

Gunnar Skirbekk

Three Lectures

Argumentative Reason

Freedom of Expression

Scandinavian Modernization

SVT Press

University of Bergen, 2018

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Preface

- Why is argumentative reason essential, for modern societies?

Thus, why not “argumentophobia”? Why not being “half-modern”?

- Why is freedom of expression a precondition for these societies?

If so, what about offense in terms of indoctrination?

- Modernization processes in Scandinavia, why are they special?

Thus, why different from Anglo-American modernization?

These are, bluntly stated, the three underlying questions of these three lectures, presented at conferences in Oslo, Helsinki and Bergen in the academic year 2016-2017, focusing on three topics: argumentative reason, freedom of expression, and Scandinavian modernization.

Bergen

Decembre 2017

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Why is freedom of expression a precondition for these societies?

Modernization processes in Scandinavia, why is it special?

**Argumentative Reason
in a modernization-theoretical perspective**

Freedom of Expression

A normative justification of the legal protection of freedom of expression

**Processes of Modernization:
Scandinavian Experiences**

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Argumentative Reason

in a modernization-theoretical perspective¹

This text has in the following structure. First, as an introduction, there are three background theses that might be referred to by three catchwords: history of philosophy, theory of science, modernity theory. Then three main theses follow: argumentative reason conceived as self-critical reflection, to be extended to arguments from absurdity, from Apel to Ryle, as it were, argumentative reason conceived as a mutual search for better arguments, ideally with mutual recognition and personal improvement, a meliorist approach, and argumentative reason conceived as socially situated learning-processes, over time, with text and speech. Finally, I point at two implications: first, the need for theory of the sciences (*Wissenschaftstheorie*) and for co-responsible citizens in modern societies, and then, the anomaly, in modern societies, of those who are ‘half-modern’ and ‘argumentophobic’.

¹ This is a revised English version of a public lecture given in memory of Professor Harald Grimen (1955-2011), in Oslo in September 2016. Norwegian original, in *Norsk filosofisk tidsskrift* 1-2/2017: 57-71. Translated by Judith Larsen.

Preliminary Remarks

Reason can be multifarious. For instance, we have reason by logical inferences and reason by game-theoretical deliberations. Reason as fair judgment, reason as social awareness, and reason in dealing with practical tasks. To name a few.

Then there is lack of reason, in different versions – well known to everyone, and well known from psychology and social sciences: Freud with rationalization. Marx and Mannheim with ideology and alienation. Sociology with group thinking, tunnel vision and unintended consequences. Furthermore, we have Daniel Kahneman on fast and slow thinking, Nassim Taleb on "black swans" and unpredictable complexity,² and many others. Altogether, quite overwhelming.

Nevertheless, or precisely therefore: in this paper I shall make a case for reason, for argumentative reason – that it is needed, and that it exists after all, under certain circumstances: argumentative reason as a versatile phenomenon, though with certain basic features, and differing transitions.

² Daniel Kahneman, *Thinking Fast and Slow*, New York, Farrar, Straus & Giroux 2011. Nassim Taleb, *The Black Swan. The Impact of the Highly Improbable*. New York, Random House 2007.

First background thesis

Important features in Western *history of philosophy* may (to some extent) be conceived as learning processes in argumentative reason

The history of Western philosophy encompasses many features. Not all of it can be interpreted in terms of argumentative reason. For several reasons. Among other things because some philosophers try to launch new concepts and ways of understanding (*Welterschließung* in Heidegger or *redescription* in Rorty), in contrast to argumentation in a more traditional sense. Besides, some philosophers tend to stubbornly hold on to their own beliefs, and some do not care that much about what other philosophers are saying.

Nevertheless, in making these points on Western history of philosophy, we find ourselves at a meta-level, where we, for our part, try to understand what great thinkers may have seen, or overlooked. (What was it that Kant did not grasp in Hume's philosophy? And what did Kierkegaard grasp or not grasp, about Hegel's thinking?)

Moreover, when we want to learn from the history of philosophy, there is a difference between (i) learning the answer, the "answer-key", without you yourself doing your own reflection about it (as Kierkegaard points out, critically), and (ii) getting into the question

at hand and taking the issues and arguments head-on, and also taking their implications seriously.³

When I here make a few introductory comments on the history of Western philosophy, with a focus on early Greek philosophy, there are two reasons for this:

The reference to early Greek philosophy serves to illustrate important features in what I see as *argumentative reason*: Here, I assume, there are arguments both within and upon one's own presuppositions and also on the arguments and presuppositions of other thinkers, in a way which opens up for *productive learning processes*.

In this sense, the ancient Greeks hold a *unique position* among the early high-cultures, often referred to as the "Axial Age":⁴ Greek philosophers in ancient times stand out, by arguing with each other in a productive manner; thus they take part of the formation of some of the presuppositions for Enlightenment and modernity.

Hence, this is my claim: The ancient Greek philosophers, from the Presocratic thinkers to Plato and Aristotle, gave reasons within their own perspectives, at the same time as the next generation took a critical stance to the arguments and presuppositions of earlier philosophers. Thus, argument-based learning process emerged. Or rather, this is a possible interpretation of certain features. Heidegger sees it otherwise. (The same does Gadamer.)

³ See for example, the set-up of the learning process in *Filosofihistorie (A History of Western Thought)*. London, Routledge 2001), by Gilje/Skirbekk, which emphasizes throughout the text: (i) background and question, (ii) argumentation, (iii) answer, and (iv) implications – not focusing on "answers" alone.

⁴ Karl Jaspers, *Vom Ursprung und Ziel der Geschichte*, 1949 (*The Origin and the Goal of History*, 1953). Shmuel Eisenstadt, ed., *Origins and Diversity of Axial Age Civilizations*, 1986.

With this proviso, and being aware of the fact that the textual basis from these early times is very flimsy, we may illustrate the point in this way:

Thales, the first of the so-called philosophers of nature, is said to have claimed that "everything is water". An unreasonable claim! However, if that is the answer, what was the question? In light of the discussions among later philosophers we could say: the question deals with *change*! How to understand change? What is changing and what is unchangeable? Water could then be seen as the basis for all other things, and the universe could thus be said to consist of two things, ordinary water and all other phenomena, such as steam and air or soil and animals, which are then seen as transformed water. A bold thought! However, the implications are immense: if everything is water, in different forms, and because water is something we can observe and understand, then everything in the universe is in principle understandable to us human beings!

However, if water goes into all things, and all things go into water, then is it not just by chance that we take water to be the basic element? The next man out, Anaximander, suggests that the element, that which is unchangeable within change, is *apeiron* – that which is unbounded, beyond our senses.

Moreover, how could the transition between water and everything else be comprehended? Well, since water can become steam by heating, or frozen into ice by cooling, i.e., by different

aggregate modes, these transitions can be explained in this way, according to Anaximenes, who thus, with that notion, argues inherently, within Thales' position.

The next generation, Heraclitus and Parmenides, in turn, problematizes the premises of the first generation, concerning change: According to Heraclitus, everything is in change (*panta rei*), while Parmenides claimed that change does not exist (or rather, that change is incomprehensible). Again, unreasonable stances! But this was not really what they said. In short, for Heraclites, change is fundamental, it's everywhere, but changes occur according to certain laws. For Parmenides the problem was that the concept of change apparently presupposes that something that is, disappears, becomes non-existent, and that something that is non, appears and becomes existent. In short, the concept of change presupposes a notion of non-existence. But that which does not exist, cannot be comprehended. Thus, according to Parmenides, change is incomprehensible to human thought. Nevertheless, we do see that things change! Yes, according to our senses. Consequently, there is a conflict between thinking and sensing. What should we choose? Thinking, answers Parmenides – who held his ground, as an uncompromising rationalist.

The thinkers who came thereafter, what did they do? They try to mediate, to convey: something is immutable and something is changeable! Hence, for Empedocles, the universe consists of four

unchangeable elements – soil, air, water and fire. Each of them has immutable properties, and exists in immutable proportions. Due to an external force these basic elements enter into different constellations. This is how things arise and perish in the universe. This is how change occurs! – Fine enough, Anaxagoras seems to think, but why just four basic elements? Since there are innumerable traits, shouldn't there be innumerable elements as well? – Democritus, finally, gives the radical answer: The universe consists of indivisible and immutable particles, so small that we cannot sense them and they float around in a blank space. Atoms and empty space, that's all here is! Over time, the atoms clump together or split apart. This is how the universe is, where things rise and fall apart, some quickly, others with more lasting constellations. Surely, this is a view that points forward! However, this is still just a speculative theory, without the support of experimental science.

When the Sophists popped up, the early Greek philosophers of nature had been carrying on for around 150 years, without reaching an agreement. With the Sophists, there is a reaction: the Philosophers are contradicting each other! What can we know? The perception gets turned, reflexively, from questioning nature to questioning thought, and the question becomes critical: what can we really know? Gorgias, Thrasymachus, Protagoras. Man is the measure of all things! The Sophists are skeptical.

Skepticism may be healthy. However, as a philosophical position, it is problematic. The reaction came, with Socrates and Plato. Socrates refers to an inner voice, and he argues, as we encounter him in Plato's dialogues. Then, what about Plato himself? With the distinction between the world of ideas and the sensory world (inspired by mathematics and the Pythagoreans), he clears space for the true and the good, understood as immutable ideas and ideals, which in this way are immune to skeptical counter-arguments from the sensory world.

However, Plato himself supports counter-arguments against this two-world ontology. (Was he a Neo-Platonist? See his dialogue *Parmenides*.) Moreover, gradually he seems to change his point of view on legal laws: in the dialogue *The State*, he placed virtue and knowledge above the law, while later on, in the dialogue *The Laws*, he allows for the rule of law.⁵

In ancient Greece, Aristotle went against Plato, with among other things a criticism of the two-world ontology, and he himself

⁵ Here we have an interesting parallel, and contrast, in view of Confucius and Confucianism in China. Confucius, like Plato, reacted to what he saw as a decaying society, and recommended virtue and education, such as Plato does in the dialogue *The State*. However, Confucius and the Confucians did not change their views of the laws: action stemming from inner deeds and virtues is what we should strive for; law understood as an external compulsion is not the best! Besides, in China there was an alternative school of thought, the Legalists, who advocated the rule of law. The two stood in opposition to each other, the Confucians and the Legalists. During The Qin Dynasty, in 213 BC, the Confucians were brutally swept away. However, they came back in full force. Confucian conceptions have influenced the education of Chinese civil servants for hundreds of years, with emphasis on virtue and education, not on the rule of law, and not on argumentation, as in the case of the Greeks. See Shijun Tong, *Dialectics of Modernization: Habermas and Chinese Discourse of Modernization*. Sidney, University of Sidney, East Asian Series 2000.

(Aristotle) worked with thought models from handicrafts and biology: Form and matter. Actuality and potentiality. Theory and practice. Moderation and the Middle-way. *Zoon politikon*, man as a political animal. The good life, and friendship, *philia*, which is essential for human life. Concepts roll out, concepts that we may not think so carefully about, but which we often use when thinking. Concepts and insights developed by extensive learning processes, where thinkers have argued, with oneself and with others, instead of rejecting or ignoring the claims and contributions of other people.

This is here my point: a reminder that there are important traits of early Greek philosophy that can be interpreted and appropriated as ongoing learning processes in argumentative reason: The ancient Greek philosophers argued, with text and talk, both within and about their own presuppositions, but also with and against other thinkers and their presuppositions; hence, complex and fruitful learning processes arose.⁶

⁶ There are learning processes that have something irreversible in them, as when we experience linguistic expressions as ambiguous. If one has first experienced it, there is no way back – provided one is dealing with a full deck. Something similar, when we work seriously with different philosophical schools of thought: We become sensitive to the multitude of terms and approaches, and this experience forms us. See John Rawls about the "burdens of reason" and Harald Grimen on irreversible learning, in Gunnar Skirbekk, ed., *On Pragmatics. Contributions to current debates*. Bergen, Institute of Philosophy, Series 2001, no. 20, pp. 130-164.

Second background thesis

Scientific and scholarly activities encompass the entire scale of different academic disciplines, and common to all is argumentative reason

Scientific and scholarly activities encompass quite a lot. There are many different scientific and scholarly disciplines, also different schools of thought. A complete university reflects this diversity: both the oldest university disciplines – theology, law, and philosophy – and the natural sciences, health sciences, social sciences, and humanities.

Researchers at such universities do quite different things. Some are in the laboratory, others on fieldwork, or in the library, or doing research in distant areas. Insofar: a *multiversity*.

