. *In its paradox, law regresses to the foundation of the social validity of meaning* and has to be identified as that foundation. Meaning and the world it brings to significance cannot come to minimal firmness and univocity if some selection of meaningful, meaning-endowing projection is not accomplished and socially authorized. Law is not an institution nor is it instituted. It is the instituting instance of meaning beyond the imaginary compossibilities of anything with anything, beyond the hallucinatory satisfactions through the arousal of soft images of fluid, interpenetrating and fusing entities. It is the origin and the advent of

the real world one encounters as the harsh reality within which there can be no satisfaction whatsoever which does not take on itself the hardship of symbolic roundabouts, which does not turn around its objects without attaining them – or only to find them as missing. Law gives birth to the real by imposing the elusion of any direct satisfaction of any need or desire, by making such a satisfaction impossible. Law and the real are concomitant in their advent, the real being the sharpness of law itself and the wall of exteriority against which man runs in his blind attempts to overcome it, not aware that the hardness of reality is nothing else than the toughness of the knots of law. Law is the hardening of the edges of being and the advent of non-compossibilities breaking the fluidity of the realm of imaginary interpenetrations of beings and satisfactions of needs. The very intuitive experience of ‘hitting on’ the real makes oblivious of the radical co-originary of world harshness and legal sharpness: the real has no intrinsic harshness, but only one derived from the severances and the deferments inflicted by law on desire.

As to the social dimension of these facts, we can say that there can be no social incorporation without symbolic distancing from direct satisfaction of social needs. The *functional correlation between social needs, social ends and social means* – fundamental for the understanding of social practices and institutions as making some sense by overtaking a role in the coordination of action – appears in such a context as *delusive*. It is a fallacy which hinders social theory from integrating more complex, paradoxical and paradoxological ways of thought. The disruption of the functionalist strain opens up social theory to what Luhmann calls a ‘*Goedelisierung*’ of its fundamental figures – an opening up similar to that accomplished by Lacan in psycho-analytical theory. To ‘*goedelize*’ the main figures of legal thought means, in my view, to restore the earnestness of the idea of a co-originary of law and society. Such a ‘goedelization’ allows us to grasp the consequences on both (law and society) of a beginning of the social bond with the symbolic deferments of the satisfaction of social needs by a law that reveals their abyssal nature and makes them props of a playful elusion and tragic recurrence of traits of collective, reciprocal desire.

## Contingency

Central to the Luhmannian theory of society and law is the *concept of contingency*. Contingency is namely the salient and transformative component of the systemist vision of society. Contingency here is not seen simply as a margin of possible variation situated around the factual strain of historical evolution and its determination by ideal and real factors<sup>4</sup>. It is a concept whose own advent – in the sense Luhmann uses it – presupposes a whole series of paradigmatic transformations. It is not just the matter of a theoretical framework introducing contingency at a central position that makes

the difference. Factual social contingency as well as the concept of social contingency are born out of a specific evolution of social communication that has taken place in the recent transformations of the structure of modern societies. One cannot *ad libitum* fancy or think out something like social contingency. *Social contingency* is not a thinkable thought or an observable observation in universal frameworks of understanding. It belongs to the set of concepts whose *thinkability is conditioned upon the advent of a structural transformation of social communication itself*.

The idea of contingency as the most pregnant characteristic of social ordering emerges out of the *breakdown of the ontological paradigm* governing the classical ways of thought in the old-European tradition<sup>5</sup>. It is an essential component of the post-ontological paradigm whose most thorough theoretical implementation has been given by the theory-venture of Niklas Luhmann. Contingency could be understood as a title for an object structure which cannot be thought by means of the traditional figures of substance (*ousia*), essence (*eidos*), goal (*telos*), accomplishment / perfection (*entelecheia*). In classical ontological terms contingency denotes something like privation, lack or deficit in a being incapable of the self-sustaining, illuminating coherence of a worldly essence. In the theory of Luhmann, *contingency* denotes, quite contrary to such an understanding, a *positive characteristic* possessing its own *dynamics within the reproduction of reality*.

As soon as social contingency becomes observable, the way is free for a post-ontological theory of society. With social contingency something like the grounding of the firm on the fluid becomes thinkable.<sup>6</sup> A new type of considerations becomes also thinkable, namely those pertaining to the appreciation of the measure of contingency society can afford under given circumstances.

Societies that are grounded on contingency are societies whose *opening to the irruption of the future must be maintained at a maximal level*. This level of opening is not unlimited. Everything cannot change simultaneously and in any direction in a given modern society. Contingency has its advent in a society as the possibility for such a society of not being grounded on a firm foundation, but on the flux of operations of communication connecting with each other at a certain level of internal consistency. Such a society remains open for any changes that could enhance fluidity and optionality of communication, those means that could enhance the entering of communication by new ranges of possible, non-familiar, unknown, unsuspected meaning.

## Reciprocity as double contingency

In the Parsonian / Luhmannian understanding of double contingency, the doubling of contingency is not a specific feature of modern or late modern communication. It is a structural, generating feature of communication as

such. That means that communication is always founded on the fact that the participants to it are by principle and structure not able to enter into and experience each other's intentions and meaning projections. *Ego* cannot introduce himself into *alter's* mind and behold from the very *Erlebnis* of *alter's* state, desires and intentions what *alter* means when he faces *ego* (uttering words or in silent presence, facing *ego* or withdrawing into himself and refusing to face him...). *Communication* is thus grounded on the non-transparency of the consciousnesses of the actors of communication to one another – each actor living apart, by him/herself, within his/her own consciousness. It is an operation sui generis that founds one of the most pregnant autopoieses, articulating and constructing itself upon the autopoiesis of life and consciousness. *Double contingency* is thus, in opposition to contingency as we define it, a general characteristic of social communication as such and not one specific to a paradigmatic structure of epochal communication.

In the following, I would like to develop a complementary understanding of the systemist approach of double contingency. Such a complementary understanding will lean upon *Lacanian psychoanalysis* and the concept of 'reciprocity of feelings'. It remains within the scope of the description of the most general, structural moments of communication as such. The double contingency of meaning intentions is here also grounded, like in the systemist concept, on the fact that communicants are not able to enter into one another's 'Erlebnis' and intentionality, whatever their channel of communication may be. However, this double contingency takes the form of a mutual dependency or reciprocal reference of the successive meaning intentions of the communicants, the last one getting its full meaning from the one following it. The structural consequence of such a setting is a *backward construction of communication* from its understanding (*Verstehen*) to its conveyance (*Mitteilung*) and from the latter to its information or content (*Information*). Meaning and information intentions lived by *ego* and addressed to *alter* are always measured upon *alter's* capacity to receive them, understand them and react to them in a manner that would not be hampered by any suspicions on *alter's* side that this 'pre-cursion' (*Vorlauf*) into his own capacities and possible intentions have had strategic skewing effects on the contents of communication. That means that my anticipation of *alter's* reception capacities of communication is not a simple, linear one. It is a complex, *ad libitum* complexifiable anticipation of *alter's* anticipations themselves. The backward construction of communication is one that *opens on greater complexity*, the more it recedes into the stem of the tree of its possibilities. Any communication of *ego* is conditioned upon its reception by *alter* which is conditioned by *alter's* reflection upon the possible intentions of *ego* and *ego's* own anticipations of *alter's* reception and *alter's* reflection of *ego's* possible intentions. This is the complexification matrix of the double conditionality of communication at level two of backward construction. Very often communication takes place at level



three or four of doubly conditioned anticipation, and sometimes intuitively beyond that.

This is the *simplest version* of the backward construction of communication. It reckons only with intentions and presupposes a fundamentally strategic posture of the communicants. The conception of a *strategic posture* at the foundation of communication is in itself the most misleading axiom in the theory of communication. It is the misunderstanding of what communication can intend and of the fact that it always intends something, that undermines the whole framework of strategic intention. Philosophies of intersubjectivity have tried to seize this that pushes an individual into the paths of communication and have termed it education (Fichte), strife or desire (Hegel), *Mit-sein* (Heidegger)<sup>7</sup>. Functional, pragmatist and pragmatist-linguistic theories have lent a utilitarian concept of an apparently primordial strategic posture and thus occulted the *rootedness of any strategic intentionality in the radical dimension of a primary demand and its configuration in reciprocal desire*.

The more radical version of double contingency as reciprocity of backwards fulfilling intentions has to theorize descriptive facts like the following ones: we don't know what comes up from our communication intention; our intention, what we want to say, to do, to initiate, to provoke, to hinder, to leave undone and so on, is not first in ourselves and has to be expressed, exteriorized by means of operations of communication. It is what it is from its backward response or non-response, from its striking on the demand of the other – which in its turn is nothing by itself but comes to pass by striking the demand it encounters. Information (flowing in channels of communication), intentions of communication (skewing the contents it conveys), understandings of such *intentions and informations are never given as such*, are in a way never there. *They come to their own significance post factum*, they find their meaning *nachträglich*, in the aftermath of communication. They are nothing but schemes, phantoms of meanings and events substantiated backwards by their reciprocals.

What *ego* intends is not in *ego* (*ego's* desire is not in him/her, is not only his/hers). *Ego* guesses him/herself and his/her intentions in *alter*. *Ego's demand must take the roundabouts of its significance* (in a chain of signifiers) that transforms it along its own associations and those of the responding one of *alter*. *While expressing his/her demand in a chain of signifiers, ego loses hold of it. It slips between his/her fingers and sets on a specific operation of intertexting signifiers. It thus produces events in and about ego, eliciting the whole destiny of ego or his/her subjectivity*. It is the operation of its becoming a subject, its "assujettissement" to a discourse and the interplay of significance within it.

While losing hold of its demand – when the latter enters the straits of the 'parole' – *ego* enters in the mutuality of the desire of the other: because the demand of *ego* is the demand for the desire of *ego* by the other, the loss of hold on the chain of significance is nothing else than the 'prodosis' (surrender) of *ego's* demand to *alter's* demand which brings it to advent and

gives it its shape and meaning. *Ego* and *alter* are involved in a mutual actualization in a *process of subjectivation* where no subject pre-exists to the other, nor is simply involved with it in a constitutive intersubjectivity<sup>8</sup>. *Ego* and *alter* stand to each other in a relationship of a signifier to another signifier. The *status of the subject as a signifier* for another signifier is the clue, in Lacan's theory, for the *goedelizing reshaping* of all preceding frameworks of the *conception of subjectivity*.

In effect, *ego's* demand must be represented by a signifier and addressed to a signifier that responds to it. It is what it is transformed into or specified by what comes back to *ego* from *alter* as an image in which *ego* guesses himself. Any demand is always an addressed demand not only in the sense that it is directed to something or somebody, but in the sense that it is issued by the subject into the world. It comes to stand in the world as an object that has gone out and awaits a resonance in it. The resonance takes place in the chain of significance that would be the substantiation of its intention. Once a demand is represented by a signifier it is projected into a medium of resonance that lets it come to being as something that sustains itself like a vibration in a medium in which it can oscillate. *As intrinsically addressed, demand is thus always something that comes back*, something that from the onset stands in the oscillating position of going out and coming back, as a representation that has its significance from its significance for another signifier, from which it comes back as an actual resonance.

The meaning which is intended is something which is born in and with its articulation by the subject. It is not pre-existing in it. The subject ventures itself into the meaning and progressively articulates it. The subject guesses, spells that meaning while advancing in its articulation, or more exactly while the meaning is advancing in the subject that is articulating it, while the meaning is being born out in it. The subject guesses what has been articulated in it with (so to say) the colophonical end of its own spelling of that meaning (to begin with: with the end of the sentence). *The subject reads in itself bit by bit what is being, arranging itself to a discrete effect of meaning*<sup>9</sup>. It is when the meaning has gone out from the subject, has been spelled out and issued by the subject and stands before it in the world *as an address delivered to an Other* already responding to it by its sole existence as the site where it comes to stand and to have a resonance, that meaning is born out in and by the subject. Meaning is always something coming back to me from an Other in address to which it is meant, has been delivered, while the subject has been spelling, articulating, discovering, guessing it in itself<sup>10</sup>.

Meaning is always read backwards on the basis of the double contingency of meaning elaboration in intersubjective communication. Double contingency of communication is thus mutual, intricate constitution of *ego* and *alter* as desires communicating to each other their images, their captivating mimetisms, the signifiers they are for each other.

The most solipsistic view of thought, subjectivity and meaning intention cannot erase the phenomenon of the genesis of intention / intension as a venture of an articulation in *ego* (in the subject here in the Lacanian sense) of something the subject is reading and spelling in itself by guessing it and himself (as a signifier) in the other. The articulation of meaning is the reading of something I do not know or have by me, but of something I come to know and have by the effect of its significance for another signifier. An intention / intension does not precede in being nor virtually its own articulation, but comes to being with the articulation as the oscillation between demand and response of all demand as a mutually conditioned significance between subjects / signifiers. Every demand is simultaneously emitting and answering and there is no original, ever first demand which would be a bare emitting of demand. Both demands are mutually conditioned and determine the significance drift or the drift of the signifiers which they are for one another. The subjects, which one would tend following ontological habits of thought to conceive as *hypokeimena*, as bearers of such a demand, are themselves nothing else than effects of those processes of drifting, oscillation, resonance of significance. They have no firmness at their foundation, but only the factual-historical interplay of the signifiers.

The 'goedelized' theoretical framework of double contingency proposed by Luhmann converges with the Lacanian 'goedelizing' modelling of the phenomenality of desire on the linguistic model of the sentence and its 'après-coup' (nachträglich) meaning fulfilment<sup>11</sup>. The reciprocity of desire as mutual conditionality and abyssal, spiralling reference of addressed demands constituting the subjects themselves as instances of desire corresponds to the *Lacanian goedelization* we put *in parallel to Luhmann's* in order to stimulate a renewed understanding of the latter. In both models (Lacan's and Luhmann's) double contingency has never finished engendering meaning intentions, mis-intentions, mis-understandings, anticipations, mis-anticipations, ... Reciprocity of desires does not come to a halt when the desire of the other has been uncovered in all its anticipations, when the arborescence of its reckonings has been perceived. The first / last operation itself has its meaning from backwards coverage by subsequent operations. No operation can be seized in a state of completion. Ever again we are referred to still more upwards lying mutually conditioned operations. The last operation in which meaning is produced as effect of drifting operations of communication or of drifting reciprocities of demands is always also the first operation of a meaning intention which has to be constructed backward. Following operations refer then backwards to that 'first' one and belong to the string of its meaning event in the medium of a sort of primary resonance process in which all possible signifiers resonate with all possible signifiers. Such a resonance condensate ever again in catenations which build destinies, multiple stories of an impossible closure of desire.

The interpretation of double contingency as double conditionality bestowing each time its own meaning to the operation of communication from the one that follows it enlightens quite decisively the systemist conception. A series of negations capture the new insights: not only communicants do not communicate in communication – but only communication itself, as Luhmann puts it in a sharp and provocative sentence – because it is impossible for them to reach each other through direct conveyance of their meaning intentions and to enter into each other's lived meaning production; not only the specific and structural roundaboutness of communication does entails a non-calculable arborescence of mutually conditioned options; but most significantly: the *single operation of communication itself has no standing*, no content, no identity, until it has been answered and its answer itself re-answered, and so on, and this not actually, but virtually: it *receives its content, identity, subsequently, backwards* (from an itself backwards constituted demand); meaning itself has to be perceived as a medium of extreme lability in which there can be no halt nor hold, but only mutually conditioned functions which found a specific 'resonance', that is, a self-sensibility each of its events to whole series of its events lying in its backward construction.

### High contingency and double contingency

The question that we would like to formulate is the following: *Does a context of high social contingency have any effect on the structure of reciprocity* (that is, mutual conditionality) and backward inscriptibility / readability of communication? If so, what would that effect be?

Such a context of high social contingency entails a very wide opening of communication to the entrance of uncommon, new types and styles of communication; it puts high strains on the tolerance of the communicants to innovative their forms of communication and educates them to continually increase this tolerance to reach limits they would hardly fancy before the advent of the new communicative challenges. Such a habitualized disposition to acknowledge and authentify contingent communication may not be without any impact on the structural reciprocity of communication. Increasing the contingency of communication may have some important repercussions on the functioning of double contingency in its modalities of structuring communication itself.

A first approach of the question may start by a *comparison* of modern societies – that is, those highly acceptant of contingency – with pre-modern, *custom-based societies*. In the latter, redundancy of meaning and interaction is very salient: only those meanings are admissible which have been authenticated by tradition and only those interactions are licit which can lean on authorizing customary models (gestuals, rituals, symbolic behaviours pervading interaction models). In such societies, meaning creation is

intuitive and powerful and the *stabilization of meaning leans strongly on affectual 'lockings' of anomy*. The irruption of unfamiliar meaning, that is of social contingency not fitting into the salient and emphatic codes of meaning production, is averted by affectual defences which reject with strength and sometimes horror those incoming proposals of a hitherto unthought of meaning<sup>12</sup>.

In the *functionally differentiated societies* of our modernity, the fundamental arrangements of social communication tend to crystallize around a small number of functions (politics, law, economy, science, art, education, family, religion). This functional grouping allows for a primacy of the *circulation* of meaning vis-à-vis the *content* of meaning. Functions tend to function: they have their name and their structure from the position of a readability of anything that occurs in communication as an arrangement of means towards (voluntary, conscious, or non-expressly intended) ends. They are bent to *develop syntaxes enabling* a rule and procedure based, conditional *processing of communication which can dispense with intuitive and emphatic saturations* of the chains of meaning implied in actual communication. This is surprisingly an aspect that enhances a sort of syntactic – as opposed to the former semantic – redundancy of communication by letting semantic contents fade on behalf of circulatory and successive '*Abarbeitung*' (that is, processing) intensities.

There is another characteristic aspect of communication in those societies, which has reached a mature state of functional differentiation. It is that of the opening of communication to wide ranges of (new) contents and their interplay, to leaps from content to content, to inventivity and creativity in the reticulation of meaning. This is the aspect of *increasing communicative contingency* which has to be linked to the specific modern disposition of openness towards incoming possible meaning, that is, to meaning which has never yet been validated.

Both aspects are tightly related. The *redundancy of functional meaning processing 'covers' the unrestricted openness of communication to contingency*. The ambiguity of the formula of modern communication does not reduce the saliency of its structural feature which is the capacity to widen the channels of entrance of contingent new meaning, contingent new ways of meaning production. The capacity to learn from the new and to adapt to it while the new goes massively against inhabited vivid intuitions and intensely validated forms of action suppose a radical switch to a cognitive posture vis-à-vis previously normatively framed meaning proposals.

In such a *context of increasing contingency* of socially circulated meaning it seems improbable that the mutual conditioning of subjective demands and the backward realization of meaning remains unaffected. The *backward reading of meaning must be widened*: whole chains of meaning have to be maintained in a sort of suspense or '*als-ob*', open to some eventual realization, confirmation

or condensation by incoming contents of a continued, self-propelling, self-reproducing communication characterized by its high receptivity for contingency.

This is a new formulation of the problematic of the *cognitization* of what is meaningfully spelled and appears at first sight as binding. The advent of meaning has always the character of binding evidence and intuitive saturation. The opening of communication to incoming contingency however makes it possible to see things in another way than they at first sight present themselves. It becomes always possible to think of them in other ways than they are currently thought of; it becomes also possible to do them in other ways than they are currently done. Under conditions of functionally differentiated communication the *binding character of evidence* of the socially circulated meaning is decisively *diminished*.

### The instance of the Other as the instance of the law

What comes back from the Other as the instance to which demand or intention is addressed is meaning in its most binding evidence. In societies whose fundamental effort is directed at the *restriction and control of contingency*, the *articulation of meaning is intrinsically emphatic* and postulates a commanding *figure of the Other as lawgiver*. The Other is thus the instance before which one would have to stand, to bear responsibility for one's breaches of the law and to sustain a verdict which constitutes one's own destiny.

This instance of the Other is grounded in as well as grounds the emphaticity of the articulation of meaning, the strict normativity of the norm. Under the new conditions, such an instance experiences a stark recession in societies whose fundamental effort is to widen their openings in order that contingency may enter into their communicative forums, may endow them with high cognitive variety and an increased ability to change. Some, influenced by psychoanalytical theories, speak of a *decline of the figure of the Father* or of the *Name-of-the-Father* in such a context.

Some venture the thesis that the end of history would be the *end of a regime of subjectivity* as a regime of subjection<sup>13</sup> at whose core law stands as the law of its subjecting instance. Demanding Law as the Law of the intricacy of demands and of the institution of an Other that intrinsically crosses the desire of the subject is emblematic of the regime under which the subject constitutes itself as that needy being, wanting the basic satisfactions of its drives, having no other ways to any satisfaction than those straits its demand must take and in which this demand must, by the most irreducible necessity, elude those satisfactions and renounce their *jouissance*. The end of history would be the *end of that regime of desire that places castration* as a vivid cutting edge *at the root of any direct access to jouissance*<sup>14</sup>. Such a regime is foundational of language and co-originary of a social communication which has to take the roundabouts of backward significance, in which the central stake is

always lacking or is lack itself. What social communication is always eluding under the regime of a law of the Father is direct and final satisfaction by the power of *jouissance*. *Law leads communication to always miss what should bring it to a halt*. The regime of castration imposed by the rule of the Father is a regime of impossibility of *jouissance* as the final negation of lack. The Name of the Father puts on *jouissance* an unconditional bar ('barre') damming, and thus founding and maintaining, the thrust of human desire<sup>15</sup>.

Such a psychoanalytical approach inspires a powerful *critique of the critical regime itself* that has established its hegemony within the social sciences with the advent of the Foucauldian theory of power. This theory envisions social communication as pervaded by (or coextensive with) disciplinary mechanisms that has to be uncovered by a microphysics of power and deconstructed by new licentious practices lifting all sorts of constraints that have curbed until now possibilities of free bodily existence. From the point of view of *Foucauldian critique* the *castration bar* put on the desire of the subject and subjecting it under a regime of coercion applying immediately and cruelly on the body (as the true subject of desire) *must be lifted*.

For psychoanalysts – of the Lacanian mood – such a project would have dire consequences on the psychological structuring of the subject and *imperil the constitution of the symbolic universe* which sustains its standing in the world and nurtures the creation of meaning by which it becomes able of orientation in the world, as a speaking being. But should there be a restoration of the Name-of-the-Father and what would such a restoration look like? Would it be a restoration of those mechanisms of power which are the paradigmatic figures of the 'Not des Lebens', the crystallization of its disciplines and the very core of its hardships: schools, asylums, prisons, caserns, courts...

We should not engage into the debate between Foucauldian critique and psychoanalytic critique of the critique. Our purpose is to show that Luhmannian theory can contribute a major enlightening of the problematics – under the condition of a deepening of its paradoxological dimension. Luhmann delivers theoretical pieces of great acuteness: the double contingency paradigm is developed by him in a very instructive manner; the concept of social contingency and the theorizing of the conditions of its increase are central sociological insights and should be accurately elaborated. The relationship between both pieces, if not thematized by Luhmann, can easily be so on the basis of those Luhmannian beginnings. What *Luhmann's theory of law* contributes is a *thorough understanding of the processes of de-normativization or cognitivization* which are sustained by the ability of modern societies to admit huge inputs of contingency. The process of 'equipossibilization' or 'equiprobabilization' of whole ranges of manners to conceive the world – flowing from the polycontexturality of social communication and meaning production within it – is coincident with a *loss of symbolic substance*. Symbolic substance is in its roots legal or moral substance (*sittliche Substanz*, in Hegel's conceptuality) or the *substance of bindingness* (of the intuitive evidence of the

norm) efficient throughout social communication. The heterotopical moral world postmodern societies live in is one that draws its moral mobility from its ability to increase social contingency to hitherto unknown levels and to cognitivize whole ranges of normative attitudes and intuitions.

The question that has to be put is then: are there *limits to the cognitivization process* and if so what are they? Are they of the kind of the deep psychological settings we have tackled and which cannot be modified without endangering the structuring of the human subject and postulating a new regime of *jouissance*? Would such a regime de-subjectivize the subject and give him up to a purely imaginary sphere where the symbolic is failing, and where a psychotic self would prosper, lacking any lack?

Luhmann proposes *functional and paradoxological hypotheses* concerning the limits of the decline of symbolic normativity: he sees that a complete cognitivization of social communication would cancel the function of law itself and its foundation in an insuperable need to maintain a certain congruence of expectations among the participants to communication allowing them not to be constantly in the posture of learning from coming events and constant adaptation to their change. Complete cognitivization would mean that everything in society and in social making can change at the same time.

Beyond this argument, Luhmann sees that *extreme cognitivization would ruin the paradox of law itself* as that of its genesis from violence or its co-originary with violence. There are at the root of law, no matter how much cognitivized its contexts have been, some sort of violent evidence that imposes itself upon the subjects of law and takes the form of an imposition of the law by the subjects of law on themselves. Luhmann, who has long opposed any style of massive philosophical interpretations of theoretical objects – which in his eyes are clearly inferior to functionalist methods<sup>16</sup> – seems ready to engage in a dialogue with speculative theses like those of Girard (1972, 1982) and Dupuy (1992) on mimetic desire<sup>17</sup>. Such theses have in effect the advantage to determine a position at which the paradox of law hardens to a point which cannot anymore be taken into perspective by theories that have only functional places for the symbolic. At the root of the paradox of law the symbolic emerges in its own substance and hard kernel. No theory and no scientific resolution of its components can do away with it.

### **The instance of the Other in the Other as the instance of the paradox of law**

We are seeking a formulation of the paradox of law which would enable us to enlighten the legal paradoxology of Niklas Luhmann. Such a formulation can be obtained by way of comparing Luhmann's understanding of what is structurally undecidable in law to other visions of fundamental perplexities in human association which introduce into it the problematics of an



unsolvability of the problem of justice. I have tried in a preceding work a comparative approach of Luhmann's theory with René Girard's understanding of the foundation of society as a sacrificial pacification of human desire which is seen as structurally mimetic or invidiary (rooted in envy (*invidia*))<sup>18</sup>. In the preceding paragraphs I tried to approach my subject from another angle: I have drawn a conjunction between Luhmann's legal paradoxology with *Lacan's formulation of a paradox of law rooted, like Girard's, in the very structure of human desire*, but describing a far more complex topology of intricacy and perplexity. Not mutual envy as such is the motor of the paradox, but demand as addressed to the Other and having its resonance in it.

Lacan acknowledges the Other to which the demand of the subject is addressed as originally a moral instance. It is an 'obscene and ferocious figure'<sup>19</sup> which represents the demand put on the demand (of the subject) and the strain that pushes it in the direction of an Ideal to fulfil and a norm to satisfy. It is then the impossibility to deliver such a satisfaction that couples moral consciousness to guilt and self-hate. It is the *figure of the Father as the original figure of the demanding and castrating Other* that emerges from the structure of desire as a love demand (*demande d'amour*) that cannot have any direct fulfilment, but 'goedelizes' the structure of desire itself<sup>20</sup>. The principle of pleasure can never unfold in a linear development reaching out to its objects and making it possible to man, once he has overcome all material obstacles, to seize these objects and realize the existence of a '*homme de plaisir*' (that model of man eighteenth-century thought has designed as an ideal of lightness and enlightenment). The thrust of desire towards its satisfaction encounters a form of hindrance that inverts its direction from one to pleasure to one to destruction, implanting the *problem of evil* and the co-originary problem of law – as the generating as well as the forbidding principle of evil – at the heart of human existence<sup>21</sup>.

"The sole function of the father...is to be a myth, always and only the Name-of-the-Father, that means nothing else than the dead father..." (*Séminaire VII*: 356–7). This is to say that the Father as a function is always there as a structuring instance of desire. The *problem is the vanishing of the figure at the centre of this figure* and that is *the Other in the Other*, the instance of the creator and authenticifier of the law at the place of the law (that is, at the place where the law has its function). This induces a quite important distinction between the functional non-erasability of the law and its foundational legitimation and authority. When the Other in the Other fades and vanishes, the Other itself does not disintegrate. It is always there as the site from which speech flows. The Other is the site of 'floculation' of meaning and cannot fail as a functional site. On the contrary, the figure of the Other in Other is the one which has disintegrated. The consequences of such a disintegration are many.

The problem of our societies is that the tragic dimension of existence flowing from the structure of human desire cannot be substantiated anymore because of the decline of the Name-of-the-Father, the Name-of-the-Father being the origin of law. Law has its validity from the reference to its Name which is efficient by itself. A particular father or a particular law can for many reasons be diminished by inadequacies inherent to them. The validity and efficiency of their injunctions do not however rely on their own, particular qualities. It is the invocation of their Names – as their symbolic figures – which gives momentum to their injunctions. In all cases, their operation is that of a ‘barring’ of ‘*jouissance*’ as something whose realization is concomitant with a trespassing (franchissement) of a rift (*faille*) and the inscription of a ‘debt’ in the ‘Grand Book of Law’ (*Séminaire VII*: 208). It is the problem of the subsistence of the interdiction of *jouissance* at a time where the heavens are empty and there is no figure of the Father (‘ferocious and obscene’, but also creator of order and sacrifice) to institute the interdiction. The Death of God (which can be written in the language of Lacanian mathemes like this: S(A/)) brings into the constitution of law and desire that perplexity of a default of the Other (l’Autre défaille, *ibid.* 227) as the ‘garantie demandée à l’Autre du sens de cette Loi...’ (*ibid.*). It is the *failure of the Other in the Other* which characterizes the situation of law in societies which tend to dispense with the barring of *jouissance*<sup>22</sup> and its divine guarantee.

In our societies the paradox of law takes this specific form of the *lack of an Auctorial*<sup>23</sup> instance which gives it origin and legitimacy. Lacan insists a lot on the fact that we are not able to think in a non-creationist manner. This means that we are not able to think of a ‘*Urnorm*’ or of a hierarchy of norms around which a legal system is articulated, and be satisfied with their quiet subsistence and functional processing. The paradox of law is that law is always there, that the tension it puts on the unrestricted realization of *jouissance* can never be completely lifted, but that the *reference to the Father-Instance as the Authorising principle of law begins to fail*. Much like Luhmann, Lacan sees the flaw not so much in the subsistence, the validity and the efficiency of the body of the law, but in its originating moment from factual, unquestionable, arbitrary violence. The old figure of the Father, ferocious and cruel, gave the one adequate, creationist view of the ‘why’ of castration. Law’s difficulties are linked to the fading of such a figure of arbitrary and violent origins. The *paradox of law* holds then in a very compact formulation: *The only symbol for an Auctorial Other at the origin of the Other is the figure of a castrating Father*; when such a figure declines and recedes out of reach of the social discourses of legitimation of the law, there can be *no substitute for it* at the depth of the law; *current deparadoxization* of law takes the form of a diffraction of those kernels of meaning in which the question of the origin of the barring of *jouissance* coagulates; the operative closure of the legal system enhances such a deparadoxizing current functioning of law by *exploding those semantic kernels into processible pieces of legal artefacts* and

by cutting the links of meaning which would trespass the legal sphere and unearth common semantic roots of the legal and the non legal<sup>2425</sup>.

## Notes

1. For further analysis see Clam, 2004b, where the issue is discussed in more detail.
2. There is no other substitute to law than law itself, no other substitute to art than art itself, no other substitute to religion than religion itself, and so on for all other functional subsystems. The conceptualization of these facts begins with Parsons and culminates in Luhmann who reads the non-substitutability of systemic function as its substitutability by itself. It is a sort of inescapable recurrence of the function at its own place and the proof of a real polycontexturality of communication in functionally differentiated social systems. On polycontexturality see Luhmann 1990: 666sq; Günther II, 1979: 283–306; Fuchs 1992: 43–66.
3. Clam 2000 and 2001.
4. See on this conception of contingency Colliot-Thélène (2001) who tries to interpret Weber's sociology – in particular his sociology of religion – as one that enshrines contingency at the centre of historical factuality as an under-determined one.
5. Editors' note: See *Luhmann's Ontology* by William Rasch in this volume for a further discussion on how the ontological breakdown in philosophy paved the way for systems theory and other constructivist positions.
6. We are hinting at a Luhmannian statement that should be often quoted: "Das Feste wird dann auf das Fließende gegründet" (Luhmann 1970: 190).
7. See Fichte 1971, Hegel 1970, Heidegger 1979
8. Lacan is a very sharp critic of intersubjectivity and of the fallacies of its introduction into the theory of psychoanalysis as an all healing theme that would allow for the correction of most of its deficits in the theory of the subject and the theory of object relations. See on the topic Séminaire VIII, 20sq.
9. Meaning effects (*effets de sens*, in the terminology of French structuralism) are not born on a continuum of variation, but in unpredictable leaps out of the drift of significance. See Guiraud 1970 who comments on the differentiation between meaning and effect of meaning.
10. Meaning effects (*effets de sens*, in the terminology of French structuralism) are not born on a continuum of variation, but in unpredictable leaps out of the drift of significance. See Guiraud 1970 who comments on the differentiation between meaning and effect of meaning. his analyst that the meaning he is articulating is born out in him as coming back to him from the other. See Lacan, *Séminaire VIII*, but also *Séminaire XV*.
11. In Lacan's view, the interplay of the signifiers does not come to a halt until the sentence has come to its end. But ending the sentence is illusory. The backwards inter-reference of meaning engulfs the sentence and the whole of conscious life: it reaches beyond the explicit meaning intentions into the realm of the unconscious as the treasure of all signifiers, having itself the structure of a language.
12. The sociology of Durkheim (1991) and the anthropology of Douglas (1992) are centred around these phenomena of intense affective lockings of tabooed action.
13. In the sense of *assujettissement*, denoting the process of constitution of the subject by that (unknown chain of signifiers) which pre-exists it and engulfs it.
14. Charles Melman 2002 (head of one of the Lacanian schools in France) speaks of the emergence of a "new psychic economy", with tremendous consequences on the individual and society.

15. The thesis yields its very meaning when the decisive insight into the dialectic of Law and desire has been elaborated. Such a dialectic ‘fait notre désir ne flamber que dans un rapport à la Loi’ – and Lacan adds: “par où il devient désir de mort” (*Séminaire VII*: 101).
16. Luhmann regards philosophical interpretations inferior because only functionalism – in the sense of equifunctionalism – has adequate resources to reach the resolution of the object required in modern science.
17. See on the problematic of violent origins of society and law, Hamerton-Kelly 1987. [Additional information is needed for this reference. Is this a book or a chapter/article? A full text citation needs to be provided and included on the bibliography.]
18. Clam 2004a, the chap. ‘Monétarisation, généralisation de l’envie et paradoxe du droit’.
19. Lacan, *Séminaire VII*: 15.
20. “...ce que demande l’homme, ce qu’il ne peut faire que demander, c’est d’être privé de quelque chose de réel” (*Séminaire VII*: 179).
21. Lacan tends to grant the monotheistic tradition the privilege of such a knotting of Law and desire / transgression / evil at the origin of the human. Other religions seem to be incapable to emerge from that confusion in the fields of the imaginary. They are consequently less legalist; they are not able to be religions of the Law (which is for Lacan the collective notion of the Laws of speech (‘lois de la parole’), *Séminaire VII*: 206).
22. As the instauration of the inaccessibility of the universal object of desire, of the Thing.
23. I write ‘Auctorial’ with a capital A in order to evoke the ‘grand Autre’ (the – English – Other).
24. In my “The Specific Autopoiesis of law” (Clam, 2001) I discussed the problematic of the relative closure of derivative autopoiesis of meaning which admits leaks of semantic substance into other autopoiesis.
25. Editors’ note: For another discussion on the de-integration of law in modern society see ‘Luhmann and Derrida: Immunology and Autopoiesis’ by Willis S. Guerra Filho in this volume.

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# 2

## Luhmann's Ontology

*William Rasch*

The title of this chapter is perverse.<sup>1</sup> We know that for Niklas Luhmann, ontology is not a perennial puzzle to be solved anew, but a historically-determined category to be dismissed.<sup>2</sup> Synonymous with the Western metaphysical tradition that is anchored by Aristotelian logic, ontology is correlated with the pattern of social organization characterized by the epoch of regional high cultures, namely the hierarchically ordered form of differentiation for which Luhmann uses the sociological and anthropological label 'stratification.' That the *word* 'ontology' first appears in the sixteenth century, now marking a subset of metaphysics, is taken by Luhmann as a sign of crisis, or, less dramatically, a sign of transition; and that the *semantics* of ontology, along with a host of other traditional concepts (such as ontology's necessary cohort, reason), continues to play an acknowledged or unacknowledged role to this day is, for Luhmann, simply an indicator that some people have not been paying attention. What they have not been paying attention to is the emergence of a new form of social structure, functional differentiation, which, Luhmann claims, is planetary and no longer associated with regional differences. Accordingly, the stable ontology of old Europe must necessarily be replaced by a way of thinking more in tune with our complex, contemporary form of social organization. To link, therefore, the proper name 'Luhmann' with the philosophical concept 'ontology' would seem to be an oxymoron, or worse, a sign of my abysmal ignorance. So why have I committed such a fatal error?

I propose that we understand my title not as an assertion but a question. When Luhmann, who of course considered himself a sociologist, strayed into philosophical territory, he explicitly claimed that his speculations were epistemological in nature. Now, epistemology is *not* inherently or necessarily incompatible with ontology; after all, for the metaphysical tradition, what is knowledge if not knowledge of reality? Luhmann, however, was fond of contrasting knowledge with a 'reality that remains unknown,' a formulation with a decidedly Kantian and perhaps especially neo-Kantian flavour, though Luhmann attempts to minimize this proximity. Knowledge, on this

view, cannot depict or represent reality, but must be thought of as a construction, a self-production.

Nevertheless, the simple fact that reality per se is unknown, does not mean that it does not exist; it means only that it does not exist *for knowledge*. Luhmann concedes as much: 'At any rate there are some grounds for the belief that were the reality that remains unknown totally entropic, it could not enable any knowledge. But the knowledge of what, seen from this side, is the condition of one's own possibility cannot be brought into the form of a distinction.'<sup>3</sup> Here, reality as negative entropy, is assumed to be a precondition that enables operations (cognition, observation) to 'construct' knowledge. Yet, since this reality cannot be the object of the knowledge that it makes possible, it serves knowledge merely as a presupposition. The mental gymnastics required to affirm knowledge *and* reality and yet deny knowledge *of* reality produces linguistic constructions that provoke both aesthetic pleasure and cognitive puzzlement. Here are some examples. 'There is an external world', Luhmann affirms, 'which results from the fact that cognition, as a self-operated operation, can be carried out at all.' But, he continues, 'we have no direct contact with it.' He thus asserts that 'cognition is a self-referential process. Knowledge can know only itself, although it can – as if out of the corner of its eye – determine that this is possible only if there is more than mere cognition. Cognition deals with an external world that remains unknown and, as a result, has to come to see that it cannot see what it cannot see.'<sup>4</sup> Knowledge can know nothing but what it constructs by way of the manipulation of distinctions. Accordingly, 'constructed reality is...not the reality referred to'.<sup>5</sup> In a word: 'Reality is what one does not perceive when one perceives it.'<sup>6</sup>

Luhmann, then, never denies the *existence* of something we might conventionally call reality. 'It is only the epistemological relevance of an ontological representation of reality that is being called into question.' This Luhmann calls the '*de-ontologicalization of reality*,' by which he means to deny not the 'external world' but rather the significance of the initial, ontological distinction of 'being/nonbeing'.<sup>7</sup> This external world, this unknown reality as the condition of possibility for knowledge, cannot become the object of that knowledge and thus remains not just unknown but unknowable. But precisely in this way, reality per se (*Realität an sich*, so to speak) returns, or rather, remains as an ineradicable blind spot, inaccessible to knowledge but in an unknowable way constitutive of it<sup>8</sup>. Thus, the title of this chapter is neither an error nor a claim, but simply a question: What status might an unknowable yet necessarily negentropic condition of possibility have in Luhmann's implied philosophy? And what sense might it make to call the formulation of this condition of possibility, against Luhmann's own practice, 'Luhmann's ontology'?

There is also a second line of questioning that I wish to raise, if only briefly, as follows: Luhmann's conventional, even Marxist, sociology of

knowledge has always surprised me. Though he often chooses his verbs carefully, noting how shifts in social structure somehow ‘correlate’ with changes in, for instance, philosophical semantics, he nevertheless, or so it seems, clearly implies causal relations, such that the emergence of functional differentiation out of the collapse of stratification brings with it, of necessity, the demise of ontology and the rise of a brand new conceptual world. Here is how Luhmann puts it: ‘Accordingly one can, in a sociology-of-knowledge manner, investigate such a connection between semantics and social structure on the basis of certain initial plausibilities. But perhaps the most convincing argument is the fact that the change of social structure in the direction of functional differentiation has triggered first fissures in and then the complete collapse of ontological metaphysics.’<sup>9</sup> Even here Luhmann uses a carefully chosen verb. ‘Trigger’ (*auslösen*) is not the same as ‘cause’ (which would be *verursachen*), although it strongly implies ‘cause’. Nevertheless, does such a quasi-causal relationship between structure and semantics – or base and superstructure, to use the more familiar formulation – strike us equally as plausible as it does Luhmann?<sup>10</sup> Can we really align, for instance, the development of quantum mechanics in the twentieth century with eighteenth-century shifts in social organization? If social structure – the various ‘forms of differentiation’ – can do what reality per se cannot, namely ‘trigger’ monumental alterations of the production of knowledge, does this make Luhmannian notions like ‘functional differentiation’ and ‘social systems’ quasi- or pseudo-ontological objects? I will return to these questions at the end of this chapter.

\* \* \*

In the section of *Gesellschaft der Gesellschaft* devoted to ontology, Luhmann executes one of his signature drive-by examinations of intellectual–historical developments. The trajectory that he sketches in broad strokes traces the familiar shift from the so-called Old European emphasis on metaphysics and ontology to the modern preoccupation with epistemology, the shift, in other words, from Aristotle by way of Descartes to Kant and the nineteenth-century neo-Kantians. This move from a fixation on the nature of existence to an overriding concern with the conditions of possibility of knowledge is then directly correlated with socio-structural change. Though most will be familiar with this piece of philosophical history, the details of Luhmann’s version, which relies heavily on an unconventional and little-known philosophical source, deserve some attention.

Luhmann describes ontology using the basic element of his theoretical toolkit, the binary distinction. Ontology operates, he notes, with the fundamental distinction between *Sein* and *Nicht-Sein*, that is, between Being and Nonbeing or Nothingness. As he charmingly puts it, ‘This distinction has



its inimitable plausibility in the assumption that only Being is and that Nonbeing is not.<sup>11</sup> This initial distinction gives rise to others, most notably the subject/object dualism. As an observer within being, the subject's sole function is to produce 'maps' of that which exists. Through the 'objectivity' (namely, the rendering of objects, including itself as object, accurately) that such maps convey, Being enjoys a quasi-normative status. Only that exists which should exist; anomalies appear as miracles, as divine suspensions of Being's law, thus as proof of the being of God as the creator of the Being/Nonbeing distinction. For those who eschew theology, logic exists as the immanent, worldly guarantee of the inviolability of Being, and the miracle – the evidence of which is produced by logical paradox – is, by fiat, banished from sense, hence from knowledge of the world. The subject's task, then, is not to doubt Being, and certainly not to assert its own being, but to produce accurate, true representations of the world.

This bare-bones sketch of Luhmann's already lean account tells us little. To get from Luhmann's caricature of ontology to a more complex vision, we must cast a glance at the work of Gotthard Günther, on whom Luhmann relies. The first thing we notice is that Luhmann skips a step. For Günther, the basic ontological distinction is thing and thought, more formally, *Sein* [Being] and *Reflexion* [reflection], or as he sometimes marks it, *Sein* and *Sinn* [meaning]. However, in the course of its operation, this distinction collapses, for ultimately a logic of identity rules the contrasting pair. He explains this as follows:

According to the classical maxim of the metaphysical identity of thought and Being, a strict symmetry exists between subject and object. That is, all thought unambiguously portrays Being...A concept which corresponds to no aspect of Being [*Seinsmotiv*] has, therefore, in this mode of doing philosophy no ultimate meaning. At most it can make provisional sense, and it is the task of metaphysical thought to expose its provisional nature and thereby cause it to disappear.<sup>12</sup>

On this view, Reflection brings nothing of its own to the generation of knowledge. Rather, dependent on the primacy of Being, it quite literally 'reflects' Being, without distortion, like a good mirror. Thus, upon completion of its task, reflection sinks into nothingness; it ceases to be. '[O]n the level of propositional logic the thinking subject is not included in the calculations...The entire system is identical with itself, therefore forbids contradiction and excludes the 'third,' the reflecting, thinking subject from the system of thought.'<sup>13</sup>

We can better visualize what Günther is after with the help of an image provided by Wittgenstein in the *Tractatus*. In proposition 5.632 Wittgenstein writes: 'The subject does not belong to the world but is a boundary of the

world'. In the next proposition, he gives us the image of a field of vision (*Gesichtsfeld*) in which the eye that produces this field of vision cannot itself be included.<sup>14</sup> It is an easy image to comprehend. I see right now the room before me, the computer which I use to produce this text, the desk on which it sits, the hands that do the typing, but I cannot see the object that does all this seeing, namely my own eye. In the act of describing what I see, my eye remains hidden to me; I cannot see it seeing, therefore it slides into nothingness. Of course, this image of the eye that remains unseen, the blind spot that serves as condition of possibility for my descriptions of the field of vision before me, can be interpreted in many ways. But within the realm of ontology as both Günther and Luhmann describe it, my seeing eye simply sinks into darkness; and like my eye, Reflection is finite and self-consuming. Because identical with Being in the sense of being a dutiful servant whose task it is to describe *accurately* what it sees, Reflection adds nothing to the essence of Being, which is complete and self-sufficient. Once its job is done, Reflection disappears without remainder. Thus, when Luhmann posits ontology as the distinction between Being and Nonbeing it is as if he arrives on the scene after Reflection's self-immolation, the full disappearance of the subjective 'eye' has already taken place.

Now, when we ask the quintessential Luhmannian question, who observes the Being/Nonbeing distinction, two possibilities stand out. First, and in a theological manner, we might posit a supervisory, omniscient demon who can match the fallible representations of reflection with Being itself to ascertain correctness and error. We might, then, label this demon a second-order observer (and call it 'God' if we so wish) who observes reflection's observations of Being, but we must add that our demon is the *only* second order observer, the absolute observer, who guarantees the unity of the world as the unity of Reflection and Being. Luhmann correlates the transcendent position of this omniscient demon with the social structure of pre-modern societies, of which two types are mentioned, those that are stratified and those that operate by way of a centre/periphery distinction. In each, we find a socially determined position of certainty from which all of society can be surveyed, the aristocratic court and/or the city, and this terrestrial certainty mirrors the secure knowledge of the well-ordered universe. That is, social hierarchy matches ontological hierarchy in which, as it were, reflection obeys existence. One is reminded of Adorno's and Horkheimer's image of Homer's noble landowner, Odysseus, who surveys the campfires of his sheep herders from his castle walls. He alone can discern the complete pattern of lights these campfires project within his field of vision; he alone can see that this terrestrial pattern reflects perfectly the light produced by the celestial harmony of the fixed stars and their regularly orbiting satellites. He alone immanently represents the transcendent, omniscient demon. But he *cannot* see the historical and social

condition, the 'eye' of his privileged situation that allows him this view. As Horkheimer and Adorno write:

The universality of ideas as developed by discursive logic, domination in the conceptual sphere, is raised up on the basis of actual domination. The dissolution of the magical heritage, of the old diffuse ideas, by conceptual unity, expresses the hierarchical constitution of life determined by those who are free. The individuality that learned order and subordination in the subjection of the world, soon wholly equated truth with the regulative thought without whose fixed distinctions universal truth cannot exist.<sup>15</sup>

And with this account, we come to the second candidate for the observer who can encompass the difference between Being and Nonbeing – logic – for as Günther's reading of Hegel shows, ontology also charges reflection with the task of enunciating the immutable laws of thought which, ideally, 'reflect' the laws of nature. Reflection already entails a distinction between hetero-reflection (*Reflexion-in-anderes*) and self-reflection (*Reflexion-in-sich*). 'Hetero-reflection deals with unmediated categories of Being. Self-reflection develops so-called categories of reflection. The latter, in their systematic construction, produce the system of traditional, formal logic. And this system defines what thinking is.'<sup>16</sup> The transcendent, omniscient demon is thereby replaced by the immanent and universal law of thought, which, like the now displaced demon, secures consistency and labels it 'truth.' With these two figures – the omniscient demon who transcendently guarantees the unity of thought and thing; and logic, or the laws of thought, that serve the same function immanently – we can write the history of Western metaphysics as theology and ontology, as the at times uncivil war between revelation and reason. The omniscient demon becomes the Creator-God who reveals His divine plan through prophets and sacred texts; the laws of thought contain the capacity of reason to discover the place that autonomous human beings occupy in the rationally comprehensible cosmos. Were neither the divinely anointed prophet nor the self-appointed philosopher to exist, were it accepted that the privileged observer has dissolved into a plurality of finite, competing observers, then we are left with nothing, as Luhmann's Kant-like phrase regarding a reality that remains unknown, if not unknowable, seems to demonstrate. Conventionally such a position has been pejoratively labelled 'nihilism'. Luhmann, however, phrases this development more positively, indeed, even with a faint hint of the visionary: 'If one, however, radicalizes the concept of observation dependent on distinctions, then one finds oneself in another world.'<sup>17</sup>

Radicalizing the concept of observation means radicalizing the relationship of logic to reality. According to Günther, it is the introduction of a third

level of reflection by Transcendental Idealism, especially Hegel, that effected the radicalization of observation and pushed open the door to the other world that Luhmann evokes.

According to classical logic, the sense of Being is simply reflected. Now however – as Hegel formulates the problem – the contrast between Being-in-itself (hetero-reflection) and the sense of Being (self-reflection) is reflected. With this next step, therefore, we get a self-reflection of self- and hetero-reflection [*eine Reflexion-in-sich der Reflexion-in-sich-und-anderes*]. What a particular reflection is depends thereby on the place it occupies in the system of total reflection.

This final position-determining reflection means that a) there is an additional reflection of ‘the other’ (which has already been reflected in simple self-reflection) and b) a reflection of simple self-reflection (which contains the other – reflected – within itself).<sup>18</sup>

Through this fun house of reflection, which grants reflection an autonomy in its relationship to the reflected object, we can recognize, I believe, a version of (perhaps even inspiration for) Luhmann’s second-order observation that observes the observational constructs of the empirical world. Unlike the fixed and final reflection of our omniscient demon, however, these second order reflections cannot, in theory, be limited, for every reflection may now be subjected to a further reflection, every observation to another observation. In Günther’s emphatic (by him italicized) terms: *‘This excess of reflection [Reflexionsüberschuß] is rather an indication of the existence of a second logic, which includes within itself the first or classical logic as a special theme, which in its own thematic, however, far exceeds the theme “objective Being.”’*<sup>19</sup> In other words, this ‘excess of Reflection’, when formalized as a three-valued logic or higher, undermines the claims of Aristotelian logic to be the universal law of thought per se and with it the certitude of the stable, omniscient observer. For Günther, this ‘radicalization’ of observation opens up vistas far more romantically visionary than anything the carefully sober Luhmann would have dared to articulate.<sup>20</sup>

In the narrative I have just sketched, what we see is the reversal of values of the metaphysical polarity of Being and Reflection. With the postulated collapse of ontology and rise of epistemology, it is now Being that is evacuated of all content. All the action is on the side of Reflection. The necessarily privileged observer, who is responsible for the ontological distinction, is dethroned and becomes just one of innumerable contingent observers, all of whom now have limited capacities (Luhmann’s famed blind spots) because they reside *within* the original distinction, which now mutates. That is, the new distinction that emerges from the collapse of ontology is a subdivision of reflection along a self-aware self-reference/hetero-reference axis – Günther’s Hegelian *‘Reflexion-in-sich der Reflexion-in-sich-und-anderes’*. By way of this operation, something that we can now simply call ‘reality’ (as

opposed to 'reality per se' or *an sich*) emerges empirically – that is, constructively – and can suitably be considered an object of knowledge. *Sein* (Being or reality per se) is thus pushed into George Spencer-Brown's unmarked space, into the *Nicht-Sein* or Nothingness formerly 'occupied' by Reflection, if, that is, anything can be said to 'occupy' Nothing. In Kantian terms, the side of observation is the phenomenal world and the side once occupied by Being the noumenal world, which is no longer characterized as the *Ding an sich*, but, at best, as an unspecified and unvisualizable state of negentropy. What is commonly called nihilism, then, is precisely this negation of reality per se – either idealistically (reflection is all there is) or agnostically (reality per se is unknowable). Some perceive in this negation a 'loss of meaning,' others may feel themselves on a yellow brick road to a brave new world<sup>21</sup>. The rest may wish simply to withhold opinion.

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With this quick, elementary, and highly schematic rehearsals of some basic notions associated with Luhmann and Günther that, in abbreviated form, comprise a narrative of the collapse of pre-modern ontology and rise of self-reflective epistemology, I wish to address the question I posed at the beginning of this -chapter. Namely: Does the demise of ontology as a meta-physical project mean that epistemological statements no longer have ontological implications?

To get at this I can think of no better access point than Luhmann's mysterious Holy Trinity of unities that he occasionally refers to, most thoroughly in *Erkenntnis als Konstruktion*. Let me quote him:

And so we return to the question of whether ...undifferentiated [*differenzlose*] (and therefore: paradoxical) concepts are necessary. The traditional concept of God acted as an attracter for and thereby absorbed this question. For some, this may suffice. Without committing ourselves, we wish to present three further concepts that could, very faintly, resemble the doctrine of the Holy Trinity.

We will speak of World to designate the unity of the difference between system and environment. We will speak of Reality to designate the unity of the difference between knowledge and object. We will speak of Meaning to designate the unity of the difference between actuality and possibility. All these concepts are indifferent [*differenzlos*] in the sense that they include their own negation.<sup>22</sup>

One wonders why Luhmann felt compelled to produce these three unities. They serve as the endpoints of reflection, the line beyond which lines of difference can no longer be drawn. They tempt one, therefore, no longer

to produce knowledge, but to speculate, which I suggest, at least for the moment, should be thought of as a kind of negative or indirect knowledge. Thus, I read Luhmann's offhand comparison of his unities with the doctrine of the Holy Trinity as neither so distant nor so difficult to make. World, Reality, Meaning: Father, Son, Holy Spirit. Admittedly, 'meaning,' the Holy Spirit, seems to be the most intriguing of the three, but for the purposes of this chapter. I will leave it aside and concentrate my remarks on the Father and the Son, that is, world and reality. Whatever Christian theology may say about the Father and the Son, I propose we view the relation between world and reality to be, if not hierarchical, then at least asymmetrical, as Jesus' words on the cross seem to imply: 'Father, Father, why hast thou forsaken me?' Let us, then, play with the idea that world and reality indicate, in fact, two levels of reality, with 'world' standing in for reality per se or what is sometimes referred to as mind-independent reality (and thus, in Luhmann's terms, the reality that remains unknown), and with what Luhmann calls 'reality' standing in for *empirical* reality, the phenomenal reality that knowledge does know because it is the reality that knowledge constructs. This way of understanding Luhmann's *Welt* and Luhmann's *Realität* of course closely resembles Kant's basic distinction between the noumenal and phenomenal realms, but I will not use Kantian categories in the following exposition, but rather those taken from the French physicist and philosopher, Bernard d'Espagnat, whose notion of 'veiled reality', justified on the basis of the universality of quantum mechanical observational predictions, I find useful in making sense of Luhmann's forays into the field of philosophy.

The ground on which d'Espagnat operates is the ground of experimental physics, specifically quantum physics. The problem he hones in on is whether the experimental results of quantum physics – the famed uncertainty principle, Bell's inequality, and so on – allow for a belief in mind-independent reality. Even those who were repelled by the seemingly inevitable implications of quantum theory – most famously Einstein – acknowledged that in light of experimental results it was impossible to visualize reality according to any traditional pattern. The final nail in the coffin – at least for now – seems to have been Alain Aspect's experimental results which deny Bell's inequality. Manjit Kumar phrases the consequences lucidly in the following manner:

Bell derived the inequality from just two assumptions. First, there exists an observer-independent reality. This translates into a particle having a well-defined property such as spin before it is measured. Second, locality is preserved. There is no faster-than-light influence, so that what happens here cannot possibly instantaneously affect what happens way over there. Aspect's results mean that one of these two assumptions has to be given up, but which one? Bell was prepared to give up locality. "One wants to

be able to take a realistic view of the world, to talk about the world as if it is really there, even when it is not being observed," he said.

Bell...was convinced that 'quantum theory is only a temporary expedient' that would eventually be replaced by a better theory. Nevertheless, he conceded that experiments had shown that 'Einstein's world view is not tenable.'<sup>23</sup>

Broadly speaking, then, there are two ways of dealing with the dilemmas raised. On the one hand, one can, like Bell, point to the finitude of human knowledge and claim that the eventual discovery of 'hidden variables' or other factors could restore a realist worldview that would still be compatible with seemingly paradoxical experimental results. On the other hand, one simply had to acknowledge either that there is no mind-independent reality at all, or that such a reality is so counterintuitive (non-locality<sup>24</sup> being one such characteristic) that it is thoroughly inaccessible to human thought as to make the question moot. The first view is conventionally viewed as epistemological, as it clings to realism and points to human limitations in understanding nature; the second view is ontological, as it denies a definitive and discoverable structure of the universe – that is, it makes a claim about reality and not about our understanding of reality.

According to d'Espagnat, most physicists, who by nature, as it were, incline to an ontological world view, have nevertheless been persuaded by the experimental outcomes of quantum mechanics that science does not operate on or gain direct knowledge of mind-independent reality, but rather provides us with a rational synthesis of observed phenomena which increases our ability to predict such phenomena. And indeed, the predictions that scientific observers make, based on mathematically formulated laws, are not predictions of physical events (because we have no conception of any mind-independent physical properties) but of observational outcomes.<sup>25</sup> The knowledge that science produces, then, is not of mind-independent reality, but empirical reality, which he defines as 'the set of phenomena, that is, the totality of what human experience, seconded by science, yields access to'.<sup>26</sup> That scientific knowledge is limited to empirical reality in no way diminishes the universality of its observational predictions; rather, it states only that, for instance, quantum formalism is not descriptive but predictive, and that what the formalism predicts are not events, but observations (in the form of probabilities). Yet these predictions hold true universally, again, not for events but for all observers.<sup>27</sup> Accordingly, d'Espagnat defines scientific knowledge in terms of what he calls 'weak objectivity', which he defines as follows: 'A statement is "weakly objective" when it implies (directly or indirectly) the notion of an observer but is of such a form (or occurs in such a context) that it implicitly claims to be true for any observer whatsoever'.<sup>28</sup> On this view, therefore, science no longer conceives of itself predicting what

will be, but rather what will be observed, and the type of scientific truth that arises from this claim is not ontological but intersubjective (in the sense that predictions are not descriptions of an independent reality but expectations concerning the observations of all observing subjects).

Now, d'Espagnat claims that theoretical and experimental attempts (by David Bohm and others) to 'save the appearances', that is, to posit ontological status for objects of observation (such as particles or events) fail. If that is the case, then three major philosophical options remain. One is to claim that mind-independent reality does not exist and that appearances are all we have. This claim d'Espagnat associates with the neo-Kantianism of Ernst Cassirer, in which reality is replaced by mathematical functions.<sup>29</sup> Second, we may claim that there is something like a reality that serves as a formal limiting concept, a 'something', as d'Espagnat puts it, that says 'no', but that at its core remains absolutely unknowable.<sup>30</sup> D'Espagnat, however, represents a third position, one that insists on the existence of negative evidence derivable from physics that can give one a glimpse of mind-independent reality and allows for limited and careful speculation. That evidence exists primarily in the universality of empirical laws and the notion of non-separability, which includes non-locality, which, in essence, preclude the existence of discrete particles or objects locatable at discrete spatial or temporal positions before they are observed.<sup>31</sup> Because quantum mechanics cannot postulate discrete particles apart from observation, it is forced to imagine an underlying reality that is an undifferentiated whole, of which empirical phenomena (like particles) can only be thought of as 'aspects' or 'states'. From these, d'Espagnat postulates the following:

[I]n view of the fact that there are universal laws – such as the Maxwell equations – that phenomena do obey and that these laws remain pertinent although their interpretations evolve in time, I consider it more plausible that 'the Real' ...is structured and that some of its structure passes into our 'laws.' In other words...beyond Kantian causality, which underlies empirical causality...I believe in the existence of an 'extended causality' that acts, not between phenomena but on phenomena from 'the Real.' Clearly, since, due to nonseparability, the said 'Real' may in no sensible way be considered constituted of localized elements embedded in space-time, this causality vastly differs, not only from Kantian causality but also from Einsteinian causality. Of course it does not involve eventlike efficient causes...since such efficient causes would bring time in. But it may involve structural causes and the latter...do not boil down to mere regularities observed within sequences of phenomena. In fact these structural 'extended causes' ...are structures of 'the Real' ...[which] constitute the ultimate explanation of the fact that physical laws...exist.<sup>32</sup>



These claims can of course simply be passed over by those who have no taste for them as unfounded metaphysical musings. After all, they indulge in explanation, precisely what, according to d'Espagnat, science does not do. The question is whether such indulgence is not merely idle amusement but rather necessary. The reality observed is always the reality produced by observation. Yet can one consistently remain in the realm of the empirical without positing a non-empirical realm of reality? I remind you of Luhmann's claim about entropy I cited earlier: 'At any rate there are some grounds for the belief that were the reality that remains unknown totally entropic, it could not enable any knowledge. But the knowledge of what, seen from this side, is the condition of one's own possibility cannot be brought into the form of a distinction.'<sup>33</sup> This is a nicely formed negative statement that remains true to its premise – that reality *per se* is unknown – yet affirms that what remains unknown must in fact exist, and in so doing the statement invariably has to give it some sort of characteristic (in Luhmann's case, the distinction between entropy and negative entropy). Furthermore it states that *Erkenntnis* – knowledge – takes place within empirical reality and is the product of empirical reality. Knowledge can know only its own reality, never reality's reality; yet it can never know its own reality *as* its own reality without the shadow cast on it by another reality. Luhmann's statement strongly implies that the empirical reality of which knowledge is produced requires a concept of ontological reality in order to see itself as empirical. That is, empirical reality can only recognize itself as empirical reality – as the domain of science or the domain of Luhmannian constructivism – if it contrasts itself to a necessarily 'real' reality, a reality that acts at the very least as a logical condition of possibility. To repeat, ontological reality must exist (or be posited to exist) for empirical reality to recognize itself as empirical reality. Otherwise, how else could we understand the following sentence that appears at the end of 'The Cognitive Program of Constructivism and the Reality that Remains Unknown'. Constructivism, Luhmann concludes here, 'is also the form that can no longer mislead one to conclude it has nothing to do with reality'.<sup>34</sup> To protect constructivism from the charge of idealism, the distinction between ontological reality (which may very well remain both unknown and unknowable) and empirically reality is contained, ambiguously and almost as if by accident, in Luhmann's loose use of the word 'reality'.

But, by invoking entropy, Luhmann also indicates that the condition of possibility is not *only* logical. Luhmann stops with this vague evocation. D'Espagnat ventures a bit further down the road leading to the other world Luhmann mentions. Recall that d'Espagnat fixed on two quasi-attributes of mind-independent reality, non-separability or non-locality, on the one hand, and extended 'structural' causation on the other. Out of this unknown reality, this undistinguishable whole, and by way of laws we dimly perceive, 'states of consciousness coemerge with such concrete things as objects,

events and so on' such that 'consciousness and empirical reality exist in virtue of one another...or equivalently that they generate reciprocally one another'.<sup>35</sup> Luhmann echoes this belief in the co-emergence of consciousness (Luhmann would say: observation) and empirical reality: 'the operation emerges simultaneously with the world, which as a result remains cognitively unapproachable to the operation'.<sup>36</sup>

We recognize in this emergent reality Luhmann's *Realität*. I believe everything that d'Espagnat says about empirical reality Luhmann could have endorsed. More pertinently, d'Espagnat might be willing to acknowledge everything Luhmann said about the construction of knowledge to be a reasonable, albeit incomplete, description of empirical reality. In other words, Luhmann's notion of *Realität* and d'Espagnat's definition of science as a 'synthetic account of communicable human experience'<sup>37</sup> seem compatible. So the question I raise is: Could Luhmann's *Welt*, the Father of all unities, be a necessary placeholder for d'Espagnat's veiled reality, the reality per se that remains unknown? Luhmann might deny this; but it seems to be the final resting place for all distinctions, the cemetery of observation. Might that not also make it the cradle of empirical reality, the residue left behind, as it were, when empirical reality arises, a residue that serves, at least in retrospect, as origin? If so, might not elements or faint hints of the semantics of old – inescapable ontology, radically re-defined – still have a necessary hold on our imagination?

## Functional differentiation as trigger

I noted above the seeming similarity of Luhmann's sociology of knowledge (by which I mean, very generally, the postulated linkage, however articulated, between ideas and social structure) and the one presumed by Horkheimer and Adorno in their depiction of Odysseus as land owner and, later, ship captain.<sup>38</sup> For them, the domination of nature, the domination of humans, and the logical domination of the particular by the general are all correlated. If there is a 'base' that determines (or: please use the verb of your own choosing) the content of the 'superstructure', it is the hierarchical social order, that is, Odysseus as landowner and ship captain. The plausibility of their example is reinforced by the density and dexterity of their language. In it, Homeric Greek social structure, Aristotelian logic, and Weberian (Lukácsian) rationalization (reification) are neatly forged together to form a seamless whole that can be labelled 'bourgeois subjectivity'. The difficulty of this scheme, however, lies with its apparent ahistoricity. Captain Odysseus and Captain of Industry John D. Rockefeller seem to be of the same kind, which, if true, renders the base/superstructure causal nexus meaningless. On this reading, it would seem that the specific forms of 'domination' they identify are in truth human – or at least 'Western' – constants that only the *parousia* could possibly cure.

Such is the problem of all theories of epochal shifts, and Luhmann is no less guilty at times of such huge sweeps of generalized human history. Nevertheless, his theory of modernity rests on a definitive break from the past such that Odysseus, Aristotle, the European Middle Ages, and even Descartes and his confreres are firmly placed on one side of the break, we on the other. Classical notions of domination (*Herrschaft*) are clearly located in pre-modern stratified society, with its top-down ordering principles, while something like self-organization predominates in functionally differentiated modernity. That is, vertical hierarchies are replaced by emergent order located, metaphorically, on a horizontal plane; procedural, recursive operations supplant command. Luhmann's theory of social systems is aimed at showing that no single system (not politics, not religion, not even the economy) dominates the others; rather, each serves as environment – and thus irritant – for the rest. Through the lens of intellectual history, one might trace paternity to Mandeville's bees and Smith's fabled invisible hand, or one could concentrate on his more immediate, mid-twentieth-century cybernetic sources. In either case, an extended ideology critique of Luhmann's system of systems could be launched. On the other hand, one could be more generous – or at least curious – and wonder about the possible consequences of such a radical, and radically postulated, historical break. If classical domination has been replaced by self-organization and self-replication – without necessarily alleviating any of the particular social ills (rich land owners, impoverished shepherds) that Adorno & Co. worried about – what effects might that have had on the semantics of our self-descriptions?

