

Law and Belief: A Pragmatist Interpretation of the Althusserian Conception of Legal Ideology

Marc Maesschalck¹ · Fabio Bruschi²

Published online: 6 June 2015
© Springer Science+Business Media Dordrecht 2015

Abstract This article aims to interpret the Althusserian critique of ideology in order to put forth the mechanisms at work within the relation of belief that constitutes every ideology and to insist on its practical consequences on the relation between the intellectual and the masses. To do so, we will draw upon Althusser's review of humanism, upon his commentaries of the work of Montesquieu and Rousseau, and upon his conception of ideology in the article from 1970 on 'Ideology and Ideological State Apparatuses' and in other texts of the same period. By focusing on an analysis of the functioning of belief within the three cardinal forms of ideology (moral, legal and political), we will highlight the importance of putting into place a social critique attentive to the repetition of the relations of belief with regard to enabling truly transformative actions.

Keywords Althusser · Belief · Humanism · Ideology · Marx · Overdetermination · Social criticism · State Apparatuses

Introduction: Towards a New Reading of the Althusserian Conception of Ideology

Among the main questions that Althusser explored in the wake of Marx there is not only the recurring question of the ideologies, but also, correlative to it, the question of *the transformation of beliefs in the field of practice*. There are two reasons for

✉ Marc Maesschalck
marc.maesschalck@uclouvain.be

Fabio Bruschi
fabio.bruschi@uclouvain.be

¹ Centre de Philosophie du Droit, Institut pour la recherche interdisciplinaire en sciences juridiques (JUR-I), Université catholique de Louvain, 1348 Louvain-la-Neuve, Belgium

² Centre de Philosophie du Droit, Institut supérieur de philosophie, Université catholique de Louvain, 1348 Louvain-la-Neuve, Belgium

which this theme has not been explicitly studied as such. The first one is that it is usually concealed by the question of the function of ideologies within practice, a theme that has been constructed through the combination of a conception of the unconscious of the masses (Althusser 2005, p. 233) with the theory of the over-determination of the practical field by an unseen structural dominant (Althusser 2005, p. 206). The second reason is that once the problem of ideology has been identified, it is the relation to the *semantic content* of belief that predominates, such as for instance when one intends to attack the illusions of the masses supported by humanism, or when the intellectuals or the experts implicitly adhere to a level of generalisation of the social already affected by certain societal effects.¹ Ideology is then understood straightaway by the interpreters as a set of beliefs determining the meaning of subjective action, in the manner of a semantics of social engagement.² What is left aside, in this case, is ideology as a practical form; that is, as the main component of a posture of action characterised by a certain belief in the effects expected from an order of values guiding the ideal of the subject. It would be only if we believed in the value of ‘being humanist’ that we would expect from it practical effects.

What these habitual interpretative shortcuts have obscured is, on the one side, that ideology could be examined more effectively if it were simply considered as *a set of beliefs constituting forms of identity stances within action*—thus as a structural determinant of a pragmatic rather than a semantic order, as a level of generality structuring the world as a field of action. On the other side, the semantic contents of belief, according to this structural and pragmatic point of view, are secondary and dependent on the process that makes them efficient in practice, namely on a certain *relation* to the operation of belief itself, on account of which one adheres to this operation in order to inscribe it in the process of action all the while expecting it to participate in this process of inscription, by reinforcing, orienting and determining it. Our thesis is thus that, to criticise the contents of an ideological notion, it is necessary to face, on the pragmatic level, the relation of belief from which this notion draws its efficiency. It is this relation that infers an identity posture whose effect is to stop the transformative action and make impossible a kind of gap in the structure of over-determination orienting the actors.

When Althusser criticises humanism as an ideological posture it is necessary to understand and decode his work as a *deconstruction of the relation to beliefs operating within practice*. Only in this way can one fully grasp his philosophical work and avoid paradoxically inducing a sort of philosophical antithesis of humanism from it, as if what was at stake for Althusser was finally to substitute one belief content for another, or to enter the ideological process and accept its price as an unavoidable constraint of the process of practice escaping the level of generality of the intellectual.

¹ This is what Althusser calls ‘Generality I’ (Althusser 2005, pp. 183–184).

² It is the idea expressed by philosophical terms such as being *free* and *constitutive* ‘subjects of’ (Althusser 1976, p. 95).

As tempting as it may be, this kind of interpretation seems highly problematic.³ If, on the theoretical level, the work on the generality brings about a qualitative break with ideology that prolongs itself through the production of a new form of engaged knowledge ('Generality III'), on the level of practice (as well as in theory insofar as theory is itself a kind of practice), this break with ideology does not simply produce the return to a conscious form of relation to its immediate reality as a phenomenon denied in its essence by science. Ideological contents cannot be simply replaced or subsumed by scientific contents. On the contrary, if the 'intellectuals' engaged in the process of class struggle gain a form of dissociation with regard to a dominant ideology that can be turned into an improvement of the collective intelligence of action, they must strive to translate, in the practice that they want to transform, this dissociation into a *conflict of concepts* with the ready-made ideas of ideology. As the second lecture of 1967 reminds us, by modifying the organisation of the words, the philosophical intervention creates a way of seeing differently; it indicates the 'ideological' (and not the given ideology) as a category where, previously, theoretical abstractions belonging to the 'genre' of the ideology were shown.⁴

Now, it is essential to understand what is specifically at stake in this conflict of concepts. While, from the scientific standpoint, it is fundamental to attain a negation of contents to show, for example, how much the liberal concept of production denies the living labour for the benefit of a process of abstraction leading to merchandise and circulation, it is even more essential, in order for this work to have an impact on the level of practice, to focus on the ideological *relation* to these contents; that is, on the *relation of belief* that sustains them, in order to deny the identity posture inferred by this relation and to produce a dissociation, a sort of gap in the structure of over-determination directing the actors. In other words, it is essential to challenge the content of an ideological notion by confronting, on a pragmatic level, the relation of belief from which this notion draws its efficacy. In our view, it is this attention to the modality of this relation to content that is the key to the Althusserian critique of humanism as an ideological notion.

This type of relation of belief is of course also at work within legal ideology. On this level, an analysis of this relation reveals the risk of a theoretical approach that, even when attempting to undermine the content of an ideological representation that motivates the actors' obedience to a norm, does not question the pragmatic structure that infers this very posture of obedience and thus does not prevent its repetition. Drawing upon the distinction between 'truth' and 'correctness' proposed by Althusser in (1990) *Philosophy and the Spontaneous Philosophy of the Scientists*,

³ Even though it could be supported by different passages of Althusser, this reading patently contradicts what he affirms concerning his proposition of a theoretical anti-humanism in his 'Amiens Thesis' (Althusser 1976, pp. 200–204). In fact, Althusser criticises humanism as a *theoretical ideology* because it introduces a belief that prevents us from practically taking into account the conditions that block its own realisation. This is why, in the capitalist system, the repetition of different forms of humanism corresponds to the implementation and reproduction of a practical anti-humanism. As we shall see, Althusser's aim is thus not to formulate a new ideology that would replace humanism in practice, but to develop a *theoretical and non ideological* anti-humanism that is able to point out the relations of belief operating within humanism.

⁴ See Althusser (1990, p. 107).

we could argue that, against the illusion that the theoretical revelation of the ‘truth’ of an ideological notion immediately produces a practical dissociation with regard to the norm that this notion sustains, a ‘correct’ (*‘juste’*) intellectual intervention must shift its attention to the relation of belief sustaining the obedience to a norm, opening the space for a practical dissociation with regard to this very relation.