What is in common? The education of researchers in all academic fields reaches its high point with the doctoral degree, with disputation. Certainly, disputations can be different in nature, with varying quality. Nevertheless, fundamentally there is an argumentative trying-out of good reasons relative to less good reasons. The basic requirement is originality and solidity. It is not enough just to have an idea, or to collect some facts. Reasons must be given, by arguing face to face with fellow colleagues, in an open forum.

Thus, argumentation *within* the paradigm of one's own field of research! However, when discussions go deeper, the argumentation will touch on fundamental concepts and methods: for example, what about the concept of agency in various social sciences, and what about the idea of causal explanation? Such questions open for reflection on (and possibly changes of) presuppositions for one's own discipline, possibly also for academic criticism of other disciplines.

Moreover, knowing what one knows also means that one has some idea of what one does not know. It's about going outside of one's own box. This goes for researchers and what they achieve. Moreover, learning a discipline implies that one is aware of the limits of that discipline; this is crucial for a serious university education. Recognition of one's own limitations, and of what the others may offer, is decisive as a counterweight to one-dimensional “tunnel vision”. This is important in the workplace, but also in politics and in many other contexts. To quote the Norwegian sociologist and former Minister of Education Gudmund Hernes: There are two things a student should learn – learn a model, and learn that the model is not the reality.

My conclusion, at this point? No matter which way we twist and turn it, regardless of how much and how many different tasks that characterize a scientific or scholarly activity – activities that

generally take most of the time – nevertheless, common to them all is a basic element of argumentative reason.

Besides. Scientific and scholarly activities have normative aspects. That too. There is good research, in contrast to less good research. There is progress, or lack of progress, for the students. Moreover, the same is true for what I have here said about scientific and scholarly activities. That too has normative aspects. It is normative and situated – and thus open to further argumentation, an activity that in itself is normative, in an epistemic sense.

Third background thesis

A definition of *modernity* should (at least) encompass all scientific and scholarly disciplines, instrumental as well as interpretative, including argumentative reason

There are different perceptions as to what we should understand as modernity. Here I assume that a definition of modernity should at least encompass the sciences. And then I have all the sciences in mind, instrumental as well as interpretative, and also argumentative reason, in accordance with what is said above.

A thought experiment: Imagine that all sciences (*Wissenschaften*) are taken away, and all technology, all institutions, and all occupations and activities which in one way or

another depend on one or more sciences! If so, what you're left with is a lean definition of modernity.

However, the sciences do not whirl around in an empty space. They are situated. Historically and socially. In institutions and agents. Here we touch one of Max Weber's main points: the interaction between "value spheres" and institutions, between validity questions of different kinds and the differentiation of relatively autonomous institutions – such as the judiciary, markets, State administration, universities, the public spheres – by differentiation processes understood as formative historical processes, institutionally and culturally.

Historical processes encompass many phenomena – wars and crises, class and culture – and they may take different roads. In many cases, access to resources, special institutional developments and special collective experiences make a difference. In this way, it makes sense to talk about *multiple modernities*.⁷

However, in these developments there are also common features, according to the definition of modernity that we have launched. This is especially the case for the development of the sciences with

⁷ Gunnar Skirbekk, *Multiple Modernities. A Tale of Scandinavian Experiences*. Hong Kong, The Chinese University Press 2011.

their various and overlapping forms of rationality. In this sense, modernity is *one*, not *multiple*.

It is not a given that all "development" is progress. Nor that history goes on without loss. Yet, for self-referential reasons, in discussing all this in a modernization-theoretical perspective, we ourselves operate within argumentative reason – also when discussing cases of crisis and loss, of anomalies and pathologies.

In talking about modernization-theoretical perspectives, I have this definition in mind: the sciences are essential for modernization processes, all the sciences as we know them from complete universities, and thus the same goes for argumentative reason.

First thesis

For self-referential reasons, we need argumentative reasoning in terms of self-critical *reflection*, in the first person, about necessary presuppositions for one's own speech-acts, and also in terms of presuppositional analyses in terms of different types of *absurdity arguments*

"There is the greatest difference between presuming an opinion to be true because, with every opportunity for contesting it, it has not been refuted, and assuming its truth for the purpose of not permitting its refutation. Complete liberty of contradicting and disproving our opinion is the very condition which justifies us in

assuming its truth for purposes of action; and on no other terms can a being with human faculties have any rational assurance of being right.” John Stuart Mill, *On Liberty*.⁸

In other words, we are fallible; this is a starting point for John Stuart Mill. Therefore, we need each other. Listen to each other. Meet counter-arguments head-on. We cannot say, “I know that so and so is the case, but for goodness’ sake I do not want to hear counter-arguments, for then I may have to change my mind!” It is precisely through testing out and counter-arguments that we can trust our own points of view. Therefore, freedom of speech is required. In short, this is matter of *presuppositions*, for fallible people like us, and *not* merely a question of *usefulness*.⁹

There is more to be said about fallibility, about different interpretations and different contexts.¹⁰ More later! At this point we follow up with thoughts about self-reflection in Karl-Otto Apel and the environment around him: Apel has a radical approach.¹¹ What matters is the avoidance of performative self-contradiction! That is,

⁸ John Stuart Mill, *On Liberty*, (Ch. II, Of the Liberty of Thought and Discussion) my translation.

⁹ In contrast, see the current utilitarian interpretation of John Stuart Mill.

¹⁰ For extensive discussions on these and related issues, see Gunnar Skirbekk, *Philosophie der Moderne. Vernunft, Wahrheit, Menschenwürde, Meinungsfreiheit*. Weilerswist, Velbrück Wissenschaft 2017.

¹¹ Karl-Otto Apel, *Diskurs und Verantwortung*. Frankfurt am Main, Suhrkamp 1988, *Auseinandersetzungen in Erprobung des transzental-pragmatischen Ansatzes*, Frankfurt am Main, Suhrkamp 1998. *Reflexion und Verantwortung. Auseinandersetzungen mit Karl-Otto Apel*, Dietrich Böhler, Matthias Kettner and Gunnar Skirbekk, eds., Frankfurt am Main, Suhrkamp 2003.

a contradiction between what I claim and my act of claiming it. Between the claim and the content of the claim. Typically, for example, the claim "I do not exist!" uttered by me here and now. Or the statement "All statements are meaningless!" - what then about this statement itself? In short, in uttering such assertions we contradict ourselves. Such claims are self-referentially inconsistent. They invalidate themselves as meaningful claims in ordinary verbal communication. For language genres like irony and poetry, it looks differently.

The argument from performative self-contradiction is used *critically*, e.g. directed towards French postmodernism or scientific reductionism. In Apel, it is also used *constructively*, to point at undeniable preconditions for verbal communication. The argument is two-sided: (i) pointing out that certain utterances are meaningless (Apel: *sinnlos*), (ii) thereby making visible (or probable) that some precondition for meaningful language usage have been broken in this case. In this manner, we have an argument *through the negative* (*via negativa*), where the goal is positive: to find preconditions that are necessary for verbal communication (and to try to find out how we should best formulate these presuppositions, linguistically). In other words, it is a matter of constitutive preconditions for meaningful speech-acts. Therefore the name: "Transcendental Pragmatics".

For Apel, with his version of the "linguistic turn", or "linguistic pragmatic turn," it is crucial that self-reflection is conceived in the first-person (present indicative), and not as empirical utterances in a descriptive third-person perspective (even though the switch between different personal perspectives, such as first and third person, is constitutive for verbal communication).

Thus, the notion of “performative self-contradiction” is central to Apel. This is what we should avoid in our own language use! At the same time, it is through this kind of meaninglessness (*Sinnlosigkeit*) that we can reflexively grasp the constitutive conditions for verbal communication.

However, Apel uses the term performative self-contradiction about different utterances. That is not unproblematic. For example, here are some of quotes from Apel’s writings:¹²

"I hereby claim that I do not exist."

"I hereby claim to you that you do not exist."

"I claim as true that I do not make truth claims."

"I claim that all language use, including argumentation, is nothing but the use of force."

¹² From Matthias Kettner, “Ansatz zu einer Taxonomie performativer Selbstwidersprüche”, in Andreas Dorschel et al., eds., *Transzentalpragmatik*. Frankfurt am Main, Suhrkamp 1993: 196-197. My translation.

"I utter, as a proposal apt for consensus (*konsensfähig*), that we should in principle replace consensus as a discussion goal with dissent as a discussion goal."

However, these examples are not performative self-contradictory (and thereby "meaningless") in the *same* sense. Here we have *different* versions of performative self-contradictory claims and therefore *different* versions of pragmatic meaninglessness or absurdity (*Sinnlosigkeit*). This is an interesting observation concerning presuppositional arguments *via negativa*, where we look for necessary preconditions by reflecting on different instances of absurdity (meaninglessness). We may ask: If there are different meanings of "meaninglessness" (*Sinnlosigkeit*) in such cases, does it mean that there are also different meanings of pragmatically necessary preconditions?

At this point I would emphasize the importance of careful analyzes of *different types of examples*, different example-based thought experiments, and not (only) of general positional analyzes. Here are some examples, just to highlight this point: To say "my dog is not my dog" is self-contradictory, given usual language usage. (See the statement, "A is not A".) To say "my dog is 3 years old", when he's actually five, is an empirical error. The statement "My dog can count to 10" is an empirical claim that could be true or false. But to 100? An empirical assertion, but hardly true. And to

1000? Still empirical, but even less credible, as to the truth question. Similarly when saying "my dog can count to 10,000"; in which case we may start to wonder if this is really referring to a "dog", and not another intelligent being, in dog-town! Correspondingly, with the statement "my dog reads newspapers". Empirical claim? And if so, would it then be seen as so untrue that it is meaningless to investigate the case empirically? Or would we in, this case, rather go for a conceptual approach, as to the meaning of the term "dog"? Dogs do not read newspapers! If this creature is reading newspapers, then it is not a dog, by definition!

What about the assertion: "My dog has a doctorate in philosophy"? Empirical? And then so hopelessly empirically wrong that is it useless to ask for financial support for an empirical investigation (e.g. from the Research Council)? Or is it simply meaningless, absurd?

Yet, "absurd" in what sense? It is possible to make cartoon films with dogs that read newspapers and have a PhD in philosophy! Disney movies are full of such things. Alright. But what about the statement: "My dog is the 3rd day of May"? Oy vey, that is even more absurd, to say it that way! We cannot even make a cartoon about such a creature! Here we have a claim that simply is

unthinkable, both as a cartoon and science fiction. Therefore, absurd and impossible, in an even more radical sense.¹³

The point is this: By playing through a set of different examples, we see that assertions may be meaningless (or absurd) in different meanings. In short, the term "meaningless" (or "absurd") appears as ambiguous.

These examples also provide a hint of gradual transitions, from simple factual errors to gross errors of fact, and further towards an increasing degree of meaninglessness. To the extent that this is the case, we can talk about gradualism, not just about pluralism.

If we maintain that the empirical sciences operate within processes of falsification, trying to find out whether empirical claims are true or false, and if we assume that philosophy (among other things) operates with concepts as to what is impossible and what is necessary, we may then, informed by the various cases mentioned above, refer to a gradual transition between empirical sciences and philosophy – and also to a gradual transition between

¹³ Verbal expressions can be interpreted and contextualized in different manners. This is an important point, also in philosophy. See Gunnar Skirbekk, «Wahrheit und Begründung. Überlegungen zu epistemischen Begriffen und Praktiken». In: Böhler, Dietrich, Matthias Kettner and Gunnar Skirbekk, eds., *Reflexion und Verantwortung*. Frankfurt am Main, Suhrkamp 2003: 236-259. When this point is in place, there is no basis for a *general* criticism of absurdity-theoretical interpretations of category mistakes and other problematic formulations; but it is still important to distinguish between different types of "absurdity". This is a response to Harald Grimen and Nils Gilje, eds., *Discursive Modernity*. Oslo, Universitetsforlaget 2007: 13-16.

transcendental-pragmatic presuppositional analyzes (as with Apel) and presuppositional analyzes in analytical philosophy of language (with discussions of category mistakes, as in Gilbert Ryle) and praxological action-analyzes (as in the later Wittgenstein).

Consequently, our methodical approach has conceptual-analytic features, in discussing examples and thought experiments, in contrast to a way of thinking that focuses on overall philosophical positions and predominantly works with general conceptual dichotomies (as is often the case in both Apel and Habermas).

In short, I here put in a word of defense for thinking in lines of transcendental-pragmatic points (as in Apel and in part in Habermas) by applying the analytical and argumentative skills found in analytic philosophy (as in Ryle and the later Wittgenstein). Bluntly stated: I go for an extended usage of *case-oriented absurdity arguments*, from self-reflexive arguments in transcendental-pragmatics to *reductio ad absurdum* arguments in the philosophy of language.

