Introduction

> Without universality, there would be no mankind other than the
> aggregate of members of a biological species; there would be no more
> a history of mankind than there is a history of catkind or horsekind.
> (Eric Voegelin 2000b: 377)

'Metaphysics', 'mythical and religious thought', 'old European thinking',
'foundationalism', 'rationalism', 'Platonism' are all terms that have been
used over the past two centuries or so to mark the kind of intellectual
sources, traditions and ways of thinking that modern social theory, and
the social sciences at large, have been systematically trying to overcome
and leave behind. This book reassesses the historical, philosophical and
normative foundations of *modern social theory* by reconsidering its inter-
relationships with the tradition of *natural law.*

I understand 'natural law' as a long-standing intellectual tradition
whose intellectual core lies in the problem of universalism, and I use it
as an umbrella term to capture some commonalities that are implied in
the opening terms of the first paragraph. Natural law asserts that a
universalistic orientation is needed in order to understand human life,
society and justice; it is a tradition that seeks to advance, and rationally
justify, transcultural and transhistorical propositions. While below I will
distinguish between traditional and modern natural law and elaborate on
their differences, I shall remain mostly interested in the substantive
problem of universalism as the core component of the natural law
tradition as a whole.

For its part social theory is here conceived as the modern intellectual
programme that, over the past two hundred or so years, has sought to
understand the rise and main features of a number of socio-historical
trends that still very much configure the world we live in: capitalism,
democracy, the international system of states and the (functional) dif-
ferentiation of different spheres of social life. The radically enhanced
experiences of historical transformation, socio-cultural variety and
normative disagreements to be found in modernity have made apparent
the difficulties that are involved in keeping a universalistic orientation

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alive. But a main contention of this book is that the very idea of social
theory depends on the ways in which it is able to refine and recast,
rather than to abandon and 'definitively overcome', a universalistic
orientation. Intellectual developments in social theory come from, and
enter into dialogue with, different intellectual traditions; so although
I will work with a 'conventionally sociological' understanding of social
theory (from Marx and Weber to Habermas), it will soon become
apparent that the idea of social theory I have sought to reconstruct and
would like to promote is not particularly troubled by disciplinary boun-
daries. I will draw insights equally from political and moral philosophy,
the history of ideas, political theory and indeed natural law theory itself.
While below I will use the terms 'sociology', 'social science' and 'social
theory' depending on the context and nature of the argument, my
commitment to the last term is justified, I hope, because a wider
(and admittedly somewhat loose) use of social theory allows it to be
connected with general intellectual trends and debates. We need philo-
sophically inclined, historically grounded and normatively conscious
social science, and that is precisely the reason why I think the case must
be made for *more and better social theory.*

The interrelationships between the two traditions will be pursued
below through the working hypothesis that social theory constantly tries
to overcome, but in so doing also systematically reintroduces, the uni-
versalistic orientation that is at the centre of natural law. Social theory's
development can then be reconstructed as the *Aufhebung* – the sublation,
the simultaneous transcendence and the conservation, suspension and
carrying forward – of the claim to universalism that it inherited from
natural law. In order to fully understand all the religious, ethnic and
socio-cultural variation to be found in modernity, social theory is pushed
to find ever better justifications for universalistic propositions on the
ultimate unity of the human species and fundamental equality of all
human beings. To that extent social theory keeps reverting, although
by different means, to some key themes of the tradition of natural law:
How do individual and social factors come to define our shared huma-
nity? Where does morality come from and what makes it binding?
Is there a way to rationally criticise different forms of socio-political
arrangement? Are we the masters of our lives or are they rather being
determined by forces which lie beyond our control?

As we shall see below, social theorists have been consistently dissatisfied
with the ways in which previous 'universalistic' propositions uncritically
reflected undue generalisations of particular instances. Social theory has,
on the whole, been critical of natural law even though its claims to have
definitively succeeded in breaking free from it are somewhat exaggerated

(this is the first, negative side of the *Aufhebung*). At the same time, we need to explore why classical social theory emerged and developed *as a critique* of essentialist or particularistic chauvinism. Classical social theory sought to preserve some kind of universalistic orientation precisely to face up to the dramatically enhanced awareness of socio-cultural diversity that modernity brought about (this constitutes the second, positive side of the *Aufhebung*). The key thesis that I am interested in constructing is that, at its best, social theory has systematically tried to comprehend the heterogeneity of modern forms of life in terms of a single humanity that encompasses the whole globe: all human beings were thought of as able to make and remake social relations. Differently put, the challenges of relativism and particularism are built into the ways in which social theory's claim to universalism seeks to conceptualise the heterogeneity of the modern world, which consists of one and the same human species.