In this article, firstly, we will begin with a review of the Althusserian critique of humanism, in order to put forth the mechanisms at work within the relation of belief that constitutes every ideology and to insist on the practical consequences on the relation between the intellectual and the masses produced by the moral form of ideology. Secondly, we will proceed with an analysis of the functioning of belief within the legal form of ideology. To do so, we will draw upon Althusser’s commentaries of the work of Montesquieu and Rousseau—two thinkers that played a fundamental role in the development of his thought. Thirdly, by focusing on the way in which Althusser elaborates his conception of ideology in the article from 1970 on ‘Ideology and Ideological State Apparatuses’ and in other texts of the same period, we will attempt to emphasise the specific role played by the political form of ideology in the processes of reproduction of a social formation. Finally, in Section IV, we will highlight the importance of putting into place, on the level of *legal ideology*, a social critique attentive to the repetition of the relations of belief with regard to law that is able to promote the unfolding of truly transformative actions.⁵

The Moral Form of Ideology: Reviewing the Critique of Humanism

The critique of humanism developed by Althusser concentrates on different forms of historical repetition of ideology: bourgeois ideology in the eighteenth century, utopian socialism in the nineteenth century and socialist humanism in the twentieth century. Belief in these various ideological formations reveals at each historical moment a need that cannot be reduced to the immediate practical purpose of their content—as if, for example, humanism was consciously produced by the dominant classes in order to fight their opponents in the class struggle. What we first have to contend with here is rather the need to fill a theoretical gap: ‘the recourse to ideology is the shortest cut (...) a substitute for an insufficient theory’ (Althusser 2005, p. 241). But this need is not analysed as such, because what is at stake is a relation of belief to the presence of a theory, an effect of substitution, an *Ersatz*. In the historical sequence that Althusser outlines, what is essential is the effect of repetition centred on the relation of belief, which leads one to search for a *place of truth* capable of playing the role of a complement that conceals the gaps produced by the insufficiencies at the level of the structural solutions proposed by theory to

⁵ In the first two parts of this article, we will therefore concentrate mainly on the problems posed by ideology for theoretical practice by underlining how a relation of belief underpins both the relation of intellectuals to themselves and to the masses and to the object of their work. In other words, we will concentrate on what has been called ‘theoretical ideology’ with a particular attention on its functioning within the theories of law. In the third part, we will widen our gaze to grasp the effectivity of ideology upon social practices inasmuch as they are framed by law. We will thereby return to the problem of intellectual intervention in order to outline the posture it ought to assume to thwart this effectivity.

practical problems. In other words, ideology arises as a substitute for a theoretical content negated or surpassed as incapable of assuming the inadequacy between certain historical tasks and the practical conditions of their attainment. The belief in this place of truth that is able to fill in a theoretical gap absolves from what the theory lacks by replacing it with the ‘moral feeling’ of the missing theory. This moral feeling becomes a necessary ideological complement for the theory, insofar as it suspends the good conscience by anticipating the non-optimality of its practical solutions.

Such is the role of this temptation of the recourse to ideology; to fill in this absence, this delay, this gap, without recognizing it openly, by making one’s need and impatience a theoretical argument, as Engels put it, and by taking the need for a theory for the theory itself. (Althusser 2005, p. 241)

Humanism as an ideological paradigm is therefore nothing but the secondary result of a primary operation consisting in a certain relation of belief to a place of truth that fills in the insufficiencies of theory. In other words, humanism can repeat itself in history only with the help of a process that allows for a relation of over-determination of the theoretical insufficiencies by an ideological image. This image reflects the theoretical insufficiencies in the form of a desire for completeness or for substitution which should be accomplished according to a place that is exterior to the perceived limitations. This specific relation to a form of meta-(moral)-theory operates by suturing every form of practical overtaking of the given situation in favour of an ordinal notion projecting a new type of generality without a specific orientation with regard to the process of practice.

Humanism has thus nothing to do with an existential realism: it proceeds from an operation of over-determination which identifies any intellectual awareness (which is, in theory, insufficient) with the moral form of a militant and committed action in charge of filling the gaps of this awareness in the name of a *moral belief* in the transformation of individuals. Therefore, this over-determination operates their identity suture⁶ in the name of a moral belief in the transformation of individuals. By emphasising the ambiguity of intellectual posture, an author like Sartre⁷ perfectly exposes this operation.

In Sartre’s approach, the tension between a beautiful soul and an unhappy consciousness is reduced in advance and overtaken by humanism as the only

⁶ The notion of suture, introduced for the first time by Jacques-Alain Miller in 1966 (Miller 2002), is used by Alain Badiou to analyse the Althusserian attempts to conceive the articulation of philosophy with science and politics (Badiou 1993, p. 42). In this article we will to a certain extent approach the same question, employing this notion in order to define the subjective relations of identification that are produced by an imaginary projection.

⁷ Althusser has always treated Sartre with the utmost respect, preferring to attack some of his less brilliant epigones such as John Lewis (Althusser 1976). In any case, even if the *Reply to John Lewis* is usually considered as the main synthesis of Althusser’s struggle against humanism, we will concentrate here on his first critiques of humanist ideology that can be found in *For Marx* and *Reading Capital*. In general, our attention in this article will be essentially turned to the ‘classical’ works of Althusser (de Ipola 2012), namely to the period that begins in 1959 with the publication of *Montesquieu: Politics and History* and ends in 1970 with the article on ‘Ideology and ideological State Apparatuses’.

acceptable ideal of a *truth of the self* in action. This typical contradiction of the bourgeois intellectual

[i]s fully present in his double thesis that Marxism is the ‘unsurpassable philosophy of our time’, and yet that no literary or philosophical work is worth an hour’s effort in comparison with the sufferings of a poor wretch reduced by imperialist exploitation to hunger and agony. Caught in this double declaration of faith, on the one hand in an idea of Marxism, on the other in the cause of all the exploited, Sartre reassures himself of the fact that he really does have a role to play, beyond the ‘Words’ he produces and regards with derision, in the inhuman history of our times, with a theory of ‘dialectical reason’ which assigns to all (theoretical) rationality, and to every (revolutionary) dialectic, the unique transcendental origin of the human ‘project’. Thus in Sartre historicist humanism takes the form of an exaltation of human freedom, in which by freely committing to their fight, he can commune with the freedom of all the oppressed. (Althusser and Balibar 2009, p. 158)

On the one hand, Sartre detaches the idea of a truth of action conveyed by Marxism from any knowledge of reality from which it nonetheless necessarily proceeds. This idea becomes the object of a subjective belief in a place of truth exterior to the actual limitations of the perceived situation. On the other hand, Sartre refuses any kind of illusory distance between ideas and the changes that must be introduced in the face of the urgency of situations and the constraints of socio-historical experiences. The truthful idea must thus be put into work without delay in the name of the authentic humanist solidarity towards all the oppressed.

Althusser correctly grasps, in his critique of humanism, the repetitive potential of this kind of relation to truth that sustains a belief in the historical role of subjective identity. Here, the intellectual subjectivity is in fact posed as a middle term: it becomes the actualisation of the truth of the idea, the specular capture of human misery justifying the transformation of principles into praxis without taking into account the structural limitations of the conjuncture. Inasmuch as the socio-historical suffering is reflected in the ‘immobile motion’ (*‘mouvement sur place’*, Althusser and Balibar 2009, p. 157) of a subjectivity capable of determining the concept of a social evil operating in reality, from this subjectivity arises the illusion of a crisis of the intellectual posture leading to a dissociation, to a separation with regard to the world of ideas, and to a return of the intellectual to praxis that will produce the transformation of the latter with the help of the principles reflected in the mirror of theory.

