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"Relational, structural and systemic forms of power: the 'right to justification' confronting three types of domination"

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This article investigates the nature of intellectual critique and social criticism Rainer Forst's critical theory of justification enables. I introduce a taxonomy of three forms of power – namely, 'relational', 'structural' and 'systemic' – and related to them types of domination, and assess the capacity of Forst's conceptual framework to address each of them. I argue that the right to justification is a potent tool for emancipation from structural and relational forms of domination, but claim that Forst's particular conceptualisation of power prevents him from addressing injustices generated by 'systemic domination' – the subjection of all actors to the functional imperatives of the system of social relations.

Key words: meta-rights, power, domination, capitalism, Marx

1. The right to justification as a meta-right

The 'basic right to justification' formulated by Reiner Forst joins 'the right to have rights' (Arendt), the 'human right to democracy' (Benhabib) and the 'fundamental right to politics' (Azmanova, Balibar) to chart the territory of *meta-rights* – rights that are already inherent in the established cannon of rights as their logical presuppositions, and at the same time serve to erect the empirical conditions for the exercise of these rights.[1] Thus, the right to justification, defined as one's "right to be offered appropriate reasons for the norms of

[1] I introduce the notion 'meta-rights' in Azmanova 2016b:7. Etienne Balibar and I develop the concept 'right to politics' in parallel and independently of each other. His conception arises from a concern with exclusion from membership in a political community and is a reformulation of Arendt's 'the right to have rights' into 'the right to politically institute all human activity in view of liberation and equalisation."(Balibar 2014:45). I develop the idea of a 'right to politics' as an answer to the depoliticisation marking the context of neoliberal capitalism, as the TINA policy consensus enacted by bureaucracies has rendered politics impervious to democratic contestation (Azmanova 2013; Azmanova and Mihai, 2015: Introduction). I view it as a presupposition of the 'right to democracy' and as a lever for the latter's actualization (Azmanova 2016b).

justice that are supposed to hold generally" (Forst 2014: 34) plays a double role.[2] On one hand, it encodes the communicative presuppositions enabling any grievance of injustice and any claim to rights to be meaningfully addressed to relevant others – that is, within a particular context of justice. On the other hand, the institutionalisation of a right to justification in fora where reciprocal reason-giving among actors can take place becomes an empirical condition for the very exercise of political agency. As it renders binding power to the imperative that all norms or institutions that constitute a normative order be justified to those who are subjected to this order, the right to justification undergirds not only context-specific social and political rights, but also enables the very *demand* for rights irrespectively of their specific content. In this sense the right to justification is a meta-right that underlies human rights both as their logical presupposition and as their empirical condition of possibility.

Moreover, such justificatory practices are a motor of emancipatory social change: as the subjects of a normative order examine discursively the reasons for the validity of this order, and as they possibly reject and redefine its norms, they transform it. The range of this transformation is vast: it comprises both the seat of authority and the substance of authoritative norms -- the subjects of rule invoke their right to justification "when what is at stake is *whom* they should obey and *what* they should accept."(2014:3, italics added).

Undoubtedly, the right to justification opens promising roads for both emancipatory critique and emancipatory political mobilisation. By articulating in recent work a detailed conceptualisation of power in relation to justificatory practices, Forst (2017) has laid the foundation of a comprehensive critical theory of justification.

In what follows, I will investigate the nature of intellectual critique and social criticism the right to justification enables, and will inquire how far thinking in terms of justificatory practices can take us on the road of emancipation. I will demonstrate that the right to justification is a potent tool for emancipation from two forms of domination – which I will describe as 'relational' and 'structural' (related, respectively, to the unequal distribution of resources and the unequal control over the social structures that generate power asymmetries). I will, however, suggest that Forst's particular conceptualisation of

[2] In an earlier formulation, this is "the right to be respected as a moral person who is autonomous at least in the sense that he or she must not be treated in any manner for which adequate reasons cannot be provided" (Forst 1999:40).

power prevents him from addressing injustices generated by what I will describe as 'systemic domination' – the subjection of all actors to the functional imperatives of the system of social relations.