Modern social theory is not the most recent incarnation of natural law. The language and modes of addressing social life have altered fundamentally, of course, and yet the social sciences can be seen as one particularly modern form of posing questions that are not altogether different from those the natural law tradition has long been raising. To be sure, in their everyday practices neither social scientists nor (most) social theorists would consider themselves as heirs of the natural law tradition while pursuing their scientific and intellectual work – and surely they are not mistaken. Yet the deeper we all go in our research the more we are actually pressed to go beyond 'normal' scientific stances, and the more fundamental are the questions that present themselves about the human conditions. If social theory has a contribution to make to the description as well as the normative assessment of the world we live in, it is my contention that a universalistic orientation remains central to it. Social theory emerged in modernity, and it has developed a particularly acute sense of the key features and challenges of modern social life. But in looking at its connections to natural law, this question of the cult of 'the new', 'the post' and the 'beyond' has taken hold in much of contemporary social theory. Taking universalism seriously means that, as social theory tries to comprehend our modern living conditions, it becomes more successful when it is able to reflect on general questions about the human condition as such – what is it that makes us all human beings in modernity.[1]

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[1] The relationship between social theory and natural law was raised as an explicit concern in the opening conference of the German Sociological Society in 1910 (Tönnies 2005, Troeltsch 2005). It has since figured intermittently in the literature from various points of

Universalism

I understand universalism as the belief in the fundamental unity of the human species, the proposition that all individuals belong to the same species of living being. Universalism presupposes that all human beings are equally equipped biologically, but seeks to justify this unity of the species beyond its physiological constitution. It is a way of imagining, indeed creating, a view about what the inalienable features of our common humanity are. Of course, many different ideas have been offered about what the fundamental 'human' element of our common humanity is: we are social beings, moral/rational beings, cooperative and compassionate beings, selfish and hedonistic beings, labouring beings. Yet as a way of thinking universalism is itself universal: it is found across different historical times and cultural contexts.

Universalism always comes with problems and difficulties but remains a condition of possibility of trying to conceptualise and normatively reflect on human affairs. Universalism is not a one-size-fits-all conception of humanity. It does not presuppose that all human beings have to think or behave in the same manner, it requires no teleological projection of perpetual peace, and it entails no ultimate substantive conception of the good life to which all our actions will necessarily accommodate. Universalism emerges rather out of the recognition that peoples change over time, do things differently and, quite crucially, value things differently. It is because human beings live their lives differently, and thus imagine what they share with and what separates them from other human beings, that universalism is always and necessarily expressed *through* rather than *against* our socio-cultural, historical and normative differences. A universalistic orientation argues that it is possible to assess certain practices, institutions and values as preferable to others. We reflect on the normative basis of our life in common and ask: Is this (un)fair? Is it (un)just? Is it 'natural'? How can it be transformed? Universalism is possibly best seen *as a quest*.

Universalism lies at the centre of our real ability to think of ourselves beyond ourselves and as members of a single human species. It takes seriously, rather than merely rejecting, the relationships between

view: Christian natural law (Messner 1964), mainstream sociology (Selznick 1961), Marx and critical theory (Habermas 1974, Fine 2002, Wellmer 1998), political theory (Strauss 1974), Greek classical philosophy (Gouldner 1965, Inglis and Robertson 2004, McCarthy 2003), modern science (Toulmin 1990) and postmodern critique (Bauman 2009). See also the articles by Robert Fine (2013), Chris Thornhill (2013) and Bryan Turner (2013) in a special issue on social theory and natural law in the *Journal of Classical Sociology* that I edited with Robert Fine.

people's particular motivations and their sense of duty. It offers and seeks to foster a sense of equality and justice in which human beings are to treat one another as bearers of an inalienable dignity that is to be upheld irrespective of their particular affiliations. To be sure, social life does not always promote this type of universalistic orientation but, as argued in the opening epigraph, the assessments we make about our life in common as *human* life depend upon our ability to construct a universalistic sense of belonging.

