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Scientific Value Relativism

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Relativism stresses that value judgements are statements about meaning and not about facts, about “ought” and not about “is”. Professor Arnold Brecht explained and substantiated the existence of a link between “is” and “ought”, which does not have a logical character, but does indeed have a “factual” one; a link that, being so evident and intersubjectively transmissible, makes doctrine based on logical separation less important. Suffice it to observe this factual link in a sufficient number of individual cases to arrive inductively at the conclusion of its universal presence with the same certainty or uncertainty as any other inductive conclusion. This paper studies the considerations made by Brecht in the first half of the twentieth century on universal elements that do not derive from arbitrary decisions on justice, but can stem from the necessary feelings inherent to human beings. Confirming this is within the bounds of scientific research. And if these elements are considered as a whole and combined with the two methods proposed by the relativists—clarifying the meaning of the proposed interpretations and analysing their implications—the demonstrable elements obtained are of considerable worth.

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Introduction

Arnold Brecht was born in Lübeck (Schleswig-Holstein) in 1884, into a traditional family whose members pursued liberal professions or worked in the civil service. When entering the civil service, he came into contact with different centres of administrative and political decision-making, as a consequence of the functions that he was expected to perform.

He very soon became an enemy of the Nazis, to the point that he was arrested in April 1933, a moment when the home of Gustav Radbruch was searched, his writings and documents were seized, and he was divested of his chair at the Faculty of Law of the University of Heidelberg. Brecht was released thanks to the mediation of members of the Government and the administration without direct links to the National Socialist German Workers' Party (hereinafter, NSDAP) in power. It is important to recall the statements made by Hannah Arendt (1906–1975) to Günter Gaus, the reporter and future senior official of the administration of the German chancellor Willy Brandt. In an interview broadcast on the public television of the German Federal Republic on 28 October 1964, which received the Adolf Grimme Award and was published under the title, *Was bleibt? Es bleibt die Muttersprache (What remains? Language remains)*, in the book, *Zur Person*, by G. Gaus (1965), Arendt described the decisive events that marked the shift towards the politics of this exceptional twentieth-century figure of political science and theory, as a result of the Reichstag Fire (on 27 February 1933) and the legal arrests that were made thenceforth.

After being forced to abandon Germany in 1933, Arnold Brecht stood out for his creative spirit in the field of political science in the United States. In his dual status of thinker and civil servant, in 1959, a quarter of a century after abandoning Germany, he published his masterful *Political Theory: the Foundation of Twentieth-Century Thought* in English, a work over 600 pages long, which received the Woodrow Wilson Award of the American Political Science Association.

For Brecht, the study of politics, unlike its practice, was an eminently scientific discipline. He said as much in his famous *Political Theory*, where he addressed the issue of justice and values from the perspective of scientific value relativism. He thus established that justice was an empirical problem and understood that politics should be treated with the opportune application of the scientific method, without renouncing, as he himself acknowledged in the “Prologue to the first part”, the analysis of non-scientific political theories, while recognising that science could establish their universality, but, in contrast, could not give them an absolute value. Brecht thus became one of the leading opponents of relativist defeatism, persuaded as he was that a set of culturally shared values could provide a universal postulate.

Modern scientific value relativism had, and still has, much to say in a context, which continues to express a profound desire of objectiveness in political, judicial and social decisions that imply moral questions. If based on a strict conception of science, like intersubjectively transmissible knowledge, it is possible to arrive at certain conclusions.

Fundamental theses of twentieth-century relativist doctrines

The achievements of modern science and its methods are unquestionable. However, it seems that we have been vaccinated against religion, philosophy and even ethics, for they have not been able to provide a robust means for differentiating between good and evil, what is correct and incorrect, or justice and injustice. This has had repercussions especially for the field of political science, which is still searching for scientific arguments that demonstrate the objectivity of specific values such as democracy.

Scientific relativism applied to social sciences is based on the assertion that no scientific method has been able to determine in absolute terms the superiority of an end or purpose over any other. It is only possible to confirm their relative superiority as a means of achieving ultimate ends or purposes, but knowing what those ultimate ends or purposes are is beyond scientific analysis. To know scientifically whether or not man possesses a dignity that should always be respected gives rise to dilemmas such as abortion, euthanasia and capital punishment. To know whether the ends of an individual or a group are more important and what individuals or groups bring us face to face with issues like minority rights or the legitimate limits of expropriation and ownership. To know whether or not peace is always more valuable than war engenders problems such as the legitimacy of war. To know whether or not charity should always take priority over egoism confronts us with matters relating to the free market, the obligation to assist the most needy countries and the determination of taxes.

