Legitimacy and Morality

BACKGROUND AND PRINCIPLE AIMS

The Nordic Societies are going through huge changes. The increasing migration within the European Union will bring it about that interaction between people with different cultural and religious backgrounds will be intensified. The Nordic Countries can no longer be regarded as those homogeneous nations with a common tradition that they were during most of the 20th century.

The changes are of many different kinds. In the religious realm, the role of the Lutheran folk church that formerly was very influential in many parts of society has changed. The differentiation of society in Modernity diminished the immediate significance of religion outside a narrow religious sphere. Today one can see an increasing interest in religion but this does not mean a return to the religious traditions of the past. Religion has become privatized. (RK Fenn (ed), The Blackwell Companion to the Sociology of Religion 2003) At the same time the Lutheran tradition in the Nordic countries has been joined by other religious movements and secular views of life of many kinds. This in turn influences the way morality is seen to function in the Nordic societies. The development is similar in other parts of Europe, although the religious starting point may be different. Public institutions and authorities play an ever diminishing role in the moral and religious life of individuals. (L Östnor, Etisk pluralisme i Norden 2001)

The morality (ethics) of the individual is in turn regarded as ever freer in relation to religious contexts. This does not necessarily mean that morality and religion have moved apart in people’s lives. The question how to understand morality in relation to the human view of life as a whole becomes ever more urgent, but it also becomes more and more difficult to spell out in traditional terms. The growing presence of people with different ethnic, religious and cultural backgrounds involves an increasing need for understanding the unknown other. The sensitivity for what it means to take another human being seriously has recently been pointed out for example by Ruth Illman in a dissertation presented at Åbo Akademi University (ÅAU) this spring. Mutual understanding is necessary in order for political solutions to gain legitimacy. On an international level the fragile new democracies in the former communist countries, and the failed attempts to implant democracy by force (for example in Afghanistan and Iraq) have still more emphasized the need for a deepening understanding of how a democratic rule can bring about political solutions gaining legitimacy

In the situation described it becomes important to study what morality today can mean for the Nordic and European societies and their rules of law. This also involves the question of how morality influences the future stability in those
countries. This problem was studied from one point of view in the multidisciplinary project, "Legislation, Justice and Morality" (LARM, home page http://www.abo.fi/fak/hf/filosofi/Research/Larm/), which, sponsored among others by the Academy of Finland, has been working during the years 2000-2004, with three professors from ÅAU in charge. The LARM project highlights the importance of a moral dimension giving legitimacy to the legal system. The political system is understood as a moral community in some sense.

The outcome of LARM leads to questions with no clear answers for the moment. In what ways does morality manifest itself in public discourse? What could it mean to understand a society as a moral community? What is important if the outcome of a political process should not only express the varying interests of different groups, but manage to express a moral standpoint? To what extent is a political discussion a form of moral discourse? And is a democratic discourse the same as a moral discourse? What role do different religious and secular traditions and individual life-views play in the life of the contemporary community? Political life today is to a great extent marked by a value relativism where the thought of morality as something common to all of humanity is put between brackets. LARM points out that a relativistic view of morality is philosophically problematic. It then becomes important to investigate the different possibilities for making morality discernible in public life.

One of the most important expressions of the thought that morality is what keeps humanity together is the concept of Human Rights. The idea of human rights, in turn, is rooted in a Western, religiously grounded natural law tradition.

This sketch of a situation in which the role of religion in relation to morality has changed, in which the need for a more distinct conceptual understanding of the role of morality in the multi-cultural and multi-religious democratic society and of the significance of human rights is becoming urgent, forms the background for this new multidisciplinary project in which scholars in philosophy, human rights, different life-views and theological ethics join in a common research effort.

Many of the scholars in the project now developed have good experiences of the four years of co-operation within LARM. These experiences show the fruitfulness of a multidisciplinary project of this kind. Although every single researcher has her/his primary identity as a scholar in one subject and the research traditions of that subject, the co-operation within LARM has shown the great importance of cross disciplinary discussions focused on a common theme. This has given important new impulses to the individual projects and every member of the research group has thereby been able to contribute with viewpoints that have widened the perspective of the other participants in the project. The co-operation in LARM has had concrete results in a manuscript to a joint anthology with the title HOMO MORALIS: Människan och rättssamhället in which the project participants take part. Cross disciplinarity turns out to demand time. This is
necessary in order to reach the needed level of a common conceptual understanding. When this mutual understanding is reached it is of importance that this co-operation can be carried on. That is the purpose behind this new project, Legitimacy and Ethics. The Individual, the Community and the Rule of Law (LEMO).

Central results of the LARM project

During the years 2001-2004, the research project "Legislation, Justice and Morality" (LARM) has studied the relationships between morality and different aspects of the legal system. The perspective of the research has been both conceptual and empirical. The research has evolved as a collaboration between philosophy, legal sciences (human rights) and theological ethics. In the following, some important aspects are mentioned that the LARM project has brought to the fore and partly developed on the basis of its underlying understanding of morality.