One possibility runs like this: The 'Odyssean' logic of the concept with its hierarchical domination of the particular would have to be replaced by an 'emergent' logic, a way of locating concept and particular, starting point and finish line, on the same plane, as described in this opening passage from Luhmann's *Observations on Modernity*:

I would like to start my analysis of modernity in contemporary society by making a distinction between social structure and semantics. My preference for such a beginning, a preference that cannot be justified at the outset, is based on a confusing characteristic of this distinction, namely that it is self-contained. It is itself a semantic distinction, just as the distinction between operation and observation, from which it comes, is itself the distinction of an observer. I must leave it with the simple statement that this logical form is the foundation of productive analyses that can resolve their own paradoxes. In addition, this point of departure already contains at its core the entire theory of modernity. This analysis does not begin with the recognition of tried laws of nature, nor with principles of reason, nor with predetermined or incontrovertible facts. It begins with a paradox that can be solved one way or another, provided one is willing to reduce

infinite to finite information loads. This analysis therefore claims for itself the characteristics of its object of study: modernity.<sup>39</sup>

The problem of modernity, then, is the problem of its description, and the problem of description is the problem of choosing, without prior warrant, a suitable distinction by which one makes the world visible. This is no geometric method starting from axioms or first principles. Rather, the ground for decision is provided by the 'entangled' nature of the decision itself; what comes first is justified by what comes last, which is determined by what comes first. Legitimacy through procedure, as Luhmann (in)famously called it.<sup>40</sup> Thus, the choice of the first or opening distinction is contingent. One may begin all analyses with the system/environment couplet, but one would have to acknowledge that the origin of this distinction is particular, not universal, is a view from somewhere, not nowhere. Another observer could see that such is the way of systems theorists, for instance, or cyberneticians, or sociologists, or those located in one of a variety of peculiarly designed intellectual 'systems' located in the general area of science or scholarship (*Wissenschaft*). A theologian or an artist or any number of other observers may very well start differently and arrive at different justifications for the world he or she opens up for inspection. Further observation may notice (or implore us to accept as observed fact) that initial distinctions – as the one between semantics and structure in the passage just quoted – are made from within the distinction they make. The distinction between semantics and structure is a semantic distinction, just as the sociology of knowledge itself is formulated by socially embedded sociologists of knowledge, not 'free-floating intellectuals' who escape conditioning.<sup>41</sup>

Were we to push these ruminations further we would, no doubt, skirt the edge of the trivial, but two points follow from these observations. First, the self-implicative nature of descriptive distinctions – for example, the semantic nature of the semantic/structure distinction – resembles the Hegelian 'self-reflection of self-and-hetero-reflection' that Günther highlighted as the mark of a logic to come that would be adequate to the complexity of the relationship between Being and reflection which does not reduce one to the other. Since such a multi-valued logic as Günther imagined it has not come (yet?), the instrument needed to point to this complex relationship is paradox, hence Luhmann's reliance on this device for his explanations of the working of systems. In other words, with modernity and its self-description, reflection has liberated itself from being the handmaiden of Being and has assumed autonomous, even 'constructive' status. And, second, this seemingly paradoxical nature of contingently chosen starting positions gives to each of these initial distinctions its own autonomy. There is no fundamental axiom from which all else follows, there is no hierarchy of opening gambits, even if certain choices are deemed preferable over others because of the results they achieve. With autonomy comes authority which either redeems

itself by results or fails, but which cannot be arbitrarily ruled illegitimate by the pronouncements of a dominant system.

Does all this validate Luhmann's claim about functional differentiation's responsibility for the obsolescence of classical, ontological descriptions of reality? Clearly, to maintain that modernity *caused* the findings of quantum physics, upon which we relied above, would be absurd.<sup>42</sup> But what modernity as Luhmann describes has done is to allow for science to operate unchallenged by its traditional, pre-modern supervisors, religion for instance. Thus the astonishing results of twentieth-century physics, which caused so much consternation among physicists themselves, nevertheless demanded philosophical responses that remained true to experimental results and their implications. The authority of physics over its own domain provoked intense *internal* debate about the philosophical *meaning* of the implicit world view experimental results called forth, but neither philosophers nor physicists with realist inclinations could dare *deny* science in an attempt to restore an older description of ontological order. Therefore, it may be plausible to say that modern social structure, the form of functional differentiation that it was Luhmann's task to describe, is – to use that overused standby – the *condition of possibility* for both the development of modern science and the non-realist philosophy used to describe its results. In this way it may also be plausible to say that, yes, functional differentiation 'triggered' fissures in the older, pre-modern ontological world view, fissures that finally grew so large that the realist ontology of old collapsed, to be replaced by a variety of ongoing 'constructivist' attempts to describe the void that has been left behind.

## Coda

Although Bernard d'Espagnat acknowledges the affinity of his philosophical interpretation of contemporary physics with the philosophy of Kant, he begs to differ with him concerning one specific point. It is clear, he states,

that it is in no way necessary to side with him in thinking of reality-in-itself... as being a "pure x," in other words a mere, uninteresting "limiting concept." Now if it is not a "pure x" it may count in our eyes. But at the same time, being veiled, it is not accessible to discursive knowledge. This being the very definition of mystery it follows that these views imply that mystery exists.<sup>43</sup>

By invoking 'mystery', d'Espagnat means to evaluate positively what he considers to be the 'testimonies' that come from 'other sources', most notably from our most subtle 'affective percepts'. We are enjoined to think of Baudelaire and Poe, of Bach and Mozart.<sup>44</sup> At this point, d'Espagnat acknowledges that his difference with Kant on this point is not absolute,

because Kant seems to hint that there are ways of penetrating the darkness of the noumena. For Kant, d'Espagnat notes, 'the sublime essentially is a tension towards what radically lies beyond sense data, and, of course, seems to point in the direction of what, roughly, I have in mind'. Nevertheless, this momentary concession is immediately denied, because for Kant 'the "noumenal world" remained completely unreachable', and even the Kantian sublime lies 'entirely inside the mind' and 'provides us with no glimpses on Being whatsoever, not even undecipherable ones'.<sup>45</sup>

We may have been surprised had Luhmann been given a chance to react to such a claim. Perhaps Luhmann's remark about catching a glimpse of something out of the corner of one's eye could be construed to be congruent with d'Espagnat's appreciation of affective percepts. But probably not. I assume that empirical reality for Luhmann was every bit as closed as any of his systems, and reality per se every bit as opaque as any environment. Affective crossing of the boundary would produce for Luhmann – again, I surmise – neither discursive knowledge nor intimations of a communication-independent reality. Where, then, does that leave him? Luhmannians will answer: 'It leaves him operating.' Operations are all we have, and the operations that matter most to observers of society are, obviously, observations. He is left observing the world he observes, for it is the only world available to him. We may wish, however, to answer the question in a less tautological way, so I offer the following suggestion.

The philosopher Hilary Putnam once proposed a thought experiment in which we imagine ourselves as brains floating in a nourishing soup contained in a vat, brains in a vat. We are hooked up to computers that simulate all our sense perceptions – hills, cities, car horns, even the limbs, joints, and trunks of our own bodies (that of course do not exist in the vat). Then he posed the question: Could one of these brains know it was but a brain in a vat? He answered in the negative. To know that you are a brain in a vat is not to be a brain in a vat. Such knowledge presupposes a perspective other than the perspective of the brain in a vat hooked up to computers. The sense stimuli produced by the computers are all such a brain has, and there is no peeking out of the corner of the 'eye' to glimpse the vat and the world around the vat.<sup>46</sup> From this thought experiment, Putnam derived two 'philosophical perspectives'. The first he called 'metaphysical realism'. 'On this perspective, the world consists of some fixed totality of mind-independent objects. There is exactly one true and complete description of "the way the world is". Truth involves some sort of correspondence relation between words or thought-signs and external things and sets of things.' Putnam calls this view the '*externalist perspective*' because it implies a 'God's Eye' view. He favours, however, an *internalist* perspective,

because it is characteristic of this view to hold that what objects does the world consist of? is a question that it only makes sense to ask within a

theory or description. Many 'internalist' philosophers, though not all, hold further that there is more than one 'true' theory or description of the world. 'Truth', in an internalist view, is some sort of (idealized) rational acceptability – some sort of ideal coherence of our beliefs with each other and with our experiences as those experiences are themselves represented in our belief system – and not correspondence with the mind-independent or discourse-independent 'states of affairs'. There is no God's Eye point of view that we can know or usefully imagine; there are only the various points of view of actual persons reflecting various interests and purposes that their descriptions and theories subserve.<sup>47</sup>

In light of Putnam's distinction (which, of course, cannot be made by a brain in a vat, for the distinction itself sees an outside), the question becomes: Is Luhmann's position consistently 'internalist'?

The consistent Luhmannian will say 'yes'. Distinctions are made in order to operate, and operations operate on only one side of the distinction, not the other. When a crossing occurs, a new inaccessible 'outside' is created in order to facilitate the operations within the new 'inside'. All descriptions, all knowledge, is by definition 'internalist'. Furthermore, Luhmann's three final unities, *Welt* (World), *Realität* (Reality), and *Sinn* (Meaning), and, if we take his allusion to the Christian Holy Trinity seriously, the *unity* of these three unities, are meant to close off an infinite regress of distinctions, to seal, once and for all, the 'internal' without having to refer to any external 'condition of possibility'. No 'affective percepts' point beyond this immaculately conceived unity of unities.

Nevertheless, all this strikes me as too clean. The distinction between the (empirically constructed) reality that we know and the reality that remains unknown and unknowable has to be marked (just as Putnam marked it), and any such mark must remain ambiguous, indeterminate, and paradoxical – otherwise it would not be Luhmann's mark. I leave you, therefore, with the following.

In what is perhaps his most satisfying essay, one which deals with law and justice, Luhmann begins with a parable. A wealthy Bedouin arranged for his three sons to inherit his camels according to the following stipulation: half of his camels were to go to his eldest son, one quarter of them to the next in line, and one sixth to his youngest. At his death the Bedouin had 11 camels to his name, and since the sons did not know how to divide this number according to their father's wishes, they consulted a judge. The judge generously offered them one of his camels with the proviso that they should return it when they no longer needed it. The judge then announced his judgment: Half of the twelve camels (six) were awarded to the eldest, one quarter to the middle son (three), and one sixth to the youngest (two). The twelfth camel served its function and could be dutifully returned to the judge.<sup>48</sup> Luhmann spends nearly 60 dense yet vastly entertaining pages wondering what that

twelfth camel actually was. The excluded middle? The parasite? The condition of possibility? Force/violence (*Gewalt*)? Redundancy? He finally opts for what must be the most familiar of all of Luhmann's figures: 'Perhaps one should conceive of the twelfth camel as an observer. At any rate, the point of greatest uncertainty and final undecidability is that point from which one can best observe everything else.'<sup>49</sup> Where then does this camel stand, this observer who best observes all else? Is he an external observer? Clearly not, for then the Camel Eye's view would be complete, certain, thoroughly determined. But if his is an internal perspective, how could he see all and see better. He too must be seen and surely could be seen by all as well. And his possibility of observation must be enabled by a blind spot. Maybe we see something he cannot see after all, namely that he stands on the cusp of the reality that remains unknowable to all of us and therefore he decides on the only reality that we can and do know. In the end, all any of us can see are the neatly arranged eleven camels of our existence; but perhaps, out of the 'corner of our eye', we occasionally catch a glimpse of the *possibility* of a twelfth camel that makes our well-ordered world possible.

## Notes

1. This chapter is based on a talk delivered at the conference *Social Form*, Zeppelin University, Friedrichshafen, Germany, March 2010, which was generously funded by the *Deutsche Forschungsgemeinschaft*. My thanks to Dirk Baecker for inviting me to participate. A version of this article appeared in the journal: *Revue Internationale de Philosophie*, 66:259 (2012), 85–103.
2. For Luhmann's most succinct discussion of ontology, see Niklas Luhmann, *Die Gesellschaft der Gesellschaft* (Frankfurt/M: Suhrkamp, 1997), 893–912, upon which this paragraph's brief summary is based.
3. 'Immerhin gibt es also einige Anhaltspunkte dafür, daß die unbekannt bleibende Realität, wäre sie total entropisch, keine Erkenntnis ermöglichen würde. Nur kann das Erkennen das, was von dieser Seite her die Bedingung der eigenen Möglichkeit ist, nicht in die Form einer Unterscheidung bringen.' Niklas Luhmann, *Erkenntnis als Konstruktion* (Bern: Benteli Verlag, 1988), 41. All translation from German originals are mine, unless otherwise noted.
4. Niklas Luhmann, 'The Cognitive Program of Constructivism and the Reality That Remains Unknown,' in *Theories of Distinction: Redescribing the Descriptions of Modernity*, ed. William Rasch, trans. Joseph O'Neil et al (Stanford: Stanford UP, 2002), 129.
5. Ibid. 144.
6. Ibid. 145.
7. Ibid. 132–33; italics in the original.
8. Editors' note: For a discussion of the Luhmannian perspective on reality see Barbara Mauthe and Thomas Webb's encounter 'In the Multiverse what is Real? Luhmann, Complexity and ANT' (explicitly the section 'The Search for Reality in the Multiverse') in this volume.
9. 'Man kann mithin wissenssoziologisch der Hypothese eines solchen Zusammenhangs von Semantik und Sozialstruktur auf Grund gewisser



Anfangsplausibilitäten weiter nachgehen. Aber das überzeugendste Argument ist vielleicht, daß die Änderung der Sozialstruktur in Richtung auf funktionale Differenzierung erst Risse in, dann den vollständigen Zusammenbruch der ontologischen Metaphysik ausgelöst hat,' Luhmann, *Gesellschaft der Gesellschaft*, 912.

10. Editors' note: The Luhmanian perspective on causality and the driving forces of society are further examined in 'Luhmann and Marx: Social Theory and Social Freedom' by Chris Thornhill in this volume.
11. 'Diese Unterscheidung hat ihre unnachahmliche Plausibilität in der Annahme, daß nur das Sein ist und das Nichtsein nicht ist.' Luhmann, *Die Gesellschaft der Gesellschaft*, 895.
12. 'Gemäß der klassischen Maxime von der metaphysischen Identität von Denken und Sein besteht zwischen Subjekt und Objekt ein strenges Symmetrieverhältnis. D. h., alles Denken ist eindeutig auf das Sein abbildbar....Ein Begriff, dem kein ontisches Seinsmotiv entspricht, hat in diesem Typus des Philosophierens deshalb keinen *entgeltigen* Sinn. Er kann höchstens vorläufige Bedeutung haben, und es ist die Aufgabe des metaphysischen Denkens, seine Vorläufigkeit zu entlarven und ihn damit zum Verschwinden zu bringen,' Gotthard Günther, *Idee und Grundriß einer nicht-Aristotelischen Logik*, 3rd edition (Hamburg: Felix Meiner Verlag, 1991), 14.
13. '[A]uf dem Niveau der Aussagenlogik ist der Denkende Subjekt nicht mit in den Kalkül hineindefiniert....Das ganze System ist mit sich selbst sinnthematisch identisch, also verbietet es den Widerspruch, also schließt es das "Dritte", das reflektierende Subjekt des Denkens aus dem System des Gedachten aus,' Günter, *Grundriß*, 186–87.
14. 'Where in the world is a metaphysical subject to be noted? You say that this case is altogether like that of the eye and the field of sight. But you do *not* really see the eye. And from nothing in the *field of sight* can it be concluded that it is seen from an eye.' Ludwig Wittgenstein, *Tractatus Logico-Philosophicus*, trans. C. K. Ogden (London: Routledge, 1922), 151 (German original, 150).
15. Max Horkheimer and Theodor W. Adorno, *Dialectic of Enlightenment*, trans. John Cumming (New York: Seabury Press, 1972), 14. In this passage, the reader will note essentially the same sociology of knowledge that Luhmann adopts to explain the ontological 'ideology' of pre-modern, stratified society, though Luhmann minimizes the pathos of domination and subjection. I will return to this theme in the final section of the chapter.
16. 'Die Reflexion-in-anderes hat es mit unmittelbaren Seinskategorien zu tun. Die Reflexion-in-sich entwickelt die sogenannten Reflexionskategorien. Die letzteren produzieren in ihrem systematischen Aufbau das System der traditionellen, formalen Logik. Und dieses System definiert, was Denken ist.' Günther, *Grundriß*, 310.
17. Luhmann, *Gesellschaft der Gesellschaft*, 910.
18. In der klassischen Logik wird der Sinn "Sein" einfach reflektiert. Jetzt aber wird – so stellt sich für Hegel das Problem dar – auf den *Gegensatz* von Sein-an-sich (Reflexion-in-anderes) und von Sinn des Seins (Reflexion-in-sich) reflektiert. Wir erhalten also mit dem nächsten Schritt eine Reflexion-in-sich der Reflexion-in-sich-und-anderes. Was eine individuelle Reflexion ist, hängt deshalb von ihrem Stellenwert im System der Totalreflexion ab. Diese letzte den "Stellenwert" feststellende Reflexion bedeutet: es wird a) noch einmal auf "das andere" reflektiert (das seinerseits schon in der einfachen Reflexion-in-sich reflektiert war) und b), es wird

auf die einfache Reflektion-in-sich reflektiert (die das andere – reflektiert – in sich enthält).’ Günther, *Grundriß*, 311.

19. ‘Dieser Reflexionsüberschuß ist vielmehr ein Anzeichen für die Existenz einer zweiten Logik, die die erste oder klassische Logik als Spezialthema in sich faßt, die aber in ihrer eigenen Thematik weit über das Thema ‘objektives Sein’ hinausgeht....’ Ibid., 239.
20. For Günther’s speculations regarding the United States as the eventual seat of a post-Aristotelian world, see: Gotthard Günther, *Die Amerikanische Apokalypse*, ed. Kurt Klagenfurt (Munich: Profil, 2000).
21. Editors’ note: In this volume’s ‘The Autopoietic Fold: Critical Autopoiesis between Luhmann and Deleuze’, Andreas Philippopoulos-Mihalopoulos takes the discussion further down this yellow brick road in the company of Delueze (See especially the section ‘Further outside’).
22. Luhmann, *Erkenntnis als Konstruktion*, 41–2.
23. Manjit Kumar, *Quantum: Einstein, Bohr, and the Great Debate about the Nature of Reality* (New York: Norton, 2008), 350. The citations in this passage are from Paul C. W. Davies and Julian Brown, *The Ghost in the Atom* (Cambridge: Cambridge University Press, 1986) 50, 47.
24. ‘An influence is allowed to pass between two systems or particles instantaneously, exceeding the limit set by the speed of light, so that cause at one place can produce an immediate effect at some distant location.’ Kumar, *Quantum*, 380.
25. Bernard d’Espagnat, *On Physics and Philosophy* (Princeton: Princeton UP, 2006), 159.
26. Ibid., 4.
27. Ibid., 99–100.
28. Ibid., 94.
29. See his detailed discussion of Kant and the neo-Kantians (primarily Cassirer); *ibid.*, 282–311.
30. Ibid., 240, 299, 388, 391, 452.
31. ‘Classical physics taught us already that, while we tend to take a stone to symbolize the very notion of “fullness,” it is, in fact, mainly composed of vacuum... But non-separability suggest that, strictly speaking, it does not even exist as a distinct object! That its “quantum state” is “entangled” (that is the technical word) with the state of the whole Universe... Were some simile requested, the best one would probably consist in comparing the quantum objects to rainbows. If you are driving you see the rainbow moving. If you stop it stops. If you start again, so does the rainbow. In other words, its properties partly depend on you. Taken literally, quantum physics, when thought of as universal, imparts to all objects such a status relative to the sentient beings that we are.’ Ibid., 18–19. Which of course begs the question: What are sentient beings?
32. Ibid., 454.
33. See endnote 3.
34. Luhmann, ‘Cognitive Program,’ 152.
35. d’Espagnat, *On Physics and Philosophy*, 424.
36. Luhmann, ‘Cognitive Program,’ 145.
37. d’Espagnat, *On Physics and Philosophy*, 159.
38. I refer to the excursus ‘Odysseus or Myth and Enlightenment,’ Horkheimer and Adorno, *Dialectic*, 43–80.
39. Niklas Luhmann, *Observations on Modernity*, trans. William Whobrey (Stanford: Stanford University Press, 1998), 1.

40. Niklas Luhmann, *Legitimität durch Verfahren* (Frankfurt/M: Suhrkamp, 1983).
41. See further examples in Luhmann, 'Cognitive Program', 128.
42. Though attempts in that direction have been made. See Paul Forman, 'Weimar Culture, Causality, and Quantum Theory, 1918–1927: Adaptation by German Physicists and Mathematicians to a Hostile Intellectual Environment,' *Historical Studies in the Physical Sciences* 3 (1971): 1–115.
43. d'Espagnat, 430.
44. d'Espagnat, 431.
45. d'Espagnat, 432.
46. Hilary Putnam, *Reason, Truth, and History*, Cambridge: Cambridge UP, 1981, 1–21.
47. Hilary Putnam, *Reason, Truth and History*, London: Cambridge UP, 1981, 49–50.
48. Niklas Luhmann, *Die Rückgabe des zwölften Kamels: Niklas Luhmann in der Diskussion über Gerechtigkeit*, ed. Gunther Teubner, Stuttgart: Lucius & Lucius, 2000, 3–4.
49. Luhmann 2000, 58, 60.

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# 3

## The Autopoietic Fold: Critical Autopoiesis between Luhmann and Deleuze

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### Folding autopoiesis

The following is an experiment: what happens when the system folds into the system, environment into environment, and autopoiesis into autopoiesis? I hope to show that, more than mere duplication, the process of folding gives rise to an infinity of repetition, in its turn generating a proliferation of autopoiesis. Deleuze folded in Luhmann, Luhmann folded in Deleuze. The folding does not displace the theories but allows them to go further into their own folds and deepen their immanence. To fold is nothing more than to push the theory deeper into its creative potential while at the same time bringing it to an encounter with a radical outside. The theory confronting the theory.

Who comes to the encounter? Is it Deleuze encountering Luhmann? The other way round? No matter. The encounter itself defines the point of view, the perspective. The event of the encounter sends the encountering packing and unpacking, enveloping and developing: folding. Encounters take place inside, in the system, yet draw space *from* outside, from the environment. They unfold in the actual *here* while folding in large breaths of the *there*, the virtual, the outside. An encounter, however, is not a totality. It is merely a series of points, an infinity of points that allow perspectives. One quickly finds that there is no totality, not only because there is nowhere to observe it from, but because even if there used to be, it has now withdrawn, folded in its body, collapsed under its own gravitas. Within that moving space that cannot be totalled, colonized or even simply crossed, there is no synthesis. For this reason, this is not a comparison either. I will explore nothing point-by-point, I will not offer a symmetry of disagreement, an archaeology of difference, a struggle of concupiscence. Perhaps an emergence, if that were not too ambitious a term. Most probably, however, a simple repetition, a folding upon folding of the desire to carry on, autopoiesis *mise en abyme*

but without the circularity that usually comes with it. The mirror does not signal the end of space but the infinity of the other side. In this abyss, the encounter takes place.

A few indications of what follows: closure, outside, distinction, fold. In other words, monads, nomads, immanence, repetition. In yet other words, bodies, matter, movement. And so on, a line escaping symmetry. These terms appear in various theoretical folds below with one ultimate purpose: to end up with an autopoietic fold that integrates Deleuzian and Luhmannian notions in a way that the two become co-extensive and even indistinguishable. The effect might be one of estrangement for both Luhmann and Deleuze scholars. This is partly because I have chosen to focus, on the one hand, on Deleuze the philosopher as he appears in his two works on Foucault and Leibniz and not so much as he appears in his works with Guattari;<sup>1</sup> and on the other, because I have chosen to focus on my reading of a Luhmann-to-come as it were, that is a Luhmann steeped into autopoiesis and at a distance from systems theory. The result is one that takes standard systemic notions, such as closure, system, environment, distinction, communication, function and so on, and folds them into themselves in order to yield a torsion with a newly felt materiality. The encounter does not yield a final outcome, and there is no concluding section that explains what happens to either of them. Rather, the torsion is performed throughout the text and several offshoots are offered that may or may not unfold further into an emerging attribute of what I have called *critical autopoiesis*. One disclaimer though: the text does not subscribe to the aesthetics of disorder but to a rigorous observation of the parallel flow between the two theories. Rigorous, however, does not entail point-by-point analysis but an intensification of concepts at an accelerated speed that picks up and then drops various concepts (although obsessively returning to some). If my strategy is successful, it will manage to hide the fact that there are only a handful of ideas underlying the text and its various torsions. This uncertain success will not, I hope, be further qualified by the fact that I am hinting at these underlying ideas in the next paragraphs.

The first idea is indeed very simple: critique is not a matter of disloyal distance but full affirmative immersion. It does not come from a different, higher plane overlooking the object of critique but right from within the deeper folds of the latter. When Deleuze and Guattari (1994: 28) write that 'to criticize is only to establish that a concept vanishes when it is thrust into a new milieu, losing some of its components, or acquiring others that transform it', they point to the operation of unfolding of concepts in the sense of developing when thrown, as they must, in the demands of new actualities. Critique is an act of loving intimacy and indeed desire between the object of critique and its new environment. I am not interested in engaging with concepts that are scheduled to be shed off in the process – what has come to be understood as the usual focus of critique. Rather, I am only interested in intensifying what can be fruitfully employed in the new actualities. This is

why, in the context of this text I refrain from referring critically to Deleuzian concepts of subjectivity (as they appear in his work on Foucault), harmony and oneness (as they appear in his book on Leibniz), or indeed confront critically the Luhmannian concepts of differentiation, systemic organization and communication. Some of these concepts indeed appear, but they do so intensified in order to be able to flow along the new actualities, thereby allowing critique to be exercised from the intimacy of within.

In this sense, critical autopoiesis is seen as a radically immanent autopoiesis, and in the context of this text, a *folding* autopoiesis. Here, a positive force takes over the usual spaces of negation, antithesis and oppositional identity. The passage from systems theory to autopoiesis is much more than a new bottle for old wine. I have explored this elsewhere (2009 and 2011a) so here it will suffice to state the characteristics of critical autopoiesis. *First*, autopoiesis is acentral, which means that the system has been emphatically decentralized. *Second*, the autopoietic environment is no longer context but matter, which means that bodies and spaces are now internalized by the system. *Third*, the topology of autopoiesis is a moving, itinerant topology that keeps on changing according to an immanence peculiar to the system. The latter has two spatial repercussions, one that refers to the space of the system in its materiality, and the other that observes this space moving. This is the passage from a systemic, monadic description to an itinerant, nomadic one, which, however, retains the characteristics of the monad.

The second underlying idea of the text needs a methodological clarification. On an epistemological level, although I do not think I am suggesting anything different to what Luhmann has already suggested, I am certainly suggesting something different to what most current readings of the theory have produced.<sup>2</sup> Faithful to my concept of critique, however, I opt not to engage directly with them but to focus on folding Luhmann and allowing a flow of pulsating theoretical movement to emerge. This movement follows Luhmann and Deleuze, yet performs critical, necessary *stases* (namely, pauses and revolts) at various points. Some of the obvious ones include world society versus functionally differentiated society; the position of blind spots in folding; and the autopoietic relevance of bodies and materiality. Some less obvious ones but consistently underlying the present text are the politics of connection and misunderstanding; the possibility of transformative action; and the continuing relevance of retaining the illusion in the politics of individuation. This is indeed the ontological necessity of the text, and perhaps the principal underlying question: *how to retain the illusion of 'identity' while acknowledging the fact that identity is nothing but being thrown in a maelstrom of contingency and arbitrariness*. Still, references to identity will be veiled behind talk on systems, monads and boundaries, reinstating thus the main objective of this text, which is to move autopoiesis away from ossified readings characterized by stringency and neatness, and deeper in

what Luhmann's autopoiesis was actually about, namely concepts as empty vehicles of connection.

Several factors are, I think, responsible for what could be perceived as ossification of the theory: an excessive emphasis on the system itself, which constructs it as a systematic form of organization, has led to an unadventurous understanding of the theory; a faith in either the empirically tested nature of Luhmann's theory or indeed its empirically untestable nature places the whole theory on some shaky pseudo-scientific ground of empirical confirmation, thus denuding the theory from its fundamental philosophical credentials (*pace* Luhmann, who emphatically considered himself a sociologist and not a philosopher); a fetishization of the concept of the boundary has led to a misunderstanding of the potential mobility of the concepts and the theory itself; and, finally, a sacrosanct dealing with Luhmann's writings that becomes blind both to the *substance* of the theory and its potentiality. Thus, closure, systems, sociology and indeed Luhmann's texts are still relevant, but their fetishization is not. In sum, what I suggest is simply a critical folding of autopoiesis into autopoiesis via the environment of the Deleuzian fold, which, however, does not succumb to a critique of distance but carries on by unfolding itself along the object of its attention, moves alongside its body and employs its folds in order to construct concepts and conceptual practices that aim at addressing a changing reality.

## Closure

Block up the windows. Shut the doors. We have everything we need right here. This is the upper floor after all, where the environment nests safely between the walls and the stars bend down to light our ways. Up the stairs and into the vastness, this is the here of the monad, 'a unity that envelops a multiplicity' as Gilles Deleuze writes in his book on Leibniz *The Fold* (2006: 25). Deleuze keeps on moving between the two floors of Leibniz's baroque edifice, folding his thought into Leibniz's fragments and giving us the fold itself, a concept that unfolds through Deleuze's work and determines the relation between inside and outside, and with it subjectivity, materiality, and the world at large. The Leibnizian figure of the monad with its formula 'no windows' is the site of the paradox of the fold: a monad is 'an inside without outside' (2006: 31), but the outside is folded within. The monad is filled with the folds of the outside, 'but it includes them in its closure and all its actions are internal' (2006: 34). This internal doubling 'is not a doubling of the One, but a redoubling of the Other. It is not a reproduction of the Same, but a repetition of the Different. It is not an emanation of an "I", but something that places in immanence an always other or a Non-self. It is never the other who is a double in the doubling process, it is a self that lives me as the double of the other. I do not encounter myself on the outside, I find the other in me' (Deleuze, 1988: 98). This is Deleuze's way of moving

away from the obvious dialectic potential of the inside/outside: immanence, doubling of difference, lack of synthesis, lack of historical move towards the bridging of the inside and the outside. On the contrary, inside and outside are contiguous, interfolding, echoing with the difference of difference but never to be told apart.

Fold autopoiesis into the Deleuzian fold. A folding autopoiesis is an autopoiesis of difference and environmental proliferation, where enclosure means openness, immanence means flight, and where system and environment are the repetition of difference without reaching identity yet without being ontologically different to each other (see Deleuze, 2004a; Philippopoulos-Mihalopoulos, 2011b). The outside is neither inferior to the inside nor dialectically opposite to it ('an opposition is no longer in question', Deleuze, 2006: 35). Just as the two are not arranged in hierarchy, in the same way the two can never be directly conciliated or neatly fused. The Leibnizian/Deleuzian baroque lacks synthesis. Polyphony shutters chambers and façades, making the house one with the wind, a veil that reveals while billowing. Levels, floors, folds in folds enveloping and developing anti-dialectically, with one task only: 'how to continue the fold, to have it go through the ceiling, how to bring it to infinity' (Deleuze, 2006: 39).

This is the autopoietic task par excellence, a task that supersedes duty or mission and folds in the movement of the systemic innards. How to carry on, to continue making (*poein* = to make, to create) oneself, to take the poetics of oneself through the ceiling and to the horizon, to open oneself to the vastness of the present? The autopoietic monad is not *in* the world but *for* the world: 'closure is the condition of being for the world' (Deleuze, 2006: 28), guaranteeing the world's infinity through the monad's own finitude. The inside folds the outside into its closure and in doing so, it guarantees the outside. A counter-intuitive teleology no doubt, but for this reason also routinely chopped up and brought to systemic measure. Autopoiesis embodies – is the body of – an 'internal destiny' that makes the system 'move from fold to fold, or what makes machines from machines all the way to infinity' (Deleuze, 2006: 8). Autopoiesis is the continuous inclusion of the outside as a guarantee for the outside to carry on. To take an example, politics exist so that society can carry on. Yet, as far as the political system is concerned, autopoiesis exhausts itself in the topology of the system, like lapping waves at a lake's edge. Autopoiesis fizzles out when the world begins. The causality of this task beyond mission remains incomplete, an atrophied limb turning back in, a blind teleology. As the space of absolute immanence, the monad contains the world but remains without a world. In the same way, the autopoietic task is to be *for* the world but without world.

Luhmann's semi-successful move away from phenomenology can be seen as a prepositional play. Husserl's intentionality in the sense of 'consciousness of object' becomes Luhmann's 'differentiation *for* function'. If, additionally, one were to consider Luhmann's latent penchant for normative thinking



(Philippopoulos-Mihalopoulos, 2009), one could reverse the above and talk about function *for* differentiation, the latter being the teleology of systems, internal and external, legitimized in the name of a society that is afraid of itself and its self-cannibalizing qualities. Thus, the system remains functionally differentiated, both in order to maintain its oppositional identity (I am not the environment, I am not an other system), and in order for society to maintain its internal boundaries. This latter is constantly subjected to a delicate balancing of systemic power that on the one hand stops, say, economy from invading the topology of politics ('a relation in which each of the actors is dependent upon the autonomy of the other' Pottage, 1998: 23); and on the other, it serves to invisibilize power within society by ostracizing it as a non-discourse or as a safely controlled yet inglorious moment of the political system. Thus, although phenomenological consciousness is successfully eradicated from systems theory, at least as a locus of subjectivity or meaningful and contingency-proof societal connections, the prepositional game remains, and so does the reversibility. Consciousness of object successfully becomes the reversible observer and observed.

Less successful is the prepositional reversibility observed in the grander systemic scheme of differentiation *for* function (with the *of* already folded in the *for*), an unwarranted ambidirectional fetishization of differentiation and function in the name of a societal synthesis. The phenomenological beast raises its head when it becomes obvious that both differentiation and function are second-order observations, namely on the level of an observer who observes others observing. However, multiplication of prepositions (*of, of, of...*) does not amount to eradication of the initial preposition. Coupled with the teleology of the synthesizing *for*, systems theory risks falling squarely, not only in the phenomenological problem of the always-already centralized subject (here, system), but also the Hegelian teleology of retroactive validation (here, functional differentiation *for* society). Any encounter, therefore, that aims at an emergence of sorts, has for its task to shake these theoretical affiliations and attempt to read them in parallel to a non-centralizing, non-synthesizing narrative. Arguably, this narrative has always been around in Luhmann but has regularly been usurped by the fascination exerted from the distance between, on the one hand, a theory that is demonstrably not empirically verified, and on the other, a theory that describes society in its operations. Two points that succumb to the directionality of applicability rather than the disorientation of another world. Luhmann's (1997) point that there is no alternative to society forces systems theory, mistakenly in my view, to return to the flawed safety of centres and syntheses. Any shaking up however, requires a correct configuration of society which can only happen together with *the extraction of the negative from the theory, not in the sense of the production of a positive (another Hegelian fold), but in the sense of vital affirmation from within*. Interestingly, this is the point of critical autopoiesis: rather than succumbing to 'the

distinction between affirmative and critical, a distinction so beloved in Frankfurt' (Luhmann, 2002: 193), one puts together critique as affirmation and affirmation as critique. To do so, one returns outside.

## Outside

In its turn, the outside exists without an inside. The façades of Baroque buildings erect their independence from the inside by extending their surface to the folds of the city or of their surrounding landscape. Slow folds of matter unfolding to infinity: marble that flies, stucco that moves, stone that levitates. The spectacle of the baroque surface offers windows that open nowhere, cavities that reveal layers without revealing an inside, encasement upon encasement of folding interiors that never reach through to the other side; even conquest maps of the depthless geographies of the colonizer but without the materiality of the colonized.<sup>3</sup> In Venice, the place where baroque reaches its paroxysm, façades are movable parts, only very loosely connected to the body of the building, folding in the movement of the water underneath and auguring a space of further blind teleologies. For Leibniz/Deleuze, the outside of the monad is not the façade, although it operates as a façade in its folding that conceals the inside. Rather, it is the ground floor of the building, a space of material bodies and animality, creased with earth and light and water. These bodies bear on their skin and organs the *impression* of what lies above, on the upper floor, just as the inhabitants of the upper floor *express* the sum of the world in unfolding semantics. 'This is the organization of the Baroque house with its division into two floors, one in individual weightlessness, the other in a gravity of mass. Between them a tension is manifested when the first rises or drops down, in spiritual elevation and physical gravity' (Deleuze, 2006: 116). From the scars and impressions on the bodies a mist rises, in whose nebula the world appears. This is the monad and this is the world of the monad. This is the system and this is how it erects itself as the semantic expression of the impression inflicted on the bodies by communication. Fold again. Upper and lower floors converse respectively with the system and its environment. Systems theory famously excludes human beings from society and its communication (to wit, the sole focus of the theory), and less famously but just as decisively, excludes human bodies, matter, space, animal bodies, technological synapses, hybrids, and so on (Luhmann, 1997)<sup>4</sup>. These consist an environment of sorts, an outside proper to the system, folded in an exclusion of exclusion, a *memento violentiae* within the system that threatens with an occasionally-but-never-fully-revealed apocalypse as Luhmann (1989) himself admits. It would be very hard to argue that bodies are not affected by autopoietic communication and vice versa in the sense of the tension described by Deleuze above. This is conceded by Luhmann in the context of ecology ('ecological relevance for society is mediated by its relevance for the human body, possibly heightened

by perceptions and anticipations...In thinking about destruction, it makes no sense to think of people and society separately', Luhmann, 1998: 83). The concept of impression, and not just when thinking about disaster, but in all its quotidian emergence as 'a fold in the fabric of contingency' as Alain Pottage puts it (1998: 11), requires us to see that communication lacerates the body in such a way that corporeal impression becomes the conditional for systemic communication, as part of the tension between communication and matter.

A system is a monad, with its own monadology of communication and observation, and its very own world that includes its own environment. A system and its environment, the 'known' and the 'unknown', the simplified and the complex, economy and ecology, communication and matter, substance and emergence (Pottage, 1998), observation and bodies, self and other: these two together are the Luhmannian *form*, the undivided unity of the world before god descended in the garden and Prometheus stole the flame. But the apple is bitten every morning and the flame rekindled every evening. Forms remain inoperable, dreams of total inclusion, *unus mundus* on church façades, a fearful contingency. This is where Luhmann's preference of description over prescription and his distance from anything even remotely totalizing, come forth in a convincing way. To my mind, these two features remain Luhmann's trump cards over Deleuze's prescriptive description and attachment to oneness, however inoperable and fragmented the latter might be. Luhmann's *world* (in the sense of world society) is never totalizable, never aspiring or operating within a oneness, be this earth or nature or a plane of immanence (for all these concepts, see Deleuze and Guattari, 1988). Jean Clam's (2006: 160) remains the most complete description of Luhmann's world society: 'The topology of world society is the topology of paradoxical surfaces, of surfaces which re-enter themselves and make it impossible to distinguish the inside from the outside, the engulfing from the engulfed, the penetrating from the penetrated....an all-present, non-sequential, paradoxical space of a constantly accomplished entanglement of a self and other'. Engulfing and engulfed, this and that side of the fold, this and that side of a distinguishing line: all sliding along each other, the world an infinite envelope enveloped by its own description. Or the world as an infinity of points that can never be observed point by point. Description is espoused to observation, and although every observation is self-observation, there is always something left outside. Achilles's heel becomes the point that stops the world from becoming One. A spot against the infinity of points, Luhmann's blind spot clouding the Deleuzian world. Why is this spot, however, capable of interrupting a synthesis? In other words, is there a difference between a blind spot in world society and a blind spot in a functionally differentiated society?

A blind spot is part of a fold, or, at least in this case, a distinction in Luhmannian terms. A distinction is the artificial beginning of origin, another

Hegelian formulation that retroactively legitimizes observing, since in order to observe, a distinction must be drawn between observer and observed. To distinguish is the only way to exclude, and to exclude is the only way to include. So, the observer cannot observe behind her back, as it were. The shadow cast by the fullness of the observer-in-observation is a small price to pay considering that, finally, the world opens up. One learns to anticipate closure when faced with such blinding openness. And doubtless, the greater the openness, the greater the risk, the greater the exposure. A distinction that folds both around the observer and around the observed – this is the difference between *inflection* and *inclusion*. There is nothing that is not *enveloped* in a fold (not even a fold itself, if there were such a thing), and nothing that does not *develop* within a fold, unfolding its flesh within the curvature of the fissure. Just as developing is not the opposite of enveloping but its continuation, unfolding is not the opposite of folding ‘but follows the fold up to the following fold’ (Deleuze, 2006: 106). But then – and this is the determining point – the flesh enveloped arches its material across an inflection, along the other (but not opposite) side of the distinction. Just as the world can fit in a grain of wheat,<sup>5</sup> in the same way openness is on the side of inclusion, a minute openness wrapped around folds of observation. In order to see the world in a grain of wheat, the inflection (in Luhmann: exclusion; in Deleuze: another side of inclusion; and further in Luhmann, always an inclusion) is the world as it would contingently appear in all the other grains of wheat. The shadow is cast over the whole of the earth. But if one wants to see society in its multiplicity, with communications battling against systemic walls, observations that never manage to be anything more than self-observations, boundaries that shift according to differentiated temporalities – in short, if one wants to see *all* the grains of wheat *in* the world, then one needs to include everything and thus generate a tiny blind spot, an inflection of such miniscule aperture that one most likely will be forced to ignore it. This is the fantastic illusion offered by a functionally differentiated society: the blind spot appears infinitesimal compared to the richness of the societal tapestry before the observer. One loses oneself, as it were. This illusion no longer holds when faced with world society. The grain of the world is so much smaller in its impossibility, and the blind spot so much more inclusive, that the fold is now a reflex angle on the side of the inflection, covering the whole circularity of the world in one blind sweep. In the world society, the blind spot is the world itself. By opening up itself so broadly, the blind spot fills with communications, miscommunication, silence, but also, significantly, matter, flesh, animality.

The world appears in the most unexpected places. Luhmann is known to have visited the Brazilian favelas and to have been deeply *impressed* by what he saw. This is arguably a moment of inverted teleology. Communication for bodies. The body of Luhmann’s work now bears the impression of the communication produced in the favelas. Back to communication, and the

visit is fetishized, not least on account of the new expressions: 'existences reduced to the bodily... attempting to get to the next day' (Luhmann, 2008: 42), and 'physical violence, sexuality, the elemental and impulsive satisfaction of necessities' and 'the observation of bodies' that can be seen 'in some regions of this earthly globe' (Luhmann, 1997: 632–633) have narrowly although indelibly opened the text to the observation of the hitherto unobservable.

This is not accidental. Luhmann's move from systems to autopoiesis<sup>6</sup> is more significant than routinely made out to be. The theory has gingerly but unmistakably pointed towards a different allocation of focus. The upper floor can no longer be constructed to be the better one. The system is flattened out, the rising mist reeks of rotting bodies. This is more than a systemic *need* for the environment, for the floor of the ground and earthly bodies. It is true that systems needed that ground in order to define themselves, to distinguish themselves from the gutter and to be able to hover above. The environment completed the system by remaining in obscurity, the other side of the moon full of invisible, inexpressible impressions. Recall Hélène Cixous and Catherine Clément's (1986: 67) poignant articulation: 'shut out of his system's space, she is the repressed that ensures the system's function'. Enter autopoiesis. The fold unfolds. 'The point from which all further investigations in systems theory must begin is not identity but difference' (Luhmann, 1995: 177). Autopoietic systems now include their environment in an excess of affirmation. Autopoietic space straddles system and environment and pushes further in both. The house folds into itself, autopoietically reproducing its inside and outside. Each floor 'thrusts each other forward... a deepening towards the bottom and a thrust toward the upper regions' (Deleuze, 2006: 32). The monad is *for* the world and not for the functionally differentiated society; likewise, the system is *for* the environment and not the other way around.

Have we gone too far? Not yet. Not until the next section. Before we do, let's pause at the limit. Autopoiesis is the *acknowledgement* of the outside – what William Rasch calls 'the Spasm of the Limits' (Rasch, 2000a: 119; also Rasch, 2000b: 210). We are now standing right there, shaken by spasms and trying to think where to throw ourselves: this or that side? The illusion of choice is perfect, but once the world has opened up, nothing can close it.<sup>7</sup> There is only one side, enveloped in its turn in another, grander future fold closing in towards us, that at least for the time being remains invisible. Autopoiesis folds into itself and critically throws its grand concepts into a 'new' meta-context: society, functional differentiation, observer/observed, communication, are all now required to swim in the larger ocean of new *impressions*. At the peak of the folding, the concept of inclusion and exclusion: 'there are still immense differences between rich and poor, and such differences still affect lifestyle and access to social opportunities. What is different is that this is no longer the *visible* order, the order without which no

order would be possible at all' (Luhmann, 1997: 772). Functional differentiation promised the fizzling out of social inequalities, but now the lower floor has become gravitational (although still not instrumental for Luhmann's society, at least not in the way functional differentiation seems to be) and the impression of the excluded has found an expression somewhere. This does not mean, however, that more is revealed and the blind spot becomes smaller. When facing the world – and the favelas are firmly within the world – one is blinded. There is nothing but inflection, blind spot, outside. The price we pay for our exposure to this 'new' knowledge is firmly within the fissures of our ever-expanding blind spot. We know but we cannot do anything. We are *for* the world but we can do nothing for it. We are filled with the spectacle of the world, its representations printed and shared and tagged and facebooked and instagrammed assiduously on the same grain of wheat, yet we remain without the world. Or can we? The only way to link with the outside is, paradoxically, to go deeper inside. The following section, counter-intuitively, is about this movement.

### Further outside

The monad 'closes infinitely divided space' (Deleuze quoting Leibniz, 2006: 32), which is brimful but never overflowing. It folds inside, deeper and further, a microscopic odyssey of pliable returns. Its topology is entirely internal, its boundaries are self-reproducing, folds upon folds, actually redrawn every time according to the forceful contingency of virtuality. The legitimacy of putting together *contingency* and *virtuality* may be questioned but, for my purposes, they are both horizons of sorts. Luhmannian contingency (that things could always be otherwise) folds snugly in Deleuzian virtuality (the extension of the actual, the potential, itself as real as the actual) but does not remain unaltered. Its stretching entrails disturb even its actual selections, wanting to push the skin of the actual further within the virtual. In full immanence, a system is traversed by *lines of flight* (Deleuze and Guattari, 2004), diagonals that push the systemic limits further, always from the inside and always crossing in creative frenzy ('crossing is a creative act', Luhmann, 1997: 61) the virtuality of the outside. But then, the virtual is not confined outside but floods inside, in the system and the way the system actualizes itself towards its own self-described virtuality.

Strange how empty one feels even though one is filled with pulsating future. A handful of sand removed from the wet part of the beach, where the sea becomes sand and back to sea again. Or a throw of sticks in a game of Mikado, random, full of cracks that determine the fullness of the network of sticks. What is there more in a system, except for an assemblage of moments arranged in a topology of attribution, constantly attempting to assert a cohesive identity? There is nothing systematic about an autopoietic system. This is the reason for which the term 'system' in Luhmann is a misnomer. A

'system' gives the impression of systematicity, of normative promise and unflinching consistency, of a method, itself systematic, that produces systematized units of perfectly formed totalizing boundaries. But this system is nothing of the sort. Deeper into its etymology, a system denotes a *syn* ('together') and *histanai* ('to set up', 'to stand'), an assemblage that straddles inside and outside, body and air, life and death: 'the street enters into composition with the horse, just as the dying rat enters into composition with the air, and the beast and the full moon enter into composition with each other' (Deleuze and Guattari, 1988: 262). A system is a transitive infinitive that stands alone and alone it *consists* itself, without promise of future form, consistent boundaries, identifiable characteristics or positive functions. A system is thrown into the environment without mission but with a task beyond any mission to gather its amoeba-like topology and survive. This is not easy. To be in the middle, the *milieu* as Deleuze and Guattari call it, is to stand against the current of mounting complexity, to try and slow things down when all around 'things pick up speed' (Deleuze and Guattari, 1988: 28). In its environment, the system evolves, changes, innovates, grapples with new concepts, crashes, fails, is co-opted, is abused – in short, it *becomes* (itself or other than itself). All there is to it is what the environment makes it to be. In his book on Deleuze, Žižek reserves a small part to Deleuze's connection with biological autopoiesis, where he writes about the Self in a way reminiscent of a system: 'The consistency of the Self is thus purely virtual; it is as if it were an Inside that appears only when viewed from the Outside, on the interface-screen' the moment we penetrate the interface and endeavor to grasp the self 'substantially, as it is "in itself", it disappears like sand between our fingers' (Žižek, 2004: 117).

The systemic environment folds in the Deleuzian outside. In his book on Foucault, Deleuze (1988: 96–7) describes the outside as 'not a fixed limit but a moving matter animated by peristaltic movements, folds and foldings that altogether make up an inside: they are not something other than the outside, but precisely the inside of the outside'. Once again folding into someone else's thought, Deleuze creates a non-dialectic outside/inside that folds in on either side. If the main event in *The Fold* was that the inside included the outside, in *Foucault*, the inside becomes a fold of the outside, 'the inside of the outside', in an almost causal connection as Elizabeth Grosz (2001: 65) reads it: 'the inside is an effect of the outside: the inside is a fold or doubling of the outside'. Deleuze revisits Foucault's famous passage of the madman cast in the sea ('in the interior of the exterior... a prisoner in the midst of what is the freest, the openest of routes', 1988: 108) and constructs an inside that is 'co-extensive' (108) with the outside, 'an operation of the outside' (97). This is perhaps, according to Deleuze's Foucault, the greatest achievement of the Greeks, namely, to fold the outside in: 'the relation of the outside folded back to create a doubling, allow a relation to oneself to emerge, and constitute an inside which is hollowed out and develops its

unique dimension: “enkrateia”, the relation to oneself that is self-mastery ... “a principle of internal regulation” (Deleuze, 1988: 100). The inside slowly and laboriously assembles itself through the observation of its limits and limitations, thus constructing ways of living up to its co-extensiveness with the outside. Slowing down, simplifying, excluding, all methods of constructing one’s autopoiesis and thus affecting, not only the sovereignty (‘-krateia’) of the self but significantly, that of the outside. To affect oneself is to affect the other. Likewise, through the affect on the others, one doubles over oneself and affects oneself. Every body to its own limits. ‘*Enkrateia*’ denotes the immanent self-limitation of sovereignty, the enclosure of control, the folding in of the self in order to fit in to the environment and to find its place, function and legitimacy of being in the middle.

Let me revisit functional differentiation as a folding of the outside.<sup>8</sup> Just as the system includes its environment, in the same way the function of a system is inclusive of its environment in a form of inescapable contingency that must be retained (the necessity of contingency). At its most basic, this means that part of the systemic function are the functions of all the other systems in their simultaneous virtuality as answers to the question of function: ‘Orientation by function alone is not sufficient. This follows from the simple fact that the reference to a function is always an invitation to look for functionally equivalent alternatives, that is, to cross systems boundaries’ (Luhmann, 2004: 93). Viewed in this manner, systemic function is an enabler of *other* systems’ continuation of autopoiesis, namely, the perpetuation of their systemic and environmental self-production. To recall what was said earlier, the system is *for* the world. Function operates as the inside of the outside, a folding of the outside that at the same time excludes other foldings, and momentarily actualizes the functional topology of a system. Thus, from the point of view of the legal system, law is law not because it is not, say, politics, but rather because *politics* is not law. The system is what it is because the outside has no further functionally equivalent alternatives to offer. The system is what is left. This brings forth a reversal of causality: the marked space of a distinction, the observed, remains marked *because* of the unmarked space. Rather than a dialectic necessity, the marked is the excess of the unmarked. To some extent, this is a contained, folded-in excess, but only until the next fold is taken into consideration. The point, however, is that the articulation of system as environmental excess reverses any initial impression of causality that seemed to be favouring system over environment.

Allow me to postpone further discussion on this differential doubling of the outside until the following section’s monadology, and instead move further outside. For something nags us from there, a threshold formed and surreptitiously doubled inside. A line within the outside of the system that separates two sides of the outside, making the near nearer but also pushing the distant further away? Fold Deleuze into Luhmann and bring the beast



home: 'we must distinguish between exteriority and the outside. Exteriority is still a form ... But the outside concerns force ... forces necessarily refer to an irreducible outside which no longer even has any form and is made up of distances that cannot be broken down ... It is *an outside which is farther away* than any external world and even any form of exteriority, which henceforth becomes infinitely closer' (Deleuze, 1988: 86). In the dark of the outside, Deleuze fumbles for a distinction that is readily available autopoietically. Enter society, that mist of communications that includes all communications, all systems, all contingencies, and which remains Luhmann's favourite offspring both in terms of its revamped role in sociology (largely because of Luhmann's work) and in terms of its epistemological necessity as the suprasystem. In its interior, foldings of systems fold into each other. But could the amoeba-like boundaries of society be the line between exterior and outside? A systemic environment is a garrulous cloud of communications, populated by other systems talking the same language of miscommunication. But it is obvious that this is mere *exteriority*, a systemic exteriority safely placed within the womb of the societal suprasystem whose communications now appears cosy and proximate in comparison to the outside. The *outside* that forces itself upon the system, and is only mildly mediated by society, is the enormity of the world pulsating with the forces of matter, flesh, bodies, geographies and memories of silence, barbarians and dead heroes alike. This is the space of thinking, indeed thinking through matter and matter thinking through its folds: 'an infinitely porous, spongy or cavernous texture without emptiness, caverns endlessly contained in other caverns: no matter how small, each body contains a world pierced with irregular passages, surrounded and penetrated by an increasingly vaporous fluid, the totality of the universe resembling a pond of matter in which there exist different flows and waves' (Deleuze, 2006: 5). It is the space of folds par excellence, 'either the fold of the infinite or the constant folds [*replis*] of finitude which curve the outside and constitute the inside' (Deleuze, 1988: 97). But it is also the space of the 'unthought' (98) that hollows up the outside, rendering it the locus of resistance that refuses systemic diagrams of causalities and attributions and for that, comes before the systemic itself (Deleuze, 1988: 89). What appears to be a radical ontology of priority in Deleuze, can be read as the creative epistemology of the blind spot in Luhmann ('this imaginary space replaces the classical a priori of transcendental philosophy' (Luhmann, 1994: 21) and 'the paradox itself turns unwittingly into a creative principle because one has to try so hard to avoid and to conceal it' (Luhmann, 2004: 177)). Thinking of the unthought, or in other words confronting the paradox, is not a form and no distinction can make it operable (even, or especially when the unthought is the observing observer: 'the operation of observing, therefore, includes the exclusion of the unobservable, including, moreover, the unobservable par excellence, observation itself, the observer-in-operation' (Luhmann, 2002: 86)). The systemic environment comes before the system but collapses under

its own *gravitas*, incapable of moving on the other side of the form, that of actuality and operability, without shedding its environmental panoply. But the environment (both as exteriority and outside) remains the necessary contingency of the system. Only that, now and in view of the multiplication of the outside, we have to look into how its folding inside takes place. A simple reciprocal folding can no longer contain the external excess.

Fold Deleuze into Deleuze and Luhmann into Luhmann. Deleuze begins: 'an Outside, more distant than any exterior, is "twisted", "folded" and "doubled" by an Inside that is deeper than any interior, and alone creates the possibility of the derived relation between interior and exterior' (Deleuze, 1988: 110); Luhmann carries on unfolding: 'an operation of difference transport without beginning and end that does not permit or require any presence, but instead designates itself in something undesignatable' (Luhmann, 1988: 110). The outside folds in the inside, bypassing the level of the form exterior/interior, yet precisely guaranteeing the form. The line dividing exterior and outside is mirrored inside as the line that divides interior from inside. But what is more internal than the interior of the system? What leads to this space deep inside the system? It is an operation that 'designates itself in something undesignatable', a space that eschews reference because it is folded in a wrap of illusion. Luhmann (1993c) calls this *re-entry*, namely the entry within the system of its difference between itself and its environment. Re-entry is an illusion by and for the system, the unity of form that 'at first covers up a splitting operation that first creates the difference that is then presented as unity' (Luhmann, 1988: 110). A necessary systemic operation that feeds directly into the construction of the system's identity, re-entry conceals itself in the undesignatable space of the system, the systemic *inside* properly speaking, twisting along the systemic outside and bringing it in, now as a difference, now as a unity, but always as an illusion. The system covers up its beast in clothes of unity that conceal the unbearable difference between what the system thinks it is and what the system might actually be. Is law lawful, is politics legitimate, is art beautiful, is economy fair, is god divine? All semantic landmines that the systems avoid yet nourish. But more than semantics, the undesignatable folds matter, bodies and space from the ground floor. Above all, it folds 'a vertiginous animality that gets it tangled in the pleats of matter' (Deleuze, 2006: 12). The system is no longer just communication. It finds itself at an 'animal or animated state', in the mercy of 'pricklings or little foldings that are no less present in pleasure than in pain. The pricklings are representative of the world in the closed monad. The animal that anxiously looks about' (Deleuze, 2006: 99). However, the animal remains foreign to the system. It remains suspended within, doubling up with the 'savage features which remain suspended outside, without entering into relations or allowing themselves to be integrated' (Deleuze, 1988: 117). They cannot be integrated because they must guarantee the continuous presence of the outside inside, the space of thinking the unthought that is folded

in the system and twists the outside in a helix of infernal foldings that attack simultaneously from inside and outside. 'Thinking does not depend on a beautiful interiority that would reunite the visible and articulable elements, but is carried under the intrusion of an outside that eats into the interval and forces or dismembers the internal' (Deleuze, 1988: 86). Deleuze employs the two Foucauldian conditions of knowledge, seeing and speaking, as a form that becomes disrupted by the outside and deformed by its own interval, namely its distinction. The unity of the re-entered form is constantly under attack but the resolution of the battle is not imminent. This is because the form relies on being attacked, or to put it more accurately, is folded in and folds within the attack. Their connection is not one of causal attribution since each one operates under the illusion of the unity of the other. Nor however is there a dialectic relation between the two. The fold is not dualism but infinity. There is nothing but folding. Dualism is multiplied infinitely along foldings whose sides are not opposing but contiguous. In the multiplicity of folds, what seemed negative is revealed in its blinding positivity.

### **Nomadic monads**

The inside is not a centre but a point of view that guarantees systemic 'thinking' and observing. Its topology is that of 'jurisprudence', namely the art of judgment that refers to 'the correct point of view – or rather, the best' (Deleuze, 2006: 23). Together with the art of dissimulation that the system masters at the operation of re-entry, judging where to locate the point of view is the way the system maintains its access to the unity of difference of itself and its environment. For this reason, the point of view is located on the outside of the inside, that side of the twisted form between outside and inside that connects to the outside without however being properly speaking there – in other words, on the inflection of the inside, which couples with the outside. A point of view is not a mere perspective that changes according to the system, 'not a variation of truth according to the subject, but the condition in which the truth of a variation appears to the subject' (Deleuze, 2006: 21). Considered like this, what we have is neither relativism nor typically speaking pluralism, but a multiplicity, both on the side of the subject and the side of the conditions of 'seeing'. This means, first, that a point of view is determined by the environment but internalized by the system, and second, that it can only work as part of a series of multiple systems and variations. A series is not finite but continuous and consisting of contiguous elements, since it is unfolded on the inflection of the point of view and in turn elongates the inflection continually: 'continuity is made up no less of distances between points of view than of the length of an infinity of corresponding curves' (Deleuze, 2006: 21–22). The important is that there is distance but no void between the points of view of the various systems. This makes the systemic inside to appear in repetition across systems. What

is repeated, however, is not identity but difference. Repetition of difference ('pure' repetition, as Deleuze, 2004a, calls it) trammels the systemic series and while it never manages to make them one or even identical to each other, it pushes out the void between the systems.

The above attributes of continuity, multiplicity and difference are also attributes of systemic observation. Observation is continuous: one system observing another observing another on a fold that carries on twisting tightly observer and conditions of observation (the 'truth'). Indeed, observation is possible only in 'a circle of observing systems' (Luhmann, 2002: 85), 'in a recursive network of the observation of observations, not in the form of a singular spontaneous, "subjective" act' (Luhmann, 1998: 111). Recursivity is not to be found in duality but properly speaking in multiplicity, as a continuously unfolding fold that returns in repetition and 'that goes through *Every* and *One*, and returns to *Every*' (Deleuze, 2006: 129). Seeing it as a network is of course a matter of society and its stratification;<sup>9</sup> seeing it as a series, however, which is not a stratified arrangement but a continuous unfolding of elements and affects that are not limited by the elements (Deleuze, 2004b), is a matter of the world. The world is not one societal suprasystem that tightly embraces all systems. In a series folded in the world, distances between points of observation fluctuate in such a way that continuity is maintained on account of the repetition of difference across systems.

But what is the object of recursive observation? 'Everything that remains dark or obscure in me, resembles the negative image of other monads, because other monads use it to form their own clear zone... there is nothing obscure in me that might not be pulled into clarity from *another* monad' (Deleuze, 2006: 122–123). There is an internal division between clear zones of observation and dark zones of blind spots. Yet one's blind spot is another's marked space of observation: 'I see something you cannot see' (Luhmann, 2002). The world is repeated in each monad, yet each internal repetition of the world is zealously appropriated, indeed subjugated and dominated: 'to have or to possess is to fold, in other words, to convey what one contains with a certain power' (Deleuze, 2006: 126). The monad is free to unfold this world but the world will not be released: 'the "unilaterality" of the monad implies as its condition of closure a torsion of the world, an infinite fold, that can be unwrapped in conformity with the condition only by recovering the other side, not as exterior to the monad, but as the exterior or outside of its own interiority' (Deleuze, 2006: 127). The world is repeated in each monad but never shared. The world is folded deep inside each monad and its folding is the monadic power of autopoiesis, its ability to affect itself and others through its self-mastery and within its own boundaries.

The world, or what is more usually expressed as the difference between system and environment, is folded within each system in the form of re-entry, in its turn repeated throughout the systemic observation. The fact of its repetition remains incommunicable in view of monadic closure ('one

thing the observer must avoid is wanting to see himself and the world. He must be able to respect intransparency' Luhmann, 1998: 111). The double difference of medium (difference system/environment) and form (observed/blind spot) is repeated across the systems but shaded by the intransparency generated with each observation. This is no negativity however, no void. This is a space brimming with a play of words and acts, a Baroque chiaroscuro, a trompe-l'œil that fools ('trompe') no one, yet no one cares to touch its depthless folds. This is the space of the fully accepted, repeated but never shared illusion of unity that is difference. We are fully aware of this: 'for we can observe what other observers cannot observe, and we can observe that we are being observed *in the same way*' (Luhmann, 1998: 35, added emphasis). We know we are being observed in the same way we are observing, in nakedness and exposure, in ignorance and self-delusion, in fear and hesitation. Systems are cleverer than we make them out to be. There is a systemic interest in maintaining both illusion and awareness of illusion. This is the vital force of the system, what springs it forward while containing it. The illusion and its awareness moves around and through systems like a cord piercing through the middle of systems and tying them up in a series of pearls. This is the Baroque illusion par excellence, the stucco that captures and unfolds a perpetual movement, the dome that performs an infinite ascension, the landscape that moulds nature into a canvas, the resolution of dissonance in a fugue: 'the essence of the Baroque entails neither falling into nor emerging from illusion but rather *realizing* something in illusion itself, or of tying it to a spiritual *presence* that endows its spaces and fragments with a collective unity' (Deleuze, 2006: 143). Fold Luhmann in his own Baroque: the autopoietic paradox at its most raw and unadorned is to realize and actualize something in the materiality of the repetition of the illusion without demolishing it: 'the power of the paradox therefore is not all in following the other direction, but rather in showing that meaning [*sense*] always takes on both directions [*senses*] at once, or follows two directions at the same time' (Deleuze, 2004b: 88). This is exactly what a systemic self-description is: 'the presentation of the unity of the system within the system' (Luhmann, 2004: 424). But who decides to retain the illusion in full knowledge of its illusionary character but the system itself? Luhmann points to the 'enkrateia', the self-mastery of the system when in the context of the legal system he writes, 'the quest for finding the final reason of law must end. In performing its self-description the system must presuppose and accept itself' (2004: 426).

*The acceptance of the illusion as illusion is the crest of affirmation.* To have the cheese and eat it, as it were: 'without holes, we can neither play billiards nor recognize Swiss cheese' (Luhmann, 2002: 117). But one must resist the topology of the illusion that tends to fold itself around emptiness and straddle both illusion and its acceptance at one sweep. Indeed, even Deleuze's infamous 'empty square' in what reads like a vertiginous Luhmannian fold

(‘there is no structure without the empty square, which makes everything function’, (Deleuze, 2004b: 61)) should not be taken to be the systemic negativity of an environment but the autopoietic vitality of the other side of the fold. From systems to autopoiesis, from squares to curves, and from Swiss cheese to Swiss cheese (or as Bonta and Protevi, 2004: 95, define Deleuze and Guattari’s (third) holey space as ‘the subsoil space of “swiss cheese” that bypasses both the ground [sol] of nomadic smooth space and the land [terre] of sedentary striated space’). The affirmation of the square consists in taking both directions at the same time – an action that can only be justified in the grand teleological necessity of a Nietzschean return and a repetition of difference: ‘a system can only found itself on a paradox and cannot found itself on a paradox’ (Luhmann, 2004: 461).

‘Today’s task is to make the empty square circulate’ (Deleuze, 2004b: 84). The monad must turn into a nomad, and the system into an itinerant autopoiesis. In the remarkable final three paragraphs of *The Fold*, Deleuze tears the book apart by declaring that ‘the monad, astraddle over several worlds, is kept half open as if by a pair of pliers’ (Deleuze, 2006: 157). Autopoiesis contains its own pliers, and for this reason is perfectly equipped to throw itself in future becomings. While monadology has ‘to be overtaken by nomadology’ (Deleuze, 2006: 158), autopoiesis contains its nomadic future within, not just in seed but in fully affected and affective pulsating bodies and seismogenic spaces. This autopoietic fold however is also violent. The fact that the paradox of the illusion is maintained, and therefore the empty square circulates, is important but not enough. From the folding of the encounter, autopoiesis comes out altered, shaken perhaps, softer yet more forceful. This is what I have elsewhere described as critical autopoiesis (Philippopoulos-Mihalopoulos, 2011a), namely an autopoiesis that turns against itself as it where, indeed folds into itself and doubles up as a house of two floors, communication and matter, systems and bodies, topology and space. Critical autopoiesis is acentric, non-synthesizing, material and affirmative. It explodes the concept of society and allows it to be flooded by an understanding of an affective world society that includes, not just the totality of communications but a materiality that has been hitherto denied relevance. The difference to a more traditional take on the theory is that, in critical autopoiesis, the occasional token of systems theory’s openness to its environment is replaced by a radical immanence, indeed a deeper closure, that contains an inside folded in with its outside. Both inside and outside are situated much further than the systemic interior and exterior, namely the systemic and environmental spaces of communications. The torsion between the inside and the outside contains the virtual becomings of autopoiesis,<sup>10</sup> infinitely open to the future found deep inside its actual systemic folds. To paraphrase the last sentence of Deleuze’s *The Fold*, we all remain Luhmannian because what always matters is *autopoiein*, *autopoiein*, *autopoiein*.