Yet, according to Althusser, this movement accomplishes the very contrary of its aim: the absence of movement and the fullness of an ideological self-identity that holds onto its place. It is precisely because of the kind of relation established with the belief in a truth of the self that the intellectual subjectivity can lend itself, in its internal structure, as the reflection of the socio-historical suffering in order to give the impression that its inevitable engagement is a moral necessity for the accomplishment of the revolutionary process of the class struggle. The theorised disruption of the existing social relations becomes the moment of a subjective

reversal coinciding with the deviation of the revolutionary praxis towards a new unity of social classes.

This analysis of the moral belief effect on a subjective identity that is projected in a place of truth exterior to the limitations of the process of practice allows us to underline the specular relation that this belief institutes between theory and practice. Through this relation, intellectuals confirm and reinforce the self-image with which the actors implicitly identify, while at the same time they search in the existing practices for the images through which the necessity of their own intellectual practice can be justified. Thus, the incompleteness of the identities engaged in any practice, produced by the hollowed structure of the social totality, ends up sutured in the flawless plenitude of the infinite reciprocal confirmation of identity postures within action. This moment of ideological sublimation through the ideal of humanism merely produces the theoretical illusion of the 'immobile motion' of the intellectual subjectivity: a relation of over-determination of an individual engagement that is unable to theoretically grasp the structural determinations of the conjuncture. The intellectual subjectivity does not transform anything either on the theoretical or on the practical level; it has only created the illusion of a motion maintaining the tension between these two terms, simply reflected in each other.

One of the decisive aspects of the Althusserian critique of humanism (or of the moral form of ideology) consists in its enabling of the analysis of ideology as a theoretical structure. This critique allows us to distinguish between the subjective relation of belief that operates in ideology and a scientific analysis of the structures of ideology in relation to a topical conception of social formations. If we concentrate on the first level, the pragmatic point of view that we try to set forth allows us, without appealing to the constituting work of a transcendental subjectivity, to seize the nature of the blockage that strikes the actors submitted to ideology.

The strength of the ideological-moral belief is to present, as a necessity on the level of historical subjectification, a type of relation to the truth of the self whose consequence lies in the obliteration of the adaptations that are necessary to face historical changes, in favour of an idealised vision of the progress to accomplish. From the standpoint of their historical identity as actors, the subjects would not have any other choice than to overcome the void produced by their contingent historical origin⁸ by situating their truth in an ideal place. This identity production is therefore moved by a 'tendency' to look for a symbolic truth of the self externally, in the image of an ideal to be attained by subordinating to it the logic of its behaviour through a work of projection and correspondence. The subjective efficacy of this ideological belief lies in its retrospective power: it allows the subjects to relate to this ideal place by elevating themselves reflexively towards it in order to retrospectively seize the teleological unity of their experience. The innermost truth of a subject's action is therefore produced by this retrospective subsumption of their history into an ideal truth of their identity that is protected from the deviations imposed by the contingency of circumstances. The exteriority of the truth of the self with regard to action, leading the actors to believe that they produce their historical

⁸ On 'the myth of the origin', see Althusser and Balibar (2009, p. 68).

identity through all their actions, is simply the result of the ideological tendency to extrapolate actions themselves from the conjuncture in which they are situated in order to assimilate them to the unspecific, ‘raw’ generality of an ideal. This type of relation to an ideal inherent to ideological belief anchors the reflecting actors in the continuity of their historical experiences and in the unity of their different practices: it only creates the illusion of an oriented movement by producing some ‘immobile motion’ of the speculative conscience tied to identifying their truth with the elements constituting their historical genesis. This tendency, as we have shown, draws its necessity from the insufficiencies of the structural solutions proposed by theory. As a consequence, it supplies the dominant powers with an ideal motive that could easily be put in the service of certain specific interests.

To sum up, let us again quote Althusser at length:

If the *ideology* does not express the total objective essence of its time (the essence of the historical present), it can at least express the current changes in the historical situation reasonably well by the effect of slight internal displacements of accent: unlike a science, an ideology is both theoretically closed and politically supple and adaptable. It bends to the interest of the time, but without any apparent movement, being content to *reflect* the historical changes which it is its mission to assimilate and master by some imperceptible modification of its peculiar internal relations. (...) Ideology changes therefore, but imperceptibly, conserving its ideological form; it moves, but with an immobile motion which maintains it *where it is*, in its place and its ideological role. It is the immobile motion which, as Hegel said of philosophy itself, reflects and expresses what happens in history without ever running ahead of its time, since it is merely that time *caught* in the trap of a mirror reflection, precisely so that men will be *caught* in it too. (Althusser and Balibar 2009, p. 157)

The Legal Form of Ideology: From Rousseau to Montesquieu

Moral ideology enables an ‘intelligent use of history’ consisting in an immobile motion that produces a direction in time and gives both the impression of a movement and of taking into account historical changes without fundamentally moving. Thus, while founding a subjective relation to history through which one engages ‘in the name of’, it can adapt a group position to specific interests. Now, in order to produce a specific knowledge of these changes in the conjuncture capable of effectively serving action, it is necessary to break with ideology by making explicit the level of subjective belief that underlies the projection of a truth of the self exterior to practice and which unifies in return all the different moments of this practice by adapting them to this ideal truth. On the specific level of theoretical practice, the theorist must thus get rid of this relation of belief to the object of his theory,⁹ one that projects it onto an ideal place of truth, which justifies his own

⁹ See Althusser and Balibar (2009, p. 175).

subjective self-apprehension as a theorist and by which actions are captured and defused in their transformative potential.

In order to make explicit this kind of relation to the object of theoretical work inflected by a subjective relation to the truth of the self, it is important to analyse a central notion of Althusser's enterprise: the notion of dislocation (*décalage*).¹⁰ In particular, we will show how the conception of belief that we have just formulated supplies a key to better interpret the notion of dislocation that Althusser mobilises in his own comprehension of the dialectical movement, all while resorting to it to denounce the ambiguity of Rousseau's legal theory of the social contract.

The notion of belief that is explicitly introduced in the Althusserian critique at the legal level of social contract theory allows us to grasp correctly the problem that it gives rise to concerning the properly considered interest of the concerned parties. Althusser refuses to understand the balance of interests between the parties summoned by Rousseau as a cost/benefit analysis or as a cooperative dilemma similar to those proposed by rational choice theory. What Althusser denounces in Rousseau is not the anticipation of a technocratic form of an empiricist ideology based on the measurability of preferences.¹¹

The real problem of his theory is that Rousseau leads us to acknowledge a relation to belief in the actors without questioning it. This unquestioned starting point is the need to believe that a simple transfer of power to an idealised image of the self could fill in the inherent lack in the position of individual desire involved in the legal stabilisation of social relationship. Rousseau mobilises in fact an ideal mirror dispositive that consists in the anticipation *through the dislocation* of another more complete, pure and balanced identity that would at the same time save the 'natural', pre-social individual's desire from his unreflected limitation. He produces such a *dislocation* by turning the second party of the social contract (the first being the individuals) into the imaginary anticipation of the community that the contract is supposed to institute. This anticipation produces the specular couples of the particular interest and the general interest, of the particular will and the general will.¹² Consequently, the mirror of the general will offers the truth of the individual desire liberated from its empirical limitation thanks to this transfer of identity, to the acceptance of the big Whole of the community that constitutes it completely as a member *by right*. 'What is the community? Of whom is it composed? Of the same individuals who appear *as individuals* in the RP1 [Recipient Party 1], i.e. at the other pole of the exchange. In the RP2 [Recipient Party 2] they appear, too, but no longer as individuals, but all in their "corporate capacity", i.e. in a different form, in a different "manner of existence", precisely in the form of a "whole", of a "union", and this is the community' (Althusser, 2007, p. 129).