The second thesis

As fallible beings, we need argumentative reason in term of discussions, as a deliberative and mutual search for better arguments, in a *melioristic* perspective, without being bound by the strong ideal of a final consensus among "all concerned" –

that is, a melioristic learning-process involving *personal development* through role-playing and "will-formation"

Habermas assumes that speech-acts in ordinary verbal communication raise two general "validity claims" (*Geltungsansprüche*) that can be "redeemed" by argumentation, under ideal conditions: questions about *truth* and questions about *normative validity* (for fundamental moral and legal norms, not for cultural values, which are perceived as contextual).

These conditions, briefly stated, are "the forceless force of the better argument"¹⁴ (the ability and willingness to seek and be open to arguments that compel by being better) and mutual recognition among argumentation-participants, as reasonable and fallible persons (thus it makes sense to listen and learn from each other, not least by role-taking).

The idea is that under such conditions all arguments could be heard and considered. In the long run, reasonable persons should therefore be able to arrive at well-founded opinions, on what is true and what is right.

It is assumed that the participants already are sufficiently reasonable and enlightened. However, it is also assumed that the ongoing discussions will contribute in empowering the participants

¹⁴ Jürgen Habermas, *Legitimation Crisis*. Boston, Beacon Press 1975: 108.

in this respect. In short, that the discussions may have a disciplinary and formative function.

In other words, it is not just a matter of valid argumentation, with truth-seeking as a goal, but also a matter of personal formation, with emphasis on role-playing and "will-formation" – in short, concerning the ability and willingness to see the world from the others' points of view, and to be reflective and self-critical to one's own attitudes and "need-interpretations".

This is the ideal, to strive for. But real discussions may go awry. Thus, many things must be in place, in the hope to make it happen, in a reasonable way – for example: educationally and institutionally, politically and culturally.

We will never be perfect. But it is possible to aspire to improve oneself, to become a more mature and reasonable person, as a realistic regulative idea.

One additional point: Argumentation concerning truth questions differs from argumentation concerning questions which deal with normative validity. When both are referred to as "argumentatively redeemable", the personally formative element, with an ability and willingness to do role-playing, is particularly important for the discussion concerning normative validity. Consequently, the

question of consensus is somewhat different in these two cases. Put bluntly, some would say: "consensus because it is true" and "normatively right because it is consensus" – and then consensus among persons who are not only informed and reasonable, but who are also reasonably well-educated, also by role-playing, and preferably by discussions with other persons who are present, face to face.

However, it's more complicated than that. Because then we have the problems and objections, and the discussions about all this! For example, about the relationship between justification and truth, and the notion of an ideal consensus, in Apel on one side and Rorty on the other, and Wellmer and Habermas with different intermediate points of view: We refer to statements as true or false. What do we understand by truth? The concept of truth? Here we have the well-known dilemma concerning the relationship between justification and truth. A justification may prove to be inadequate or incorrect. Justifications are situated in space and time, and justifications can be lost. On the other hand, if a statement is true, e.g. the Pythagorean doctrine, it is true regardless of time and place and of who makes the statement. But if we play our cards in this way, how can we then, as fallible and searching persons, come *from* justification *to* truth?

The response from transcendental-pragmatics is self-reflexive, i.e.: self-reflection on performatively unavoidable presuppositions in epistemically serious verbal communication, under ideal conditions! For Apel, this implies (by a Kantian interpretation of Peirce) that the notion of truth is understood as a performatively unavoidable regulatory idea, in terms of an ideal consensus, in an ideal research and communication community, *in the long run*. Not as a historic event, but as a binding direction for the search for truth, and in this way as a mediation between the notion of truth and justification. The point is, according to Apel, that these presuppositions are entailed in the truth claims that we raise in epistemically serious speech-acts. If this is denied the result is performative self-contradiction, and thus, performative *Sinnlosigkeit*, according to Apel.

The discussions became extensive. Popperians (like Albert and Keuth¹⁵) interpret Apel's claims about performative insight in the first-person perspective, as empirical claims in the third-person perspective; they reduce pragmatics to semantics, as Apel sees it. On the other hand, Richard Rorty, with his naturalistic pragmatism, thinks that the concept of justification is enough; the concept truth is not necessary. But, then, what about this assertion itself (as Apel

¹⁵ Hans Albert, *Transzendentale Träumereien*. Hamburg, Hoffmann & Campe 1975; Herbert Keuth, *Erkenntnis oder Entscheidung? Zur Kritik der kritischen Theorie*. Tübingen, J. C. B. Mohr 1993.

will object), in case it *is* an assertion (from Rorty's side), and if it is *not* an assertion, what is it then?

Albrecht Wellmer thinks that Apel stretches the argument of performative presuppositions too far, to the extent that Apel ends up with a philosophical *theory* (and not a self-reflexively inescapable insight) – as a God's Eye-View, with an outside glance (which mediates between subject and object, to put it that way). Besides, for Wellmer, it is important to point out that there is an irreducible battle going on, concerning language, that is, as to what language should be used. Wellmer will therefore delimit the argument to performative presuppositions in the exchange between (the grammatical) first-person perspective (where my reasons are seen as true reasons) and the perspective of the others (whose reasons appear as fallible).¹⁶

These are extensive and complex discussions. In this context, I can only indicate that, for my part, I find myself between Apel and Wellmer,¹⁷ since (compared with Apel) I go for a more example-oriented and pluralistic approach in dealing with performative

¹⁶ Albrecht Wellmer, "Der Streit und die Wahrheit. Pragmatismus ohne regulative Ideen". In: Dietrich Böhler, Matthias Kettner, Gunnar Skirbekk, eds., *Reflexion und Verantwortung*. Frankfurt am Main, Suhrkamp 2003: 143-170. Apel's reply, "Wahrheit als regulative Idee", *ibid.*, pp. 171-196. Also Jürgen Habermas, *Wahrheit und Rechtfertigung*. Frankfurt am Main, Suhrkamp 1999.

¹⁷ Though, at the end, closer to Wellmer. See, for example, Gunnar Skirbekk, *Rationality and Modernity*. Oslo/Oxford, Scandinavian University Press/Oxford University Press 1993. Also Gunnar Skirbekk, "Inledning". In: Gunnar Skirbekk, ed., *Striden om sanningen*. Göteborg, Daidalos 2004: 7-27.

arguments (as mentioned above). At the same time, I want to emphasize the dynamics between the two positions mentioned by Wellmer, since "my" reasons are precisely those reasons which I have arrived at by means of serious discussions with others.¹⁸ That's precisely why we are motivated to argue, to take counter-arguments seriously and to learn by trying to see things from other people's positions. Hence, the notion of fallibility should be interpreted as pluralistic and example-oriented (see below).

In addition to these remarks, I restrict myself to some quick comments on three points:

- (i) The notion of an ideal consensus among "*those affected*", that Habermas refers to, in defense of the concept of universal norms of justice, does not only meet resistance due to all kinds of *practical* problems, when trying to find out what *all currently living people* might believe about various issues, but also in regards to *conceptual* problems to the extent that the term “*those affected*” (*die Betroffene*) encompasses *future generations*. And of course, they should be included in many cases; consider issues connected to climate change and ecological challenges, with consequence for future generations. However, *future people* cannot participate, here and now. Nor do we, living today, know who they are, nor how many there will be. Besides, to the extent that the usage and

¹⁸ Same point emphasized by Wellmer in Wellmer 2003, p. 162 (see note 16 above).

allocation of resources are involved, we immediately get the further question whether "those affected" should also include *other sensory beings*, other than *homo-sapiens*. – In short, the term "those affected" is notoriously indefinite and indeterminable.

- (ii) In the discussion (in Habermas and Apel) on universal "validity claims," the question concerning *the use of concepts* has an *unclear epistemic status*. A meaningful usage of concepts is a precondition for statements to be true, yet it is also as a precondition for meaningful statements about normative issues, whether they are legal norms, moral norms, or cultural values. Consequently, normative issues, value questions included, are not to be seen as valid merely because there is a *consensus* among those affected, since the question whether a given set of concepts is more or less adequate in a given context is a matter that *can be discussed with more or less good arguments*, in short as an *independent "validity claim"*: Is the use of a particular concept a fairer and more relevant one than the use an alternative concept, in a particular case? For example, when citizens (*Staatsbürger*) are referred to merely as customers or clients in a political debate. Of course, questions of appropriate usage of concepts are controversial in many cases. For example, there are disputes about the “power of definition” (*Definitionsmacht*), among different professions and disciplines. Nevertheless, often there may be good reasons for the claim that a certain use of concepts is too simple in a particular case (as when

students are defined as consumers of an educational product, in a research project on university life). Even when everything that is said is empirically true, it can, in such cases, be argued that the choice of concepts is too simple and that there are vital issues that cannot be conceived by using such concepts alone. This opens up for academic criticism among academic disciplines and their professions. Bluntly stated: conceptual poverty can be a fatal form of poverty.

(iii) *Fallibility* is an important term. However, there are different forms and degrees of fallibility.¹⁹ For example, even though we as human beings, generally speaking, are fallible, there are many things we do know with reasonable certainty. Three examples:

(a) *In the sciences*. For instance, the descriptive macro-anatomy of the human body is no longer an academic research discipline. Today we know everything there is to know. Today it is an educational discipline for students in the health-care professions. Certainly, the human body may, in different groups or in general, become thinner or heavier, taller or shorter. But as long as there are no mutations, we know what there is to know: that the *clavicular* is so and so long, with these and those joints, that *musculus latissimus dorsi* has this and that cartilage and this and that inversion, and so on. Another case: Norse literature is limited, in the sense that we most likely

¹⁹ This is a main point in Wellmer, *ibid.* pp. 155-167, e.g. notes 14 (p. 158) and 28 (p. 165-6).

have all the texts we possibly could have. Yet here, in principle, new interpretational traditions may arise, such as when Freud in his time eventually gave a new perspective and conceptual framework for the study of literary texts. When it comes to descriptive macro-anatomy for the human body, on the other hand, the conceptual usage is given. In this case, it does not make much sense to talk about fallibility, not even in the light of new interpretations.

(b) *Simple acts in daily life.* It is not always the case that we know what we are doing. For instance, there are cases of self-deception, cf. psychoanalysis, and there might be cases of ideological narrowmindedness, cf. Marx and Mannheim, and in many cases there may be insufficient information about the consequences and implications of what we are doing. Nevertheless, in many instances we can know reasonably well what we are doing, as in cases of elementary bodily and social acts, such as walking or grabbing or greeting others, and also for elementary speech-acts in one's native language. So-called "tacit knowledge" is part of this – as when the researchers in CERN assume that the French language is the same today as yesterday, that the floor will hold them, that the breakers will work as they previously have worked, etc. - all these are preconditions so that the experiment can be carried out and theories be tested .

(c) *Speech-act inherent preconditions for argumentation*, as we have pointed out, earlier in this paper. Insofar, Apel has a good point, when he argues against fallibilism as a *universal*, comprehensive and thus self-contradictory claim.

Based on what is said above, it is my view that we can do without Apel's strong thesis of ideal consensus. However, for self-reflexive reasons we need a concept of good reasons as "my" reasons. That is, that "my" reasons are the reasons I take to be the best ones, here and now, after (among other things) listening to others. In short, we need a concept of "better reasons," in contrast to "less good reasons." Without this, learning would be impossible. In this sense, what we need is *meliiorism* – an urge for epistemic improvement, to search for better reasons, under relevant circumstances.