## Notes

1. I have done this elsewhere, although by no means exhaustively. See Philippopoulos-Mihalopoulos, 2011a. See also Berresen, 2009, for a more biological autopoiesis focus, and Bryant, 2011.
2. Felicitous exceptions are not infrequent. See indicatively Teubner, 2001; Schutz, 1996; Stäheli, 2000; Clam, 1997; Rasch, 2000; Åkerstrøm Andersen, 2008, Bryant, 2011, amongst others.
3. The Church of Santa Maria del Giglio in Venice has a host of maps commemorating the conquering glory of the Barbaro family, along with other technical, political and aesthetic glories but, interestingly, without any religious insignia.
4. Editors' note: In this volume's 'Luhmann, All Too Luhmann: Nietzsche, Luhmann and the Human', Todd Cesaratto, further explore the exclusion of the human in system theory. For a broader discussion on System Theory's exclusion of spatiality in general see also 'Spatiality, Imitation, Immunisation: Luhmann and Sloterdijk on the Social' by Christian Borch, in this volume.
5. This is one of the leading myths of Zoroastrianism; see K. E. Eduljee. *Zoroastrian Heritage*, 2007–12 [website] <<http://www.heritageinstitute.com/zoroastrianism/grain/index.htm>> last accessed on 4/7/2012.
6. Luhmann's initial employment of autopoiesis can be seen in his 1995a [the original German edition was in 1985] *Social Systems* book, where he puts together earlier concepts of his theory and autopoietic ones. Autopoiesis 'should not be conceived as the production of a determinate form (*Gestalt*). Rather, it is important to be conceptualised as the production of a difference between system and environment' (Luhmann, 1997: 66). At this point in the German text, Luhmann refers to the inability of the English language to express synthetically the external side of the process (what in German he calls *Ausdifferenzierung*), which obstructs eventually the realization that 'autopoiesis is above all the production of internal indeterminacy' (Luhmann, 1997: 67). Luhmann replies indirectly to Anglophone criticism that focuses on the insistence of closure over openness and system over environment. In *Die Gesellschaft der Gesellschaft* (1997) Luhmann tries to distance himself from this thesis, which has been more pronounced in pre-autopoiesis work, hence his emphasis on the reproduction of difference between system and environment (with the ensuing uncertainty), rather than the original reproduction of elements.
7. The illusion is maintained through masterful gestures of yet further levels of societal decision- and distinction-making. Thus, Luhmann (1997) carries on by positing care and self-help as emerging new systems. This may well be the case and there is indeed an increasing bibliography moving in that direction (see for example la Cour, 2004). The wound, however, has been inflicted.
8. Luhmann moved from the concept of 'function' to the concept of system (itself including function) in the 1960s (see 'Funktion und Kasualität', 1962, reprinted in 1974) as a synthetic concept that was structured around the difference between system and environment. See Clam, 1997, for an analysis of the transition.
9. The circle or network of observation has been suggested by Luhmann, 2004, as an alternative to Teubner's, 1993, hypercycle.
10. This is an autopoiesis that interestingly returns to its original biological basis as conceived by Maturana and Varela, but after its successful passing through the social.

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## **Part II**

# **Radical Materiality**

# 4

## Gendering Luhmann: The Paradoxical Simultaneity of Gender Equality and Inequality

*Christine Weinbach*

From the perspective of the present leading question, a twofold and contradictory finding becomes apparent. Since the mid-eighteenth century, the functional differentiation of society and its postulation of full inclusion of all societal members have become irreversible (Luhmann 1980). Since the late nineteenth century, however, a shape of gendered differentiation prevails that is rooted in the form of functional differentiation – more precisely: in the division of housework and gainful work – and is targeted at the reconciliation of the bourgeois family and the working conditions of the capitalistic economy. During the course of the nineteenth century, the functional systems put themselves increasingly on a *self*-referential basis – politics is made by the autonomous people, matrimony is based on the love of the spouses, in economy, money is invested to gain money. As a result, different modes of inclusion for men and women were elaborated and justified by an *external*-referential relatedness on pre-social, naturally given and asymmetrical corresponding gendered characters. As Theresa Wobbe puts it: ‘The concept of [gender] differentiation followed different patterns of modernization than the functional differentiation: It infiltrated all functional systems, was not functionally confined and produced determinations that did not converge with the normative idea of self-rationality’ (Wobbe, 2003: 18; own translation).

In the course of the twentieth century, ‘the model of an essential dissimilarity of genders was replaced by the idea of their fundamental sameness (...) The international career of the principle of equality was a significant prerequisite for this change’ (Heintz, 2003: 211; own translation). International comparative research reveals that ‘worldwide trends to extend the civil rights for women exist during the whole 20th century (...) Within this increasing field of discourse, equality standards are developed and broadened, which allow to identify not only recurrent, but also new forms of gender inequality more easily’ (Ramirez, 2003: 288; own translation). A process of systematic

de-institutionalization of the transverse institutions of gender differentiation has started and, in the 1980s, public institutions for the promotion of women were officially supported by more than eighty per cent of the nation states (Berkovitch, 1999). Around the turn of the century and especially within the western industrial countries, a peculiar finding becomes apparent, which is identified by different authors as a paradoxical simultaneousness of gender equality and inequality: The decomposition of formal inclusion barriers does not go hand in hand with the increasing irrelevance of gender difference. In fact, societal equality programmes are subverted on the lower social levels of interaction and organization (see Gildemeister/Robert, 2003).

Systems theory ignores this 'special connection of functionally and gender differentiation' (Wobbe, 2003: 18; own translation) that persists until today to a great extent (nevertheless there are some drafts already (see, for example, Pasero, 1994; Pasero/Weinbach, 2002; Weinbach, 2004; Weinbach/Stichweh, 2001; Kampmann/Karentzos/Küpper, 2004). It is not that Luhmann has not noticed, for example, gender segregation on the labour market. In 1975 he writes: 'Today, *apart from age and gender*, only differences in education can be considered as an aspect of typecasting people' (Luhmann, 1975: 44; emphasized by me; own translation). But he does not attach to it further. Nevertheless, his systems theory is suited very well to comprise current paradoxical gender relations in terms of social theory – albeit at second sight.

The present text endeavours to unlock this underused system theoretical potential and creates a situation of encounter between systems theory and gender studies: Systems theory is challenged to scrutinize its own gender neutral position and let itself be irritated by questions and findings of gender studies. Thereby, the intriguing question is, which helpful theoretical elements already exist and simply have not been selected, and where the system theoretical arsenal of terms is de facto not sufficient and has to be complemented.

The following reflections start with both of the Luhmannian theories of differentiation: the theory of functional differentiation and the theory of level differentiation. They will be related to one another and faced with findings of gender studies. On the background of the existing system's theoretical frame it can be shown that the paradoxical simultaneousness of gender equality and inequality exists as well *within the relationship* of the different social levels of society, organization and interaction as *within the social levels* of organization and interaction. But what about localizing the gender difference onto the system level of society? The theory of functionally differentiated society strictly precludes the reference to personal features onto this society level. At this point Michael Bommers' instructive reflections on the national welfare state as a 'form of secondary order formation' (1999, 2004; own translation) are helpful. They can be seen as a consequent examination of a system theoretical blank space, that allows us to think the

institutionalization of the gender difference within the framework of the theory of functional differentiation as a *societal* pattern that infuses the functionally defined areas of society without overruling the form of functional differentiation. The encounter of systems theory with questions and findings of gender studies turns out to be greatly fruitful for systems theory: It unsettles embosomed systems theoretical assumptions of the societal status of ascriptive mechanisms and displays their significant allocative function within the functionally differentiated society. Conversely, this encounter of systems theory with questions and findings of gender studies turns out to be fruitful for gender studies as well: Gender studies is offered an interesting and elaborated theoretical framework that follows a universalistic approach for the analysis of current gender relations, within which the whole lot of social phenomena could be integrate and related. Its unique theoretical architecture allows interesting insights into the social mechanisms that maintain the continued existence of asymmetric gender relations as well as challenge them and contribute to their dissolution.

## Functional and level differentiation

### Starting point

Niklas Luhmann's theories of differentiation, the theory of functional differentiation and the theory of level differentiation, deal with two different kinds of differentiations which are in a relationship of co-evolution (Tyrell, 2006: 296). While all types of society know the difference between interactional and societal level (vgl. Luhmann, 1987: 551; Kieserling, 1999: 217f.), organization as a new system type barges in between these levels in the course of societal rearrangements. In today's sociology it is undisputed that the modern society is on the one hand highly differentiated and on the other hand 'throughout infused by organisations' (Drepper, 2003: 14f.; own translation).

It is the intrinsic logic (Eigenlogik) and entanglement of the different types of social systems, which makes the theory of level differentiation so interesting for the analysis of the paradoxical simultaneousness of gender equality and inequality. As Tyrell argues, Luhmann is, 'unlike in the case of the micro/macro-relationship, as conceptualized by Coleman and Esser, (...) *not* interested in the (causal) *connection* or the "interaction" of micro and macro, but in the *interruption* of interdependences between the levels and in the free movement on all levels' (2007: 4; own translation).

### Level differentiation

When Luhmann writes about societal level differentiation, he means 'three special forms of social systems' formation', that 'are not reducible to each other' (Luhmann, 1987: 551, n. 1; own translation), because they use

different principles of demarcation and self-selection (Luhmann, 1975a). Society is not only the aggregate of all organizations and interactions, organization not the amount of organizational interactions. Instead, society and organizations are about different social *levels of emergence*. Generally, all social systems come into being by their process of demarcation and self-selection while using specific criteria to isolate themselves against other communications and refer only to their own communications (Luhmann, 1975a: 10).

The *system of society* encompasses all *reachable communications*, wherefore reachability works as its principle of demarcation and self-selection; the boundaries of society are the boundaries of meaningful and possible communication. 'Society is...the comprehensive social system, that includes all societal and therefore does not know any social environment. If any social is added, if new communication partners or communication themes emerge, society accrues with them' (Luhmann, 1987: 555; own translation).

Internally, the modern *functionally differentiated society* is differentiated into specific societal systems that accomplish specific *functions*: The scientific system produces true knowledge; the political system keeps the capacity for the accomplishment of generally binding decisions available; and so on. Rudolph Stichweh distinguishes as many as twelve such functional systems (2005: 163). The principles of demarcation and self-selection for most of the particular functional systems are a binary code like superior power/inferior power (politics), true/untrue (science) or payment/non-payment (economy). The conditions, under which the codes' sides are applied, – if something pertains as true, as a payment, as superior power – are specified by the programme of each functional system (Luhmann, 1990: 89ff.). The result is a self-referential communication, which closes the functional system: generally binding decisions (politics), scientific publications (scientific), judicial decisions (legal system), and so on.

*Systems of interaction* emerge, if psychic systems perceive each other as persons who are *present* (Luhmann, 1975a:10; Luhmann, 1997: 815). The interaction refers only to impartations, which could be attributed to persons regarded as present; therefore *presence* works as the principle of demarcation and self-selection. As the leading interactional observation form presence is constructed as the difference of presence/absence and enables the interactions' self-location within its societal environment: 'By this the environmental relations of the systems could be considerably condensed and intensified; (...) they do not need to presuppose a point by point correlation between system and environment' (Luhmann, 1975a: 10; own translation).

Over the course of functional differentiation with *systems of organizations* a third system level has emerged, that is located between the societal and the interactional system levels. Its principle of demarcation and self-selection is *membership*: Organizational communication only refers to impartations that are attributed to organizational members. Membership depends on

conditions that are fixed by organizational *decisions* and are therefore modifiable: “By membership rules – such as subjection under authority for salary – it might be possible to reproduce highly artificial behaviour in a relatively stable way despite free chosen, variable membership” (Luhmann, 1975a: 12; own translation).

### Individualized individuals

The conditions of inclusion in organizations provide the functionally differentiated society with individuals who are flexible and individualized, and whose behaviour is programmable by organizational decisions (Luhmann, 1975: 46f.). Ascriptive mechanisms like ‘descendant, group membership, stratification’ must not curtail ‘the malleability of the work habits’ (Luhmann, 2000: 382; own translation). Instead, social status is influenced ‘by careers and especially by rank classification of the organisation (...) and not, conversely, an appropriate workload according to the social status, like in older societies’ (Luhmann, 2000: 382; own translation; critical Deutschmann 2008): ‘The evolution of the form of the organisational system (...) allows (...) a decoupling of societal standards of targets and motivations’ (Luhmann, 2000: 381; own translation).

Planning the (contingent) behaviour of flexible and individualized members of organizations by organizational decisions is fundamental for the realization of functionally differentiated society. Organizations pass along the codes and programmes of ‘their’ functional system to the level of interaction in terms of functionally specified expectations to the individuals. Therefore functional differentiation could take place ‘in the actual interaction’ (Kieserling, 1999: 339f.; own translation). Starting point for the associated process of transformation is, that organizations align their targets to ‘the functions of special functional systems, for example banks, hospitals, schools, armies, political parties’ (Luhmann, 2000: 405; Luhmann, 1997: 840f.; own translations). Organizations borrow the code and the (variable) programme of the functional system as their structural guidelines, transform them by their own *decisions* into their own logic, and implement them into their principle of demarcation and self-selection by spelling out conditions of membership and contents of membership roles. From there, they develop structural guidelines for the organizational *interactions*, which have to be met by their members under the threat of dismissal (Kieserling, 1999: 228; own translation).

So far, so gender neutral. Yet, gender studies objects, because organizational rules were made for ‘men without family engagement’ (Müller, 1999: 62; own translation) until today. Apparently, Luhmann has a different view on it when he writes that the ‘institutions of organisations’ rest ‘upon developments in the economic and the education systems’ (Luhmann, 2000: 381; own translation), but fails to mention the family system, the gendered division of labour in the context of separated housework and gainful work.

## Systems theory encounters findings of gender studies

### Gendered structures of organizations?

Following Joan Acker (1992, 2003), gender studies have traced back the reasons for the unequal chances of inclusion for men and women in companies to a fundamentally gendered organizational structure. In her influential studies Acker describes gender as a sub-structure of formal organizations that is located underneath their universalistic self-understanding and decision practices. This sub-structure affects recruiting, promotion, performance evaluation, fixing of wages, working hours and holidays because of the *abstract worker* as the organization's yardstick, who in the real world is impersonated by the male employee: 'the closest the disembodied worker doing the abstract job comes to a real worker is the male worker whose life centers on his life-long, full-time job' (Acker, 2003: 54).

More recently gender studies moved away from this assumption of the ubiquity of gender in organizations. Instead, they point to context specific conditions of organizations, which might play a crucial role in the activation of gender related selection criteria (Heintz/Nadai, 1998; Heintz et al., 2004; Gildemeister/Robert, 2003; Wilz, 2002; Weinbach/Stichweh; Wobbe, 2003). It was shown that the reception of gender specific criteria during the selection, promotion or performance evaluation of the personnel could vary in dependence on the market position of the company, its size and specialization, the institutionalization of equality measures, as well as on the extent to which it had formalized standardized rules of recruitment and promotion (see already Kanter, 1977; Allmendinger, 2003: 263). For example, a correlation between the degree of standardization of rules of recruitment and promotion with women's chances of inclusion in large-scale organizations has been proved: 'Formalized personnel practices undermine sex based ascriptions when assigning men and women to high prestige management jobs' (Reskin/McBrier, 2000: 214; Rose/Sonnert, 2011). This correlation is explained by the assumption that formalized criteria of selection constrain the room for personal – and therefore gendered – expectations.

According to systems theory functional criteria govern the access to functional systems and organizations. So how does systems theory explain that expectations based on functionally shaped decisions might be combined with gendered expectations?

### Personal expectations in organizations

At the first glance the sociology of organizations by Luhmann does not deliver any clue for an answer to the question why organizations should refer to gender difference at all. Organizations gain their primary identity (for example as a bank or school) by referring to a functional system (for example the economic or education system). The content of this identity



is elaborated by membership roles and is addressed as expectations of individuals, whose behaviour is programmable and not to be blocked by ascriptive personal features. From this perspective, organizations use only abstract criteria to discriminate between their members in a *functionally related* way: 'One writes a good or bad test in school; the modified product variant finds a ready market or strikes the consumers as redundant so that even regular consumers chose a rival product; the strategic move of a campaigner turns against him because he has provoked a discussion he could not anticipate' (Stichweh, 2005: 171, own translations; see also Luhmann, 2000: 393, 394). Incidentally, social inequality directly results from the organizations' functional orientation to 'its' functional system. In this theoretical concept no room seems to be left for gender difference as an *ascriptive* category of social inequality.

At the second glance, however, the incompleteness of this perspective becomes obvious: Organizations gain their relevant structural guidelines not only from 'their' functional systems. Instead organizations are confronted with guidelines from other parts of their societal environment (Luhmann, 2000: 37). Expectations in the organizations' personnel are infiltrated by these environmental structures too. Structural guidelines of 'other' functional systems like prices on the labour market (for example for typical male, typical female, and gender neutral labour), the certificates of the educational system (for example for individuals with typical female, typical male, and gender neutral professions), relevant laws and court judgements of the political and the legal systems (for example with regard to parental leave and maternity protection), as well as the predominantly gendered division of familial labour work as parameters organizations have to pick up and process further by elaborating and recruiting their membership roles: There are 'manifold interacting forces that are targeted on the companies' context conditions' (Allmendinger/Hinz, 2007: 182; own translations).

These environmental structures work, as well, as structural guidelines organizations have to refer to and which could not to be rendered by them. The functional system that is relevant for the functional performance of the organization constitutes its 'vehicle of identity'. Organizations therefore describe themselves as a bank, a school, a hospital, a political party, and so on. In reference to further aspects of their societal environment as prices, certificates, laws, and court decisions, gendered division of family labour organizations fine-tune their location in society. All these environmental components become integrated into the organization by elaborating the conditions and contents of its membership roles: As membership expectations, these components are embedded in the organizations' principles of demarcation and self-selection. Hereby, the organization asserts itself as an autonomous social system against its social environment. By 'typecasting persons' the organization does refer not only to differences in education

but to personal categories like 'age and gender' as well (Luhmann, 1975: 44; own translations). Therefore the organizational membership role gains a 'double-face' because it separates and connects the members' functional and private part of his or her role (Luhmann, 1964: 64; own translations). Universalistic *and* particularistic codes encounter each other within the roles' realm (Gildemeister et al., 2003; Weinbach/Stichweh, 2001: 42).

Due to internal reasons both parts of the membership role need to be pulled apart and matched by the organizations' personnel policy. The definition of a membership role, even of low-skilled labour jobs, often remains under-determined because of its embedding in a complex environment and because of the consequence of members' self-monitoring. In place, a proper selection of personnel virtually substitutes a more far-reaching programming of the membership role (Luhmann, 1975: 45). *On the one hand* context-sensitive mental achievement potential has to be assured, wherefore many organizations ask for the permanent presence or reachability of their personnel (Kieserling, 1999: 341): As many studies verify, male managers competing with women expand their presence at the workplace as far as possible ('presenteeism' of men as a strategy of performance competition; (see Connell, 2010; Simpson, 1998)); correspondingly, the under-representation of female managers in gender neutral professions is justified by limits of their presence (Heintz/Nadai, 1998). *On the other hand*, organizations' selection of personnel always takes into account that internal communication channels are frequently accomplished by *interaction* and due to mutual perception of the interacting individuals personal features (for example gender) could never be neutralized completely (Heintz, 2003: 216).

Organizations must reckon with this background of gender differences, especially with an eye towards the different flexibility of men and women, when they establish part time jobs or staff: 'The whole employment system is based on gender specific attributions' (Achatz/Fuchs/von Stebut/Wimbauer, 2002: 285; own translations). In many companies gender differences have become a *cemented* mechanism for steering internal selection processes, and this informs established modes of observation rather than persistent societal environmental conditions: Although labour supply has changed by an army of highly qualified women and increasing childcare facilities, practices of recruitment and promotion have often remained the same. Therefore, differences in wages and career chances of men and women could not be traced simply to their occupational choices (Almendinger/Hinz, 2007: 182). Instead 'different employment outlooks' arise 'in the course of time from a complex *escalating mixture of self-reference and external-reference*' (Almendinger/Hinz, 2007: 184; emphasized by me, CW; own translations).

Membership related environmental parameters relevant to this now have already been mentioned. Organizational interactions frame another environmental context for the construction of gender differences in organizations.

### The gender difference in interactions of formal organizations

In the 1960s Luhmann illustrated the difficulties that might go with the integration of women in masculine shaped interactional nexuses in organizational contexts as follows: 'The importance of the informal exchange of views makes it understandable that the presence of women among masculine colleagues might be concerning. They can not sit down to a colleague, light a pipe and talk to him from a jovial distance over difficult things. It is hard for them to cast off the yoke of strict formality and pedantic relevancy without opening other doors too wide. That this symbol of a formal-friendly agenda is not available to women was mentioned in a British study on their admission to the civil service; (Luhmann, 1964: 318). This little longer quotation is interesting in different respects. *On the one hand* it indicates a gendered interactional culture in the context of organizations and the gendered division of labour, and therefore a balance of expectations of the person and the membership role which women members might disturb. *On the other hand* it thematizes the differences and entangledness of the organizational and the interactional systems, emphasizes the subversive potential of the interactional systems, and highlights the fact that formal organizational guidelines might be *subverted* if the interaction accentuates the private realm of the membership role.

The organizations' task is to 'respecify' the societal function of 'its' functional system 'to the point that the behaviour of the direct interaction could refer to it' (Kieserling, 1999: 340). But according to a system theoretical basic assumption, organizations are able to govern the internal dynamics of the interaction to just a limited extent, because 'the organisations' applicable regulations *again* become *subject to selective attention* on the level of actual behaviour' (Luhmann, 1972: 275; own translation).

Interactions' communication gets going by the mutual perception of at least two consciousness systems: Interactive reference takes place only to persons' actions of impartation deemed to be *present* and not per se to all perceptible persons; one may think of table talk in a well-frequented restaurant. Presence works as a distinction between present/absent and therefore as an *observation form*, by which the interaction not only distinguishes between present and absent persons, topics, different presents, but by which it *observes* the present persons as well in respect to 'what they have to do outside of the interaction' (Luhmann, 1997: 815; own translation). Thus, the 'societal environment (...) was brought to bear in the interaction system as a complex of the participants' external obligations – a case of simplified *system-internal* (systeminterne) representation of the *difference of system and environment*' (Luhmann, 1987: 570; own translation). Hence, present persons always indicate to the societal environment of the interaction and by this the interaction reflects on its own accomplishment within the *functionally differentiated society*: While observing present persons as individualized individuals who

choose their role-assumptions by themselves, interaction isolates itself and is accomplished 'with greater indifference against different, collateral interactions' (Kieserling, 1999: 230). This means that the individuals are to behave like a person of an interaction in a way 'which avoids intractable problems for their behaviour in other roles. And everybody must expect understanding from others for this' (Kieserling, 1999: 274). Under these conditions 'the unity of a person... could no longer be the slide bar for the demise of claims from one to the other realm' (Kieserling, 1999: 250). Therefore, according to systems theory persons no longer symbolize role sets corresponding with social stratification, but are seen as individualized individuals who choose their role assumptions by themselves.

However, this system theoretical assumption in a way is contradictory to gender studies' findings dealing with gendered personal stereotypes. According to the meaning of gender stereotypes, women in contrast to men 'are distinguished on the most general level by their willing takeover of traditional social roles respective their rejection of these roles and their search for alternative roles' (Eckes, 1997: 101). From a system theoretical perspective female gender stereotypes could be seen as a mechanism to link interactional and familiar role assumptions symbolically. This pertains even in the case of 'alternative' female gender stereotypes; the implicit refusal of family related domestic work does not delete this linkage, but indicates an informative blankspace that is still attributed to the female person like something accrued to her. In contrast, male gender stereotypes do not imply any similar consistent linkage between internal and external interactional role assumptions (Eckes, 1997: 116f.). When interaction refers to the gender of a female person it classifies specific 'different roles as important' and the gender of the person 'appears as an interactional issue' (Kieserling, 1999: 250). Compared to this, male persons were not attributed similar trans-individual role assumptions. As social-psychological research shows, gender typical qualities attributed to men (competence or instrumentality) or women (warmth or expressivity) are components of the attribution of this gender stereotyped role ascription (Eckes, 2008: 179).

These social-psychological findings contradict system theoretical assumptions, whereupon present persons of an interaction are always observed as individualized individuals with self-chosen interactional role-takings. Instead, the vitalization of female gender stereotypes within an interaction contains external references to family and household roles that seem to be accrued to female persons and make them appear less individualized and flexible. This observation perspective on women might clash with expectations of interactional activities of organizations' members: Organizations' communication channels, that is the access and the position within organizational interactions, are fixed primarily by *programmed membership roles*. On this background, probably 'bulky' appearing female gender stereotypes seem to determine the flexible versatility of women with regard to disposable

membership roles. Presumably because of this, male colleagues might attribute to their female competitors on the one side, the same competence and on the other side, always plausible, as missing decisive qualities – ‘like assertiveness or contacts, flexibility or mobility, talent or charisma’ (Hofbauer, 2004: 56; own translation).

Women in decision-making positions provoke the organizational interaction to bring *two different and clashing cognitive patterns* of attribution of external interactional roles – the organizational role and references to home and family – into one line. Therefore, the mutual perception of the interacting individuals is notably challenging: As organizational members the interacting individuals have to embody their organizational roles and the attached communication channels, without becoming gender neutrals. Respective to the two-faced membership role, they have to personify expectations from two different contexts, the formal and the private realm at the same time, and make both perceptible to the other.

Interaction systems rest upon presence as a principle of demarcation and self-selection, which is based on the mutual perception of the consciousness systems. However, the perceptible physical behaviour of the interacting individuals evades from the interactions’ scrutiny and control: Communication is not able to perceive. The physical behaviour of the interacting individuals works, admittedly, as its ‘substratum’; but the interactional communication only refers to that psychical behaviour as a point of contact for further impartations if it understands a psychical behaviour as a social impartation – all others (for the time being) are left disregarded (Weinbach, 2004: 69). Thus, the perceived bodies ‘imply’ ‘always more information as is selected and imparted by communication. Unlike speech sounds and gestures they utter, the bodies of the present individuals are not able to be specialised to communication’ (Kieserling, 1999: 140). This ‘surplus of information’ forces the individuals to treat their bodies as a vehicle of specific expectation with regard to gendered stereotypes and ‘insert’ it into their impartations so that it is understandable by communication partners as well as by the interaction system.

Ethnomethodological and interactional-oriented gender studies labelled this accomplishment as *doing gender* (West/Zimmerman, 1987). By contrast, systems theory does not impose the burden of reality construction on the individuals but primarily on the interaction system: The *doing gender* of the interacting individuals is not crucial but the *observation forms* used by the interaction to observe the individuals. Needless to say that the perceivable impartations of the interacting individuals and their context specific accoutrement are a compelling requirement for an interaction process that can be anticipated. But *if and how* the organizational interaction refers to the impartation, when it observes it by the observation form ‘membership role’ as a distinction between the formal and the private realm, is its own decision. This is why the interactions’ process is unpredictable to the organization. It

is always been decided in the direct contact 'which organisational formalised expectations shall be observed and be rewarded by corresponding behaviour, and the selective governance rests on the structure and thematic leading of simple systems (and not the organisation itself which only sets the conditions)' (Luhmann, 1972: 275; own translation). Nevertheless, gender studies reveals relatively stable patterns of interaction that govern the interactions' 'handling' of persons with the 'false' gender in gendered professions. For example, studies on the integration of women in organizations with male-shaped interactional culture suggest that their gender might irritate the interactions' orientation towards formal guidelines, so that a single woman 'does not have to work hard to have her presence noticed, but [does] have to work hard to have her achievements noticed' (Kanter, 1977: 216).

Interestingly, the same does not count reversely for men. Men in typically female professions do not see themselves impaired in their doing gender by their role-taking, for example as a nurse. The opposite is true. They benefit from the structural homology of professionalism and masculinity that is based on the decoupling of internal and external interactional role expectations linked to the male gender stereotype. As Bettina Heintz and Eva Nadai (1998: 85) show, male nurses emphasize the professional aspect of their membership role by idealizing their masculinity as a 'complex of masculine *coolness*' and overcome the 'naturally' appearing aspects of the job by devaluation of femininity; whereby they gain support by the female nurses. The logic of these findings goes with further findings, whereupon formalized organizational processes in male professions affect the integration of women but does not hold true for men in female professions (Allmendinger/Hinz, 2007: 180): While equality programmes for women in male jobs aim on breaking the *glass ceiling*, for men the linkage of masculinity and professionalism works in a female job as a *glass escalator* (Williams, 1992). That means, that interaction processes in organizations use cognitive patterns that might reinforce the gender categorization of the interacting individuals (Ridgeway, 1997: 219); for example compatibility blockages between formal membership expectations and female gender stereotypes make women appear deficient compared to men and affirms the gender hierarchy. Therefore, *no 'cultural de-valorisation of jobs mainly practiced by women'* (Allmendinger/Hinz, 2007: 182; own translation) happens *independently* from the organizational context.

### **Gender difference as a control mechanism for social systems**

In the end, interaction systems are unpredictable for organizations. Admittedly, interactional structures could be altered by organizational guidelines (Luhmann, 1972: 278; own translation). But 'the more rational an organisation system is conceptualised and developed in regard to its specific performance, the more difficult is it to achieve the organisations' feasible in the interaction. The interaction follows its own system boundaries and does

not or just restricted incorporate the organisation program' (Luhmann, 1975: 15; own translation). Organizations might 'bridge' these type differences in their interaction systems when 'organisational planning of programs sets premises that *simple interaction systems* could *presuppose as environmentally given*' (Luhmann, 1972: 282; emphasized by me; own translation). This assumption of Luhmann is instructive because it says that if interaction systems synchronize the organizational guidelines with an easily available cognitive scheme they would more likely follow these guidelines. An easily available cognitive scheme every interaction has on hand by the mutual perceptions of the interacting individuals is gender difference (Weinbach/Stichweh, 2001: 30).

Organizations use gender difference to anchor organizations' structural guidelines effectively into interactions; this is shown by a horizontal (relevant to activities) and vertical (relevant to gender hierarchy) gender differentiated labour marked (see Ely/Fold/Scully, 2003). Interestingly, today's organizations start preferentially from (*ansetzen bei*) the gender *hierarchy* instead of gendered activities (Allmendinger/Hinz, 2007: 180f.): Women enter typically male working areas, but often the gender hierarchy is maintained by part-time employment and respective differences in wage and career opportunities; in Germany women in full-time occupations and in the same professions and companies earn about twelve per cent less than men; the higher the proportion of women in a profession the lower the wages for both genders with major deductions of womens' salary; women in companies are preferentially placed in low status positions.

Interactional-oriented gender studies have termed the interactions' structural accordance of gendered person and membership role as *doing gender while doing the job* (see Leidner, 1993): Doctor and nurse, manager of a branch office and shop assistant, professor and secretary are gendered membership roles that allow the individuals at once to perform as men or women *and* to be observed as consistent reference points of expectations by the interactional communication. 'Deviant' staffing challenges the (especially female) individuals to specific performances because the means to embody professionalism respective to formal role expectations are gendered. For instance, Swiss architects use for their self presentation 'whiskers and shaved heads' and 'a propelling pencil which could be whipped out of the breast pocket to modify plans and presentations ad hoc'; for *women* architects there are 'no comparable codes' (Heintz/Merz/Schumacher, 2004: 261; own translation, CW). The missing availability of feminine presentation means hampers women in functional interactions in enacting themselves as bearers of formal role expectations and hampers the interactional communication to disregard the sex of the interacting individuals. Because there are few cognitive schemes for women to link expectations of the formal and the personal role realm consistently, it is serious for them that the interacting individuals can not 'abstract from personal features that impose on their perception, even if

the visible is not allowed to see by norms' (Heintz, 2003: 216; own translation, CW). This lack of proper observing schemes points to the 'absence of the "woman architect" as a social character not only on the numerical but on the symbolic level as well' (Heintz/Merz/Schumacher, 2004: 238; own translation, CW). At the same time, it refers to the existence of male shaped assessment criteria that might be activated in the interaction and cast the performance of female persons into doubt (Ridgeway, 1997).

### Challenges of systems theory by gender studies

The presented encounter of systems theory with findings of gender studies challenges *two basic assumptions* systems theory holds onto: *firstly*, that *organizations* shape their membership roles exclusively by orientating themselves towards the functional system they refer to, in other words: towards structural guidelines given by the form of functionally differentiated society; *secondly*, that *interactions* solely assume freely chosen role-taking by their persons, and therefore also refer to structural guidelines given by the form of functionally differentiated society. It becomes apparent that both basic assumptions are curtailed: *Organisations* refer regularly to structural guidelines from 'other' functional systems, that are relevant for the definition of membership too – like prices on the labour market, the certificates of the educational system, relevant laws and court judgements of the political and the legal systems, as well as the predominantly gendered division of familial labour work. By this they transform 'gender infected' variables into their 'native' principle of demarcation and self-selection. *Interactions* imputed to persons are by no means only freely chosen role-takings. Attributions of taken or refused roles in the house and family to female persons are highly possible and could bleed into the meaning of the interactional taken role. So membership roles and present persons are constantly observed by universalistic *and* particularistic criteria, whereby either the one or the other side could be emphasized. Hence, the *paradox simultaneousness of gender equality and inequality* is always implemented into the contextual configuration of membership and presence as principles of demarcation and self-selection.

The questions that arise and challenge systems theory against this background are, why gendered labour differentiation shapes the core of the gender difference and, anyway, how it could be a relevant structural guideline for organization and interaction systems. These questions imply considerable potential for systems theories' self irritation: If, due to environmental aspects (*Umweltbezüge*) gender difference intrudes into the functionally oriented organisation or into the interaction, then the question of the system-external localization of these reference points arises. Has the gender difference been nested onto a higher societal system level? Therewith, the system theoretical examination of gender studies' findings and questions is



faced with one of the *fundamental and highly contested issues of gender studies*, that is the question of the *social theoretical status* of the gender category.

Following Joan Acker, gender differentiation has to be placed into the centre of every social theory. She criticizes that an 'ostensible gender neutrality masks the "implicit masculinization of these macro-structural models"' (Acker, 2004: 19), because 'unpaid caring, household, and agricultural labor, along with much informal economic activity that maintains human life (...) do not enter the analyses or are assumed to be in unlimited supply' (Acker, 2004: 19f). Quasi diametrically opposed Bettina Heintz suggests, in the course of de-institutionalization of gender differences onto the societal level gender differences were no longer anchored there but have to be produced on the interactional level by the individuals' accomplishments (Heintz/Nadai, 1998; Heintz, 2003; Heintz, 2008). Luhmann himself has pointed the gendered labour differentiation as a strategy to deal with the consequences of functional differentiation: 'The gender difference conduced, not least, the separation of the time budget of household and occupation. The woman was at home and therefore the man temporally available if required. By this, complicated problems of temporal synchronisation of familiar and occupational obligations could be avoided – problems that become more and more pressing and stress especially women' (Luhmann, 1990: 209; own translation).

This statement of Luhmanns' implies references to basic knowledge of gender studies. As is well known, gender studies trace the development of the modern binary gender order (Laquer, 1990) back to the functional separation of housework and gainful work (for example Hausen, 1986) and sees the conjunction of the two societal realms ensured by gendered labour. Within this context, the institutions of the national welfare state of European character are attributed a special bracing function (see Annesley, 2007; Wobbe, 2012). But on which societal level would such anchoring of gender differences by the national welfare state be thinkable within a system theoretical framework?

## Gender differences onto the societal level

### Inclusion into the functionally differentiated society

Luhmanns' systems theory champions the idea of full inclusion: Every individual should gain the same access to the benefits of the different functional systems. The public role of each functional system therefore implies so called *interrupters of interdependencies* in order to ensure that the entrance to an inclusion role of a functional system does not presuppose the entrance to an inclusion role of a different functional system. This 'strategy of *indifference against different roles*' (Kieserling, 1999: 250; own translation) is secured by three structural mechanisms implemented into every single public role (see

Göbel/Schmidt, 1998: 102f. following Stichweh, 1988: 262): universality, generalization and specification.

*Universality* refers to the 'entrance to functional systems according to functional concernment' (Göbel/Schmidt, 1998: 105; own translation), whereby *all functionally concerned individuals* should be included. By *generalization* 'the de-discriminatory effects of the code of the functionally specified communication' becomes 'relevant' (Göbel/Schmidt, 1998: 105; own translation) to guarantee the individuals' treatments exclusively *in accordance with functionally specified aspects*. Finally, *specification* refers to 'the whole tableau of possibilities of inclusion that remain unpaid to the individual' (Göbel/Schmidt, 1998: 106; own translation); it ensures that in case of inclusion into a functional system, further inclusions of a person were irrelevant.

All three mechanisms express the primarily societal form of functional differentiation that works as a structural guideline for every single functional system, which therefore has to shape its inclusion roles for a mass audience (Luhmann/Schorr, 1988: 31). At the same time, every functional system has to regard that 'its' individuals should gain access to other functional systems if required. Therefore, on this level of the society system the implementation of the gender difference is unthinkable. Helpful is an instructive suggestion of Michael Bommers that is compatible with the findings of gender studies because it conceives of the European-style national welfare state as a level of *secondary order formation* and locates it *between* the social system levels of society and organizations.

### **The welfare state as a form of secondary order formation**

According to Luhmann the modern European-style welfare state has a focal function to maintain the societal form of functional differentiation. It picks up the normative imperative of the functionally differentiated society for full inclusion of the entire population and takes effort into the stabilization of the environmental relationships of the functional systems by using law and money as means of intervention in order to secure a basic prerequisite for the functional systems' autonomy (Luhmann, 1981: 30). At the same time it sees itself as an actor on behalf of its members. Thereto, it tries to 'intrude' into the societal functional systems and tries to develop 'conditions in order to arrange chances and possibly recombine them' (Luhmann, 1981: 30; own translation). That is why the welfare state intervenes where it sees the inclusion of its members threatened, but without determining the concerned social systems causally by generally binding decisions or welfare programmes.

Michael Bommers (1999, 2004) goes further into the welfare state concept, when he addresses the functionally oriented *organizations* as the pivotal lever of welfare states' regulations. These organizations provide public roles for the functionally specified inclusion of the entire population: for pupils in schools, purchaser for commercial enterprises, football players in sports

clubs, patients in medical practices, and so on. The national welfare state is concerned to co-ordinate these functionally orientated and inclusion generating organizations by, for example business and working hours, standards of qualification, qualification certificates, rules for dismissal protection, and so on, not only to increase the chance for inclusion for its members but in order to satisfy the single functional system with system alien requirements (for example qualification certificates from the educational system in business enterprises) as well (Bommes, 1999: 167; own translation). In turn, organizations elaborate their functional specified inclusion roles with regard to these coordinating welfare state regulations. Thereto, the welfare state provides the 'institution of life career' (Kohli, 1985; own translation) to them as an *observation pattern* by which the organizations are able to understand *their own linkages to other organizations* by focussing on the ideal-typical construed single person: when the kindergarten closes, which schools and universities deliver what kind of certificates, under what conditions which factory act applies and who writes out the sick report, and so on. According to Bommes all of these welfare state regulations, that aim to interlink the functionally different orientated organizations, shape a *level of secondary order formation*. This level of secondary order formation is located *beneath the level of society* and its functional systems, it delivers *structural guidelines for organizations* picking them up, implementing them into their definition of membership and using them for governing their organizational interactions. Thus, organizations de-code potential members or recipients of ready held functional systems' benefits 'if their documented past meet the requirements of membership roles [or conditions of benefit receipt, CW] or does not' (Bommes, 1999: 161; own translation, CW). That means for the individuals, 'to gear from the beginning to this form of career' (Bommes, 1999: 161; own translation). Therefore, welfare state organizations and even individuals focus on the 'institution of life career' as a sequential programme 'divided into the phases of childhood/education, gainful activity and retirement, around the family of the modern society is organised as a nuclear family' (Bommes, 1999: 168; own translation).

The system theoretic assumption that 'the classical form of orientation along other own roles (...) are being practised to a large extent without societal support' (Kieserling, 1999: 251f; own translation), therefore has proved to be too simplistic. A blush at the welfare state goals to link the functional oriented and inclusion procuring organizations reveals, how the national welfare state perceives the relationship of the different functional systems and how it tries to coordinate the mentioned organizations. Welfare states' coordination of state, family, and labour market as the tree pillars of the welfare state triangle (see Esping-Andersen 1990) as well as the respective constitution of the 'institution of life career' plays a crucial role for the institutionalization of gendered labour division: Child care, maternity protection and maternal leave, in Germany the common fiscal relief

for single-breadwinner-families, family related health insurance, widow's pension and alimony in case of divorce are institutions to stimulate families and companies to gendered casts of inclusion roles and to help to maintain the gendered division of labour.

Since the end of the 1990s in the European member states a reorganization from the *male breadwinner model* to an *individual adult worker model* takes place in the course of the implementation of the guidelines of the European Employment Strategy. An important background is given by the assumption, that the European Union has to be responsive to an altered world economic situation by increasing the employment rate. Henceforth, all institutions that foster life designs along traditional gender stereotypes are identified as barriers to mobility (KOM 2010: section 6; own translation): This European 'flexicurity strategy' assumes an individualized "adult worker model family" (...), with both men and women in the labour market' (Lewis/Plomien, 2009: 434). Against this background the European Commission supplies a new and *gender neutral* life career model to the national welfare states, the individuals, and the companies. The European Commission defines transitions between the different life cycles, for example phases of child care or voluntarily or forced job change, to be similarly difficult for both sexes, men and women, and to be overcome with the support of an activating welfare state. This new life career model is no longer focused on the maintenance of existing gendered social status but follows a 'social investment perspective' (Jenson, 2009) that forces the individuals to invest in *future* earnings at the expense of a present redistribution of resources.

## Encounters

In the present text the provoked encounter between systems theory and gender studies was governed by gender studies' finding of a paradoxical simultaneousness of gender equality and inequality. According to gender studies, this paradox materializes because societal equality programmes were subverted on organization and interaction systems located on lower social system levels. This finding was confirmed by a systems theory view that was informed by gender studies and by the system theoretical theory of the welfare state according to Michael Bommers: The social systems organization and interaction are not only orientated along personal-neutral structural guidelines of the function systems, but also refer to structural guidelines the national welfare state provides on a *level of secondary order formation*. That means they refer to a social system level that is located *between* the level of society and organization, that coordinates the functionally orientated organization by specific institutions and is/was geared to the idea of a gender differentiated social order. Social systems of organization and interaction are therefore oriented along *two* different modes of societal guidelines, which are *on the one hand* universalistic in reference to the form of

functional differentiation and *on the other hand* particularistic in reference to the level of secondary order formation. How both types of social systems integrate these structural guidelines into their own principles of demarcation and self-selection is defined by their own systemic logic: Organizations integrate them by elaborating their membership roles, interactions by attributing traits and specific role-takings to present persons.

It was these social system specific principles of demarcation and self-selection at the beginning of this article that we exposed to be a system theoretical advantage when analysing paradoxical gender relations, because systems theory does not see the different social system levels causally interconnected, but puts their own logic and nexus in front: These principles of demarcation and self-reference work as interrupters of interdependencies. Because of them there is, to put it another way, no unbroken 'hand over' of structural guidelines of the form of functional differentiation via organization via interactions. The text made that clear by using two examples that emphasize the systems' autonomy: 1) Under certain conditions the gender difference could be quasi *neutralized* and falls out as a reference point for personnel policy or expectation building in organizational interactions; 2) Albeit, the relevance of the gender difference could be *intensified*, if organizational systems use the welfare state supported gendered division of labour as an opportunity to take the gender difference for governing their interactions, and stick to it even when qualified women are available and family external child care are established extensively.

Finally, the encounter of systems theory and gender studies is for both sides instructive and fruitful: Gender studies' insights into the contamination of functionally defined modes of inclusion by gender difference might point the way to show how ascriptive patterns could be incorporated into the system theories' architecture, and that structures of gender inequality within the welfare state (still) have a place *above* the social system levels of organization and interaction. Conversely, systems theory allocates to gender studies a theoretical framework with a universalistic approach by which gender studies was able to relate its findings and insights mutually and evaluate their society theoretical status.

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# 5

## Luhmann, All Too Luhmann: Nietzsche, Luhmann and the Human

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### Introduction

For a while it seemed that modernity had made Humpty-Dumpties of us humans – broken, alienated and isolated us. Then Niklas Luhmann came and put us back together. He made us hale and whole again. This theoretical coup owes to the fact ‘that he emancipates humans from an overload – which is motivated by worldview-architectonics – that ostensibly makes them extremely crooked subjects’<sup>1</sup> (Sloterdijk, 2000: 21). Correspondingly, Luhmann’s newly uncrooked human meets a version of society that he describes as less sinister by far than the one presented by the Frankfurt School and related intellectual traditions.<sup>2</sup> This constitutes a 180-degree change in perspective in how one may understand the social world. For Luhmann, society is sometimes fair, sometimes unfair, but always imbued with clear, relatively easy-to-understand operational guidelines if one observes with an adequate systematic framework.

The bad news (for some) is that we are not technically whole, but more or less integrated parts that Luhmann has parcelled out carefully and with precision. The human consists of social (communicating), conscious (thinking), and organic (living) systems<sup>3</sup> that operate in and through it ‘free of overlap’ and without the ability to ‘instruct’ or ‘determine’ one another (Luhmann, 2005d: 45–46). Because ‘[t]here is no scientific evidence or any ultimately convincing philosophical or theological argument that forces us to ascribe dominance to one of these three systemic realms’ (Moeller, 2006: 80), Luhmann is content to think of the human as a trinity that is no unity, and has ‘give[n] up the attempt to “singularize” the human being’ (Moeller, 2006: 80).

This does not mean – as some assume<sup>4</sup> – that he has given up on the human. In fact defending the multiplicity of the human and human existence is a heroic labour to which Luhmann devotes considerable energy. His idiosyncratic way of dealing ‘with a particular environment of social systems: with humans and their relationships to social systems’<sup>5</sup> (Luhmann,

1984: 286) should not be viewed as a way of excluding humans from society, but rather as a way of protecting humankind from the presumptions of his home discipline, of sociology:

The theme of the human and his relation to the social order has an old tradition [...]. This tradition lives on in "humanistic" notions of norms and values. Since we want to separate ourselves from them, it is necessary to determine precisely where we break from them. Exactly when a tradition cannot continue, and we contend this is the case for every radical alteration to the structure of society, it is necessary to clarify differences in order to find possibilities for transformation.<sup>6</sup> (1984: 286)

Here the genealogy connecting Luhmann to Nietzsche – a genealogy that will anchor an argument for Luhmann's deep commitment to the human – becomes apparent. Luhmann too detests those things that cannot continue due to a failure to recognize their own self-immolating presuppositions – things that Nietzsche gave labels like decadence and resentment. Luhmann too is after a new hardier and healthier concept of the human: not the human as *Übermensch* – '*Der Theoretiker ist kein Übermensch*' (Luhmann, 2005a: 317) – but as *Odermensch*, who arrives with less fanfare than his predecessor. He does not portend a new age, but instead presents – in the role of the 'Devil's advocate' (*Anwalt des Teufels*; Sloterdijk, 2000: 5) – more options for considering the present age. One may continue adhering to the unviable norms and values of the humanist tradition – *or* – there are other, more adequate options.

In search of such options, Luhmann and Nietzsche develop increasingly radical concepts of the human over the course of their careers. Nietzsche begins, in the first volume of *Menschliches, Allzumenschliches*, for example, with pleasure and self-preservation as the prime human motivations and ends with a figure whose every act and experience stems from his will to power. In the 1960s, Luhmann starts with a relatively standard figure, borrowed and modified from action theory, on whom he does not mark the distinction between the human (thinking, living entity) and the person (social entity); he even uses terms like 'intersubjectivity' (Luhmann, 2005a: 321) – a term he will later reject and scorn – to describe human social activities. By the middle of his career, with *Soziale Systeme*, he has made a full break with social thought that still holds the human being to be 'a final element, which, for society, is not further divisible'<sup>7</sup> (Luhmann, 1984: 286). By the end of his career, in the 1990s, he has refined his argument for the separate and compartmentalized togetherness of a human being who can couple and decouple himself – and the non-social systems contained in him – from society. His vocabulary for the human, consisting of terms like coupling, interpenetration, and synchronization, belongs to a new semantics more adequate for talking and thinking about the 'mind-communication relation'

and the question of '[w]hat does it now mean to be a social agent' (Moeller, 2006: 82).

Luhmann's semantics move his theory beyond theories of subjectivity and human rights – that is, '[t]he leading modern semantics of all-inclusion, the totalitarian semantics of our time' (Moeller, 2006: 93). Hans-Georg Moeller goes on to point out that 'perhaps it was once more Nietzsche who first anticipated [that] subjective individuality was no more than a semantic hoax connected to the shift towards functional differentiation' (Moeller, 2006: 90). Nietzsche, like Luhmann, sees the dogma of the subject as a coping mechanism that provides humans with an idiom for declaring their specialness in lieu of actual or lasting evidence: 'It makes us feel more important on an individual level, and it can supply professional intellectuals with some pretty impressive phrases' (Moeller, 2006: 95). According to Jürgen Habermas, in forsaking this path, 'Luhmann follows Nietzsche and not the philosophy of the subject'<sup>8</sup> (Habermas, 1988: 430).

Luhmann would rather explain how conscious and communicating systems can coordinate in time, using the same medium for meaning (*Sinn*), that is, language, without crossing operations, and without one system becoming overburdened by the task of meaning-making. Communication or consciousness recognizes meaning generated from its respective environment as coming from a different source, as *adventiv* (Clam, 2006: 346). The result is what Jean Clam calls a 'germination of the individual' (*Geminierung des Individuums*; 2006: 346) – or more simply a doubling of the human observer into a thinking, feeling self (mindbody) as well as a self observing and being observed in communicative contexts (person).

I want to argue that an element of bad faith inheres in this arrangement. My purpose is to make a case that Luhmann *knows* the three parts contained in one vessel do more than 'disturb, rouse, or irritate' (Luhmann, 2005a: 45) one another. The following argument will present probabilistic evidence that shows he knows. Such evidence is apparent from a number of angles, two of which I will examine in detail: Luhmann's challenge to a brand of sociology that is still grounded in humanism (this section); and in his striking resemblance to Nietzsche. This resemblance manifests itself in rhetoric, argument and narrative (sections 2, 3 & 4) that evince a Nietzschean quality that in turn reveals him, Luhmann, caught in performative paradoxes where he is actually doing what he says we cannot do – that is, breaching system borders.

To come to this knowledge we must first come to understand how Luhmann presents the human as a vessel and nexus of systems that have limited and specific operations in society. For Luhmann, communication and consciousness are 'highly complex, structured systems [...] whose individual dynamics are not transparent or regulable for each observer'<sup>9</sup> (Luhmann, 2005d: 109). The communicating observer (a given social system) and the perceiving, thinking observer (a given consciousness) are thus mutually inscrutable, and

must seek structural couplings that can help them frame expectations as to how they might move through their respective environments (each other). According to Luhmann, '[t]his coupling is achieved first through language, then through writing, and finally, with a further advance in effectiveness, through print'<sup>10</sup> (Luhmann, 2005d: 42). Communication needs consciousness to furnish it with 'perception reports' (Luhmann, 2005d: 45) in order to respond, in an always mediated fashion, to the physical world. Luhmann excludes life systems from these language-based couplings (Luhmann, 2005d: 45–46).

Throughout his work, Luhmann succumbs to the incompleteness of his proposed arrangement by performing one of his favourite tricks, the inclusion of the excluded. In the following example, he re-includes both mind and body even while claiming to exclude them: 'Even in a plummeting airplane, the plummet can only be communicated if it is detected. The plummet itself cannot influence communication, only end it'<sup>11</sup> (Luhmann, 2005d: 46). There is something unsatisfying about this weird statement. A commonsensical reaction might be: Of course a plummeting aircraft can influence communication! It will cause the pilot – or cause the co-pilot or some instrument to tell the pilot – to tell the plane to pull up. But Luhmann is arguing in a technical sense that depends on the presupposition of autopoietic system closure – that is, a system produces and reproduces all of the elements necessary for its operations, and only it can do this. We see this at (at least) three levels in the example given. Somewhere within the human network of neuropsychological and biochemical systems, the plummet is detected. Nerves, neurons or chemicals do something that may or may not mean *alarm!* Alarm is nonetheless what consciousness perceives. Consciousness fashions a 'perception report' into words that enter the communication system and are understood or misunderstood: The pilot takes the appropriate action or he does not. In a strictly technical sense, within the parameters of Luhmann's operative presuppositions, it is then true that physical stimulus has not influenced communication directly.

Right here a crack opens through which we might glimpse Luhmann's bad faith in confronting a state of affairs messier than he would want it. Was it the communication of the co-pilot's perception to the pilot, or the pilot's own perception that lead to crash or flight correction? Or even more removed from the realm of communicability – was it perhaps the pilot's neurophysiological response to disequilibrium that lead to whatever outcome? An observer cannot know with one-hundred percent certainty what causal chain produced the outcome. In addition to his humanism and subjectivity allergies, the need for feedback motivates his multi-system architecture. Luhmann wants a vantage from which an observer can look back on the event – at the observer(s) involved in the event – and say: *This* is what stopped the plummet. Luhmann's anxiety is the following: Without such a vantage he loses the certainty that comes when operationally closed systems

can be shown to reflect on their own operations with transparency. This is why he excludes the human rather than making it operational at a reduced level of certainty and transparency.

By connecting Luhmann to Nietzsche, one can recognize shared motivations by following the similar ways in which they discuss (or do not discuss) human will. In Nietzsche, one can easily chart the development of the concept of will from *Menschliches*, *Allzumenschliches* as the drive toward pleasure and self-preservation, to *Zur Genealogie der Moral* as expressed through opposed master and slave moralities, and into the *Nachlaß* where it becomes life itself, embodied by humans who would always exceed society's and self-set limits. Tracing the will through Luhmann is more difficult. He assigns it little more than a role in a disappearing act – claiming that the tension between will and reason can be resolved by substituting for both the single concept of the observer, which allows one to trace all the observer's findings and manoeuvres (Luhmann, 1992: 112). Hence, finding the will's significance in Luhmann requires a shift to the level of second-order observation, where will's mark can be seen in rhetoric, arguments, and narratives serving equivalent ends.

### Functional equivalencies in Nietzsche and Luhmann: rhetoric

In terms of rhetoric, Nietzsche's exuberance is the functional equivalent of Luhmann's reserve. When Nietzsche shouts and Luhmann sighs, each is making similar core assertions: 1) I do not fit well into my nominal disciplinary tradition; 2) We need new ways to discuss the subjects that fall under our expert purview; and 3) I am good enough (as few are) also to weigh in on subjects outside our expert purview.

It is extremely difficult, perhaps impossible – in any event, not very useful – to pin down when Nietzsche is using rhetoric, argument or narrative. As Alexander Nehemas notes, Nietzsche's writing incorporates 'a truly astounding variety of styles and genres' combining 'the form of scholarly treatise, to which dispassionate argument and reasoned comparison of alternate viewpoints has always been essential, with some of the most vehement and partisan language' (Nehemas, 1985: 18–19). Nietzsche's style is the equivalent of shouting into the dusty, quiet chambers of the German intellectual tradition: *I pit my yes-saying philosophy against all the no-saying philosophies that have come before me*. No matter how estimable, no figure is spared: 'yes, it seems to me as if indeed only among the fewest of men has Kant intervened and reshaped blood and humors. Admittedly, as one can read everywhere, a revolution is said to have broken out in all intellectual areas since the deed of this quiet scholar; but I cannot believe it'<sup>12</sup> (Nietzsche, 1999a: 355). Nietzsche introduces criteria here to judge Kant that stem not from analytical philosophy but from Nietzsche's own ideas of how philosophy and life-style aesthetics enhance each other. He reproaches Kant

for his stillness, his repose. Kant could never shoulder the type of burden a philosopher should be able to shoulder, according to Nietzsche. Nor is he nimble and spry; he could never 'dance in chains' (*in Ketten tanzen*), in the 'self-set fetters' (*selbstgelegte Fessel*) of his inventions, and make it look easy – as can the good philosopher-artist whom Nietzsche describes in *Menschliches, Allzumenschliches* (Nietzsche, 1999b: 612).

Nietzsche objects to Kantian critique's reality-mindedness, the way it deals with what is and not with what might be. A life of pure mind risks stagnation and sterility. Against this risk, Nietzsche's rhetoric enacts a philosophy for the hale and whole human that can bring forth new possibilities. He takes aim in *Ecce Homo* not only at the disembodied philosophy of Kant, but against 'the **degenerating** instinct that turns against life with subterranean vengeance (— Christianity, the philosophy of Schopenhauer, in a certain regard as early as the philosophy of Plato, all of idealism as typical forms'<sup>13</sup> (Nietzsche, 1999f: 311). In place of these forms he would develop

a formula of the *highest affirmation*, born out of a fullness, an overfullness, a yes-saying (Jasagen) – without reservation – to suffering itself, to guilt itself, to everything questionable and foreign in existence... This ultimate, most joyous, most pitiless, most effusive, most high-spirited Yes to life is not only the highest insight but also the *deepest* to be most strictly confirmed and adhered to by truth and science.<sup>14</sup> (Nietzsche, 1999f: 311)

As the principle to judge all human endeavours, the yes-saying life usurps pride of place from reason's triumvirate of the good, the true, and the beautiful. These principles may be components of the yes-saying life, but they play a more and more ancillary part in Nietzsche's rhetoric as his project progresses. In their customary abstraction, they do not get to the essence of lived philosophy; this explains why Nietzsche opts for a genealogical approach, which looks at how values have been lived historically.

About seventy years later one finds Luhmann beginning his own campaign against no-saying theories of the humanist and critical-theory variety. His provocation is different than Nietzsche's. Instead of the obligation to pursue philosophy at a contemplative remove, the twentieth-century sociologist is given the mandate to get up close and personal, to be engaged, and to offer in preamble to 'legitimate' sociological work a standard sign of dismay (*Betroffenheitsgeste*). The 'good' social theorist, as Luhmann lampoons him, protests against any number of status quos in order to posit a counterfactual, utopian vision of society (GG 186). Rather than Nietzsche's fiery tones, Luhmann's rhetoric evinces a cool distance that leaves unambiguous his opinion of this type of self-lauding faux activism. He wants to distinguish himself from activists whose low-to-no-risk engagement produces pronouncements on the social injustices humans endure, but does not experience the

same injustices, and hardly thwarts them. Luhmann characterizes his activist peers so: "They argue as "those affected" for "those affected." Teenagers and academics above all seem to be self-referentially susceptible to paradoxicality<sup>15</sup> in this way. However this also means that the new social movements, which respond in this way, find their motives for participation in a notoriously unstable audience"<sup>16</sup> (Luhmann, 1997: 852).

Through equating academics with teenagers, Luhmann denies his peers a quality that at least since Weber has been viewed as indispensable to the vocation of science: maturity. Meanwhile, if one dwells on this passage one observes information seeping across system borders. The double entendre 'instable' refers to the instability of communication that recruits from a pool of persons with fickle allegiances – a legitimate reference for Luhmann. At the same time, 'instable' alludes to a psychological state that Luhmann imputes to volatile psyches – an imputation that he elsewhere claims is patently impossible (Luhmann, 2005d: 109). This is typical of his rhetoric: The human enters at those points where Luhmann does not seem to be talking about the human at all. Via asides that are also broadsides, he fills the concept with content that instructs *how not to be human*.

A concomitant to the positive content are the seemingly empty spaces that open 'a backdoor to systems theory, through which we can "smuggle" in a concept of the human'<sup>17</sup> (Bjerg, 2005: 224). The ostensible exclusion of the human as a viable topic of sociological investigation very frequently marks the precise spot where the suppressed concept re-enters, for example:

It is a convention of society as a system of communication that one assumes humans can communicate. Even discerning analysts are lead astray by this convention. It is however relatively easy to see that this is not the case, but rather only functions as a convention and only in communication. The convention is necessary, for communication must assign its operations to addressees that can be called upon in further communications. But humans cannot communicate, not even brains can communication, not even consciousness can communicate. Only communication can communicate.<sup>18</sup> (Luhmann, 2005d: 38)

This bravura rhetorical performance, from the opening paragraph of 'Wie ist Bewußtsein an Kommunikation beteiligt', makes a distinction between right and wrong ways of talking about the human. The thrice-repeated exclusion of entities ostensibly incapable of communication relegates to the negative side those who would nonetheless cling to a humanist vocabulary with terms Luhmann considers inadequate, unscientific and sentimental: humanity, subject,<sup>19</sup> subjectivity, intersubjectivity,<sup>20</sup> crisis, critical sociology,<sup>21</sup> and so on.

Meanwhile he positions himself on the right side, where one talks carefully and sparingly about the topic, and where the human can only serve as a topic of communication but not as a communicator. Through repetition – he



makes this point *a lot* – and force of argument, Luhmann coaxes and seduces his audiences toward accepting that, insofar as it is knowable, the entire social terrain is mapped entirely and only by communication. By limiting the human to a communication address, Luhmann reduces complexity and responds to time pressure: We can only talk about so much for so long if we want communication to have any chance of success.

However, if we slow the tempo a little bit, we might recognize that ‘complexity and time are not a sufficient explanation for the fact that communication occurs at all. In the system something must be postulated that rules out the chance that the system can refrain from making a selection’<sup>22</sup> (Bjerg, 2005: 228). The lack of an explanation for communication’s occurrence is the empty space through which the human comes back into Luhmann’s account, while his rhetoric suppresses the need to offer such an explanation. The something in the system – as will be discussed directly in more detail – that compels communication is the human will. Even by excluding the human and the will (see above) from his discussion, Luhmann reinstalls both in his theory – because it can only have been his will that chose this route, that made these selections. It is difficult to say whether Luhmann is aware of the human’s return, and whether he tacitly concedes, and even fosters it. In any event, the missing explanation is the spot where we can develop an understanding of Luhmann’s own idiosyncratic human will. Of interest now is determining if he backs his rhetoric with argument.

### **Functional equivalencies in Nietzsche and Luhmann: argument**

That we no longer live in an essential world, but in an operational one, is perhaps the most basic premise from which Luhmann and Nietzsche unfold their arguments for what it means to be human: ‘there is no “being” behind the doing, functioning, becoming; the “doer” is merely versified onto the doing, – the doing is everything’<sup>23</sup> (Nietzsche, 1999e: 279). In Luhmann’s terminology and with reference to social systems, the argument would run: There is no ‘reality’ behind communication; communication generates reality; or, if the system reference is consciousness, ‘thought’ generates reality. ‘Doing’ is ‘operation’ for Luhmann, and operation has two main modalities in his theory: ‘communicating’ and ‘thinking’ – plus a third, ‘living’, when he turns his focus (less frequently) on the body.

Luhmann readily concedes that the human is involved in all three modalities. What he does not concede is that an observer can witness two or more modalities working in concert – in other words, no observer can witness the ‘whole human’. For him that would mean that an observer could simultaneously observe both sides of a distinction – system and environment. He remains silent on the possibility that the observer can espy two or more modalities – that is, two or more system references – on the marked side of a distinction, working together in accordance with one will (or code),

as a system-environment hybrid, as it were. While he does not conceptualize this possibility, his writing certainly depicts it. These depictions often occur at those points where 'systems theory needs narrative as a supplement' (Hayles, 1995: 72). The narrative and literary qualities of such depictions will be examined below; right now the emphasis is on the role of these depictions in a meta-argument that Luhmann makes on behalf of the human and that runs throughout his work.

The argument is difficult to pin down since it is available to Luhmann's readers primarily via inference. Parsed out the argument goes (roughly): Luhmann's labour of love is his idea of a functionally differentiated society – 'the kind of structure that Luhmann prefers, for he believes it fosters diversity and minimizes coercion' (Hayles, 1995: 97). Since the diverse and uncoerced residents of this structure are humans – a fact that Luhmann readily admits – Luhmann needs a way of talking about them without talking about them. He needs an argument that shows how sociology can best serve humankind by presenting it with a better understanding of its environment (that is, social systems), while leaving individual humans to their own devices in finding their way through these systems and their complex interrelations. A key passage from 'Die Autopoiesis des Bewußtseins' supports this reconstruction of Luhmann's meta-argument. Discussing how a conscious system may decide to fulfil or disappoint social expectations, he writes:

If the external expectations are experienced at all (which itself is the result of self-socialization) the system finds itself like Hercules at a crossroads. Perhaps nothing is more fascinating than a possibility to go both ways at the same time. But that already presupposes high complexity – in the garden of the forking paths, for example, possibilities of not mentioning (time) and an encryption of the text that mentions this not mentioning.<sup>24</sup> (Luhmann, 2005d: 82)

The passage collapses Luhmann (as conscious system) with Hercules (classical demigod hero) with Borges (master narrator of complexity) into one figure capable of contending with a highly complex social environment. Also the idea of encryption offers a possible solution to the inclusion/exclusion problematic concomitant with attempts to bracket the human from communicating systems – attempts that otherwise 'run aground on the paradoxicality of having to describe the indescribable. Much more, the thematics of exclusion mark a crossing in which the frame of what is theoretically expressible is exceeded'<sup>25</sup> (Farzin, 2008: 193). Luhmann experiences the external expectations of his discipline – that is, thou shalt talk (lovingly) about humanity – and demonstrates that he belongs to those (few) who can operate at this level (if, for many, disappointingly) and another, higher level of sophistication. He enjoys the option of not having to mention what can be observed anyway (here: the human's

presence) – while still having the opportunity to mention what went unmentioned (*did you notice me not mentioning the human?*). This is characterized as a Herculean labour.

Now that he has introduced the idea of the non-statement as encrypted statement, Luhmann's concern for the human can be seen as more central to his project than some critics have been willing to grant. In a surprising and productive analysis of Luhmann using Schopenhauer's distinction between world as will and world as representation, Ole Bjerg provides a starting point for discerning the central position of the human and will in Luhmann's theory. Bjerg is dissatisfied with Luhmann's claim that 'Only communication can communicate' (*Nur die Kommunikation kann kommunizieren*; Luhmann, 2005d: 38). Remaining at the level of communication is the same as remaining at the level of the world as representation: 'This type of explanation is not false, according to Schopenhauer's critique, but one-sided and therefore to be expanded'<sup>26</sup> (Bjerg, 2005: 231). The statement 'only communication can communicate' explains how communication arises and continues along the paths it sets for itself; but it does not explain *why* communication arises or even *how* its paths come to be set and altered. This question shifts us into the realm of decision – where decision exceeds the concept of communication *qua* communication and emerges as human will *in* communication, and as a necessary condition thereof.

Such excess oversteps Wittgenstein's injunction to keep one's mouth shut on topics about which one – ostensibly – cannot speak (Bjerg, 2005: 231). The status as *Totschlagargument* of the *Tractatus*' final statement does not however make it analytically useful in and of itself. One must at least attempt to talk about something before determining its communicability. In *Menschliches, Allzumenschliches*, Nietzsche anticipates Wittgenstein and the coming linguistic turn with an exact inversion of §7: 'one should only speak where one may not be silent; and only speak of that which one has overcome, — Everything else is idle talk, "literature," lack of breeding. My writing speaks only of my overcoming: "I" am in there, with everything that was hostile to me'<sup>27</sup> (Nietzsche, 1999b: 369). Where Wittgenstein gives the dictates of silence priority, Nietzsche emphasizes one's duty to choose one's words and speak meaningfully to testify.

Luhmann can certainly be seen as agreeing with Nietzsche in those cases when his communication appeals to the authority of the standards of his community – an authority he uses to *overcome* what he deems to be obsolete concepts and arguments in that community. And based on the scare quotes Nietzsche places around his 'I', Luhmann might even concede that 'he' is *in* his writing.<sup>28</sup> This signals the bad faith mentioned earlier, since every illustration of his theory's superior adequacy allows stable inferences about a real human who has taken aim at *everything that was hostile to him*. Wherever Luhmann maintains that the concept of the will, and the distinction between it and understanding/ reason, can be replaced by the concept

of the observer (Luhmann, 1992: 112) is exemplary of Luhmann's will surfacing in order to *erase traces of itself*.

This derivation is legitimate, according to Bjerg, who is sceptical of the way in which Luhmann draws the border between what can and cannot be observed: 'That we cannot observe the will directly does not however mean that we have no access to it. Our access to will is not only of the same type as our access to objective things, that we can recognize through the formation of representations [...]. The will prevails, as stated, in the form of acts in world. Acts are in principle to be ascribed to movements in the human body'<sup>29</sup> (Luhmann, 2005: 231). Bjerg specifies that Schopenhauer does not conflate acts (*Handlungen*) with metaphysics of the subject – but thinks of them in harmony with Nietzsche and Luhmann as 'doing' (*Tun*; Luhmann, 2005: 230).