2. Pictures of justice, forms of injustice, and types of domination

The fundamental right to justification enables a process of rational, reflexive justification of social arrangements. The norms of justice that are object of justification can be of two types, which Forst describes as two 'pictures of justice'. The first one is that of social or distributive justice, which Forst finds too narrow (and narrow-minded): being goods-fixated, such an idea of justice is unable to capture the whole spectrum of injustice that afflicts societies.

The second picture of justice Forst draws is that of justice as non-domination, and it is here that the right to justification finds its proper emancipatory vocation -- in the disclosure of the power dynamics engendering domination. It is the arbitrary nature of rule, rule "without proper reasons and justifications and (possibly) without proper structures of justification existing in the first place" (ibid: 21) that is the object of critique.

On the plane of the second picture of justice, the right to justification activates a process of mutual reason-giving (with the attendant principles of the participation of all affected, and of reciprocity and generality) in the course of which suffering rooted in asymmetries of power can be politicised discursively and thus addressed politically. Thus, the right to justification is an efficient tool against what we might call, borrowing the term from Susan Strange (1988), 'relational power' – the capacity of one actor (individual, a group, or a state) to get another actor to do something it would not otherwise do – i.e. the power of one social actor *in relation* to another, as compared to others.

Of course, justice is always a 'relational matter' in the sense that it defines the states of intersubjective relations. As Forst writes,"[j]ustice does not ask primarily about subjective or objective *states of affairs* (such as lack or abundance) but about justifiable relations between human beings and what they owe *one another* for what reasons (2017:165, italics in original). Indeed, power itself is inevitably a relational entity (as a matter of social, rather than interpersonal, relations). However, this is not the sense in which I, following Susan Strange, use the notion 'relational' power. In her usage, the term implies a comparison

between the power two actors possess relative to each other – it concerns the asymmetrical distribution of resources between these actors, entailing the domination of the stronger over the weaker one.[3]

Relational power is sourced from the uneven distribution of ideational and material resources among actors, including the uneven distribution of justificatory power. It results in what I have named 'relational domination' (Azmanova 2012:48; 2016a), in order to distinguish the *state* of being subjected to the power of another (i.e. the state of social relations of domination) from an actor's capacity to incur subjugation and the act of incurring such subjugation -- that is, from the actor's *possessing* relational power.

Typically, inequalities and exclusion are the types of experienced injustice that marks relational domination. These injustices can be remedied by way of equalising the relations of power once, following Forst, power asymmetries are rigorously scrutinised in practices of mutual justification.

Susan Strange has developed the notion of 'relational power' in contradistinction to 'structural power' – power actors source not from the possession of resources, but from their capacity to control the structures (e.g. of security, production, finance and knowledge) that define the environment within which their interactions take place. In a somewhat different manner, Iris Marion Young (2009) has spoken of structural power as engendering the injustice of 'structural processes of privilege' – a notion that attributes the power to the structure itself, rather than to actors who control that structure. What we can name, accordingly, 'structural domination' – domination produced by social structures (i.e. such as the gendered division of productive and reproductive labour, or the private property and management of the means of production), has also become a distinct object of critique in Forst's critical theory of justification.

Forst observes that "theories of justice that are blind to the structural injustices that are the hallmark of our global capitalist era are particularly deserving of criticism" (2017: 22) and notes that "[t]hinking about justice after Marx means avoiding a truncated and distorted conception that focuses exclusively on the distribution of goods and neglects the essential question—the question of the structures of production and distribution and of

[3] 'Relative' rather than 'relational' would therefore be a more suitable term to describe such state of power relations but I have chosen to retain the formulation that Susan Strange has coined.

who determines them in what ways" (2017: 173). Forst recognizes that the distributive perspective on justice obscures "the question of how the goods to be distributed come into the world, hence questions of production and its just organisation" (2017: 161); this perspective "neglects the political question of who determines the structures of production and distribution and in what ways – hence, the question of power" (ibid). In his seminal "Noumenal Power', Forst admits that "[a]n important test of the realism of the theory of noumenal power is whether it can explain the "the power of 'structures,' be it general social structures or more particular organizational structures" (2017: 62).