One of the factors that has made the greatest contribution to relativism in legal philosophy and politics is the doctrine that contends that no logical conclusion whatsoever can be derived—inductively or deductively—from any statement made in the context of “is”, with respect to a postulate relating to “ought”. The origin of this doctrine, which, rightly or wrongly, is usually traced back to David Hume and Immanuel Kant, permeated Western culture as a whole through German philosophers like Wilhelm Windelband and Heinrich Rickert, before being taken up by contemporary relativists (Brecht, 1939a, 1939b). Certainly, Hans Kelsen and Max Weber have played an important role, and the programme proposed by more recent positivists, for example H. L. A. Hart (2020), has had a great impact on the landscape of judicial thought. However, on the other hand, in the last 70 years, a considerable number of non-positivist authors—some of them in the line with the traditional thought of natural law and others presenting new proposals, which adopt different terminology—have returned to the necessity of finding meeting points between morality and law¹.

Two objections can be raised to the arguments that relativists deploy in favour of a strict separation between the realms of “is” and “ought”, albeit not in relation to their logical separation, but to the real importance of that separation versus other elements that establish a firm bridge between both realms. The first objection is based on the fact that nature itself sets external limits to objectives that may be ultimately established, as well as the appropriateness of the means proposed to reach them. What it is impossible to do, like, for instance, working uninterruptedly without sustenance or rest, can be eliminated in a scientifically conclusive way from the objectives that man “ought” to meet in moral, legal or political life, provided that such an impossibility has been proven. It is up to scientific debate to demonstrate this real impossibility and, in light of this, science will exclude many proposed objectives owing to the fact that they are impossible to achieve, as well as many means because they do not conform to the objectives being pursued. This type of scientific research also extends to determining the wrongdoing implicit in the proposed objectives.

The second objection that can be made to the thesis that radically separates the realms of “is” and “ought” is grounded in the fact that in human nature itself there are elements of “ought” so deeply rooted that human thought and feeling cannot avoid them. Over the last century, many philosophers have attempted to determine these invariable elements not only in human thought, but also in human feeling and will. Some have settled for establishing postulates of a merely formal nature, without calling for the absolute validity of the conclusions deriving from essential requirements. These philosophers have focused their attention on coming up with a correct definition of justice and have sometimes

even gone a step further to call for a universal and invariable validity of formal standards. Others have tried to derive ultimate principles more by establishing comparative evidence for the meanings that justice may have in different countries and ages, than through subjective insights (Werthlermer, 1935).

Yet, it seems that discovering absolute postulates in political and legal life is a fairly complicated task when the intention is to transmit them through scientific evidence. However, it is indeed possible to establish some criteria for discovering those invariable elements, like, for example, those present in the postulate of justice. These criteria are as follows: the immediate experience of evidence; the general confession of everyone; the impossibility of imagining a point of view that does not contain those elements; and the impossibility for everyone to imagine the foregoing (Brecht, 1940). Very few serious relativists deny that certain ends and purposes “might” be superior or even that there “might” be an absolute truth in the superiority or inferiority of values and that some “might” be able to envisage this truth correctly while others “might” not. Nor do they deny that a man “might” have an intuition about the basic differences existing in the value of ends and purposes and that for him such an intuition is absolutely certain, to the point that it forms part of his knowledge. So, these relativists acknowledge that a valid intuition about values “may” exist, but deny that we can communicate our convictions, knowledge or intuition about values in a scientifically demonstrable fashion. In other words, it is necessary to distinguish between subjective convictions, knowledge and intuitions about the validity of value judgements and the intersubjective proof of those values that may be transmitted from man to man through conclusive data also accessible to others.

This being the fundamental thesis of the relativists, most of them insist that value judgements—especially those pertaining to ethics – are statements on meaning and not on facts, on what “ought” and not on what “is”. Nevertheless, and this is important, nor do they deny that the statement that something “ought to be done” or the emotional preference that something should be done or even the purpose of doing it, may be based on a transcendental influence; they only claim that this cannot be demonstrated in an intersubjectively conclusive manner. Some have stressed that such an influence, should it exist, would be something belonging to the realm of an “is” that is impossible to demonstrate scientifically.