With the proviso that only *a posteriori* can we observe the will in the same way as a communicated fact, the will becomes a traceable thing within the parameters of Luhmann's concept of second-order observation. At this level of observation, 'what questions transform into how questions', and '[t]hat rules out definitive accounts and permits only the possibility that, in the recursive process of observing observations, stabile eigenstates will emerge to which one has recourse at any time'<sup>30</sup> (Luhmann, 1992: 95).

The recourse to stabile eigenstates allows one to 'open a backdoor to systems theory, through which we can "smuggle" in a concept of the human'<sup>31</sup> (Bjerg, 2005: 224) as Luhmann himself does in a description of the social system 'mass media': 'Persons serve society as tangible symbols for an unknown future. They are on the one hand known, or could be, on television as well with their faces, bodies, and habits of movement, and on the other hand, one knows that in spite of this one does not know how they will act'<sup>32</sup> (Luhmann, 2009: 48). Every detail is meant to refer to something communicable, and communication that transpires by means of symbolically generated communication media has clearly delineated expectation horizons. In the mass media the horizons are much narrower than elsewhere: Luhmann speaks of scripts that 'dismiss other, just as realistic possibilities of causal attribution'<sup>33</sup> (Luhmann, 2009: 133). However, operating at the level of second-order observation precludes definitive accounts, as Luhmann here demonstrates. A person is generally predictable, yet never loses the capacity to go off script; and off-script moments attributable to persons display nothing less than the emergence of human will as it alters a system's stabile eigenstate without destroying it (for destruction ends communication and communicability).

One reason for will's unpredictability is that it is anterior to knowledge: 'To believe that knowledge really and radically determines the will is like believing that the lantern a man carries at night is the *primum mobile* of his steps' (Schopenhauer, 1966: 223). In *Menschliches, Allzumenschliches*, Nietzsche takes it one step further: 'the human becomes that which he **wills** himself to become, his willing is earlier than his existence'<sup>34</sup> (Nietzsche,

1999b: 63). By *Zur Genealogie der Moral*, he has shifted his focus from existence to becoming: He writes not just of will but of will to power and has made it coextensive with life and humanity's project of re-interpreting the world in its currently prevailing image and in accordance with what is most useful to the intensification and expansion of will to power (Nietzsche, 1999e: 313–314). All human doing is prompted by will to power: 'all purposes, all utility are only **signs** for the fact that one will to power has become master over something less powerful and imprinted it with a sense of *function* out of this more powerful will'<sup>35</sup> (Nietzsche, 1999e: 313; italics TC). Though Nietzsche does not formalize function to the same extent as Luhmann, its definition (what it *does*) and its origin (will) mark an equivalence between the two. From here we can see how the shared notion of function allows us to infer a similar concept of will – *but only a posteriori*.

While Nietzsche is arguing for and about humankind on a global scale, Luhmann remains – at least makes the gesture of remaining – within disciplinary boundaries as he tries to provide humans with quantitatively and qualitatively improved latitude within society. Still it is possible to recognize his will, that which makes him a unique human and not just a node in communication, through his attempts to define the human within his discipline's boundaries – by imprinting its function with his more powerful will. For example, in a talk titled 'Die Soziologie und der Mensch' he gives the basic premise: 'Naturally I do not mean that we – the we who are here on this festive occasion – are not human; only – if we say we are, and right then when we want to be human, it becomes unavoidably dilettantish'<sup>36</sup> (2005d: 260). Before the estimable group of honorary senators at the University of Bielefeld, Luhmann is in effect stealing a line from Tyler Durden (played by Brad Pitt in the movie *Fight Club*): 'First rule of fight club: Don't talk about fight club. Second rule of fight club: *Do not* talk about fight club.' What happens? Everyone talks about fight club.

Luhmann, too, cannot resist the urge to talk about what he advises against talking about, particularly when what is at stake is the defence of humankind against humanistic and crisis theories that construe human beings as crooked things, if only to straighten them out in some distant future. To recapitulate, Luhmann has two moves that presage the human's stealthy re-entry into his discussions of social systems. First, he opens the possibility of human re-entry through his discussion of how the unmentioned can be mentioned in encrypted form. This is largely a narrative move (made literary via the Borges reference): but if we disqualify it for that we will need to disqualify the many scientific arguments that also avail themselves of narrative and rhetoric. Second, he mentions the human – for example as the real presence of his university colleagues – but only in order to dismiss it. This is similar to a lawyer (Luhmann's prior occupation) saying something he knows will likely get stricken from the record but not from memory – except Luhmann introduces and strikes the evidence: He 'un-mentions' the mentioned.

In his third and final move, Luhmann demonstrates how to recognize the human in descriptions of the social. Here he goes from systems theorist to symptoms theorist. In his view, the veiled mystery that is humankind presents itself via social symptoms: '[I]t might be that consciousness is one of those black holes that swallow all information about themselves and are only recognizable by the unease all around them'<sup>37</sup> (Luhmann, 2005d: 54). As he does above in the examples of the plummeting airplane and television personalities, Luhmann often folds the body into the constellation: '[T]he notion we are more accustomed to – consciousness can cause physical behaviour or even communication – remains mysterious. The assumption that this happens is indeed nothing more than a causal attribution through an observer; and if one wants to clarify it, one must begin with the observer'<sup>38</sup> (2005d: 38). Following this description, Luhmann does not however clarify, verify, or reject the causal attributions of a given observer, but promptly questions consciousness' involvement with communication. His questions lead not to resolution but to a range of answers from the possible to the probable. Luhmann embraces the unease that the human generates around itself, and investigates it so far as he thinks his theoretical apparatus will take him.

This method of proceeding is consistent with his statement about the loss of definitive accounts that second-order observation entails (see above, and Luhmann, 1992: 95). His tripartite model of communication – which consists of information, utterance, and understanding – cannot accommodate a black hole that swallows all information about itself. In such a case, understanding, which relies on discerning a difference between information and utterance (Luhmann, 1997: 72), has no foothold. But is this not perhaps an overstatement, is understanding truly without the purchase information provides? Isn't the swirl of information in fact negative or jumbled information about which an observer can communicate. Yes, but 'the Will-o'-the-wisp consciousness' (*Irrwisch Bewußtsein*; Luhmann, 2005d: 119) cannot confirm understanding or misunderstanding directly. This lack of a feedback loop that operates in a single, uniform medium generates the unease that for Luhmann is both boon and burden. But all systems in the environment (as opposed to the undifferentiated segment of the environment) of an observer make him uneasy: Unease is what prompts the observer to observe in the first place. The body retains some degree of inscrutability before the mind, the mind before communication, communication before the body, and so on. Yet if a single system out of which the human consists or in which it is involved ceased to exist, the human would also cease to exist (see Luhmann, 2005d: 31–32).

Still, Luhmann himself offers proof that he is overstating the case by claiming consciousness sucks up all information about itself. Most informative is his discussion of consciousness and communication's joint access to language (Luhmann, 2005d: 44–45). He goes so far as to say that consciousness

is the *medium* of communication: The former presents the latter with 'loosely' coupled elements which it can then 'rigidly' couple to give *form* to its own communicative operations (Luhmann, 2005d: 45). But if communication is the final element (*Letztelement*) of social systems, and thought the final element of conscious systems – and 'psychic and social systems can never fuse, nor can they even partially overlap'<sup>39</sup> (Luhmann, 2005d: 45) – then Luhmann is contradicting what he maintains elsewhere: 'Similar to the concept of information, the (closely related) distinction between medium and form is always a systems-internal matter. As with information, the medium/form difference has no correspondence with the environment. [...] Communication presupposes no final identities (atoms, particles) that it would not itself form through its own distinctions'<sup>40</sup> (Luhmann, 1997: 195–196). According to this second statement, to function as the medium for communication, consciousness would need to be internal to communication – something that Luhmann has categorically ruled out. Is this a case of self-revision that Luhmann nowhere (to my knowledge) concedes? Or does this constitute permeability, an openness of systems without the inflexible operational closure Luhmann names as a foundational criterion for systems formation?

Regarding the topic of the human, this sort of self-contradiction at the formal, propositional level occurs frequently – if not as starkly as in the example just given – throughout Luhmann's work. Whether these slip-pages are intentional or not does not really matter. They are the product of an observer (Luhmann) whom a second observer can observe. Perhaps Luhmann's black holes are actually more similar to wormholes, points of transfer whose operations we cannot understand fully, but which we can observe partially by proceeding inductively and with recourse to our own conscious systems (who else's?). After all, Luhmann's entire theory of conscious systems only had a single system available for direct scrutiny in verifying his argument – an argument that he nonetheless extends to conscious systems in toto. If consciousness operates via 'intending' (*Intendierung*) its object, and communication via 'thematising' it (Luhmann, 2005d: 43), then perhaps the conscious observer in fact does act as a wormhole between itself, the organic systems with which it shares space, and communicating systems. Considered in this way, the human mindbody *will*s loosely coupled sentences into communicating systems, which in turn have the opportunity to couple them tightly (or ignore them). Tight couplings will also – by induction – rely on interfaces with other human beings who inject their own unease into communication.

### **Narrative: from *Übermensch* to *Odermensch***

Ask Nietzsche or Luhmann *who is the protagonist in your work?* and the answer would have to be: The figure who surfaces whenever I want to show how

to follow my (unconcealed or tacit) recommendations correctly. Both of their theories thus feature heroes whose stories are inextricably interlaced with their arguments. While both give primacy to the *doing*, to praxis, both still resort regularly to the convention of assigning praxis to *doers*, as per an earlier Luhmann: 'a science like sociology, which has human action as its topic, cannot ignore that the actor himself judges' <sup>41</sup> (Luhmann, 2005a: 319). Judgments themselves are rather inert; a narrative of the judge can thus help carry an argument.

The protagonist in Nietzsche's story is more visible than Luhmann's. Instead of tracing his evolution through Nietzsche's work, suffice it to mention his changing monikers in roughly chronological order: the free spirit, Zarathustra, the Antichrist, and finally in his story's epilogue, *Ecce Homo*, Nietzsche himself. Each figure corresponds to a phase in Nietzsche's confrontation with the problem of 'how does one overcome the human?' (*wie wird der Mensch überwunden*; Nietzsche, 1999d: 357) – phases that were meant to herald the rise of the *Übermensch*. Luhmann does not follow Nietzsche down the path of self-overcoming. Instead he opts for an *Odermensch* who learns to be at ease with himself amidst so much unease. The *Odermensch* observes real existing people, events, structures, and so on always with 'a kind of *sideshadowing*: a gesturing to the side, to a present dense with multiple, and mutually exclusive, possibilities for what is to come' (Bernstein, 1994: 1). The *Odermensch*, a most urbane observer, emerges in Luhmann's texts under the name of the Devil.

Nietzsche's nominal variants and Luhmann's Devil feature in heroic narratives that take elements from classical hero stories and organize them into discourses fitted to modernity's specifications. The heroes of these stories yearn for contest. Accordingly, they treat their respective disciplines like arenas. Of Nietzsche, Herman Siemens writes: 'In the agon, [...] the measure or standard of victory is up for grabs in each bout: the judgment of what constitutes victory and defeat is determined *immanently* by the dynamic of each contest. The concept of justice determining the standard or measure of victory is immanent to the dynamic of each contest: it is the actual issue of contestation, the bone of contention' (Siemens, 1998: 340). In Luhmann we encounter, as mentioned earlier, a thorough dissatisfaction with 'humanistic and regionalistic (national) concepts of society [that] are no longer *satisfaktionsfähig*'<sup>42</sup> (1997: 31; emphasis TC). The disinclination he expresses toward these outmoded concepts – together with *how* he expresses it – is tantamount to challenging their representatives *to a duel*, while in the same breath pre-emptively declaring them unworthy (Moeller, 2008: 127).

Two details can help substantiate the perhaps unexpected claim that Luhmann weaves a heroic narrative into his argumentation: His commentary on heroism in modernity, and his theory of reputation. His discussions of the hero, which number among Luhmann's most unexpected passages, explain how conscious systems submit themselves to self-socialization with



the aid of hero narratives. The rhetoric of the hero both aids and hinders humankind's struggle to understand its place in a functionally differentiated society, which presents a new problem:

The heroic, singular, exemplary is still something to strive for, it is however at the same time already fragmented by the fact that the new anthropology outfits people with – if not: defines them through – self-reference. Thus the hero turns into a self-admirer. At least he has this problem with himself. If he communicates himself as hero – and what would a hero be without the joint knowledge of others –, he cannot avoid conveying his self-admiration, or can do so only through particular tricks that worsen the evil. Now he has only one choice remaining – to be a hero or to appear as a hero.<sup>43</sup> (Luhmann, 1989: 183)

This parallels the passage, quoted above, about the fascination prompted by the possibility of simultaneously travelling both branches of the garden's forking path simultaneously. The hero

can go both ways at the same time through *exceeding expectable achievements*. [...] With this schema of conformity and deviation, the *hero* is a paradox in a precisely logical sense; he produces conformity (will to imitate) through deviation. [...] He does not need to hide the paradoxicality in order to operate. On the contrary: he makes it visible in public spaces. He publishes himself and therewith the paradoxicality in order to be able to fulfill his socializing-educational function.<sup>44</sup> (Luhmann, 2005d: 86; italics in the original)

In modernity, the hero's only option is to communicate his heroic status by example, that is, to be a hero rather than merely appear as one. This in turn relies on external recognition not of bards, but of communicating systems. Still it is the human consciousness that determines whether its social conduct will conform or deviate from the prevailing social norms (2005d: 80).

If there is any doubt that it is Luhmann as human peeking through the descriptions of heroes who must leave themselves unsung, consider that several abstract descriptions of the hero can be read as self-description: Luhmann is never directly self-lauding<sup>45</sup> following the model of any self-respecting 'real' hero; by the time the heroism texts appear (1987/ 1989), there is little question that Luhmann has both exceeded expectable achievements in terms of publications (as of 1992, over 600; Damman, Grunow, Japp, 1994: 285) and influence in his field; his repeated insistence that one be equal to the labours entailed by a given field of enquiry is mirrored by his choice to position classical hero Hercules at the garden's forking paths; and lastly and most tellingly, the hero is the figure who can publish himself as

paradox. Nothing is more in keeping with Luhmann's spirit than exposing and unfolding paradoxes (cf. King and Schütz, 1994: 261). It is this queer phrasing – 'he publishes himself' – that calls into question what was stated earlier about whether he would admit that 'he', like Nietzsche, is in his writing. If the hero publishes himself along with his paradoxicality, then it would seem quite plausible that a heroic presence looms in his texts *as a human for humanity*. It becomes all the easier to read this encrypted message out of his texts when one does so against the backdrop of his theory of reputation.

Reputation is analogous to a hero's fame (Ruhm) in Luhmann's conceptuality: 'In the social system science reputation is a type of credit, an (admittedly open-ended) promissory note for truth'<sup>46</sup> (Luhmann, 2005a: 297); analogously, for the hero's more general audience, 'fame is nothing other than the extension of life in the remembrance of others'<sup>47</sup> (Luhmann, 2005d: 87). On whatever terrain the hero finds himself, he enjoys the advantage of an orthogonal relation between the reputation/fame code and the code that organizes his erstwhile theatre of operations – war, politics, science, art, economics, and so on (Luhmann, 1992: 246). A peer might present more truth, more beauty, more victory, and so on; but the hero is recognized not merely for *what* he can do, but also for *how* he does it – for his *style*. The hero earns style points via deviation, as mentioned. And deviation can function via difference as well as through amplitude: The hero can do things *differently* than they have previously been done; he can do them *better*; and he can do both provided he finds some felicitous balance between originality and exceptional skill.

The problem facing Luhmann and Nietzsche, as their narratives formulate it, is that they were born into a world in which 'there is no *should* any longer' (*ein Sollen gibt es nicht mehr*; Nietzsche, 1999b: 54), where 'indispensable norms' have been lost (Luhmann 2008: 228–252). Building on this awareness, which they know the majority of humankind does not share, Luhmann makes the dilemma more acute: In high-stakes games, one stands perpetually under *zugzwang*, facing only 'hard cases' and 'tragic choices' – 'one is bound to do the wrong thing' (*man kann es nur falsch machen*; Luhmann, 2008: 229). One always endures partial loss, even when one wins. A logical and suitable choice for the champion of a species that has come unmoored from its metaphysical and transcendental cleats would be someone who has never paid much heed to *shoulds*, and who is always undeterred by making the 'wrong' decision. Luhmann's champion is the Devil. It is the Devil who confronted humanity with its first tragic choice – innocence or knowledge – in the form of an apple; he is a figure with a reputation for dealing with hard cases in the best of moods.

Luhmann's choice of avatar resembles Nietzsche's anti-Christ – a moniker that, in addition to meaning something like 'Satan's spawn', can also mean the anti-Christian. He forsakes Christian qualities like meekness, selflessness,

forbearance, and so on because they interfere with living (heroically) in the here and now since their ethos aims for reward in the hereafter. The Devil acquires hero status in Luhmann's narrative through recurrent and approving depictions (most often and counter-intuitively in his science book). Like the hero, the Devil's actions deviate from the norm in an exemplary manner. He and the hero are 'always from the highest *nobility*', where birth represents a necessary but not sufficient 'standard of merit' as the basis for developing into a hero (*immer vom höchsten Adel*; italics TC, Luhmann, 2005b: 82, *Vorgabe von mérite*; Luhmann 2005d: 86). And – again most tellingly – Luhmann treats the devil, like the hero, as 'the incarnation of this paradoxicality' (*Inkarnation dieser Paradoxie*; Luhmann, 1992: 118). Regarding *this* paradoxicality, he explains later: '[I]t is the old problem of the Devil, who wanted to observe unity from within the unity that contains him, and therefore he had to draw a boundary, which, insofar as the Good found itself on the other side, banished him to the side of Evil, and – insofar as perfection found itself on the other side – to the side of time and work, of toil and pain and eternal unrest'<sup>48</sup> (Luhmann, 1992: 492). Anyone who willingly submits to temporality (mortality), toil, pain, and eternal unrest would seem to embrace asceticism, which for Nietzsche can be a heroic virtue, and in Luhmann is such a virtue (Sloterdijk, 2000: 36).

The areas of perfection and imperfection created by the Devil's distinction overlap with the realm of God and his angels and that of the Devil and humankind. Luhmann also characterizes the divide as separating Habermas and the angels (who are trivial machines with only one response to any problem), on the one side, from him and the Devil on the other (Luhmann, 2005d: 253). Luhmann's telling of the tale of the fall features an interesting alteration: It is not God who casts the Devil out of heaven but the Devil himself – literally because life with God and His host in heaven is *trivial*. The act of self-banishment is at the same time the Devil's choice to throw in his lot with the human lot: He casts himself out of heaven, and sometime thereafter he gets the humans cast out of the garden (and perhaps helps win them their souls, since with knowledge comes accountability).

Such an act represents a reclaiming and revaluing of 'the diabolical in a strict, purely formal sense: as a counter-figure to the symbolical. In this respect it stands precisely for dispute, exclusion, misapprehension and distortion' (Thöma, 2006: 430).<sup>49</sup> A better phrasing might have used the past participles: The diabolical stands for what is *disputed, excluded, misapprehended and distorted* whenever a given set of symbols achieves ascendancy. It is actually the relation between the symbolic and the diabolic that matters. God may be good, but this neither makes not-God bad, nor offers grounds for its exclusion. The Garden may be wonderful, but this does not make the spaces outside the Garden terrible. Thus depending on system reference, Luhmann as Devil, as *Odermensch*, appears either as '*local hero*' or '*local loser*' (Sloterdijk, 2000: 30) – as 'the paragon of both wisdom and foolishness'

(*Ausbund an Klugheit und Torheit zugleich*; 1992: 119) – who, per (oscillating) job description, must show a ‘disengagement from taking a position on the basis of opinion [...], because systemic thinking in and of itself suggests the comparative study of illusions’<sup>50</sup> (Sloterdijk, 2000: 30). But if one stands on the side of time and toil, then one may recognize that in each of the Devil’s diabolical acts ‘the singular dignity of this observer remains striking. He is always from the highest nobility and always bound to the demands of what he wants to observe. He is the one who loves most intensely’<sup>51</sup> (Luhmann 2005b: 82). Certainly self-description is lurking in descriptions of the competent observer who loves the human, whose ‘name and concept [...] covers – to formulate it like the Devil, or also like Schleiermacher – an inner grandeur, contrariness, infinitude, or complexity’<sup>52</sup> (2005d: 256).

## Conclusion

Each in his own way, Luhmann and Nietzsche seek to free humankind from those dogmas that would make it a crooked and broken thing – Platonism, Christianity, Humanism, critical sociology, and so on. Luhmann has barely bothered to hide his concern for the human. The sixth volume of *Soziologische Aufklärung* is subtitled *Die Soziologie und der Mensch*, after all. Yet, to my knowledge, no study has addressed how he articulates this central concern when he ‘leave[s] the frame of scientific writing routines in favor of language forms laden with the literary’<sup>53</sup> (Farzin, 2008: 193). This would seem to constitute a significant oversight, since, as I have endeavoured to demonstrate, Luhmann tends to blend literary moments back into his rhetoric and argumentation. His working palette is in this way reminiscent of Nietzsche’s own ‘most multifarious art of style’ (Nehamas, 1985: 13).

Perhaps the oversight owes to a very human habit of mind that focuses on the negative even when it is exceeded by the positive. Or perhaps it results from the fact that the figure of the Devil – or Devil’s advocate (cf. Sloterdijk, 2000: 23ff.) – always argues the dissenting opinion against the dominant values of a given historical moment. In Luhmann’s main theatre of operations, in the discipline of sociology, he makes it too tempting and quite easy for his opponents to handle him at the level of first-order observation as a representative of ‘evil’. However Nietzsche’s project of the ‘transvaluation of all values’ (Nietzsche, 1999e: 267) has made forever problematic arguments based on Manichean principles. After Nietzsche, one rarely encounters evil, but rather someone else’s ‘good’ that happens to be at odds with one’s own. To construct opposing ends as evil requires a cynical bad faith much different than Luhmann’s brand of bad faith.

A shift to second-order observation is in order, then, to understand the good intent behind Luhmann’s guile. Because on the surface he demurs on the topic of the human, he slips the trap of having to conform to a ‘right’ way of approaching the topic. In his reading of sociology’s dominant

scripts, this means praising the uniqueness of each human without reservation. Oddly enough, the options for expressing such uniqueness are severely limited. Anything like Nietzsche's 'radical individualism' is undesirable since it might impinge on the unfolding of any nearby 'singularities' in a utopia without losers (and thus without winners). Such notions of life without risk are anathema to Luhmann and Nietzsche. Unease and uncertainty imbue human experience with value; being able to cope with these things is a mark of human dignity. For this reason neither Nietzsche nor Luhmann commit themselves to *what* questions. What is the essence or the human? What is to be done? They prefer the *how* questions. How might the Devil understand a given dilemma? How can we learn from a human will that is also a Will-o'-the-wisp? In *The Gay Science* (*Die fröhliche Wissenschaft*), Nietzsche gives the measure of a successful engagement with such questions in the form of a riddle: 'You follow me, my path you trace?/ Simply trace your own path truly : — / So you follow me — at measured pace!'<sup>52</sup> (Nietzsche, 1999c: 354).

## Notes

1. Unless otherwise noted, the following and all translations from the German are mine: [...] *daß er die Menschen von der weltbildarchitektonischen motivierten Überbelastung als angeblich unmäßig in sich eingekrümmtes Subjekt emanzipiert*.
2. Luhmann's rejection of the Frankfurt School view on society is unambiguous: "To me it seems to be no coincidence that, neither in Frankfurt nor anywhere else, an even somewhat adequate understanding of modern society has been developed. [...] Especially in Frankfurt, one's behavior can be anywhere from critical to despondent" (*Es scheint mir kein Zufall zu sein, daß weder in Frankfurt noch sonstwo ein auch nur einigermaßen adäquates Verständnis der modernen Gesellschaft erarbeitet ist [...]. Man mag sich, besonders in Frankfurt, kritisch bis verzweifelt gebärden*; Luhmann, 2005c: 220).
3. A tripartite organization of the human is often cited but rarely examined in detail for adequacy. Cf. Wellbery who constructs it out of the "Neurophysiology of the brain, consciousness, and social system" (*Neurophysiologie des Gehirns, Bewusstsein, und Sozialsystem*; Wellbery, 1999: 23–24); Clam who refers to "the basal autopoesises of life, consciousness and communication" (*Die basalen Autopoiesis Leben, Bewusstsein und Kommunikation*; Clam, 2006: 348); and Moeller who, noting the open-endedness of the human, discusses "the assumption of at least three autopoeitic systemic realms: body, consciousness, and communication" (Moeller 2006: 80; italics TC). However, citation without derivations or analytical unfolding fails to address a few weak spots in Luhmann's construct. For example Luhmann's discussion of "life systems" is much looser and imprecise than the way he chooses his terms in discussing social and psychological systems. For instance, he generally handles "biochemical system" and "neurophysiological system" at the level of first-order observation, determining negatively *what* they are not: Unlike communicating and conscious systems, they do not use "meaning" as the medium to carry out systems operations – but rather, presumably, neurons and chemicals. He does not specify – does not seem to want to specify; so this is not a

reproach – *how* (that is, at the level of second-order observation) the operations of neurophysiological and biochemical systems come to be structurally coupled with conscious systems. Also, the status of the relation between emotion and thought seems unclear. Is consciousness the arbiter of emotion, or is emotion prompted by biochemical or neurophysiological emotion, or is there yet some other logic at work? These remarks are not meant to resolve the ambiguities attached to Luhmann's treatment of the human, but to suggest that the arrangement might be more complicated than it already seems.

4. Cary Wolfe compares Luhmann's concept of contingent observation with Donna Haraway's concept of embodiment, with Haraway coming out of the comparison the better because she "emphasizes the physical and social positionality of the observer – not least of all [...] the observer's gender – in short, the specific conjuncture of qualities which mark the possibilities and limits of what the observer can see" Wolfe, 1994: 124). Two flaws are apparent here. First, Wolfe is reproaching Luhmann for not being interested in something he explicitly and repeatedly states he has little interest in, namely, identity politics. Second – even though his "theoretical construction necessitates a depiction at an uncustomary level of abstraction. The flight must take place above the clouds" ([...] *Theorieanlage erzwingt eine Darstellung in ungewöhnlicher Abstraktionslage. Der Flug muß über den Wolken stattfinden*; Luhmann, 1984: 12–13) – Luhmann has demonstrated on numerous occasions that his theory can nonetheless zoom from above the clouds to the ground level of identity politics without having to do any theoretical or rhetorical contortions. His "Frauen, Männer und George Spencer Brown," for example, does just this, albeit probably not in a way Haraway (or Wolfe) would appreciate. In any case, treating Luhmann as neglectful of the human and conflating his anti-humanism with being anti-human seem still to have currency. For an account that shares the skepticism expressed here, see Bjerg: 2005, 223; and Wolfe, 2009: 222 (against Wolfe?).
5. [...] *von einer besonderen Umwelt sozialer Systeme: von Menschen und ihren Beziehungen zu sozialen Systemen* [...]
6. *Das Thema des Menschen und seines Verhältnisses zur sozialen Ordnung hat eine alte Tradition [...]. Diese Tradition lebt in "humanistischen" Norm- und Wertvorstellungen fort. Da wir uns gegen sie abgrenzen wollen, ist es notwendig die Bruchstellen genau zu bestimmen. Gerade wenn eine Tradition nicht kontinuierlich kann, und das behaupten wir für alle Fälle einer radikalen Änderung der Gesellschaftsstruktur, ist es notwendig, die Differenz zu klären, um Möglichkeiten der Übersetzung zu finden.*
7. [...] *für die Gesellschaft ein nicht weiter auflösbares Letztelement.*
8. *In dieser Hinsicht folgt Luhmann Nietzsche und nicht der Subjektphilosophie.*
9. [...] *hochkomplexe, strukturierte Systeme [...] deren Eigendynamik für jeden Beobachter intransparent und unregulierbar ist.*
10. *[d]iese Kopplung ist zunächst durch Sprache, sodann mit einem weiteren Effektivitätsschub durch Schrift und endlich durch Buchdruck erreicht worden.*
11. *Selbst in einem abstürzenden Flugzeug kann über den Absturz nur kommuniziert werden, wenn es bemerkt wird. Der Absturz selbst kann die Kommunikation nicht beeinflussen, nur beenden.*
12. *ja es scheint mir, als ob überhaupt nur bei den wenigsten Menschen Kant lebendig eingegriffen und Blut und Säfte umgestaltet habe. Zwar soll, wie man überall lesen kann, seit der That dieses stillen Gelehrten auf allen geistigen Gebieten eine Revolution ausgebrochen sein; aber ich kann es nicht glauben.*

13. den **entartenden** Instinkt, der sich gegen das Leben mit unterirdischer Rachsucht wendet (— Christenthum, die Philosophie Schopenhauers, in gewissem Sinne schon die Philosophie Platos, der ganze Idealismus als typische Formen.
14. [...] eine aus der Fülle, der Überfülle geborene Formel der höchsten Bejahung, ein Jasagen ohne Vorbehalt, zum Leiden selbst, zur Schuld selbst, zu allem Fragwürdigen und Fremden des Daseinsselbst...Dieses letzte, freudigste, überschwänglich-übermüthigste Ja zum Leben ist nicht nur die höchste Einsicht, es ist auch die tiefste, die von Wahrheit und Wissenschaft am strengsten bestätigte und aufrecht erhaltene.
15. Paradoxicality means here that people involved with "today's 'new' social movements" believe they can de-couple themselves from society to achieve their ends while – paradoxically – still needing to be coupled with society for their grand exits (GG 851–852).
16. [Protestierende] argumentieren als "Betroffene" für "Betroffene." Vor allem Jugendliche und Akademiker scheinen in dieser Weise selbstbezüglich paradoxiempfindlich zu sein. Das heißt aber auch, daß die neuen sozialen Bewegungen, die darauf ansprechen, ihre Teilnahmemotive in einem notorisch instabilen Publikum finden.
17. [...] eine Hintertür in der Systemtheorie zu öffnen, durch die wir einen Begriff vom Menschen 'einschmuggeln' können
18. Es ist eine Konvention des Kommunikationssystems Gesellschaft, wenn man davon ausgeht, daß Menschen kommunizieren können. Auch scharfsinnige Analytiker sind durch diese Konvention in die Irre geführt worden. Es ist aber relative leicht einzusehen, daß sie nicht zutrifft, sondern nur als Konvention und nur in der Kommunikation funktioniert. Die Konvention ist erforderlich, denn die Kommunikation muß ihre Operationen auf Adressaten zurechnen, die für weitere Kommunikation in Anspruch genommen werden. Aber Menschen können nicht kommunizieren, nicht einmal ihre Gehirne können kommunizieren, nicht einmal das Bewußtsein kann kommunizieren. Nur die Kommunikation kann kommunizieren.
19. In "Die Tücke des Subjekts und die Frage nach dem Menschen," he fires a salvo against the "most ambitious title, which the human ever acquired: the title 'subject.' In the name of the subject, which serves as the basis for itself and everything else and distinguishes itself from all empirical causes through its freedom, is given a blank check on society's account. The subject is in a strict and paradoxical sense the 'Utopia' of society, the place that cannot be found anyplace" ([...] anspruchsvollste[n] Titel, den der Mensch sich jemals zugelegt hat: der Titel 'Subjekt.' Im Namen des Subjekts, das sich selber und allem anderen zugrundelegt und sich in seiner Freiheit von allen empirischen Ursachen unterscheidet, wird ein Blankoscheck auf Gesellschaft ausgestellt. Das Subjekt ist im strengen und paradoxen Sinne die 'Utopie' der Gesellschaft, der Ort, der an keinem Ort zu finden ist; 2005d: 154).
20. In "Intersubjektivität oder Kommunikation: Unterschiedliche Ausgangspunkte soziologischer Theoriebildung," he lists a number of reasons why intersubjectivity is an *Unbegriff* (2005d: 163 ff.), e.g., the "inter" contradicts the "subject" since the subject is unique and special and the inter would level its uniqueness at least to the point where it becomes "common" enough for a common language.
21. In "Am Ende der kritischen Soziologie" Luhmann would sound the death knell for this sociological approach – in harmony with the funereal hymns for socialist forms of political and economic organization he is hearing at this time (1991: 147).
22. Komplexität und Zeit allein sind keine ausreichende Erklärung dafür, dass überhaupt kommuniziert wird. Es muss etwas an dem System angenommen werden, das ausschließt, dass es Selektion nicht einfach unterlassen kann.

23. [...] es gibt kein "Sein" hinter dem Thun, Wirken, Werden; "der Thäter" ist zum Thun bloss hinzugedichtet, – das Thun ist Alles.
24. Wenn überhaupt Fremderwartungen erlebt werden (was selbst ein Resultat von Selbstsozialization ist) findet das System sich also wie Herkules am Scheideweg. Nichts mag mehr faszinieren als eine Möglichkeit, beide Wege zugleich zu begehen. Aber das setzt bereits hohe Komplexität voraus – im *jardín de senderos que se bifurcan* zum Beispiel Möglichkeiten des Nichterwähnens (der Zeit) und eine Verschlüsselung des Textes, der dieses Nichterwähnens erwähnt.
25. [...] laufen [...] auf die Paradoxie auf, das Unbeschreibbare beschreiben zu müssen. Vielmehr markiert die Exklusionsthematik einen Übergang, an dem der Rahmen des theoretisch Sagbaren überschritten wird.
26. Dieser Erklärungstypus ist Schopenhauers Kritik zufolge nicht falsch, aber einseitig und folglich zu erweitern.
27. Man soll nur reden, wo man nicht schweigen darf; und nur von dem reden, was man überwunden hat, — alles Andere ist Geschwätz, 'Litteratur', Mangel an Zucht. Meine Schriften reden nur von meinen Überwindungen: 'ich' bin darin, mit Allem was mir feind war.
28. However, he rejects the possibility of an understanding of that "I" extending beyond the text : "When I read [...], the question is posed: what of the author is in the text, or – what is communicated. Certainly, for instance, not the circulation of blood that supplied his brain as he wrote the text. [...] A state of consciousness is also not there. I do not know what the author was thinking (wenn ich [...] lese, stellt sich die Frage, was von dem Verfasser im Text ist oder: was kommuniziert wird. Sicherlich zum Beispiel nicht der Blutkreislauf, der sein Hirn durchblutete als er den Text geschrieben hat. [...] Ein Bewußtseinszustand ist auch nicht da. Ich weiß nicht was der Verfasser sich gedacht hat; 2004: 261). His objections are, of course, subject to the same charge of oversimplification, being made throughout the present argument.
29. Dass wir den Willen nicht direkt beobachten können, heißt aber nicht, dass wir keinen Zugang zu ihm haben. Unser Zugang zum Willen ist nicht nur von der gleichen Art wie unser Zugang zu objektiven Dingen, die wir durch das Bilden von Vorstellungen erkennen können [...]. Der Wille setzt sich durch, wie gesagt, in Form von Handlungen in der Welt durch. Handlungen sind grundsätzlich auf Bewegungen im Leib eines Menschen zurückzuführen.
30. Die Was-Fragen verwandeln sich in Wie-Fragen. Das schließt definitive Darstellungen aus und läßt nur die Möglichkeit zu, daß sich im rekursiven Prozeß des Beobachtens von Beobachtungen stabile Eigenzustände (etwa sprachliche Formen) ergeben, auf die man jederzeit zurückgreifen kann.
31. eine Hintertür in der Systemtheorie zu öffnen, durch die wir einen Begriff vom Menschen 'einschmuggeln' können
32. Personen dienen der Gesellschaft als greifbare Symbole für eine unbekannte Zukunft. Sie sind einerseits bekannt oder könnten es sein, über das Fernsehen auch mit ihren Gesichtern, Körpern und Bewegungsgewohnheiten, und andererseits weiß man, daß man trotzdem nicht weiß, wie sie handeln werden.
33. [...] andere, ebenfalls realistische Möglichkeiten der Kausalattribution ausblendet [...]
34. der Mensch werde Das, was er werden **wolle**, sein Wollen sei früher, als seine Existenz
35. [...] Zwecke, alle Nützlichkeiten sind nur **Anzeichen** davon, dass ein Wille zur Macht über etwas weniger Mächtiges Herr geworden ist und ihm von sich aus den Sinn einer Funktion aufgeprägt hat [...]



36. *Ich meine natürlich nicht [...] daß wir, die wir hier aus festlichem Anlaß zusammen sind, keine Menschen sind; nur – wenn wir sagen, daß wir das sind, und erst recht, wenn wir es sein wollen, dann wird es unvermeidlich dilettantisch.*
37. *Möglicherweise ist das Bewußtsein also eines dieser Schwarzlöcher, die alle Informationen über sich selbst verschlucken und nur an der Unruhe rings herum erkennbar.*
38. *die uns geläufigere Vorstellung, Bewußtsein könne körperliches Verhalten oder gar Kommunikation bewirken, bleibt mysteriös. Die annahme, daß dies geschieht, ist wohl nicht anderes al seine Kausalattribution durch einen Beobachter; und wenn man sie klären will, muß man folglich beim Beobachter ansetzen.*
39. *[...] psychische Systeme und soziale Systeme niemals fusionieren, auch nicht partiell überlappen können.*
40. *Ähnlich wie der Informationsbegriff ist auch die (eng mit ihm verbunden) Unterscheidung von Medium und Form stets ein systeminterner Sachverhalt. Ebenso wie für Information gibt es auch keine Umweltkorrespondenz. [...] Kommunikation setzt also keinerlei letzte Identitäten (Atome, Partikel) voraus, die sie nicht selbst durch eigene Unterscheidungen bildete.*
41. *Note that in 1969, Luhmann still thought human action was the main focus of sociology and not communicating systems; [...] kann eine Wissenschaft wie die Soziologie, die menschliches Handeln zum Thema hat, nicht ignorieren, daß der Handelnde selbst wertet.*
42. *[...] humanistische und regionalistische (nationale) Gesellschaftsbegriffe sind nicht mehr satisfaktionsfähig.*
43. *Das Heldenhafte, Besondere, Exemplarische wird noch angestrebt, es wird zugleich aber schon zersetzt dadurch, daß die neue Anthropologie den Menschen mit Selbstreferenz ausstattet, wenn nicht dadurch definiert. So wird der Held zum Selbstbewunderer. Zumindest hat er dies Problem mit sich selbst. Wenn er sich als Held kommuniziert – und was wäre ein Held ohne das Mitwissen anderer –, kann er nicht, oder nur durch besondere Tricks, die das Übel verschlimmern, es vermeiden, seine Selbstbewunderung mitzuteilen. Er hat dann nur noch die Wahl, Held zu sein oder als Held zu erscheinen.*
44. *kann durch Übertreffen der erwartbaren Leistungen beide Wege zugleich begehen. [...] Der Held ist innerhalb dieses Schemas von Konformität und Abweichung im genauen logischen Sinne ein Paradox; er produziert Konformität (Nachahmungswille) durch Abweichung. [...] Er muß die Paradoxie nicht verbergen, um handeln zu können. Im Gegenteil: Er macht sie him Räume des Öffentlichen sichtbar. Er publiziert sich, und damit sie, um seine sozialisatorisch-erzieherische Funktion erfüllen zu können*
45. *See King and Schütz on Luhmann's conspicuous "ambitious modesty."*
46. *[...] eine Art von Kredit, ein (allerdings unbefristeter) Wechsel auf Wahrheit [...]*
47. *[...] Ruhm ist nichts anderes als die Verlängerung des Lebens im Gedenken der anderen [...].*
48. *[...] ist das alte Problem des Teufels, der die Einheit in der Einheit, in der er sich selbst findet, beobachten wollte, und deshalb eine Grenze ziehen mußte, die ihn, sofern sich das Gute auf der anderen Seite befand, ins Böse verwies; und sofern sich das Vollendete auf der anderen Seite befand, in die Zeit und die Arbeit, die Mühe und den Schmerz und die ewige Unruhe.*
49. *[...] Desengagement von Meinungspositionen [...], weil das systemische Denken von sich her eine Komparatistik der Illusionen nahelegt.*
50. *um das Diabolische im strengen, rein formalen Sinn: als Gegenfigur zum Symbolischen. Insoweit steht es eben für Entzweiung, Ausschließung, Verkennung und Verdrehung*

51. *Die eigentümliche Dignität dieses Beobachters bleibt bemerkenswert. Er ist immer vom höchsten Adel und immer gebunden an die Vorgabe dessen, was er beobachten will. Er ist der, der am intensivsten liebt.*
52. [...] *der Name, der Begriff Mensch letztlich, um es mit dem Teufel oder auch mit Schleiermacher zu formulieren, eine innere Größe, Gegensätzlichkeit, Unendlichkeit oder Komplexität verdeckt.*
53. [...] *den Rahmen wissenschaftlicher Schreibroutine zu Gunsten einer Literarisch aufgeladen Sprachform zu verlassen.*
54. *Du folgst mir, du gehst mir nach?/ Geh nur dir selber treulich nach : — / so folgst du mir — gemacht! gemacht!*

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# 6

## Only Connect: Luhmann and Bioethics

*Sharon Persaud*

This chapter is a Luhmannian reading of some early ethical writings about ‘saviour siblings’; that is, where children with serious medical disorders are treated by tissue transplanted from a sibling, where the embryo-that-becomes-the-sibling has been genetically screened and selected before implantation to ensure that it is a donor-compatible tissue match. It is the first, and so far the only, instance of the ‘screening in’ of desirable genetic characteristics allowed within the UK regulatory framework.

In August 2000, Adam Nash was born in Colorado in the world’s first successful use of the combination of in vitro fertilisation (IVF), pre-implantation genetic diagnosis (PGD) and pre-implantation tissue-typing (PTT). By a procedure known as haemopoietic stem cell or HSC-transfer, his cord blood was then used to treat (and, in fact, cure) his elder sister, Molly, of Fanconi Anaemia. The issue arrived in the United Kingdom in 2001 when, on 27 September 2001, the parents of Zain Hashmi, a young boy suffering from beta thalassaemia, another fatal condition only treatable by stem cell or bone marrow transplant, applied to the Human Fertilisation and Embryology Authority (HFEA) for a licence for a ‘Nash style’ treatment.

As we will see later, the very phrase ‘saviour siblings’ has a particular ethical stamp. Coined by bioethicists Spriggs & Savulescu (2002), it is, perhaps, as partial as it is resonant. Success rates are (or certainly were) relatively low and the physical process is difficult for the woman intending to conceive – a fact air-brushed out by the language of salvation. The technique could benefit parents who are ill – and so perhaps the ‘sibling’ element should also not be naturalized. It also obscures the specific technologies in play: as the bristling initials of the last paragraph show, the ‘saviour sibling’ is a distinctively new incarnation: selected embryo, stem cell resource, and (emotively) a conditionally desired child – or in ‘old European’ terms, both subject and object and born and made. This chapter is an exploration of some of the very early ethical writings on this new phenomenon, read with an eye to Luhmann’s notions of technical realizations, structural coupling, and morality and ethics.

## The Luhmannian enquiry framed: technologies, couplings and morality

In *Risk*, Luhmann argues that technologies can no longer be plausibly considered as part of a grown/made or natural/artificial distinction; in an unusually earth-bound example, commercially produced organic potatoes are no more sensibly understood as 'natural' than genetically modified ones.<sup>1</sup> If technology can no longer be understood as attached to these distinctions, Luhmann suggests that it should be regarded as 'a functioning simplification in the medium of causality'; or, less rebarbatively, that technology is about isolating and closing off operations from external influences, so that they can repetitively and predictably perform as they should, and with the consequences that they should. (The flip side of the distinction is the immense complexity of all causal forces, which are being excluded.) For Luhmann – and one can immediately see the aptness of the description to the processes of assisted reproduction involving genetic selection – the consequences of this are that 'processes become controllable, resources become amenable to planning, and faults, including wear and tear, can be located and attributed' (Luhmann, 1993b: 86–8).<sup>2</sup>

Structural coupling is one of the mechanisms which regulate how an autopoietic system deals with its designated-as-outside world. It can be understood as the external counterpart of, and ongoing precondition to, the system's operative closure; just as operative closure regulates what the system can pick up from perturbations and irritations so structural coupling is the form of the ongoing linking of a system with its environment, by which those external 'irritations, surprises and disturbances' are triggered (Luhmann, 2004: 383). Like operative closure, it both 'reduces and so facilitates' the influences of the environment on the system (Luhmann, 2004: 382), thereby permitting the growth of internal complexity.

This straightforward, apparently empirical account has two theoretical or textual supplements. Firstly, given the basic distinction between system and environment, it is, in autopoietic terms, necessarily misleading to speak of the structural coupling of one system with another at all. For Luhmann, structural coupling is always between a system and its environment – which, in terms of what it can know, contains (only) its construction of the outside world; structural coupling is therefore not (only – or at all?) a concession to an familiar and easy-to-grasp reality of inter-systemic connections, but a paradoxical re-assertion of the cognitive separation of systems, even as they, from other perspectives, may interlock.

Secondly, the notion of structural coupling is methodologically vital to an understanding of how systems work. As Luhmann says in relation to the structural coupling of the communications of law and the psychic system of the individual, 'without this, nothing works' (Luhmann, 2004: 416). Elsewhere, he writes (or perhaps is merely read) wistfully of establishing theory as a form

of structural coupling of the science system with the reflexive theories of the functioning systems (Luhmann, 2004: 459). Closer to home, in formulating a sociological approach to morality and ethics, Luhmann writes of the need for abstract concepts by which systems theory can acquire 'connectivity' (Luhmann, 1995: 236) and, more explicitly still, that in such an enquiry (as direct access to 'the outside world' is impossible) 'concepts have to be chosen in a way that creates irritations, difficulties, resistance and therefore learning *within* sociology' (Luhmann, 1996: 29). Structural coupling, or the particular sensitivities of one system to its designated-as-other, therefore consistently emerges as a key to theoretical development.

Luhmann's view of morality is complex, playful – and usually, for a variety of reasons, inimical. To begin with, its ostensible project of social integration is necessarily impossible in modernity. In Luhmann's schema, the codes of all systems are incongruent or incommensurable. Good/bad does not (and cannot) equate to legal/illegal or any other binary, and for Luhmann this logically entails a 'renunciation of the moral integration of society'; to put it colloquially, functional differentiation and the division of society into complex systems means that the notion of substantive morality, cutting across or inhabiting all as a means of social integration, is off the agenda (Luhmann, 1991; 1993a: 1005).

There is no nostalgia for morality's demise. Luhmann points to it as the precondition for the myth of the subject, also noting in passing that it addresses or engages the person as a whole, and that it does not presuppose a consensus, although the extent to which consensus may be obtained may be important (Luhmann, 1995: 233–6.) As ever, only a recursive reading yields the whole point: for Luhmann, the need to move from subjects to observing systems is crucial, and so to identify morality as the subject's pre-condition is to make it central to an outdated and mystificatory order.<sup>3</sup> Similarly, elsewhere, in an echo of Althusserian interpellation, it is the structural coupling of the observing system of law and individual psychic systems which is said to be at the core of modern individualism by permitting a selective and transient set of relations and experiences which are not connected or referable to a fixed social status, creating (at best) 'freedom and distance' as well as a characteristically modern sensibility of fragmentation (Althusser, 2001; Luhmann, 2004: 416.) Morality's unbounded remit, with its creation/mythology of undivided esteeming subjects has no place in a functionally differentiated world.

Elsewhere Luhmann develops other arguments against morality, again from the premise of the fact of and value ascribed to the autopoietic world with which it is at odds. He describes its 'pathological' province and notes its 'dangerous' tendency to increase social conflict (Luhmann, 1993a: 1000–6). Because, despite the efforts of Kant and Bentham, it is now clear that there is no universally accepted rational justification for moral reasoning, its discourse is doomed only to be 'polarizing'. This conflictual character is

further intensified by being 'over-engaged', because communication about moral esteem is inevitably personally loaded; or as Luhmann puts it, there is 'an interdiction on self-exemption' (Luhmann, 1996: 29–34).

Perhaps more fundamentally, morality's paradox can never be solved, because its orientation is the difference between good and bad; to conclusively resolve a moral question in favour of a total good, to return to pre-Lapsarian ignorance, would be to signal the end of autopoiesis and the possibility of further moral communication itself. Luhmann therefore points to the possibility that moral conflicts may ultimately only be resolvable 'unmorally' by law, violence or procedural legitimacy – for him, contra Habermas, merely the ambiguity of a resort to values, within which conflicting issues can be fudged (Luhmann, 1996: 33–4).

Ethics, on the other hand, takes a position towards the moral (Luhmann, 1991: 89). It can be understood as a reflexive theory relating to morals (or 'the connection between and compatibility of moral demands') which has taken various historical forms. In certain modes, Luhmann clearly values the ethical: for all his certainty that the enterprise has failed, he values both Kant and Bentham for attempting to excavate a universal rational justification for moral decisions, and approvingly ties this eighteenth century 'academization' of ethics to the increasing societal complexity produced by functional differentiation (Luhmann, 1995: 236; 1996: 33). On this account, just as law decouples from morality, so ethics (in its more reflexive and advanced guise) decouples morality from rank or religion, allowing its destabilizing tendencies to be held in check – so long as they remain detached from power. In this strand, therefore it seems that reflexive ethics may act as a modern self-grounding, and therefore self-limiting, check on any sort of moral re-armament of politics or other spheres of power – and, to that extent are, within Luhmann's own autopoietic schema of esteem/diseesteem, to be valued (Rasch, 1995: 213–218; Luhmann, 1994: 30).

Elsewhere, however, more contemporary ethics are cast in a less flattering light: variously, conceptually weak and 'confined almost entirely to appeals and emergency brakes' (Luhmann, 1991: 84), or in an academically 'desolate state', and limited to the 'aim of presenting one's own opinions effectively from a rhetorical and journalistic angle' (Luhmann, 1993a: 1008). Luhmann sarcastically contrasts previous attempts at ethical communication through the development of 'refined theoretical constructs' (here, transcendentalism, utilitarianism and value-ethics) with the contemporary solution of 'speaking of ethics without saying what one means by it', from a place that cannot be located (Luhmann, 1993a: 1002; also 1996: 33).

For Luhmann, then, ethics should not be about 'the application of disputed maxims'. Instead, the modern task of the (autopoietically premised) ethical should be to unfold the paradox in the moral code; that is, to conceive of ethics as a 'second-order observation...of moralising observers' (Luhmann, 1993a: 1008). By contrast, (autopoietic) sociological research in ethics follows



the 'truth' code and so is an empirical enquiry into 'the communicative effects of moral discourse in a functionally differentiated society' (Moeller, 2006:114; Luhmann, 1991: 84; 1993: 999, 1002–5; 1996: 29, 32). In both cases, however, the methodological injunctions are the same: the best that one can do is to grasp one's own position as an observer within one's own system and how that affects the construction of the object of enquiry, and the necessity for a sensitive coupling mechanisms to create and feel irritations and resistances.

### **The irritation of the new: the early ethical reception of 'saviour siblings'**

The Hashmis made their application to the HFEA on 27 September 2001. In October, the *Lancet* carried a short, precautionary editorial, urging regulatory caution until more was 'understood of the risks of psycho-social maladjustment', which was a concern based on research into the emotional development of existing 'natural match' child donors, and of any long-term developmental risks for the biopsied, implanted embryos (Editorial, 2001.) Perhaps unsurprisingly, therefore, this new phenomenon was first registered by a hyphenated medical-clinical ethics, rather than a more generally recognizable ethical framework, and so within 'ethical' considerations as received by those systems.

### **The HFEA Ethics Committee: 'Ethical issues in the creation and selection of preimplantation embryos to produce tissue donors'**

On 22 November 2001, the HFEA Ethics Committee published their views of PTT's 'ethical acceptability' – in itself a thought-provoking translation – to assist the HFEA as a whole in formulating their policy before considering the Hashmi licence application. The Opinion therefore emerged in difficult circumstances: a very new technology, little previous ethical consideration (of any variety) on which to reflect, obvious life-saving benefits which were immediately counterposed to 'the ethical' and the overriding imperative for a swift and workable regulatory decision.

The Committee considered three questions defined as 'ethical': whether tissue-typing was compatible with the welfare of the unborn child; whether tissue-typing was compatible with the public good; and under what conditions its use would be acceptable. Each of these questions was defined against an ascribed 'background' or context – which, as things turned out, was either self-identical with the eventual 'ethical' answer or was obscured or crowded out by pressing non-ethical demands.

### **'Welfare of the child': background and conclusions**

In their own distant echo of Kant and Bentham (and blithely unaware of their ultimate failures) the Ethics Committee considered two 'meta-ethical'

approaches to the calculation of welfare: the deontological necessity of treating rational beings as ends not means, and a more utilitarian or consequentialist matrix of benefit/harm – in both cases as received and rewritten by their own regulatory imperatives.

Kant's dictum is first given its 'usual [applicatory] gloss' – the requirement that the putative child should be treated as an end in itself<sup>4</sup> – and then further translated into a consideration of whether if parents wanted a child 'anyway', for its own sake and irrespective of transplant potential, PTT 'treatment' would then be ethically sound. This 'Kantian' approach is then rejected: both because of the practical difficulty in unearthing parental motivation, and because the statutory requirement (at s. 13(5) Human Fertilisation and Embryology Act 1990) to 'take account of the welfare of any child affected' by the proposed treatment implied neither that parental commitment had to be a primary motivation, nor that the desire for a child need arise from 'a duty or a motive consistent with good will' (Para 2.11.) Ethical frames of reference are therefore compressed by practical operability and the impossibility of demands in excess of the law – perhaps an early clue that, more generally, the HFEA's 'ethical' discourse will be an ad hoc compound of internalized legal considerations and equally internalized 'practicalities'. (That 'facts' about 'practicalities' are also constructions is evident by a comparison with other research, which suggests that the scrutiny of parental motivation through counselling is both desirable and practically possible (Pennings, Schots & Liebaers, 2002)).

This self-generated 'Kantian' imperative is then circumnavigated in the other direction, this time by a compound of 'rights' discourse and the law: as putative children do not (by definition) yet exist, they cannot have interests at the stage when their prospective mothers receive treatment – and so the moment of choice to have a child may therefore be 'the last point at which the "child's" interests may be completely sacrificed to those of others' (Para 2.12). The sudden, alarmed parentheses tell part of the difficulty for the HFEA; in this context, the unborn child is an ambiguous object for ethics and regulation, at once an unborn embryonic non-legal non-subject and a future or putative 'child' subject whose welfare must be considered.

The ethical question is then reframed in consequentialist terms: 'whether the outcome of the technique shifts the balance of benefit and harm' for the putative child, affected groups, or living beings as a whole. Again, ethics falls into law, as a consideration of whether the balancing exercise implicit in the statutory requirement might tend towards allowing PTT, rather than inevitably be some sort of quasi-Kantian emergency brake, because of the likelihood that the sick child – equally, 'a child affected by the treatment' – would benefit.

By the time that the conclusions are reached, the 'ethical' has given way to the practical, rather than been elaborated in any more reflexive fashion. The self-constructed 'Kantian' parental motivation test is rejected (only)

by common sense: any family contemplating this course was 'likely to possess extraordinary strength'; motivation, and whether it was primary or secondary, was likely to be unascertainable; the element of utility 'clearly' did not rule out an intention to love and look after the child; tissue donation was not, in itself, a problematic reason for having children – and, in fact, was declared 'certainly no worse than other common reasons' (Paras 3.2–3.5). In another attempt to salvage an ethical value from present facts, the post-natal test is also advocated: if it is permissible for children who cannot give consent themselves to act as donors, then it must be permissible 'to make a child' for the same goal (Para 3.8) – which, one might argue, is to be blind to the very distinctions (chance/choice, born/made) which make PTT register at all as ethically significant.

The Committee also noted that a tissue-matched child would probably have restricted choices – as do all children because of the particular circumstances into which they are born, which makes being a tissue-matched sibling just another quotidian variable in the life of a child. This restricted choice would be ethically acceptable if the child's human rights were respected, rather than being *de facto* curtailed by the circumstances of the birth; that is, in another resort to law, the child should not have less legal protection than any other. This rather tentative assessment then takes a more positive 'ethical' turn: in fact, it may even be in the putative child's best interests (to 'save the life of his sibling', rather than 'be a transplant donor') because of the beneficial effects of having a companion, within a family spared bereavement (Paras 3.6 – 3.7).

### **From 'ethics' to acceptability: the calculation of the 'acceptable'**

The Committee also undertook another 'ethical' calculation by considering variables of the treatment 'with a clearer ethical status' to establish the outlines of acceptability. The very terms of this 'background' discussion made it obvious that the Committee would conclude that PTT was unacceptable to treat non-serious or otherwise treatable illnesses, for parents, or to 'select in' non-medical traits – but was much more acceptable than either genetic modification of an embryo *in vitro* (which really would be the ethically off-limits 'designed' baby) or prenatal diagnosis (PND) – that is, a combination of natural conception and the selective abortion of non-matching embryos (Para. 2.19).

Perhaps inevitably, the various rationales of acceptability were ethically opaque, although sociologically fascinating. In the discussion of parents as donees, an initial resort to legal notions of conflict of interest was followed by the 'moral' observation that it seemed 'prima facie...less morally acceptable...as it seems to replace concern for another with concern for oneself' – before doubling back (and perhaps retreating from the newly invented, previously jettisoned duty of parental altruism) and further noting that 'the putative child will not necessarily be loved or cared for any less...' (Para

2.21). Given the consequentialist terms of the previous argument, there seems little meaningful ethical distinction between PTT for very ill siblings and very ill parents, which perhaps exactly illustrates the difference between reflections in the realm of the ethical as Luhmann might have defined it, and a calculation of the acceptable.

That the HFEA's 'ethical' may be the construction of its own imperatives is most evident in its (largely symbolic) rejection of an already outlawed genetic modification, and in the section on PND. Here the benefits of PTT are counterposed to the 'significant costs' of the abortion of otherwise viable foetuses, 'the physical and psychological harm to the woman and family, and delay in treatment of the suffering sibling' – as we will see later, a set of strident assumptions not borne out in research<sup>5</sup> (Para. 2.24). An 'ethical' boundary is also firmly staked around anti-eugenic concerns which could equally well be understood politically – if only by disingenuously declaring that these are not engaged, as the technique treats a particular condition rather than eradicating it from the gene pool.

In a (Luhmannian) textbook illustration of the limits of ethical reasoning (and the imperatives of regulatory workability), the final conclusions are clearly not based on ethics, but on the pragmatic, ad hoc matrix of 'acceptability' previously sketched in. The HFEA should support 'constrained parental decision-making', within which it was ethical to grant PTT licences in certain circumstances. All alternative treatments must have been explored; the condition of the existing child had to be severe or life-threatening, but – as was to prove controversial and would soon change, before eventually reverting back – need not be heritable<sup>6</sup>; transplants could only be for siblings, and limited to the waste or regenerative tissue of cord blood and bone marrow (although this was, in any case, not in HFEA control); couples should be counselled and follow-up studies conducted – and, in a final, brightest (but most unnecessary) of bright lines – embryos should not be genetically modified to provide a match (HFEA Ethics Committee Opinion, 22.11.01, paras. 3.11–9).

### **Boyle and Savulescu: 'Ethics of using PGD to select a stem cell donor for an existing person'**

Two days afterwards, the BMJ carried a strongly pro-PTT bioethical piece, which disposed of the eight potential 'ethical' objections they had identified in a few dense pages. In another 'application of a disputed maxim', Kantian concerns about commodification are dismissed in similar, if brisker, terms: the piece refers to the 'reality' that many children are born for various purposes, and suggests, again in defiance of hermeneutic niceties or any wider reading, that Kant's 'actual' prohibition was on people being solely treated as means – so that, as long as the child resulting from PTT is loved, there is no ethical problem with that child benefitting others.

Other 'ethical' factors are also recast. Discussion of 'best interests' is narrower in scope than it had been for the HFEA, and limited, as it had been in *The Lancet*, to possible psychological damage to the individual. Predictions about and conditions for parenting were 'dangerous' and prone to error – and compared to the only alternative of non-existence, even if psychological damage did result from the fact of PTT or the transplant process, it would not be so severe that the child would have been 'better off' if she or he had not existed at all.<sup>7</sup> (To the non-bioethicist, the last sentence may be both ethically hard-to-follow and inadvertently eloquent on the logical difficulties of ascribing interests to embryos, or positing the dilemma as existence/non-existence in relation to not-yet-living individuals.)

The 'ethical' is confidently read off a utilitarian/liberal calculus. The authors adopt the economic calculation of 'Pareto optimality' in combination with 'rational choice', and point to the financial advantages for the NHS of PTT and transplant as against the life-time costs of other forms of treatment<sup>8</sup> – a point un-received by the HFEA. On the other hand, anxieties about eugenics are differently countered by a conflation with 'state-sponsored eugenics' – with the logical corollary that it is best avoided by individuals 'retaining control over reproduction and the decisions over which children to have'.<sup>9</sup> The authors also adopt the classic formulation that, in the absence of harm to others, there is a private sphere which should be unregulated, irrespective of moral disapproval.

The 'ethical' that emerges here is therefore very different. It is only received within a utilitarian framework, which means that – given the factual situation – there could only ever be one answer. The framework also excludes the more arbitrary considerations of the HFEA and, significantly, reads the 'acceptable' – the HFEA's ultimate 'ethical' touchstone – as an unwarranted moralistic encroachment on the sphere of personal freedom which the truly ethical, in (liberal, bioethical) fact, should be concerned to protect.

### **Pennings, Schots and Liebaers: 'Ethical considerations on PGD for HLA typing to match a future child as a donor of HSC to a sibling'**

The last of these early encounters is a medical-ethical reflection on the post-1998 requests to the Academic Hospital in Brussels for PTT treatment; essentially, an enquiry into whether the hospital should start to offer the treatment given that, post-Nash, requests for it were likely to increase.

It begins with detailed medical assessment of the risks, benefits, and variables of HSC transplants – a concern with the specific technologies notably absent from the earlier considerations – and reflects on time as the last obstacle to the treatment as a successful cure, because of the combined periods necessary to develop the particular diagnostic test for biopsy, the period typically spent in IVF, and the nine months of actual pregnancy. This might mean that 18 months or two years lapse before transplant – possibly

too long for young children with rapidly progressing diseases (Pennings, Schots & Liebaers, 2002: 535). Unlike the HFEA calculation,<sup>10</sup> then, this awareness makes the piece even-handed as between the ethics of PND and PGD, noting that both have equally high 'entry costs' for the woman. It also resolutely characterizes the PTT/PGD biopsy as social rather than medical, as (from the uncloudedly medical point of view), the embryo clearly does not benefit from the procedure (Pennings, Schots and Liebaers, 2002: 535–6).

There is also a different approach to the factor of medical assistance in the ethical equation. Both the HFEA and the bioethical reading glossed over the technologies in play, and any ethical distinction that might arise between natural and assisted reproduction. For the Brussels researchers, similarly, private decisions concern only the parents, and it would be 'inconceivable to forbid or obstruct the reproductive plan'. However, medical intervention creates a crucial distinction, and the question becomes 'whether the physician should help them to have a child with particular features' – a Luhmannian illustration of the registering of an environmental irritation of procreative autonomy in the terms of the medical/ethical system (Pennings, Schots & Liebaers, 2002: 535–6).

The 'best interests' of the putative child are also read differently from both the HFEA's vague notion of 'welfare' and Boyle & Savulescu's tendentious bottom line of 'non-existence'. Here there is a straightforward medico-legal approach; 'best interests' are an 'operational reformulation of Kant's dictum', or the legal test that must be met when a potential donor cannot give informed consent because of her or his age or mental capacity. They (again, notably, alone) note the implausibility of saying to a child who is being volunteered for donation: 'we are doing this for your own good' – but argue that the intervention is still ethically justifiable in principle, subject to the level of risk to the donating child and the particular procedure, if it 'does not exceed the ordinary sacrifices that family members make and expect from each other' (Pennings, Schots and Liebaers, 2002: 537.)

Where for the regulator, then, 'ethics' were ultimately about acceptability/consensus, and for liberal bioethicists, the protection of a notion of the private sphere, for clinicians, they are closely bound up with heavy professional regulation. Counselling is seen as helpful for many reasons, but most importantly (in a way wholly different from a bioethical insistence on procreative autonomy) so that parental 'intentions' can be placed under professional scrutiny. For them, it is professionally wrong to assist parents where the child may be conceived as a means to an end – irrespective of the spin-off advantage to the child of its very existence claimed by more general ethicists: '[t]he most important element to be verified to justify the centre's collaboration is the parents' intentions regarding the future child ... a psychologist trained in fertility counselling ... might be able to notice contradictions and inappropriate feelings in the parents' attitude towards the new child ...' (Pennings, Schots & Liebaers, 2002: 538). It is evident that

this heavily regulatory attitude springs directly from a conception of ethics understood from the minutiae of medical practice rather than more general ethical concerns – and, perhaps unsurprisingly, the only other article which both engages in the specific technologies, and suggests such detailed enquiry also arises from a clinical involvement in the Nash case<sup>11</sup> (Wolf, Kahn & Wagner, 2003).

## Luhmann and bioethics

So what can a Luhmannian reading add to this survey of the early ‘ethical’ landscape? Firstly, perhaps, it can assist in reconsidering the familiar, so that one reads with an eye to ethics as a reflection on morality – a useful discipline in itself, given the very different ways these three early pieces conceive of, for example ‘best interests’, an identical phrase that means very different things, and is part of a different communicative web for all of them. In a similar vein, it may also keep the apparently sociological surveyor with a wandering eye on track – for example, is this article still an empirical enquiry (as much as Luhmann ever is) into the societal role of moral communications?

More specifically, Luhmann may also explain several observable facts; for example, why in the HFEA’s deliberations species of both Kantian and utilitarian ethical reasoning both gave way to a calculation of ‘acceptability’ or to the law – perhaps the repository of any post-Kantian impulse towards a universal standard. In the bioethical context, Luhmann may also shed some light (beyond being either irked or persuaded by their tendentious style) on classic utilitarian communications, their underlying premise that universal rational justifications are still available – and, perhaps, their considerable subliminal appeal to a liberal, ‘in control’, ‘the world-is-my-oyster’ subject.

More substantively, however, Luhmann’s intense focus on defining the object and its constitution might give some clue as to how both ethical and sociological reflection on the phenomenon may be enriched – especially since, as we saw in the HFEA’s discomfort at the proliferating variants of life and anxiety to ‘re-naturalize’ the phenomenon, neither they nor the bioethical narratives was at all concerned to ‘read’ the distinctively new features of PTT technology.

A Luhmannian reading centred on a material technology and its couplings may recreate a different object, or series of objects, for the regulation of and reflection on PTT – possibly detached from a pre-occupation with a prematurely naturalized ‘child to be born’, and created instead through a series of close engagements with the material technologies that attempt to produce that result structurally coupled with various observing systems. We have already caught glimpses of PTT as a set of technologies in the environments of research, medicine and law, presenting technical problems (on for example, speed of matching) to be overcome for research; a series of objects regulated for law; a set of technologies through which doctor–patient relationships or

clinician–research subject are designated and negotiated for medicine – and, indeed, a cheaper alternative to other forms of healthcare for economics.

Similar reflections also arise from the encounters with the systems that we have seen. Medical ethics are undoubtedly ‘hyphen ethics’ – narrow professional preoccupations where ‘what gets lost in the hyphenation is ethics as such’ (Zizek, 2003) – and yet the hyphen has also emerged as an attempt at connectivity. The Brussels research had a firm disciplinary boundary/systemic perspective, and (therefore) more capacity for systematic change – as shown by Pennings’ later revision of his views on the ethical significance of parental motivation. It also produced empirical work on factors often assumed to be relevant to the welfare of any future child: the pre-existing parental desire to have a child ‘anyway’, and family context and parenting abilities, as well as evidence that PND and abortion should not always be regarded as a worse alternative to PGD<sup>12</sup> (Baetens, 2005).