The alternative picture of justice Forst draws is indeed structure-oriented: "The political point of justice is geared to social relations and structures, not to subjective or objective states of affairs' (2014:11). As he notes, "justice is not only a matter of which goods, for which reasons and in what amounts, should legitimately be allocated to whom, but in particular of how the structures of production and allocation of goods came into the world in the first place and of *who* decides on their allocation and *how* this allocation is made"(ibid.33-34, italics in original).

Indeed, the perspective on justice to which the right to justification is geared targets domination produced both by the relational (or relative) power some actors have over others by force of the uneven distribution of societal resources, as well as by the structural power some have as a matter of the privileges they derive from the basic structures of the social order. This allows Forst to delineate a comprehensive notion of critique in relation to how power is enacted: "modes of exercise of social power must be differentiated and evaluated, ranging from 'empowerment' to domination and oppression, whether interpersonal or structural" (2017:10).

Yet, within an ontology of the social order *as a system of social relations*, we need to account for the capacity of justificatory practices to provide emancipation from a third type of domination – what I will proceed to describe as 'systemic' domination, rooted in the power of the social system over its subjects, beyond the power asymmetries among them. I will make recourse to the Marxian analysis of capitalism as an institutionalised social order

in order to articulate the triad of notions *relational-structural- systemic* domination and the attendant experiences of injustice and trajectories of emancipation each of them contains.[4]

The social relations under capitalism as a comprehensive system of social relations (irreducible to a 'market economy') are shaped by the *operational logic* of the system – namely, the competitive production of profit. This is the system's ground rule that secures the social order as a structured *system* of social relations, rather than as a compilation of functionally specialised spheres, one of which is the market economy.[5] This operational logic is enacted with the means of social *structures* (i.e. the market as a mechanism of commodity exchange, and the private property of the means of production) and key *institutions* (e.g. the 'free' labour contract). Patterns of injustice emerge within three types of domination the social system engenders, namely:

Relational domination: As I discussed above, it consist in the subordination of one group of actors to another due to power asymmetries – asymmetries resulting from the unequal distribution of society's material or ideational resources (e.g. wealth, knowledge, recognition). Typical forms of injustice on the plane of relational domination are inequalities and exclusion. When experienced as injustice, instances of inequalities and exclusion trigger the process of questioning of the normative order, deploying the 'right to justification'. Once in the process of discursive justification it is established that these inequalities are unacceptable to those subjected to them, the injustice is typically remedied by policies of redistribution, recognition, and inclusion (e.g. raising the minimum wage, granting cultural recognition to racial and ethnic minorities, or opening the labour market to women on an equal footing with men). Political theory that perceives power in agential terms (as something pertaining to agents) tends to focus attention exclusively on these types of injustice.

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[4] In previous work I distinguish between relational vs structural domination (Azmanova 2012, p.), and relational vs systemic domination (Azmanova 2014:p 353), in analyses that used the terms 'structural' and 'systemic' interchangeably. I have come to realise, however, that these are three distinct forms domination each deserving proper attention.

[5] Jurgen Habermas in *Legitimation Crisis* (1973), under the influence of structural-functionalism reduces capitalism to the functional sphere of production, consumption and exchange of goods and services, thus deviating radically from the original Marxian conceptualization of capitalism as a comprehensive system of social relations, a comprehensive social order.