Is and Ought (Tammels, 1970)

Considering the integrity of the arguments deployed by the relativists and that the intention here is to demonstrate them in part, it is first necessary to pose the following question: Can the superiority or inferiority of ends and purposes, for example in political affairs, be intersubjectively proven? Notwithstanding the scepticism about the demonstration of values, the relativists do not deny that science may make a contribution to the debate by clarifying the precise meaning of the possible interpretations and by examining the consequences of political actions based on such interpretations (Brecht, 1947).

At the end of the nineteenth century, theoreticians of natural law in political and legal philosophy developed their concepts on the basis of “ought” in relation to what in fact “is”. The line of argument that had been hitherto developed is as follows: as human beings are, they consequently ought to be; as they are born as equals, they should be treated as such; as they have a natural impulse to preserve their own lives, they should have the right to defend themselves; as society exists and is useful for preserving life and self-defence, there should be a society. The opposition to a natural law based on such a rationale, which found its highest expression in the first half of the twentieth century, was based—as already observed—on fact that no postulate belonging to the realm of “ought” can logically derive from a reality of the realm of

“is”. The fact that there are human beings does not mean that they should exist; nor does the fact that the existence of a society and a relationship of interdependence between its members prove that a society should be formed or that this is ethically desirable. This would be possible—as the relativists would contend—if it were easy to verify propositions of the physical or biological realm of “is”. But to establish transmissible or communicable proof of propositions belonging to the realm of “ought”, grounded in deductive logical derivations as regards facts understood as mere fallacies of the realm of “is”, appears to be an impossible task.

More than one exegete credits the Scots thinker David Hume with the doctrine of the dichotomy between facts and values, despite the fact that in his *A Treatise of Human Nature* (1739–1740) he does not mention “fact-value”, but “is-ought” (Coelho, 2004). The logical separation between the realms of “is” and “ought” (Ogien, 2006) has been combined with the thesis that not even moral values can serve as a bridge between both. According to this stance, moral values do not exist as facts in the realm of “is”, even though the interpretation made of them are factual matters; that is, while values as such do not exist, qualities considered to be valuable, such as generosity, goodness and honesty, do indeed. Anything can be demonstrated in a valuing way in that it is useful as a means of obtaining specific ends. Be that as it may, this does not demonstrate the unconditional value of the means, unless the unconditional value of the ends is also demonstrated. Ethical values belong to the realm of “ought”, to the point that only “ought to be”, “ought to be done” or “ought to be proven” will have an ethical value.

Accordingly, from the point of view of formal logic, the conclusions deduced from the form “is” cannot only be obtained from premises of the form “ought”. For instance, as all human beings “ought” to have the right to life, as Peter is a human being he “ought” to have such a right.

This methodology of separation has had an enormous influence on twentieth-century political and legal philosophy, although it is true that following the Second World War the gap between the realms of “is” and “ought” began to be bridged. In the initial years of the twenty-first century, this started to bear fruit, as can be demonstrated by analysing recent events justifying civil disobedience (Falcón and Tella, 2004), such as those occurring in what has come to be known as the Arab Spring. However, the doctrine of separation between both realms is still entrenched, thus contributing to maintain the force of the arguments underpinning the theses of scientific relativism.

Those researching on a possible interface between “is” and “ought” initially base themselves on the internal processes through which, in a natural or biological way pertaining to the realm of “is” (an inner voice), we are guided or pressed by an ethical “ought”. This “inner voice” can order us to be good or reveal to us a series of hierarchal values which will make us, for example, place generous actions above the egoistic kind. Thus, an ethical “ought” would be expressed through an “is”. The link between both realms would not have a logical character, but indeed a “factual” one, which being so self-evident and capable of being proven intersubjectively, would make the doctrine that is only grounded in logical separation lose importance. Suffice it to observe such a factual link in a sufficient number of individual cases to arrive inductively at the conclusion of its universal presence with the same certainty or uncertainty as any other inductive conclusion (Brecht, 1941). In short, the logical deductions of the realm of “ought” effectively presuppose premises in this same realm.

Nevertheless, formal logic is not always a good guide. As a matter of fact, in principle the most absurd conclusions can derive from absurd premises in a logically correct manner. For the value of a formal deduction chiefly depends on the veracity of

the premises. The fact that the premises are true is not due to logical reasons but in accordance with the facts. To reach a logical conclusion on the basis of a true statement is only a secondary conclusion, which has been incorrectly given a priority role. So, it is possible to claim that, first and foremost, neither are true statements logical deductions, nor is their justification based on the immediate evidence substantiating the truth of the statement or its elements. Accordingly, when asserting that certain specific requirements of “ought” form part of human nature, this is a factual statement and not a logical inference. Those requirements, this “ought”, whatever its validity and value, are facts, data that are found in the realm of “is”, for which reason they serve as a bridge between the realms of “is” and “ought”.