¹⁰ Ben Brewster translates this term in *Reading Capital* and *Lenin and Philosophy and other Essays* as 'dislocation', while in *Rousseau: The Social Contract*, that we analyse in this section, he uses the term 'discrepancy'. The difference indicated by these two terms will be taken into account even if, for reasons of coherence, in this article we will only employ the term 'dislocation'.

¹¹ According to Althusser, the social contract as theorised by Rousseau does not imply an exchange, but is the *a priori* condition of any exchange. From this point of view, if a contract is conceived as an exchange, Rousseau's social contract cannot be considered a contract. See Althusser (2007, p. 131).

¹² See Althusser (2007, p. 152).

According to Althusser, by establishing this specular relation, Rousseau in the same movement recognises and represses the main theoretical point that lacks in his thought: a specific knowledge of the social groups that are situated between the singular individual and the Whole of the community anticipated and instituted by the legal foundation of the social contract.

When I say that the specular categories of general interest and particular interest are ideological myths that answer each other through a mirror, when I say that Rousseau affirms the absolute existence of his belief in the form of the absolute and pure existence of the general interest and of the general will, I say, at the same time, (...) that Rousseau alludes, in his illusory theory, to *something real*: the existence of human groups of interest, like social classes or political parties, ideological or of another kind. But this real that is *indicated* in this way in his thought (...) is brought back by force in his thought, under the thought of the twin specular categories of general interest and particular interest. (Althusser 1998, p. 101, our translation).

In Althusser's commentary on *The Social Contract*, the pragmatist level of his critique of ideology becomes manifest with the greatest clarity. We have underlined that Rousseau's belief in a community directed by the general will and capable of sublimating the inherent limitations of the particular will takes roots in his inability to take into account the practical limitations imposed by the existence of groups of interest in the social space. The imaginary projection of a future community as the foundation of the social contract is only possible according to the implicit supposition of the actors' belief in a truth of the self constituted by their liberty and equality as given by nature.¹³ This truth founds the construction of an *ideal legal order* where it could be imaginarily achieved, while impeding the actors from taking into account the real obstacles to the institution of such an order. The theoretical construction of Rousseau is therefore based on a series of dislocations¹⁴ with regard to existing conditions. These dislocations operate in such a way as to repress the lack of a theory capable of turning these existing conditions into the object of its study.

According to Althusser, this relation of belief in a place of truth where the individual identities reflect themselves thereby obliterating their contextual limitations must be made explicit in order to make possible a transformation of the actors that takes these limitations into account. In the light of these observations, we can define the dislocation that Althusser himself situates at the basis of any theoretical approach willing to break with ideology¹⁵ as a dislocation with regard to a dislocation, i.e. as a dislocation of a second order that makes the relation of subjective belief to the object of theoretical work (in this case the ideal community

¹³ Here we have a confirmation of the fact that the ideological relation to an object always accompanies a mirror relation between the intellectual and the masses: Rousseau operates a transfer of his belief in an ideal community to the masses that are supposed to share this belief for the theory of social contract to be valid.

¹⁴ Althusser uncovers four dislocations in Rousseau's theory.

¹⁵ See for example the description of the difference between Smith and Marx as a dislocation in Althusser and Balibar (2009, p. 19).

governed by the general will) explicit by pointing out the erasure (the dislocation of the first order) that it produces of the practical conditions of transformation of the social order. However, this dislocation of the second order does not restore a sort of primordial reality that would have been negated by the subjective dislocation of the first order. Rather, it facilitates a theory whose object is constructed in order to take into account the subjective elements at work within it. This is in keeping with the ideas, often employed by Althusser, of a ‘continuous break’¹⁶ with ideology (Althusser 2005, pp. 170, 257; Althusser 1976, p. 66) or of the subject of scientific discourse as an ‘evanescent subject’ (Althusser 1993, p. 131).

Althusser detects in Montesquieu’s theory of law a theoretical construction similar to the one he discerned in Rousseau’s theory of the social contract. This analysis will introduce us more directly to the specific problems posed by legal ideology for the theories that pertain to it. By way of introducing the critique of legal ideology, we should underline that humanism can present itself in practice as a rule of action, because a rule of action can generally manifest itself as a synthesis of the moral standard of a given society. Its legitimacy is founded upon the general ideological structure of the relation of belief. In fact, on this level an ensemble of fundamental norms can constitute an answer to the necessity to create a place of truth of the community self. Now, if this kind of relation of belief justifying the recourse to ideology as the place of truth of the self seems so important in the philosophy of Althusser, it is precisely because it reflects another kind of relation that will help us understand his critique of law as an ideology or a system of beliefs: the dialectic between manners and principles in Montesquieu’s theory of law.

If Montesquieu’s theory of law resists its modern recuperation consisting in submitting the particular content of ‘national’ beliefs to the universal form of juridical rules, it is because this process of subsumption does not correspond to Montesquieu’s purpose. Law does not encompass manners; at best it sublimates them; at worst, it purely and simply gets confused with them. This is why Montesquieu, according to Althusser, continues to advocate a reform of the manners, while simultaneously attempting to complete them with a place of truth that would favour their selection and elevation. This place of truth is constituted by the principle, which Montesquieu conceives as ‘*the point and aspect in which the real life of men has to be resumed in order to be inserted into the form of a government*’ (Althusser 2007, p. 46). However in no case could the principle dissociate forms and conditions of existence (i.e. manners) without theoretically withdrawing every reflection on a history capable of producing the unity of a form of life. This is why Althusser perplexedly underlines that

it is hard to see the transition from the manners and morals to the principle, from the real conditions to the exigencies of the form of a government, which come together in the *principle*. The very terms that I used, such as *the manners being expressed in the principles*, betray this difficulty—for this *expression* is in some sense torn between its origin (the manners and morals) and the exigencies of its end (the form of the government). (Althusser 2007, p. 59)

¹⁶ See Étienne Balibar (1991) for a sharp commentary of this idea.

The problem is, once again, a lack of theory: Montesquieu lacks a specific knowledge of the conditions of existence that could only be granted by the unity of a political economy.¹⁷ This is why he must compensate for this lack by opposing manners and principles of law in a mirror relation.¹⁸ In this way principles can appear as the reflected ideal image of a still vague and indeterminate world that could play the role of a place of truth filling in the deficiencies of the particular institutions and beliefs of the society.

Law is thus conceived as the formal guarantee of the moral standards of a social group. In reality, it only constitutes the theory of the lack that characterises the existing institutional solutions. It aims at completeness by producing the formal unity of the given conditions of existence and any theoretical attempt to renew it constitutes a denial of the practical space of experimentation that would allow for the effective overcoming of the distance between forms and conditions of existence. In this context, the fundamental problem for Althusser concerns the production of a specific knowledge of the conditions of existence in relation with the practices of social transformation. On this level, the attempt to solve the mirror relations that influence the socio-political system constitutes a theoretical illusion: the idea that the system is conditioned by the beliefs of its actors as much as these beliefs are conditioned by the system and that from these relations spring some distortions producing transaction costs and low optimality is precisely a way to sustain the ideological construction of a place of truth. In fact, this idea brings about the construction of the theoretical complement that is necessary for the reduction of the uncertainties generated by the inevitable mirror relations within social reflexivity. Thus, the double-bind relation between beliefs and the system can be imaginarily resolved by the construction of a place of truth where they tend to coincide in the optimality of transactions without any loss.