Structural domination: This form of domination is rooted in the manner in which structures of the social system (the structures through which the operational logic of the system is enacted) affect participants' life-chances. In the case of capitalism, within the original Marxian analysis, the structure of the private property of the means of production is what allows the exploitation of labor, as it gives the capitalist class the capacity to extract surplus value from hired labour. Importantly, Marx argued that raising the living standards of the working class (returning to workers, in the form of higher wages or other benefits, a bigger share of the value they produce) would not terminate exploitation. Only eliminating class differentiation by way of abolishing the private property of the means of production (i.e. the mechanism that structures capitalist social relations) would end exploitation.

As I commented, recent reiterations of Forst' concept of justificatory practices regards the *structures producing* power inequalities, and not only the resulting power asymmetries, also as a significant object of contestation. We can well imagine that, proceeding from experiences of (unjustifiable) inequality and exclusion, actors could proceed also to question the structures generating that inequality and exclusion. The victorious struggles for the extension of the electoral franchise and against the gendered division of labour are examples at hand. A peculiarity in Forst' take on structural power is that social structures are treated as a *locus* of power, they do not possess power themselves: "power can also be located in a social structure which rests on certain justifications or condensed narratives of justification" (2017:63). In this sense, social structures are themselves sources of relational domination, of the (unjustified) asymmetrical distribution of power among actors; but structures do not have power themselves. In the original Marxian account structures do have power: thus, the owners of capital do not simply use the structure of the private property of the means of production to hire, fire and exploit workers; they do not decide to use this structure to extract profit from labour, the structure directs and constrains their behaviour – in this sense capitalists do not have a choice but to behave like capitalists, as this behaviour is in line with their social role as capitalists. In this sense it is the very structure that exercises power.

Systemic domination: This (third) form of domination concerns the subordination of all members of society to the operational logic of the social system, including the winners from the asymmetrical distribution of power. In the case of capitalism, systemic domination

is engendered by the imperative of competitive production of profit to which all actors -- owners and managers of capital, as well as workers, succumb. Marx introduced this trajectory of domination in his analysis of alienation (the multi-faceted estrangement of people from their humanity, their 'species-essence') incurred by the dynamics of profit-production. While workers are the victims of the power asymmetry between wage labour and owners of capital (expressed in the impoverishment of the former) -- asymmetry generated by the structures of the private property of the means of production, all members of a capitalist social order are subjected to the overarching dynamics of the competitive production of profit. The alienatory impact of these dynamics is suffered by all members of society, not only the working class. The social source of suffering is not the unequal distribution of social status, but the system-specific definition of social status (e.g. successful participation in competitive profit-production). The domination that the system, by force of its operational principle, exercises over actors, cannot be expressed in agential terms, that is, as a matter of the power of some actors over others. Neither can the social injustice generated by systemic domination (e.g. alienation) be traced down to power asymmetries.

It is pertinent to note that 'systemic domination', as I describe it here, cannot be reduced to the phenomenon that any social system inevitably entails some sort of constraint (and therefore repression) over social subjects. I trace systemic domination not to the fact that social relations as such imply constraints, but that the *specific operational principle* of a historically particular system of social relations (be it democratic capitalism, bureaucratic socialism, or communism) exercise constraints that are in need of justification.

Often the success of struggles for equality and inclusion within a given system of social relations comes at the cost of the incapacity of actors to question the very system within which they seek equality and inclusion. This incapacity is rooted in the necessity for those struggling for entry and 'fair' place into the system to valorise the system within which they seek justice. Thus, feminist struggles for women's parity with men in the labor market have increased the valorisation of competitive profit production, which has supplied neoliberal capitalism with added legitimacy (Azmanova, 2016a).

As I noted, Rainer Forst's critical theory of justification has sufficient resources to target relational and structural forms of domination. I will, however, question its capacity to

think of domination in systemic terms and therefore to tackle systemic injustice, that is, to target the very constitutive logic of the social order.