LARM has focused on the meaning of the legitimacy of the law, i.e. the moral validity of the law. We can speak of the legitimacy of the law on two different levels, on the one hand that of the legal system as such (the democracy governed by the rule of law) and on the other hand individual legal norms.

The legitimacy of the law functions differently when the legitimacy of the whole legal system is concerned (e.g. the constitution of a parliamentary democracy) than when the legitimacy concerned is that of individual legal norms (e.g. the laws concerning domestic partnership). It is possible to question the legitimacy of individual legal norms while at the same time affirming the legitimacy of the system as a whole. But it is meaningless to claim that an individual legal norm is legitimate if one views the legal system as a whole as illegitimate.

The concept of legitimacy puts the focus on the understanding of morality. In Western moral philosophy and socio-ethical discussion we find many different understandings of the concept of "morality". In the research plan of the LARM project, it was stated that one wanted to question a relativistic (subjectivistic) and an objectivistic understanding of morality. Consequently LARM proposes a position beyond subjectivism and objectivism. The understanding of morality that is studied conceptually and developed in the LARM project focuses on the moral agent, his or her context and relations and on the agent's way of relating to concrete situations.

With the help of the terms internal and external, the LARM project puts the focus on central features of the moral life of human beings. A moral action is seen as constituted by an internal relation between the agent, the action and the situation. Therefore, morality can not be conceived of in an external manner, as a theoretical framework of rules or abstract rational calculations. When something is considered legitimate, this always entails taking a personal stand. In the LARM project the conceptual understanding of why this is the case has been deepened.
It appears as if the significance of religion for the law and for a community based on law is first and foremost connected to the question of legitimacy. It therefore has a moral dimension. The significance of religion for the law cannot be settled once and for all. Here, it is important to be aware of the duality of the concept of religion. On the one hand there are religions considered as institutions, on the other hand there is religion as a dimension of the life of an individual person. The role and significance of religion is found primarily in the actions and attitudes of religious members of the society. At the same time, the religious lives of these citizens are connected to those of other religious persons, to a tradition and an institution. It is the institutional aspect that separates the significance of the traditional religion in the life of the individual and the community from the significance of more individual views of life and the so-called private religiosity that have become an increasingly dominant feature of the late modern society.

Human Rights (HR) have both a strictly legal (juridical) and a moral side to them. More prominently than many other legal norms, legal human rights show clear connections to morality. A right that no one considers binding cannot meaningfully be upheld as a right. Ultimately, the obligation seems to have a moral foundation - this moral element probably plays a decisive role in order for a right to be articulated in the first place. In light of the findings in the LARM project, it seems to be harder to distinguish between morality and law when human rights norms are concerned, than in the case of legal norms in general.

The multi-religious and multicultural society is marked by tensions between different groups. It is not self-evident how a conflict between e.g. the praxis of a certain religious group and a claim founded on human rights should be solved. In the LARM project this has been discussed. From a legal point of view, there is a tendency to seek solutions on strictly legal grounds. The LARM project asks whether religious and moral arguments should carry the same weight as legal arguments in such situations. A second question is whether or not legal grounds are even intelligible if considered in strict isolation from religious or moral considerations.

**Need for further research**

In the LARM project, it was shown that the distinction internal-external can help to capture an important dimension of the meaning of the legal system and its parts. The results show that more research is needed on how to understand the mechanisms behind the legitimacy of a legal system, a state or a smaller autonomous community. In the LEMO project the focus of the research moves from the relationship between morality and law to, primarily, the question how to understand the preconditions of the legitimacy of the law in the larger society.

What, for instance, is a good state? In which terms can a regime or a form of government meaningfully be discussed and criticized? According to a classical
conception (such as that held by Plato) there are certain given values or standards that a political organization should fulfill. The political power apparatus, the public sphere, are seen as instruments designed for realizing these purposes, which may be expressed either in a moral vocabulary (justice, freedom) or in terms such as welfare, well-being or happiness.

The problem of this view is that it does not take into consideration the specific character of the political sphere. There may, it is true, be room for such external assessments; this view, however, neglects the issue of the legitimacy of the state’s exercise of power. This issue is connected with seeing the political sphere as expressive of the shared concerns of a community. What these concerns are or what may be a genuine expression of them, logically, can only be articulated by those who speak in the name of the community, i.e. by the members or representatives of the community (just as only the individual can ultimately give expression to what he or she really wants). What priorities are established between various desired goals, or how those goals are formulated, accordingly, cannot legitimately be determined from outside the community. The political community, we might say, enjoys moral sovereignty (this concept has two aspects: a moral and a logical one). This is also true of the way in which the line is drawn between the concerns of individual citizens, families, corporations or groups, i.e. between the areas in which these parties are considered to enjoy moral sovereignty (private sphere), and what are held to be public concerns (public sphere).