The fundamental error of such a suboptimality theory of law and governance is to eliminate, with the help of a general truth of the system elaborated by the theorist, the specifically practical contribution of the processes of social learning necessarily linked with the transformation of the actors' beliefs. The suspension or diversion of any recourse to these practices leads to the impossibility of the specific knowledge of the conditions of existence that might sustain some forms of normative solution. These conditions (and beliefs operating within them) do not express distortions of an ideal representation, but denote specific spaces of transaction that must be taken into account precisely inasmuch as they play a fundamental role in the construction and reconstruction of such an ideal. Therefore, a critique of ideologies cannot just dismiss beliefs as a pure illusion because this would mean introducing the same appeal to an ideal place of truth that is implicitly sustained by them. It rather has to produce a form of dissociation with regard to these beliefs by making their transformation possible through a process of collective learning.

¹⁷ See Althusser (2007, p. 59).

¹⁸ 'However, it seems to me that all the reservations one might express turn on no more than a single point: the ambiguity of the concepts of *principle* and *manners and moral*' (Althusser 2007, p. 58).

The Political Form of Ideology: State Apparatuses and Violence

After having approached the Althusserian theory of ideology through the concept of belief and after having studied its functioning mainly at the level of morality and law, we must now directly turn our attention to the ensemble of the social practices in order to analyse how ideology participates in the political processes of power as they are framed by law. Indeed, it is the ideology established as a device of power which holds the key to the relationship between ideology and violence in the organisation of social domination. As long as subjects are maintained in the double mirror of morality and law as the expression of an ideal order able to fill their deficiencies, they are inclined to admit the necessity of a form of violence in history contributing to the reproduction of the social balance through conflicting relations. It is the political ideology which performs this role consisting in staging the contradictions of the dominant groups as if they were some moments of redemptive violence making it possible to face a kind of indetermination or reorganisation of the social.

In particular, we will be led to define the kind of belief that is at work within political ideology as an 'obeying belief'. But before introducing these developments, it is necessary to dwell upon Althusser's well-known article on 'Ideology and Ideological State Apparatuses' in order to point out how the improvements that he proposed to his theory of ideology could still be clarified and given prominence through the concept of belief.

At the beginning of this article, Althusser summarises the fundamental elements of the Marxist topical conception of the structure and the superstructure as determining social existence. The 'politico-legal' constitutes with ideology the 'superior stages' of the social whole that is determined 'in the last instance' by its basis, the economic instance of the relations of production. These superior stages, despite their determination in the last instance by economy, enjoy a relative autonomy and affect in return their basis. Althusser sees in this relative autonomy a specific 'index of effectivity' (Althusser 1984, pp. 8–9) of these superior stages of the social whole. However, in his opinion, the Marxist topic does not allow one to develop adequately all the theoretical resources contained in this index, limiting itself to the recognition of such an index as determining the social whole in a secondary and determined way; that is, to the recognition of the State as the simple politico-legal extension of the power of exploitation generated by the relations of production. This recognition's only interest is to confirm the established representation of the structural order of the social whole, without saying anything about its specific operative modes.¹⁹

For these reasons, and after having distinguished between State power and State apparatus, Althusser proposes to dissociate the *practices of violence* generated by the State apparatus as exerting repressive power from the *ideological practices* generated in an effort of cohesion and reproduction granted in a plural manner by all the institutions linked to what he calls the 'ideological State apparatuses' (Althusser 1984, p. 16). It is therefore not possible to reduce the efficacy of the State's politico-

¹⁹ See Althusser (1984, p. 13).

legal apparatus to an institution endowed with a repressive force serving a group that detains the power to organise it. The effectivity of the administration, the legal system, the police, etc. of a State apparatus is always doubled by an ideological effectivity produced in several manners by the actors of the dominant class according to a multiplicity of variation on the level of values and beliefs.

This bipolar constitution of the effectivity of the State apparatuses' authority is a fundamental theoretical element for Althusser. These two modes of effectivity are described as inseparable and therefore never cease to combine: no repressive apparatus could be sustained without ideology and no ideological apparatus could be developed without violence. Every pole of authority is secondarily present in the other and conditions its efficacy.²⁰ According to Althusser—and in contrast to Balibar²¹—rather than showing that violence remains a constant element in the exercise of power, one should understand what ideology specifically adds to the violence of the repressive State apparatus beyond the ideological operation of masking or erasing it. In fact, the power of ideology would not exist as such with a specific index of effectivity if it only consisted in covering or guaranteeing the support given by the politico-legal repression to economic exploitation.

Ideology draws its specific effectivity from its conflictual identity and from its capacity to unify the contradictions of the objective field constituted by this identity. It is so effective that generally the repressive apparatus only needs to appear secondarily as the 'shield' of the ideological apparatuses (Althusser 1984, p. 24).

If the ISAs [Ideological State Apparatuses] 'function' massively and predominantly by ideology, what unifies their diversity is precisely this functioning, insofar as the ideology by which they function is always in fact unified, despite its diversity and contractions, *beneath the ruling ideology*, which is the ideology of 'the ruling class'. (Althusser 1984, p. 20)

Therefore, ideology is effective because it reflects the ruling class' internal and external contradictions by incorporating them in a space of discussion that constitutes as such the unity of these contradictions because it reproduces them.

What we find here is the principle of the ideological State apparatuses' specific kind of violence. Ideology does not simply conceal the repressive power that is exerted both on the level of the relations of production and on the level of the politico-legal system. It penetrates these levels by supplying the ideal representation of the space in which the different conflicts that shatter them have to take place. It lets the contradictions unfold by supplying the unity of the ensemble of coordinates that this unfolding has to respect. From this standpoint, ideological violence resides in this imposition of the principle of the unity of the contradictions rather than in the ideological conflict itself between ruling and subordinate ideology. The ideal space that is thus imposed is the projection of the truth of the self of the ruling class under the form of the general interest as going beyond the contradictions and saving the

²⁰ See Althusser (1984, p. 19).

²¹ See for example his article on "'Gewalt" Violence et pouvoir dans l'histoire de la théorie marxiste' in Balibar (2012).

unity of the social whole.²² Inasmuch as it sets the position of the presuppositions of any conflict, this ideal is equally imposed on the subordinate classes' ideology and orients their contradictory force.²³ Ideology thus founds the belief in the necessity of repressive violence as granting the unity of the social forces. In the last part of this article we will demonstrate how this imposition, in its peculiar effectuation within legal ideology, produces a posture of obedience. At first we shall make explicit how this construction is, once again, sustained by a certain *relation to belief*.

In spite of the fact that when Althusser concretely considers the effectivity of ideology in his time he recognises the weakening of its power of domination in the face of the globalisation of class struggles,²⁴ he insists on the necessity of defining a general theory of its functioning and proposes to look for its fundamental principles in the Freudian conception of the unconscious.²⁵ In particular, he suggests conceiving ideology as a trans-historical structure that underpins from the exterior, through its form, the totality of social formations containing social classes. The function of this structure is to produce, for the individuals engaged in the political becoming of these social formations, the representational place of an imaginary relation to their real conditions of existence.

It is not their real conditions of existence, their real world that 'men' 'represent to themselves' in ideology, but above all it is their relation to those conditions of existence which is represented to them there. It is this relation which is at the centre of every ideological, i.e. imaginary, representation of the real world. (...) It is the *imaginary nature of this relation* which underlies all the imaginary distortions that we can observe (if we do not live in its truth) in all ideology. (Althusser 1984, p. 38)

Ideology thus structurally works as a place that is exterior to individuals and their history, a representational place that displays their imaginary relation to their real conditions of existence. What is present in ideology as a trans-historical structure is thus not a representational content, a certain truth, even if deformed;²⁶ it is a *kind of relation to the truth of the self*: the position of an imaginary place producing an exteriority with regard to the history and the real conditions of existence of the individuals that can host an ideal of life expressing a sort of care for this truth of the

²² This is the sense of the Marxian thesis that the ruling ideology is the ideology of the ruling class, which nevertheless does not imply that the subordinate classes are exempt from its influence.