Universalism is not inseparable from the tradition of natural law, but natural law has remained systematically committed to advancing a universalistic orientation. Universalism is not conventionally considered as a defining feature of social theory but it is my contention that, in the terms I have just defined it, universalism is central to the actual functioning of social theory. While natural law has come up with explicit ideas of human nature, which are also substantive, social theory has mostly operated with implicit notions of human nature but explicit concepts of the social. This may also explain why procedural formulations of universalism, from Hobbes and Rousseau, via Kant, to Habermas, have become increasingly important in modernity. Modern proceduralism has the crucial advantage that it explicitly offers meta-norms with the help of which we can assess specific practices, values, institutions and indeed norms themselves. As it becomes more inclusive in terms of participants, more reflective in terms of justifications, and increasingly open ended in terms of its final decisions, proceduralism creates a sense of impartiality that constitutes one of modernity's most crucial innovations, normatively as well as institutionally. Yet we shall see that modern proceduralism is dependent upon substantive ideas of our shared humanity that remain at least partly transcendental. Differently put, although procedural universalism has proved to be the best way to decide on normative conflicts, we need to accept that the justification of its key presupposition on our shared humanity remains problematic. Theorising the location of the normative in modernity involves a tension between immanent justifications that make arguments rationally acceptable and transcendental grounds that make them binding. Thanks to its procedural turn, modern universalism can be seen as a regulative ideal, as *a claim to universalism*.

Expressed in the tension between description and normativity, social theory takes up the traditional philosophical challenge of the mediation between theory and praxis. My own commitment to social theory in this book also involves both dimensions. Descriptively, modern social theory requires a universalistic orientation in explicating the social as an autonomous and emergent ontological domain. Normatively, the future of social theory depends upon its remaining committed to universalism

by seeking to refine it and make it more reflective. The best tradition of social theory is the one that carefully, deliberately and explicitly engages with the question of universalism as it seeks to promote more inclusive, open and just forms of life.

The decline of the normative in contemporary social theory

Universalism does not have the greatest of reputations in contemporary social theory. A strong 'anti-foundationalist' thrust, which puts at its centre the aporias of all kinds of universalistic arguments, has been prevalent over the past three or four decades. Indeed, from Foucault's genealogy to Derrida's deconstruction, from Lyotard's postmodern condition to Rorty's criticisms of the 'Plato–Kant' consensus, from Luhmann's thoroughgoing critique of 'old European thinking' to Latour's blurred distinction between the human and the non-human, from Bourdieu's struggles for capital and resources to the postcolonial unfathomable 'other'– in all cases we find a similar underlying motif: a canonical version of philosophical and social scientific traditions that have outlived themselves and are now blocking our ability to grapple with contemporary epistemological, social and normative issues. All their differences notwithstanding, these views agree on the need for a reinvention of how we practise socio-political enquiry that, quite crucially, involves transcending the limitations of universalism and its unwarranted natural law baggage.

Somewhat paradoxically, the status of 'the normative' in our post-positivistic age goes beyond positivism's wildest dreams. For positivism normative challenges were essentially alien to the tasks of social scientific research, but the argument nowadays is that there is no space for serious normative considerations because social life itself has been emptied of its normative dimension: we are witnessing the *ontological amplification of positivism*. The empirical diagnoses of modern society's increasing complexity and pluralisation have led to the idea that normativity plays no role in the real world; normativity is no longer necessary to comprehend social life. Careful consideration of what is normatively at stake in society, and why it is important for actors themselves, is being replaced by the empirical question of the actor's bargaining position *vis-à-vis* others. It seems to me that the resistance against universalism in contemporary social theory no longer lies in its past mistakes but in this restrictive understanding of social life as one with no normativity: universalism not as a way of imagining and creating a sense of common belonging but as a mere strategy actors deploy to promote whatever it is they are after because that is all actors do in the social world. As events

in the social world are exclusively conceptualised in terms of promoting our interests and securing our identities, that is in effect all that matters in the social world. As a variation of the foundational Weberian problem of value-neutral social sciences, a main difference is that whereas for Weber the challenge was that our disciplines did not save us from having to decide what ought to be done because the social world was populated by too many value orientations, the contemporary argument is that there is no single value left in social reality.