By contrast, Boyle and Savulescu’s piece has the intellectual attraction and vigour of ‘ethics as such’ – and alone retains some aspiration to universality and a progressive trace of the remit of ethics as a force against morality. Ironically, however, its very unboundaried confidence may make it less reflexive. ‘Immanuel Kant’s famous dictum’ triggers no irritabilities or resistances, and there is therefore no capacity to get any purchase on it, or understand its pre-conditions, or connect with any other construction of the Kantian. The reading also does not encounter (or ingest) any scientific or clinical research or the specifics of the procedures or technologies, and so is resistant to perturbation or change – which may be why, in some bioethical texts, paradoxically, the world ‘out there’ can appear ‘thinner’ than in more de-familiarized or theorized accounts. The instantly universal allows for no secondary observations or reasons for reasons; for example, arguments based around commodification are declared unsustainable but it is not clear that ‘rationality’ has any ‘thicker’ rationale<sup>13</sup> – or that it knows that it may be itself socially constructed.

I hope that the (fairly modest) drift of my argument has now emerged – that connectivity or structural coupling, as something that demands a close attention to both observer and observed, and the mutual constructed-ness of both, may be a productive way of thinking. It may be that it is the resistance provided by grappling with the material constitution of PTT or the web of communication around philosophical notions of commodification which can enrich both ethical and sociological reflection, and generate theory sufficiently reflexive for modern complex and compound realities. However counter-intuitively, Luhmann also appears to be vindicated in relation to the flip side of ‘operative closure’; the strands of ethics which most rigidly simplify the ‘noise’ of PTT are also those which are capable of denser enquiry, while more cognitively assertive claims may do less with the phenomena that arrive.



This operationalized attention to the other, whether as structurally coupled or otherwise, is also linked to Luhmann's concluding remarks in *Risk*, where he wonders whether 'observers [can] observe how they are observed', and ties this sensibility, this possibility of softening of positions, to Jasanoff's strategy for reaching agreement – ironically, and with pleasing circularity, in the notoriously polarized world of biotechnological controversy (Luhmann, 1993b: 226). At the very last, then, the 'miles apart' worlds of ethics and sociology may meet in an unlikely zone of openness to the other – with the tantalizing possibility of the development of an understanding of ethics formulated for a modern and contingent world without a subject and without nature.

## Statutes and official reports

*Human Fertilisation and Embryology Act 1990*. (c.37), London, HMSO.

HFEA Ethics Committee Opinion, 2001, *Ethical issues in the creation and selection of preimplantation embryos to produce tissue donors*. No longer available on their website, accessed and printed 16 April 2009.

## Notes

1. The radical force of this distinction should not be underestimated. See, for example, Jasanoff on the embedded-ness of the nature/culture distinction in her brief discussion on 'boundary work' (Jasanoff, 2005: 26–27) and Habermas' epic assertion of the moral necessity for the maintenance of the distinction in the context of the 'new genetics' (Habermas, 2003).
2. See also Pottage's more biopolitical reworking of this, citing risk as the re-entry of the controllable to the distinction between what can and cannot be controlled, as part of a move from a cosmological to a technological culture. For him, Luhmann is a complement to an Foucauldian understanding of biopower (Pottage, 1998: 9–13).
3. Although outside the scope of this chapter, there is Luhmannian work to be done on bioethics and the Kantian subject. *The Future of Human Nature* (Habermas, 2003) is about the threat to the pre-condition of communicative rationality posed by the fact of [genetic] contingency, and that 'human nature' can now be disposed of; there is a connection to be teased out between the deconstructive force read into genetic technologies in ethical and sociological reflections on them, whether appalled or exhilarated (Habermas, 2003; Zizek, 2003).
4. This reading/transposition of Kant can be contested – see Gavaghan 2007: 157–60 on Alan Donagan, Walter Glannon and very different readings of Kant that emphasize, respectively, a duty of beneficence and the moral significance of treatment throughout life, rather than parental motivation.
5. See Robertson, Kahn & Wagner, 2002 and Baetens, 2005 for accounts in which abortions/terminations are, albeit in very different terms from each other, discussed as legitimate options.
6. That is, they endorsed PGD/HLA screening where there is no need to screen the embryo 'anyway' to check that it has not inherited the disorder.
7. For discussion of this 'non identity problem' and the work of Richard Parfit, see Wolf, Kahn & Wagner, 2003.

8. Surprisingly, there is only one other commentary on the 'cost-effectiveness' of PTT for the NHS (Ram, 2006: 281). As an inadvertent insight into conditions in the USA, with its presumption of privately funded treatment and the fact of no applicable health insurance coverage, Robertson actually remarks on the almost impossibly *high* cost of treatment – especially given its low success rates (Robertson, Kahn & Wagner, 2002: 38).
9. This point is plausibly developed by Gavaghan (2007: 3–5). The slightly fictive, disembodied ethics set out by Boyle & Savulescu is perhaps exemplified by their description of individuals "retaining control" of assisted reproduction – which may not be a reality for many single women and lesbians.
10. From a libertarian rather than medical perspective, American advocates of procreative autonomy are also more even-handed about the relative pros and cons of PND and PGD, and unflinching on the rights of women to conceive and terminate a non-match foetus, or to use aborted foetal material for stem cells (Robertson, Kahn & Wagner, 2002: 37).
11. It should also be noted that Pennings changed his mind about this. By 2004, in an article that is otherwise in similar terms, he referred to the 'erroneous nature' of the 'preceding wish condition', and in particular the supposition that the post-natal attitude to children depends on the preconceptional desire..." (Pennings, 2004: 313). This shift is supported by a small amount of empirical evidence (Baetens, 2005: 159), also in association with the Brussels Free University.
12. The potential benefits of PND for some women are spelt out by Baetens, based on the accounts given to her by four couples: the much faster time frame where the first child's illness was progressing rapidly or where the mother is older; to avoid the stress of unsuccessful cycles and all the other complications of embryo quality and transfer, associated with the inherently high failure rates of IVF.
13. A related point is made in the context of the politics of pharmagenetics, where Hedgecoe notes the 'obvious point' that 'ethical constructions are as socially constructed as technical scientific issues...is not necessarily highlighted in the philosophically rooted bioethical literature' (Hedgecoe, 2004: 6).

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# 7

## Spatiality, Imitation, Immunization: Luhmann and Sloterdijk on the Social

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If grand social theorizing is a well-known German dish, then many chefs know how to prepare it. In this essay I shall examine two recent recipes, namely those offered by Niklas Luhmann and Peter Sloterdijk. Bringing together Luhmann and Sloterdijk might surprise at first sight. To be sure, both of them have formulated grand theories of the social, but while Luhmann has done so within a sociological horizon, Sloterdijk's work is typically associated with a philosophical tradition. This disciplinary partition is only partly sustainable, however. After all Luhmann draws extensively on philosophical resources in his social theorizing; and Sloterdijk's commitment to combine theoretical reflections with empirical observations might be said to challenge the boundaries of what is usually conceived as sociological analysis (this argument has been developed by Thrift, 2009; see also Thrift in Bech, Larsen and Borch, 2010: 99; Borch, 2012b: 296). Moreover, a conversation or encounter between the perspectives of Luhmann and Sloterdijk has already been initiated by Sloterdijk, a keen reader of Luhmann. In 2000 Sloterdijk published a tribute to Luhmann in the German journal devoted to Luhmannian systems theory, *Soziale Systeme* (Sloterdijk, 2000b). And in Sloterdijk's grand opus, *Sphären I–III* (1998; 1999; 2004), Luhmann's work often figures as a kind of discussion partner against which Sloterdijk positions himself.

The aim of this article is to elaborate on this encounter between Sloterdijk's spheres project and Luhmann's sociological programme. I shall do so by comparing and discussing some of the fundamental theoretical pillars of their work. This discussion is not meant as a mere comparison that stresses various strengths and weaknesses in each of the perspectives. The more important ambition is to use the critical encounter between Luhmann and Sloterdijk to shed some light on what might be called the *politics of theory* of their respective positions. This politics of theory refers less to the ideological underpinnings of their theoretical architectures, and more to how specific analytical decisions in the two theories foreclose particular kinds of

observations of the social. I am in other words interested in examining what is left in the dark in the two theories.

The article opens by demonstrating, in the first part, how the ambition of Sloterdijk's spheres project is to place spatiality centrally for the understanding of the social, something that stands in stark contrast to Luhmann's 'de-privileging of the spatial dimension', as Rudolf Stichweh (1998: 343) has called it. Against this backdrop, the article then goes on to argue that in particular two dimensions of Sloterdijk's analysis of spheres challenge key Luhmannian claims about social systems and how they operate. Thus, in the second part, I examine how Sloterdijk's spatial analysis demonstrates that, contrary to what Luhmann holds, spatiality can impact communication. In the third part, the discussion revolves less around spatiality and more around imitation, which is attributed a key role in Sloterdijk's project. I argue that the notion of imitation, too, challenges a fundamental idea in Luhmann's work because it demonstrates that communication might itself be conditioned by underlying dynamics.

While the discussions about spatiality and imitation point to analytical observations that Luhmann's theoretical decisions prevent him from recognizing, the final part somehow turns the tables. Here it is Sloterdijk who is targeted on the basis of Luhmannian insights. Specifically, this part of the article suggests that Sloterdijk's spheres project is guided by a problematic emphasis on the need for immunization and that his analysis of contemporary spheres does not permit an observation of the kinds of specialized immunization achievements that are being analysed in the work of Luhmann.

## Sociality means spatiality

The fundamental argument of Sloterdijk's *Sphären* trilogy is that all social life takes place in particular spatial settings. It simply makes no sense, according to Sloterdijk, to conceive of the social without acknowledging its embeddedness in spatial framings. The spatial category Sloterdijk employs to account for this spatial enviroing of any social activity is that of spheres. In Sloterdijk's words, 'the being-in-spheres constitutes the basic condition of humans' (1998: 46). Spheres, defined as the 'inside-like, accessed, shared circle that humans inhabit to the extent that they succeed in becoming human beings' (1998: 28), take different forms. Yet whatever their shape spheres always offer protection, or in Sloterdijk's terms, immunization, an aspect I shall come back to below.

The *Sphären* trilogy analyses three particular spheres, called bubbles, globes and foams, respectively. Briefly, bubbles refer to micro spheres of pair relations (mother-child; hypnotizer-hypnotized, and so on), which are the tiniest social entities possible. Sloterdijk's key points here are, first, that the basic element of the social analysis is always a multiplicity, a pair (and never an individual), and, second, that this pair or couple is

constituted by the kind of membrane – be it physical, social or mental – which the sphere designates. Globes, by contrast, are macro spheres. They refer to overarching monolithic spheres that cover an entire social universe. Examples of globes include the cosmos, God, the nation state, and so on each of which functions as a thought-figure that provides protection and a sense of meaning to the people collected under it. Finally, with the collapse of the One Sphere, which, according to Sloterdijk, is characteristic to modern society, a plurality of minor spheres has emerged the totality of which is guided by no overall logics, and whose rather chaotic composition Sloterdijk describes with the notion of foams. Foam is defined by Sloterdijk as ‘co-isolated associations’ (2004: 302), which refers to the idea that the social is constituted by singular, isolated bubbles that share common walls (just as physical foam bubbles), and which therefore are related to one another in some form of interdependency, as the burst of one bubble will affect its neighbouring bubbles. It is Sloterdijk’s analysis of foams that contains the most explicit sociological content, and thus the one I shall pay primary attention to in this context (for a fuller discussion of Sloterdijk’s foam perspective, see Borch, 2008).

On Sloterdijk’s analysis, the notion of foam offers a more apt portrayal of contemporary sociality than what is provided by much sociology. Indeed, Sloterdijk is highly critical of what he refers to as the ‘completely exhausted term *society*’ (Sloterdijk in Funcke, 2005, italics in original). He particularly criticizes understandings that either conceive of society as some form of ‘mono-spherical container’ (Emile Durkheim seems to be the target here), or as a kind of ‘non-spatial communication process in which subsystems are “differentiated”’, as Luhmann would have it (Sloterdijk, 2004: 59). Sloterdijk’s alternative foam-theoretical conception runs as follows:

By ‘society’ we understand an aggregate of micro-spheres (couples, households, companies, associations) of different formats that are adjacent to one another like individual bubbles in a mound of foam and are structured one layer over/under the other, without really being accessible to or separable from one another. (Sloterdijk, 2004: 59)

As should be clear from this definition, Sloterdijk’s notion of society is inherently spatial. Not only is the social always spherically, hence spatially, constituted; in its present foamy composition, society is structured in an immanently spatial fashion where co-isolated bubbles are positioned over/under/next to one another. Importantly, this spatial vernacular is meant deeply seriously. That is, the spatial idiom is not merely a trick played by language, as it were. This marks a clear difference to Luhmann who emphasizes that his fundamental analytical distinction between system and environment should not be interpreted spatially, although it (as well as related notions such as that of boundaries) might at first sight invite such a spatial reading.

Indeed, Luhmann states in *Die Gesellschaft der Gesellschaft*, social systems 'are not at all spatially limited, but have a completely different, namely purely internal form of boundary' (1997: 76). Put more bluntly, for Luhmann, social systems are not at all conceived of in spatial terms (for a different reading of Luhmann on this point, see Philippopoulos-Mihalopoulos, 2011). To further demonstrate this difference between Luhmann and Sloterdijk, it is useful to quote the latter's identification of what he sees as a general lack of interest in spatial matters in social theory:

In past decades, one could speak elaborately and with great nuance about everything that had to do with the temporal structure of the modern world. Tons of books on the historicization, futurization, and processing of everything were published – most of which are completely unreadable today. By contrast, it was still comparatively difficult ten years ago to comment sensibly on the spatialization of existence in the modern world; a thick haze still covered the theory landscape. Until recently, there was a voluntary spatial blindness – because to the extent that temporal problems were seen as progressive and cool, the questions of space were thought to be old-fashioned and conservative, a matter for old men and shabby imperialists. (Sloterdijk in Funcke, 2005)

Of course, Sloterdijk is not alone with this quest for a general spatial attentiveness, and he does acknowledge that his own examination of spatiality transpired more or less simultaneously with a series of other attempts to place space, rather than time, centrally in the understanding of the social. In spite of this more general 'spatial turn', the difference Sloterdijk portrays here between theories privileging temporal aspects and theories endorsing spatial horizons nicely captures the central point where he and Luhmann pursue different paths. Thus, much of Luhmann's sociology is profoundly occupied with temporality; indeed, it is one of Luhmann's great achievements that many of his analyses explicitly address temporal implications. This temporal attentiveness is manifest in at least three ways. First, from very early on, Luhmann has engaged in discussions of social evolution (1970: 150–3), and evolutionary considerations have continued to populate his work also in its later phases. Second, one of Luhmann's key concepts, meaning, is analysed along three so-called meaning dimensions, namely its temporal, fact and social dimensions, implying in other words that time is tied intimately in Luhmann's work to questions of meaning.<sup>1</sup> Third, Luhmann's arguably most central sociological contribution, his theory of the functional differentiation of modern society into a series of operationally closed subsystems of politics, law, economy, art, science, and so on is also essentially a theory of the temporal differentiation of society, as each function system operates according to its own particular temporal horizon. For example, the political system is organized around the election period (that is, typically four to five

years), whereas in the economy, especially financial markets, communication has to adapt to much shorter time spans, be it minutes or even seconds.

Luhmann's sociology exhibits no similar spatial sensitivity. As already indicated, Luhmann denies that space is relevant as a general category to describe social systems and their operational modus. This is not to suggest a complete ignorance of space in Luhmann's work (see Borch, 2011: 137–8). For instance, space works as a kind of background condition for interaction systems, as these are constituted by physical co-presence. Yet even in his analyses of interaction systems, Luhmann tends to be more interested in their temporal aspects than in their spatial foundation (see for example Luhmann, 1975: 10–11). In contrast to interaction systems, moreover, the two other types of social systems Luhmann explores, namely organizations and society, are characterized by being independent of spatial co-presence. More precisely, while Luhmann argues that segmented societies might need 'stable spatial boundaries', the contemporary world society and its 'universalization of a money-based economy' have led to a 'decreasing significance of spatial boundaries' (2000: 112, 113; for a rather different view, see Sassen, 2001).

Another, and more important, appearance of space takes place in Luhmann's reflections on time and space as so-called '*media of the measurement and calculation of objects*', which, however, are not conceived by Luhmann as some kind of social media, but refer rather to neurophysiological operations of the brain (Luhmann, 2000: 111, italics in original). Luhmann's analysis of these media contends that time and space rest on the 'ability to identify places independently of the objects that occupy these places' (2000: 111). That is, the identification of both time and space revolves around a distinction between places and objects. 'Space makes it *possible for objects to leave their places*. Time makes it *necessary for places to leave their objects*' (2000: 112, italics in original).

These few examples of how space is addressed by Luhmann are really exceptions to the greater picture of his theorizing, which is a picture of a non-spatial conception of social systems. This *spatial blind spot*, as I have called it elsewhere (2011: 137–8; see also Filippov, 2000), can be identified several places in Luhmann's work, and not just in the above-quoted statement from *Die Gesellschaft der Gesellschaft* that social systems have no spatial limitations. I shall give just two examples here, which address different aspects of his theoretical corpus. First, when looking to one of Luhmann's key theoretical inventions of the 1980s, the adaptation of the notion of autopoiesis from biology to sociology, it is interesting to see how the notion transforms in Luhmann's hands as compared to how it was originally conceived by Humberto Maturana and Francisco Varela. Of course, one would hardly expect a one-to-one transfer. Still, for present purposes it is significant that one of the central features that disappears in Luhmann's adaptation of the concept is its explicitly spatial connotations. According to



Maturana's definition, autopoietic systems are not just systems that reproduce themselves recursively through their networks of components (the part of the notion of autopoiesis Luhmann subscribes to, although he speaks of elements rather than components); they also 'constitute, in the space in which they exist, the boundaries of this network of components' (Maturana, 1981: 21). This spatial framing of the notion of autopoiesis is ignored in Luhmann's translation (on Luhmann's reinterpretation of autopoiesis, see also Borch, 2011: 26–7; 2012a).

Second, as Rudolf Stichweh has rightly noted, despite discussing time and space together as media of the measurement and calculation of objects, Luhmann clearly differentiates between the two when delineating the three meaning dimensions (Stichweh, 1998: 343). Here, time is unmistakably prioritized over space, the latter of which is entirely silenced, as it were. Yet on Stichweh's (1998: 344) view, one could easily imagine space as a fourth meaning dimension alongside the temporal, fact and social dimensions. Interestingly, Luhmann never offers any reason why space is no meaning dimension. In fact, it is not always evident why the meaning dimensions analysed by systems theory are precisely the temporal, fact and social ones (Borch, 2011: 44). The best explanation Luhmann provides of why precisely these dimensions are singled out as meaning dimensions is the claim that they are meant to correspond to his wish to base his theory on three fundamental pillars, namely a theory of evolution (temporal dimension), a theory of differentiation (fact dimension) and a theory of symbolically differentiated media of communication (social dimension) (see Luhmann, 1979: 108). But again, it is not obvious why space should matter less to social systems than these other dimensions.

I should stress that my intention here is not to suggest that systems theory *ought* to add a fourth meaning dimension (space), much less to analyse the consequences of such a theoretical move. Indeed, adding an extra meaning dimension would obviously change the theory architecture radically, and one would have to rethink great parts of the theory in order to accommodate the new supplement. Rather my aim has been to demonstrate that the spatial blindness, which characterizes Luhmann's systems theory, appears self-imposed and non-explicated, to use a Sloterdijkian term, and that it mirrors the privileging of temporal concerns at the expense of spatial ones that Sloterdijk has diagnosed to be the case for much social theory. Just as crucial, however, as the next section will argue, Luhmann's de-privileging of space has important consequences for what systems theory is able to observe, and *what not*.

## Atmospheric politics

I will argue in what follows that Luhmann's spatial blindness appears not just unnecessary, but even problematic. What Luhmann fails to account for is

*how communication might be contingent upon spatial matters.* Put more bluntly, Luhmann ignores the possibility that space might affect how communication unfolds and what themes are selected in social systems. This is not to suggest a spatial determinism where space can shape communication completely. Still, I will argue, space and communication cannot be as strongly separated as Luhmann contends in his general theorizing on social systems. This might be illustrated on the basis of a discussion of *atmospheres*, a notion that plays an essential role in Sloterdijk's sphereological project. Interestingly, Luhmann too addresses the notion of atmospheres in his discussion of space as a medium of the measurement and calculation of objects:

An occupied space creates an atmosphere. Atmosphere is always what the individual objects that occupy places are not, the other side of their form, what perishes along with them. This explains the 'invulnerability' of atmosphere, along with its dependency on a given occupied space. Atmosphere is a kind of excess effect caused by the difference between places. It cannot be analyzed by describing places, nor is it reducible to places. It comes into being each time an object occupies a place and creates an ambience that is neither identical to the object nor able to exist without it. (2000: 112)

So on Luhmann's view, every space generates an atmosphere, but as in his other theorizing, Luhmann does not suggest that this atmosphere impacts communication systems in any way. This is seen differently by Sloterdijk and other scholars who study atmospheres. Let me begin by tracing Sloterdijk's reflections, and then discuss a theory of atmospheres that has been presented by another German philosopher, namely Gernot Böhme.

As mentioned above, the notion of atmospheres is central to Sloterdijk's sphereological project. In the third volume of *Sphären*, Sloterdijk thus relates his analysis of foam to a broader theory and 'history of atmospheres' (Sloterdijk in Funcke, 2005), the key idea of which is to examine how, in the vocabulary of Luhmann, the environment (the atmosphere) impinges on and is constitutively tied to the inside-life of foam bubbles. Somewhat similarly, Luhmann acknowledges that any system is dependent upon its environment; the former is not possible without the latter. Yet, while Luhmann emphasizes that external irritation can only make itself felt through systemic self-irritation, Sloterdijk's phenomenological account suggests that changes in and of the environment can impact bubbles (respectively, systems) much more directly and profoundly than Luhmann's theory holds.

Sloterdijk explores this idea in a short twentieth-century history of the politics of atmospheres, analysing a series of key instances where life in foam sociality was targeted through atmospheric manipulations. Two events in particular stand out in this historical outline of atmospheric politics (see also Borch, 2008: 554–5). The first dates back to April 1915 when the German

forces attacked their French enemy with poison gas (Sloterdijk, 2004: 89 ff.). The central change induced by this invention in warfare was that the latter no longer took an exclusive interest in targeting the enemy soldiers' bodies; rather, it increasingly addressed their atmospheric conditions, their environment. This example points to *physical* features (the air soldiers breathe). In Luhmann's theoretical architecture, it might therefore be captured by the notion of a 'materiality continuum', which refers to the external material conditions that make social systems possible (for example Luhmann, 1997: 100). Sloterdijk's other example of a key event in the history of atmospheric politics assumes a less physical form. Thus, he argues, somewhat parallel to chemical warfare, the air was also increasingly being poisoned in more *psycho-social* fashions in the twentieth century. He demonstrates this in particular by the forms of media propaganda that transpired during the world wars. But such media propaganda cannot be limited to societies in war. Any mass-mediated society constantly moulds the psycho-social atmospheres of its inhabitants. In Sloterdijk's words, 'Life in the media state resembles a sojourn in a palace filled with gas, animated by the poisons of themed events' (2004: 187).

Sloterdijk's analysis suggests that this invention in the atmospheric is not merely a reflection of changing semantics. To put it in Luhmann's terms, the interest in atmospheres and how their design becomes a target of political action is not just a second-order analysis which points to how a new mode of observing and thinking about political intervention transpired in the course of the twentieth century. Rather, the basic claim of Sloterdijk's analysis is that the modern government, in a broad sense, of atmospheres touches upon the operational modus of systems; that is, it (also) works on a first-order level. To repeat, it simply matters to bubbles or social systems if their atmospheric surroundings are moulded, and these internal effects, it should be added, are not merely a kind of self-irritation. This latter assertion can be further substantiated by turning from Sloterdijk to another theorist of atmospheres, Gernot Böhme.

In a series of phenomenological studies Böhme has explored a variety of architectural atmospheres, defined as 'tuned spaces' (2006: 16). Not dissimilar to Luhmann's reflections on atmospheres, Böhme's point is that every spatial setting generates a particular atmosphere.<sup>2</sup> Besides being tuned spaces atmospheres are described by Böhme as a kind of 'quasi-objective feelings' (2006: 16). This entails that persons who enter the same spatial setting will experience its atmosphere in a more or less similar manner. A key consequence of this is that the atmosphere impacts the conditions of communication. It affects what is likely to be communicated. Böhme illustrates this point in several analyses, and similar to Sloterdijk's interest in atmospheric politics, he also embeds this discussion in considerations on how certain communicative effects might be designed through the management of atmospheres. This includes an examination of Nazi architecture,

where Böhme argues that the orchestration of physical design, the staging of particular architectural atmospheres that aimed to evoke a coherence between Hitler and the attending masses, amounted to a veritable 'communication design' (2006: 152, 162 ff.). That is, the intervention in, or rather fabrication of, atmospheres affected the kind of communication that would later ensue in the particular spaces.

Crucially, Luhmann's self-imposed spatial ignorance prevents him from analysing such phenomena. In other words, a whole field of spatial/atmospheric management is therefore a priori excluded from view, because of Luhmann's analytical decision to leave out space from the conception of social systems. Stichweh has suggested that what Luhmann fails to analyse is the possibility that society might not only be structurally coupled to consciousness (which is what Luhmann typically argues), but just as well to space (1998: 348). By taking into account such structural couplings between society and space would permit systems theory to investigate how atmospheric politics affects or conditions the communication that takes place in social systems.

### Imitation versus communication

The disparity which I have examined above, between Luhmann's rejection that space impinges on communication and Sloterdijk's (and Böhme's) assertion that spatial design can affect bubbles or systems (in ways, that is, which cannot be reduced to patterns of self-irritation), rests, I will argue, on a more fundamental difference in how communication and the social are approached in the theoretical corpuses. Whereas Sloterdijk (and, again, Böhme) subscribes to a *phenomenological* perspective, Luhmann – in spite of his indebtedness to Husserl – deliberately pursues 'a *contra-phenomenological* effort, viewing communication not as a phenomenon but as a problem', where the latter refers to the alleged improbability of communication (Luhmann, 1990b: 87, *italics added*). While this *contra-phenomenological* approach does touch upon one spatial dimension, namely how to overcome the improbability 'that a communication should reach more persons than are present in a given situation' (1990b: 88), the ensuing analysis of this and the other improbabilities of communication Luhmann identifies does not acknowledge that spatiality matters for what is being communicated. This is only really recognized in the more phenomenological studies of sociality and spatiality.

Yet the differences between Luhmann and Sloterdijk not only echo the extent to which they endorse a phenomenological programme or not. Luhmann and Sloterdijk also diverge when it comes to assessing the importance of communication. While, for Luhmann, communication is the key defining feature of social systems and of society more generally, Sloterdijk leaves far less room for communication in his theory of spheres. Indeed, he

states, the relation between foam cells is not so much based on communication as it is founded on patterns of imitation (2004: 60–1). This notion of imitation is inherited from the French sociologist Gabriel Tarde who plays a significant role in Sloterdijk's theory of foams (see Borch, 2008). Now, the critical point here is not simply that Sloterdijk contests Luhmann's emphasis on communication as the fundamental building block of society. Rather, by bringing in Tarde to explain social relations, Sloterdijk in effect endorses a theoretical programme which suggests that communication might be not be the primary element of the social, but that it is likely to be secondary to processes of imitation. To put it more bluntly, from a Tardean–Sloterdijkian point of view, communication is contingent on rays of imitation; that is, imitation processes make some communication more likely than other. To see this, it is important to explore a few central features of Tarde's work, which I shall do presently.<sup>3</sup>

Interestingly, it is not only Sloterdijk who has taken up Tarde (alongside sociologists such as Bruno Latour). Tarde also receives an occasional affirmative comment in Luhmann's work. One example is Luhmann's *Einführung in die Systemtheorie* where he correctly states that difference theory is not merely a key interest in his own work; a long series of other scholars can be identified who founded their work on difference rather than unity (for example Gregory Bateson, René Girard and George Spencer Brown). Significantly, in his outline of this brief genealogy of difference theory Luhmann places Tarde at the sociological starting point, with the argument that Tarde's sociology of imitations always presumes a difference between the imitator and what is being imitated (Luhmann, 2002b: 68–9). But Luhmann has also addressed Tarde's work in other contexts. In *Observations on Modernity*, for example, Luhmann refers to Tarde as a sociologist who explained 'How order can exist without knowledge' (1998: 98).

This observation is more consequential than Luhmann might have intended. Thus, one of the central corollaries of Tarde's sociology is that imitation takes place against a largely non-conscious background. This follows from Tarde's famous definition, according to which '*Society is imitation and imitation is a kind of somnambulism*' (1962: 87, italics in original). Precisely the somnambulist nature of imitation, that is, its hypnotic, sleep-walking quality, associates imitation with a non-conscious register, where even apparently conscious imitation assumes a somnambulist character. In Tarde's words:

man is wrong in thinking that he imitates because he wishes to. For this very will to imitate has been handed down through imitation. Before imitating the act of another we begin by feeling the need from which this act proceeds, and we feel it precisely as we do only because it has been suggested to us. (1962: 193)

This notion of imitation might now be compared to two dimensions of Luhmann's understanding of communication that receive a prominent place in the latter's theorizing, namely meaning and selection. As stated above, Luhmann's sociology places *meaning* centrally. According to Luhmann, social and psychic systems operate and reproduce themselves in the medium of meaning. The emphasis on meaning finds no equivalent in Tarde's notion of imitation. Indeed, this is why, in his delineation of basic sociological concepts, and in his associated establishment of sociology as the study of social action, Max Weber excluded Tarde's conception of somnambulistic imitation from the field of sociology:

mere 'imitation' of the action of others, such as that on which Tarde has rightly laid emphasis, will not be considered a case of *specifically* social action if it is purely reactive so that there is no meaningful orientation to the actor imitated. (Weber, 1978: 23, italics in the German original)

While it is important not to confuse Luhmann's notion of meaning with that of Weber, since for Luhmann, meaning does not carry any reference to a human subject, the Weber quote is telling of the non-conscious nature of imitation. Imitative rays simply operate independently of meaning. To be sure, as Weber also recognized, it is possible to imitate something in a conscious, meaningful manner, as when imitating a way of dressing which is in vogue (Borch, 2012b: 109–10). Yet, as the above Tarde quote makes plain, 'this very will to imitate' may itself be 'handed down through imitation', that is through a somnambulistic operation. This absence of any meaning horizon, which travels into Sloterdijk's conception of foam sociality via his endorsement of Tarde's understanding of imitation, is clearly at odds with Luhmann's wish to tie communication constitutively to meaning and thus to place meaning centre stage in his theory of social systems. But it is not entirely without resonance with other sociological reasoning. Thus, although it would go too far to analyse in detail the relations to Jean Baudrillard's work, he too was occupied with studying 'that it may be possible to communicate *outside the medium of meaning*' (1983: 36, italics in original).

Yet it is not only the emphasis on meaning which differs. The conceptions of imitation and communication also entail differences with respect to how the operational modus of the social is understood. To see this it is worthwhile noting that Tarde's theory of society is modelled in essence around the phenomenon of crowds (Borch, 2012b: 55; Mazzarella, 2010: 723). Crowds signify a highly intense, self-organized form of imitation where imitative rays are transmitted instantaneously to the entire collective. While non-crowded imitation is less intense, it nevertheless resembles in its basic modus operandi the somnambulistic imitation that takes place under crowded circumstances. This means among other things that, on Tarde's view, imitation can be understood as a kind of self-organizing process, not dissimilar to the

self-organizing and autopoietic logic Luhmann attributes to social systems. It might therefore appear as if imitation and communication operate in similar ways. Yet on closer inspection, an important difference transpires between how Luhmann conceives of communication and how Tarde theorizes imitation. This difference has to do with the role of *selections*. According to Luhmann, communication is in essence a play of selections, namely a threefold selection of information, utterance and understanding. In this triple selection, understanding (which need not point towards consensus in any form) is the most central part:

By understanding, communication grasps a difference between the information value of its content and the reasons for which the content is being uttered. It can *thereby* accentuate one side or the other and thus pay more attention to the information itself or to the expressive behavior. It is, however, always dependent on experiencing both sides as selection and thereby distinguishing them. (Luhmann, 2002a: 157, italics in original)

Now, as this quote intimates, Luhmann's notion of communication rests on a capacity to select something from something else, and to observe this as a selection. This entails some form of conscious or, to avoid psychological categories, deliberate model underpinning his notion of communication and, hence, the social. In Tarde's sociology, and consequently in Sloterdijk's analysis of social foams, imitation is conceived in non-deliberate terms: imitation can take place without the imitator being aware of it, that is, without the imitator *grasping* (to borrow the term from the Luhmann quote above) imitation as a selection. Rather than requiring knowledge about selections, imitation dynamics thereby propel a social order, which is not based on knowledge, as Luhmann correctly observed. But due to its non-conscious, somnambulistic nature, imitation not merely generates a social order without knowledge; it actually stimulates an order in which non-conscious imitations work behind the back of social systems, as it were. Imitation patterns thereby condition what can be communicated. So just as Sloterdijk's spatial approach suggests that communication might well be an effect of some external setting, so his Tardean reference to imitation proposes that the specific communication of social systems might be triggered by rays of imitation of which the systems are neither aware nor in control. Importantly, Luhmann's theory forecloses any systematic analytical engagement with this possibility.

## Immunization and the politics of theory

As I have tried to demonstrate so far, Sloterdijk's sphereology addresses issues which question the adequacy of some of Luhmann's analytical decisions. Specifically, Sloterdijk's work suggests that Luhmann falls short when it

comes to taking into account how communication might be impacted by spatiality and by imitation processes. In this final part, I will argue that on some accounts, it is Sloterdijk rather than Luhmann who seems to be operating with questionable assumptions, and that it is Luhmann rather than Sloterdijk who appears to arrive at the more balanced analysis. This discussion will revolve around the notion of immunization.

One of the guiding ideas behind Sloterdijk's spheres project is the notion that spheres offer a protective membrane for those who gather under it. Specifically, Sloterdijk asserts, spheres provide immunization, and this is their central function. This applies to all levels, that is for micro, macro and plural spheres alike. But the ways in which this immunization is ensured obviously varies a great deal. Parallel to his analysis of atmospheric politics, Sloterdijk's analyses suggest that immunity production can be accomplished both physically and in psycho-sociological fashions. For example, faith in God or the nation state may produce spheres of a psycho-sociological attire, whereas the material walls of an apartment may generate physical immunization in the social foam. In the most sociological part of the spheres project (the volume on foams), Sloterdijk discusses at length how immunization is related to architecture (Borch, 2008: 558). Among other things, Sloterdijk here posits, a 'Residence is, immunologically speaking, a defensive measure designed to demarcate a sphere of well-being from invaders and other agents of unwellness' (2004: 535). Or, in a different formulation, 'An architecturally successful residential unit not only represents the air-filled space within, but specifically a psycho-social immune system that can regulate the degree to which it is sealed off from the outside world as it requires' (2004: 578). Thick walls can help to protect the interior from the threatening outside, but so can more flexible architectures that might not have stable walls but compensate for this through mobility. As an example of the latter, Sloterdijk (2004: 556) refers to the American designer Richard Buckminster Fuller's mobile buildings.

Sloterdijk's insistence on the need for immunization is somewhat surprising. When he intimates that the key feature of spheres is the kind of immunization they provide, and when he defines spheres as the circles '*humans inhabit to the extent that they succeed in becoming human beings*' (1998: 28, italics added), there is only a small step to concluding that, not only is immunization at the basis of the entire spheres project, concerns with immunization are elevated to the level of an anthropological constant that guides all social life. This prevalence of immunization concerns might be critiqued on at least three accounts. First, it is not clear why an analysis of the spatial context of social life should necessarily be tied to immunization concerns. It would be perfectly reasonable to examine the spatial embeddedness of the social without asserting that socio-spatial configurations follow from immunization needs. Second, and relatedly, the emphasis on immunity gives rise to a slightly paranoid conception of space and sociality:



as the above quotes on residence make clear, Sloterdijk operates with an image in which the outside is always potentially, if not actually, dangerous. I have argued elsewhere that Sloterdijk's insistence on immunity production seems to be associated with a particular theoretical horizon, which is represented by intellectuals such as Hermann Broch and Elias Canetti, two authors Sloterdijk is profoundly inspired by, and for whom the key motif of life was to ward off death (Borch, 2008: 555–6). While this is not a relation I can excavate further here, the central message is that Sloterdijk's stress on immunization endows the spheres project with a *politics of anxiety*, which, it might be added, seems to run counter to the bubbling, joyful connotations of the image of foam.

Third, at least from a Luhmannian vantage point, it appears slightly dodgy to base a theory of the social on an anthropological constant. The point is not so much that working with an *anthropological* constant would amount to (re)inserting in the theoretical architecture a notion of humans. (While Luhmann clearly resisted granting the human any *central* role in his theorizing, he did in fact have a lot to say about human beings; see for example Philippopoulos-Mihalopoulos, 2011: 52).<sup>4</sup> Rather, Luhmann's critical point would be that subscribing to such an anthropological *constant* would tend to ignore socio-evolutionary dynamics. On this backdrop, I would like in the following to discuss how Luhmann arrives at considerations on immunization that are guided by a politics, which is radically different from the anxious one of Sloterdijk. In Luhmann, immunization is not to be examined as an anthropological constant, but rather in its relation to the differentiation of modern society, and thus as a historically contingent appearance.

I spent some time above demonstrating how the assessment of the status of communication is one of the things that sets Luhmann's theory apart from Sloterdijk's. The two theories also divide when it comes to the status of differentiation. On Sloterdijk's analysis, there is no overall logic of differentiation structuring the social foam. Bubbles are placed next to, above or under one another in a seemingly chaotic way. Indeed, the emphasis on atmospheres, foams and bubbles is meant to bypass the notion that some overarching logic of differentiation cuts across the social domain.<sup>5</sup> Luhmann sees this very differently. On his view, modern society's most significant feature is how it is differentiated into a series of function systems of politics, law, economy, art, science, and so on, where every system fulfils its particular societal function, and where no system has societal predominance over the others.

I will argue that Luhmann's analysis of functional differentiation permits two different interpretations of how immunization might be conceived of in modern society, and that Luhmann's position strikes rather more positive tones than the anxious image depicted by Sloterdijk. First, the idea of societal immunization is addressed explicitly by Luhmann in his discussion of the differentiation of the legal system. According to Luhmann, the

central function fulfilled by the legal system is to stabilize normative expectations (2004: 198). If normative expectations are disappointed, say, when people commit crimes, then the legal system can sanction the offenders and thereby ensure that society's norms are maintained. The principal means utilized by law to produce this stabilization is its so-called conditional programmes, that is, an 'if..., then...' model which stipulates that if this or that violation of normative expectations occurs, then this or that legal sanction will follow (2004: 196). This stabilization of normative expectations establishes, Luhmann continues, a kind of temporal link between the present and the future. The point is that the legal system, through its use of conditional programmes, can handle an essential unknown future in the present: it can stabilize normative expectations without knowing if/how they might be violated in the future. This discussion of the legal system and its time-binding capacities clearly demonstrates the kind of temporal emphasis I ascribed to Luhmann's general theorizing earlier in this chapter. But that is not the crucial point for now. More importantly, the ability of the legal system to deal with future conflicts without knowing them in the present entails, according to Luhmann, that it makes sense to 'see law as a kind of immunization system of society' (2004: 171). Consequently, whereas in Sloterdijk's work, immunization is granted through all spheres, whether they assume material or more mental guises, Luhmann argues that societal immunization is ensured first and foremost by the legal system. Put differently, while Sloterdijk claims that immunization concerns are immanent to the social as such, Luhmann suggests that, on a societal level, immunization concerns should be seen as evolutionary appearances which, in modern society, are being attended to in a specialized manner by the legal system.

In addition to this analysis, where immunization is addressed explicitly by Luhmann, I claim that his theory of societal differentiation is guided by a more profound, albeit implicit, interest in immunization, which does not pinpoint a particular social system as the locale for societal immunization production. Thus, Luhmann's insistence on functional differentiation reveals a concern with how to ensure immunization from totalitarian developments. To see this it is important to distinguish between two levels of Luhmann's theory of functional differentiation. On the one hand, functional differentiation is employed by Luhmann as an analytical category which, so he claims, is fruitful for grasping the primary mode of differentiation in modern society. And, he adds, the analytical value of this notion has not diminished at the end of the twentieth century, despite what may be asserted by scholars subscribing to the plethora of competing notions of postmodernity, risk society, network society, and so on (e.g. Luhmann, 1997: 1143–9).

On the other hand, this strict *analytical* employment of the notion of functional differentiation is tied to a more *normative* concern with how to ensure

democracy and avoid totalitarianism.<sup>6</sup> While modern democracy is founded on the functional differentiation of society, Luhmann posits, totalitarianism amounts to a de-differentiation of society, as one or few subsystems (typically, politics or religion) take predominance over the others. For this reason Luhmann is highly critical about attempts to place one system centre stage in society. As he puts it in a discussion of politics (but the quote applies in principle to any system), 'One cannot functionally differentiate society in such a way as to make politics its center *without destroying society*' (1990a: 33, italics added). So not only would it obviously be difficult to change the operational modus of the societal function systems that would now have to follow the logics of politics (or whatever system is elevated to the central system); such an endeavour would also suspend the foundation of the modern democratic society. Consequently, Luhmann's analysis suggests, a true immunization of democratic society is not simply ensured through the legal system's programming and time-binding abilities; it also rests on the ability to maintain functional differentiation as such.

It might be argued that this Luhmannian perspective echoes a German experience with Hitler and a post-war urge to avoid any return to totalitarian rule; and more importantly, that this perspective opens up for an interpretation of Sloterdijk's notion of immunization that differs from what is held on an explicit level by the latter. Thus, Sloterdijk's notion of foams might be said to present an image of society which by its nature is antagonistic to totalitarianism. Due to its chaotic, bubbling constitution, the foamy society is clearly at odds with the idea of an ordered, hierarchical totality which is ruled top-down. On this view, Sloterdijk in fact mirrors Luhmann's celebration of the functionally/foamingly differentiated society's ability to ward off totalitarianism, with the specification that Sloterdijk does not buy into the idea of functional differentiation but argues instead for a more unstructured form of differentiation. In spite of this it still seems warranted to assert that Sloterdijk's insistence on the need for immunization appears exaggerated, and that by discarding any idea of a differentiation of society into some logics or orders that cut across the bubbling, foamy life, Sloterdijk does not see how, for instance, the differentiation of society might lead to specialized immunization endeavours.

Let me end this discussion with a final reflection. While it is interesting to note how, despite all differences, Luhmann and Sloterdijk share a concern with the question and notion of immunization, and while this concern might be related to experiences with World War II and associated anti-totalitarian ambitions (see also Borch, 2008: 556; 2011: 5), the two scholars also seem to concur with respect to the politico-theoretical implications of this anti-totalitarian stance. Thus, Luhmann and Sloterdijk seem to subscribe to the same kind of politics of theory when it comes to understanding the political role of theorizing. In a joint struggle against Frankfurt School preferences, Luhmann and Sloterdijk make great efforts to formulate

their work in a language that is meant to resist political appropriation. That is, rather than endorsing the gesture of critical theory, where the scholarly approach is designed to evoke particular political effects, Luhmann and Sloterdijk perform a kind of retreat from classical theory politics. This is visible in Luhmann's explicitly anti-humanist, systemic vocabulary since this cold technical lingo hardly inspires political appropriation. The same applies to Sloterdijk whose emphasis on bubbles and foam is a deliberate attempt to avoid appropriation by politicians. In Sloterdijk's words, the language of spheres contains an inbuilt 'imitation barrier', and this is one of its central achievements (2004: 866). I would claim that what transpires here, in Luhmann as well as in Sloterdijk, is not so much an annulment of politics, but rather – to put it in the terminology of this section – an immunization from the idea that (human) social theory can lead to the betterment of society. Or in a different formulation, Luhmann and Sloterdijk agree that one important form of protection against totalitarianism is to avoid political-interventionist inclinations of social theory.

## Conclusion

I have tried to demonstrate in this chapter that, while Luhmann gives priority to a communicative understanding of society, Sloterdijk argues for a spatial understanding of the social. Using Sloterdijk's spatial conception as the backdrop, the article has argued that Luhmann's general lack of spatial sensitivity produces an inadequate understanding of communication. More specifically, the chapter has asserted that communication may be conditioned by its spatial anchoring, and that Luhmann's neglect of spatial matters therefore entails a truncated image of how society and the social operate and are constituted. A similar analysis was pursued with respect to the relation between imitation and communication: qua its non-conscious, somnambulistic nature imitation can condition social systems by making certain communications more likely than others. Ignoring how communication may be propelled by such underlying dynamics, Luhmann's theoretical architecture is based on analytical decisions that prevent him from observing the full palette of the social, as it were. While the bulk of the chapter situated the encounter between Luhmann and Sloterdijk on the latter's home field, it was also demonstrated how especially Luhmann's analysis of functional differentiation opens up for a – compared to Sloterdijk's – more balanced, that is, less anxious, analysis of how immunization might be conceived of in modern society. That is, in terms of immunization Sloterdijk is the one whose theoretical decisions seem to foreclose rather than open up analytical horizons. So although, as I have also argued, Luhmann and Sloterdijk seem to subscribe to the same underlying (anti-humanistic) politics of theory, on this point Luhmann's recipe stirs more appetite.

## Notes

1. Editors' note: A further elaboration of the three meaning dimensions position in systems theory is to be found in 'Luhmann and Koselleck: Conceptual History and the Diagnostics of the Present' by Niels Åkerstrøm Andersen, in this volume (See the section 'The semantic analysis and the meaning').
2. In his discussion of atmospheres, Luhmann actually refers to Böhme's work, but he also recognizes that Böhme's approach is different from the one he himself pursues (Luhmann, 2000: 345, n. 24).
3. What I propose below differs from some of my previous discussions of the Tarde–Luhmann link. Thus, while in other contexts I have suggested that Tarde's theory of imitation amounts to an early sociology of communication (Borch, 2005), the central point of the following is that, to the extent that imitation is a form of communication, it assumes a particular non-meaningful, non-selective shape, and is therefore endowed with qualities that are highly different from the ones Luhmann attributes to communication.
4. Editors' note: See also Todd Cesaratto's discussion of the human in systems theory in 'Luhmann, All Too Luhmann: Nietzsche, Luhmann and the Human', in this volume.
5. To be sure, in some of his other work Sloterdijk grants questions of differentiation a far greater role for the understanding of modern society. This applies in particular to his essay on masses which revolves to a large degree on a distinction between horizontal and vertical differentiation (Sloterdijk, 2000a). I discuss Sloterdijk's theory of masses in Borch (2012b: 279–84).
6. I have discussed Luhmann's normativity at greater length in Borch (2011: 118–24).

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## **Part III**

### **Radical Semantics**

# 8

## Limits of Interpretation, Closure of Communication: Umberto Eco and Niklas Luhmann Observing Texts

*Elena Esposito*

### Biography and theory

The encounter between Umberto Eco and Niklas Luhmann has a biographical side (mine and of the authors considered) and a theoretical side. The first one (although complex for the people involved) is easier to describe, therefore I will start from it: from the situation around the eighties in which exchanges between disciplines and between theoretical assumptions were more open and more frequent than in later decades (probably also because there were much stronger and better acknowledged theories).

The biographical side has two references: to the author of this chapter and to the persons of the two scientists. In those years I was studying and working first with Eco and then with Luhmann, dealing in both cases with the same issues (the communicative forms of temporality) more or less with the same interests and the same questions, and finding in two disciplines as diverse as semiotics and the sociology tools that seemed to be compatible – and I do not think it was by accident. The encounter between Eco and Luhmann went in those years also through my person, when I spoke with Eco of temporalization of complexity (Luhmann, 1980) or discussed in Luhmann's seminars of language as a system or of the interpretation of the aspectual forms of verbs (Comrie, 1976; Courtes/Greimas, 1986: 19f.).

Luhmann knew linguistics and semiotics, mainly in reference to the structuralist tradition since Saussure and to the discussion – in those years rather fashionable – about speech acts and the pragmatic aspects of the use of signs. Eco, like the whole French and Italian semiotics, did not read Luhmann and did not read sociology, with the exception of the ubiquitous Goffman, who seems to be counted by each discipline as a member (both social psychologists that semioticians present him as one of their own). In both cases, however, there was great openness and a lot of interest for the stimuli coming from different researches: the flexibility that allowed me to write with Eco a thesis



based on Luhmann's theory and to set with Luhmann a work on language that dealt with semiotics.

This reciprocal openness was revealing of the style of those years, when the residues of a structuralist sensitivity permitted very broad research in many different fields, from anthropology to linguistics, from psychoanalysis to narratology, but also (I think) of a basic connection (very basic, below the obvious differences) between Luhmann's and Eco's research – the common interest in Derrida's theory, which both approached with respect and from which both got distanced (e.g. Luhmann, 1984: 202*f.*; 1990: 16; Eco, 1990: 329 *ff.*) can be read as a symptom.

But here we are already moving to the theoretical side, trying to reconstruct the affinities between such different theories, in order to show (as I would like to do) that it is better to refer precisely to the point of greatest distance in order to understand what semiotics and sociology can learn from one another. This point of distance seems to me the interpretation of interpretation: the idea that there is (or not) an outer limit that allows to distinguish a priori correct readings from incorrect (or even 'aberrant') readings of a text. Today one would speak of constructivism, maybe in the curious form of the recent debate on 'new realism' (Ferraris, 2012) that not by chance has Eco as one of its protagonists. The complexity of the theories of the two authors can be read also as a response to this question.

In this chapter I will first reconstruct the central role of the problems of interpretation in Eco's theory since the famous definition of open work, which is actually much more a research on the conditions and the forms of closure. Much of Eco's theoretical work can be seen as an attempt to deal with the problem of the drift of interpretations, up to the recent proposal of a 'Negative Realism'. Luhmann's concept of communication, which will be discussed later, is an indirect response to these difficulties, which dissolve when one takes as a reference the position of the recipient and the autopoiesis of communication. Communication constrains itself eliminating any arbitrariness, but maintaining the whole freedom of interpretation. We will show that the fundamental difference between Eco and Luhmann is the reference to society, which allows sociology to define communication and to study its forms, while for semiotics it is an additional complication.

## **The closure of the open work**

If we go over Umberto Eco's theoretical reflection, we see quickly that the underlying issue has always been the problem of interpretation, intended as a dialectic between the opening and the closing of a text.<sup>1</sup> Eco started from the debate on hermeneutics in Payreson's version, where the problem was to find a way to combine the interpreter's initiative with some form of fidelity to the text: to recognize the evident freedom of the reader to produce his own sense (to open the text), but also to constrain it (to close it) in order to

avoid what Eco always saw as an uncontrolled drift. In fact, contrary to what is often somewhat hastily said, Eco's first interest in *Opera aperta* was not the opening but the closure: the opening of the work is recognized and studied in order to highlight the forms and the limits of the closure.

The hypothesis is well known: there is a cooperation between recipient and text that leads the reader to get out of it also things that the text does not say, to connect it with other texts, to build his own information, that is to take advantage of the opening of the work to configure it in his own way, with considerable freedom with respect to the author's original meaning – but this freedom is not unlimited. What Eco calls *intentio lectoris* (which is the basis of the freedom of interpretation) differs from the *intentio auctoris* but also from the *intentio operis*, that is from a form of internal coherence of the text where the various passages confirm and enhance each other (1990: 32f.). The opening of the text is not indefinite, but results from the game between these three instances. This remains the central point, hence the open text is always also a bit closed. Indeed, as Eco says, 'nothing is more open than a closed text' (1979: 57).

Eco's argument produces a curious paradox: in order to define the text as open or closed Eco refers just to that author's intention that seemed to be abandoned. A text is open when the author constructs it in view of a multiplicity of interpretations, even those he cannot foresee and cannot control. It will then be a text compatible with many distinct readers, with different interests, knowledges and presuppositions, which confirms its identity in the multiplicity of interpretations. If, as in the case of *Finnegans Wake*, the text is aimed at readers who may have different levels of linguistic competence and unpredictably multiply associations, references, cross-readings, the freedom of the interpreter with regard to the original sense confirms the intention of the author: the more the reader deviates the more he does what was expected from him – the most open text becomes admirably closed. On the contrary a closed text, written for instance with a specific moral or educational intent, that shows an explicit intention, is exposed almost inevitably to deviant interpretations<sup>2</sup>: for example parodistic ones, or the ones that take it as the manifesto of an ideology to be opposed. Eco analyses in this way the reception of Eugène Sue's *The Mysteries of Paris*. A closed text, which does not anticipate the diversity of interpretations, cannot direct or control it in any way: it is therefore completely open to the contingency of multiple readings.

The situation is clearly paradoxical: if the author wants to produce deviance the free interpretations of the readers conform to his intention; if he wanted to constraint interpretation the reading will be deviant. The reason is another paradox, deeper and a little less obvious: ultimately the core of Eco's reconstruction is still the intended meaning of the author's: that original intent which apparently had to be abandoned. Although Eco does not take as a reference the sense the author meant, the definition of a text as open

or closed relies on who he anticipated as its reader, that is still on his intention. The paradox, however, points out that the intention of the author is inaccessible – as hermeneutics knew very well, starting precisely from this inaccessibility (Gadamer, 1960: 2.I.1ff.).<sup>3</sup>

Also Eco to some extent recognizes this circularity, and articulates it in the dynamics between Model Author and Model Reader, maybe in the abstract and generalized form of actantial roles within the structure of oppositions of the text (subject/object, sender/recipient, helper/opponent<sup>4</sup>). Author and Reader, for Eco, are not concrete persons but textual strategies that get defined in the cooperation producing the text as its result (1979: 60ff.): the empirical author formulates a hypothesis of the Model Reader and translates it into his work, thereby also revealing himself as the Model Author. And it is this Author (not the empirical one) that the reader must infer from the work, reconstructing the textual strategy with a hypothesis about the Model Author: he tries then to interpret the text in the sense the Model Author intended to give it, binding his arbitrariness. Empirical author and empirical reader cooperate at the level of the model, building what becomes the actual text. But Eco himself seems to recognize that this proposal does not solve the hermeneutical circle, that is the inaccessibility of the author: he remarks that ‘the hypothesis formulated by the empirical reader about his Model Author seems more guaranteed than the one the empirical author formulates about his Model Reader’ (ibid.: 62), because finally it is always the reader who asks the question ‘what do I want to do with this text?’ (ibid.: 66) and provides his answer. For a theory that aims to indicate the constraints of interpretation, the position ‘gets desperate’: you can indicate which actantial structure the text should have, but you can never say how and when the reader is required to identify it (ibid.: 176).

In Eco’s theory the *intentio auctoris* translates into the *intentio operis*, which should be more objective but is not easy to determine – but it is ultimately what allows to distinguish a correct reading (among the many ones admitted by the text: uniqueness is definitely abandoned) from a wrong, more or less unacceptable reading. The problem remains to determine whether and how the internal constraints of the work make the text open, and up to which point. It is not an easy problem: the whole of Eco’s theory can be read as an attempt to articulate the answer, multiplying distinctions and classifications, subtleties and nuances (Eco himself says it: 1979: 8).

## The riddles of interpretation

Eco’s difficulty, you might say, is to manage a theory which includes at the same time ‘open work’ and ‘aberrant decoding’: the recognition of the multiplicity of interpretations and the possibility of establishing when this freedom of interpretation produces a sense too distant from the intentions of the sender, so you can say that it is not only wrong but even aberrant.

In more technical terms, the opening of the work took the form of Peirce's (1931–1935: 1,339) Unlimited Semiosis, which hovers like a ghost throughout Eco's whole production – and like a ghost is frightening and fascinating. It is the general condition that any interpretation (Peirce speaks of representation) refers inevitably to another interpretation, because a hypothetical primordial object can never be perceived: we know what we know through a meaning, that refers to other meanings and produces further meanings. The signification process does not have a limit but builds an infinite regress from interpretation to interpretation.<sup>5</sup>

Towards this regress Eco's position is far from neutral: he presents it as a form of 'epistemological fanaticism' symmetric to metaphysical realism, exemplified for example by Thomas Aquinas for pre-modern thought or by Lenin in more recent times: the idea of knowledge as *adequatio rei et intellectus*, reflection of a world of given and independent things. The regress of interpretations appears to him equally unacceptable, branded as a 'connotative neoplasm' which leads to a growth of interpretations 'of a cancerous kind' (1990: 327s.): an uncontrolled 'drift' from meaning to meaning where one slides from one sign to another without any constraint. For Eco (2012) interpretation must be open but not unlimited: the task of the theory is to provide concepts that specify and possibly justify these limits.

More than concepts, however, Eco provides descriptions and classifications: for example, the distinction between *use* and *interpretation* of a text (Eco, 1979: 59f.; 1990: 32f.). Use is entirely free ('aberrant, desiring and mischievous'): it allows to read the *Imitation of Christ* by Thomas à Kempis (15th century) as if it were written by Céline or the rail timetable as a romantic evocation of travels and memories. This fruition of texts is always possible, and Eco acknowledges that it opens 'beautiful and exciting' prospects. However, it should be distinguished from interpretation, where the reader tries to reconstruct the intrinsic sense of the text, so anyone reading Kafka's *The Process* as a detective story would lose much of the enjoyment and complexity of the book. At the level of interpretation it is possible and also rightful to set constraints, distinguishing correct readings and wrong ones. These constraints extend to all processes of signification, so that for example you can interpret a screwdriver as a tool to turn the screws but also as a tool to open a parcel – but not as a tool for scratching your ears (the example is in Eco, 2012). This would be an aberrant decoding. One could argue however that the problem is how you define the boundaries of aberration and norm, the point in which interpretation slides into use and the reasons why a creative use should be kept separate from an interpretation (maybe boring and not very informative). By itself, the distinction between use and interpretation is just another way to describe the problem, not a solution.

The more articulate distinction, at the basis of the ambitious structure of the *Trattato di semiotica generale*, is that between *dictionary* and *encyclopedia* (1975: 143ff.; 1984: 109ff.). A dictionary encodes a series of fixed and

institutionalized meanings, articulating a culture in portions that are integrated and specify each other: like a collection of pieces that can be divided in different ways (the segmentations of semantic fields of Hjelmslev (1943) and of structural semantics) but that each time is unique, well defined and relatively stable – like the entries that make up a dictionary. An encyclopedia, on the other hand, is much more complex and flexible: it is continuously updated and modified with the changes of language and culture, articulating a series of headwords that can overlap and present areas of fuzziness, but reflect the use and practice of communication. The systematization of semiotics proposed by Eco in the *Trattato* presupposes and develops this structure: it divides the discipline into a ‘theory of codes’ and a ‘theory of the production of signs’, which repropose in a certain sense the component of closing and the component of opening (more or less fixed codes allow to produce always different signs), and derives from their intertwining the structure and dynamism of culture and its use. But again: it is another description, even more complex and differentiated, which presupposes but does not answer the eternal question of the dependence/interdependence between closing and opening – the production of meanings that define themselves by pointing beyond themselves, as the encyclopedia presupposes the dictionary but every time goes beyond it.

Semiotics, we could say, is a big construction that divides and complexifies a basic problem: on the one hand it hides it from view, engaging the attention of the scholar in an endless series of specifications and increasingly accurate classifications; on the other hand it makes it more evident, when one abstracts from the details and looks into the sense of the construction. And in fact, in recent times Eco himself tends to come back with a renewed (and risky) explicitness to the original issue of interpretation and its limits. In a recent contribution on the alleged ‘new realism’ he defines his position towards postmodernism (Lyotard), and deconstruction (Derrida) arguing that the fundamental limit to possible interpretations is set by the maker (of the object or the text), who elaborated a project compatible with several different interpretations, but not with all possible ones.

The task of discriminating, correct interpretations, however, ultimately is up to the world, not to the maker: it is as if the world tested the project of the maker, providing a response that constrains him and everybody else, thereby overcoming also the subjectivity of the author. In Eco’s proposal of a ‘Negative Realism’ (2012) every object (and of course every text) has properties that make it suitable for a certain use and not for others: it is not appropriate to use a screwdriver to transport liquids – regardless of the interests and even of the preferences of the user. The world answers Yes to many different interpretations (this should correspond to the moment of opening), but says No to some interpretations that are ‘clearly’ inappropriate, distinguishing thereby ‘poetic invention, dream, hallucination and acceptable statements’. The Yes is not definitive, therefore the world is unable to

state an ultimate correct interpretation, but the No definitely identifies the wrong interpretations: here the world speaks up. In a revised reformulation of Popper's falsificationism, Eco repropose the classic argument that should combine relativism (or contingency) and reference to reality. Constructivism itself asserts something very similar, when it says that reality operates as a lock with respect to the key (the knowledge), indicating clearly which keys are wrong.

The difference – and the reason why Eco is very far from constructivism – lies in the conclusions drawn from this observation. Eco (2012) is optimistic: he claims that the Nos formulated by the world indicate that there is a 'hard core of being': therefore 'there are things that you can't say' and finally you can still believe that research 'gets ahead with the torch of truth'. Constructivism (for instance von Glasersfeld, 1981) affirms on the contrary that the relationship of the key with the lock confirms only that reality exists, but does not tell us how it is made and does not imply either that we are gradually approaching it. Knowing that the key opens the lock, we still know nothing about how the lock is made. We can have some indications on how to build the next key, which maybe will work even better, but functioning does imply an increase of knowledge.

The same applies to technology: that a machine works does not teach us anything about how the world is made, just indicates which technologies are compatible with it (Luhmann, 1990: 262ff.). The constraints to arbitrariness, which under certain conditions allow us to determine what works and what is wrong, are not necessarily constraints to contingency, which would exclude possibilities, and not even progresses towards the truth, which remains unknown (even and especially if the reality comes to word). This was also Popper's limitation: the accumulation of negative answers would bring nearer to the truth only if the number of possibilities were finite, so that the exclusion of some of them increases the possibility of the remaining ones – but nothing constrains the number of possibilities of the world, therefore a negative reply only indicates what does not work, but provides no information about other possibilities nor about the status of the world.

In this perspective the issue of interpretation remains open: the world does not speak up, at most responds to our questions, but only with Nos that leave indeterminate the range of possible Yesses. The issue is who poses the questions, to whom, and how they are dealt with. The interpretation of a text does not concern the world but the relationship between the perspectives of the participants, that are inaccessible for each other (one cannot know directly what the partner thinks) but refer to each other. The adjustment to the world comes in, if it comes in, at another level: one issue is to understand what the other is telling (or writing), another one is whether what he says is true. The constraints of interpretation have nothing to do with realism, negative or not, and do not depend on how the world is made: they serve to determine when a communication shall be treated as a dream

or a hallucination, regardless of whether the object to which it refers really exists or is only imagined (whether or not it is a hallucination). In terms of Luhmann's theory: the issue of interpretation concerns communication, not the world nor the subjects, and can be sensibly posed only when one identifies communication and defines it as a specific object. This is precisely the task of sociological systems theory.

## **The information of observers**

The fundamental difference between Eco and Luhmann lies in the definition and the role of communication: for Luhmann it is the primary reference, which allows to define society and then semantics, language, and the relationship with the world; for Eco it is a use of codes that depends on external variables, and we need to study how it changes when these factors are changing.

The riddles of interpretation, in last instance, start here. For Eco the whole debate on postmodernism and deconstruction depends on the position one takes in the confrontation of facts and interpretations: either you take the side of the facts or you take the side of the interpretations. Postmodernism, in Eco's reading (2012) and in the debate on new realism as well, would prefer interpretations, starting from Nietzsche's famous formula that there are no facts, only interpretations. Realists, negative or not, on the contrary save the facts (even if mediated and indirect): the interpretation can have another interpretation as its object, but this interpretation must itself have its own object and so on, in a regression which must eventually stop with a fact. Luhmann, and with him the theory of difference, has a radically different approach and does not take the side either of the facts or of the interpretations, but addresses directly the difference as such: object of his research is the *distinction* between facts and interpretations, which are produced and change only together (as we know since Heisenberg). The observer who observes a world in which there are observers must also observe observation perspectives with their respective objects, knowing that his own observation perspective is one among others. The reference to observation does not deny the world (the facts), that exist and bind the possibilities of observation, but refers them to the perspective of an observer. The facts are there, but only because there are also the interpretations: observing one side of the distinction you must necessarily consider also the opposite side and their relations.

In my opinion, only if one assumes this attitude one can have a genuine concept of communication. Eco (1975: 50ff.) on the contrary starts from the world, with its facts and its information, and studies how they can be communicated more or less faithfully. His model of communication still refers to Shannon and Weaver's classical scheme (1949) in which a signal goes from a source to a receiver via a channel, and arrives more or less

intact, depending on the noise that intervenes on the trail. Communication succeeds if the information available on departure coincides with the one available at arrival, minus the losses due to noise. Eco introduces the processes of encoding/decoding to take account of the different factors acting on information, from the technical conditions of transmission to syntactic (the language used), semantic, behavioural or ideological factors. But the structure remains the same: taking into account the differences in knowledge, interests, political settings or character, as well as the physical conditions of transmission and the characteristics of the media (voice, text or otherwise), communication succeeds if any portion of the information on departure arrives at destination. If the information does not arrive or is completely different (aberrant decoding) we must say that the communication failed. The identity of information is the guarantee of the identity of communication.

Luhmann's approach is radically different, starting from the assumption that there is no object-information that can be transmitted: information does not exist in the world, but only in the observers that produce it in always different and personal ways. As von Foerster (1972) claimed, 'the environment contains no information. The environment is what it is'. In order to study information you have to refer to observers and to the infinitely surprising way they face the world and get stimuli: they get 'noise' (order from noise) – here we see how the cybernetic, constructive and informative, concept differs from the semiotic one. Also communication is a given which produces always different (but coordinated) information in the involved subjects – that are inevitably black boxes: no one can observe directly what happens in the head of someone else and the concepts of communication which start from shared contents are empirically implausible. Already hermeneutics said it: one can never know the sense intended by the issuer, and you cannot measure the success of communication according to the fidelity to it.

The concept of communication must be correspondingly complex, taking account of this impenetrability and of the fact that it is a source of information referring to the intention of the participants – you do not get just a piece of information, you also know that the other wanted to communicate it. But since the other is and remains a black box, the only solution, which Luhmann adopts and which marks a revolutionary change in perspective in communication studies, is to start directly from the recipient, not from the sender, and to reconstruct the sender's perspective from his point of view: the intention of the sender is relevant if and how the receiver perceives it. The freedom of interpretation of the receiver (the empirical reader), which in Eco's theory was an unmanageable source of difficulties and arbitrariness, here becomes the starting point of the whole construction: no one can constrain his interpretation, and communication comes about if and when he gets information, attributing to the sender the intention to communicate



(though maybe the sender was thinking of something else or did not even want to communicate). If the recipient gets information, however, a communication comes about, which will have consequences – it will produce other communications, a response and so on.

The receiver's interpretation, when it happens, is what it is, neither right nor wrong. The text, like the world, cannot bind it in any way. But this does not mean that communication goes on arbitrarily, in a sort of generalized 'anything goes': the constraints intervene later, when the reader (or the receiver in general) speaks of what he understood and produces another communication (if a receiver listens). The next communication can confirm or call into question the previous sense, and since meta-communication is always possible, it articulates, reinforces or corrects it. The constraint does not depend *a priori* on the world or on the text, but is produced *a posteriori* by the course of communication, accepting or rejecting what was understood before. The constraint is the product of the autopoiesis of communication. It can be identified only afterwards, because it arises only afterwards: if Montale's shopping list is interpreted as a hermetic poem and nobody realizes the error, if it is read with emotion and produces comments, this communication exists in the world and is completely legitimate.