The intersubjectively transmissible proof of Value

In light of the foregoing, the second question raised is as follows: What should be understood by intersubjectively transmissible proof? During a roundtable on “Relativism in Political Theory”, held in Ohio in 1946 (Wilson, 1946), Francis G. Wilson of the University of Illinois stated that the analysis of proof can be performed from “within” and from “without”. From “without”, the value of a political proposal can be addressed scientifically if its implementation is proven to be impracticable, namely, if it is impossible to reach the proposed objectives in any way, if the means of achieving them are unknown or if they cannot be met by the means that have been proposed. For example, it can be demonstrated scientifically that it is impossible to guarantee that a dictator, who has been invested with full powers, will always put them to good use; that even though he is willing to do so now, he will be just as willing in years to come, as with his successors; that once he has been given full powers, it will be impossible to divest him of them without his consent, but solely through revolution; that it is impossible for a dictator, even though he is willing, to supervise personally the fair treatment of the citizenry as a whole or that, without independent institutions or freedom of public opinion, he will be able to control the delegates with whom he has invested local powers. The demonstration of impossibility refutes the alleged value of the political proposal inasmuch as that impossibility is proven.

From “within”, certain actions can be understood scientifically as unethical because they violate specific fundamental requirements based on indisputable elements of human feeling and thought. Under particular circumstances human nature cannot help abominating certain actions and, in contrast, nor can it help approving of others. It is true that most feelings that are supposedly universal are nothing more than feelings limited to certain individuals or groups; others, despite being fairly universal, are not entirely so. But there are feelings that are so universal that no exception has ever been observed and it would even be impossible to imagine one. For instance, it seems that the notion of justice and injustice is unquestionably present in human feeling. Notwithstanding the fact that views on what is fair or unfair differ considerably, the interconnection between justice and truth appears to be one of the universal and invariable elements of human feeling. It is impossible not to feel that it is unfair that someone should knowingly make a false discriminatory statement about another person, or knowing that he is innocent should punish him for something that someone else has done.

Another necessary element in human feeling is that whatever is equal according to an accepted system of values should be treated equally. Returning to the previous example, a punishment will be inevitably regarded as unfair if it has been impossible for the person receiving it to do what was expected of him.

In view of the foregoing, it is possible to claim that statements about universal elements do not inevitably derive from arbitrary or stipulative definitions of justice, but can stem from necessary

feelings inherent to human beings. To clarify whether or not this is so and to what extent is within the bounds of scientific research. And if these elements are considered as a whole and combined with the two methods proposed by the relativists—the clarification of the feeling of the proposed interpretations and the analysis of their implications—the demonstrable elements that are obtained are of considerable worth. Especially the demand for truth in justice has very serious consequences, objectively and subjectively speaking, since many bad politicians have uttered falsehoods to justify decisions and actions that respond to interests or ideologies, cloaking them with the principles of practical reason that should be on the cusp of any legal culture (Wieacker, 1965).

With respect to the category of impossibility, the examples presented here evince its importance. In one of his last publications, the masterly Legaz y Lacambra expressed this very clearly: “[...] law sometimes transforms the rhythm of changing social reality into a reflection of itself; sometimes it is law that truly acts as a ‘driver of change’, but also, on occasion, it is law that acts factually as a factor of persistence to change and to the problem per se, in the face of certain changes, and should thus act in defence of an objective order of values. And philosophy of law should assert that law is a form of social reality, which is inserted in it and, therefore, involved in and for the phenomenon of change. But its mission is also to discover structures of thought that endure in all contributions and, above all, objective criteria of value that permit their judgement and their regulation [...]” (Legaz and Lacambra, 1979).

Does objective Justice exist?