²³ We can notice how Althusser's general theory of ideology does not simply erase subordinate ideologies, reducing them to the same mechanisms of the ideology of the ruling class. He rather analyses the operation of the ruling ideology consisting in constructing the unity of the ideal space in which contradictions (that can be enhanced by the specific constitution of a subordinate ideology) can arise. This idea could be developed through the distinction between 'primary ideology' (or 'State ideology') and 'secondary ideology' that Althusser proposes in *Sur la reproduction* (Althusser 2011, pp. 117–121).

²⁴ See Althusser (1984, p. 31).

²⁵ See Althusser (1984, p. 35). Moreover, the present interpretation should be completed by taking into account Althusser's (1993) writings on psychoanalysis.

²⁶ The semantic content of ideology is, of course, historical in the sense that it changes and that it is dependent on the history of social formations (Althusser 1984, p. 33).

self.²⁷ Althusser's insistence on relation as the veritable dimension of ideology is thus the index of the fundamentally pragmatic nature of ideology and the confirmation of the thesis that constituted our starting point: the deformed content of ideological representations cannot be explained by referring to a supposed true reality, but only by questioning the *way* in which one relates to his or her conditions of existence. The deformations of these contents are subordinated to a relation to our conditions of existence structured by the belief in a place of truth of the self independent from them and which is determining our political becoming.

We can thus reassert that ideology consists in a belief in an imaginary place of truth according to which the subjects define their identity. More specifically we can also assert that political ideology consists in such a belief defining the subjective identity and its commitment based on saving a social unity beyond the contradictions and conflicts as the greater good preventively guaranteeing life after violence. This political form of ideology supposes, as Spinoza had well understood it, a relation of obedience to one 'superior to oneself', a transcendent 'by eminence', the sovereign good which guarantees the social whole. This relation of belief is only materially observable through the acts, practices, behaviours and rituals that it produces and by which it is framed. However, this point of view elucidates the significations that the subjects give to the apparatus of belief to which they refer imaginarily in order to submit to it practically 'in all consciousness'.²⁸

Therefore, even if Althusser notes that among 'the following notions: subject, consciousness, belief, actions' (Althusser 1984, p. 44), the essential term is 'subject', we must notice that the concept of belief is equally important insofar as it locates the effectivity of ideology in its capacity to constitute the individuals as a practical body supporting a relation to a truth of the self. This effectivity of the structure of belief expresses itself through the supposed evidence of the generic category of subject—an evidence that establishes the possibility of recognising oneself in the image addressed by the interpellation.²⁹ This evidence is produced by the belief in the ritual of recognition as a relation of correspondence to an exterior place of enunciation of the truth of the self. Hence, the force of political ideology resides in the imaginary constitution of the belief in an exterior place of interpellation addressing their truth of the self to the individuals and thereby constituting them into 'prior-to-society'³⁰ subjects of a unified whole.

From this point of view, political ideology does more than conceal the constitutive violence of the repressive State apparatus. Its specific effectivity resides in the type of relation to a place of truth of the self that constitutes the social subjects. This relation of belief imaginarily exteriorises their truth of the self by projecting it into a space where the constitutive contradictions of the social formation are unified and where all the identities are fixed in an immobile

²⁷ On the illusory character of this attachment to the truth of the self, see Althusser (1984, pp. 40–41).

²⁸ See the thesis: 'Ideology has a material existence' (Althusser 1984, p. 39).

²⁹ See Althusser (1984, pp. 45–47). As is commonly known, Althusser claims that the process by which individuals are turned into subjects can be represented by the everyday 'theoretical scene' of police hailing or interpellation.

³⁰ Corresponding to the fifth stage of Lawrence Kohlberg's *Philosophy of Moral Development* (1981).

compatibility. This relation of belief thus infers an identitary posture that allows individuals to recognise and accept the place that the social formation assigns to them by way of the conciliating filter of the imaginary representation of the identity that is addressed to them.³¹

Legal Ideology and Institutional Obedience

This conception of the role of ideology in the economy of State apparatuses allows us to approach the Althusserian conception of law as it is presented in his unfinished work *On Reproduction*, from which the article on ideology is extracted. A first approach of this question presents law as a purely formal system, which functions at the same time through violence and through legal and moral ideology.³² Althusser notices that in nearly every case ideology can support the functioning of the legal system by itself. In fact, the legal system is founded on the evidence, shared by the subjects inasmuch as they are ‘hailed’ by legal ideology, that all men are by nature free and equal. Furthermore, the legal system draws its obligatory power from the fact that, thanks to moral ideology, subjects find themselves obliged ‘by their conscience’ and their ‘sense of duty’ to respect their engagements. By appealing to human nature and establishing a place of truth of the self of social subjects, legal and moral ideologies take place ‘outside of the law’ (*en dehors du droit*’, Althusser 2011, p. 103), legitimating it through the erasure of the practical conditions of application of juridical norms.

Also at this level, ideology is not confined to masking the violence characteristic of law as a repressive apparatus. The supplement that it provides to law from the exterior is on the contrary the very foundation of its functioning. In fact, the juridical apparatus works only according to ‘an outside of the law’ (*un dehors du droit*’, Althusser 2011, p. 94), which is the very object to which law is applied, but which is as such absent from the ideological representation of law.³³ Law applies to a very specific content—the conflicts taking place at the level of the relations of production and their effects on the social whole—but it conjures it by presenting itself as a formal and neutral system founded on human nature and conscience. Althusser shows that it is precisely by operating this abstraction from its own content that law accomplishes its task, namely to grant the functioning and the reproduction of the capitalist relations of production. Therefore, the legitimisation of the legal system by the supplement brought from the exterior by legal and moral

³¹ See Althusser (1984, pp. 55–56). We will not treat the ‘theological’ example that Althusser employs to illustrate and specify his general theory of ideology. However, we could suggest that the affirmation of the necessity of a Subject that posits itself as identical to itself in order for the other subjects to recognise themselves in the interpellation is another way to state the necessity of the exteriority of the individuals’ place of truth with regard to their conditions of existence. This exteriority is necessary in order for individuals to maintain the identitary posture inferred by their belief in spite of the blockages that this posture produces in their action.

³² Althusser (2011, pp. 101–105).

³³ See Althusser (2011, pp. 95–96). The idea of the separation of law from relations of productions is confirmed and applied to the State as such in ‘Marx in his limits’ (Althusser 2006, p. 61).

ideologies allows for the extraction of law from social conflicts by turning the latter into the unrecognised ‘outside’ to which it applies.³⁴

From a pragmatist point of view, this idea can be reformulated in the following way: the legal system is based on a relation of belief in a truth of the self (as free and equal to any other self) that has not been constructed by the actors according to the unfolding of their own practices and to the effective processes of production and application of norms, but to which they implicitly adhere, determining an obedience to a place of enunciation of law ideologically determined as the place of enunciation of this truth. This form of *institutional obedience* ensures the unity of their identity (their juridical personality) and its integration in a neutral space that does not appear as torn by social conflicts. This relation of belief erases the fact that what is truly at stake in regards to law is precisely this conflictuality. The abyss that this conflictuality produces in social identities and in their representation of the social whole is thus sutured by the obeying belief in legal ideology as an exterior place of truth of the self.