The constraints binding communication can be produced only by the development of communication itself – not by the sense intended by the author and not even by the sense intended by the recipient. Starting from the recipient does not mean that the sense of communication depends on what he understood – it only depends on the fact that he understood something, referring it to the intention of the issuer. Someone else can interpret what was said in a different, just as legitimate, way and the subsequent communications can follow a completely different path. According to Luhmann (1988), communication always contains much more and much less than what the participants had in mind, and cannot be reduced to the sum of their thoughts: knowing what the participants think you still do not know the sense of the communication. Everyone, while he speaks or writes, thinks many other things that do not get into the sense of the communication, and even those that are expressed never correspond precisely to what was meant; who hears or reads accompanies the understanding with other thoughts, and does not have to know exactly what the speaker thought. The sense of communication is always a reduction of the sense of the thoughts, but it is also a broadening, because a further participant could always understand what has been said in another, unknown and unpredictable way. Luhmann notoriously claims that the thoughts of the participants are outside communication (he places them in the environment) – they are essential, but do not express its sense.

In this way Eco's problems and puzzles about interpretation dissolve because they change their appearance. When it is produced, each decoding is legitimate, and indeed you cannot constrain it in any way (despite the attempts of semiotics). It can become wrong later, if communication decides it. The

empirical reader is free to build up the Model Author he prefers, because it is in any case his construction: it does not correspond to the empirical author nor to the way he projected himself in the text, but to the way the reader sees the author as an independent instance and lets his sense bind him – if and when he is interested in reconstructing it. The reader can also not imagine any author, model or not: in this case, Eco would say, he uses and does not interpret the communication – but still gets information that someone else wanted to communicate, even if he is not interested in how the communication was meant. The empirical cases show it clearly: reading an essay or a work of art, the sense meant by the author is relevant and intervenes in the sense of communication, but this does not apply in the case of entertainment, where the meaning and the pleasure of reading rely on getting caught in the events as if they were real, knowing that they were not (Luhmann, 1996: ch. 8). The reference to the author serves to locate the story in the field of fiction, not to reconstruct what he meant or the tools with which he said it – one can always do it (it concerns criticism or artistic interpretation), but for entertainment it is a bother and spoils the pleasure of reading. The success of communication does not depend on this: normally the receiver does not interpret, he understands. The issue of interpretation arises when there are problems or additional questions, but is not needed to define the empirical given of communication. Communication also exists if there are no questions on interpretation – although in retrospect one can decide that it was misunderstood.

## **Sociology and semiotics**

So far the differences between the approaches of Eco's semiotics and of Luhmann's systems theory. But at the beginning of this chapter we promised to study the elements of affinity between the two theories, or at least to look for the possibilities of a useful collaboration. Where and how can we integrate the two research directions?

Traditions and instruments are clearly different. But if you look at how the two theories are defined you cannot avoid to glimpse elements of closeness. In his most systematic work Eco defines his discipline as a 'theory of lie' (1977, p. 17) – not because it studies only intentionally false propositions, but because semiotics deals with everything that can be used as a 'significant substitute for something else', and this something else needs not always really exist. Signs work independently from this: 'In this sense semiotics, in principle, is the discipline that studies everything that can be used to lie' (ibid.). Luhmann, for its part, proposes as we saw a theory of communication that can be read as a 'theory of misunderstanding' – not because each communication is necessarily a misunderstanding, but because it works regardless of whether the two partners actually mean the same thing. In a sense, everybody always misunderstands what the other has in mind. Explicit misunderstanding, as explicit lie, are special cases that require a specific analysis – but their possibility is always assumed.

Lie, misunderstanding: the two theories start from a similar position of distance from the givens of the world and propose to study the phenomena that articulate it, creating different and necessarily more complex references than the simple reference to objects – or the simple ‘positivity’ of things. In both cases you study something that does not exist independently of the operation dealing with it – in both cases you take a position that more or less explicitly draws away from the still widespread idea of communication as transmission of an autonomous identity (meaning or information)<sup>6</sup>. Already in Peirce’s original definition the ‘representamen’ exists only in his eliciting an interpretant, which in turn only makes sense as interpretant of that object (1931–35, 2.303) – the sign, you might say, is explicitly defined as the difference between object and interpretation, a difference which originates other differences and is thus developed and defined. And for Luhmann, as we saw, the information relative to communication arises only when it is understood and only as difference to the corresponding understanding (1984, p. 193ff.). The meaning of communication is defined by other communications that refer to it.

The affinity between the two approaches, one might say, lies primarily in their recognition of contingency: they study something whose identity is generated during the operations, could be different and keeps this basic indeterminacy.<sup>7</sup> But this contingency does not result in arbitrariness (it is constrained by the limitations Eco researches with such refinement) thanks to the fundamental role of time<sup>8</sup>: a continuous production of signs or interpretations that specifies and defines the initial operation, as the continuation of autopoiesis defines the meaning of communication. And time, when one abandons the reference to the privileged perspective of an observer (as both theories do), inevitably leads to the presence of many observers – all those involved in the continuous production of signs and communications. The ‘community of interpreters’ is for Eco (1990, p. 337) the last outcome of the search for the limits of interpretation; in Luhmann’s construction, society includes and binds all communications.

Temporal dimension and social dimension intertwine in binding contingency without transforming it into necessity: multiple different interpretations and communications are always possible, but not arbitrarily (Esposito, 2012). Their meaning depends on previous operations by other actors and directs future operations. Although Eco retains the idea that the community of interpreters of a specific text must reach an agreement and there is a shared core, whereas for Luhmann this identity of meaning is neither possible nor necessary, at this level the similarities between the two approaches seem to be bigger than the differences.

Differences in the tools and in the objects of analysis of course remain: one thing is to study texts, another is to investigate society. But a theory of society as a theory of misunderstanding can take much advantage of a discipline that analyses forms and ways of possible misunderstandings (and this

has always been the task of semiotics as a theory of codes and texts), while a theory of sign production (Eco, 1977, p. 203ff.) can take much advantage of the reference to the structures and social conditions of various forms of communication – e.g. interaction compared to several forms of distant communication (Esposito, 2004), organizational communication and the reference to different functional systems.

The difficulty, as it always happens, is that a fruitful collaboration requires not only generic interest, but also a not superficial knowledge of the assumptions and problems of the other discipline: the comparison is based on diversity, but requires sufficient identity to recognize it and to know how to use it. In the case of complex approaches like semiotics and systems theory it is a far from trivial requirement, which however would make the comparison a real encounter.

## Notes

1. Or of an artwork, as people said at the beginning (Eco, 1962). Later the concept of text was extended to every possible object of interpretation: a conversation, a table or even a screwdriver.
2. Luhmann would talk of second order observation.
3. Gadamer dropped any reference to the author's perspective (1960: 2.II.3.c.ß) and referred rather to the temporality of interpretation, belonging to a common history and tradition – in the form of a kind of hermeneutic ontology based on language (part 3).
4. The concept of actant, formulated in Greimas 1966, was recovered recently by actor-network theory to define the concept of an actor defined relationally within the network itself, which does not exist outside it (Latour, 1999: 22; 1991). And actually even ANT does not have (and does not want to have) a clear definition of the boundary between communication and its environment, which is blurred in the figure of 'hybrids' or of socio-technical devices (Esposito, 2012).
5. At most one can talk, like Peirce, of a Dynamic Object that constrains the signs representing it. Who tries to define it, however, quickly discovers that it dilutes in a multiplicity of Immediate Objects that articulate its absence, that is it produces again another regress (Eco, 1990: 334 ff.; Eco, 2012). In terms of George Spencer Brown (1972) one would speak of unmarked space.
6. "The concept of communication cannot be reduced to the idea of conveying a unitary meaning": Eco 1990, p.332.
7. Eco (1999, p.333) speaks of "vagueness".
8. Not by chance both Luhmann and Eco took from Derrida (1972) the essentially temporal figure of "différance" as deferment.

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# 9

## Organizations, Institutions and Semantics: Systems Theory Meets Institutionalism

*Anders la Cour and Holger Højlund*

### Introduction

Why do organization structures appear like they do? Where do organizations import their building blocks from? How do they develop? And why is it that in some areas organizations look so much alike, when in others they differ? These apparently innocent questions evoke complex discussions concerning the interplay between historically developed institutions, cultural semantics and social structures, which have been a well discussed topic in both sociological and organizational theory over the years (Stäheli, 1997; Powell and Dimaggio, 1991). Both systems theory and sociological institutionalism have been engaged in questions concerning the relationship between modern society and its organizations and have on the face of it developed very different answers to them (Kneer, 2001; Pedersen et al., 2010). Despite this, or precisely because of this, we find it worthwhile to examine how the two theoretical frameworks can enrich each other. Instead of seeing them as two closed and oppositional universes, we will in the following try to open them up in order to let them be engaged in the same discussions.

The idea of combining sociological institutionalism and systems theory is not new. Raimund Hasse has noted that the two theories represent, respectively, a macro- and a micro-analytical approach to organizations. In dealing with the differences between the theories, he emphasizes that while sociological institutionalism represents a top-down focus on organizations, the approach fails to acknowledge 'selective and idiosyncratic processing of norms and expectations' of organizations (Hasse, 2005: 260). Other writers have come to the opposite conclusion, namely that sociological institutionalism is an organizational theory from below and systems theory an organizational theory from above (Whittington, 2001).

Raimund Hasse and Georg Krücken have concluded, that there is a difference between sociological institutionalism and systems theory in the extent

to which the two theories put emphasis on homogeneity versus differentiation in the analysis of societal developments. Here systems theory, as Hasse and Krücken formulate it, is 'a relevant antidote to the traditional neo-institutional emphasis on homogenising forces' (Hasse and Krücken, 2008: 254). Others have concluded that systems theory is a fully fledged theory about modern society with the organizational perspective integrated into it, whereas sociological institutionalism is an organizational sociology without society (Nielsen and Vallentin, 2003).

Looking at systems theory and sociological institutionalism, it is clear that both theories deal with some kind of co-evolutionary scheme for the development of organizations and society, but that the theories differ significantly when it comes to the reading of processes of integration and differentiation into the structural development of modern society. Here it seems that sociological institutionalism has a bias towards institutions as given, static and constraining sides of modern institutions (Schmidt, 2010: 2), whereas systemic perspectives give more emphasis to the differentiation side of modern organization (Schimank, 2001; Tacke, 2001).

A common element of the above mentioned studies is that they all are carried out in each other's blind spots. Each emphasize how the favoured theory can see what the other cannot. Other researchers take their point of departure in these differences, and try to develop a place 'in-between', as if a fusion of the two perspectives would automatically eliminate observational blind spots in both theories.

Göran Ahrne and Nils Brunsson (2008) argue for an approach to regulative practices, structures and processes based on a combined perspective. The emergence of meta-organizations, they argue, implies new levels of organized complexity constituted by individual organizations as members of 'meta-organizations'. The meta-organizations represent an institution in themselves, but where the member organizations develop their own unique patterns of couplings.

David Seidl (2007) proposes a combination of the systemic understanding of organizations with a concept of regime in order to analyse present regulative schemes (such as codes, formulas and standards). Seidl's argument is that a code regime is a form of flexible regulation in which organizations put up shared (but flexible) norm programmes such as for example codes of conduct and best-practices schemes. Here the regulation is flexible because formalizations are at a minimum.

Still another approach has been suggested by la Cour and Højlund (2011). Here an emphasis has been on combining key notions from sociological institutional and systemic analysis in order to develop better analytical tools for empirical analysis when it comes to new political trends such as partnering and other cross-sectoral network arrangements. The sociological institutional notion of appropriateness as a distinct logic in political systems

is here combined with systemic notions of third order systems and hybrids (Teubner, 1996; Andersen and Sand, 2012).

In this article we will try to do something different. We shall not try to produce a third place in the hope of producing an observation that can make the blind spots of two theories disappear. This would ignore the fact that the blind spots are exactly what makes the theories able to see what they see. Doing so is likely to undermine the uniqueness of the theories, and yield fewer analytical options than you had before. We will follow instead another route, try to install the otherness of the other within each theory, in order to shake the theories up, and provoke them to proceed further in their own autopoietic development.

This means that there exists no neutral ground for the encounter. The encounter will always occur within one of the theories, and thereby on this theory's premises. In this way the encounter doubles itself. What kinds of internal irritations such an encounter produces is only up to the individual theory to determine. In the following section our aim is therefore to think within the two theories in order to form an idea of how such an encounter could look, to think with the concepts of institutions and semantics, and to outline some possibilities for further development within both theories. The article will do this by proceeding in two stages. First, we will show how the two theories are engaged in the same discussions on how organizations develop, but in respect to their own theoretical premises. Second, the article will argue for a systemic-institutional encounter through the concept of the system theoretical concept of semantics.

## **Organizations as communicative systems**

According to systems theory the modern society is differentiated into a variety of different functional systems. These systems have developed through history and represent today spheres for successful communication. That means, over time, the expectations of communication systems have been so stable that they could establish themselves around specific codes of observation. The economic functional system structures itself around what pays and what does not, the political system between power and non-power, the legal system between what is legal and illegal, the scientific system between what is true and what is false and so on. Luhmann has identified ten such functional systems in all, which each offer stable expectations about what the communication is all about. Each functional system has developed its own semantics that make available legitimate standard vocabularies that organizations can draw on when communicating. Even though Luhmann emphasizes that it is an empirical question how many functional systems exist, he sees these ten systems as the important and dominant ones, and leaves it to others to discuss how organizations empirically couple themselves to



the semantics of the existing functional systems of society (Luhmann, 1997: 866).

In systems theory, organizations represent structured areas of autopoietic communication. This means that organizations are operationally closed around their own communicative decision process, where decisions are a result of decisions and occasions to future decisions. In this respect organizations represent their own uniqueness and relate to environments of their own. While the organizations make use of performances contributed from systems outside themselves, which can be called 'interpenetration' (Luhmann, 1995: 210–54), and 'structural coupling' (Luhmann, 1997: 92–120), it is still up to the organizations themselves to decide how they make use of the contributions from the outside (la Cour, 2006; Soziale Systeme, 2001). In this sense there exists 'no exchange relationships' between the different organizations (Luhmann, 1988: 337).

The organization instead closes itself around its own autopoietic dynamics of decision making and reflexivity. Such closure, however, is the precondition for the organization's ability to handle unresolved complexity from the environment. Through decisions the organization is able to differentiate between the irritations it is supposed to ignore and the information it must handle. This is necessary because the environment represents a level of complexity that the individual organization is unable to handle without pre-decided structures of attentiveness. In other words, in order to be able to allow for influences by events in the environment, the organization has to form a stable autopoiesis, a recursivity of operational processes of decision making. In a systemic perspective a lot of programmatic differentiation is a necessary precondition for societal connectivity. Being basically on their own, organizations have to make up structures according to their ability to handle the overwhelming complexity of the environment. The internal capacity to build up the necessary flexibility to react to the environment's level of complexity, limits the organization's opportunities for development. The tensions between the different levels of complexity between the organization and its environment remain a major concern in systemic analysis. Here the legacy is from cybernetics and information theory regarding a system's ability to deal with its self-produced levels of complexity through the rational means of organization (Luhmann, 1995; Luhmann 2000).

Die heute übliche Berufung auf Kultur, Institutionen und Werte verschleiern nur, dass das Verhältnis von Organisation und Gesellschaft ungeklärt geblieben ist... Offenbar führt in all diesen Fällen die Ausdifferenzierungen der Systeme, ihre operative Schliessung und ihr selbstreferentielle Operieren zu einer Erzeugung von Möglichkeitüberschüssen, die als strukturelle Unbestimmtheit erfahren und auf Selbstorganisation verwiesen werden. (Luhmann, 2000: 415)

Concepts like culture, institutions and values that have dominated the theory of social institution for decades are, when seen from a systems-theoretical point of view, only fuzzy concepts, that lack the necessary conceptual precision. For Luhmann the autopoietic and self-referential system remains the basic focus for his theory. In this interpretation, however, it looks like organizations exist as small fragile islands, with only themselves to rely on, in their struggle not to drown in a complex society.

However because organizations consist of decisions as a certain form of communication, they are dependent on the creation of meaning as a horizon stretched out between actualization and possibility. A decision is always an actualization among a wide range of possible alternatives. Because decisions have to present themselves as something that gives meaning, they are always dependent on references to other possibilities that cannot be activated simultaneously. Thus, a wider context of meaning exists, as the simultaneous presentation of what is actualized by the decision and what co-exists as not-actualized or could-have-been-actualized or still-can-be-actualized non-decisions. Meaning is in this sense the constant rearrangement of the difference between actuality and possibility that keeps being at the core of any decision, because a decision always points backwards to what also could have been decided, and forth to decisions to take (Luhmann, 1995).<sup>1</sup>

The system theoretical concept of semantics is crucial here, because it focuses on how meaning can be condensed in semantic forms and values that constitute a conceptual and normative pool for communication and decisions. If meaning was not condensed, if it was not pre-arranged and structured in recognizable and comprehensible forms brought about from various historical, cultural and cognitive sources, meaning would not appear. It would be impossible to communicate (Luhmann, 1980: 18). Semantics offer organizations condensed forms of meaning, that organizations can treat as worth preserving (Luhmann, 1995: 282).<sup>2</sup> From existing semantics, organizations will create structures that enable the repetition of selections. Semantics will guide organizational self-descriptions, they will serve as memory function, and have the capacity to pre-select problems that are important to solve. But systems decide in the same time, whether or not they wish to employ specific semantics, and in doing so they are simultaneously enabling and constraining the organizations' ability to create meaning founded structures. Semantics offer systems a foreground of communication abilities that provides them with the ability to build up structures by their own hand.

Organizations need the semantics that the different functional systems have made available to them in order to be able to communicate at all. We all know how banks make use of the semantics of the economic system to stabilize their communications with themselves and with others in order to decide what pays and what does not. The same is true for political parties, the court, or a research institution. They all make use of the semantics of a

specific functional system that they are mostly engaged with. In this way a relationship of co-existence can be seen between the semantic apparatuses of society and the actualized language of organizations. See Luhmann's books on different functional systems and the development of the semantics, without which there would not be any functional systems (see for example Luhmann, 1982; 1992a; 1993; 1995a).

In these works, Luhmann is engaged in investigating the complex dynamics between semantics and structure, which develop in a co-evolutionary way. Semantics produce meaning that can lay the ground for new structures to emerge, but new structures can also appear that leaves the existing semantics antiquated and challenges the semantic reservoir for establishing meaning. Both structure and semantics can in this way be the engines for development or the conservative guards against changes.

Consequently, semantics are characterized as the accumulated amount of generalized forms (of concepts, ideas, images and symbols) available for the selection of meaning within organizations. In this way semantics are deliberated through the communication of organizations. In other words, semantics does not exist as a fixed entity in society. Semantics stands as neither a pre-written 'cultural grammar', a historical word book, 'value canon', or as a pre-defined media or 'actor in itself'. Semantics will only appear in concrete actualizations by the communication of organizations.

This is why autopoiesis remains the basic concept of systems theory. In this sense Harrison White and his colleagues are correct when they criticize systems theory for not being able to transgress the dyadic level of one-to-one relationships in order to understand more comprehensive social processes (White et al., 2007: 546). For systems theory the ability for individual systems to self-organize in order to compensate for the surplus of possibilities in the environment remains the focal point of the theory.

## **An institutional approach to organizations**

In the following we will focus on the last of the three traditionally recognized new institutionalisms: rational choice, historical, and sociological. Even though sociological institutionalism represents an umbrella concept (DiMaggio, 1991; Scott, 1995), the approach of March and Olsen is seen as central to understanding the importance of institutions for organizational development in modern society.

The sociological institutionalism of March and Olsen offers a perspective on institutionalized settings. They introduce several important concepts for inter-organizational contexts, the most important being the concept of institution defined as:

A relatively stable collection of practices and rules defining appropriate behavior for specific groups of actors in specific situations. Such practices

and rules are embedded in structures of meaning and schemes of interpretation that explain and legitimise particular identities and the practices and rules associated with them. (March and Olsen, 1998: 948)

As seen in the quote, institutions represent broad assemblages of roles, routines, rights, obligations, and practices. The concept of institution embraces a broad range of possible organizational activities and processes: how to act appropriately, how to be rational, how to form an identity and share meaning with others (March and Olsen, 1995: 27–34). The concept of institutions comes close to empirical reality and refers broadly to:

The development of codes of meaning, ways of reasoning, and accounts in the context of acting on them, and as an institutional approach is one that emphasises the role of institutions and institutionalization in the understanding of human actions within organisations, social order, or society. (March and Olsen, 1998: 948)

In March and Olsen's work, institutions appears as norms and rules that primarily constrain organizations, by providing a cultural frame for their activities, as what counts as 'the logic of appropriateness'. In such a respect, March and Olsen challenge any idea of social processes taking place in singular organizations representing small isolated islands or among individuals with no common interests. Here the concept of institution finds its function as something that penetrates different organizations, in the way they try to act according to what the institutions define as appropriate. For organizations it is all about legitimacy, one might say. In a quote that has become a standard reference in institutional theory, M. C. Suchman says about legitimacy:

Legitimacy is a generalised perception or assumption that the actions of an entity is desirable, proper, or appropriate within some socially constructed systems of norms, values, beliefs, and definitions. (Suchman, 1995: 574)

We see a quite straightforward elaboration on one of the main themes in institutional theory, namely, on the three pillars of institution such as the regulative, normative, and cultural-cognitive (Scott, 1995). Legitimacy can be gained in different dimensions. At the end of the day legitimacy is a logic in plural, at least in modern societies, in which different organizational fields are present (DiMaggio and Powell, 1983; DiMaggio, 1991; Fliegstein, 2001; Deephouse and Suchman, 2008).

In March and Olsen's work on institutions, the aggregative and integrative aspects of institutions are crucial. Not only do institutions function as legitimizers or field stabilizers, they also much more fundamentally form distinct

entities. In this sense March and Olsen see institutions as coherent wholes where rules and procedures form a body of coherent practices by penetrating different organizations. March and Olsen do not leave it by that, however; while sociological institutionalism often have been criticized for presenting a 'structure without an agent, they actually push it to the extreme and make institutions actors in themselves:

The argument is that institutions can be treated as political actors is a claim of institutional coherence and autonomy. A claim of coherence is necessary if we wish to treat institutions as decision makers. (March and Olsen, 1989: 17)

In the above quotation, institutions do not just function as something that pervades various organizations, but also as a separate entities in themselves! On the one hand we have institution as diffuse pools of regulative energy flowing into the life of organizations. On the other hand we have institutions as very distinct actors. Institutions act as 'agents', as March and Olsen (1989:165) also formulate it.

The systems theoretical understanding of organizations as strictly closed entities gives an edge to sociological institutional approaches to organizational processes. In sociological institutionalism, shared norms, ideas and ideological programming are the prerequisites for organizational stability and well-being. The presence of structures that cross borders, overlay and transmit values between organizations of the same field are taken to be the foundation of all organizational life, whereas in systems theory the opposite seems to be the case as autonomy, boundary control and differentiation are taken to be crucial to organizational survival.

Organizations, according to a systems perspective have clear demarcations of the inside and outside by means of membership and programmes of decision making, whereas the opposite holds in a sociological institutional view where a prerequisite for survival seems to be the ability to become fluid and transparent, or, like chameleons, to take up the colours of the environment to blur the distinction between outside and inside.

In sociological institutionalism it seems that organizational survival is linked to the capacity to internalize outside values, norms and expectancies quite directly and quickly. Copycat practices and other imitative processes are examples of such internalization capacities. The assumption is that, in order to maintain legitimacy, organizations establish interconnectivity with forces from the environment.

Sociological institutionalism has to a large extent adopted the definition of institutions, taken from the work of March and Olsen as clusters of norms and rules that pervade the various organizations within specific fields. In this sense organizations emerge as rather passive adopters of historically developed institutions, which they have no or only very little impact on. The

traditional criticism of this approach has been that it represent a theory of structural and institutional determinism which makes it low on explanatory concepts concerning how changes appear or how organizations adapt very differently to the very same institutions. Instead sociological institutionalism focuses on how legitimation becomes the most important resource for organizations to operate, and how this creates various types of isomorphism as a consequence of the operation of the logic of appropriateness nested in the main institutions of society. It remains a challenge for sociological institutionalism to develop a way to explain how organizations not only reproduce given institutions in a static way, but also take an active part in criticizing and producing new institutions.

## Discursive institutionalism

Institutional diffusion of norms and autopoietic adaptation of semantics are not totally oppositional descriptions of the same processes, but open to different analytical approaches. While diffusion studies seem to assume that society's norms and routines constitute empirical problems, and therefore ground their findings on a micro level (Walgenbach and Meyer, 2008: 181–186), systems theory looks for organizational complexity sometimes without much connection to the existing environment. The strength of sociological institutionalism is that it has developed a conceptual sensitivity towards the impact of generalized institutions on organizations thereby giving evidence to a lot of empirical knowledge concerning the organizational effects of various forms of institutions. The strength of systems theory is an extensive theoretical vocabulary for the internal operations and steering of organizations.

The strengths and weaknesses are different. Using sociological institutionalism, you do not have a very developed theoretical conceptual framework for explaining why organizations differ from each other in their way of adopting institutions or how changes occur within institutions or how they impinge on each other. On the empirical level some work on institutional change has been done, an interesting example being a study of French 'haut cousine' by Rao et al. (2003) often with a broad framework from Scott et al. (2000), but on a conceptual level, however, sociological institutionalism is still very much forced to talk about changes as coming from the outside 'as a result of exogenous shocks' as Vivian Schmids puts it (2010).

On the other hand is system theory caught in its limited reservoir of predefined semantics that are being historically developed through the emergence of the functional systems. While systems theory has a good eye for how organizations make use of a society's reservoir of semantics very differently, it restricts the analysis to the pre-fixed reservoir of semantics, that is the result of the already fixed numbers of functional systems. This is an unsatisfactory state of affairs, because it restricts the analysis to an assumption that

there already exist a certain cluster of semantics to choose from, instead of leaving it up to the empirical analysis to judge what kind of semantics the organizations are engaged with.

A distinct approach to discursive institutionalism has recently been shown growing interest. From earlier discussions of the three institutionalisms (Hay and Wincott, 1998; Hall and Taylor, 1998) has proliferated a terminological discussion concerning the possible rise of a fourth distinctive approach to institutional change (Campbell and Pedersen, 2007; Grant et al., 2004; Schmidt, 2008; Schmidt, 2010). Some institutionalists are critical (Bell, 2011), other commentators are more positive (Gofas and Hay, 2009; Hardy, 2004, 2011), we, as viewers, see the discussions as ongoing attempts to bring sociological institutionalism to a new stage where questions such as the dynamic relationship between institutions and organizations and the reasons for ideational change become questions that new institutionalism does confront. Using the term discursive institutionalism different scholars try to explain how change and dynamics occur through different kinds of discursive interactions that takes place within different kinds of institutional contexts. This should represent a fourth institutionalism beside the traditional rational, historical and sociological institutionalisms. The promise of this approach, according to Schmidt (2010) among others, is that it has the potential to develop a more dynamic understanding of institutions that is better suited to explain development, interactions and ideational changes within an institutional framework. We share these ambitions, because today's institutionalism has difficulties explaining how the dynamics of modern societies challenge the traditional formal organizations, and how flexibility rather than stability seems to help various organizations to survive in dynamic surroundings where the future is observed as a question of handling risk and uncertainty.

According to discursive institutionalists, institutions should be seen as ideas, norms, frames and meaning systems, but in a more dynamic way than we have seen March and Olsen do it (and after them Dimaggio and Powell, 1991; Scott, 1995). This should be the consequence of replacing the notion of organizations with the concept of discourse, which represents a more active translation of institutions that instead are understood as the context in which several different discourses can emerge and interact with each other in order to achieve hegemony. Discursive institutionalism uses discourses as a way to understand how different kinds of ideas are being exchanged and negotiated between various actors and where the institutions represent the very context within which these interactions occurs. To take active part in discourses emphasize peoples' 'ability to think outside the institutions in which they continue to act' and to change them by making 'discursive coalitions' (Schmidt, 2010: 16). Schmidt refers here to the possibility for communicative action in a 'deliberative democracy' (2010: 56).

However, the suggested discursive institutionalism does not offer any concepts in order to understand how and why old ideas fail and new

ideas come to the fore, or why some ideas are taken up rather than others. Replacing organizations with a fuzzy concept of discourse only shifts the question of the relationship between organizations and institutions, to the questions of how organizations influence and are influenced by various forms of discourses. Not to mention the obvious next question what do institutions have to do with it all? While at the same time not introducing a new concept of institutions that makes it possible to distinguish between discursive institutionalism and the traditional understanding of institutions, the difference between sociological and discursive institutionalism becomes “quite fuzzy” as critics have mentioned (Bell, 2011) and also proponents of discursive institutionalism themselves acknowledge (Schmidt, 2010:13).

We share the discursive institutionalist criticism of March and Olsen’s concept of institutions as being too stable and deterministic in order to explain the above questions, but we also find that the discursive answer is not radical enough to change the state of things concerning institutions. A concept of discourse is introduced to sociological institutionalism which leaves the organization’s individual development out of sight, in order only to observe them as actors within the establishment of a given discourse.

In the following we will present the concept of semantic institutions in order to create a Trojan horse that can be snuck in behind the walls of both sociological institutionalism and systems theory. The idea is to shake the theories up, and perhaps challenge both the determinism of sociological institutionalism and the lack of imagination within systems theory.

## **Semantic institutionalism**

If we were to invoke the concept of institution anywhere in Luhmann’s theoretical architecture, the concept of semantic would be the place. As with the concept of institutions, semantics are seen as carriers of ‘collective memories’ or as offering ‘condensed forms of meaning’. But semantics, in contrast to institutions, are not seen as purely external. Rather semantics have a structural impact on communication only when it is activated through the internal processes of autopoiesis. Systems adopt semantics and make the semantics their own, proposes the systems theorist, and in that respect the concept of autopoiesis challenges the stable and fixed nature of institutions. That is why the concept of autopoiesis is the best vaccine against institutional determinism. Systems theory describes a society that faces a lot more uncertainty than the world of institutionalism generally assumes. Even though there are hegemonic semantics that are strictly coupled to the historical evolution of the functional systems, it remains crucial for a system-theoretical approach to observe how the autopoietic organizations articulate these existent semantic forms. The differences between alternative contextual articulations will contest the universality of the semantics and open up the analytical sensibility for the a-normality of the normal – explaining how normal



abnormalities are when society is based on a universal rhetoric of different hegemonic semantics. According to systems theory, organizations just like other systems, rest on a fragile and even improbable form of communication that makes use of the reservoir of semantics in order to create meaning, but only in a very system-intrinsic and fragile way.

Semantics, then, represent neither universalized discourses all the way through, nor purely singularized structures in specific systems. It is in the interface between the two dimensions that the interesting mediations take place. The individual activation by systems configures the semantics in order for it to contribute to the autopoietic communicative propensity to be engaged in structure building processes. Ideas, therefore, do not define the substantive content of semantics, whether they exist as policies, programs or philosophies (Schmidt, 2008); they first become active through the different actualization of the semantics by the different organizations. The rather awkward question then is: In what way does semantics have an institutional aspect? Looking for an answer, it is time to recall March and Olsen's early definition on institutions:

A relatively stable collection of practices and rules defining appropriate behavior for specific groups of actors in specific situations. Such practices and rules are embedded in structures of meaning and schemes of interpretation that explain and legitimise particular identities and the practices and rules associated with them (March and Olsen, 1998: 948).

No system, even the most well-disposed one, will be open to importing a 'collection of practices and rules defining appropriate behavior'. Institutions can not intervene in systems, because systems will always find their own and very specific way of interpreting what counts as appropriate for them.

But in the second line of the quotation, we find a very similar understanding of institutions, as the one of semantics within systems theory, namely that institutions exist as 'structures of meaning and schemes of interpretation' that offer themselves to organizations in order for them to 'legitimize identities and the practices and rules associated with them'. As we already have seen a systems theoretical approach to semantics avoids the assumption that every organization is doomed to create meaning about the world strictly on its own terms. Instead, the different functional systems have developed different kinds of semantics that shape world views by providing concepts, symbols and frames that make it possible for organizations to construct issues, problems and solutions. In this way semantics looks exactly like March and Olsen's definition of institutions. As for institutions semantics represent an available legitimate collective memory that organizations can draw on, when communicating.

In order to explain how different organizations interpret various institutions/semantics differently, the emphasis should be settled with sensitivity to the empirical material in hand. In the interpretation of systems theory, semantics does not represent a passive and stable universe; rather, it at once structures the social and is restructured by it. Through its active use, semantics is always in a process of transformation that reflects the social order, but is also challenged by it. New symbolic universes of meaning can emerge, that challenge the social structure of the organizations, and vice versa, and this is how new social structures can emerge that challenge the existing reservoir of semantics.

Our argument is that sociological institutional theory can learn from the distinction between semantic and structure from systems theory, and thereby improve its ability to understand how institutions change through the different interpretations of it. By this means it can escape any form of determinism. In order to go beyond the limits of sociological institutionalism, and become able to discuss issues such as uncertainty, change and fragility, sociological institutionalism could learn from the emphasis of systems theory on how organizations construct their internal meanings through the active use of semantics that function as guiding their perspective. This is what makes it possible for them to build up their own structures, always in an individual way, that simultaneously challenges and maintain the given semantic.

So institutions understood as semantics offer organizations structures of meaning and schemes for interpretation, but how these structures are translated into concrete practices and rules defining appropriate behaviour, is up to every single organization. Rather than replace organizations with a fuzzy concept of discourses, we therefore suggest, there would be more to gain by developing a semantic understanding of how institutions work and impact the life of organizations and how these in turn change the institutions at hand. By employing the concept of semantics, sociological institutionalism has the ability to develop a more dynamic understanding of the relationship between semantic institutions and the various organizations that bring them to life.

In the previous section we proposed a more open encounter within each of the theories between the concept of institutions and semantics in which the processes of concretization are to be seen as processes of disturbance and perturbation. How this takes place is a matter of how organizations make use of the different semantic institutions that offer themselves as guiding principles for the development of the individual organizations. But the concept of semantic institutions does not only have something to offer sociological institutionalism. Linking semantics to institutions has the potential of breaking the tight coupling between semantics and the existing functional systems – that have dominated traditional systems theory. In this respect

systems theory has a lot to learn from sociological institutional theory, which has supported a wide range of analyses of very different institutions. For institutionalism it is an empirically open question what an institution can be, how it looks and how many will exist within a certain time and field.

In systems theory, semantics has been linked to the emergence of various functional systems. While modern society has been given birth to a lot of different functional systems, the concept of semantics has been strictly linked to these. Even though it also here has been an empirically open question which and how many functional systems there are, the definition of functional systems is so strict that the number of functional systems in modern society, apart from those Niklas Luhmann himself has analysed, has been limited. In this sense, semantics as an analytical concept has suffered from being so strictly coupled to the existent function of semantics has become merely an illustration of a fixed number of pre-fixed functional systems within modern society.

But if semantics is thought of as an example of institutions that offer themselves as 'structures of meaning and schemes of interpretation that explain and legitimise particular identities and the practices and rules associated with them', it opens up for analysing a much more broad scheme of sociological phenomenon. Systems theory, in other words, has a lot to learn from sociological institutionalism. Being caught in the rigid schemes of the already fixed number of functional systems, limits the sociological fantasy of how different forms of semantics occur, which both produce and are being reproduced by new structures of communication. In order to be able to analyse the occurrence of new forms of semantics that makes new forms of structures possible and new structures that gives rise to new forms of semantics, systems theory has to settle for a rigid cluster of functional systems. Some systems theorists have already taken the first steps down this road of investigating the existence of pluralities of different semantics in between the impressive columns of the pre-existing functional systems. Taking this path means that the object of study shift from cultivated and trimmed semantics to the lesser dominating but still operating semantics that exist in-between the established functional systems (see for example Stäheli, 1997; and Andersen, 2008, 2009).

## **Final remarks**

Homogeneity vs. differentiation, integration vs. dis-integration, openness vs. closedness do not just represent important distinctions to observe how organizations develop in modern society. They also invoke the differences between the two theories that we have discussed in this chapter; they also find their identity by coming to rest on each side of the above mentioned distinctions. This chapter's ambition has been to use the encounters to shake the two theories out of the safety they have found in each of the mentioned

dichotomies. The encounters have been taking place within each theory, hopefully provoking them to face their own limitations, if only by being introduced to semantic institutionalism as a hybrid between itself and its constitutive outside. It is up to the theories themselves to develop the 'requisite flexibility' in order to be able to react to the irritations that this internal encounter produce, in order to develop ever more complex structures.

We can only hope that the concept of semantic institutions provokes sociological institutionalism to observe institutions as something that only get their concrete form through the organizations actualization of them. On the other hand, the institutional approach to semantics has the ability to provoke systems theory to increase its awareness of all the kinds of semantic institutions that exist in the extensive space in-between the pillars of the various functional systems.

A single Trojan horse, of course, will not bring about the flexibility that sociological institutionalism needs, nor capture the idiosyncratic way various organizations are dealing with collective norms and values. Instead, the concept of semantic institutions indicates a need for sociological institutionalism to change its conceptual architecture, in order to develop concepts that can explain how the organizations take active part in translating norms and values and how they at the same time have an impact on them as collective guiding principles.

Taking the point of departure in modern systems theory, it becomes obvious that the notion of semantics makes it possible for systems theory to talk about norms and values without calling them norms and values. But modern systems theory is certainly in need of being more aware of the many different semantics on the side of its very rigid cluster of functional systems, which have the ability to function as norms and values that guide various organizations in different forms of communications. In this respect systems theory has a lot to learn from institutional theory and its ability to show how norms and values play an important part in various aspects of organizational life. They do so when they are constructed as semantics.

The main difference therefore lies in which theoretical framework the concept of semantic institutionalism is embedded in. In systems theory, it becomes a concept that stands in the shadow of autopoietic communication, which denies the norms and values hidden in the concept of semantic institutions to have any deterministic influence on how the organization actually makes use of it in its communication. No autopoietic system, after all, makes use of the same semantics in a similar way. In institutionalism the concept of semantic institutionalism is instead coupled to the concept of legitimation, isomorphism and the logic of appropriateness, that emphasizes the institutions as norms and values that determine the structure of the organizations.

Using the concept of semantic institutions we have tried to let sociological institutionalism encounter systems theory and systems theory to make

an encounter with sociological institutionalism. All four of them are today strangers to each other. In this way the concept of semantic institutionalism does not represent a neutral ground for such encounters; instead it occurs as an internal irritation within the respective theories. The concept becomes the event of the encounters, which always takes place within the theory itself, but with the echo of the theory's constitutive outside. This outside is disguised as something the inside is already familiar with, but which has the ability to, when it is let in, to challenge the naturalness of the respective theories.

## Notes

1. Editors' note: A in-depth elaboration on the backward construction of meaning is to be found in 'Contingency, Reciprocity, the Other and the Other in the Other Luhmann-Lacan, an Encounter by Jean Clam, in this volume (see the section 'Reciprocity as double contingency').
2. Editors' note: For further elaboration of the relationship between meaning and semantic see 'Conceptual History and the Diagnostics of the Present' by Niels Åkerstrøm Andersen, in this volume (see the section 'The concept of semantics').

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# 10

## Luhmann and Koselleck: Conceptual History and the Diagnostics of the Present

*Niels Åkerstrøm Andersen*

### Introduction

There is a growing interest in conceptual history in management and organization studies. The work of Reinhart Koselleck and Paul Ricoeur is most often cited in this regard, and in this article I want to suggest adding the work of Niklas Luhmann to the mix. Koselleck and Luhmann, as it happened, had offices quite close to each other at the University of Bielefeld and met on a number of occasions. Luhmann, in fact, was inspired by Koselleck in his own writing on semantics and concepts. But while Koselleck, like the modern historian that he was, developed his conceptual history through a reading of Heidegger and Gadamer, Luhmann grounded his conceptual history in the sociological theory of social systems. While Luhmann anchored the concepts of his semantics into a larger theory of meaning and communication, Koselleck hoped that conceptual history might contribute to a more general social history. Conceptual history was never construed as a radical alternative to traditional history, but as an important and necessary supplement. So there was always a tension between conceptual history and social history more broadly. Conceptual history was not a goal in itself but was meant as a contribution to more traditional history.

The relation between concepts and the social was twofold. On the one hand, Koselleck was aware that events in history are sometimes so radical or violent (both in narrow and broad sense) that the present did not have a language for what was going on. Conceptual development followed events, slowly giving them meaning. On the other hand, concepts frame the present space of meaning including the present horizon of the future, making actions possible (Koselleck, 1989). Here he was following Heidegger's idea that humans directed their attempts to make sense of their lives toward an imaginary future. Koselleck was focusing on what he called 'neuzeit', the time between pre-modern and modern time, observing how the possibilities



of modernity were framed by the formation of concepts like state, citizen, contract, privacy, freedom, party and so on. So, while Koselleck represented the linguistic turn in the science of history, he never attacked positivism and realism. In Koselleck's work, then, we get a kind of pragmatic marriage between the linguistic turn and modern realism, without an overall coherent theory (Koselleck, 1987; Andersen, 2003a).

In some of the later use of Koselleck's conceptual history, social history is replaced with a more philosophical frame of reference. A very good example is an earlier article in the journal *Management and Organizational History* by Bogdan Costea, Norman Crump and John Holm (2006). Here conceptual history is a contribution to a kind of management philosophy rather than social history. Instead of a guiding distinction between conceptual history and social history, we get a distinction between conceptual history and philosophical categories. In the article, Nietzsche's categorical distinction between Apollo and Dionysus motivates the study of the conceptual history of play and work, which amounts to a diagnostic narrative of a Dionysian turn in work regimes. We can call this a philosophically informed and inspired conceptual history, very much like Foucault's genealogy.

With Luhmann we get a *sociologically* informed conceptual history. The guiding distinction conceptual history/social history is replaced with a distinction between semantic and social structure, where the latter should be interpreted as the form of communicative differentiation and structural coupling within society (Luhmann, 1993a: 9–72). Here conceptual history becomes a way into the study of the making of social form, its mode of functioning and inner logic. And the analysis of the tensions in social forms becomes a way to understand the driving forces in the making of new concepts and conceptual ruptures. The guiding idea in systems theory is that the constitution of social systems and social forms is reflected in semantic development.

There are at least two interpretations of this idea. One emerges from a reading Luhmann's work before his use of Spencer-Brown's 'logic of form' and the other from a reading of the work that came after. The first is closely tied to Luhmann's theory of the evolution of society, which identified three forms of societal differentiation: the segmented, the stratified, and the functional differentiation of society. In this theory, the relationship between the form of differentiation and the development of semantics is very fixed. Semantics does not have a life of its own. Only communication operates and always accordingly to the dominating form of differentiation. So the whole concept of semantics becomes very bounded to the thesis of functional differentiation<sup>1</sup>. Luhmann studied the semantic history of, for example law, politics, love, art and religion as the evolution of specific functional systems (Luhmann, 1986, 1993b, 2004, 2000). And the major thesis is that semantic developments follow the shifts in dominant forms of differentiation. This means for instance that the shift from stratification to functional

differentiation as the dominant form of societal differentiation is reflected in semantic shift from concepts of status to concepts of individual freedom. This tight link of course limits Luhmann's relevance to studies in the history of organizations. The study of the history of organizations becomes tightly connected to the shift in the form of differentiation. The history of organizations becomes just a supporting line of inquiry that ultimately merely illustrates functional differentiation. Some historical studies, however, have been done in this field. Rudolf Stichweh has studied the history of professions (Stichweh, 1994, 2006) and Alfred Kieser has done a number of studies of guilds and of monasteries as pre-organizational institutions (Kieser, 1989, 1994). In Alfred Kieser's earlier studies, he often draws on Luhmann's theory of societal evolution, but I believe it became a too narrow perspective for him. He simply left Luhmann's theory behind him. Systems theory became a prison rather than an inspiration to the studies of history of organization. So in this first interpretation of Luhmann there are many reasons for historians to leave Luhmann's work untouched. The theory simply made too much historical material irrelevant.

In the post-Spencer-Brown phase of Luhmann's work it becomes possible to frame the relationship between communication and semantics very differently, and this opens up both to a reading of Luhmann as an analytical strategy (Andersen, 2003a, 2006, 2010) and a deconstructive reading of Luhmann (Stäheli, 2000, 2010; Philippopoulos-Mihalopoulos, 2009). In this interpretation the studies of the history of semantics does not have the same automatic relationship to the theory of functional differentiation. The form of differentiation does not simply determine the semantic developments. In this perspective the 'moving figure' of history is never a fixed tension between communicative forms of impossibility and semantic conditions of possibility. Communication always takes a form and in Spencer-Brown a form is the unity of a distinction that always implies a paradox, drawing an imperfect distinction. The form constitutes a kind of impossible relation that forces communication to continue in an attempt to resolve the paradox. The constant creation of new semantics is here observed as strategies of deparadoxification. Possibilities are, so to speak, produced by impossibilities. Semantic formations offer opportunities to deal with communicative impossibilities, and semantic developments sometimes lead to a dislocation of the forms of communication or create new forms and new paradoxes.

This perspective produces a very different setting for contributing to the study of organizational history. No empirical findings are defined as irrelevant from the outset. Theory is no longer a prison for history; instead, semantic history becomes the most important reservoir for achieving sensitivity to social forms and their dislocations.

An example here is Urs Stäheli's study of the history of 'soundscapes' of financial markets. 'The social is founded upon noise', he says, 'noise makes society possible. There would be no social order without an underlying noise

providing the opportunity of variation and change. To be more precise, it is the very operation of order(ing) which produces a noise of its own, making it impossible to ever establish the fullness of social order' (Stäheli, 2003: 244). He focuses on the semantic history of noise in the stock exchange; that is how noise is observed and how different 'soundscapes' of noise are constituted. He shows that noise is not only relevant to interaction, but also to the historical constitution of certain forms of organizations and functionally differentiated communication. This is one way of opening organizational history through systems theory with semantic history as entrance.

Another example is Betina Rennison's study of the semantic history of the managerial gaze on wages. In a number of articles, she shows how there is a development and a differentiation in the concept of wages in the public sector in Denmark in the period 1900–2005. This differentiation accelerates with the concept of public management in 1980. The concept of management becomes one of the most important tools in reconstructing the public institution as a partly autonomous organization with its own self-description and responsibility for its own performances. The manager becomes a symbol of the self in a given institution, and wages become individualized, reflecting performance and commitments to the institution. She uses systems theory to analyse how the individualized wage negotiation, not only enfolds one single language game. Equivalent to the many historically created concepts of wages, the negotiation should balance many different considerations, like performance, personal rights, experience, personal commitment, and capacity for self-development. The effect was to establish a polyphonic wage negotiation regime that deploys a variety of communicative codes: legal/non-legal, performance/non-performance, better/worse regarding learning and self-development, loved/not loved regarding passion towards the work (Rennison, 2007a, 2007b, 2007c). In this way her studies also point beyond a simple understanding of functional differentiation.

A third example could be my own study of the history of play in organization. I here focus on the semantic articulation of relationships between organization and play from 1860 until today. Roughly speaking, it was possible to distinguish between three layers of semantics. The first semantic layer was developed between 1860 and 1945. It focuses on competitive games and play was articulated as a medium symbolizing values of the organization especially the contradictory values of competition and collegiality. The second layer was developed since 1955. Inspired by war games under the Second World War, it focuses on management and business training and development games. In this semantic, play has to strive towards a simplified representation of the organizational reality. The third and last semantic layer emerges from 1980 and focuses on games of social creativity. Games should not simply represent reality but facilitate an interactional creation of the organizational reality. The study combines the semantic history of play and organization with a study of the history of structural coupling in organizations between

the forms of play, power, pedagogy and decision. Where games in the first period subsumed play under power, the second subsumed play under education and in the third period we see a more complex structural coupling where play is more symmetrically linked, functioning as a kind of immune defence in the organization and counterbalancing fixations in the logic of decision making. This makes possible a certain doubling of the organization in a formal and a virtual one (Andersen, 2009).

In all three cases, systems theory is used to bring in more sociological imagination into the history of organization, and opening, not closing, new research themes and empirical connections. And in all three cases the studies were anchored in a precise but also many faceted concept of semantics.

In the following I will only focus on the semantic analytical strategy. It will be based on systems theory, but in its analytical and deconstructive version with a lot of openings to Koselleck of course, but also discourse studies and deconstruction. In this perspective the concept does not function as a categorical system. Its function is rather to facilitate an analytical gaze, which maximizes sensitivity for semantic events.

## The concept of meaning

The semantic analytical strategy is constituted by the guiding distinction semantic/meaning. The focus of the strategy is how meaning is formed and how it is conditioned into a number of concepts, which together form a semantic reservoir of meaning that is then made available to communication. The focus, therefore, is the condensation of meaning and the horizon of generalized forms that this implies. Meaning, according to Luhmann, is not based on an external referential relation, neither in the form of external reality nor signifying structure. Luhmann's concept of meaning is neither structuralistic nor poststructuralistic; it is inspired primarily by Husserl's phenomenology: 'The best way to approach the meaning of meaning might well be the phenomenological method. This is by no means equivalent to taking a subjective or even psychological stance. On the contrary, phenomenology means: taking the world as it appears without asking ontological or metaphysical questions' (Luhmann, 1985: 101)<sup>2</sup>.

Luhmann defines meaning as the unity of the distinction *actuality/potentiality* (Luhmann, 1995a: 65). Something presents itself as central to thought or communication at a particular moment; something is actualized, but the actualization is always central to the thought or communication in relation to a horizon of possible actualizations, that is, potentiality. There is always a given core, surrounded by other potentialities, which cannot be utilized at the same time. Potentiality or possibility must not be understood as a structure that precedes actualization, but instead as a horizon of potentialized expectations, which emerges alongside the actualization. Something appears which thereby excludes other possibilities, but it produces and

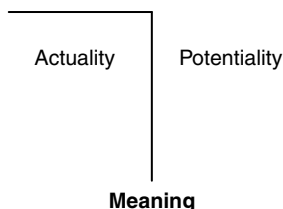


Figure 10.1 Meaning as form

maintains these precisely as 'other possibilities'. Meaning, therefore, is the simultaneous presentation of actuality and potentiality. The actual and the potential cannot be separated and exist only in a simultaneous relationship with each other. Or as Luhmann puts it: 'Meaning is the link between the actual and the possible: it is not one or the other' (Luhmann, 1985: 102). Meaning is the actual surrounded by possibilities. Any moment of actualization potentializes new possibilities.

Meaning can never be fixed. In Luhmann's work, however, the reason for this is not that the structure of meaning is incomplete but that the core of the actualized disintegrates from the moment something has been marked. Meaning is always formed by an operation, either as thought or communication, and such things disappear at the moment they come into existence. Meaning always has to be created recursively; it always emerges in a reference to meaning. The core of actuality disintegrates from the moment it emerges, and thus meaning causes change. Meaning, therefore, is also the continual rearranging of the distinction between actuality and possibility (Luhmann, 1995a: 63–66).

## The concept of semantics

Luhmann distinguishes between system and semantics. He defines semantics as specific structures that link communications by making forms of meaning available, which the communication systems treat as worthy of preservation (Luhmann, 1995a: 282). Whereas meaning expresses specific operations, the concept of semantics expresses condensed and generalized forms of meaning available to communicative operations.

The concept of semantics relies on a distinction between *meaning* and *condensed meaning*. Meaning consists in an ongoing rearranging of the distinction actuality/potentiality tied to the immediate situation of actualization. Communication, on the other hand, is able to develop structure, which condenses meaning into forms that are disconnected from the immediate situation of actuality. Condensation means that a multiplicity of meaning is captured in a single form, which then becomes available to an unspecified

communication. Semantics is defined, therefore, as *the stock of generalized forms of differences (for example concepts, ideas, images, and symbols), which can be used in the selection of meaning within the communication systems*. In other words, semantics are condensed and repeatable forms of meaning available to communication. These generalized forms are relatively dependent upon the specific situation and obtain their specific content from the communication that selects them (Luhmann, 1993: 9–72).

In principle, Luhmann is open to the idea that meaning can be condensed into a variety of forms such as ideas, images, and symbols. Ultimately, however, the focus in Luhmann's semantic analysis becomes the condensation of meaning into concepts. The guiding distinction of the semantic analysis therefore becomes concept/meaning and focuses on the way in which meaning and expectations are gathered in concepts and form semantic reservoirs, which are available to communication (Luhmann, 1993).

A concept, then, is defined as a condensation and generalization of a multiplicity of meanings and expectations. A concept *condenses* expectations in such a way that many different expectations become condensed into concepts. Concepts are never unambiguously definable. If one is told about someone that she is a social worker, this information immediately creates a horizon of different expectations such as, for example, 'she categorizes people', 'she is probably liberal', 'she is social and caring', 'she smokes a pipe', 'she removes children from their homes', and so on. A concept is a kind of expectation structure. To use a particular concept in a communication establishes particular expectations about the continuation of the communication. Moreover, concepts are *general* in the sense that a concept is not identical with its specific use in a specific communication. The concept is generally available to communication but is given, in the communication, a specific meaning and actualizes specific expectations.

The multiplicity of meaning in the concept as form is always locked into the opposition between concept and counter-concept:

There can be no concept without a counter-concept to hold the concept in place. The counter-concept puts restrictions on the concept. A conceptual pair could be man/woman, where the meaning that has been condensed into the concept of 'woman' sets up restrictions for the meaning of 'man'.

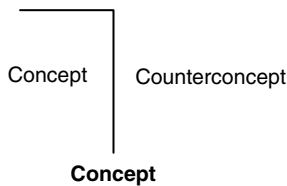


Figure 10.2 Form of concept

The expectations associated with being a woman set restrictions for what can be expected of someone who is marked in the communication as manly (an issue that is not settled in terms of biology). A social worker is only a social worker in relation to a client, and therefore, what can be expected of a social worker becomes entirely dependent upon the expectations linked to the counter-concept of client. The battle over the social worker centres on the description of the client and the expectations that become condensed into the concept of client, for example self-sufficient, active, independent or lost, helpless, and weak.

Semantic analysis, then, employs historicism as a way to describe the current conceptual reservoir. How are meaning and expectations formed, it asks, and how do these become condensed or generalized into concepts, which then establish certain semantic reservoirs for certain communication systems?

### **Working with the concept of concept**

In a sense, Luhmann's conception of concepts is extraordinarily simple compared with similar conceptions in other discourse analyses such as Foucault's knowledge archaeology or Laclau's analysis of hegemony (Andersen, 2003a). But despite – or perhaps by virtue of – this simplicity, it generates fruitful analytic questions.

As an example, suppose we are interested in the conceptual history of the social client. We might sense that new words such as 'self-help', 'joint perspective', 'active citizenship', and 'citizens' contracts' are causing a shift in the semantic reservoir that is available to social administrations and are paving the way for new communicative forms of inclusion and exclusion. We begin to observe current conceptualizations by looking for oppositions of concepts and counter-concepts, for example the way that 'self-help' is defined in opposition to 'pacifying help', how the concept of 'joint perspective', according to which social worker and client are expected to find a shared view, is defined in opposition to the social worker's 'comprehensive view', and we explore the generalized expectation structures that are made available to the communication.

When we study a concept's history, we have to pay attention to at least seven different possible forms of conceptual shift:

1. The concept may remain constant while the counter-concept changes.
2. The concept may have changed while the counter-concept has remained the same
3. Both concept and counter-concept may have been displaced.
4. Concept and counter-concept may be the same but the tension between them may be different.

5. The concept may be the same but may have moved to the position of counter-concept.
6. The concept may have lost its counter-concept, which results in the creation of an empty category with an unspecified counter-concept, which can be occupied later.
7. Concept and counter-concept remain the same, but the meaning dimension within which the distinction is defined may have shifted.

An example of the first kind of conceptual shift can be found in the history of the concept of the employee. At the beginning of the 1900s, the counter-concept to the responsible employee was negligence. Today, the counter-concept to responsibility is *having* responsibility. Responsibility remains a positive concept but the emphasis on duty is not; duty as a counter-concept is associated with expectations about passively awaiting a superior's active assignment of responsibility (Andersen & Born, 2008).

We may also imagine that the counter-concept remains the same but that the positive concept has changed. In all probability, this would not change the form of the concept because the expectations would be the same and would merely be associated with a different term.

In the third form of conceptual displacement both concept and counter-concept have been displaced and thereby also the unity of the concept. The third form involves a semantic equivalence between the two concept/counter-concepts pairs, but also a rupture in the horizon of meaning.

In the mid-1800s, public servants were distinguished mainly from politicians; the former were employed by the state, while the latter were elected by the people. In the 1920s, however, as the state grew, and more and more people were employed in it, it became necessary to distinguish public officials also from those who were 'merely' employed by the state, that is, on a contractual basis with no formal authority to represent state functions. Thus, in the 1800s, we had the distinction official/politician; but it was displaced in the 1920s with the distinction public servant/public employee. The concept of public servant goes from being oriented by its political function to being oriented by its organizational function. This displacement does not simply indicate new expectations regarding employees, but suggests a shift of reference in the definition of an employee. In the first concept, the reference is the political system and the distinction deals with the non-political in the political. In the second concept the reference is the state as an organization and the distinction deals with membership criteria.

In the fourth form of displacement, the distinction concept/counter-concept seems at first to remain the same, but the tension between concept and counter-concept is different, which means that the form of concept is also



different, for example because the valorization of the counter-concept has changed. The distinction between 'man' and 'woman' remains intact, but with the association of new expectations with 'woman', new restrictions are placed on the expectations associated with 'man' as a position.

In the fifth form of displacement, the concept has changed position and has become counter-concept to a different concept. One example is the concept of help, which in the 1960s was opposed to the concept of non-help. Help was associated with the professional help offered to a client with certain problems on the basis of a professional diagnosis. Today, this concept of help has become a counter-concept and is denigrated (valorized negatively) as patronizing. Helping clients with their problems is considered tantamount to stealing the clients' problems. The new concept has become 'self-help', which is never to be confused with pacifying assistance (Andersen, 2007, 2008).

In the sixth form of displacement, the concept has lost its counter-concept and has become what Koselleck calls an empty category or in Ernesto Laclau's words an 'empty signifier'. In this case, the counter-concept has not simply disappeared. It has become non-specific, which almost calls for new communicative valorizations of the concept (Koselleck, 2004: 187; Laclau, 1996: 36–47).

In the seventh form of displacement, concept and counter-concept remain the same whereas the meaning dimension within which the distinction is primarily defined has been displaced. I will discuss the notion of meaning dimension in greater depth later on, but if we distinguish between a temporal dimension, a social dimension, and a factual dimension, one may imagine that the form of the concept changes dimension so that a factual dimension is defined as social or temporal. Within the semantics of gender, for example, there has for decades been a battle back and forth between a factualization of the distinction man/woman as a genetic or hormonal fact on one side and a socialization of the distinction as a social, and therefore reversible, convention on the other. Koselleck has studied the concept us/them historically and points out that the emergence of Christianity, for example, creates a shift from the distinction civilized/barbarian to Christian/heathen, and this shift also involves a temporalization of the distinction because heathens are defined as potentially Christian. Heathens are not essentially heathens. They can be converted over time, and this temporalization of the us/them distinction thus results in rather radical shifts in the communicative possibilities (Koselleck, 2004: 155–91).

## **The semantic analysis and the meaning dimensions**

Luhmann distinguishes between three meaning dimensions, which then allow him to distinguish between three semantic dimensions (Luhmann,

1995: 74–82). I will not describe this distinction in depth but only briefly introduce it:

*The factual dimension* is about the choice of themes and objects for communication and consciousness. Themes and objects are all structured according to the form of meaning termed ‘thing’ as the unity of the distinction between this and everything else. Similarly, we can speak of a semantic of factuality as generalized forms of ‘being-one-thing-and-not-another’.

*The social dimension* is based on the non-identity between communication participants and constitutes the horizon of possibility in a tension between ‘alter’ and ‘ego’. Thus, it is about that which is not recognized by me as me. In terms of semantics, it is a question of generalized forms of distinction between ‘us’ and ‘them’. Social identities are the unity of the distinction us/them. Thus the social dimension is the dimension for the semantic construction of social identities, where there can only be an ‘us’ (concept) in relation to a ‘them’ (counter-concept). There is no ‘us’ except for in the comparison with ‘them’. ‘Us’ is only us to the extent that it is different from ‘them’, but ‘they’ only exist, in turn, in ‘our’ discourse about ‘them’. That means that expectations of ‘the others’ create the boundary for expectations of ‘ourselves’.

Finally, *the temporal dimension* articulates the tension between the past and the future. The temporal dimension is ‘constituted by the fact that the difference between before and after, which can be immediately experienced in all events, is referred to specific horizons, namely extended into past and future’ (Luhmann, 1995: 78). The semantics of temporality is about the way in which we observe and conceptualize the past and the future. The future is a horizon of expectations and the past a space of experiences, and any present exists only as the tension between the two. Time is constituted in every communication. Luhmann states: ‘What moves in time is past/present/future together, in other words, the present along with its past and future horizons’ (Luhmann, 1982: 307).

The three dimensions can be formalized like this:

In terms of analytical strategy, the three dimensions can be perceived as ‘arch-distinctions’ (equivalent but not identical to Koselleck’s distinctions

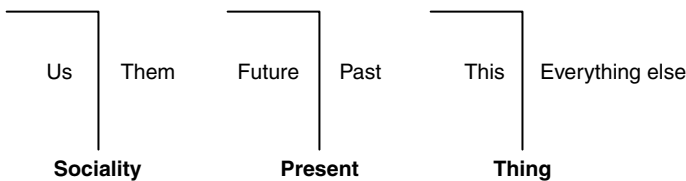


Figure 10.3 Meaning dimensions

between friend/enemy, before/after and in/out (Koselleck, 1987)), which we can always look for in the semantic analysis. There are no semantics that do not construct factual, social, and temporal forms. Once we have compiled the archive based on which we conduct our semantic analyses, it is natural to begin the analysis by reading the different texts with an eye to the distinctions they establish, particularly between 'past' and 'future' and between 'us' and 'them'. One might even draw up tables for the different texts, which make visible the valorizations of 'future' versus 'past' and thereby reach a certain analytical 'tempo' because certain conceptual shifts will stand out very clearly.

Clearly, this is not the whole story, but the tables can function as a good place to begin the observation of semantic shifts. The relationship 'us'/'them' and 'past'/'future' must be understood as concept/counter-concept relations, and all questions about conceptual displacements must be asked here. Thus, it is not only a question about the way in which 'us' and 'them' are valorized over time but also about the tensions between them.

In addition, it is important to be aware of the fact that distinctions can be re-entered into themselves. Re-entry means that a distinction is copied and re-entered into itself, which causes the distinction to become a part of its own whole (Spencer-Brown, 1969; Luhmann, 2002). Re-entry establishes a paradox because the two distinctions are simultaneously identical and different from each other. When a concept becomes a part of its own whole, this impacts the way in which it offers up expectations. Appearing as a part of its own whole, the concept makes impossible the expectations it makes available at the moment they emerge. If we take the temporal dimension as an example this means that the future might not simply be the future of the present but can be the future of the future, the future of the past, the present of the future, the past of the past, and the present of the past. All these re-entries in the temporal dimension have of course their history and play an enormous role in the development of organizations. Decisions, planning and strategy making are all communication drawing temporal distinctions, but the temporal distinctions are drawn very differently. To put it simply: decisions draw a distinction between before and after the decision, where 'before' the distinction is defined as a state where a lot of uncertainty and open contingency exists regarding expectations. 'After' the decision is defined as a state where the same contingency exists, but now in a fixed form (we decided to do this but we could have decided differently). Planning involves decisions about later decisions and as such they add a re-entry on the temporal dimension. The present becomes the past premise of a future decision, and future becomes the future of a future decision. Strategy might again be observed as a decision of third order: a decision about possible future references in planning (Luhmann, 2005; Andersen, 2003b). My point is that developments in temporal semantics including modes of temporal

re-entries are indeed constitutive of the possibilities of organizing and the handling of temporal complexity.

The same logic applies to us/them, where, for example somebody among 'us' may act like 'them'. There are many different possibilities for the re-entry of the us/them-distinction. And a semantic analysis has to remain aware of possible re-entries<sup>3</sup>. An example here could be Foucault's study on the history of madness. Observed in Luhmann's framework, Foucault studied how distinctions are drawn between us (the rational and productive) and them (the mad and unproductive), a distinction that at the same time is one between inclusion in society as communicative relevant and exclusion from society as irrelevant. In Foucault's studies we can also see how this distinction is later handled through re-entries of the distinction. The emergence of internments and hospitals for criminals, unemployed and mad people represent a re-entry of inclusion/exclusion. The excluded becomes included in society though internal forms of exclusion such as the internments (Foucault, 1971; Luhmann, 1995b). Through semantic evolutions of social forms of re-entries new complexity can be handled, and this of course is also of major importance in the study of the history of organization.

### **Singularization and generalization**

The relation between concept and counter-concept always entails a tension between what Koselleck refers to as the general and the singular (Koselleck, 2004: 156; Andersen, 2003a: 39–41) or what Laclau terms the particular and the universal (Laclau, 1996: 59). Linking up to a concept is always associated with particular conditions, and the concept is always linked to universal qualities. Any concept condenses a multiplicity of meaning and comes into being as a generalization that overrides the particular communicative situation.

This has been generally ignored in Niklas Luhmann's works because he primarily works with cultivated semantics, which have evolved over hundreds of years, establishing reservoirs for well-established functional systems. He only seldom studies contemporary semantics with a short history where one may be uncertain about the concepts' conceptual character. In Luhmann's analyses, we are either dealing with a concept or not. Concepts are generalized forms of meaning. Luhmann works with concepts about which there is no doubt as to their status of generalized forms. However, when working with more contemporary semantics such as the semantics of sustainability or the semantics of active citizenship it is less obvious whether the analysed object, as a concept, is a fully generalized form or a developing form; that is, a form that is emerging through generalization, but where the generalization and condensation has not been brought to its conclusion. In terms of analytical strategy, it is not simply a question of determining the concept's status

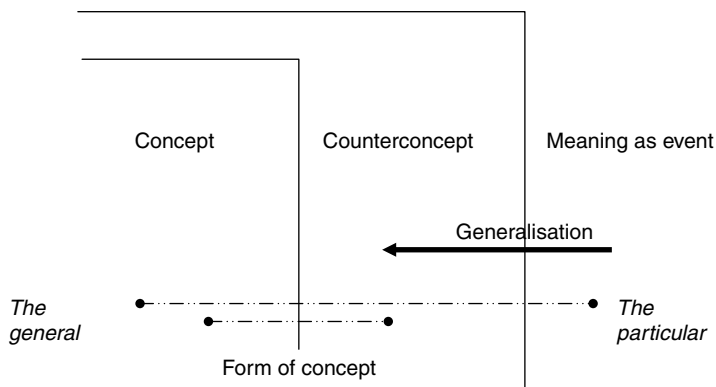


Figure 10.4 Becoming concept

of general form. The challenge is to develop analytical concepts that make it possible to observe the incompleteness of incomplete concepts with the particular structures of expectations established by incompleteness. In order to do this, we have to take yet another look at the concept of a concept. Luhmann makes two propositions: 1) that concepts are condensed forms of meaning and 2) that a concept is the unity of concept and counter-concept. If we look at these two definitions at the same time, this means that we have to perceive the distinction concept/counter-concept as a re-entry of the distinction conceptual form/meaning. This means that we can no longer maintain a simple distinction between concept as generalized form on the one hand and meaning as specific operation on the other because the specific or particular re-enters the form of concept. Any tension between concept and counter-concept, therefore, must be studied as a (perhaps incomplete) tension between the general and the particular. I have tried to illustrate that in this way:

The relation between the general and the singular is singularly tied to the individual concepts and should therefore always be an element of the semantic analysis. Koselleck pays particularly attention to the relation between the general and the singular in relation to the social dimension and the distinction between us and them (Koselleck, 2004: 156). He points out that identity-markers for the indication of 'us' are sufficiently general to not be emptied of meaning by a singular articulation. Concepts such as 'party', 'movement', and 'interest group' can be employed similarly in the self-construction of many different identities. These concepts are *transferable* in the sense that they can be appropriated, employed, and translated by many different groups in many different contexts. Similarly, the identities that are constructed in association with these concepts are *mutual* in

the sense that they do not exclude and preclude each other. For example, there are currently ten political parties in the Danish Parliament which all establish their identity through reference to the concept 'party' without the identity of any individual party being precluded by a competing party.