Yet neither social actors nor human beings consider themselves purely as strategic beings; there is more to social life than ontologies of power, strategic bargaining and essentialist identities. Human beings also need and actively search for normative justifications, so I should like to challenge this representation of the social world as a place where there is no place for the normative. The substantive problem to be addressed by reassessing the relationship between social theory and natural law is precisely trying to explicate what the normative is and how it works in the social world. We need to think about human normativity in terms of a duality of immanence and transcendence; human normativity as (immanent), human-made principles that, however, place inviolable (quasi-transcendental) limits on what is acceptable in social life.

Under the conditions of current global modernity, locating the normative in social life requires us to re-engage with the universalistic thrust that effectively underpins such ideas and ideals as democracy, autonomy, freedom or human dignity. Several challenges follow from this, of course – not least, whether this can be done without resorting to the unwarranted generalisations that led to the rise of the anti-foundationalist, postmodern and globalist critiques in the first place. But these are issues that can only be seriously discussed if we are prepared to reflect on the strong universalistic orientations that are built into our conceptualisations of social life.

This book engages only partly with contemporary debates but has of course been written in their context. I am not at all interested in any uncritical revival of natural law but rather in understanding and reassessing those elements of the natural law tradition that have become part of social theory and may contribute to it in the future. This book is partly an attempt to address this idea that our disciplines have become increasingly ill equipped to understand the normative in social life. It is an intervention in contemporary social theory debates whose potential contribution lies in *looking underneath* some of their philosophical and normative foundations by *going back* in the history of social and political thought.

Plan of the book

This book is divided into three parts. Part I sets the general tone of the enquiry by spelling out the various interconnections between social theory and natural law in recent social theory. Chapter 1 concentrates on Jürgen Habermas as the contemporary social theorist who has argu-ably offered the most detailed account of the interconnections between the two traditions. Habermas acknowledges a certain family resemblance between his own work and natural law, but his interest in natural law results from his attempt to reinvigorate social theory. The differentiation between republican and liberal natural law, the rise of sociology, univer-salism and the status of the postmetaphysical are all themes that figure centrally in Habermas's work and that also help me frame much of what will follow in the rest of this book. Chapter 2 goes back to the middle of the twentieth century and inverts Habermas's standpoint, as it focuses on a natural law critique of modern social theory. Writing in the relatively immediate aftermath of the Holocaust, Karl Löwith, Leo Strauss and Eric Voegelin were all dramatically aware of the weaknesses and unful-filled promises of modern institutions and values. By concentrating on the questions of secularisation, immanent knowledge and the critique of Gnosticism, these three writers allow us to reflect on the limitations of modern social theory when it refuses to engage seriously with natural law. I read them against the grain, however, as I will not be endorsing their eventual dismissal of social theory. Yet their works offer valuable insights for thinking about the location of the normative in social life as a tension between immanence and transcendence.

Part II concentrates explicitly on the tradition of natural law. Chapter 3 focuses on the connections between universalism and natural law, elaborates further on how universalism engages with questions of histo-rical change, socio-cultural diversity and normative disagreement, and by introducing the idea of the early Enlightenment in the second part of the seventeenth century it distinguishes between traditional and modern natural law. Chapter 4 takes up the notion of the early Enlightenment and offers a combined reading of Hobbes and Rousseau as central to the rise of modern natural law. I revisit the universalistic underpinnings of their arguments on the state of nature, the civil condition, natural law and natural rights, explicate how their universalism was advanced on fully immanent terms and discuss their incipient proceduralism. Above all, I show how Hobbes and Rousseau equally argue that the key aspects of asocial human nature are cancelled precisely at the moment when individuals leave the state of nature. This new 'social nature' is a sublation of a human being's natural qualities: they make