The third question posed here, following this allegation against the absolute relativism of values, is as follows: What is fair and unfair? In principle, it seems that the postulates of justice cannot be considered independently of the accepted system of values at a specific historical place and time by a person or a group of people. These postulates will vary, particularly when considering the individual as having a higher value than that of the group or vice versa. If, as the relativists hold, ultimate values cannot be proven, scientific analysis can only rely on the different systems of values, clarifying their real meaning and significance and noting the consequences to which the application of certain postulates of justice would lead. Thus, the choice between the highest values would not be an issue that the science of justice could resolve, but the belief itself to which such a choice would correspond as an a priori of justice. This assertion, which abandons all universal, absolute and immutable standards of justice, appears to deal a fatal blow to any consideration of a natural law on which philosophy has been based for >2000 years. However, if justice is really so relative, how can anyone demand it? Experience has shown that the attempts to go beyond relativism and to describe neither one nor several ideas of justice, but *the* universal idea of justice, still have not been abandoned. The intention is to find essential principles that can be proposed as absolute or objective principles of justice with scientific certainty or metaphysical evidence. In practice, however, many of these principles have not been recognised even in the so-called “civilised” countries, and have even been contradictory in different political systems: not only natural law has been lost, but also the practical consensus on what are the highest values. In this regard, I believe that we can continue to claim, as with Roscoe Pound, “A workable measure of values, on which jurists starting from many different philosophical standpoints and from any of the current psychologies can agree, is a necessity” (Pound, 1938).

It is not only about the existence of several ideas of justice held by different individuals, whose validity or invalidity cannot be demonstrated. Each individual can even have several ideas of justice, which signifies that our ideas and feelings as regards justice can be

dual, and even simultaneous, according to the system of values to which we adhere at each moment. Specifically, there are two different levels in our ideas of justice, both of which depend on something outside the sphere of justice *per se*: either we think about justice in view of the existing institutions or we transcend those institutions (Brecht, 1939). The former—which Arnold Brecht calls the traditional idea of justice—accepts the fundamental institutions forming the basis of our daily social life, taking them for granted without questioning them. The latter—which for Brecht is the transtraditional idea of justice—distances itself from these institutions and criticises them according to principles drawn from a transtraditional interpretive schema. In both cases, it is possible to distinguish some elements that are relative in the very idea or feeling of justice; namely, there are apparently elements common to all ideas and feelings of justice. Brecht developed this thesis linking it to the aforementioned proposals put forward by Wilson. In this sense, according to Brecht, at first sight there are four indications that support the assumption that all ideas of justice have something in common: firstly, such ideas exist everywhere as a specific category of ideas; secondly, the term “justice” or its approximate equivalent also exists everywhere; thirdly, the human desire for justice is such a universal factor that no one in public life can forgo presenting his acts as fair; and, fourthly, there is a negative indication that makes it a simple task to confirm that an act is unfair from any point of view.

Universal elements present in any idea of Justice: the need for Truth

Following on from this, it can be stated that the universal term of justice responds to a universal human need to express not only agreement with existing laws, but also criticism of them for being unfair. This universal need for expression refers to something that has at least some elements in common everywhere since time immemorial. Bearing in mind the real passion that they arouse, and have always aroused, there can be no doubt about how important these elements are for human nature.

In line with Wilson, Brecht compiled and broadened the elements common to all ideas of justice, whatever the individual belief.² They are universal elements in the empirical sense of the word and absolute in the sense that they are invariable postulates of justice in all existing systems of values. Brecht listed five of these postulates – the most important of which and that which serves as a basis for the rest being the first—which will be discussed below.

Objectively speaking, justice, as noted above, requires an agreement with truth. In the subjective sense, justice requires an agreement with what is believed to be true. The postulate of truth has important implications for both the facts of a specific case and the consequences deriving from it. Any indiscriminate assertion, like, for instance, that someone has committed a robbery, is perfectly fair if it is true. This can be applied not only to any type of moral or legal judgement, but also to judgements on skills and achievements. Whatever the merits or demerits of Napoleon, Hitler, Lenin, the Jews, the Hutus, the Tutsis or the Saharans, all have demanded the truth in their final judgement. No one, not even Judas Iscariot, can be denied this.

Furthermore, even though someone believes that the act of lying has a value, his own inner vocabulary could not call something that is a lie “true” and something that is contrary to truth “fair”. No one can deny that their sense and ideas of justice require the truth as a basis and part of justice. Moreover, this is true notwithstanding the fact that man is continually building systems and arguments based on lies and wishful thinking. Man’s urge to utter falsehoods is a verifiable fact that penetrates deeply into the realm of justice, to the point that the worst crimes against truth and justice have been committed, and are still being committed, in their name. People lie to themselves and to others in

the belief that something is true and, therefore, fair. On the contrary, the proclamation of the justice of a cause, even though the facts have been deliberately twisted, is always based on the supposition that the facts are true or at least believed to be so. The foregoing demonstrates the existence of an inseparable connection between ideas of truth and justice. The idea that a judgement is not only objectively fair when based on the truth has always existed, for which reason the postulate of truth undermines the very foundations of relativism and does so in different ways.