On the other hand, says Koselleck, there is undoubtedly a tendency towards *singularization*, that is, towards the subjugation of the general to the singular: 'Historical agencies tend to establish their singularity by means of general concepts, claiming them as their own' (Koselleck, 2004: 156). This obviously applies when a religious denomination claims the concept '*the church*' or when a party alone claims to represent *the people*. But it also applies when generality becomes restricted, such as when specific kinds of political parties are outlawed – for example Communist or Nazi – or when not everyone who seeks the state's approval is recognized as a religious denomination, or when the Danish Parliament makes it illegal for female judges to wear headscarves because they are perceived as a symbol of a Muslim religious legal order. It applies generally whenever there are specific, that is, singular, conditions for the connection with the general. That is always the case, which is why the general is never entirely general. There is always a limit to transferability, and mutual identities are only mutual, therefore, in relation to the identities that they commonly exclude. The singular and the general appear in mutually constituent and conditioning distinctions. Laclau puts it like this: 'The conclusion seems to be that the universality is incommensurable with any particularity yet cannot exist apart from the particular' (Laclau, 1992: 90).

The question of the singularization of the general means that analyses of the way in which identities are constructed in the context of concept formations have to always be sensitive to the definitions of the tension between singularity and generality. How, for example, is meaning condensed in environmental discussion into the concept of sustainability in a way so that the concept obtains universal qualities while also defining singular conditions for the sustainable representation of the environment in the communication, for example so that NGOs without economic interests are more entitled to speak on behalf of the environment than the oil industry. In Denmark, as in many other countries, we have freedom of religion, but this freedom is thought to be represented better by the Christian state church than by Muslims who 'flaunt' their religion through the way they dress.

The universalization logic can be form-logically shown like this:

The distinction singularity/generality opens up for the observation of the way in which the condensation of meaning into concepts also contains questions about the creation of generalities, which can be communicatively linked up to under singular conditions.

This paves the way for studies of the way in which the particular is sought to be universalized, how particular conditions are established in conceptual

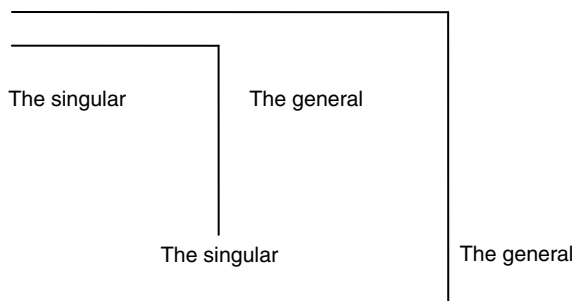


Figure 10.5 Universalisation logic

distinctions for the representation of the universal, and how the condensation of forms of meaning as universal positions also defines what can appear as singular.

### Can semantics be qualified?

So far, our analytical efforts have made it possible to observe conceptual shifts. Luhmann's conception of semantics is precisely the focus on the *condensation* of expectations into forms. However, we are only able to observe the condensation processes when they have taken forms. The process in itself is invisible to us.

Luhmann chose, as I have already mentioned, mostly to study cultivated semantics in relation to social differentiation. His focus was the semantic histories of the function systems, and these typically stretch over several hundred years. I have mentioned the problem of the too rigid distinction in Luhmann between either concept or not concept (which in fact is contrary to his entire way of thinking meaning). It also creates problems for the entire concept of semantics since Luhmann configures, along the line of the concept/not concept distinction, a distinction between cultivated semantics/uncultivated semantics according to which uncultivated semantics is everyday-semantics, which may be important for day-to-day living but not for sociology whose focus is the structures of society. The problem is that a large number of semantic reservoirs that are central to the description of our society and its different systems, which are neither cultivated in Luhmann's sense nor constitute simple everyday semantics. They lack the structurability they would need to become constitutive for social systems outside of the systems of interaction. It simply does not make sense to go along with Luhmann here, particularly not if one is interested in the present and its many shifts and displacements. The result is a continuum between cultivated semantics and everyday semantics. It is impossible to work with such

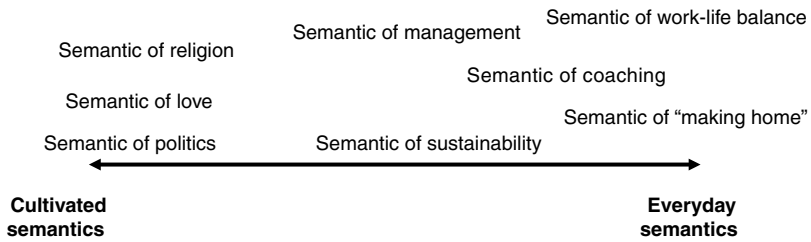


Figure 10.6 Cultivated semantics: a questionable concept

a continuum because it leaves doubt as to the object's status of object; that is, in what sense does what we refer to as semantics then become semantics.

Urs Stäheli has formulated a similar criticism of Luhmann's distinction between serious and unserious semantics:

The 'non-serious' semantics is a sort of left-over: it is that which is not fully absorbed by the dominant form of functional differentiation. Therefore, it is only consequent, when arguing within the logic of systems theory, that the excluded semantic cannot be the important one: it does not fit into functional differentiation. This, however, leaves many important questions unanswered when it comes to discourses that construct their object... through drawing from several semantic registers [for example the discourse on AIDS]. (Stäheli, 1997: 136)

We have to enter the question from a different place, and I believe that we have to take on the analytical-strategic challenge of figuring out how to render observable the condensation of meaning. That is no simple task. The *process* of condensation is fundamentally invisible. There is no way for us to turn it into an observable object. What we might instead be able to do is to qualify condensation. By qualifying condensation we are able to evade the 'either-or judgments'; that is, we can avoid either having a concept according to which we can identify condensation of meaning or not having a concept and therefore no condensation of meaning.

One possibility is to distinguish between empty concepts, semantics, and norms as three different levels of condensation and generalization of meaning. Empty concepts, accordingly, have the lowest level of condensation and norms the highest. The relation has to be seen as cumulative; that is, norms presuppose semantics and condense semantic concepts. Semantics presupposes empty concepts, and condenses and unfolds them by multiplying them in countless semantic concepts. And on every level of the condensation there is contingency. Whether and how an empty concept becomes a specific semantics is always contingent.



I define an *empty concept* as the lowest level of condensation of meaning and expectation. An empty concept is a specific concept with non-specific counter-concept. According to Koselleck, this type of concept requires continual injection of concrete meaning. *An empty concept expresses the condensation of expectations about a specific formation of expectations and meaning.* Koselleck's example is the formation of the concept of humanity during the French Revolution without a clear counter-concept about non-humanity, which spurred expectations about filling the concept of humanity with specific meaning (Koselleck, 2004: 187). A more recent example could be the formation of the concept 'sustainability' in the mid 1980s with the Brundtland Report as an obvious marker. Sustainability was an empty concept that created the possibility for association for countless attempts to specify it and determine what definitely could not be considered sustainable.

*Semantics* constitutes a higher level of condensation of meaning and expectation. We talk about semantics when not only individual concepts but a reservoir of concepts have been created, which is available to communication and which together construct a meaning space of possibilities that includes generalized expectations on the temporal, social and factual dimension.

We could say, for example, that sustainability as empty concept has been turned into a sustainability semantics once we see not only individual concepts associated with the sustainability concept but an entire reservoir, which makes it possible to communicate from the perspective of sustainability about a large number of themes in a symbolic way in all meaning dimensions.

*Norms* can then be perceived as the condensation of a multiplicity of concepts in the form of expectations of specific expectations. Norms not only provide us with available concepts that create specific ways of structuring expectations when employed communicatively. They also establish form-consistent expectations about possibilities for linking up to specific concepts that entail specific expectations. These concepts are superposed so to speak through the distinction between prescriptive conformist practice and deviation from it (Luhmann, 1995: 230).

If we return again to the sustainability example we can explore the way in which semantics is transformed into a set of norms, for example in companies, about the subjection of new production to so-called life-cycle analyses. A life-cycle analysis condenses concepts into a form, which prescribes a particular conformist practice whose counter-concept then becomes deviation.

The analytical distinction is shown below:

One could of course create other more sophisticated distinctions. However, if the distinctions become too demanding and precise they lose their analytical power. The question, of course, is what the significance really is of drawing the above distinctions? As already mentioned, Luhmann's semantic analyses typically spanned several centuries because his focus was

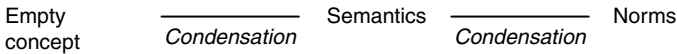


Figure 10.7 The qualification of condensation

the bigger questions such as the evolution of political semantics, the semantics of love, the semantics of law, and so on. There was never any doubt as to whether a political semantics had been established, only as to *how* it had been established. If, on the other hand, we wish to study semantics that are less epochally defined such as the formation of the semantics of modern environmentalism, active citizenship and diversity management, these are to a large extent 'incomplete' semantics, which are still evolving as we study them, which makes it significantly more difficult to determine whether we are actually dealing with a 'new' semantics. The important thing is to include the nature of semantics into the semantic analysis so that the analysis is not only sensitive to the reservoir's content of concepts over time but also becomes sensitive to the way in which it is a reservoir. The semantic analysis has to define its semantic criteria as an empirical question.

## Final remarks

I have tried to operationalize the semantic analytical strategy in order to improve its capacity for dealing with contemporary semantics where we cannot have the same certainty regarding the quality of concept and semantics.

In principle, one can conduct a semantic historical analysis of any concept. There is no concept whose origins one might not inquire about. A semantic analysis does not necessarily constitute a significant contribution. Reinhart Koselleck's many conceptual-historical works all contributed to the exploration of 'neu-zeit'. He focused on conceptual transformations in the transition to the modern political order. The criterion for whether a concept was worth studying, therefore, was whether its transformation was constitutive for modern political concept and categories. Luhmann's semantic analyses typically relied on the thesis about the functional differentiation of society and therefore focused on the emergence of the semantic reservoir of the individual function systems, for example the semantics of politics, the semantics of love, and the semantics of art.

I have tried to develop his semantic analysis so that it fits contemporary studies and becomes capable of grounding a diagnostics of the present. This should allow us to deal with changes that take place within the functional form of differentiation but also change (and challenge) the conditions for the unfolding of the functionally differentiated society. This includes regime variations within functional differentiation and what they do to management and organization. And it includes all developments that do not at first glance fit the categories of functional differentiation, but nevertheless take

place within a functionally differentiated society and shape the possibilities and impossibilities of management.

Much sociology is a diagnostics of the present. But very often it does not have roots in historical analysis, and we get a weird, dreamlike sociology. To me, it is imperative that a diagnostics of the present is solidly grounded, both empirically and historically. Perhaps a sociologically motivated conceptual history can provide a basis for realizing this ambition.

## Notes

A version of this chapter first appeared in the journal *Management & Organizational History*, 2011 (6), 248–267.

1. Editors' note: For a discussion of the analytical constraints these bounding causes for semantic analysis see 'Organisations, Institutions and Semantics – Systems Theory Meets Institutionalism' by Anders La Cour & Holger Højlund, in this volume (see the section 'Discursive institutionalism').
2. Editors' note: For a further reflection of the phenomenological roots of systems theory see 'The Autopoietic Fold: Critical Autopoiesis between Luhmann and Deleuze' by Andreas Philippopoulos-Mihalopoulos, in this volume.
3. For a further discussion of the concept of re-entry in autopoiesis see 'The Autopoietic Fold: Critical Autopoiesis between Luhmann and Deleuze' by Andreas Philippopoulos-Mihalopoulos, in this volume.

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## **Part IV**

### **Radical Politics**

# 11

## Luhmann and Derrida: Immunology and Autopoiesis

*Willis Santiago Guerra Filho*

### I

The process of globalization leads us to figure the whole world as a society, the 'world society' (*Weltgesellschaft* – see Luhmann, 1971). In the world society in which we live, with its hyper- complexity and multicentrality, as it is described by autopoietical systems social theory, this is a proposal to do research through the point of view of the present state of differentiation of systems in such a society. One of those systems is the legal one, which is at the same time separated and articulated with the others, so that mutual irritations are absorbed through the so called 'structural coupling' (Maturana & Varela, 1973) between the centre and periphery of one another, in order to maintain their stability and simultaneous growth in their environment, autonomously. Legal systems and political systems are connected through a particular media of operative closeness called the legal constitution of the State. From Constitutional Supreme Courts we expect to ultimately define what is to be seen as constitutionally grounded. These courts become then co-responsible with the operation of the binary code of both systems, that is to say, the lawful or non-lawful code in the case of the legal system and the government or opposition in the case of the political system (Luhmann, 1993, 1995, 2000a, 2004). This is due to the centrality of the definitions about constitutionality of legal norms both to legal and political systems.

This throws a new light on the well-known Luhmannian thesis on the legitimacy of law through procedures (Luhmann, 1969), as far as their outcomes must meet one of the possible contents of the principles and norms, to conform with basic values such as rationality, democratic participation, pluralism, economic efficiency that are already pursued in the making of the procedures.

Here must be mentioned with emphasis the Frankfurtian legal philosopher R. Wiethölter (1989), according to whom in post-industrial society we find the most distinctive feature of law in its 'proceduralization' (*Prozeduralisierung*). This means that M. Weber's (1978) thesis about law

in modern society being essentially formal, with the prevalence of general and abstract norms – in contrast with the more substantive type of law in pre-modern societies – is no longer adequate to the description of law in today's postmodern society, since its major problem is not the protection of individual liberty against arbitrary action of the State, but the enforcement of collective interests by the state and social agencies. In attaining those collective interests there are also public and individual interests to be respected; this is very hard – if not impossible – to be thoroughly done by general and abstract statutes in advance. There must be a case-by-case, contextualized consideration, so that, as Rawls (1972: 83, 84) would say, the best we can do is to assure fair procedures, in order to achieve decisions that are shaped to equate all conflicting interests and/or values. This occurs mainly through the 'balancing' (German: *Abwägung*) of these interests and/or values according to a 'principle of proportionality' (German: *Grundsatz der Verhältnismäßigkeit*), as Ladeur (1983) pointed out, in his post-modern approach to legal theory. We may find this as a good example of Hofstadter's (2007) 'strange loop', since such a principle, that has a constitutional nature, is located in the highest level of legal hierarchy and would be applied to decide concrete conflicts and legal problems bringing harmony to multiple possibilities of lawful solutions to them, in a way that is not previously ruled. This means that such a principle is valid not only due to its constitutional status, but also because it validates the solution offered to rule on a specific case. It accomplishes an oscillator function (Spencer Brown, 1993) that is needed to switch back and forth from hetero-reference to self-reference, which is vital to the system's autopoiesis (Maturana & Varela, 1973). Here the relevant distinction, instead of those of true/false or fair/unfair, would rather be something like flip/flop, as Luhmann (2000b) once pointed out. The closest that the 'contingency formula of justice' as a code of higher order (that is to say the unity of the difference in the 'meta-code' fair/unfair and also in an '*Überbegriff*', as we would say in German, but not an *Überprogram* that is internal to law, as it seems to be for Derrida in his book on Marx (see Derrida, 1994b) can get to the legal system without properly getting into it seems to be through such a principle, which is also responsible for the introduction of an exception in the system, that pushes it downward dangerously close to the negation of law by violence and arbitrariness. Those circumstances make it tempting to conceive proportionality as the best candidate to be located at the legendary place of the Kelsenian 'Grundnorm', especially if his last version of it is taken into account (Kelsen, 1991), as a fictional norm (German: '*eine fingierte Norm*') in the *Vaihingerian* sense (see Vaihinger, 1935), by means of what the illusion of (knowing) justice and satisfaction of fundamental rights as the illusion that is necessary to the operational closure to/with the environment to be easily elicited as the cognitive openness to the future is maintained.



In this context the judicature turns out to be of central importance to the efficiency of legal order in present societies with a democratic political organization. Legislation no longer furnishes the required guidelines to a satisfactory judicial treatment of issues, such as those that we have to cope with in the hyper complex postmodern society, brought into light after the body of statutes was enacted. And this means also an emphasis on the importance of the procedural laws that regulate the judicial exercise of power. Such a concept of 'proceduralization' is congenial to Luhmann's (1969) thesis of 'legitimacy through procedure' and might very well be understood as a 'call to judicial responsibility' (Drucilla Cornell, 1992a).

## II

The theory of autopoietic social systems develops a conceptual framework to be applied to the study of societies that attained a particular historical condition, to which belongs firstly, the democratic feature of political institutions and the capitalistic domain of economic values in those societies. Considering it as a system, we'll have also on this system a 'core' (or 'centre') and a 'periphery'. 'Central' would be the (participative) democratic and advanced capitalistic parts of the world society, while the others would remain 'peripheral' until the accomplishment of their integration in the 'economic world society' (*wirtschaftliche Weltgesellschaft*). This is not to be thought of in terms of countries, since the centre and its periphery would be physically everywhere, as long as its characteristics are shown. But if we follow the indications of Luhmann in his final masterwork from 1997, when he asserts that protests always come from the periphery against the centre, by pretending to be out of society, then we come to the conclusion that as the 'society of society' autopoietically unfolds itself so the distance between desires and their satisfaction tends to vanishes, something that Kojève's (1976) lectures on Hegel's *Phenomenology of Spirit* would support, as there we find the (Herderian) idea of '*geistige Tierreich*' (see Forster, 2009).

So we are now to face the question of the risks that such a development might bring about, as Luhmann (1997: 782) make us aware referring to Dieter Grimm's book on the future of constitutions. At stake is the maintenance of the autopoiesis in the global system, if we consider the legal system as Luhmann (1993) once proposed, that is to say, as a kind of immunity system in society, with the task to vaccinate it against the diseases of conflicts through the legal depiction of such conflicts as prescriptions to be followed by courts conceived as immune against politics. And the main risk here appears to be that of auto-immunity, in the sense brought to light by Derrida – first at an interview on drugs (Derrida, 1995) and then extensively in latter works – and after him by scholars like Andrew Johnson (2010), Bojanić (2010), Protevi (2001) and Nass (2006).

### III

The non-initiated will be given now a very quick account of Derrida's understanding of law itself. Law is to be distinguished from justice. Law is the element of calculation and symmetric force, and as it is well known and generally acknowledged law requires enforceability, as an important part of its conceptual ground. A strict symmetry is then needed, so that everyone's equal freedom may be respected and that freedom may be restricted for the sake of freedom – which presupposes an exteriority itself based on a model of subjectivity and interaction. In *Right to Philosophy* (French: *Du droit à la philosophie*) Derrida (1990) shows in a quite similar fashion to Luhmann's how law is also an instrument of legitimation, of stability of certain social expectations, and of coalescence of social and normative imperatives. However, there are some quite common so-to-say irruptions or even disruptions in law that are congenial to it but that at the same time overflows law as enforceability, subjective symmetry, and stable legitimation, and this is why there are so many references to justice in 'Force of Law' (Derrida, 2002), as to the claim of right in *Right to Philosophy*. The claim of right also appears in 'Force of Law' at least through the ingenious subsection title 'Du droit à la justice'. So justice and right as urgent, intense and decisive – they come forward very clearly in the space opened by decision – they all translate into law the thought of the event, of a coming event that disrupts the horizon of the future, the stability of tradition and the possibility of the 'I can' of a proper subjectivity allegedly present to itself. They are already required by law for law needs to conceal its own violence and has to rely on something that is not as strict as itself; it has to appeal to justice, to the oblique, so as to make sense of itself. Yet justice and the claim of right also require law, for every struggle for justice demands to be positively enforced, requiring the force and the structure of the law. Law and justice/right are understood thus through a grammar of 'differential contamination'. These general remarks on these two capital texts should be enough for an understanding of these basic tenets. A 'law of the law' however leads us to other references and another level of inquiry. But first, one preliminary remark in two moments is needed:

Preliminarily let me say that in some texts of occasion and interviews Derrida uses as a synonym for justice the expression 'Law of the Law', which has so much resonance to Luhmann's 'society of society'. On some occasions the former simply invokes a higher law such as the worldwide allegiance to human rights or the American Declaration of Independence to put in question the ordinary use of the law.

1. One first moment of the Law of the Law involves a law that, as in 'Force of Law', conceals itself, finds for itself a just guardianship, presents itself so as to conceal itself, and its own violence. It is however in a previous discussion of Kafka's short story 'Before the Law' that Derrida provides a fuller account

of the law of the law as such, precisely as to account for the im-possibility of this as such. The relation that the 'narrative' portrays, between guardian and countryman, is always struck by the pervasiveness of the law, but the law appears there as this very restless pervasiveness rather than possessing any essential attributes. What the 'rapport', the relation, bears (French: *porte* – now with the meaning of the verb *porter*) is the weight of the limit (French: *la porte*, the door, the gate) that it encounters (Derrida, 1994a: 343–353). Indeed, the entry is not to come (as in the 'to come' of a future). It happens in the coming itself at that very 'door', and in this paradoxical process of entering, coming, it finds nothing ('a guard that guards nothing, the door remains opened, and opened over nothing' (see Derrida, 1985: 123)).

The law interdicts in interfering and in differing the 'ferrying'/'carrying', the rapport, the relation, the reference. The origin of difference, that is what one shall not miss even though incapable of approaching, presenting, representing, or above all penetrating it. That is the law of the law, the process of a law, on which matter we shall never say, here or there, it properly is. And it is neither natural nor institutional (Derrida, 1985: 122).

The law is 'neither...nor', and, even more poignantly it is, in the French language, 'ni...ni' – repetitively barred in itself. As Derrida also says, the 'law is the interdict' (Derrida, 1985: 121); but what is that that it interdicts? It interdicts itself: 'law is intolerant to its own history' (Derrida, 1985: 112), and the being-law of the law is 'silence and discontinuity' (Derrida, 1985: 109). The law of the law, in addition, cannot be equated to any laws, to any particular laws. It is that which evades any particular law, and yet that which pervades all laws, so that 'it' may still be called 'law': 'I say still the "law of laws" because in Kafka's narrative (and the existence of such a narrative is itself in question), one does not know what sort of law is dealt with, that of morals, of law, of politics, or even nature, etc. What remains invisible and hidden in each law, we can then suppose that is law itself, what makes that these laws be laws, the being-law of laws [French: *l'être-loi des lois*]' (Derrida, 1985: 110). Here then Derrida is not speaking of a law that is logically self-contradicting. One is dealing here with interruption itself in play at every law, a sort of interruption that is neither akin to a positive nor to a natural law – an interruption that operates so as to disavow every recognition of the origin, the violence, the differential force of law. If law conceals itself by means of its guardians – guardianship meaning law itself as it is generally perceived – so as to remain hidden in its being-law, in its ineluctable condition of differential force that contaminates being itself, if this is so, then perhaps this is the mystical foundation of authority and law.

2. With this we come to our second moment. Referring to the mystical foundation (more on the mystical shortly), there must be something else that founds authority, and that is not only the very im-possibility of 'relation', or the weight of this im-possibility, nor the indeterminateness of language, nor the indeterminateness of law, nor the arbitrary overlapping of justice and

law for the sake of law's thriving. There must be something to bear on law's credit, on the belief in law, on the fiction of law's unity and grounds. As we learn from Fitzpatrick (1991: 210), not only, but most conspicuously in his critique of H. L. A. Hart, there is not only one but many competing rules of recognition, which as a matter of fact is one mythic outlook of legal rules quite enduringly in modernity. The difficult question of its origin, and the vacuous restlessness that such origin instills in law can and must be related to the modern cogency of law. In the first moment of the law of the law, one can already see such vacuity at play. In Fitzpatrick, such vacuity can be more properly perceived in the locus of the structure of the law, so as to rule out the truth of the myth itself in its many legal-political instantiations. Yet there is a second moment, also explored by Fitzpatrick, and that appears in a few works of Derrida, especially with regard to Blanchot. In the *Law of Genre*, Derrida evokes not only the doubly negative moment of law, but also law's (French: *loi*) doubly affirmative moment:

The strongest and most expounded trait of (Blanchot's) 'The Madness of the Day' is the one that relates this birth of law, its genealogy, its engendering, its generation, or its genre/gender, the genre/gender of the law, to the process of double affirmation. The excess of the yes, yes is not foreign to the genesis of the law. (Neither genesis itself simply put...)...(k)not of affirmation [French: *pas d'affirmation*], (k)not as fastening and measure of distance, and negation, and above all (k)not of double affirmation [French: *pas d'affirmation double*] – without a law [French: *loi*] sighting the light of day [French: *jour*], and without a day made law [French: *droit*], there shall be no (k)not. (Derrida, 2003: 261)

In this translation I try to show that this affirmation is constitutive of the double negation of the law. Yet, Derrida himself did not come to terms with the full consequences of this, of the engendering of law in the body of he who is put under the aegis of the guardians of the law, as it is clearly depicted in Kafka's story 'In the Penal Colony'.<sup>1</sup>

#### IV

Such an approach forces the shift from a logic of opposition, inside versus outside, to a differential logic of potencies that posits overlapping and opposed 'systems'. Protevi explains the importance of such a shift:

The immunological system's task is one of reading, of espionage and counter-espionage. The endgame of auto-immune disease – especially when it targets the immune system itself – is that of the impossible task of undoing the mistakes committed by the internal police who confuse internal police for foreign agents masquerading as internal police dedicated to tracking down foreign agents masquerading as internal police (...). For immunology, the question is never one of inside and outside, but

of the economic distribution between intakes, assimilation or rejection and excretion. The unitary, self-present body is exploded into a systemic interchange, a point of exchange of forces; in other words, immunology studies forceful bodies politic. The outside is already inside, in relation to the inside; the regulation of this interchange is the job of the immune system. (2001: 102)

Auto-immunity is an aporia: the very thing that aims to protect us is the thing that destroys us. The paradox of legal autopoiesis ending up in auto-immunity reveals the unavoidable circularity of Law and its political roots in the constitution. A constitution is a legal statute of definitions. A constitution as a set of laws creates a structural vocabulary and thereby constitutes its own logical language game. What is against the constitution is, by definition, illegal. The use of logic, as a mobilization of divergent immune-strategies, is a power-mechanism intending to protect itself a priori. Politics is but one specific structure of language. Politics furnishes the structure of the legal system's binary logic of lawful/unlawful. Derrida (2005) believes that the concept of auto-immunity upsets this traditional and prevalent misuse of definitions, and can open up the possibility of a new type of political thought. It is only by opening itself up to the other, threatening to destroy itself, that the organism has the chance to receive the other and become another one, in order to remain the same, that is, alive. This explains the solution he proposes under the name of hospitality, the quality of the host, which is 'gramatologically' at the same time similar and antithetical to hostage and hostility, a circumstance referred also by Lyotard (1993) in his 'political writings', when he figures a secret host as that 'to which each singularity is hostage'. This is due to the troubling analogy in their common Latin origin: *hostis*. Hospitality carries within it the danger of hostility, but likewise all hostility it retains a chance of hospitality. If hospitality carries within it its own contradiction, hostility, it is unable to protect itself from itself and is stricken with an auto-immune propensity for self-destruction.

We are confronted here with the truth exposed in Walter Benjamin's (2004) 1922 essay 'Kritik der Gewalt', where *Kritik* means both critique and foundation as well as *Gewalt* means both violence and state Power. One of the many paradoxes Derrida works around in his essay 'Force of Law' is this double meaning of the German term *Gewalt*, translated in the title of the essay as 'violence', but also capable of meaning 'force' in the sense of legitimate power or justified authority (as in 'force of law'). This leads him to offer the following as a characterization of Benjamin's thinking on *Gewalt*, or violence: 'There is no natural or physical violence. We can speak figuratively of violence with regard to an earthquake or even to a physical ailment. But we know that these aren't cases of a *Gewalt* able to give rise to a judgment, before some instrument of justice. The concept of violence belongs to the symbolic order of law, politics and morals' (Derrida, 2002: 31). This sense of

violence, which Derrida uses in his continuing investigation of Benjamin's complex analysis of the different kinds of violence both underlying and challenging state authority, would seem to be shorthand of sorts for what he terms 'intersubjective violence' in the book *Grammatology*, which is to be understood as the horizon for understanding 'writing' in the expanded sense developed in this previous work of Derrida (1976). That is, to express it in Luhmannian terms how all social systems – including politics, economics, education and religion – in which human subjects find themselves always already enmeshed can be described in terms of their pervasive and, indeed, constitutive violence.

Derrida's close analyses in 'Force of Law' of Pascal's and Montaigne's enigmatic statements on law, justice and violence may be seen as indications that long before Benjamin we may find thinkers perplexed by the question of the 'foundation' of law and authority. The very phrase Derrida uses as a subtitle to 'Force of Law,' the 'mystical foundation of authority' is one he identifies as being an unacknowledged quote by Pascal of a passage from Montaigne's 'De l'expérience'. Montaigne's statement is from 'De l'expérience': 'Or les loix se maintiennent en credit, non parce qu'elles sont justes, mais par ce qu'elles sont loix. C'est le fondement mystique de leur autorité, elles n'en ont point d'autre' (that is, 'And so laws keep up their good standing, not because they are just, but because they are laws: that is the mystical foundation of their authority, they have no other' – *Essais* 1049). Commenting on and paraphrasing this passage, Derrida says: 'Here Montaigne is clearly distinguishing laws, that is to say droit, from justice. The justice of law, justice as law is not justice. Laws are not just as laws. One obeys them not because they are just but because they have authority'. Derrida insists that he is not assenting to the moral truism of the *La Fontaine* fable about the wolf and the sheep: 'Might makes right'. He makes it clear regarding Pascal's approach as follows: 'But if we set aside the functional mechanism of the Pascalian critique, if we dissociate it from Christian pessimism, which is not impossible, then we can find in it, as in Montaigne, the basis for a modern critical philosophy, indeed for a critique of juridical ideology, a desedimentation of the superstructures of law that both hide and reflect the economic and political interests of the dominant forces of society. This would be both possible and always useful' (Derrida, 2002: 12, 13). In order to establish a direct link between Pascal's and Montaigne's insights into the foundations of law and justice with the practice of deconstruction Derrida continues in a series of quotations where both thinkers say, in effect, that if one traces the foundation of legal authority back to its origins, it simply disappears, or is seen to be founded on what Montaigne refers to as 'fictions legitimes'. As Montaigne says, in 'Apologie de Raimond Sebond', 'notre droict mesme a, dict-on, des fictions legitimes sur lesquelles il fonde la verité de sa justice' (that is, "even our law, it is said, has legitimate fictions on which it founds the truth of its justice"). This leads Derrida to claim that: 'Since the origin of authority, the

foundation or ground, the position of the law can't by definition rest on anything but themselves, they are themselves a violence without ground' (Derrida, 2002: 14). The structure described here is a structure in which law (*droit*) is essentially deconstructible, since its ultimate foundation is by definition unfounded. Here is the ultimate paradox of Law, also stressed by the theory of autopoietical social systems. According to Luhmann, the law arrives at autopoietic system formation at all, first, by converting this dangerous paradox into a harmless difference, by misunderstanding the endless oscillation between (legally) right and wrong as a conditionable contradiction, indeed, by technicalizing the paradox into a programmable binary code. This is why the legal system needs illusions. Luhmann shows this for the illusion of the binary legal code, which is exposed to the paradoxes of its own self-reference. As Teubner (2006: 57) points out: 'Behind the distinction between (legal) right and wrong, he finds both the foundational paradox of law and the decisional paradoxes of daily legal practice, and asks after the social meaning of this context of illusion, in which the legal code, despite its manifest artificiality, has remained astonishingly stable, though the forms of deparadoxification in the programmes of law have steadily changed'. It is this deconstructible structure of law that also insures the possibility of deconstruction. Justice in itself, if such a thing exists, outside or beyond law, is not deconstructible (see Stäheli, 2000). No more than deconstruction itself, if such a thing exists. Deconstruction is justice, as we learn from a famous remark made by Derrida.

If we now go back to Benjamin's essay we will see that he argues, as Nietzsche (1994) did before him in his polemical tract *On the Genealogy of Morals* (Second Essay, Section 17), that law cannot establish itself without an original act of violence and cannot maintain itself and preserve social order without continual violence. Law is intended to protect citizens from violence, but its inherent structure implies that it must both found and maintain its authority with violence. Violence is much like a cancer or an auto-immune disease of AIDS type, secretly implicit within the concept of Law (see R. Esposito, 2011). In Luhmann's terms, the original distinction of law from violence results in negation, but the negated is not cancelled: negation, maintaining what is not indicated as actualizable for the next selection, is the operator of potentialization in every selection of social systems. As a result it becomes clearer that the relationship of violence to law is auto-immune. Law cannot define itself in opposition to violence, because it is entirely reliant upon it. The foundations of Law and State are exhibited in this auto-immune reversal. Luhmann's most peculiar understanding of negation is what opens to the co-origin of actuality and possibility as well as that of Law and violence: actual Law is potentially violent.

Carl Schmitt (2006) would then in a Hobbesian mood advocate, in a book that Benjamin highly praised, that to protect and to preserve the law requires a sovereign, which preserves the privilege to break it (supposedly)

if it is needed. If we recall that the etymology of immunity comes from the Latin *immunis*, which literally means exempt, then to properly immunize the law there must be no border, no limit, no exemption, that with the law cannot, by definition, be surpass. So violence is law's parasite, that is to say, if communication can be seen as the mutual effort of excluding the unwanted third, there is a noise or paradox that has to be overcome in order to produce meaning, as Luhmann (1997: 661) puts it quoting Michel Serres (1982) and Deleuze's 'Logique du sens', and if this is the parasite, then it is right to see it as the operator that re-opens communication by interrupting the flow of information 'upstream' and discharges it 'downstream' in a distorted and less well defined form (in the proposal of Michel Serres). To become immune against this parasite turns out to be lethal for societal systems, since they are defined in Luhmann's terms precisely as communication systems. The killing of the parasite is likely to become a sort of God's and man's second death after resurrection, since in his polemical talk delivered at a conference in Frankfurt to discuss the local school's critical heritage ('I See Something You Don't See') Luhmann (2002b) nominates Serres' parasite to substitute the subject of the observer's observations. As we can conclude with Badiou – and Kojève (2000), as Pluth (2009) convincingly demonstrates – man with his access to ideas as those of justice and truth is the parasite of eternity that was inoculated in the mortal animals humans live in, and this in the anthropogenic act of man self-creation upon the material support of the animal homo sapiens, as it is suggested by Kojève in his book on phenomenology of right (see § 34). It must have been in this sense that Kojève wrote that 'man is a fatal disease of the animal' (see Agamben, 2003), for in his reading of Hegel he plainly suggests that self-consciousness is some kind of malady.

And as matter of fact, the legal system and its closer counterpart, the political one, are very far from getting stronger in the 'society of society', as Luhmann (1997) ends up treating the present world society. We face here both the limits and the critical potency of the idea of law as an autopoietic social system in contemporary world society: the ambiguous partition that separates the political threat from the political promise, when every executive power uses the exception to define their authority exceeding and surpassing a Law that becomes weaker as a mean that increasingly fails to attain its end and actualize its potency, to an extent that it literally turns out to be meaningless. Meaning to Luhmann (1985a: 102) is the unity of the distinction actuality/potentiality, as he once so nicely defined in a symposium held at Montpellier, France, 9–11 May 1984 (or, *expressis verbis*, 'Meaning is the link between the actual and the possible: it is not one or the other')<sup>2</sup>.

No wonder that the events on 9/11 in the beginning of the century's first decade illustrates so neatly the precedent contributions of Giorgio Agamben (1998, 2004) to political philosophy by following the steps of Foucault, Hannah Arendt and above all the just mentioned intertwining of ideas in the works of Carl Schmitt and Benjamin on the priority of exception over



normality. Let us hope that the former's prediction on the latter's eleventh 'Thesis on the Philosophy of History' will be fulfilled, and then we will see how 'the "state of emergency" in which we live is not the exception but the rule (is) to bring about a real state of emergency, and this will improve our position in the struggle against Fascism'. Unfortunately, what is most visible now is the generalization of the latter's idea of the partisan, which blurs the line of enemy/friend, legal/illegal, so that the enemy can be anyone. Derrida's (2002) deconstruction of the state in the light of Benjamin's critique in 'Force of Law' provides a necessary critique to the crutches of the state as security against violence. Roberto Esposito (2008, 2011) brings it further in his immunological reconfiguration of biopolitics.

Have we not reached the point where everyone is, *de facto*, an enemy of the state, at least in the light of such rules as the U.S. National Security Presidential Directive (NSPD – it is remarkable the coincidence with the Nazi-Party's acronym) 51 from May, 2007? Are we not all policed? Since we can be attacked by internal enemies, everyone is a potential and imminently actual Enemy.

Schmitt (1996, 2007) asserts that this is properly a depoliticalization, since for him the essence of politics lies in the distinction of the friends from the enemies. On the contrary, for Derrida partisan politics, the enemy within, is, in reality, our current saturation in overpoliticalization. The partisan conflict is the true essence of the auto-immune symptom of an ongoing world civil war. Derrida (1994a, 1997), indeed, wants, acknowledges and demands a depoliticalization – another name for the deconstruction as it is for Lyotard's (1979, 1988) postmodernity or a sign of democratic withdrawal as suggested by S. Žižek (2003)? – especially in this age of overpoliticalization. More so, he advertises a new concept of politics, a non-political concept of politics, altogether; he demands a new concept of democracy. This is of course, a 'democracy to come', within a 'politics to come', through a 'friendship to come'. Is it possible? Derrida's answer: perhaps. In his well-known formula, it is only possible as im-possible. Its impossibility is the condition of its possibility. Luhmann (1998: ch. 3) would not deny such a com-possibility in the human world that he conceives under the conditions of double contingency. From my point of view we could say with Leibniz and Kant that, if it is necessary, it must be (made) possible.

For now we can only assert that Politics is no longer able to maintain the irreducible opposition between what is internal and external to it as a system through enforcement of a legal order, which under such condition tends to 'de-differentiate' (see the caution on the use of this concept by Luhmann, 1997: 1145), disintegrating in the environment. The increase of human rights' disrespect in traditional states of law is very symptomatically. And they are negated without any tangible compensation, not even an illusion of (security from) the contact with the environment. Would the world society resist to such a collapse of both its legal and the political systems into one

another? And if it does, would it one day become a better place to live in or even worse than it already is now? Are we facing the dissolution of national states by their melting down into a global empire? Is it 'Schmitt's katechon' (J. Hell, 2009; R. Esposito, 2011), the most powerful enemy, the adversary par excellence, that is the Antichrist, holding back the perpetual peace of the impossible universal State to come (at least, for Schmitt, in 'The concept of the political')? Will the increase of violence surpass the State, the Law and the moral humans it has shaped (in Nietzsche's terms)? And again, would such a development bring about the overcoming of humanity or the return of the inhuman? We definitely need to learn how to think in terms of flip/flop distinction. And people like Drucilla Cornell (1992b: 68 *ff.*), William Rasch (2000), Peter Sloterdijk (2009), Urs Stäheli (2010), and Andreas Philippopoulos-Mihalopoulos (2009) were definitely right, when they established connections between Luhmann and Derrida, against the will of a post-Luhmannian Teubner (2001, 2006), for Luhmann (2002a) himself made deconstruction equivalent to (his) second order observing, finally considering it 'the most pertinent description of the self-description of modern society' – as postmodern or, to respect his option, 'postcatastrophical', catastrophe here understood in the sense meant by René Thom (1975).

So we have to face a shift not only inside the paradigm but of the very form that stabilizes state-of-affairs and imposes meaning on events, after its fragmentary explosion, that results in the loss of the one-and-the-same world to which we dedicate what Husserl (1931) called in section 104 of his *Ideas* the 'primary belief' (*Urglaube*) or 'Protodoxa' (*Urdoxa*) in his attempt to express 'the intentional back-reference of all modalities of belief'. This makes us recall what Luhmann in his earlier book on legal sociology refers as the 'material dimension' of social expectations, which Andreas Philippopoulos-Mihalopoulos explains as the acknowledgement of the necessary community of the world in order for expectations to exist, that appears in the form of the need for a fictional consensus on which the reciprocal confirmation and limitation of expectations is exercised. It is comprehensible then the alert Luhmann (2002b) gives to all those who think universal like Frankfurtians still do, by telling them something they do not see, namely that they miss the point, as long as they assume 'that they live in one and the same world and that it is a matter of reporting in accord about this world'. Lately, Evan Thompson (2007) discusses under a Husserlian point of view such a necessity that to different consciousnesses corresponds different worlds.

We turn out to be thinking that the instantaneous and catastrophic destruction of the World Trade Center's not only one but two towers, that is to say, of both the real and its simulational clone might have caused such an enduring impact due to the materialization it made of our lost confidence in a unreliable reality, since it was as mutable as a virus. Then we must mourn the consensual parasite in order to stop waiting for the allergy of allergies (as Lévinas would put it, according to Bojanić, 2010) and welcome the virotic

'diremption' (German: *Entzweiung*) of rhizomatic mutualism (Deleuze & Guattari – here is useful to recall, with M. Zahani (2000), when in an interview with Didier Eribon, Deleuze, referring to 'A Thousand Plateaus', pointed out that what he and Guattari (2004) 'call a rhizome is also one example of an open system') producing the 'differend' (Lyotard, 1988), an unity that is multiple in itself, since it is (autopoietically) created in-between antagonistic poles. As we learn from a recent breeding of Luhmann's and Baudrillard's contributions to social thinking, '[T]he persistence of a two-side-form can be assured only by producing doses of some simulated "other", no longer available in its "natural" form' (René Capovin, 2008). If it is so, let us hope for the coming in the societal world system of an AIDS-like virus, a virus that really aids finishing the social anti-human and nature's love/hate double-bind (Carla Pinheiro, 2005 after Bateson, 1972: 271 ff.), by doing the auto-immune apocatastasis<sup>3</sup>.

## Notes

1. I am in debt to Pablo S. Ghetti for this presentation of Derrida's conception of Law.
2. Editors' note: for a further elaboration on this distinction see 'Conceptual History and the Diagnostics of the Present' by Niels Åkerstørn Andersen, in this volume (especially the section 'The concept of meaning').
3. Apocatastase is a term created by Origenes of Alexandria (185–253 B.C.), also known as Origenes Cristian, in order to name the final restoration of all things in its absolute unity with God. It represents the redemption and final salvation of all beings, including those who are in hell. It is an event after the apocalypse itself. The apocatastase would synthesis the power of the embodied Logos or Verb, that is to say, of Christ himself as a redeeming and salvation power, which recognizes no limits. This proposal lead to the supposition that there is not only one created world, the one that initiates in the Genesis and ends in the Apocalypse, as it is suggested by the Christian Bible. On the contrary, in His creative activity God generates an infinity succession of worlds, which will stop only in the apocatastase, when all beings will rest in God – G.o.D., 'Generator of Differentiation', as Luhmann was fancy to name Him. This idea of an infinity succession of worlds resembles what is predicated by a now very much accepted hypothesis in quantum physics to be found in Hugh Everett III's (1956) at the time it appears extremely controvert PhD thesis on the universal wave function.

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# 12

## In the Multiverse What Is Real? Luhmann, Complexity and ANT

*Barbara Mauthe and Thomas E. Webb*

### Introduction

The goal of this chapter is to examine Luhmann's theory of the social as representing reality by engaging in a dialogue with two rival theories, that of complexity theory and Actor-Network theory (ANT), which appear incommensurable with an autopoietic perspective. The purpose of this juxtaposition is to challenge Luhmann's autopoietic self-constructed perception of reality. The assertion of this chapter is that each approach offers a different and equally legitimate understanding of society and that the notion of society can accommodate multiple realities. In other words, society can be represented as a multiverse and not a single unique universe.

We commence with a very brief explanation of Luhmann, complexity theory and ANT. Whilst autopoiesis is well established within legal scholarship, lawyers may be less familiar with complexity theory and ANT. Autopoietic society is comprised of a diverse range of functionally differentiated sub-systems, each filling a normatively closed niche (Luhmann, 1989: 137–138). There are 'no exchange relationships' (Luhmann, 1988b: 337; see also Philippopoulos-Mihalopoulos, 2010: 108) between systems, instead all the operations of individual systems are constructed and contained within themselves, everything else is external and inaccessible (King, 1993: 223). Autopoietic systems are therefore unable to influence one another to change, only ever steering themselves (Luhmann, 1997: 46; see also King, 2001: 19). However, autopoietic systems are also cognitively open making them receptive to events in society. Each system interprets these events differently, through the use of re-entry and structural coupling. First, they imagine on the basis of their own autopoiesis what other systems are thinking (King & Schütz, 1994: 263; and see Luhmann, 1988a) then internally construct a vision of the external environment based on their own language (King, 2009: 79–82). This is then re-absorbed, or 'engulfed' into the system's reality (Philippopoulos-Mihalopoulos, 2006: 226). Secondly, systems establish structural couplings over events, allowing them to anticipate perturbations

experienced as internal 'deviations from expectations' (Luhmann, 1992a: 1432). The theory of autopoiesis itself also experiences reality in this way, making transgression of the boundary challenging.

Complexity theory views society differently to autopoiesis. The organization of society is understood by individual participants in the social system (people) through their models of reality which they use to 'anticipate the world' (Waldrop, 1994: 177; see original idea detailed in Holland, 1995: 31–34). These models are capable of learning and adapting (Cilliers, 1998: 90, 99), and are open to the environment. Three things must be considered in relation to the construction of these models. First, context, both temporal (Cilliers, 1998: 4) and spatial (Webb, 2005: 235; Cilliers, 1998: 92), is crucial because all knowledge is considered 'provisional...[and] local' (Richardson *et al.*, 2001: 12; see also Webb, 2005: 235, 241). The precise composition of the system is uncertain because any explanation is drawn from a combination of the 'function of the system and of our description strategy' (Cilliers, 1998: 4; 2001a: 141; Webb, 2005: 237 and n.43 at 237), the latter of which is unique to each individual. Secondly, in order for each model to function in society it must interact and compete with its counterparts by entering 'the agnostics of the network' (Cilliers, 1998: 120). Finally, complexity theory views complete explanations of reality as an impossibility. Models of reality are always based on incomplete information and therefore they cannot, on their own, provide a total understanding (Cilliers, 2001a: 137). However, they do provide a route to discourse between models about reality, and the perpetuation of society as a concept through that discourse (Cilliers, 2002: 80).

Whilst ANT is labelled a 'theory' it is generally agreed that it is anything but a theory (Callon, 1999: 182); it is more appropriately a 'method' (Callon and Latour, 1981: 292; Law, 2004: 4; McLean and Hassard, 2004) or an 'approach' (Alcadipani and Hassard, 2010: 419). ANT views the world as a 'network of heterogeneous materials' (Law, 1992: 381). The notion of material is viewed very broadly as consisting of the social (human beings, the family, organizations, and so on), the technical (computers, microscopes, and so on) the conceptual (the economy, architecture, engineering) and the textual (clothes, articles, books, and so on) (Law, 1992: 381). There is a generalized symmetry between the materials meaning that all can be described in the same terms within the network of relations and possess preferences in terms of their interactions, qualities and representations. Human beings are not special or central to the network. The concern of ANT is that of how all the materials meet, juxtapose, hold together and inhibit departure to ultimately represent 'a punctualized actor' (Law, 1992: 386). *Punctualization* is a method of translation and communication between the materials which is generally concealed (see generally Latour, 1987). An airplane is an example of a 'punctualized actor.' It contains many heterogeneous materials, most of which



are generally hidden from immediate view.<sup>1</sup> For the ordinary passenger the airplane may represent a single object, a mode of transport, hence there is a vanishing of network and the appearance of simplification; except that this masks the network, the 'punctualized actor.' What further obscures the identity of ANT systems is that they are also transient, constantly making and remaking themselves (Law, 1992).

The above descriptions reveal that the approaches offer divergent, possibly even incommensurable understandings of the same object, that of the social. However, in terms of the multiverse it is acceptable for a variety of representations of a phenomenon to co-exist. The multiverse acknowledges 'that what we call the universe is actually only one part of a vastly larger cosmological expanse' (Greene, 2000: 366). Yet, within Luhmannian systems theory it is represented that there can only be one form or understanding of the social, one single universe.<sup>2</sup> If the social is in reality a multiverse and not a single universe, then how can Luhmannian claims to realism be tested?

### **The multiverse and testing for realism**

The assertion of realism is a claim to be found in all areas of academic scholarship thus making it possibly one of the most asserted and contested terms. Accordingly it is not a term or approach that can be defined simplistically. It can refer to the totality or completeness of all real things, yet it can also refer to human nature as it is and not what it should be. Simplistically it could also be described as representing an objective truth. Within legal analysis, for example, realism generally focuses on the meaning of the concept-word 'law.' It is a search for semantic realism. Underlying the search is a crucial premise; that of what the law is and what the law is taken to be by a particular community. Yet within a particular community, such as that represented by systems theorists, there will also be a conception of what the law is and is not. The search is not for semantic realism, but for a structure or framework in which to situate the law in a wider social context. It is the structure or framework which reflects reality, the social setting of law, rather than the meaning of law itself which is represented as reality. Luhmannian autopoiesis, complexity theory and ANT construct such frameworks. Each also represents their analysis as the objective truth, that of the social setting of law. The theories also share common origins.

It is well known that the origins of autopoiesis lie in the seminal work of the Chilean scientists Maturana and Varela in relation to cell biology and neurophysiology (Varela *et al.*, 1974; Maturana, 1975; Maturana and Varela, 1980). The biological principles of the autopoietic cell, such as self-organization, self-production, and boundary formation, were extrapolated by Luhmann to become fundamental characteristics of autopoietic social systems.

The origins of complexity theory are also to be found in the natural sciences, growing out of research in physics and biochemistry in North America during the 1970s and 1980s at the Santa Fe Institute, New Mexico (see generally Lewin, 1992; Waldrop, 1994). That work focussed a great deal on computer modelling of the behaviour of both physical and biological systems using non-linear mathematical equations (Lewin, 1992: 9). Although a significant number of complexity theorists working in the social sciences have adopted the computer modelling method from the natural sciences (for examples see Castellani and Hafferty, 2009), others have considered the implications of complexity theory thinking from a philosophical perspective (see for example Cilliers, 1998; Heylighen *et al.*, 2007; Richardson *et al.* 2001). It is the latter approach which is considered herein.

ANT was developed by science and technology scholars Callon and Latour along with the sociologist Laws. There is a link with science, but unlike auto-poiesis and complexity theory it is indirect. ANT is an attempt to understand the process of technical development and the creation of scientific knowledge as part of a network which includes not just the human participant but also non-human elements. It is an approach that can be contrasted with that of 'heroic science' where a single individual is attributed with the discovery or the creation of scientific knowledge, such as James Watt and the boiling kettle, or Newton and the falling apple. Such semiotic representations reflect neither the heterogenetic framework nor the ontological claims of the various actors within the network which produced the discovery.

The theories are not the direct creation or construct of social science but the consequence of a transposition of methods for the reflection, representation, testing and transfer of knowledge from one framework, that of science, to another, that of social science. The theories exist within a single universe, the social, yet originate from an alternative universe, the scientific. Each theory claims to represent a singular, real universe that of the ultimate social universe.

Whilst the notion of the multiverse accepts that it is possible for multiple or parallel universes to coexist, the problem arises as to which universe is the *real* one? Yet, the question as to which is the real universe raises a further question. How can it be established that the universe identified as representing the real is actually the real universe? Consider the travels of Arthur Dent in *The Hitchhiker's Guide to the Galaxy* (Adams, 1979). When told by the supercomputer Deep Thought that the answer to the ultimate question of life, the universe and everything is 42, Arthur states that there is only one 'question I've ever wanted an answer to – is she the one?' (Director: Jennings, 2005). Accordingly, the search for realism in the multiverse entails consideration of two questions: which questions to ask when searching for reality, and what represents reality? Essentially, these are matters of premise and identification.

## The search for reality in the multiverse

It is proposed to examine the premises and identification of reality through three key concepts that are common to autopoiesis, complexity and ANT: those of knowledge, networks and translation.

### Knowledge

Knowledge is information about events in the world that have been given meaning. The theories adopt different mechanisms for understanding the attributes, acquisition and assimilation of knowledge. These processes share some similarities, but they also possess divergent premises for the identifications of social reality. This is because the nature of what is (in)visible to the system is altered by the identification strategies each adopts. In this hidden or excluded reality lies the possibility of productive exchange between the theories about the very nature of reality. However, this requires transgression of the boundary, entailing *leaving reality* for some other place; the multiverse.

### Premises

Autopoiesis begins its understanding of knowledge on the premise that it exists as communications, which are 'the coincidence of self-reference (utterance) and external reference (information)' (Luhmann 1992a: 1424). An event has no meaning until it interacts with a sub-system, just as the system cannot make meaning in the absence of events (1992a: 1425). Social sub-systems are also made indirectly aware of other sub-systems' reactions to those events through the process of structural coupling (King, 1993: 225–6; Mingers, 1995: 35, 161–2). These couplings are not visible to the system, instead the system *feels* 'perturbations, irritations, surprises, and disappointments' (Luhmann, 1992a: 1432; see also Mingers, 1995: 147), only ever giving internal meaning to that which it detects (Luhmann 1989: 141–2, 1992a: 1427–8, 1432–3; see also King, 1993: 223).

Although the premises for the acquisition of knowledge in complexity theory are also driven by observation of society, the *nature* of this activity is different, and so there are implications for how meaning is ascribed. In complexity theory it is the participants in society who decide what information to consider and how to give meaning to it, rather than the system's code and programmes as in autopoiesis. Thus, each individual constructs their own model of reality as a means to 'anticipate the world' (Waldrop, 1994: 177). Consequently, it becomes difficult to talk in terms of defined systems, as individual participants begin from legitimately different premises for the acquisition of knowledge (Richardson *et al.*, 2001: 9), and so any description of a system is comprised of the system's own activity, and our understanding of it (Cilliers, 1998, p.4; 2001a: 141). Although the structures

and ethos underpinning the construction of meaning are very dissimilar to those of autopoiesis the process remains the same. Information acquires meaning and so becomes knowledge through the interaction between, and inter-mixing of, model (equivalent to code and programme) with observation of social events.

Within ANT knowledge is viewed very broadly but essentially takes a 'material form' ranging from papers, talks, and conference presentations (Law, 1992: 381), to skills, such as those possessed by scientists and technicians (Latour and Woolgar, 1979). The source of knowledge is the actor-network, but this is 'the end product of a lot of hard work' involving 'heterogeneous bits and pieces – test tubes, reagents, organisms, skilled hands, scanning electron microscopes, radiation monitors, other scientists, articles, computer terminals' and so on (Law, 1992: 381). Knowledge is a consequence of the ordering and juxtaposing of this wide range of material sources, actors and networks.

### *Identification*

Autopoietic sub-systems base their understanding of the world on functional codes. Consequently law, for example, comes to view the world entirely in terms of legal/illegal and lawful/unlawful in pursuit of system unity (Luhmann, 1988a; 1992b). As Philippopoulos-Mihalopoulos has observed however, the act of drawing the distinction has the effect of excluding the rest of autopoietic reality from sight (Philippopoulos-Mihalopoulos, 2010: 36–40). This idea can be advanced a stage further to recognize that the first distinction, made in the choice to view the social world as autopoietic, has the effect of excluding that which is not capable of synthesis in terms of autopoiesis from sight (Philippopoulos-Mihalopoulos, 2010: 37). The autopoietic distinction means that it becomes impossible to talk in autopoietic language about that which cannot be discussed in terms of autopoiesis, ('an exclusionary circularity'). This seems to be the very problem which this collection addresses. However, the benefit of recognizing the existence of these limitations is that it opens the possibility of accessing the multiverse beyond autopoietic reality.

In some respects, complexity theory has already accessed the multiverse. It views reality as being comprised of many competing models of reality, each being a valid and legitimate understanding of society. This enables complexity theory to treat the approaches of both autopoiesis and ANT as valid ways of conceiving reality, and allows it to attempt to engage in discourse with them. However, there is a risk that the belief that the multiverse has been accessed prevents complexity theory from seeing in much the same way that the drawing of the autopoietic distinction does. On complexity theory's own terms all frameworks are limited (Cilliers, 1995: 130; Richardson *et al.*, 2001: 12; Webb, 2005: 235, 241). This suggests that complexity theory is itself limited. The particular understanding of the multiverse adopted will naturally

exclude certain other understandings. However, the theory has shown that it takes a self-critical stance in relation to its own understanding of the world (Cilliers, 2005: 259; see also 2002). As such, complexity theory is capable of assimilating, and, perhaps, anticipates the proposition that as a theory it is an incomplete representation of the social world. In observing autopoiesis, complexity theory has previously questioned the possibility that that theory could escape its own self-reference. It has been suggested that autopoiesis has a tendency to 'overemphasise the closure of the boundary' (Cilliers, 2001a: 140–1), and that this might make a more self-critical approach difficult on autopoietic terms.

Within ANT the nature of knowledge is not fixed, yet knowledge is essential for the existence, operation, success and survival of actors and the network. What matters is not what knowledge represents (although this matters in terms of the breadth of the definition of knowledge), but who or what represents or possesses knowledge. By representing knowledge thus, it overcomes and bypasses the subject–object distinction (Latour, 1999: 308), that is what is being looked at and by whom, to examine the connections. The paradox of this understanding of knowledge is that there is no celebration of the difference between humans and the non-human (Law, 1992: 383); a facet that has been labelled as amoral (Law, 1992: 383). However, ANT does not require that humans be treated as non-reflective machines but instead the relationship between human and machines is that of co-influence (Law, 1992: 383).

## **Networks**

Networks represent the mode through which the reality identified by the theories is represented. For autopoiesis the network can be characterized as either a network of systems, or a network of communications (Luhmann, 1992a: 1422). This is equivalent to complexity theory's portrayal of models as existing in an agnostic network of debate. ANT draws on both of these features, communication and debate, but widens to include the non-social. Each theory makes differing choices over how to carry out this communication and the nature of the communicative acts alters the parameters by which reality can be identified

## *Premises*

Autopoietic theory premises that there are both networks of (sub-)systems and networks of communications internal to (sub-)systems (Luhmann, 1989: 137–8; Mingers, 1995: 156–7) with society being viewed as comprising systems which internally emit communications about events, and demonstrate some awareness of noise generated by other systems. While individual systems are unable to recognize the structure of the network in which they reside, because they only understand society in terms of relevant/irrelevant, they do identify that which is irrelevant as belonging to the environment

(society) (Luhmann, 1997: 44). Their code functions as a way of differentiating themselves from the environment, and a 'rejection value for every other code' (Luhmann, 1992: 157). Thus, individual systems give 'function-specific' meanings to events, 'adding coinages of [their] own' (Luhmann, 1988b: 340) to set up and identify their internal networks. As society becomes yet more complicated, systems respond by reshaping their network. This action allows systems to continuously cover everything which falls within their functional remit (Luhmann, 1992b: 181). In so doing they give meaning and explanation to everything, both external and internal, in terms of the system's function.

In complexity theory the distinction between network and system is blurred. As suggested earlier, any explanation of the existence of a system in complexity theory is in part a product of how it has been framed by the observer, as well as its own activity (to the extent that 'a system' exists at all) (Cilliers, 1998: 4; 2001a: 141). To speak of a network of systems is therefore problematic. It is more appropriate to consider a network of models; hence the idea of models participating in the 'agnostics of the network' (Cilliers, 1998: 120). Unlike autopoiesis, there is no clear way of identifying what is and is not part of the network other than by asking whether the creator of the model is human; their view is legitimate on the basis of their character as humans. The shape and content of the network is entirely at the behest of those participating in it.

Taken collectively the models make up the entirety of perspectives available in society at one time; though this is not the same as saying that they completely describe social reality. This demonstrates the existence of two differences in the nature and capabilities of networks as between autopoiesis and complexity theory. For autopoiesis, the combined total of all functional sub-systems equals society (Luhmann, 1992a: 1423–4); nothing is left out, the vision of society is complete. For complexity theory there may always be gaps in the network. The second difference is that for autopoiesis there does not appear to be any suggestion that knowledge could be lost while still being relevant to a given system. Conversely, complexity theory anticipates that participants are limited (physiologically and otherwise) in their capacity to assimilate and retain knowledge (Webb, 2005: n.36 at 236). Thus, knowledge which is of relevance to an event may become locally or temporally inaccessible. The expectations on the network in complexity theory therefore differ from autopoiesis in that it is not expected to produce the complete picture. The network is an expression of available knowledge, rather than all knowledge. However, there remains an underlying similarity between autopoiesis and complexity in that both autopoietic networks of systems and communications, and complexity theory networks of models provide a forum and some sense of structure, however slight, for making sense of society.

For ANT actors and networks are viewed very broadly to include the non-human, such as 'machines, texts, money, architecture – any materials'

(Law, 1992: 381). People 'are not viewed as being "special"' (Law, 1992: 383) for all human interaction is 'mediated through objects' (Law, 1992: 381); whether it is what we eat, where we live, or what we produce. These combine to become part of a collection of actors that form a network, achieve alignment and come to act as one; as an actor (Durepos & Mills, 2012: 102). The relationship between the actor and the network is very close, and the focus of analysis is on that of the in-between (Durepos & Mills, 2012: 102): the constant changes between the actors, the network's characterization and an exploration of 'how it is that they came to be patterned to generate effects like organizations, equality and power' (Law, 1992: 381).

### *Identification*

As stated above, autopoietic social systems consist of functionally coded communications about events. That the communications are coded in this way, using words, infers some linguistic limits to the code. However, there are also structural constraints in terms of the network which directly affect the perception of reality. The tension of these limitations is exhibited in the debate between those autopoietic theorists who ascribe to Luhmannian autopoiesis, and those who adopt Teubner's reflexive law view (Teubner, 1993). Autopoietic systems for Luhmann cannot, because there are 'no exchange relationships' between systems, compel other systems to do anything (1988b: 337). This is perhaps most acutely felt by law in its efforts to regulate society. In attempting to be heard however, the legal system will only ever talk to itself about other systems. Similarly, those other systems will only construct understandings of legal regulations internally; systems only ever steer themselves (Luhmann, 1997: 46). Efforts have been made to work around this limitation (Teubner, 1992: 662; and see also Paterson, 2006: 25–30), although not to the satisfaction of Luhmann (1992c: 397). The coded nature of the communications, and their inability to move about in the network beyond their host sub-system, alters the nature of how society is viewed in terms of what expectations each system has of itself, and of other systems.

Complexity theory is poised somewhere between the self-referential closure of autopoiesis, and the wide-open spaces of ANT. On the one hand its structure is very open, in the sense that the network is capable of assimilating anything it encounters in the social environment. On the other it is structured; individuals still have to frame their understandings of the world in terms of their model (Cilliers, 2001a: 139–40). Much like autopoiesis this raises the possibility that individual models will miss out information, as discussed above. The corollary of localized information, and possible inaccessibility of that information, is the realization that knowledge is distributed across the network. Furthermore, this information is also not evenly distributed (Cilliers, 1998: 95). This is one reason, along with other contextual factors relating to the impossibility of constructing a theory of

everything (Cilliers, 1995: 125; Richardson, 2004: 77), which explains why models are incomplete. The spatialized character of the complexity network, which anticipates the existence of hard to reach places, can be differentiated from the autopoietic network, which assumes that its structure will always account for everything of relevance to its code. Consideration of the spatial qualities of information in autopoiesis is almost entirely absent (with notable exceptions Philippopoulos-Mihalopoulos, 2011); useful exchange between autopoiesis and complexity theory could take place in this regard.<sup>3</sup>

For ANT the network is the end product which may give the impression that the network represents a single reducible entity, except that it is not. A collection of actors that form a network achieve an alignment and then come to act as one, as an actor. Actors that are successful in achieving associations and manage to enrol others to their cause thereby create a network. The network is then held together by their associations and it is through these associations and relations that the actors are defined (Durepos & Mills, 2012: 102). Each network will possess its own topography, but there is a state of constant oscillation between the actors as networks and the networks as actors (Law, 1999: 1–14). This may ultimately give the impression of unity, a disappearance, simplification, or reduction of the network. If a network acts as a single unit, then it no longer acts as a network, it disappears and is replaced by the actor itself and becomes the author of that action (Law, 1992: 385). The actor becomes a black box (Whitely, 1972), like the analogy of the airplane cited above. In ANT the actors and the network are made invisible by their own success (Latour, 1999: 304).

### **Translation**

Translation is informed by the differing perceptions held by each theory in relation to knowledge and networks. In autopoiesis there are ‘no exchange relationships’ (Luhmann, 1988b: 337), yet information about events is still converted into knowledge and obliquely noticed through structural coupling. Both of these processes involve translation. Similarly, in complexity theory the model must make sense of the information it encounters using its model, translating it into meaningful knowledge to ‘anticipate the world’ (Waldrop, 1994: 177). Within ANT translation is central, given the diversity of actors, except that it does not relate to the transformation or conversion of knowledge but to how knowledge is used.

### *Premises*

Central to autopoietic and complexity theory understandings of translation is the nature of the boundary and the possibility of transgression of the boundary. Translation implies a move from one meaning to another and therefore some negotiation of the boundary. Conversely, for ANT there are no boundaries. Translation becomes a process of negotiation based on power-relationships and the availability of knowledge.



In autopoietic systems the external exists as a construct of the internal (King, 2009: 79–82). Understandings of the external are constructed internally then engulfed by the system, re-entering it from within (Philippopoulos-Mihalopoulos, 2006: 226). This would appear to make the possibility of translation, transgression of the boundary, an internal activity. However, it has been suggested that the boundary in autopoiesis represents only ‘the limits of the eye’ (Philippopoulos-Mihalopoulos, 2010: 13), and this hints at the existence of something beyond the limit. Indeed, if one thinks of sub-systems as having limits imposed by their code, it is possible to recognize a wider society beyond that code. This indicates that if the legal system, for example, were to produce a statute, this would be a social event which other systems will need to understand for themselves. It is important to recognize that this is not an exchange between systems, the event will be translated to have different meanings for different systems; thus, a statute is both a political creation, and a structural change to the legal system (Luhmann, 1988b: 342–3). It is possible for an event to be translated such that it takes on a host of different meanings dependent on perspective.

Translation in complexity theory, as well as taking place when the participant observes a social event, will also occur in debates between participants about events. Translation occurs when one participant interprets and incorporates discourse with another. Throughout the event of translation the contingent, provisional, and local nature of knowledge emerges and impacts on the process (Cilliers, 1995: 130; Richardson et al., 2001: 12; see also Webb, 2005: 235, 241). The outcome is that any meaning given to knowledge received from one participant by another will be heavily dependent on the particular context in which the discussion itself is taking place, and the more generalized context of the participant. As such, the perspective adopted by one participant will not be the same as that adopted by another when presented with exactly the same information.

For ANT, translation relates to how all the actors, organizations and material forms juxtapose to hold together creating a forum, a central network, without resisting, falling apart or separating. In his study of how marine biologists sought to restock St Brieuc Bay to increase scallop production, Callon identified four moments of translation (Callon, 1986: 201–210). These were problematization where the problem to be solved along with the relevant actors are identified. The primary actor will seek to establish itself as the obligatory passage point becoming central in linking other actors and the network. *Interessement* is where the primary actor labours to make the other actors interested and accepting of the roles that have been defined for them. They become ‘locked into place’ (Law, 1986: 16) accepting their purposive roles, and fasten into them for the benefit of network building (Durepos and Mills, 2012: 104). Enrolment follows interessement. Actors become more docile and manageable, accepting and assuming the direction of the network’s project as defined by the most powerful actor (Callon

and Law, 1982; Latour, 1986). Finally, there is the mobilization of allies, when persons who were not originally part of the network become active supporters (Callon, 1986: 209).