The third thesis

Realistically, argumentative reason should be *situational*, institutionally and person-based, as a formative interaction over time, with text and talk, where we listen and speak, but also read and write, and preferably seek out other environments, with other experiences and modes of thinking

Argumentation does not merely take place in the seminar room, as an academic specialty, with the German "*Hauptseminar*" as a paradigm. That is not how it is. Nor is that how it should be. In many cases, for sure, it is *after* a conversation that we realize what

we should have said, and that we continue to think about what we ourselves said and about what others said, and maybe we read up on an unclear point, and perhaps we try to formulate ourselves in writing, in order to clarify and remember key points. Hence, written formulations are useful. Texts are important so that we can hold on to our thoughts and ideas, and also analyze them with precision. Speech, conversation, is important for argumentative reasons; but that also applies to texts – to reading and to analyzing written texts from other people, and also for the person who formulates his or her thoughts and ideas in writing. However, all this takes time; it often happens either before or after the actual conversation. Moreover, often further conversations are needed. Hence, the argumentation becomes a formative process that under certain circumstances can go on for a long period of time. For some individuals, maybe their entire lifetime! And in society, over many generations – such as, for example, what we see in Western thought, from the early Greeks to this very day.²⁰

²⁰ For *public enlightenment* and *basic cultural modernization*, the printed word was important – in the case of Norway: from Gutenberg and Luther, from Ludvig Holberg to Hans Nilsen Hauge and the popular publications, from 1814 and beyond. (Gunnar Skirbekk, *Multiple Modernities. A Tale of Scandinavian Experiences*. Hong Kong, the Chinese University Press 2011. Also Gunnar Skirbekk, "Processes of Modernization: Scandinavian Experiences", paper from the conference *North European and Russian Societies in the Enlightenment: Modernisation and Cultural Transfer*, Helsinki October 7-8 2016, see below. However, this was not the case in all places. For instance, the first printed book of the Quran in an Arab country was published in Egypt in 1924, close to 500 years after Gutenberg. See Ghaly, Mohammed: "The Interplay of Technology and Sacredness in Islam: Discussions of Muslim Scholars on Printing the Qur'an." In: *Studies in Ethics, Law and Technology*, 2009 (3), no. 2. References: 20-24.

Again, we recall how the ancient Greek philosophers were arguing, with their texts and spoken discussions, within and about their own assumptions and also with and against other thinkers and their presuppositions. Bluntly stated, when there are no written texts, then there is no precise argumentation, no philosophy, no science – not even in a culture with a rich, oral tradition.

Hence, the notion of argumentation and argumentative reason should be conceived as situated, as a formative interaction over time, with texts and talk, where we listen and speak, but also read and write, and also relate to other environments, both by texts and by seeking out others.

First Implication

There are various crises in modern societies, and they overlap each other. Hence, we cannot conceive them using only one type of science; one-dimensional expertise does not do the work. Besides, scientific research is often uncertain. Hence, there is a need for argumentative reason in term of *theory of the sciences and academic criticism*. Additionally, as citizens of a modern democracy, we have a co-responsibility; hence, there is a need for education and enlightenment.

Modern crises overlap each other. Just some key words, as a reminder: increasing social and economic disparities, with unemployment and the “working poor”, new technology with the loss of traditional workplaces, social unrest and distrust, climate issues and unsustainable population growth, often in areas with

weak institutions and failing cultural modernization. In short, there are lots of crises. Moreover, they *overlap one another*, often in *complex* ways. Therefore, they cannot be grasped and dealt with by one science alone or solved by any one-dimensional expertise.

Hence, many things are needed, not least institutionally and politically, but also in terms of *open and enlightened academic criticism*, both of political actors and institutions, and of one-dimensional expertise and short-term policies, including *philosophical reflection* on current plans and strategies, e.g., with a critique of tunnel vision and conceptual poverty.

These challenges affect us all, albeit in different ways, and not just those who are politically active. Being a *citizen (Staatsbürger)* of a modern democracy does not just entail being a customer or a client, or just being a subject (*Untertan*). As mature citizens in a democratic state, we can elect representatives to the legislature, and we ourselves can be elected; we can organize and demonstrate, keep updated on what is happening and on what can be done, and we can ourselves participate in the debate.²¹

²¹ Institutions have preconditions, also normative ones. For instance, in modern democracies it is mandatory to go to school. That is not accidental. Institutions like democracy and the welfare state demand and presume that most people live up to certain roles and values. If we want to benefit from institutions, we should know that there are normative implications. Hence, as mature citizens of modern constitutional democracies with a universal and generous welfare state, not only do we have moral and judicial obligations, but also *political and institutional obligations*, i.e., to attempt to live up to institutional challenges, among other thing by trying to improve ourselves as enlightened and mature persons. Correspondingly, the government has, among many things, the

As mature citizens (*mündige Staatsbürger*), we should not only just obey the applicable laws, but should ourselves also be a part in giving the laws. As mature citizens in modern crisis-ridden democracies, we therefore have a shared co-responsibility, though depending on our abilities and resources. Therefore, everyone is challenged, among other things to cultivate his or her ability and willingness to listen to others, to take counter-arguments seriously, and to try to improve ourselves, as mature persons and co-responsible citizens. Thus, once again, argumentative reason!

Second implication

Modern societies require cultural modernity. The constellation of modern technology and of premodern attitudes and premodern actions is an anomaly. In these cases we have “half-modern” persons who overlook or reject interpretative and argumentative sciences. Some could also be described as “argumentophobic”, characterized by fear of and disgust for argumentative reason.

Modern societies require all the sciences: different natural sciences, social sciences, and humanities, from historiography and philosophy to theology, law and linguistics, and also self-critical argumentation.

responsibility to ensure a good basic education for everyone and to facilitate free and enlightened public conversation (see § 100, last paragraph, in the Norwegian Constitution).

Modern societies require cultural modernization: awareness of the diversity of perspectives and perceptions, awareness of the fact that our conceptions are often fallible and that we can learn from each other – and that we can learn to relate to different institutions, with different roles and demands.

In contrast, we have *semi-modern* societies, with modern technology and premodern beliefs and attitudes – whether they are in the Middle East or in the Midwest. Bluntly stated, those who are in favor of modern technology, modern weaponry and means of communication, but who disregard or detest the full range of modern sciences (and who might even believe that their dead heroes enjoy a gorgeous life in a heavenly Paradise). In that sense, they are *half-modern*. A fatal constellation. Furthermore, we have those who are *argumentophobic*, with fear and disgust for open and enlightened argumentation.²²

Modernity is a challenging project, to say the least. Nevertheless, there is no reasonable way back, to an epistemically premodern world.

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²² Such as orthodox jihadists as well as light-footed postmodernists; for the first category, see Gunnar Skirbekk, "Unabsichtliche Blasphemie und das Bedürfniss nach Theologie". In: Gunnar Skirbekk, *Herausforderungen der Moderne*. Berlin, Logos 2012: 9-23; for the latter, see Gunnar Skirbekk, "Bruno Latour's anthropology of the Moderns". In: *Radical Philosophy*, 2015: 45-47.

In times of crisis, with one-dimensional orthodoxy, scientistic as well as religious, on the one hand, and post-modernist relativism and fake news on the other, argumentative reason, in a modernization-theoretic perspective, is a vital, but contentious project.

Freedom of Expression

A normative justification of the legal protection of freedom of expression²³

In this paper I shall give a normative justification of the legal protection of freedom of expression; this is done by an analysis of presuppositions for three modern institutions: democracy, truth seeking, and individual autonomy. Moreover, I shall discuss a main ambiguity of the term “offense”, namely, the difference between offense in terms of negative feelings and offense in terms of indoctrination and brainwashing.

Preliminary Remarks

In the history of the Western World there are at least three classic and decisive legal cases concerning *freedom of opinion*, or, better,

²³ A paper presented at the conference «Ethical Interventions», at the University of Bergen, March 17 2017. Published on internet: churchandstate.org.uk/2017/10/. German version is published in Gunnar Skirbekk, *Philosophie der Moderne. Vernunft, Wahrheit, Menschenwürde, Meinungsfreiheit*. Weilerswist, Velbrück Wissenschaft, 2017.

freedom of expression. For, in liberal constitutional States, what matters legally are *expressions*, not *opinions*. To make it explicit: consider, as a contrast, an orthodox version of Islam, according to which a Muslim is free to hold the opinion that Allah does not exist, but not to express this opinion in public; in some Muslim countries, one risks death penalty for doing so.

The first of these legal cases is the one against Socrates in Athens, probably in 399 BC. According to the sources, Socrates was condemned mainly for his speeches, not for his deeds.

The second case is the trial against Jesus of Nazareth, according to the sources in the year 33 after his birth. Here, too, the sources tell us that Jesus, at crucial points, was condemned for his words, not for his deeds. "Are you the King of the Jews?" (John 18:33); "Are you the Messiah?" (Luke 22: 67); "Are you the Son of God?" (ibid. 70). Pilate said, "I find no basis for a charge against him" (John 19: 6), and above the cross he had the inscription "Jesus of Nazareth, king of the Jews" (ibid. 19).

The third case is the trial against Galileo Galilei on June 22, 1633. This time, the new scientific theories were at the heart of the dispute. In a sense, it is of less importance whether Galileo was right in every detail. What is decisive is the principle of free research. Free research has to face open discussion and contradicting views; therefore, it presupposes freedom of expression.

The Thirty Years' War, raging at the time, initiated a differentiation process in the relationship between religion and politics, which gradually made it possible to combine a common juridical-political system with a variety of religious views. Similarly, the process against Galileo was a harbinger of a differentiation process between theological and political powers and a public space for free exchange of opinions.

The philosophy of the Enlightenment supported the claim for free scientific research, against ignorance and outdated convictions. Freedom of expression in the public sphere expanded during the course of the 18th century. Initially concerned with scientific and philosophical questions, it gradually came to include political questions in the sense that it entailed the possibility to discuss all topics of public interest in the public sphere informed by a notion of free and enlightened exchange of opinions.

Freedom of expression as a necessary condition

This conviction, rooted in the Enlightenment, refers to a modern notion of freedom of expression as a necessary condition for a free and open exchange of views on questions of general interest, led by enlightened persons in public space.

Here we have discussions of *different kinds*, with different demands when it comes to the competence of the participants and with different expectations with regard to a possible outcome: (i)

Scientific debates generally presuppose specific competences among the participants, and, at the same time, combined with relevant research these debates may lead to well-founded answers, in terms of better knowledge. (ii) Epistemological and ethical debates may contribute to clarification, give us a more precise understanding, and see to it that counter-arguments are taken seriously. (iii) The same applies to discussions on religious and cultural issues; but here the expectation that this is likely to lead to universally valid answers is more modest. (iv) Political and juridical discussions may raise the expectation that discursive clarification and explanation may lead to fruitful learning processes and improve the quality of the debate. This would hopefully make upcoming political and legal decisions as well-founded and reliable as possible.

Against this background, we could tentatively formulate a *normative notion of freedom of expression*, a notion that is *historically situated and theoretically founded*.

In so doing we start from an updated interpretation of freedom of expression, with its origin in the Enlightenment.

In accordance with a generally accepted view, we shall emphasize three elements of such a normative notion of freedom of expression: (A) *personal autonomy, through the free formation of opinions by the individual*, (B) *joint search for a better understanding of public questions*, and (C) *deliberative democracy*.

In a condensed formulation, we may speak of *autonomous person*, *search for truth* and *deliberative democracy*. However, these terms are ambiguous and need to be explicated. Though, before we start, it is worthwhile to emphasize that these three terms are interrelated and thus constitute a whole.

(A) Autonomous person (*mündige Person*)

When we here speak of personal autonomy, we do not operate with an idealized picture of autonomous persons, nor with an idealized model of individuals endowed with innate, pre-political rights. What we have in mind is a rather sober idea of persons who are sufficiently reasonable, and fallible at the same time.

What we have in mind are persons who to some extent are capable to participate in public disputes. Hence, not all human beings are persons in this sense. Toddlers, for example, are not. Others have to speak for them. Moreover, those who are capable to act as mature (*mündige*) persons in this sense, do not act in this way in all settings. We all hold different roles, between which we alternate. We do not always act as serious debaters, discussing things of public interest in public arenas. Often we deal with quite different issues. Moreover, often we express ourselves as private persons, or we talk about publicly irrelevant matters, or we express ourselves in a way that has nothing to do with in serious discussions. That is why, in this paper, we focus on persons who are able to participate in public disputes, when they do so.

Major persons, who to some extent are discursively competent, can be described as reasonable. But they are also *fallible*. Precisely because such persons are reasonable as well as fallible, it is vital to have an open and enlightened exchange of ideas and opinions, based on freedom of expression: We are fallible, we see "in part" (as it were), and therefore we need to expose ourselves to counter-arguments and alternative perspectives.

"There is the greatest difference between presuming an opinion to be true because, with every opportunity for contesting it, it has not been refuted, and assuming its truth for the purpose of not permitting its refutation. Complete liberty of contradicting and disproving our opinion is the very condition which justifies us in assuming its truth for purposes of action; and on no other terms can a being with human faculties have any rational assurance of being right." John Stuart Mill, *On Liberty*.²⁴

It is decisive that freedom of expression is indispensable for such persons who are fallible as well as reasonable. This is an important argument in the justification of freedom of expression.