First and foremost, it is possible to observe that the majority of interpretations of values are grounded in assumptions about facts and that these basic assumptions can be proven to be incorrect, should this be the case. Secondly, it is possible to prove that an interpretation is based on weak reasoning, which can be corrected by a more profound and reflective thought. Thirdly, it is also possible to demonstrate that the necessary sacrifices for achieving certain values and the implicit risks that are run are greater than first meets the eye. Finally, it is possible to prove that the consequences of accepted values differ from those that have been assumed.

Additionally, it is impossible to deny that the very idea of justice demands the truth in that it obliges us to make a choice according to our convictions or beliefs. Provided that the truth convinces us, we cannot cease to follow it in our transtraditional ideas of justice. And if we realise that our convictions and beliefs are based on an erroneous consideration of the facts, or on superficial thought, our assumptions will be gradually dismantled to the point of changing our own convictions.

This application of the science of analysis to values in its struggle for the truth often modifies the interpretations that we make, as well as our ideas and feelings of justice. Nowadays, science can help us, with its methods for interpreting and analysing the consequences, to determine the justice or injustice of ethical and political decisions relating to issues such as abortion, capital punishment, euthanasia, the passing of a piece of legislation that facilitates divorce proceedings (above all in relation to the consequences that it has for children, in such an eventuality), the adoption of children by homosexuals and many other burning issues for twenty-first-century society that have yet to be resolved.

Together with the postulate of truth, justice demands the generality of the system of values applied, for which reason it is unfair—and this can be proven—to use arbitrarily different systems of values in such cases. Another two are derived from this postulate that oblige us, in pursuit of justice, to treat equally what is equal according to the accepted system of values and not to restrict freedom beyond the requirements of that system. The last postulate of justice that Brecht proposed as universal is independent and refers to the limits imposed by the very nature of things, so that punishing the violation of a law or command when compliance is impossible is considered to be unfair. There might be different subjective opinions on what is possible and impossible to do; a person receiving a command from another who has established some obligations may disagree with him, for which reason he will believe that, objectively speaking, he is being treated unfairly. This gives rise to those who are objectively rebels with a cause of justice in those cases in which the intention is not so much to establish a hierarchy of values as to remedy what is considered to be an unfair act or command because compliance is impossible.

Conclusion

We concur with Brecht when considering that, on the basis of the five postulates that he proposed, we can aspire to obtain a minimum definition of justice versus the startling disparity as to its identification.

If our intention is to reconstruct the ailing morality of Western civilisation, the scientific value relativism proposed by Brecht is a

good starting point, for, while recognising that it is impossible for knowledge to access absolute truth, he claims that it is indeed possible to approach it through a knowledge of objective and absolute universal elements, which ought to be present in values for them to be acknowledged as such.

Undoubtedly one of the principal goals of humanity since the dawn of man, this would be an exact description of a phenomenon, of a universal form of human thought and feeling, based on a series of universal characteristics of human existence. It would be the concurrence of all of them and their mutual interrelation that would give it a full meaning. Whatever that meaning may be, science has the obligation to strive to establish objectively what really has the status of a relative variable, while at the same time inquiring into what remains in time as an absolute variable of justice; an especially important goal in the field of politics, insofar as the basic aim of politicians is to do justice (Deigh, 2011). As exposed, Brecht was not an adherent of an “eternally recurring natural law” (Rommen, 1998). However, his concern about if the pendulum’s swing had not gone back too far, brought back to the ground the question about the fundamental status of values such as justice.

There is no guarantee that public deliberation about hard moral questions will lead in any given situation to agreement, but, as Michael Sandel states (Sandel, 2010), a politics of moral engagement is a more promising basis for a just society. Moreover, in our modern and complex societies we find different options in order to prosecute practical justice. This possibility should be introduced in the concept of knowledge and we should assume that, normally, our security of knowing something, implies that, in future, someone might refute us (Midgley, 2019).

Data availability

Not applicable as no datasets were analysed or generated.

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Notes

- 1 Although it is not the aim of this paper, a correct understanding of the actual situation of the influence of non-positivist thought in current political, social, and legal philosophy, must go through the proposals of authors such as Lon Fuller, Ronald Dworkin, Robert Alexy, Alasdair MacIntyre and John Finnis.
- 2 Brecht, *Relative and Absolute Justice*, 75.

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Competing interests

The author declares no competing interests.

Ethical approval

This article does not contain any studies with human participants performed by any of the authors.

Informed consent

This article does not contain any studies with human participants performed by any of the authors.

Additional information

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