social life possible but are radically transformed through social life itself. Chapter 5 turns its attention to how Kant and Hegel engage with previous natural law and uses the strengths and weaknesses of their arguments to start delineating the more reflective universalistic orientation I am interested in developing. Kant criticised Hobbes's and Rousseau's anthropological attempts at founding human morality on the state of nature; more importantly, his categorical imperative is discussed as the most radical innovation in the emergence of modern proceduralism. Hegel builds on Kant's critique of state of nature theories but forcefully criticises the formalism and individualism of Kant's moral theory. The problem of mediating between the 'crude dichotomies' of modern natural law becomes central to Hegel: how to grasp the movement between the universal and the particular, the ideal and the real, immanence and transcendence, the individual and the state.[2]

Part III turns to social theory and revisits its rise and main features *vis-à-vis* the reconstruction of natural law in Part II. Chapter 6 concentrates on how Marx, Tönnies and Durkheim engaged with the tradition of natural law on various planes: their ideas of universalism, their explicit reading of modern natural law theorists and the substantive connections that become apparent in such themes as alienation, the state of nature and the relationships between scientific and philosophical knowledge. I pay special attention to whether classical social theory's foundational dichotomy between *Gemeinschaft* and *Gesellschaft* needs to be interpreted as the modern rendition of natural law's key theorem on the transition from the state of nature to the civil condition. Chapter 7 devotes attention to how Simmel and Weber handle the question of universalism as a problem as much as a key dimension of any serious intellectual enquiry. They were as critical of natural law as of the mainstream historicism of their day and yet found proceduralism a fundamental development of modern society in general. Simmel's concern with the 'democratic structure of sociality' and Weber's equation of natural law with 'legal reasonableness' make apparent the importance they gave to a serious engagement with the tradition of natural law. Chapter 8, finally, discusses several accounts of the rise of social theory with a view to reassessing the role of natural law in its emergence. It addresses the novelty of social theory as a modern intellectual genre and reflects on the problems of

[2] The four major writers on whom I concentrate here are surely not the only ones who deserve attention. Because I see it as a tradition, my general argument on the relationships between social theory and natural law should work also for those other writers who share the features I have described and who saw themselves as part of modern natural law theory: for instance Montesquieu, Adam Smith, Adam Ferguson and John Locke.

universalism, modernity and 'the social' as an emergent ontological domain. It offers an argument on the role of social theory in terms of its ability to recast universalistic normative concerns in ways that are acceptable to our modern forms of life. Social theory is thus seen as the natural law of an artificial realm: social relations.

The general narrative of this book is therefore partly historical and partly analytical. By starting with a discussion of Habermas's social theory, plus three twentieth-century natural law critiques of modern social and political thought, Part I highlights the current importance of looking at the interrelationships between the two traditions. It is only after that contemporary case has been made that I start reconstructing their connections historically. A strictly chronological reading of the book is of course also possible: commencing in Chapter 3, the book moves forward from early ideas of universalism in traditional natural law, to modern natural law in Hobbes, Rousseau, Kant and Hegel and then to the rise of social theory in Marx, Tönnies, Durkheim, Simmel and Weber. In this case Chapters 1, 2 and 8 function as a reflection on the current implications that can be derived from this historical reconstruction. They try to elucidate what is at stake in the present when social theory and natural law are being jointly reinterpreted.

Ten theses on the relationships between natural law and modern social theory

I should like to close this introduction by spelling out some of the implications that follow from systematically exploring the relationships between natural law and social theory. I present them in the form of theses.

Thesis 1: Universalism. Both traditions are united in their commitment to universalism. Yet they differ in that while natural law has taken up the problem of universalism explicitly and deductively, modern social theory has done so mostly in a more implicit manner and through a differentiated articulation in the conceptual, methodological and normative planes.

Thesis 2: *Aufhebung*. Social theory emerged as a critique of natural law's unwarranted metaphysics and yet it adopts several of its key concepts and intuitions. Social theory's development can then be reconstructed as the sublation of the claim to universalism that it inherited from natural law.

Thesis 3: The Enlightenment. The transition between traditional and modern natural law theory took place in the context of the early Enlightenment. As modern social theory emerged as one critical heir of the