(B) Search for truth

When we here speak of freedom of expression we rely on this kind of argumentation (as given by John Stuart Mills): If we want to know whether a position we consider to be well founded, really is

²⁴ Chapter II, Of the Liberty of Thought and Discussion.

well founded, we need to know the counter-arguments. Being reasonable and fallible persons, who seek to find our way through complicated matters, we have no other way than a free and open exchange of opinions, whereby different views are tried out, the one against the other, and where relevant research results are discussed critically. Hence, freedom of expression is not merely a preference, a value along with other values (at the same level, as it were), but a prerequisite without which we cannot reach reasonable views. For us, citizens of modern societies, who want to be able to distinguish between more or less tenable and untenable views on complicated issues, freedom of expression is an indispensable condition.

The strength of this argument is double-sided. On the one hand, it is rooted in the negative self-reference, the self-referential inconsistency that occurs when we try to deny the necessity of knowing relevant counter-arguments to our truth-claims; and on the other hand, it is located in the fact that a fallible search for truth represents a basic feature of modern science-based societies.

Since we are fallible, in order to have confidence in our own views, that is, in what we by now hold to be the best founded view, we need to listen to the other persons and to be open for their arguments and modes of reflection. In this sense, we need to seek better arguments and to stick to the best arguments.

However, for this to happen, all participants have to be able to express themselves freely. Freedom of expression is a precondition

– a necessary but not a sufficient condition. Other conditions are also to be met. For example, serious discussions presuppose that the participants recognize each other as reasonable and fallible persons. Hence, we have a moral norm: It is a prerequisite for such discussions that the participants recognize each other as equal (in this sense, of being sufficiently reasonable, and fallible).

This is the decisive point: To promote a joint search for better points of view, on issues of public importance, freedom of expression is essential. To undermine this freedom is a violation against this kind of argumentative search. This is an important element in the justification of freedom of expression in modern

(C) Deliberative democracy

When we speak of deliberative democracy, what we have in mind is a modern representative democracy, based on free elections and majority rule, but also on an institutional system and a political culture whereby issues of public interest are discussed freely and fairly in the public sphere. All well-functioning democracies have compulsory school education. That is not accidental. Legal adults, as citizens (*mündige Staatsbürger*) in modern democracies, ought to be adequately educated and enlightened. These are institution-inherent norms.

In other words, within the notion of a deliberative democracy, the notion of reasonable and fallible persons and the notion of a

joint search for better points of view on public questions are already included. Thus, the three notions form a whole: reasonable-fallible persons in a joint search, by free and enlightened discussions and opinion formation, to obtain reasonable common views on issues that are politically relevant. Hence, freedom of expression is indispensable. If we want to have such a democracy, we have to insist on freedom of expression. Freedom of expression is a necessary (but not a sufficient) condition of democracy, and hence freedom of expression cannot be an issue that is open for voting in a democracy. Freedom of expression is a normative principle of a constitutional and constitutive nature. It sets the limits to what can be decided by voting in a modern democracy consisting of fallible citizens who care for reasonable answers to public questions.

The crucial point is thus: freedom of expression is essential for such a political system. A violation of freedom of expression is a violation of a discussion-based democracy. This is a crucial argument for the justification of freedom of expression in modern societies with deliberative democracy.

These three interwoven notions – autonomous personhood, joint search for a better understanding of public affairs, and deliberative democracy – taken together, represent a strong justification for the legal protection of freedom of expression.

Here, the main concern is that of discursive utterances in the public sphere about public affairs. These are the utterances that are primarily protected by these arguments. From these paradigmatic cases there are gradual transitions to other types of utterances, themes and arenas. To explore these gradual transitions is in itself a main task of enlightened public discussions and legal testing.

For clarification, it may be useful to outline the contrast, i.e. to name those arenas, issues and utterances that do not primarily fall under the paradigmatic cases that require strong legal protection in our society:

Private sphere. What you utter to yourself in the shower, or to your cohabitant during a meal, is uttered in private space, not in public. Even if the topic could be of public interest and the form of the utterances is communicative and argumentative, these utterances would not belong to what is primarily in need of a legal protection of the freedom of expression in our society. (In totalitarian societies, that would be different.) Such utterances should be legally protected solely because they are uttered in private space, but they have little to do with the paradigmatic cases outlined above.

Private issues. If someone carries a sign in a public street with the inscription "I love my dog", she expresses herself in the public space, but to a purely private topic, without any public interest. Such expressions, too, deserve an appropriate legal protection.

However, considering our notion of freedom of expression, they do not belong to the kind of utterances that need a special legal protection.

Strategic utterances. Primarily, utterances of a deliberative and argumentative nature hold a special legal protection according to the normative notion of freedom of expression presented here. Strategic statements that aim to manipulate or indoctrinate other persons do not enjoy any privileged protection according to this notion. However, argumentative and strategic utterances cannot always be sharply separated. There are multiple and ambiguous overlaps. Hence, in such cases, it is often difficult to decide where to draw the line for a legal protection of the freedom of expression.

Limitations

(I) Institutions

To begin with, we recall some general points about social institutions. In ideal-type sociological terms, we may say the following: The normative notion of freedom of expression outlined in this paper is primarily located in the public sphere and in civil society. This notion of freedom of expression is not primarily located in market interactions, within economic institutions. Why? Because it is difficult to see how events on the market and in economic life could be said to get their normative

justification essentially by the three normative notions that constitute the justification for freedom of expression. Economic actions are primarily justified by welfare arguments, in a utilitarian sense, with regard to economic benefits. We could also say that actions and utterances on the market gain legitimacy by being functionally necessary or useful to the economic institution, a subordinate argument being that in modern societies we cannot cope without such an institution. (Though a well-functioning market presupposes some legal and ethical principles – as emphasized already by Adam Smith.) Anyhow, economic actions and utterances do not derive their justification from the justification of deliberative democratic actions and utterances, founded in a fallible joint search for truth, and efforts to improve personal autonomy. However, in professional life, private and public, the legal protection of "whistleblowers" is an important issue.

(II) Types of utterances and notions

This institution-based, normative notion of freedom of expression is primarily intended not only to benefit certain institutions (or forums, arenas – as pointed out in the former section), but also certain types of utterances – that is, utterances concerning public issues in the public sphere.

Of course, utterances that are protected under the principle of freedom of expression could at the outset be defined more widely

and vaguely. However, *in practice*, we would nevertheless have to *differentiate* between different utterances with regard to how much legal protection they deserve. Therefore, in my opinion, it is better to start from a more precise and well-founded notion of freedom of expression, which can then be followed up by public discussions and legal considerations concerning the degree of legal tolerance, and legal protection, that the various other utterances deserve, in their different contexts and institutions.

There is, for instance (as already indicated) an important analytical distinction between communication and manipulation, between discursive and communicative utterances on the one hand, and strategic and indoctrinating utterances on the other. In the empirical world, these distinctions are gradual, but still politically important: manipulative utterances, trying to influence the decisions of fellow citizens, trying to change their personal preferences and identity-supporting narratives - that is, trying to undermine their personal autonomy (and their enlightened search for truth) - such manipulative utterances and actions are highly problematic and potentially detrimental for a genuine freedom of expression. Such strategic activities contradict the very principle that constitutes the normative justification of freedom of expression as it is defined here - that is, they would undermine deliberative democracy, open and enlightened search for truth, and personal autonomy through open and enlightened will-formation.

Moreover, analytically and paradigmatically there is also a difference between manipulation and public campaigns, e.g. health campaigns (as against smoking or in favor of healthy food), to the extent that the latter (public campaigns) are explicit and open, and the former (manipulations) are implicitly and covertly designed in order to influence and change other people without their awareness of what is going on. Then, of course, there are intermediate cases, for example, when public authorities want to improve the health of certain groups in the population (so to speak, therapeutically) by the use of hidden psychological means.

There is also an analytical and paradigmatic difference between manipulation and education, as well as between religious or political indoctrination on the one hand and public and enlightened education on the other, to the extent the latter aims at furthering the maturity and autonomy of other people, especially of children, whereas the former, in the worst case, aims at imposing a lifelong immaturity for other people.

Surely, in the empirical world there are all sorts of intermediate cases; but that does not undermine the analytical significance of these paradigmatic differences.

(III) Main limits to freedom of expression

As typical limitations of the legal right of freedom of expression we have the question of where and how we evaluate this

fundamental right (a) in the face of the danger of political chaos or fatal instability and (b) with respect to various cases of offense (insult, and harm).

(A) Political chaos

A positive answer to the first question – limits set to the freedom of expression due to a danger of political chaos or fatal instability – should in any case be well-founded and well justified, as far as possible, with regard to the question: What can society tolerate here and now? Which, and how many provocative statements?

Let us consider a few examples:

The official Chinese response to the utterances of Liu Xiaobo has been heavily criticized. Suppression of freedom of expression by an authoritarian regime! Yes certainly. But how could we possibly reconstruct arguments for these drastic measures? A guess: The political leaders were afraid of social instability, if that kind of criticism goes on. Generally speaking, the political elite in China is afraid of losing control. Or, perhaps it is not just about their power, but about the stability of the regime. (Consider the fate of the Soviet Union, or bitter experiences from Chinese history.) Then the question: nervousness for the stability of this regime, or for the State, the Nation? If that were the case, would then the party, seen from the inside, have sufficient grounds to limit the freedom of expression of a fellow-citizen, with such drastic measures?

Consider Julian Assange (or Edward Snowden, or Mordechai Vanunu): Through WikiLeaks, Julian Assange (2010) published numerous statements from the North American Secret Service. Washington reacted sharply. According to Hillary Clinton, Assange has not only done harm to North American security, but also to the international community. Washington demanded his extradition, to bring Assange before the court in the US. It is as in warfare: First comes the national security and then (if possible) international control. The freedom of expression of fellow citizens comes second.

In these cases, it is a problem that it is often unclear which consequences a particular utterance will have. The attempt to predict politically fatal effects is problematic, already because human actions and their consequences are never fully predictable. We are thus entering an ambiguous field, in which we are faced with questions such as the following: If an Israeli in Hebron shows off a poster on which the prophet is portrayed as a pig - to what extent can we then know whether this utterance would lead to an escalation of the conflict and eventually to an intensified warfare in the Middle East?

When Western politicians conceived the Mohammed cartoons as difficult and frustrating, it was perhaps not only because of the emotional insults felt by many Muslims, but also (or perhaps primarily) for fear of increasing conflicts and political instability.

In short, in modern "risk societies", almost everything, at least potentially, is associated with risks. If we ask: "What utterances, verbal and non-verbal, could and should be prohibited as a protection against possible political chaos and instability, but at the expense of freedom of expression?" - we do indeed ask a notoriously difficult question.

However, all in all, this means (I would say) that we should normally proceed from the assumption of a robust stability, in our society, and not, due to negative, but uncertain eventualities, prematurely give up the right to freedom of expression.

(B) Offense

Utterances that offend someone else may count as cases where freedom of expression can be legally limited. This applies to serious cases where someone is severely offended – insulted, injured – by certain utterances. However, in modern liberal democracies, this applies only to living persons, not to the dead, not to theories, not to traditions and cultures, not to confessions or religions.²⁵ It applies

²⁵ Cf Norwegian Penal Law (*Straffelova*) § 135a (which is subordinate to the Constitution): «*Den som forsettlig eller grovt uaktsomt offentlig setter frem en diskriminerende eller hatefull ytring, straffes med bøter eller fengsel inntil 3 år. Likt med en offentlig fremsatt ytring, jf. § 7 nr. 2, regnes en ytring når den er satt frem slik at den er egnet til å nå et større antall personer. Som ytring regnes også bruk av symboler. Medvirkning straffes på samme måte. Med diskriminerende eller hatefull ytring menes det å true eller forhåne **noen**, eller fremme hat, forfølgelse eller ringeakt overfor **noen** på grunn av **deres** (a) hudfarge eller nasjonale eller etniske opprinnelse, (b) **religion eller livssyn**, eller (c) homofile legning, leveform eller orientering, (d) nedsatte funksjonsevne.*» (Our usage of bold letters.) Worth noticing: possible restrictions are related to persons ("noen", somebody in Norwegian), not to religious and ideological theses or convictions. In short, according to this law, there are no restrictions on our critique of religion.

to living persons, as a defense of their self-feeling, identity and autonomy.²⁶

Nevertheless, a hard and persistent criticism of the cultural background of certain groups of living people may seriously offend the group members and do harm to them as autonomous persons. However, in cases of offense and insult, what matters is not only *what* is asserted, but also how it is uttered. The *how* is important. One and the same assertion can be uttered either aggressively or with respect and sympathy. The *place* is also important; moreover, it is reasonable to distinguish between utterances for which we are accidentally and involuntarily exposed, as in advertising and propaganda, and those which we seek voluntarily and with a personal effort, for example in books and magazines. The Mohammed cartoons in Jyllandsposten belong to the latter.