In the first part of this article, we underlined that Althusser claims that the peculiarity of theoretical work consists in producing a dislocation with regard to ideological evidences (which themselves produce a dislocation of the theorist’s relation to his object) by revealing the principle of belief upon which they are founded (the case of *moral legitimations*). In the case of legal ideology, this work must thus make explicit the ‘outside’ of the law, masked by the belief underpinning legal and moral ideologies, and show that it is precisely because of the absence of this ‘outside’ that law can apply to it. One must fundamentally elucidate the relation of belief that makes the mirror relation between juridical principles and social identities possible in such a way as to erase the radical incompleteness produced by the conflictuality that sustains them. Inasmuch as it conceals this origin, or, to put it clearly, this absence of an origin and the radical undecidability of the question of the origin, this relation of belief allows law, perceived as neutral, to govern the functioning of social conflicts by perpetuating the capitalist relation of production in the pragmatically effective form of obedience.

This specific moment of theoretical intervention with regard to legal ideology seems all the more fundamental given the fact that, if the State machine and the State ideology generally assure the *reproduction* of the relation of production, law, together with legal and moral ideologies, directly assures the *functioning* of these relations of production. According to Althusser, law is in fact situated at the point of articulation of the superstructure upon and within the infrastructure.³⁵ An intervention upon the ideological State apparatuses that materialise legal ideology

³⁴ This does not mean that these conflicts are eliminated. As we have already shown with regard to ideology in general, they persist, but they are brought into light only through the bias of the coordinates posed by legal ideology.

³⁵ See Althusser (2011, pp. 201–202). In his preface to *Sur la reproduction*, Balibar correctly notices the importance of the question of law in the structuration of Althusser’s thought when he states that it constitutes (together with the question of revolution) the meeting point between his developments on the production and reproduction of the relations of production and those on ideological interpellation. In the article of 1970, these two moments were separated by a sort of divide. Balibar nevertheless underlines that in Althusser this meeting point constitutes rather a ‘missing link’ (Althusser 2011, p. 13).

would thus hold a more direct efficacy than an intervention upon the other ideological State apparatuses.³⁶ In fact, ‘in the domain that we temporarily call the *practical ideologies*, legal and moral ideologies play the dominant role’ (Althusser 2011, p. 202, our translation).

Intellectuals should not take part in the ideological process that turns the relations of production and, more generally, social conflictuality into the absent object of juridical abstraction by instituting, through the introduction of a mirror relation between themselves and the masses, a place of truth that produces an obedient belief in the place of enunciation of the given norms. Moreover, he should not cease to bring law back into the process of its generation within the relations of production by making its role in the struggles within the social field explicit and by questioning the posture of institutional obedience presupposed by the machine of power as a consequence of its imaginary truth. It is thus necessary to clarify the process of production of a place of truth in which the actors can imaginarily identify themselves with the roles that they must occupy in order to be integrated in the mechanisms of reproduction of the social order. More specifically, it is necessary to explicate the belief founding the obedience in the legal system as an ideal synthesis of the moral standard of a society and as furnishing a homogenous place where an ensemble of identities fixed by ideological interpellation are made compatible. This work could produce a different kind of interpellation,³⁷ one that signals the gap of the relation of belief rather than filling it in as the ideological interpellation. This interpellation could produce an awakening that would enable a construction both of identities and of corresponding normative expectations starting from the non-identitary, contextual and conflictual relationships in which the actors are situated and that are incessantly structured by the processes of production and application of juridical norms.³⁸

Insofar as it constructs itself positively upon a generic relation to belief, it is illusory to expect any revolutionary contribution from law in the process of the class struggle. It remains the image of an ideal of the self that society must approach and serve while maintaining the exteriority of this image as immobile: the compulsive ideal of a just society and the formal impotence of the legal order are thus combined. Yet, as interesting as a theoretical challenge of the illusion produced by such an ideal—insofar as it sustains a non-vision in the vision of norms—can be, this combat still does not have an impact from a pragmatic point of view. What is at stake at this level is a displacement of the kind of relation to belief that structures the submission to the rules of law. Inasmuch as a relation to certain norms of coexistence and a relation to a truth of the self are maintained as inseparable, certain unconscious structures will repeat themselves in action and inhibit the transformative potential of the options at work in the conjuncture. In this case, the imaginary conservation of an ideal of the self will hinder any form of transformation of the

³⁶ It would be interesting to compare this affirmation with the idea, maintained by Althusser in the same text, that school is nowadays the dominant ideological State apparatus.

³⁷ At the end of his life, Althusser formulated the idea of a space of ‘multiple interpellations’ (Althusser 2006, p. 241).

³⁸ We must ‘consider law from the standpoint of the relations that it allows and not anymore of the power that it authorises’ (De Sutter 2010, p. 464, our translation).

identities and of the roles that are linked to it for fear of the unknown. On the contrary, it is only through the specific knowledge of the changes that take place in the actions on the field—by shattering the mirror relation with any supplementary principle—that a science of law could progress with the concerned actors (in spite of their ideological filters and their overestimation of the principles of law). From this pragmatic point of view, it is thus *the displacement of the relation to an ‘obeying’ belief that is essential*. This is the key of a modification of the role of law in the process of social transformation.

Conclusion: Althusser and the Pragmatist Turn in the Theory of Law³⁹

If this interpretation that insists on the structural and pragmatic aspects of the Althusserian theory of ideology seems so important to us, it is because it allows us to further the movement that recently led certain theoreticians of law and of collective action to develop an increasingly pragmatist conception of the normativity of norms. Thus it becomes possible to unfold a perspective that pays attention to the relation between the legitimacy and the efficacy of norms inasmuch as this relation can produce new forms of life. If the hermeneutical perspective postulated the belief in the existence of a place of truth of the norm outside its real place of enunciation (the moral standard of the community to which the actors belong as fixing the limits of what is acceptable according to its representation of the world), Habermasian proceduralism, while recognising the undecidability of the founding beliefs of a community, only displaces the reference to a place of truth outside the enunciation of norms by separating the founding arguments of its model of ideal discussion from the conditions of its effectuation. These perspectives finally idealise this place of enunciation of norms, obliterating its practical conditions of effectuation and efficacy. A pragmatist perspective allows on the contrary to radically *internalise* the social process of the production of norms by claiming, against any kind of meta-social transcendence of their normativity and in favour of the development of forms of collective learning and of transformation of the actors, that its conditions of existence are internal to its conditions of effectuation.

From the theories of organisational learning (Argyris and Schön 1996; Schön 1996) to democratic experimentalism (Dorf and Sabel 1998), the theoreticians of law and of collective action have progressively recognised the error consisting in dissociating the process of production and of application of norms from the process of transformation of the actors. They underlined that the link between these two processes resides in a form of *reflexivity* that is conducted as an action upon another action (Foucault 1982), i.e. as a reflexivity of the field of action itself. Moreover, some of these authors have recognised that these transformations of the actors within the processes of production and application of norms can only be comprehended if one takes into account the implicit beliefs that found the *inference*

³⁹ On the pragmatist turn in the theory of law and on the genetic perspective see (Maesschalck 2001, 2010; Lenoble and Maesschalck 2003, 2010).

of identities in action and that govern the modalities of engagement and of positioning of the actors.