3. The unbearable lightness of justification

The deficiency of Forst's critical theory of justification to address what I described above as 'systemic domination' comes from two directions: (1) the conceptualisation he offers of power and domination in agent-centred terms and (2) the way he perceives the normative-cognitive resources one needs for engaging in justificatory practices with emancipatory effect. Let me address these two issues in turn.

In Forst's account, the reason-giving process through which the right to justification is enacted allows the criticism and eventually, the elimination, of non-justifiable social and political relations: therein lies the emancipatory potency of the process. However, when addressing the target of emancipatory practices of justification, Forst describes it as 'all those …institutionalised social relations and structures which are … marked by forms of exclusion, by privileges and domination' (2014:34). Domination is in turn defined as unjustified unequal distribution of power: 'We speak of *domination* (*Beherrschung)* when the relations in question are asymmetrical' (2017: 88, italics in original). Injustice emerges as a matter of unjustifiable asymmetrical social relations, rooted either in deliberate decision or in structures that benefit some rather than others (2014: 28; 2017:23, 60, 70, 163); which leads him to suggest that critique is to target 'false' (potentially ideological) justifications of asymmetrical social relations (2014: 7-8).

Thus, even as he commits to critique of the *effect* of social structures, Forst seems to be subsuming both systemic and structural injustice into relational injustice – that is, injustice consisting in the uneven distribution of power among actors within the system of social relations they inhabit. Thus, Forst claims that a critical theory of justice "is in need of a social scientific theory of structural dependence and asymmetry' (2017:23), which leads him to discuss the evils of capitalism in terms of the 'constraints of the capitalist system that benefit some and impoverish and degrade others" (2017:166). This format of critique of capitalism remains blind to injustices which are not a matter of asymmetrical distribution of material and ideational resources (i.e. alienation), even when critique of alienation is

posited as an explicit goal: “The goal of critical theory concerned with recovering political autonomy is to overcome this alienation –that is, alienation from social reality and from the possibility of political intervention as a form of collective action” (2017:22).

Unfailingly, Forst addresses power dynamics as a matter of the subordination of one actor/group to another through the power the latter exercises over the former. He defines power (*Macht*) as “the ability of A to influence the space of reasons of B such that how B thinks or acts is a result of A’s influence” (2017:88). Moreover, this influence must be intentional, “since otherwise one could only speak of an effect and not of power” (Ibid).

It is worth noting that it is the inequality of power relations (that is, the unequal distribution of the capacity to influence others) that arises the very need for justification: ‘justification is required when it is a question of exercising rule over others’ (2014:2-3). In this sense, inequality among actors is the enabling condition for the exercise of the right to justification: without such inequality demands for justification do not arise. This, however, narrows the realm of critique: one can question the stratification of life chances, not what counts as a life chance; one can question the who and the what of power, but not the constitutive dynamics of power, the social grammar in which issues of access to the system, and place within it, are debated. Both the proviso for intentionality of influence and that of the asymmetrical nature of power relations disqualify systemic power from becoming a valid (thinkable) object of critique.

Thus conceived, Forst’s theory of discursively challenging unjustified relations of power (i.e. domination) falls short of a capacity to address injustices rooted in the very operational logic by force of which a social order is constituted in a certain way. His very definition of domination as matter of subordination, of ‘arbitrary rule of some over others’ (2014: 21; 2017:202,211), combined with a conception of power in agental (agent-centered) terms takes what I described as systemic domination out of the remit of critique.

The second deficiency in Forst’s account of power dynamics concerns the resources actors have for engaging in justificatory practices with emancipatory effect. Forst commits to an ambitious notion of autonomy as a goal of intellectual critique and political action: “the essential conception of autonomy is the autonomy to actively determine the basic structure, not the autonomy to enjoy its goods’ (2014: 30-31). Let us therefore examine

actors' capacity to determine the basic structure of the social order they inhabit, using the conceptual framework Forst supplies.