Recently, new technologies and social media have revolutionized the whole field. More people take part, freely, and without the filter of an editor. Hence, the atmosphere has often become more implacable and crude, with frequent insults and

²⁶ Cannot dead persons be offended? Yes, in a sense. Their reputation can be offended, by critical utterances. But the persons themselves? The Prophet is said to be offended by blasphemous utterance. What about Ramses the Second? Can Ramses the Second be offended by hate speech? Hardly. What is the difference? My suggestion: Nobody believes in Ramses the Second; no living person cares, with devotion, for the reputation of Ramses the Second. So the difference is one among living persons; it is not located in the dead ones, themselves. (That kind of concern, for the reputation of dead persons among living persons, is addressed in next paragraph, on “cultural background” and personal autonomy among group members.) In short, when a person is dead, the dead person, her- or himself, cannot be offended, not anymore. Not even the Prophet. Though his reputation can be discussed, criticized or praised, among living people, as long as somebody cares, one way or the other.

offenses. However, there is a problem here, since the claim of being offended by certain utterances may function as a power strategy, as a triumph card, that kills the debate. Consider the proposal in the United Nations, raised by States with a Muslim rule, to ban criticism of a religion, because this criticism is said to offend the Prophet, the Koran, and the feelings of the Muslims.

The claim that certain utterances offend other people is an ambiguous one. Hence, it is vital to care for a precise language. Here we shall consider two interpretations, two notions that ought to be kept apart: (i) Offense by utterances that are provocative and cause bad feelings; anger, grief, rage. (ii) Offense by utterances that break down the autonomy of another person, through brainwashing, indoctrination, manipulation, harassment.

Offense (i)

For the former notion of offense, emotions and feelings are decisive. For example, consider the following quotation from the former Prime Minister of Norway, Jens Stoltenberg, in response to the violence in the Muslim world after the publication of the Mohammed cartoons in *Jyllandsposten* in autumn 2005: "It is important that we respect the feelings (*følelser*) of other people."

However, feelings (*følelser*) are ambiguous phenomena. There are e.g. distinctions to be drawn between sensations, feelings, and moods, where the latter two are co-determined in different ways by social and cultural factors. In short, sensations are "given",

physically, physiologically, or otherwise, whereas feelings and moods are dependent on cultures and traditions, or religious and other convictions that are not shared by everyone. Moreover, some of our feelings and moods may depend on our own understanding of a particular situation, or on our own beliefs about controversial religious and metaphysical questions. In other words, in some cases (but not in all), we are co-responsible for our own feelings and moods – either because we should have avoided certain situations and not taken part in certain activities, or because we should have behaved in a more mature and enlightened manner, as to our own attitudes and convictions.

To put it plainly: those who feel offended and injured by utterances from other persons should not always have a veto right in such cases. In short, we should not always have respect for the feelings of other people.

Offense (ii)

Offense here is that of the degradation and humiliation of other persons by breaking down their personal autonomy, either by explicit harassment and disregard, or by manipulation and indoctrination. As for the latter, consider advertising on the market and strategic communication in politics, as well as religious preaches, aimed at a specific personal formation of other human beings, perhaps particularly of children. Freedom of religion - yes, for educators, for preachers, but what about those who are

"educated" in this way? What about the children? They are often brainwashed without the possibility of independent reflection and personal autonomy at a later stage. This is an important point which is often overlooked in the ongoing discussion on freedom of expression and freedom of religion.

Here are two statements by Ludvig Holberg (quotes from *Moralske Tanker*, my translation):

"Children should become human before they become Christians. ... But one begins to dig into divine catechisms, whereby each person persistently defends the sect in which he was reared, and is thus insensitive for other arguments, at a later stage."

"Therefore, whoever learns theology before he has learned to be a human being, will never be a human being."

Certainly, children are always raised within some specific sociocultural environment. The problem arises when these socialization processes take the form of an indoctrination that undermines their personal autonomy. Surely, this is not a problem for culturally modern believers, as it used to be in Western Europe, but for those who are not culturally modern it is a problem.

These points, about manipulation and brainwashing, are not of secondary importance. To break down the personal autonomy of another human being through verbal manipulation and

indoctrination, is often regarded as mortal sin, and rightly so.²⁷ In many ways, this is worse than utterances that lead to anger and rage.

Moreover, we recall that to offend the autonomy of another human being, to do harm to “the individual’s freedom to form opinions”, is an attack on the normative foundation of freedom of expression, for instance as it is defined by the Norwegian Constitution § 100: “No person may be held liable in law for having imparted or received information, ideas or messages unless this can be justified in relation to the grounds for freedom of expression, which are the seeking of truth, the promotion of democracy and the individual’s freedom to form opinions.”

Final remarks

This normative notion of a legal protection of the freedom of expression has its peculiar strength: It includes a balancing of various values and concerns; and this is done on the background of a normative conception of freedom of expression as a presupposition for three basic modern institutions: truth-seeking, deliberative democracy, and individual autonomy. Hence, this notion may serve as a norm by which various values and concerns can be examined and weighed in the courts (cf the Norwegian

²⁷ Here we focus on verbal utterances in terms of indoctrination and manipulation. The critical point gets even stronger when rituals and social practices are added, for instance by religious schools, special and spectacular cloths, and intended social segregation, together with a lack of cultural and epistemic modernization.

Constitution, § 100), and also as a meta-norm, prescribing basic normative requirements for future legislation.

These points are not only theoretically important:

Firstly, the demand for a strong and universal justification of freedom of expression is particularly important in certain political situations, e.g. for the discussion on the relationship between legal conceptions in the West and in other traditions, e.g. Chinese or Muslim. The importance of such cross-cultural dialogues and discussions, looking for a common ground, was realized already at the time of the Rushdie case.

Secondly, these discussions are also important since they open for an awareness of some basic conceptual distinctions, like the one between communicative and discursive utterances on the one hand and strategic and instrumental ones on the other. In other words, we do not only obtain a justification for a legal defense of freedom of expression, in terms of an analysis of presuppositions in modern institutions, we also get discussions about more or less appropriate notions, such as different interpretations of legally relevant offense.

Summing up, it is my claim that this conception of a legal defense of freedom of expression gives us a fair normative justification, and also some fruitful notions when dealing with practical cases.

Post Scriptum

This essay deals with the *legal* protection of freedom of expression. We do not address the various social challenges for freedom of expression, such as control within social and professional groups, with loyalty expectations and moral sanctions, or the power of money, in the media and on the market, as well as in relation to politics and politicians.

In this paper we focus on the legal protection of freedom of expression as a necessary, not as a sufficient condition for truth-seeking, deliberative democracy, and personal autonomy. For surely, there is also a need for freedom of assembly and freedom of organization, as necessary conditions, legally and in reality. Moreover, there are socio-economic and political conditions, such as a common educational system, decent working conditions, basic social security, and moderate socio-economic differences.

In short, a legal protection of freedom of expression alone will not do. Taken alone, without various other conditions, legally free discussions may turn out to be quite powerless, or go astray, or even lead to conflict and polarization. Nevertheless, especially in a time of global crises and serious challenges, it is imperative to promote a universal normative justification of the legal protection of freedom of expression. The alternative is self-defeating.

Processes of Modernization: Scandinavian Experiences²⁸

Francis Fukuyama: “the problem of ‘getting to Denmark’”²⁹

We may ask, what is typical for processes of modernization in Scandinavia? What does Scandinavia have, in this respect, and no one else? As I see it, that which is unique to modernization processes in Scandinavia, from the 18th century and throughout the 19th, is a contentious *interplay between State Officials and popular movements*, between enlightened State Officials and successful popular movements. Prussia, too, had enlightened State Officials; but, in the German realm, popular movements did not turn out to be successful in this respect.

²⁸ A paper presented at the conference “North European and Russian Societies in the Enlightenment: Modernisation and Cultural Transfer”, Helsinki, October 7-8 2016. Published in *Transcultural Studies. A Journal in Interdisciplinary Research* (2) 2018, by Brill Publishers, ed. Vesa Oittinen.

²⁹ *Political Order and Political Decay, Political Order and Political Decay*, London, Profile Books 2014, p. 25: “Denmark” as a society that “have all three sets of political institutions in perfect balance: a competent state, strong rule of law, and democratic accountability.” P. 26: “How did Denmark come to be governed by bureaucracies that were characterized by strict subordination to public purposes, technical expertise, a functional division of labor, and recruitment on the basis of merits?”

In Norway there was a relatively smooth and peaceful transition from a traditional to a modern society, by the end of the 18th century into the 19th. Polish observer, Nina Witoszek, referred to this transition as a “*pastoral enlightenment*”, since it was supported by *protestant priests*, i.e. enlightened Lutheran State Officials from above, and by enlightened *farmers* and their popular movements, from below. No revolution, as in France. And no restauration thereafter.

Throughout the 19th century there are ongoing processes of modernization, from the end of the Napoleonic war and the foundation of Norway as an independent State in 1814, towards the introduction of parliamentarianism in 1884, a shift of power in favor of the popular movements and the liberal intelligentsia, followed by self-organization and institutional developments into the early 20th century, with progressive social laws and a national education system intended to foster equality and enlightenment; i.e. *folkeopplysning* (“people’s enlightenment”).

The union with Sweden was peacefully dissolved in 1905. In Norway, the blend of institutional development and socio-cultural learning-processes went on steadily, until 1940 and the Second World War, which marks the end of a long “interwar-period” in Norway, from the Napoleonic war to the German occupation.

After the Second World War, there were new possibilities and new problems, *with increasing challenges*, internally and

externally, *for the “modern project”*. For the whole story, as I see it, cf the book *Multiple Modernities. A Tale of Scandinavian Experiences* – now also in Russian.

Background

Modernization processes are often seen in an Anglo-American perspective, but here our focus is Northern Europe – Nordic countries and Russia. In this paper I shall look at Scandinavia, or more precisely Norway, and for two reasons: I know that region fairly well, and it is supposedly an interesting case in terms of modernization processes.

As a philosopher of the sciences and the humanities I have an interest in different kinds of rationality and reasonableness and their role in various institutions and processes of modernization. Moreover, two of us have written a history of western thought, very much as a history of intellectual modernization.³⁰ (The book was published in Russian with the title *Istoriya filosofiy*.) So, when I happened to get in contact with Chinese philosophers discussing cultural modernization in Europe and East Asia, and thereby also discussing what it means to be Chinese and modern, that same question soon turned around and hit me head-on: what does it mean to be Norwegian and modern? As a response, I decided to apply

³⁰ Nils Gilje and Gunnar Skirbekk, English version, *A History of Western Thought*, London, Routledge 2001.

general modernization theory on Norway (and Scandinavia) as a case. The outcome was the book *Multiple Modernities. A Tale of Scandinavian Experiences*, later translated into Chinese, and Norwegian with the title *Norsk og moderne* (“Norwegian and Modern”), a title that is also used for the Russian translation, *Norvezhskiy mentalitet i modernost*, published in Moscow by Rossppen 2017.³¹

My notion of modernization processes is a Weberian one: differentiation and rationalization of “value spheres” and institutions, with a main focus on various kinds of rationality, situated socially and historically in various contexts and agents – hence, a notion of modernization very different from a narrowly economic conception of modernization.³²

The 18th century

The absolute monarchy of Denmark-Norway at the end of the 18th century was an enlightened despotism. In this regard, three

³¹ *Norsk og moderne*, Oslo, 2010. *Multiple Modernities. A Tale of Scandinavian Experiences*, Hong Kong, The Chinese University Press 2011. Cf also Øystein Sørensen and Bo Stråth, eds., *The Construction of Norden*, Oslo, Universitetsforlaget 1997.

³² In this paper I refrain from commenting on the role of *culture* (literature, art, music) in the nation building processes that were part of the democratization and modernization processes in Norway. Likewise, I refrain from commenting on the special role of *nature* in this regard, mediated by literature and art and related to a form of life, not least by the way children were brought up, with much freedom in nature, and with nature as a realm of freedom. Cf. my paper “Nasjon og natur”, in: Gunnar Skirbekk, *Undringa*, Oslo, Universitetsforlaget 2002: 98-108, short version in English: “A Pragmatic Notion of Nature”, in: Gunnar Skirbekk, *Eco-Philosophical Manuscripts*, Bergen, SVT Press 1992: 89-98.

important points should be made: (i) The monarchs were at times unfit to rule, and thus in reality leading State Officials took control.³³ (ii) In the 1730s it was decided to install a basic school system for all children and mandatory confirmation for all youth. (iii) By the midst of the 18th century, enlightenment ideas gained support among State Officials and also in the public sphere; not least due to the writings of Ludvig Holberg, a Nordic Voltaire and a cultural modernizer, who (among other things) taught the audience to laugh,³⁴ and whose historical and philosophical writings were also widely read by Norwegian farmers. In this way, State administration and enlightenment ideas were already there before 1814, meaning that in Norway we had a relatively smooth transition to modernity and no disrupting revolution, as in France. However, with the new Norwegian Constitution of 1814, there was a dramatic change.