It seems to us that the Althusserian interrogation of the role of belief in ideology allows for the further elaboration of this perspective by joining the more radical positions of a genetic⁴⁰ approach to these pragmatic processes. According to this approach (Lenoble and Maesschalck 2010), it is important to engage in a more radical comprehension of the inferential processes insofar as they can, through their movement, overcome any attempt to represent a place of the truth of the self inducing an 'obeying belief' in the institutional power of harmonisation and inasmuch as they can determine the recognition of the emptiness of such a representation. Far from being restricted to the processes of adaptation and correction of this relation of belief during the experimentation of different forms of collective action, a theoretical analysis must question its very genesis inasmuch as it infers an identity posture within action that tends to repeat itself by engendering the blockage of normative innovation within experimentation. Therefore, the hollowing out of the belief in an ideal subjective identity cannot be considered as a simple consequence of the process of engagement in the experimentation of new representational forms, because this perspective would maintain the principle of an interest for the transcendental position of this form of belief. The critique of the belief in a place of truth of the self, corresponding to the refusal of any legitimisation of the normativity of norms through a meta-social transcendence, cannot be separated from a kind of suspension of the very process of production of a truth of the self (Maesschalck 2014). One must theorise an intervention capable of engendering the recognition of the void that is concealed by the construction of a place of truth of the self—a construction that is rendered functional by the posture of obedience with regard to this place. This intervention should produce a displacement of social operations towards challenging of the identity sutures that unconsciously try to maintain themselves, i.e. towards accepting the void of the operation that constitutes the truth of the self. This acceptance opens the space for a new form of relationality where identity, instead of repeating itself indefinitely according to the belief in its exteriority with regard to the processes of production and application of norms, arises from the non-identity relationships at work in these processes. In order to produce truly innovating forms of identification, one must thus suspend the movement through which identities are situated and repeated in a place of the truth of the self necessarily always exterior to the practices that generate them.

The contribution of Althusser lies precisely in the fact of emphasising such a relation of belief that operates a suture of identities by projecting them into a place of truth outside the process of practice. This allows him to perceive the pragmatic structure that makes this relation effective, namely what we have called 'institutional obedience', that is to say obedience in a place of enunciation of

⁴⁰ The idea of a genetic approach is apparently in opposition with the Althusserian critique of the concept of genesis. However, as we tried to show, insofar as it avoids the temptation of looking for an ultimate origin of the processes it analyses and rather insists on revealing the radical incompleteness of the social whole and of the identities structured by its conflicts, such an approach could consistently escape this criticism and could in return help elucidate the philosophy of Althusser.

norms exterior to the practices that are framed by them. Althusser reveals the functioning of this relation both on the theoretical level and on the practical one. He also indicates the connection between law and legal and moral ideologies as the privileged place of the unfolding of such a relation through the obedience to which it gives rise. He thus provides us with essential tools to identify this relation of belief in different social practices and to analyse the function of institutional obedience as the founding element of the forms of domination in the power apparatuses. Moreover, he allows us to envision a form of intellectual intervention that, inasmuch as it suspends this relation of belief and points out the void that it attempts to fill, all while abstaining from filling it with new content, must vanish in its very unfolding as interpellation. It can thus open the space for a continued work of collective negotiation guiding the production of the relational identities of the actors and of the normativity of the norms that frame them.⁴¹

References

- Althusser, Louis. 1976. *Essays in self-criticism*. Trans. Grahame Lock. Norfolk: New Left Books.
- Althusser, Louis. 1984. *Essays on ideology*. Trans. Ben Brewster. London: Verso.
- Althusser, Louis. 1990. *Philosophy and the spontaneous philosophy of the scientists & other essays*. ed. Gregory Elliot. London, New York: Verso.
- Althusser, Louis. 1993. *Écrits sur la psychanalyse. Freud et Lacan*. Paris: Stock/IMEC.
- Althusser, Louis. 1998. *Solitude de Machiavel et autres textes*. Paris: Presses Universitaires de France.
- Althusser, Louis. 2005. *For Marx*. Trans. Ben Brewster. London, New York: Verso.
- Althusser, Louis. 2006. *Philosophy of the encounter. Later writings: 1978–1987*. Trans. G.M. Goshgarian. London, New York: Verso.
- Althusser, Louis. 2007. *Politics and history. Montesquieu, Rousseau, Marx*. Trans. Ben Brewster. London, New York: Verso.
- Althusser, Louis. 2011. *Sur la reproduction*. Paris: Presses Universitaires de France.
- Althusser, Louis, and Étienne Balibar. 2009. *Reading capital*. Trans. Ben Brewster. London, New York: Verso.
- Argyris, Chris, and Donald Schön. 1996. *Organizational learning II. Theory, method and practice*. Reading, MA: Addison Wesley.
- Badiou, Alain. 1993. Qu'est-ce que Louis Althusser entend par 'philosophie'? In *Politique et philosophie dans l'œuvre de Louis Althusser*, ed. Sylvain Lazarus. Paris: Presses Universitaires de France.
- Balibar, Étienne. 1991. *Écrits pour Althusser*. Paris: La Découverte.
- Balibar, Étienne. 2012. *Violence et civilité. Wellek Library Lectures et autres essais de philosophie politique*. Paris: Galilée.

⁴¹ In such a perspective, the fundamental orientation of a pragmatic social criticism should be, according to Guillaume Sibertin-Blanc, a 'hermeneutics of the practical subject'. Its objective would be (1) to translate the primacy of praxis over theory into the new form of a topics of actions taking into account the role played by ideology for any subject committed in the materiality of their actions, and thus of 'the intervention of some non-existents allowing the saturation of the whole within which it is excluded and included at the same time (God, the person, the subject of law, etc.)' (Sibertin-Blanc 2014, p. 22); (2) to make workable this increase of 'non-existents' from within the field of over-determination of the social whole, that is from within the praxis of the committed subjects, by multiplying therein the suspensive or anomic cuts, that is, at the same time by opposing subjection in these non-existents and by starting a topical work on the transverse effects of these abstractions as they condition other processes of knowledge. Several intuitions of Hourya Bentouhami (2013) allow us to extend this movement of Althusserian cut from a philosophy intended for non-philosophers towards social criticism.

- Bentouhami, Hourya. 2013. Identité et culture, Pour un multiculturalisme négocié. In *Emancipation, Les métamorphoses de la critique sociale*, ed. A. Cukier, F. Delmotte, and C. Lavergne, 251–284. Bellecombe-en-Bauges: Editions du Croquant.
- De Ípola, Emilio. 2012. *Althusser. L'adieu infini*. Paris: Presses Universitaires de France.
- De Sutter, Laurent. 2010. Louis Althusser et la critique du droit. *Droit et société* 75: 455–466.
- Dorf, Michael, and Sabel, Charles . 1998. A constitution of democratic experimentalism. *Harvard Law Review* 98: 267–473.
- Foucault, Michel. 1982. The subject and power. In *Michel Foucault: Beyond structuralism and hermeneutics*, ed. Hubert Dreyfus, and Paul Rabinow. Chicago: University of Chicago Press.
- Kohlberg, Lawrence. 1981. *Essays on moral development, I. The philosophy of moral development, moral stages and the idea of justice*. San Francisco: Harper & Row.
- Lenoble, Jacques, and Marc Maesschalck. 2003. *Towards a theory of governance. The action of norms*. The Hague: Kluwer Law International.
- Lenoble, Jacques, and Marc Maesschalck. 2010. *Democracy, law and governance*. Farnham: Ashgate.
- Maesschalck, Marc. 2001. *Normes et contextes. Les fondements d'une pragmatique contextuelle*. Hildesheim, Zürich, New York: Olms.
- Maesschalck, Marc. 2010. *Transformations de l'éthique. De la phénoménologie radicale au pragmatisme social*. Bruxelles: PIE Peter Lang.
- Maesschalck, Marc. 2014. *La cause du sujet*. Bruxelles: PIE Peter Lang.
- Miller, Jacques-Alain. 2002. Suture. Éléments de la logique du signifiant. In *Un début dans la vie*, ed. J.-A. Miller, 94–115. Paris: Gallimard.
- Sibertin-Blanc, Guillaume. 2014. Préface. In L. Althusser, *Initiation à la philosophie pour les non-philosophes*, ed. G.M. Goshgarian, 9–35. Paris: Presses Universitaires de France.
- Schön, Donald. 1996. *The reflective practitioner. How professionals think in action*. Aldershot: Ashgate.