We would recall that the process of reason-giving through which the right to justification is enacted unfolds in particular social spaces of reasons and is oriented to validating norms of justice that are supposed to hold generally. The process takes place as a reciprocal-general reason-giving within which all concerned are free and equal participants. Let us call this the *democratic principle* (of active political subjectivity in collective self-authorship). The emancipatory force of justification as intersubjectively exercised judgment here appears in the form of generalizable notions of validity that are inclusive of all concerned.

The 'democratic principle' in Forst's writing is combined with a second one – that of 'the social embeddedness of justification'. The question of justification is posed as a "*political* and *practical* question" (2017:22, italics in original). Practices of justification take place within a context of justification and a space of reasons that is contextually specific; orders of justification are historically occurring social facts (ibid:16). As Forst notes, critical theory "does not fabricate any 'absolute' norms or ideals but consistently links every claim to validity to the possibility of those subject to the norms reaching an agreement about it" (2014:8). This is a welcome hermeneutic/realist turn that acknowledges the social embeddedness of reason: "reason does not elevate itself to a super-historical power […] it is only convinced here and now of what counted and counts as reasonable" (2017:16). This enhances the political saliency of emancipatory critique, even as it reduces the ambitions of emancipation: 'the critique of injustice can see as far as reciprocal-general justification permits or demands" (2017:12).

This realist turn in Forst's understanding of justification has implications worth tracing. To admit of the contextual-historical specificity of the space of reasons means admitting that these reasons are shaped by the ensemble of practices through which the social order is reproduced (from family upbringing to schooling and productive employment) -- practices in the course of which individuals become social subjects in the sense that they subject themselves to the social order so as to become active agents of that

order.[6] They do so by internalising shared societal norms as 'valid reasons' in their interactions with othesr, including when they engage in justificatory practices. Thus, in order to be able to interact within a 'space of reasons', actors are first socialised into a shared notion of what counts as a reason in the first place. I have referred to this as public reason's *phronetic structure* – a shared sense of what is a relevant object of normative justification (Azmanova 2012: 164,178). It is this shared conception of relevant reasons that constitutes the 'space of reasons', allowing participants to engage in practices of discursive disagreement over the normative order they inhabit.

Moreover, an understanding of society as a system of social relations held together by a central operational logic (such as the principle of competitive production of profit in capitalist societies, or that of the competitive pursuit of political office in representative democracies), invites us to acknowledge the effect of this operational logic on the space of reasons. The operational logic of a social system is the one that constitutes social status (and attendant notions of a desired self and fulfilled life), from the perspective of which struggles about the fair distribution of life-chances acquire significance and signification. Dynamics of subject-making are also dynamics of subjection to power; not to the power of one group over the other, but to the imperatives of the system of social relations that determine, say, what a socially competent individual is.[7] It is in the process of socialisation into the social order (with its attendant notions of achievement and desired form of self), that individuals become subjects – it is in this way that they are initiated into the space of reasons that empowers them to articulate meaningful disagreements with the political order they inhabit, at the same time reproducing that order. Thus, the principle of 'the social embeddedness of justification' presupposes the principle of 'the social embeddedness of subjectivity'.

The question then is, how can the democratic principle of active political subjectivity in collective self-authorship (which enables the process of valid justificatory reason-giving) overcome the constraints imposed by the social embeddedness of subjectivity and of shared

[6] I am not sure whether Rainer Forst commits to such an ontology of the social order as a historically specific, institutionalised system of social relations. He has defined society as "an ensemble of practices of justification" (2014:5), which leads me to think that he subscribes to a much less sociologically-informed model of social relations.