During the old regime, legitimacy was rooted in royal power. Therefore, in 1814, the victorious kings could transfer a country, i.e. Norway, as a royal property, from the Danish king to the Swedish king. But as Norwegian representatives, chosen by the people, met at the constitutional assembly at Eidsvoll in May of 1814, the principle of *popular sovereignty* was in reality established. Legitimacy became rooted in the people, not in the king.

³³ Such as Struensee, Reventlow, Bernstorff – many of them, German speaking.

³⁴ Cf Umberto Eco's *The Name of the Rose*, and the subversive power of laughter.

Before 1814, before the Constitution, one had to go to royal Copenhagen and, with hat in hand, ask for audience to be able to present petitions (grievances and applications). But with the Constitution we had a national assembly, *Stortinget*, where laws were decided and changed. This meant that if we wanted to change a given law, we would have to go into politics, into discussions and power fights within and around the national assembly, which became an arena and a magnet for political learning-processes. Thus we had a conflictual relationship between State Officials and popular movements, throughout the 19th century.

Historical presuppositions for “the Norwegian model”

This is how it looks like, from 1814 onwards. But let us turn the time table and look backward, from where we are today: We got the Constitution, what else?

Today there is much talk (and bragging) about “the Norwegian model”, for instance when Norwegian politicians go on a charm offensive at the economic summit in Davos. But what do they have in mind? At least this: a general and generous welfare state within the framework of a well-functioning constitutional democracy. However, not everyone wants such a welfare state (cf the strong opposition in the US), and many others want it, but do not bring it into being. So, why is it in particular in Scandinavia and in an extended sense in North-Western Europe that we find such

arrangements? The “model” may be described in administrative, juridical and economic terms, but in order to answer this question we need to look at history.

First, a reminder of two facts: In the Norwegian society there is general support for the welfare state; that goes for all political parties (even though there are differing views on financing and redistribution³⁵). Moreover, in our society there is a well-documented high degree of trust, both to other individuals and to political and judicial institutions.

So let us look to history. But history is so many things. What concepts should we use? And what events and incidents should we focus on? Here is my answer, my choice: (i) we should use concepts of modernization and democratization, and (ii) we should focus on decisive events and experiences, such as war and crisis, and enduring cultural and class conflicts – all of this against the background of natural conditions and political and economic factors, both internally, within the country, and externally.

Modernization

Modernization, too, can be so many things. Here the concept of modernization is primarily understood by the development of sciences and of institutions: On the one hand, institutional

³⁵ For instance, between retired people on the one side and the unemployed on the other.

differentiation, such as between state, market, and civil society, and between religion and politics. On the other hand, development and differentiation of various sciences and forms of rationality, such as the development of:

- a) causal-explanatory sciences and rationality, for instrumental use, in interplay with technological development (cf the new natural sciences, from the Renaissance onwards);
- b) interpretive sciences and forms of rationality, e.g. of religious texts and legal laws (well-known sciences already in antiquity, but re-enforced by the emergence of alternative confessions during the Reformation and the rise of nation states, with new laws), and at the same time;
- c) discursive and argumentative rationality, since we are fallible and need to take counter-arguments seriously.³⁶

These forms of rationality are not free-floating, but anchored in agents and institutions by the use of various forms of expertise and by practice-based learning-processes, for instance by self-organization and other practical activities (cf the early popular movements in Norway).

³⁶ As it is within and between the various sciences, but also with the development of a public sphere, with opinion-formative public discussions, tied up to enlightenment ideals and later to the emergence of democracy.

Modern democracy

As an institution, democracy can be defined as political majority-rule, based on free elections, by autonomous citizens who understand what they are doing. Democracy in modern societies thus requires public education and public enlightenment (*folkeopplysning*). As citizens in a democracy we have political power and co-responsibility (dependent on personal position and resources). Thus, there is a difference between the role as a citizen (*Staatsbürger*) and the role of a subject (*Untertan*).

Norwegian characteristics

So, given these definitions of modernization and democracy, are there special characteristics of Norwegian modernization and democratization? Are there unique and decisive events and experiences?

My claim is the following: A peculiar feature of the Norwegian (and Scandinavian) history is a contentious interaction between Lutheran State Officials and successful popular movements. It starts (with Hans Nielsen Hauge) already in late 18th century. We have the Seven Years War 1807-1814 (the Napoleonic War), and the new Constitution in 1814, as decisive events, and then there are political learning-processes up to the introduction of

Parliamentarianism in 1884, followed by the formation of political parties and further institution-building (trade unions included).

Besides Scandinavia, it is Prussia that had a significant Lutheran State administration. But that which became Germany did not have successful popular movements such as in Scandinavia: The popular movements on German soil were less influential and some became undemocratic. In other words, the constellation of Protestant State Officials and successful popular movements is typical for Scandinavia.

What does it imply? Here we stick to Norwegian history and begin by a reminder about class relations:

Classes and Constitution

From 1814 onwards there were mainly three classes in Norway: State Officials, bourgeoisie, and farmers. Practically no nobility. State Officials were jurists and theologians, and also military officers. They were politically powerful for two reasons: They had no nobility to “breathe down their necks”, and they were at the same time State officers (administrators) and also active politicians. They were few in number (less than 1 %), but well educated: lawyers and theologians had to have the degree of “embetsexamen” (*Beamtenexamen*) from the university (at first in Copenhagen, later in Christiania), and that degree cannot be inherited – for instance, a

theologian had to know Greek, Hebrew and Latin, and that is not innate. Here we have a mighty meritocracy, paid by the treasury, in a newly founded State that initially was depleted by the Napoleonic wars – in short, a politically powerful group, but not wealthy economically (compared with ruling elites in other countries at that time).

Then there was the bourgeoisie, marked by recession after 1814, but free from tradition-oriented landed gentry (cf Denmark, as a contrast) and with certain privileges (for sawmills and trade; otherwise, cf the urban citizenry in Ibsen's plays – relatively liberal and enlightened).

Finally, the farmers, who were legally free (no serfdom), often literate and legal owners of their own farms. Already in the 1760s farmers at the southwestern part of the country had demonstrated their ability to successfully organize and argue against governmental decisions about extraordinary taxes (due to royal warfare). Moreover, since there was practically no national nobility, and because the State Officials were shaped by Danish language and culture, Norwegian farmers appeared as the carriers of the national culture. At the same time, the farmers were the people, *folket*. They were the great majority; though there were class differences within the agrarian communities. Industrialization came later, by the end of the 19th century. Hence, it was mainly among the farmers that popular movements arose.

The Constitution was progressive, for its time, but with restricted voting rights, only for men. However, with the Constitution, and the Parliament (*Stortinget*), the foundation was established for increasing democratization, in interplay with cultural and institutional processes of modernization.³⁷

Modernization from above

Already by the mid-18th century, Danish-Norwegian State Officials were marked by enlightenment ideals and an enlightenment zeal (cf the so-called “potato priests”, eager to teach their congregations how to cultivate potatoes, that is, eager to promote modern ways of improving practical tasks in daily life). For example, Erik Pontoppidan, a theologian and man of enlightenment, was commissioned by the king in the 1730s to write an explanation of Luther’s Catechism – a collection of 759 questions and answers (with a shorter version for slow learners), for use at the Lutheran Confirmation (mandatory for all young people, boys and girls), under the title “Truth for Godliness” (*Sandhed for Gudfrygtighed*). This was serious! Whoever could not pass examination with the protestant priest and the congregation in attendance, were not

³⁷ Both from the top and bottom-up, until 1884 and the introduction of parliamentarianism and further institutional developments, with an extended trust in laws and public procedures, with relatively moderate material differences and with a relatively egalitarian political culture – all together vital resources for what was to become a general and generous welfare State.

“confirmed” that year; and those who were not “confirmed” could not marry (this is before the time of contraception). Disciplinary regimentation of the people! (Cf Michel Foucault.) But, at the same time, ordinary people learned to read, and when people read, the governing elite does not know what ordinary people are reading and what they think – in other words, a modernizing liberation of the people! (Cf Max Weber.) The book *Sandhed for Gudfrygtighed* became the most used textbook in Norway for the next 150 years. At the same time, this arrangement implied that Danish language was drilled into each Norwegian boy and girl for many generations to come.

After 1814, modernization from above was promoted both by protestant priests and lawyers, such as by the jurist and politician Anton Martin Schweigaard who actively modernized society, for instance by promoting statistics and other forms of scientific expertise, organized and implemented by the State. Hence, the State played a crucial role in the modernization of Norway, and the ruling elite of powerful State Officials were pro-State – a decisive difference to Anglo-American ideas about political and institutional modernization.

Modernization from below

Modernization from below was promoted by the popular movements; movements that started spontaneously and soon

became well organized, one after the other – until 1884 and the introduction of parliamentarianism. The main movements were led by leaders like Hans Nielsen Hauge (1771-1824), Marcus Thrane (1817-1890), Søren Jaabæk (1814-1894). These popular movements ultimately oriented themselves towards *Stortinget*, the legislative assembly, but the many local municipalities were also important,³⁸ not least as a springboard and training arena for politically interested persons.

Here we shall confine ourselves with a few comments on Hauge and the Haugean movement: As a young man, working in the fields, Hans Nielsen Hauge had a religious vision. He saw clearly, as a Christian, what was the true doctrine and the right way of life, and this vision stood in contrast to what the priests were preaching, and doing – those socially privileged persons who drank wine, or even worse! He gathered people and preached the word of God, as he read it in the Holy Scriptures. But then he bumped against a secular law (namely *konventikkelplakaten*) that prohibited public meetings. What should one do then, as a rational agent? With the new Constitution and the National Assembly (*Stortinget*) the answer was given: One should try to change the laws, by gaining power in the national assembly! Haugeanism, which at the outset was a religious movement, then gradually and unintentionally

³⁸ Cf the municipality laws, *formannskapslovene*, of 1837.

became a political movement – due to the juridical and institutional framework created by the new Constitution.

But, in order to get there, to have a political impact, they had to organize themselves and learn how to speak in meetings, how to interpret secular (legal) texts as well as religious ones, and how to argue for the interpretation that one held to be the right one. Hence, there were many formative learning-processes – where also women could participate at all levels.

Furthermore, the Haugeans were convinced that they, as Christians, should praise God's creation by hard work, and with a sober lifestyle (in contrast to the sinful upper classes). However, with hard work and moderate consumption there will be money left, money that should not go to needless consumption, but which must then be put into new projects; thus there is accumulation of capital, motivated by religious convictions (cf Calvinism) - an instrumental and secular modernization process, from below.

Moreover, Hauge wrote various edifying booklets and pamphlets, and they were widely read. It is said that as many as one in four Norwegian citizens had bought one of Hauge's writings, at a time of strife and naked distress.³⁹ Then we may expect that these writings were also read – an impressive educational project!

³⁹ Cf the poem *Terje Vigen*, by Henrik Ibsen. English translation by John Northam (on internet).

In short, by their activities and their practices the Haugeans contributed to enlightenment and formative learning-processes for all the different forms of rationality – interpretive and argumentative as well as instrumental and practical. In other words, a powerful modernization from below.

In 1842 the legal prohibition of public meetings (*konventikkelpakaten*) was finally abolished. This victory, for the Haugeans and other political movements, demonstrated that it was possible to change unfavorable laws through the National Assembly. Moreover, this was an important issue: the right to organize oneself.

Main achievements of the popular movements

Summarizing what I have said about popular movements and their elites, nationally and locally, I would like to emphasize a few points of general interest about these movements:

- They had an ability to *organize themselves*, to *transfer* spontaneous popular movements into economic, political and educational institutions.⁴⁰
- They operated on a *broad scale*: in the economic field, at the political level, and in matters of education and formation.

⁴⁰ The main movements came in three waves (as it were), each time as a process in which spontaneous movements or actions became organized and institutionalized; what could not easily be realized in a singular simultaneous event could thus be obtained by *renewed processes*, from spontaneity to organization. For the social scientific discussions on “contentious politics” and “political opportunities” related to social movements, cf e.g. Sidney Tarrow, *Power in Movement. Social Movements and Contentious Politics* (1998), and Charles Tilly, *Contentious Politics* (2006).