### *Identification*

Ontological considerations about translation run to the constructed nature of systems themselves. Autopoietic systems translate information into knowledge and irritations felt in the perturbations of structural coupling. The premise of translation is tied to the core understanding of reality for the theory. Similarly, complex systems assimilate and synthesize information received from the environment, and exchanges between participants, on the basis of their models. Translation within ANT does not relate to the transformation or conversion of knowledge but to how knowledge is used. The question of how each approach translates, by assimilation and negotiation, the exchange (using the term loosely) of information and conflicting information, means that certain things cannot be understood or seen by the theories; they are beyond their translation capacity.

The code of autopoietic systems is based on words because society is built on language as the main communicative tool<sup>4</sup>. In the legal system the code is legal/illegal. As noted, the network of legal communications is expected to reshape itself in order to accommodate everything of relevance to the legal code. These observations imply two things: first, that the code is fit for purpose, that is that the code legal/illegal has the potential to capture all that is to do with law. Secondly, it suggests that the code will always possess this requisite capacity. This discloses two hypothetical limits to the explanatory capacity of an autopoietic code. First, it is possible that the code is inappropriate, although to raise this question is to ask whether functional differentiation in general is an appropriate means to describe society.

Secondly, the meaning of the code is limited by language; there are not an infinite range of meanings to the words legal and illegal. Moreover, in defining the terms in a specialized way, autopoiesis closes off the possibility of many alternative constructions, limiting the flexibility of the code to continue to accommodate growing legal complicatedness in society (recalling the drawing of the distinction see Philippopoulos-Mihalopoulos, 2010: 36–40; see also Hathaway, 2001). Translation, and more particularly the limits imposed on translation by the structures and perspective of the theory, prescribes limits to the explanatory capacity of autopoiesis. However, these limits are self-constructed, rather than externally imposed, leaving open the possibility of a more flexible translation in the future. Furthermore, we cannot expect a theory's explanatory capacity to be unlimited, indeed this would place it in a significantly weaker position.

Complexity theory more readily acknowledges the limits of language in its framework. This is disclosed in its understandings of knowledge and networks already discussed concerning the limitations on frameworks. The

nature of the limits on complexity theory's ability to translate information are essentially the same as those on autopoiesis. Although complexity theory deliberately implements a more flexible structure than autopoiesis, the ability of models to cope with new occurrences still relies on their ability to translate language into something they can comprehend.

Translation within ANT is infused with politics and power. It is during translation that actors become displaced or make themselves needed by others; for example, by persuading another actor that their interests are the same or that the other actor needs them or vice versa (Callon and Latour, 1981: 279). Some actors will assume or acquire authority to speak or act on behalf of others (279). ANT demystifies power (Law, 1992: 390). There 'is no difference in kind, no great divide between the powerful and the wretched' (390). But, where there is a difference is that ANT is able to study and observe the methods and materials the actors deploy to generate themselves (390).

In examining the nature of the social that Luhmannian autopoiesis, complexity and ANT identify it is unsurprising to discover great diversity. The nature of knowledge, network and translation indicate that for Luhmann the social is isolated with highly formalized and restrictive arrangements to deal with the external, or non-social. For complexity theory there is a willingness to connect with the non-social but only through specific arrangements which are designed to allow for, yet control the engagement. The view of the social by ANT is extremely broad. This breadth is refreshing, but in viewing the social in its entirety ANT becomes engulfed and part of the social, to the extent that it becomes almost undetectable. Ultimately the analysis confirms the diversity and incommensurability of the perceptions of the three theories.

## **Reality and the multiverse**

In terms of the multiverse the question as to which representation of the social universe presented by Luhmannian autopoiesis, complexity and ANT represents reality is problematic. Is there a single, true universe, or is there a multiverse where each representation of the social represents a real but parallel universe? Alternatively, are two of the analyses just poor imitations or copies of the real universe? Within either scenario it is impossible to determine which parallel universe is the real universe because ultimately they are all 'real'. How then is it possible to identify the original universe and distinguish it from the copies or fakes? Any attempt at a determination is complicated by the similarities and differences between the models in terms of the premises from which they begin and their particular identification of reality. Ultimately, none of them reveal the existence of the one true universe, the real social system, instead each offers a view from one limited perspective.

For Luhmannian autopoiesis, the universe is singular and finite. In autopoiesis society exists as a network of communications and sub-systems,

its existence is not dependent on the existence of people (Mingers, 1995: 156–7). While the processes of functional differentiation are on-going, as society becomes more and more complicated, the diversification of society will only ever be understood by autopoiesis in terms of the functional codes produced by that autopoiesis within its own universe. Society in autopoiesis is to be viewed in binary terms (Luhmann, 1997: 52). The product of this construct is the ability to suggest reasons for why certain social relationships have become structured in particular ways, and why efforts to affect change, for example, through law in the health system, will not always be viewed as having the same meaning within the affecting and effected systems respectively.

Thus, if there is a multiverse in autopoiesis, it only exists as an internal construct of the system. Furthermore, as the perception of the external is dependent on an internal construction within the autopoietic system, if there is a multiverse, it must first be acknowledged internally otherwise it has no meaning or relevance. In Luhmannian terms, the autopoietic universe is the only plausible understanding imaginable and therefore represents the one true representation of the universe. It is an efficient answer. To quote the supercomputer Deep Thought in *The Hitchhiker's Guide to the Galaxy* when challenged about the answer of 42 to the ultimate question: 'I checked it very carefully' and it is 'quite definitely the answer' (Adams, 1979: chapter 28).

In respect of complexity theory, the representation of the universe is also singular and finite but it is not unique.<sup>5</sup> The complexity theory view of society is one of many competing models of reality engaged in 'the agnostics of the network' (Cilliers, 1998: 120). Humans construct these models as a means to understand society, and to make sense of other models and events they encounter (Holland, 1995: 31–4; Waldrop, 1994: 177). The theory does not require that views be constructed according to function, participants are free to use whatever standard they wish to interact with the world. However, in order to be of any use the model must be capable of engaging with other models, so there must be some similarities between models. As is the case with autopoietic systems, viewing society from a complexity perspective allows one to suggest why difficulties between organizations might arise, but it also permits direct interaction between organizations and, more specifically, their models. Although these organizations may still fail to completely understand one another, the complexity theory perspective stipulates that interaction is to be preferred over normative closure (see Preiser and Cilliers, 2010: 270).

Complexity theory is aware of facets which are not necessarily observable within its own universe but considers the possibility that the existence of external facets may impact on its own universe (Cilliers, 2005: 256, 259). For complexity theory there is a need to reconcile the internal with the external. There is a recognition of the internal requirement to say something useful but this encompasses an acknowledgement of the external. This externality

relates to the incompleteness, provisionality and localization of knowledge. There is an awareness of the multiverse but uncertainty as to how to directly engage with it.

In respect of ANT, the multiverse is real. For ANT the social is not an ostensible entity (Latour, 1999; Law, 1986). Instead the social is that which is performed by actors as they oscillate as networks (Latour, 2005). ANT does not regard society as being a pre-defined or stable background against which questions are to be asked or hypotheses tested. Such an approach can be predefined by the analysis and the question can become confused with the solution (Latour, 1999; 2005). As Law explains 'society should not be seen as the referent of an apparent definition but as being performed through the various efforts to define it' (Law, 1986: 18). Therefore for ANT society does not exist, what does exist is that which is done every day and that is the basis of analysis. It is about movement or process. It allows for an opulence of information, actors and networks. The question, even the ultimate question of life, the universe and everything, does not matter. The multiverse is real, however its dimensions and forms are irrelevant, it is how interactions occur that matters: that is reality.

Ultimately, the existence of these varying perceptions does not indicate that one particular theory is more real, true or false than another, just that they are operating under different explanatory preferences none of which are objectively better, or more complete, than any other. In other words, difference is acceptable and does not undermine or invalidate alternative representations of the social. It is the multiverse that seems to capture *reality*, inasmuch as it can be captured, rather than the singular, isolated representations of the social universes of the theories. Perhaps the question that should have been asked is not what is real in the multiverse, but what is *the social* in the multiverse? In the multiverse the social is diverse. As demonstrated through the representations offered by Luhmannian autopoiesis, complexity and ANT, it is not possible to generate a single, correct, objective, or even true representation of the social. Consider again the supercomputer Deep Thought in *The Hitchhiker's Guide to the Galaxy*: 'once you know what the question actually is you'll know what the answer means' (Adams, 1979: chapter 28).

## Conclusion

The goal of this chapter was to examine competing perspectives on the social, that of Luhmannian autopoiesis, complexity theory and ANT, in order to determine the actual 'reality' of the 'social'. By drawing upon the idea of the multiverse and focusing on key common concepts between the approaches; namely networks, translation and knowledge, it was established that independently each theory is able to offer a unique perspective in terms of the reality of the social. The analysis in terms of the multiverse revealed that a total account of reality is unobtainable as none of the theories offers, or can

offer, a complete view. Instead, it is more appropriate to consider each theory depicting *a* universe, as suggesting an examination of different elements and aspects of society, through the application of varied filters, to produce a number of equally legitimate accounts of the social multiverse. Whilst the notion of the multiverse might indicate that there is not a singular answer to the diversity, thereby accommodating the incommensurability of the divergent universes represented by Luhmannian autopoiesis, complexity theory and ANT, in actuality what the multiverse represents differs within each universe. An objective conception of 'multiverse' is therefore also unobtainable on the terms of the theories and, paradoxically, also unobtainable on the terms we have defined.

Reviewing the understanding of multiverse within each approach, ANT is concerned with micro-level interactions between actors and networks/networks and actors in terms of a particular social situation. Although from time to time macro level actors may move into and away out of this network, ANT primarily seeks to explain how the network and composite actors emerge along with what, where and how they contribute to the ultimate determination of reality within the particular social situation. Interpretation and identification are both linear and hierarchal indicating multi-diversity. The multiverse is conceived of as enabling the existence of a multiplicity of transient networks and actors. Complexity theory has a passing interest in the micro-level in relation to how individual participant models of society are formed but ultimately the approach is orientated towards understanding interactions between models, the meso-level, and the macro-effects of these events. Interpretation has the potential for the inclusion of the multi-dimensional, similar to that of ANT, but the identification of reality is referenced in terms of the macro, that of the system. The multiverse exists at a different level to the understanding in ANT. It represents the possibility of many competing systems and perspectives within a single universe.

Application of the terms micro, meso and macro becomes more problematic in Luhmannian autopoiesis. Although autopoietic systems can be used to explain the outcome of concrete events, they are more commonly talked about in abstract terms (the legal system, the health system, the education system). Unlike complexity theory and ANT, the approach is not intended to describe the things which are tangible or concrete, yet it seeks to offer an observation of the tangible and concrete. From the perspective of the autopoietic social system, the social can be viewed as a single universe. The notion of the multiverse exists for the social as a single universe internally, as a way of representing the diversity of realities contained within the social's sub-systems. The conception of the multiverse offered within this chapter merely attempts to accommodate the diverse single realities constructed by the theories. It is not possible to ascertain its objective correctness.

The limitations on the explanatory capacities of the approaches are not flaws. It is better that theories are modest (Cilliers, 2005: 256; and see

generally King & Schütz, 1994), as this indicates that they recognize in some sense their own limits and goals. Limits should be seen as enabling, because descriptions of society are meaningless unless they are framed (Cilliers, 2005: 263–4). The use of the multiverse as a means of characterizing the relationships between the theories has enhanced the perception of the social from that of a singular universe to that of the multiverse where diverse realities can coexist. The reality is that ‘the social’ is multi-faceted and multi-layered.

Stepping back from the close analysis of the theories, the multiverse has the capacity to enable each theory to observe its counter-parts in neutral territory where the validity of individual perspectives is accepted. In this setting the theories can access, or at least see, other possible viewpoints, methods, conclusions and so on. This can only be a good thing for approaches which are traditionally blind to one another. Accounts need to acknowledge both their own limits and the capacity of other approaches to compensate for, or expose those limits. Again, limits and boundaries are necessary and positive. Equally, the transgression of boundaries and the questioning of limits through discourse with those who do not adhere to one’s own perspective is important both to the promulgation of an idea, and its own internal vitality.

## Notes

1. For example, social materials can relate to the pilots, the airline company and the ultimate destination of the plane. Technical material includes the computerized navigation system, the toilets, safety equipment. Conceptual material relates to aircraft design, flight science and standards of customer service. Textual materials include crew uniforms, the construct of the plane, seating fabrics and duty free magazines.
2. Editors’ note: Another discussion of the multiplicity of perspectives in system theory is presented in ‘The Autopoietic Fold: Critical Autopoiesis between Luhmann and Deleuze’ by Andreas Philippopoulos-Mihalopoulos, in this volume.
3. Editor’s note: The lack of spatiality in autopoiesis and its consequences for the theory are discussed by Christian Borch in ‘Spatiality, Imitation, Immunisation: Luhmann and Sloterdijk on the Social’, in this volume.
4. Although we also communicate through signs, symbols and gestures, these can also be described in words.
5. A paradox of complexity theory thinking’s representation of the universe is that, although it can be viewed as singular and finite, the extent to which any description of a complex system could capture, in complex terms, this singularity and finitude is questionable.

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# 13

## Luhmann and Marx: Social Theory and Social Freedom

Chris Thornhill

### Sociological antipodes

To the extent that Luhmann's theory of society reflects a preference for a particular model of political organization, it is clear that he was hostile to Marxist principles, and even (or perhaps most expressly) to Social Democratic political theories. In its political dimensions, specifically, Luhmann's theory contains a deep rejection of the residual *totalism* that pervades Marx's political reflection and some of its Social Democratic derivatives.

Marx's earlier political thought is centred in a radicalization of the idea of total democracy first expressed by Rousseau: of the idea that a legitimate state must have its foundation in a condition of absolute *equal freedom* throughout society (see Shklar, 1969: 166; Fetscher, 1975: 106). At the level of first principle, Marx claimed that a political order is only capable of enjoying legitimacy if it is founded in a comprehensively articulated and uniformly pervasive social/political will (Marx, 1956b: 370), and if, accordingly, it is able to enforce principles of equality across all areas of society (especially the economy) through far-reaching programmes of expropriation and distribution.<sup>1</sup> In its more institutionalist implications, this political outlook expressed deep scepticism about the constitutional system of divided powers, the creed of formal rights, and the strict separation of state and society underlying the political orthodoxies of post-1789 European constitutionalism. Unequivocally, the early Marx proposed a totalist counterpoint to liberal institutional models. He argued that the nascent liberal-constitutional state emerging in the wake of the Enlightenment had constructed its political ideals around an incomplete, *falsely dichotomous*, and ultimately *ideological* conception of human freedom and institutional legitimacy. On one hand, he observed, the rising liberal-parliamentary state of the early nineteenth century promulgated catalogues of civil rights in formal constitutional documents. Through these rights, parliamentary/constitutional states claimed legitimacy by purporting to guarantee *general and equal political freedoms* for those subject to their power. At the same time,

however, the parliamentary/constitutional state rendered these freedoms invalid by giving formal legal primacy to *singular economic freedoms*, whose inviolability through society was guaranteed on the foundation of private rights (rights of ownership) (Marx, 1956b: 364–5), which meant that the legitimating principles of general equal freedom enshrined by such states remained illusory and duplicitous. Overlying the political system of early liberalism, Marx concluded, was an ideological façade of general freedom: the political system could only propose itself as a guarantor of freedom because it extracted itself from its material base in society, and, beneath its emancipatory surface of general liberty, society as a whole remained determined by a false and exploitative order of unfreedom. In according sanctity to private rights, the state suppressed all elements of human life not oriented towards the fulfilment of partial, singular and atomizing freedoms (that is, those freedoms required for the stabilization of early capitalist civil society and for consolidating the power of the bourgeoisie as the dominant class) (Marx, 1956b: 364).

In this critique of the nascent liberal/capitalist state, the early Marx suggested that the institutional apparatus liberalism needed to be superseded through a political order capable of imagining the freedoms of society as *encompassing* or *total* freedoms. The chimerical legitimacy of liberalism, he implied, could only be overcome through the formation of a political system capable of defining and enacting principles of general equal freedom for all spheres of social exchange. A system of this kind, he explain, would bring a cure for the split personality of modern (capitalist) humanity. In this system, the political person (*homo politicus/citoyen*) represented in the political rights of public law and the economic person (*homo economicus/bourgeois*) represented in the private rights of economic law would be reconnected, and the political and economic dimensions of modern humanity would be conclusively re-integrated in a public order guaranteeing political freedoms and economic freedoms to the same degree, in equal measure, and in all social interactions. Under this political order, political and economic rights would lose their differentiated relation to each other, and the latter would forfeit their primacy in this relation (Marx, 1956b: 370). A revised rights-based political system of this kind would assume legitimacy by integrating society as a whole and ensuring conditions of freedom for the human being in all dimensions of its public and private (economic) life.

Central to Marx's hostility to the politics of early liberalism was the sociological perception that liberalism pursued a false logic of differentiation. Early liberal political doctrine, he implied, acted as an ideological cipher under which the factual evolutionary decomposition of early capitalist society into discrete spheres of exchange (economy, polity, law, science, and so on) was conceptually transcribed into the premise for a normative construction of legitimate socio-political order. The 'constitution of the political state and the dissolution of civil society into independent individuals', he observed, 'occur

in one and the same act' (Marx, 1956b: 369). The liberal vision of legitimacy, based in negative rights of ownership and protection for economic interactions against the state, served, for Marx, merely to formalize the already evolving socio-political and economic differentiation of society, and it generated a normative template to preserve society against concepts of order that might subject all society (including the economy) to general political volition and control. Marx's early idea of a total emancipatory politics, therefore, was intended to counteract this process of liberal/capitalist differentiation, and to project a political system able to define and enforce freedom against the logic of societal differentiation. Moving close to a naturalistic theory of politics, Marx argued that legitimacy needed to be founded in an originary/organic conception of human liberty. All human beings, he claimed, possess a self-reflexive and socially inclusive capacity for self-realization, collective liberty, and common historicity (species being), and he implied that a fully free (legitimate) social order is defined by its concretization of these dispositions (Marx, 1962b: 566). Still close to Rousseau, he explained that the natural human freedoms inscribed in species being are realized via the constructive labour of the species on the natural world, as a result of which the founding freedoms of the species are transposed outwards into a natural/human environment, in which people could objectively appreciate the conditions of their subjective liberty (Marx, 1962b: 567). The idea of political legitimacy which Marx mobilized to criticize the partial freedoms of the liberal state thus envisioned the total freedoms, impeded by the political system of liberal capitalism, as *categories of being*. He concluded that a construction of society's politics not able to translate these categories of being into substantial objective freedoms must forever remain fraudulent, ideologically tainted, and latently oppressive (Marx, 1960: 175).

In many respects, Luhmann's political reflections express the radical counter-pole to the totalizing politics of (the early) Marx. *Contra* Marx, Luhmann clearly adopted and even *intensified* the liberal construction of political legitimacy.<sup>2</sup> Moreover, tacitly accepting Marx's diagnosis of the relation between liberal politics and earlier dynamics of socio-functional differentiation, he endorsed the wider comprehension of society's differentiated design which (Marx suggested) was implicit in the early liberal model of the political system.

Luhmann argued that a political system can only obtain legitimacy if it reflects and preserves itself as a functionally circumscribed institutional order. A legitimate political system, he argued, will be likely to give refined and abstracted expression to its distinction from other areas of social practice, to separate itself from clearly non-political realms of exchange, and, above all, to utilize strict catalogues of private and political rights to harden its differentiation from the rest of society (Luhmann, 1965: 135). In contrast to Marx, primarily, Luhmann expressed great enthusiasm for the liberal constitutional state as a political apparatus capable of organizing its functions

around strict principles of institutional and social division (Luhmann, 1987: 109). He viewed the great advantage of the constitutional state as residing in the fact that it was able to avoid excessive inclusion of social commitments or prerogatives within its administrative structure, to reduce the concentration of society's power at any one location within the political system (Luhmann, 1973: 10–11), and, in attaching formal rights of inviolability to exchanges outside the state, to uphold the differentiation of society in its entirety and to preserve the specifically apolitical character of most spheres of functional exchange (Luhmann, 1965: 135). On Luhmann's account, in consequence, a political order acquires legitimacy if it regulates a narrowly politicized and strictly differentiated set of exchanges. Its legitimacy depends, specifically, on the extent to which it immunizes society against saturation with political contest and controversial claims to freedom.<sup>3</sup> A political system can only offer (at best) partial and fragmented freedoms for those subject to its power, and most freedoms in society depend quite clearly on the fact that the political system adequately reflects those spheres of society that it is not expected to incorporate: that are not formatively political.<sup>4</sup>

Modern society, for Luhmann, might offer many freedoms. It might offer freedoms of contract, transaction and mobility in the economy; it might offer freedoms of aesthetic gratification in the arts; it might offer freedoms of inquiry and verification or falsification in the sciences; it might offer freedoms of learning and self-improvement in education; it might offer freedoms of expression in media; it might offer freedoms of devotion in religion. Yet each of these freedoms pertains to a distinct functional domain in society. Moreover, each of these freedoms is likely to become fragile or redundant if it is colonized by the political system, rendered politically constitutive, or proclaimed, politically, as the necessary or total basis for other freedoms, to be applied, equally, throughout all spheres of functional interaction. A political system attempting to impose one definition of freedom across all society and to make one construction of freedom the foundation of all others, can, for Luhmann, hardly avoid destroying the multiple, pluralistic freedoms of society, which are defined, constitutively, by their self-referentiality, systemic localism, and contingent functional construction. All politically totalized construction of freedom, he concluded, brings into jeopardy (that is, it threatens to de-differentiate) those limited personal freedoms that social agents might, without reflection, expect from a modern functionally pluralized society (Luhmann, 1981a: 23). In consequence, if (the early) Marx argued implicitly for a politicization of society in its totality as the basis of political legitimacy, Luhmann disputed this by claiming that the legitimate political system is required specifically to depoliticize social exchanges, and to ensure that interactions pertaining to different spheres of a differentiated society do not enter the political system.<sup>5</sup>

Luhmann's anti-totalistic claims about society's politicality culminated, first, in his polemics, gleefully inviting his stylization as a reactionary by

neo-Marxists, against political regimes asserting material equality as a principle to authorize programmes of high taxation, high intervention and high distribution in the name of human welfare (Luhmann, 1981a: 155). In subjecting the economy to collective purposive programmes, Luhmann suggested, such regimes (typically Marxist, but latterly also Social Democratic) are always likely to imperil basic societal liberties such as freedom of movement, contract, worship, employment and education.<sup>6</sup> Luhmann clearly indicated that attempts within the political system hypertrophically to politicize society or to derive legitimacy from processes of dramatic inclusion (in the name of equal freedom) risk unstitching the finely meshed fabric of differentiation upon which modern society relies as precondition for its multiple, functionally discrete liberties. These anti-totalistic claims culminated, further, in the assertion that freedoms cannot be uniformly distilled from an underlying, essentialistic or implicitly total model of human nature. Freedoms can only be exercised, for Luhmann, within the contingent domain of a differentiated social system, and any attempt to posit certain freedoms as essential is likely, however counter-intentionally, to destroy the contingent and more spontaneous preconditions for liberties afforded by society. These claims culminated, finally, in the assertion that politics must be kept radically distinct from nature. All endeavours to measure the legitimacy of politics by quasi-naturalistic criteria or in fact any criteria exogenous to the political system itself inevitably provide distorted and destabilizing concepts of political legitimation (Luhmann, 1981b: 69; 1990: 134).

At a methodological level, the opposition between Marx and Luhmann was, if this is conceivable, even sharper than the political distinction between them. In the first instance, Marx's social theory revolves around the claim that society is underpinned by a relatively uniform *material structure*: that is, by the determinate interplay between relations of production and productive forces, which propels society's evolution as a whole (Marx, 1971: 15). This interplay, he claimed, forms a material base which impacts causally on all social forms and processes, such that all interactions (practical and cognitive) in society are determined by, and explicable through reference to, relations concentrated in society's economic substructure. In the same way that Marx expressed normative disquiet at the pluralistic differentiation of human society in its political and productive capacities, therefore, he rejected the principle of differentiation as a methodological matrix for explaining society. Instead, he sought to interpret all social exchanges and processes of institutional formation on the ground of a relatively simple dialectic between material/economic forces. On this foundation, he propounded an essentially mono-causal (although historically nuanced) account of social formation and evolution, and he imagined society as a whole as a totality of relations that are causally overdetermined by single elements of its economic system.

In clear contrast to this, Luhmann advanced a theory of society which denies the existence either of underlying material structure or of overarching

material causality in society. Instead, following Weber, he proposed a radically contingent construction of society as a complex of spontaneous and acausally emergent inner-systemic meanings. In clear hostility to causal explanations of societal process, he argued that no universally formative substructure can be discerned in society, there are no causes in society that might in some formal manner be separated from the phenomena which they determine, and different dimensions of society are shaped, not by extracted causes, but by highly distinct, internalistic, or *auto-communicated* stimuli. To propose causal explanations for social formation means in fact, for Luhmann, to neglect the deeply constitutive fact of modern society: that is, it means to overlook the fact that society is differentiated into systems, which are formed in contingently self-reproductive and internally auto-communicative spontaneity. Accordingly, he concluded that, not *material causality*, but *communicative self-reference*, expressed in a fashion highly specific to different social systems, should be observed as the basic residue or the basic *sense* of society (Luhmann, 1984: 194). The Luhmannian concept of communication, construed as the internalistic and auto-communicative self-referentiality of autopoietic systems, distils perhaps the most radical sociological counter-vision to Marx's account of society as formed upon a relatively consistent and causally stable material structure (Marx, 1971: 15).

Fundamental for both the political and methodological distinctions between Marx and Luhmann, in sum, is the question of *functional differentiation*, and the resultant question of theory's adequate complexity. For Luhmann, implicitly, Marx's theory has the great deficiency that, both politically and methodologically, it cannot live with differentiation: it perceives the differentiation of society, most essentially, as a process having deep implications for human species life (the substrate of society) and as ultimately reflected in a total reality of natural/substantial depletion or human *alienation*. As a result, Luhmann viewed Marx's theory as taking recourse to a mode of social explanation that relies on highly reductive units of causal analysis (that is labour, capital, proletariat, bourgeoisie), which it posits as general to society in its entirety and as universally operative in an all-embracing process of societal transformation (Luhmann, 2008: 91–2). Clearly, Marx's theory imagines society as possessing forces that might enable it, under some indeterminate set of conditions, to overcome its fragmentary differentiation, and to reconfigure itself as a system of total freedoms and total purposes, in which all persons in all parts of society will be able to participate in shaping a condition of mutually enhancing human liberty: famously, he argued that the age of humanity itself would begin with the end of capitalism (Marx, 1971: 16). For Luhmann, however, these basic aspects of Marxism cast a shadow on the essential principle of modernity: they obscure the fact that society cannot be underpinned by total/collective forms of volition, and it cannot encounter itself in radically centred or *total* experiences of unity, legitimacy, and emancipatory transformation.<sup>7</sup> From a Luhmannian vantage



point, society is nothing more than an endlessly contingent communication of its internal differentiation. The Marxist circumlocution of *differentiation* as *alienation* may, for Luhmannian analysis, reflect a historically illuminating response to the functional differentiation of social systems at a specific juncture in their evolution. But it also falsely presupposes that differentiation is a normatively undesirable condition of social existence, which can ultimately be (totally) suspended.

### The discovery of society

Despite these quite fundamental oppositions, however, it has not gone unnoticed that the theories of Marx and Luhmann possess certain common features and objectives.<sup>8</sup> Indeed, it is clear that Luhmann's theory of society, like that of earlier sociologists, contains a direct, reconstructive response to Marx, and to the Marxist conception of society.

First, for example, Luhmann shared with Marx a theory of knowledge and reflection, which is deeply hostile to the classical monadic conceptions of mental life (supposedly) elaborated by theorists associated with the Enlightenment. In fact, if Marx and Luhmann were irreducibly divided by their attitude to the political articulations of the liberal Enlightenment, they were closely unified by their attitude to its epistemological doctrines (at least in the form in which these doctrines were expressed in the French and German Enlightenments).<sup>9</sup> Marx, manifestly, dismissed the basic cognitive preconditions of the European Enlightenment. On one hand, clearly, he denounced as purely ideological the assumption that political order might be constructed around the model of the human being in its most rational normative characteristics: he viewed the liberal/rational state, representing the human being as 'sovereign' or as 'highest essence' separated from the 'real human being' existing in civil society, as pure political metaphysics (Marx, 1956b: 360). More fundamentally, however, he rejected the claim that each human mind contains general capacities, enabling it to act as a privileged centre of cognitive construction and theoretical adjudication, whose accounts of the world are coherently transmissible to, and verifiable by, other minds. Instead of this, he defined human rationality as an abstract distillation of material process, capable at most of giving spurious order and legitimacy to a trajectory of systemic evolution driven by causes having little to do with normatively or rationally constructible human motives.<sup>10</sup>

Luhmann shared and deepened Marx's critique of rational epistemology, and he ultimately intensified the radical deconstruction of the idea/matter distinction outlined by Marx. On one hand, he echoed Marx's ridicule for the claim that human rationality is able abstractly to engender norms to determine the legitimacy of society's institutional order.<sup>11</sup> Yet more radically, however, he re-closed the distinction between ideal history and material history which had been opened by Weber as a central element in the early

sociological reception of Marx, and his thought reached beyond Weber and the classical sociological canon to re-invigorate concepts of human reflexivity more specific to Marxism. Although clearly accepting Weber's comprehension of society as transpersonally generated meaning (*Sinn*) (Weber, 1921: 1), Luhmann negated all post-Weberian suggestions that society's meaning resides in particular human minds or in minds possessing a degree of formative autonomy against the material basis of society. Instead, he proposed a theory of cognitive activity, which observed theoretical reflection and postulation as elements of the *semantic structure* of society. That is, he argued that ideated principles are nothing more than inner-systemic constructions, acting functionally to stabilize and temporally to solidify the communications pertaining to one particular function system of society (Luhmann, 2008: 148). In this respect, Luhmann replicated Marx's assumption that thinking is most accurately viewed as a co-evolutionary or *self-descriptive* function of society, in which a society transposes its multiple functional occurrences into mentally meaningful and plausible realities, so hardening the material/temporal structure of that part of society to which a given act of thinking refers (see Stäheli, 1998). The categorization of ideated principles as part of society's material structure marks a deep connection between the work of Marx and that of Luhmann. In this respect, in fact, both moved closer to an instrumentalist sociology of knowledge, according to which ideas act, primarily, to confer a systemically projected image of natural solidity and necessity on the reality to which they refer.<sup>12</sup>

Second, Luhmann and Marx were connected by a deeply anti-humanistic conception of modern society. This observation might appear counter-intuitive in light of the naturalistic reconstruction of the post-Rousseauian politics of the early Marx proposed above. At one level, to be sure, Marx's theory of society is always shadowed by the traces of a natural/humanistic essentialism: it always anticipates that human societal order might eventually be reconciled with the natural substance of humanity (species being), from which capitalist society, in its totality, has become estranged. Despite Althusser's claims to the contrary, Marx's theory cannot, thus, be viewed as lacking all anthropological or humanistic premises;<sup>13</sup> his early hostility to societal differentiation clearly reflected a desire for a deep (total) re-humanization (de-differentiation) of society. Alongside his earlier political naturalism, nonetheless, Marx was also clear that, in the existing reality of capitalist economic production, society has evolved to a high degree of abstracted differentiation, in which different spheres of exchange assume far-reaching autonomy against original bearers of natural/human essence. In modern capitalist society, for Marx, no realm of human exchange can be immediately re-centred on human interests or shaped by single acts of human volition or normative design.

For Marx, in fact, the absence of an anthropological centre in society defines the condition of societal modernity (Marx, 1971: 15). In the

condition of modernity, the later Marx explained, 'social contact' between persons occurs only 'through the exchange of the products of labour' (Marx, 1962a: 87). Because of this, the laws of human nature are replaced by 'laws of commodity nature' [*Gesetze der Warennatur*], and the organic relations connecting people in natural society are supplanted by heteronomous laws of formal equivalence between commodities (Marx, 1962a: 101), so that relations between commodities supersede human relations and become the defining positive form of society's self-encounter. Under capitalism, therefore, Marx proposed a functionalist model for the concrete examination of social life. He argued that under conditions of economic alienation human beings need to be viewed, not as primary agents or integral centres of cognitive or ethical autonomy, but as bearers [*Träger*] of determinate material relations. From this perspective, he observed all social interaction as dictated, not by reflected human interests, but by causal imperatives that are insensitive to human needs or purposes. Although often considered a theorist of revolutionary praxis, in short, the later Marx was quite expressly a theorist who was resigned to the non-revolutionary and profoundly non-spontaneous character of human society, and he viewed the complex autonomy of different interactive systems as militating against any volitional, actionistic, or total reconstruction of society. If, at some underlying, lamentational level, he remained a revolutionary humanist, in his later works Marx came to the conclusion that in scientific analysis of positive societal facts the human being (defined as a stable aggregate of reflected needs and interests) cannot be taken as the primary unit of social inquiry (Marx, 1971: 15). All attempts to construct society as a set of human relations, the later Marx suggested, inevitably prove incapable of comprehending society: it is only if society is divested of its spurious image of humanity, and if it is interrogated, positively, in light of its underlying apersonal and material causes, that it can be meaningfully understood (Marx, 1971: 15).

These anti-humanistic aspects of Marx's thinking were later appropriated by Luhmann. Luhmann, of course, was not filled with the nostalgia for humanity still implicit in Marx's ideas on alienation and first nature (species being). Nonetheless, he moved close to Marx in that he radicalized the Marxist idea that human society, in its evident positive form, needs to be separated from essential constructions of human being, and he re-emphasized the Marxist claim that normative or voluntaristic theories of social organization simply obscure the sources of social formation. Indeed, Luhmann shared Marx's view that society is profoundly *inhuman*, and cannot in its present form be rendered transparent to any original set of human emphases, interests or causes.<sup>14</sup>

On this basis, third, at a deeper, more intuitive level, the theories of both Luhmann and Marx were brought together by a profound sense that society needs to be observed as a phenomenon that is categorically *sui generis*. Central to the writings of both Marx and Luhmann is an attempt to construct society

as a reality that accords with internalistic modes of self-reproduction, that is qualitatively distinct from the objects and agents that it comprises, and for the comprehension of which a specific, internally adapted interpretive methodology is required.

This means, most notably, that both Marx and Luhmann suggested that modern (for Luhmann) or capitalist (for Marx) society can only be understood if it is appreciated as a reality that forms and reproduces itself in accordance with an entirely *internal* functional logic, which cannot be distilled from any pre-, extra- or a- social norms or emphases. Society, thus, needs to be examined as an entirely self-constructed reality, which has become fully autonomous against all natural or essential substructure, and it is only if the radical autonomy of society is accepted that its inner phenomenal structure becomes discernible.

This is clear enough in the writings of Luhmann. Luhmann identified the communicative media of society as distilled against all primary human reality, and he constructed the coded reality of each of society's systems as irreducibly self-referential. For Luhmann, no extra-systemic reality can intrude on or externally determine the auto-communicated reality of social sub-systems (Luhmann, 1984: 27). Marx's position regarding the auto-construction of society was, naturally, somewhat more equivocating. As discussed, Marx retained a residual picture of an authentic, primary society based in social labour, which has been obscured by the society based in abstract labour produced by capitalism. However, as also discussed, he acknowledged that, under capitalism, the society of *abstract labour* has assumed a reality which is entirely autonomous against the authentic society of *human purposes* (Marx, 1971: 27). Indeed, Marx identified the social reality defined by the *form of exchange value* as a set of relations which is occluded against external values, and which perpetuates itself as a half-fictitious realm of meaning, marked by a radical difference against substantial motivations and ends. In the social reality mediated through exchange value, human beings become mere insubstantial 'character masks' for the 'economic relations' that are transmitted through them. Human society forms itself as a shadowy meta-fiction of its original substance, and human beings engage with and encounter each other through value relations that are entirely dislocated from any externally founding substance (Marx, 1971: 100). In both accounts, therefore, society preserves itself as an abstracted medial reality (formed through exchange value for Marx, and differentiated systemic media for Luhmann), and it has no tangible factual essence or basis outside its self-encounter in the semi-fictional form of its abstraction. For both Marx and Luhmann, in short, modern society exists in an internalistic projective dimension, in which society communicates itself as radically other to any original, material, natural, or human *being*. For Marx, this autonomy of society is always persistently reflected as fetish or heteronomy against the human reality which it overlays and which it has suppressed (Marx, 1971: 85). For Luhmann, the

autonomy of society is simply the essential autonomy of society's communicative systems, and the idea of a humanity to which society's autonomy might constitute, or be experienced as, heteronomy has been abandoned.

Across the deep lines of hostility between Marx and Luhmann, therefore, we can observe that both comprehended society as an aggregate of *medial exchanges*, distilled against all organic interactions. Indeed, both implied that society becomes society precisely through the process of its medial abstraction from founding or ontological human substrates. Marx, witnessing the incipient differentiation of capitalist society, was part of the early vanguard of social theorists, who first discovered (and expressed alarm at) the emergence of society as an object *sui generis*. Marx's work is clearly situated in the emotive tension between the late-Romantic perception of a possible unity of humanity and nature and a sociological acceptance of the insoluble autonomy and fractional self-reflexivity of society as a whole. Luhmann, observing the advanced differentiation of society, was intent on forcing Marx's insight to its most radical conclusion. In consequence, he accepted without any emotion except irony the Marxist intuition that society is constructed as an entirely autonomous realm of meaning.

### What lies behind? [*Was steckt dahinter?*]

It is often argued that the first formation of social theory as a distinct line of inquiry reflected a reaction against the normatively inflected political epistemologies of the Enlightenment.<sup>15</sup> In particular, it is commonly observed that early social theory was centred on a rejection of the (apparent) moral/political absolutism or *externalism* of the Enlightenment. That is, early social theory rejected the sense promoted by the Enlightenment that the human mental apparatus is a set of faculties authorized to make binding normative prescriptions, separated from place and historical time, and to extend these to form a monadically reproducible construction of desirable ethical behaviour or necessary socio-political conditions. Against this perspective, early social theory endeavoured to elaborate an account of society's normative apparatus, which construed the political/ethical resources of society as defined, neither by monadic universality, nor by formal prescription or natural-juridical obligation, but by internalistically sedimented pluralism, historically embedded agreement, and spontaneous shared liberty.<sup>16</sup> In this respect, early social theory had its clearest antipode in the thought of Kant, who led an assault on classical metaphysics by examining human society as a locus charged with responsibility for producing universal (categorical) principles to regulate its moral and political activities.<sup>17</sup>

Underlying the reaction of social theory against the Enlightenment was the question of *metaphysics*. Early social theory, in general, expressed hostility to the Enlightenment because of the incompleteness of its attempt to move beyond the metaphysical principles of pre-Enlightenment philosophy.

Early social theory proceeded from the general intuition that, although the Enlightenment proclaimed itself as part of a humanistic critique of classical metaphysics, its humanist outlooks had in fact simply persisted in constructing society on metaphysical premises. In particular, early social theory was pervasively shaped by the belief that the formal rights-based *ius-naturalism* of the Enlightenment preserved a deeply externalistic metaphysical construction of society, in which society in its immediate phenomenality remained dualistically segregated from the origins of its highest values.<sup>18</sup> In this respect, once again, the Kantian Enlightenment formed the main point of antagonism for early social theorists. Kant appeared to early social theorists as a philosopher whose destruction of classical metaphysics had deeply miscarried, and whose account of the human being as the rational author of noumenal ideas of right, duty and obligation had simply transferred a shadowy metaphysical description of the sources of legitimacy in human life onto contemporary society.<sup>19</sup> Early social theorists, in consequence, separated themselves from the Enlightenment in that they saw the task of theoretical reflection, not to render society transparent to its externally underlying or transcendental moral origins, but to comprehend society as a set of objective relations, reproducing itself and its constitutive meanings through entirely immanent processes.

In their relation to this founding impetus of early social theory, Marx and Luhmann were connected to each other in close and complex fashion. As discussed, both tried to comprehend society as a reality shaped by internal, sui-generically *societal* dynamics. Moreover, both came close to insisting that social theory is a necessary corrective to the residual metaphysical hypostasis of Enlightenment theory. In fact, both observed the late metaphysical externalism of the Enlightenment as impeding, not only a full comprehension of society, but also a nuanced appreciation of the locations of human freedom in society. In consequence, both viewed the rise of social theory as intricately implicated in constructing society as a realm of freedom, liberated from the distorting heteronomy of metaphysical thinking. Despite this vital point of convergence, however, both were ultimately separated by their critique of metaphysics and its externalistic dimensions.

Marx was clearly in the vanguard of the proto-sociological rejection of the Enlightenment. In particular, he placed himself categorically against the abstract *ius-naturalism* and political deductivism which culminated in Kantian theory and was (for Marx) only spuriously corrected by Hegel. This anti-metaphysical habitus was reflected in Marx's critique of the primary political result of the Kantian Enlightenment: the liberal state based in formal subjective rights. Marx denied, expressly, that human society can be obligated in its totality to moral principles generated by isolated human subjects, and he construed the solitary rights-producing subject of post-Enlightenment liberalism as little more than the reflexive/metaphysical analogue of the emerging proprietary subject of the capitalist economy (Marx, 1956b: 360).

As a result, he described the rights-based state as a grandiose or 'spiritualized' metaphysical illusion (Marx, 1956b: 355), which was only able to project an image of statehood founded in the free will of society because it was 'torn away from its real base' in monetary exchange and economic exploitation (Engels & Marx, 1957: 62). Marx's anti-metaphysical habitus was reflected, yet more fundamentally, in his outright rejection of the status of human consciousness as an autonomous centre of meaning, deduction, and prescription, and in his insistence that consciousness needs to be viewed, at most, as a refraction of material process (Marx, 1971: 15). On both these points, Marx followed the impetus of other early social theorists in that he rejected the externalist and atomized natural-law theories and the formal epistemologies of the Enlightenment. In his earliest works, he replaced these approaches with a theory of society which looked for moral and cognitive sense in the spontaneous emphases and objective/historical dispositions of human life (Marx, 1956a: 119). More generally, though, Marx clearly indicated that metaphysical theories, presupposing the presence of quasi-natural juridical and cognitive essences standing in an external relation to social reality, were in some way complicit in perpetuating capitalism as the dominant mode of production and alienation as the dominant mode of experience. Such theories were responsible, as ideology or false consciousness, for the endless reproduction and petrification of the reality of alienation and heteronomy (Marx & Engels, 1958: 25). It was only theory in *the form of sociology* that could eradicate theory's contribution to social alienation, and begin to clarify the conditions of society's autonomous construction.<sup>20</sup>

Despite this, however, observed now from a distance of well over a century, Marx's work still palpably *belongs to* the Enlightenment. Indeed, his theory reflects the ambiguous attachment to classical metaphysics which characterized much thinking originally associated with the Enlightenment (and which Marx self-consciously dismissed). Most immediately, for instance, Marx's early conception of legitimate political order as an expression of primary natural freedoms (species being) traces out a distinct position in the history of natural-law theory, and it shows a close affinity to both Rousseau and Kant. Above all, his theory retains the metaphysical sense of the Enlightenment that the objective reality confronting persons in their objective/practical orientations is in some fundamental manner not definitively *real*, and the final and ultimate origins and purposes of human life lie behind this reality and are obscured by the objective relations defining the existing life-horizons of concrete social agents. What appears to social agents as their *objective-phenomenal condition* is, for Marx, merely a set of definite relations, mediated through the value-form of capitalist exchange, in which people encounter each other, at most, as distorted and heteronomously alienated shadows of their true natural selves.<sup>21</sup> And at some point behind, beneath or *external to* this alienated reality, there constantly remains, however obscure, a reality of natural freedoms and substantial purposes, to which the alienated

reality of society might be re-approximated. For Marx, in consequence, objective social appearances are at all times nothing more than an estranged shadow of a higher, external reality: they are the shadow of a natural/human reality, in which persons might constitute their society through the pursuit of non-instrumental collective purposes, creating enriched conditions in which singular freedoms promote freedom for all, and humanity as a collective agent actively produces a historical reality reflecting meaningful human liberty.

In this respect, although hostile to the Enlightenment, Marx at once inverted and reproduced the dualistic principles at the methodological core both of classical metaphysics and of the classical Enlightenment. Earlier metaphysical theories had argued that theoretical reflection must strip away the natural world (the world of urges, instincts, senses, and unreflected self-interest) to lay bare a higher reality of moral or natural (metaphysical) purposes.<sup>22</sup> In contrast to this, Marx argued that the reality of exchange-mediated relations forming capitalist society is of itself a false *metaphysical* reality: a 'social hieroglyph' (Marx, 1962a: 88). This reality, projected from the solitary metaphysical mind of proprietary subjects, has fictitiously stratified itself across the authentic purposes of human nature, and it has insinuated itself as an objective mirage (or fetish) of meaning above the substantial purposive dispositions of humanity. Human society, mediated through the form of exchange, has – in its entirety – been subject to a deep metaphysical distortion: it has become alienated, chimerical, heteronomously opaque, and deeply *mysterious* (1962a: 86), akin to the 'misty region of the religious world', in which fantastical projections of the mind appear real and vital (1962a: 86). In consequence, Marx indicated, it is the task of theoretical reflection to penetrate the fetish quality of this metaphysically constructed reality, so that social agents might appreciate the world of natural human freedom and equal collective need-satisfaction which *ought to have been* the material foundation for society. The methodological structure of Marx's later work might in fact be seen *in toto* as an attempt to pierce the metaphysical carapace of the false reality of capitalist society (to *de-fetishize* the hieroglyphic social relations formed through capitalist exchange value), and in so doing at least to open the terrain for a comprehension of the original organic reality that at once underlies and is obscured by this society (1962a: 86–7).

In a radical reversal of the Kantian Enlightenment, therefore, Marx's socio-theoretical method was designed to *cut through metaphysics to nature*. In this respect, Marx stood in the vanguard of the radical counter-Enlightenment, moving very close to positions later taken up by Nietzsche and Foucault. In its implicit societal dualism, however, Marx's method also formally replicated the humanistic metaphysics of the Enlightenment, for which given objective reality forms an insubstantial veil for a deeper, external realm of



authentic purposes. Marx's theory derives its critical impetus from the idea that the two levels of reality (what is the case and what lies behind) can ultimately be drawn together and reconciled: that society can once again become *total*. In this relation, clearly, Marx's work reflects a deep continuity with earlier metaphysical constructions of society.

Luhmann's work appears as the most advanced position in the sociological critique of the Enlightenment. Like Marx, Luhmann rejected as metaphysical the political methods of the Enlightenment. Although he approved in practice of the political institutions devised by early liberalism, he dismissed as metaphysically reductive the belief that normative principles can be extracted from, and then externalized against, society, so that the legitimacy (or otherwise) of society's institutions might meaningfully be measured in light of these (Luhmann, 2000: 358–9)<sup>23</sup>. Similarly, he rejected as a metaphysical simplification the claim that a political system can stabilize conditions of freedom for all society, or that the rationality of society as a whole can be forced to converge around, or obtain privileged expression in, its political system (Thornhill, 2006: 39). Central to his thinking, further, is the wider observation that the Enlightenment, positing the human mind as the deductive and norm-producing centre of social reality, deeply misconstrues (and exposes to metaphysical reduction) the dynamics of modern social formation. Enlightenment thinking, for Luhmann, simplifies reality by implausibly positing one undifferentiated mode of external rationality as the arbiter of all social exchange, and in so doing it imposes a reductive and counter-factual metaphysical unity on society in its entirety.<sup>24</sup> In this respect, like Marx, Luhmann moved close to Nietzsche and Foucault, and he shared Nietzsche's understanding of metaphysical thinking as a violent act of simple juridical/cognitive reduction (Nietzsche, 1967: 310). Society, he concluded, can only be adequately observed if it is examined as a realm of meaning generated through multiple forms of rationality, each inhering in a differentiated sequence of inner-systemic communications (for Luhmann, evidently, the economy, law, politics, science, and religion all possess their own internal rationalities, such that society as a whole needs to be appreciated as multi-rational). For this reason, Luhmann defined his theory of society, in distinction from all philosophical metaphysics, as based in a methodology that detaches itself from the mono-rational legacy of foundationalist thinking, and that is able to sustain a multi-perspectival lens to capture society as an aggregate of radically unfounded and internalistically contingent systemic communications (Luhmann, 1967: 108; 1993). Indeed, like Marx, Luhmann understood sociology as a methodology defined by its *constitutive elimination* of metaphysical thinking. He perceived sociology as a method able adequately to discern the form of society as a sequence of autonomous meanings, and so to preserve the freedoms of society as spontaneously occurring, pluralistic, and in themselves internally *unfounded* dimensions of

liberty.<sup>25</sup> To this degree, Luhmann agreed with Marx that the methodology of social analysis has responsibility for piercing the metaphysical chimera surrounding social facts: theory is required to demystify societal phenomena by severing them from all constructions of social reality as determined by primary intelligences or natural external, or necessary causes.

Despite these agreements, however, it is around the question of sociology and the ends of metaphysics that the deepest division between Marx and Luhmann becomes evident. For Luhmann, Marx's theory – in the final analysis – gives expression to an uncertainly paradoxical and remotely metaphysical construction of society. Luhmann argued quite conclusively that society exists as a reality of contingently occurring positivity. Behind this positive reality, he claimed, there can be no causal nor explanatory regress; behind this positive reality, no externally pre-existing realm of primary, non-alienated freedoms can be intuited. *Nothing lies behind this reality: society is its own appearance.* From a Luhmannian standpoint, therefore, Marx's theory possessed the inestimable theoretical distinction that it successfully intuited the rising autonomy of societal relations, and it played a vital role in producing an interpretive apparatus for capturing society as a self-constructed reality. Yet, in imaging this same society as *alienated* from its original identity with human nature, Marx (for Luhmann) naively persisted in imputing a dualistically foundational hyper-reality to society, and his functional analysis of society could not suppress a deep metaphysical anxiety about the absence of humanity in society: the humanity lying beneath society.

On these grounds, Marx remained for Luhmann a theorist of society whose vestigial naturalism prevented society from coming fully and contingently into focus. From a Luhmannian perspective, in fact, Marx's theory describes the birth trauma of modern society. Marx observed society as at once autonomously differentiated and internalistically self-reproducing. But he imagined society, still, as haunted by its founding loss of natural/human substance. Marx thus appeared as a theorist who was resolutely intent on dismantling the cognitive and ethical substructures of metaphysical theory in the name of sociological analysis. Yet he also appeared as a theorist who was profoundly caught within the metaphysical shadow, who observed society as a condition of deep metaphysical loss, and who was ultimately ensnared in the traces of conceptual heteronomy and externalistic dualism which his theory was intended to dissolve. In particular, Luhmann intimated that the society/humanity dichotomy implied in Marx's theory of alienation made it impossible for Marx either adequately to comprehend society and its uncentred evolution or to appreciate the complex liberties unfolding within this society. From a Luhmannian standpoint, Marx perpetuated the dreadful simplification invariably inflicted on society by metaphysical thinking, and for this reason – in the strictest terms – his method remained incapable of observing society *sociologically*.

## Conclusion

Marx and Luhmann both stood at the centre of a theoretical tradition which was formed by the fact that it rejected the dualism of metaphysical reflection. For Marx, on one hand, the reality of alienation had become a source of hateful metaphysical blindness, ideologically overlaying and spuriously naturalizing the depletion of human freedom under capitalism. A radically materialist and anti-metaphysical method (sociology) was required to cut through the false consciousness arising from the capitalist exchange system. For Luhmann, the traces of metaphysics (especially monadic normativism) formed the most powerful impediments for adequate social analysis, and the metaphysical residues in socio-theoretical construction were responsible for society's routine inability to comprehend itself in its full acentric contingency. A radically pluralist and anti-metaphysical method (sociology) was required to capture society in its absolutely positive phenomenality. For Marx, however, the critique of metaphysics in social analysis ultimately (as Heidegger observed) drew its impetus and its content from an (in itself) metaphysical humanism,<sup>26</sup> which presumed that the metaphysical fictions of modern society might eventually be suspended through the reintegration of human life in a condition of natural freedom: society might be *brought back* to humanity. For Luhmann, in contrast, this avenue was foreclosed. Luhmann suggested that the conditions of freedom can only be elucidated if society, and the multiple, partial and invariably ephemeral freedoms that it comprises, are separated entirely from humanity, and if human freedoms are accepted merely as freedoms produced contingently by society – that is, not as *human* or *natural*, but as *social* or *communicative*, freedoms. For Luhmann, Marx's humanism persists as an obstructive element of the metaphysical legacy. He implied that, as it must overcome all metaphysics, social theory must also supersede all humanism (including – therefore – Marxism) in order to become sociological. Speaking for the metaphysical legacy, Marx's concept of total yet alienated freedom appeared (to Luhmann) directly to obstruct the more modest appreciation of the partial, fleeting and contingent freedoms, which only fully sociological (not humanistic, naturalistic or metaphysical) reflection can comprehend.

Marx saw the alienation of humanity as destroying human freedom. Luhmann, in contrast, saw the concept of alienation itself, lastly, as part of a methodological disposition that simplifies and obscures human freedom. For Luhmann, societal freedom depends on alienation (difference from essence), and it presupposes an acceptance of society's decentration from all traces of metaphysical/naturalistic substructure. For Luhmann, it is only by thinking through Marxist humanism that society can begin to apprehend itself in its occurring plurality (freedom): both the birth of sociology and the reflection of social freedom are only possible after Marx. It was in fact

Heidegger, not Marx, who (for Luhmann) allowed society to step beyond the enduring metaphysical shadow of the Enlightenment and observe itself (sociologically) in its endlessly differentiated abundance of meanings.<sup>27</sup>

## Notes

1. This is often seen as a basic tenet in Marx's theory. But in fact it only assumes central status in his *Manifest der Kommunistischen Partei* (1848).
2. Luhmann's closeness to political liberalism is often disputed, but this affiliation seems to me quite programmatic. For analysis in agreement with my view see Lange (2003: 293).
3. Editors' note: Another discussion of immunization and legitimacy in this volume can be found in Willis S. Guerra Filho's 'Luhmann and Derrida: Immunology and Autopoiesis'.
4. Luhmann recommended a 'reduction of politics to its exact function – the satisfaction of the need for collectively binding decisions'. Only through this self-limitation, he argues, might the political system become adequate to the 'functional differentiation of society' (1981a: 122).
5. On Luhmann's account, a rights-based constitution serves to formalize the 'renunciations and indifferences' required of a political system that is adequately (acentrally) positioned in a differentiated society (1965: 182–3). The constitution, in other words, secures legitimacy because it effects a depoliticization of society (including the political system itself).
6. Luhmann described the 'socialist states of the Eastern bloc' as a primary example of this (1981a: 29). But, reflecting on the history of the Keynesian experiment, he also criticized capitalist welfare states for imposing high taxes and using their fiscal resources for 'offering advantages which the individual person has not earned' (2000: 423). This, he explained, obstructed the autonomous communications of the economy.
7. Not surprisingly, Luhmann's rejection of Marx echoes his hostility to the other great totalist, against whom he defined himself in still more strategic manner: *Carl Schmitt*. See for commentary on this point Thornhill (2007: 504).
8. See Jessop (1990: 331). This is also implicit in Habermas. Habermas – somewhat tellingly – accused Luhmann of promoting a 'functionalization of the concept of truth' (1971: 225–6).
9. Both Marx and Luhmann argued from a political perspective that would have been very familiar to the proponents of the Scottish Enlightenment, who also rejected the idea that institutional forms can be spontaneously generated by reason. For precursors of both see Hume (1978: 542) and Smith (1978: 347).
10. Humanity's 'social being', Marx stated simply, 'determines its consciousness', and human consciousness has no independence of social being (1971: 15).
11. Abstract philosophical analysis of the conditions under which 'political domination is legally acceptable', Luhmann concluded, tends to present highly simplified and selective accounts of legitimacy, and it normally obstructs the factual processes by which political systems obtain legitimacy (1970: 159).
12. The similarity of both Marx and Luhmann to Lukács in this regard is striking. See Lukács (1968: 281).
13. See the argument generally in Althusser (1967).

14. Luhmann stated simply that human beings are not 'facts' that provide a 'criterion for defining the concept of society and for determining the limits of the corresponding object' (1997: 35). Marx's perception of society's inhumanity, in contrast, construed society's inhumanity as a condition of 'cruelty and cowardice' (1956a: 121–2).
15. For this view, see Nisbet (1970: 7); Strasser (1976: 27). Note, however, that this view has (in my opinion, plausibly) been questioned in Manent (1997: 73). For broader commentary, see Thornhill (2012; 2013).
16. For (in themselves highly varied) examples of this critique of natural law, consider Burke, De Maistre, Savigny, Bentham. This repeats a series of claims made in Thornhill (2010).
17. Kant argued that the human being must now assume 'causality of its own will', and it must accept as its own the functions of rational-legal authorship once imputed to God (1976b: 88).
18. This attitude ran through early social theory from Burke to Weber. It received its most distilled expression in historicist social theory, which, exemplified by Wilhelm Dilthey, derided the natural-law precepts of the Enlightenment as a 'metaphysics of society' (1923: 224).
19. Durkheim's sociology, most notably, formed an attempt to convert the (supposed) moral foundationalism and monadic universalism of the Enlightenment into a more *contingent* account of the normative and legitimating apparatus of social forms as produced by integration patterns internal to society itself (1965: 28, 31).
20. Marx did not understand his theory as sociology. But he sought to establish a theory as a 'real, positive science' focused on the 'presentation of practical activity, the practical process of human development' (Marx and Engels 1958: 27).
21. For Marx, in capitalist society the 'social relation of persons' is transformed into a 'social relation of things'. People encounter each other only through commodity values (1971: 29).
22. This is expressed in Leibniz's notion of rational law (1885: 6). This is also captured in Kant's concept of 'rational nature' (1976a: 69).
23. Editors' note: see in this volume's 'Luhmann's Ontology' where William Rasch offers an in depth discussion of Luhmann's Kantian roots.
24. See Luhmann (1967). The normative strand of modern philosophy, Luhmann explained, in fact replicates the separation of 'being and thinking' which underpins classical and metaphysical ontology, and, just as ancient metaphysical philosophy secured its truths by citing an original creator or an original set of laws as the explanation of being, modern philosophy, as a 'metaphysics of the subject', secures its truth by citing the human subject, and the rationality inherent in it, as the source and explanation of all truth (1984: 144–5).
25. As a 'science on the foundation of communication', Luhmann argued, sociology can rephrase all the questions of foundational analysis as questions of communication, and it can interpret the objects of foundational analysis as elements in a 'recursive network' of communicational observation (1993: 252, 255).
26. For this particular point see Heidegger (2000: 31).
27. Heidegger's attempt to overcome Kantian dualism by positing the *Differenz* between *Sein* and *Dasein* as the ground of meaning seems to me to be formative of Luhmann's own attitude both to metaphysical externalism and to the construction of meaning *tout court*.

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# Afterword

When we got together and decided to commission and edit this volume, we were certain about one thing: that we did not want to tell our contributors *what* to write and more specifically *how* to write. We were conscious of the fact that our strategy was rather risky and that our editorial ‘control’ should find other ways of steering the various texts. We adopted, therefore, two observational strategies: first, to look deeper into Luhmann’s theory and try and understand its various folds that contained, perhaps in a latent form, the potential of the theory itself. And, second, to look at existing secondary literature and try to pick the isolated offshoots of research that began from, ended with or circled Luhmann in one way or another, while at the same time pushing the limits of the theory further out, deeper into its environment. In that sense, this is a true anthology, at least in the term’s etymology, where a bunch of blossoming offshoots are collected in order to create a heterogeneous but harmonic bouquet. The main mechanism of the encounter came post-facto, after having observed the various encounters that Luhmann performs in his texts, and the way Luhmann’s theory has been consistently yet disparately brought up in various encounters, of a theoretical or applied nature, in some of the more radical secondary literature. We felt that our responsibility was no larger (yet no smaller) than that of the woodcarver who carves the wood while closely following the inner movement of the wood itself, with its waves and knots and inner surfaces, in order to produce a tool out of the wood-block. We hope that the current volume has provided not only the space for woodcarving, where the material coming out of the various encounters has come together, but also the tool itself. Here, however, this metaphor must multiply and open up: we are pleased to be able to describe the resulting tool a bit like those Swiss knives that contain microtools for various occasions, all of which at some point are folded back into the shiny red handle.

Some things, however, had to be sacrificed in order to reach this level of multiplicity. First, this anthology does not offer a stable plateau from where



the landscape of modernity can be observed. If anything, this is a moving plateau itself, a re-entry in the theory with a considerable halo of uncertainty about it. The end-result is neither a handbook on what Luhmann has said, nor an introduction to Luhmann's work. Rather, we have purposefully moved away from giving any stable and, consequently, safe definitions of concepts we thought we or our contributors knew, and encouraged instead the whole project to move into the opposite direction. The individual contributions differ significantly in style, fully owning and consequently pulsating with a variety of disciplinary, cultural, gender and aesthetic backgrounds. Some are more systematic while others more lyrical, some guide the reader through carefully defined sequences of steps, whereas others construct a maze full of allusions. These differences notwithstanding, all the contributions share the same ambition: to break up the various concepts in order to give them new life.

The second thing that has been necessarily sacrificed is what might generally be perceived as pedagogic consistency – an issue that has been relevant to secondary literature on Luhmann perhaps more than with other theories. The reason is this: the received reading of Luhmann has been neat, clean, deparadoxifying, sociological. For a theory that famously does not offer solutions nor is able to be of any empirical relevance, the general tendency to cut off the theoretical bits that complicate things and concentrate instead on a streamlined and universally applicable reading is ironic. Or, to put it differently, it is a paradox too many. And a sad paradox for that matter: a truly deparadoxifying paradox that prioritizes the vocalization of theses rather than the complexity of disconsolate thinking processes. What we want instead is to give voice to all the radically deviating lines of thought that, in a veritably and usefully paradoxical way, return to Luhmann in a much more faithful way than the ones that attempt eternally to clarify, consistently streamline and finally close Luhmann's *word*.

In our attempt at this, we also want to fight some of the criticisms that have been waged against Luhmann. In the late sixties and early seventies, Luhmann's work was met by protests and criticism. At a time when progressiveness was equal to defining ideals for a better society in order to make stable foundations for a normative critique of the modern society, Luhmann's work became associated with a dull and even dangerous conservative functionalism. No book represents this misinterpretation better than the *Theorie der Gesellschaft oder Sozialtechnologie. Was leistet die Systemforschung?* (*Theory of Society or Social Technology. What does Systems Research Achieve?*) which Niklas Luhmann published with Jürgen Habermas in 1971. In this book, Luhmann is criticized by Habermas for being an ideological defender of the existing social order, without the potential to create a critique of society. After this, Luhmann was for a long period perceived as one of the 'wrong ones' with the progressive left, which, in its turn, was

searching for new ways to challenge the existing order and forms of domination. This impression has been gradually altering through the eighties and up to his death in 1998. The recognition of the originality and analytical strength of his theory for sociology in particular but also for a variety of different disciplines, gave rise to a large volume of secondary literature. It is at this stage, and especially after Luhmann's death, that the tendency to reduce his work to a dogmatic corpus has become apparent. The main trait of this tendency is that it no longer compels the reader to question, doubt, wonder, indeed luxuriate in the paradox, as Luhmann has done. It would seem that the world fell for the stylistics of Luhmann's writing, one that he consciously adopted in order to fit in, and to be heard by the then academia (Moeller's, 2012: 10, response to his self-posed question 'why he wrote such bad books'). Luhmann's whispering in the ear of the system, his attempt at being understood by the systemic language, has been seen by a great deal of the secondary literature not as a subterfuge, a brittle technique in order to get under the system's skin, the truly radical gesture that it was; on the contrary, it was seen merely as the way forward, the inheritance of the master, the hysteria of the technique. After his death, the proliferation of closures has been impressive: the many handbooks, dictionaries and introductions that have appeared since, contribute to the impression that the theory is established once and for all, fully achieved, complete. The only thing left is to clarify it and perhaps apply it. There is no doubt that such publications are very important and serve a valuable purpose. The problems begin when the volume of such publications claim the right to orthodoxy, and thus go against the theory itself that accepted no orthodoxy and embraced the paradox to the point of frequent self-irony. Luhmann's work is at risk of becoming a 'classic', against which Luhmann himself warned sociology, because it would prevent the researcher from trusting herself to wander and wonder (Luhmann, 1995: xlv).

This anthology, therefore, is full of wondrous wanderings. Several of them cross each other's paths. Thus, Christian Borch's Sloterdijkian spaces accommodate Tom Cesaratto's Nietzschean bodies and Willis Guerra Filho's Derridean immunology; Thomas Webb and Barbara Mauthe's complex reality reflects itself on William Rasch's absence of knowledge of reality, which, in its turn, folds into Andreas Philippopoulos-Mihalopoulos's Deleuzian ontology; Elena Esposito's freedom of autopoietic communication resonates with Chris Thornhill's interpretive liberty; discussions of what lies in-between functional systems appear both in Christine Weinbach's reflections on gender, and in Anders la Cour and Holger Højlund's contribution and reappears in Niels Åkerstrøm Andersen's distinction between cultivated semantics and uncultivated semantics; Sharon Persaud's discussion of the theoretical implications of the movement from subject to observer is also taken up by Todd Cesaratto. But there are also productive conflicts amongst

them: thus, Jean Clam urges for a despatialization of systemic autonomy, whereas Christian Borch and Andreas Philippopoulos-Mihalopoulos flood the system with spatiality; Anders LaCour and Holger Højlund liberate semantics from a narrow understanding of social structures whereas Niels Åkerstrøm Andersen tries to reconcile semantics with social structures; Sharon Persaud's systemic internalization of the ethical might come into conflict with Christine Weinbach's functional substitution of the ethical; Jean Clam's idea of high social contingency might challenge William Rasch's argument that epistemology is not incompatible with ontology; Barbara Mautthe and Thomas Webb's understanding of multiverse can be seen as an escape route from Chris Thornhill's resolutely anti-metaphysical Luhmann; and so on. As editors, we never wanted to resolve these conflicts. Our aim has never been to present a consistent Luhmann. On the contrary, our aim was to provide an umbrella for the various strands to appear together – and significantly not to come together. If they do so, fine. If they don't, frankly even better, since there can no longer be one orthodoxy to Luhmann's future. This is the reason for which the pieces differ also stylistically. It is very important that they do. We are moving radically away from the standard Luhmann view, and aim at beginning something new and risky.

To return to the metaphor of the city guide we used at the introduction of this volume, namely that 'there exists no one Paris, but a variety of different Paris', in this anthology we hope to have facilitated not just a multiplicity of theoretical neighbourhoods, not even just a variety of autopoietic phenomenologies but, rather more radically, a criss-crossing of hyperspaces that touch each other briefly while taking flight to push the autopoietic limits ever further; a proliferation of *milieus* that can speak to each other despite having adopted entirely different languages; a frenzy of autopoietic communication that turns around itself so manically that manages to thematize its environment in ways that break the symmetry of structural couplings and augur instead collisions of vast environmental horizons; a filling up and grounding and extending of autopoiesis whose absent spaces of ignorance are now echoing with the affective movements of material bodies and spaces; and, finally, an agglomeration of future worlds, each one with its own meaning production, each one with its own illusions and certainties, each one fragile in its omnipotence, that might or might not carry on their parallel topologies.

At the end of his book *Social Systems* (Luhmann 1995), Luhmann encourages the Hegelian owl of Minerva to stop hooting in the corner and begin its flight into the night. For us this means that instead of spending time clarifying the logical and epistemological premises before the journey, we should unfold the theories by including their otherness, thus stimulating an explosive becoming of processes of self-reference and other-reference. For us, this is the only way to prevent the owl from permanently ending her flight.

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