[7] For a similar line of critique see Amy Allen, 2016.

reasons? Only if these constraints are effectively surpassed, a critical stance vis-à-vis the constitutive logic of the social system becomes available. In other words, if notions of validity are socially constructed within processes of socialisation (and therefore permeated by the systemic logic of the social system), then emancipatory critique risks to be trapped in the very grammar of justification. Reducing critique to the process of reciprocal and general reason-giving among all affected (the democratic principle of discursive self-authorship) would not help us address systemic domination.[8]

In the introduction to the new volume, Forst seems to acknowledge this deficiency of a critical theory of justification centred on the democratic principle of discursive collective self-authorship, when he remarks that "the pioneers of emancipation developed their positions, described above as 'unheard of', in societies in which they were regarded as immoral or crazy" (2017:15). He notes that if we view certain instances of emancipatory criticism as achievements, "we cannot regard them either as contingent or as necessary, but only as *moral progress*, as progress in our moral understanding of ourselves through morally justified innovation, but not through historical success"(ibid, italics in original). Shall we then conclude that the democratic principle of discursive self-authorship has no ability for progressive transformation of the social order, but only the power to assess, in hindsight, whether innovation brought about by individual and collective actors counts as acceptable? This would mean that the right to justification, as conceived by Forst, opens a process of validation but not of radical social transformation.

The solution Forst offers to this difficulty comes in the form of the assertion that we should regard persons as social and at the same time as autonomous beings – which he then projects onto the deliberating, reason-giving collectivity: "it is always possible to subject a certain practice to reflexive questioning and criticism" (2014:4). Yet, what is the source of that capacity? Once the realist turn is effected (and the social embeddedness of reason

[8] This is a recurrent theme in the writings of the first generation of Frankfurt School authors, probably most acutely addressed in Marcuse's One Dimensional Man as the formation of a pseudo-happy consciousness in the conditions of late capitalism, consciousness that endorses fully the parameters of the system. In recent commentary on Marcuse, Michael J. Thompson (2016:39) aptly describes this as "desiccation of consciousness [which] is a basic consequence of the structural and functional dynamics of modern, administered, capitalist society".

recognised), one cannot simply assert the power of reflexive questioning, especially in its democratic form that relies on shared reasons, to transcend the constraints of socialisation into a particular space of reasons.

To cope with this difficulty, Forst seems to affect a transcendental U-turn. He claims that "[t]he conditions that make a social learning processes possible cannot set limits to these processes when it comes to a theory of validity" and asserts that '[t]he normative possibility of freedom has a higher status than its normative reality" (2017:12). We are advised to rely on the hope that individuals can act as free moral agents by force of a capacity of reasoning that is free standing, that is, not captive of the meaning-rendering, contextually valid space of reasons. We are urged to have faith that "[r]eason is at once the most immanent and the most transcendent faculty that human beings possess". Kant's 'noumenal', unencumbered self, stripped bare of all particularizing characteristics re-emerges to save the day (of emancipatory critique).

However, Kant (1795) himself advised that, in matters political, we should not rely on assumptions about the cognitive and moral qualities of individuals. What he described as the "scandal of ostensible contradiction of reason with itself", on the plane of political interactions and power dynamics plays out as either dogma or uncertainty, with grave political consequences.[9] Thus, Forst's ambitious critical theory of justification faces what I have named the 'paradox of judgment': "Efforts at creating a theory of judgment that is at the same time morally vigorous, politically realistic, and critical to the norms on which it bestows validity face a paradox: The more we weaken the stringency of our normative criteria, the more we enhance the political relevance of the theory at the expense of its critical potential; on the other hand, the higher we set our normative standards, the more we lose our grip on political reality" (Azmanova 2012:3-4).

For a viable critical theory of justification -- one aspiring to be politically relevant -- we need more than faith in the capacity of reason to transcend its social embeddedness. We still need to hear how Rainer Forst proposes to resolve the paradox of judgment.

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[9] Kant speaks of the "scandal of reason" in the preface to the second edition of *Critique of Pure Reason* and notes again the "scandal of ostensible contradiction of reason with itself" in his letter to Christian Garve, Sept. 21, 1798 (Kant 1967, 252).

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