- Deliberation and organizational work were *combined*.
- They discussed and organized *at all levels*, locally, regionally, and nationally.
- They used the media of their time as an *alternative public sphere*.
- Education was conceived as *self-education*, an educational project that includes practical and theoretical training as well as consciousness-raising on behalf of one's identity and socio-cultural background.
- Their leaders behaved as civilized and reasonable persons. Thus the interaction between politically active State Officials and the leaders of the popular movements resulted in some basic *mutual trust*.⁴¹
- All agents (State Officials as well as the popular movements) operated within the same Constitution and the same Confession. The learning-processes in favor of a certain tolerance for “the other”, a certain acceptance of “otherness”, resulted from special experiences of *socio-cultural and linguistic differences*.⁴²

The latter point, about cultural diversity, may deserve a special comment. Whereas many of the points referred to above have equivalents in the other Nordic countries, there are some peculiar factors in the case of Norway, due to the absence of national nobility and the “foreignness” of the State Officials: The Norwegian farmer was seen as the representative of the national heritage. Hence the popular fight for democracy merged with the

⁴¹ Hence, when the State Officials “abdicated” in 1884, they knew that nothing drastic would happen to themselves or to the country. This kind of basic trust is a cultural precondition for a well-functioning democracy, requiring a peaceful change of power.

⁴² Compared with a politically centralized and culturally and linguistically homogenized country like France, Norway might look like an early “post-modernist” society with an inherent “multi-culturalism” – that is, cultural heterogeneity within a political homogeneity, though with some basic common virtues and common forms of life that are inherently required by these institutions.

fight for recognition of the national heritage. We got a democratic nationalism, from below – probably a unique constellation. Whereas Norway developed a homogeneous political culture (how to do things), it remained somewhat heterogeneous in terms of cultural codes and identity.

Furthermore, the popular movements tended to be pro-modern. That is, they were pro-enlightenment in the sense that they favored science and new technology as well as education and a progressive public sphere, and they were to a large degree progressive in social politics, in favor of improved working conditions and social security.⁴³

“Pastoral enlightenment”

Hence, in Norway we had enlightenment and law-orientation from above and from below – from protestant priests and from farmers – in short, a “pastoral enlightenment”, which secured a smooth transition from tradition to renewal, without upsetting revolution

⁴³ The question, then, is the following: can these processes, roughly similar across the Nordic countries, explain the fact that these countries, in the mid-twentieth century, were able to combine a universal welfare system and economic redistribution with a high degree of trust? At least we may say that there are some deep-rooted processes in the modernization of the Nordic countries that are peculiar – for instance to the extent that Scandinavian words like *folkelighet*, *folkhem* and *folkeopplysning* remain almost untranslatable; but they are crucial, and they do allude to what could probably be seen as “the gentle charm of the Nordic countries”.

and Jacobin terror, and without subsequent reaction and restauration of the old regime, as in France.

In this context, we may consider the main question raised by Francis Fukuyama in his book *Political Order and Political Decay*: How to get from clan societies (and their autocratic versions) to a modern and enlightened society with (i) a professional and loyal State administration, combined with (ii) the rule of law (also for the rulers), and (iii) democratic transparency and checks-and-balances? In Fukuyama's catchwords: how to get to Denmark?

Interaction between Protestant State Officials and successful popular movements

In short, this is my main assertion: The contentious interaction between Protestant State Officials and popular movements constitutes a fundamental dynamic in Norwegian modernization and democratization. This is not just something that happened long ago, without relevance for the situation today. It is a decisive feature of our society today. Moreover, the contributions from the popular movements cannot be dismissed as “counter-culture” (*motkultur*). On the contrary. These are decisive experiences and learning-processes that have shaped Norwegian society as we know it today. All in all, these are some of the historical conditions for “the Norwegian model”.

I shall shortly give additional support to this allegation, but first a reminder of some main differences between Norwegian modernization and central features of modernization processes in England, France and Germany.

In Norway, modernization was promoted by a strong and active State, with State Officials in a governing position, in quite another way than in England or the US. In France, the State has had a crucial position in the processes of modernization, but the popular movements were knocked down, again and again, in 1830, in 1848, in 1870. France has not, as Norway (and Scandinavia), successful and well integrated popular movements, as a basis of an egalitarian political culture, and as a counterforce to the hierarchical structure in French society. Also in Germany, the State played a crucial role in the processes of modernization, but without the formative contribution of democratic popular movements, as in Norway (and Scandinavia).

Modernization – one and multiple

This is the point: modernization, as defined here, has certain general and basic characteristics (such as the development of various forms of rationality and institutions). But as to the way it happens, that is, the relationship between the basic institutions (e.g. the role of the State), and as to which agents and organizations were shaping crucial events and developments, all of this varies quite a lot from

nation to nation, from State to State. In addition, different societies have lived through different crises and wars or had different forms of enduring class struggle and socio-cultural tensions. In Norway we had a long and peaceful “interwar period”, from 1814 to 1940; not everyone has been that fortunate. In this sense there are diverse modernization processes – in short, *Multiple Modernities*. At the same time, there are also features that are universal, for modernization as it is here defined, related to basic forms of rationality, and in that sense, there is just *one* modernity.⁴⁴

History is with us

The different ways, taken by the processes of modernization, have shaped the different societies where we live today. Whoever thinks that we, living in modern societies, may forget about history, has gravely misunderstood. We won’t travel further than to Germany, or France, before we notice the difference – not to mention the US or China. Therefore, to understand *where* we are and *who* we are, we need to know our own history, but also the histories of the others. (What is it with the French revolution? And what happened in China in the year 213 BC?)

⁴⁴ When these basic forms of rationality are lacking, there is no full-scale modernity, according to our definition – but anomalies and pre-modern features, as in the case of militant Islamism, operating with modern technology and weaponry, combined with pre-modern attitudes and actions, without argumentative and self-critical rationality and reasonableness.

What do the events in 1884 tell us?

Back to Norwegian history: to what extent can we say that modernization processes, due to the contentious interaction between State Officials and popular movements, are still formative for the Norwegian society today? At first, a reminder about the point of departure, in our society today: In Norway we have a welfare State like few others, and we have a high degree of public trust, both to persons and to institutions. How come? The answer, I would claim, is to a large degree embedded in the historical events and experiences referred to above. This argument can be sharpened by a reminder of the events in 1884, with the introduction of parliamentarianism.

In 1884, Sverdrup and the left-oriented opposition introduced parliamentarianism. “All power in this hall!” was the slogan. The government was to be shaped by the majority in the parliament, not by the king! In short, a change of the principle of division of powers, and thus a shift of power, from a State run by the State Officials to parliamentarianism; initiated and supported by the urban intelligentsia, and the farmers’ opposition affiliated with the popular movements.⁴⁵

⁴⁵ Cf Søren Jaabæk and “farmers’ friends”. The same year (1884) two political parties, The Left (*Venstre*) and The Right (*Høgre*), were founded; three years later, The Norwegian Labor Party.

So far, this is a harmonizing narrative, as seen in retrospect. But at that time, these were dramatic events. Among the State Officials there were spokesmen in favor of military intervention. They had the power (the army and the police), and they had arguments (against what they conceived of as a coup). Nevertheless, by the end, the State Officials “abdicated”, peacefully. Why? We recall the following: After 70 years of peaceful political struggle, the State Officials and the leaders of the popular movements had learnt to know each other. Through the contentious interaction between State Officials and popular movements a basic trust had gradually emerged, both to other human beings and to institutions and procedures. After 70 years of mutual learning-processes, from 1814 to 1884, most of the State Officials were confident that the nation would prevail, and that they themselves would not experience any harm, even if the opposition gained power by a parliamentarian government.

But it is not like this everywhere. Notice how reluctantly many people in power in other countries leave their political positions, even after an electoral defeat, particularly in countries where they fear a dramatic deterioration of their own living conditions and where they do not trust those who take over.

Trust as a cultural resource

So, this is the point: There were moderate material differences, and a basic trust. Trust is a cultural resource (a lubricant, as it were) that keeps democracy going – it is a condition for a well-functioning democracy with peaceful power-change and with a reasonable concern for the minority. However, trust cannot simply be decided, nor can trust be introduced from the outside, or obtained by threat. Trust, between social groups and between persons, can only emerge from mutual experience over time.⁴⁶

Self-organization

The ability to self-organization prevailed into the next century. For instance, in 1905, the year of the dissolution of the union with Sweden, there was a referendum. For or against the Union! But only men were allowed to vote. However, women organized themselves for an unofficial voting. In two-week's time, in a sparsely populated and geographically long country (only Russia is longer, among European countries), at a time without mobile phones and modern media, a large number of women had taken part in this unofficial

⁴⁶ The point is this: at the end of the 19th century, on the background of the contentious interaction between State Officials and popular movements, and in spite of class struggle and cultural struggle, Norwegian society was marked by a basic trust. However, several factors were involved: the rule of law and a law-oriented way of life, moderate material differences, enlightenment (*folkeopplysning*) and common school system, self-organization and political participation, formative public discussions, an egalitarian political culture, and general solidarity beyond family and neighborhood.

referendum, nearly as many as two-thirds of the male voters – an amazingly high number.

Politically homogeneous, socio-culturally heterogeneous

In this way, the country was united as one nation, politically. Politically, and organizationally, the country became homogeneous. But socio-culturally we were heterogeneous, diverse. Note for instance that since 1885 we have two official Norwegian languages.

And then, into the 20th century, we have seen institutional development and industrialization, but also progress in welfare legislation; laws for decent working conditions and laws for social security, and radical laws for family life, with all children having equal rights, whether they are born to married parents or not – a law fought through by the Left, who also strongly promoted a good-quality education system for everyone (*folkeskole*). Thus the foundation for a Nordic welfare State was there: trust and general solidarity, and a suitable legal system. With the increase in material wealth after the Second World War welfare arrangements could be extended, to become the welfare system we have in our societies today.

So far, these are my claims about the historical conditions for “the Norwegian model”, in the perspective of modernization theory.

Some general points on institutions and their cultural preconditions

As a final remark, I recall some general points underlying our comments on modernization processes in Norway. Briefly stated, institutional modernization and cultural modernization are intertwined. Modern institutions presuppose modern virtues and forms of life. To make it explicit I shall refer to three typically modern institutions – science, democracy, and welfare State – and their cultural presuppositions.

Science-based societies get lopsided if not all forms of rationality are included. Cf the risk of situations marked by modern technology and pre-modern attitudes, as seen in Fascism in the 1930s, and as we see it today, with Islamistic extremism as a typical case. In short, there is a need for cultural and institutional modernization where all forms of science and rationality are involved, in an enlightened and self-critical interplay where better arguments are actively sought, and with a willingness to change one’s own opinions and attitudes when such changes are asked for.

Constitutional democracy presupposes, and requires, sufficiently autonomous citizens having a fair mastery of the public language,

of the political issues, and of the society where they live. If not, a person can be a legal subject (*Untertan*), also in a constitutional Welfare-State, but not a responsible citizen (*mündiger Staatsbürger*) in a modern democracy. Hence there is an inherent interrelationship between democracy and enlightenment (*folkeopplysning*).

A general and generous welfare State presupposes, and requires, general solidarity, enlightenment, and a willingness to follow the laws – not clan-identity and pre-modern attitudes. Moreover, such welfare states are only possible in modern democracies, and thus there is a need and demand for enlightenment and modern attitudes.

Consequently, in addition to moral and legal obligations there are also political-institutional obligations, i.e., obligations inherent in institutions such as a modern and constitutional democracy and a general and generous welfare State.

Modernity in crisis

The long Norwegian “interwar-period”, from 1814 to 1940, laid the foundation for modernization and democratization. For instance, due to legal and institutional conditions, and by self-organization and active participation, there was a change, from the status of legal subject (*Untertan*) to that of co-responsible citizen (*mitverantwortlicher Staatsbürger*). However, today there are

opposing forces at work. Today, with modern technology and global capitalism, the situation is changing.⁴⁷

In short, for various reasons, internally and externally, due to institutional and cultural inadequacies and due to severe natural limitations and challenges, the modern world is in crisis. Modernity is not easy. Nevertheless, there is hardly a reasonable return to a pre-modern world.

Moreover, whatever could and should be done, in our world today, it is useful to have a clear idea as to how we got there, in short, about formative modernization processes in different regions of the world.

⁴⁷ Concerning challenges and crises in modern societies in general and in Norwegian society specially, cf the second half of my book *Multiple Modernities*.

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Further references, see my homepages

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