One way of trying to come to terms with the issue of legitimacy has been to replace this "substantial" view of the tasks of politics with a "formal" view. This gets expressed in the idea of democratic procedures as a neutral method of transforming the will of the members of the community into specific decisions. But this solution is not tenable either. The problems of collective choice are well known. Generally speaking there is no unique way of transforming the will of a group into specific decisions. Analogous points apply to political representation: thus, there are innumerable conceivable variations in the constitution and functioning of representative bodies (how are candidates nominated? how is the publicity surrounding the elections organized? who has a vote? what are the electoral terms? how are the representative bodies organized? etc). Other difficulties aside, peculiar problems arise when the political community is composed of various groups laying a claim to cultural or political sovereignty (for instance, ethnic groups, religious communities or more private groups such as a family or a corporation). In such cases majority rule may mean dictatorship by the majority. The problem, in that case, is that decisions reached by majority vote may lack legitimacy in some parts of the society.

Furthermore, for formal democratic procedures to gain legitimacy, citizens must have trust in the way elections and referenda are organized. It is not enough that
elections and referenda are just, they must be perceived to be just. Similarly, in representative government, citizens must have trust in their representatives. In sum, then, a political system cannot acquire legitimacy through democratic procedures; rather the legitimacy of the system is a precondition for any procedures being considered democratic. Trust can be seen as an important part of any moral community. If so, then every political community aiming at legitimacy is forced to keep up trustworthy relations between citizens.

Apart from 'morality' and 'legitimacy', some other concepts stand out as key concepts such as 'trust', 'democratic discourse', and 'moral discourse'. Due to the role of religious and secular views of life in the moral life of every human being, the concepts of 'religion' and 'life-view' also become central. For its part, the concept of 'discourse' further points to the community in which the discourse is carried out. From this follows that two more concepts are of specific relevance: 'democratic community' and 'moral community'. Here, community stands for the preconditions for trustful discourse. The moral discourse could possibly be understood as the backbone of the democratic system. The question then arises: how can one imagine and understand its expression in different contexts?

Ultimately, one is dealing with the form of existence of the democratic state, which shows that the state cannot be considered in isolation from the civic community and consequently from the lives of its citizens. The LEMO project will study this in more detail. The research hereby moves on both a conceptual and an empirical level.

Against this background the project planned will focus on the following questions:

- Which considerations are central in assessing the legitimacy of a legal system, and of the institutions and government actions connected with it?

- What is the meaning of the concept 'moral sovereignty' in a political context?

- How should the concept 'democracy' be understood? - The democratic procedure must, in order for it to give legitimacy to legislation and the legal system, be conceived of as legitimate in itself, both in its form and in its application. Furthermore, the procedure must be shaped in a way that does not make the question of power decisive. Priority should be given to the issues at stake and the moral backing that their consideration may gain.

- What is the role of trust in a representative democracy?

- In what sense is it a condition for a democratic procedure gaining moral legitimacy, that the trust between different actors is upheld throughout the process?

- What does it mean for the mutual trust in today's plural societies that different actors represent different religions and views of life?
- How should the relationship between private views and public institutions (religious, political, governmental) be understood? How do a private and a public discourse differ conceptually?

- If the public (moral) discourse is a necessary condition for the functioning of a democratic system (by attaining legitimacy), it is important to ask: Under which (conceptual) conditions can the public discourse contribute to the legitimacy of the system?

- In which way does mutual trust form a condition for the public discourse?

- To what extent is the legitimacy of a political order dependent on morality?

- What is the relationship of human rights, in its different dimensions, to the conceptual and empirical questions raised above?

**OBJECTIVES AND METHODS OF THE PROJECT AS A WHOLE AND OF ITS INDIVIDUAL PARTS**

According to Michael Walzer (Thick and Thin: Moral Argument at Home and Abroad (1994)) one can make a distinction between thick and thin moral arguments. Walzer’s main point is that on an international and cross-cultural level we could talk about a thin morality, keeping the larger moral community together. We have a sense of some moral strains which in a way constitute all humans as a global human community. But Walzer’s most important point is that this morality in a thin sense is entirely based on morality in a thick sense. This thick morality is the concrete lives that each one of us lives, in which our moral language gets its content and meaning. This morality is in turn differently articulated in different contexts and cultural and religious settings. The thick morality of a French Muslim differs from that of a French free thinker, but also from that of an Iraqi Muslim. What is important according to Walzer, is that there are no absolute last principles in any thick morality. This in turn makes it possible to recognize a common moral humanity.

Walzer’s picture of how the moral community on different levels works is in line with the way morality is seen as something internal to the life of human beings in the LARM project.

Due to the multidisciplinary character of the project, the question of how a moral discourse varies in different contexts is studied from many different angles and on several levels. Through the individual projects LEMO deals with the following levels: the global and the European community level, the political level of the state and a level of smaller communities within the state. The individual tries to find her place among these levels and cannot be said to belong to one more than to
another. Some of the studies focusing on some of the central concepts and the philosophical discussions concerning these are in a related way not so clearly coupled with one specific level.

**Comprehensive philosophical aspects**

Most of the philosophically orientated approaches discuss conceptual solutions presented by important political philosophers. Both Joakim Molander and Ville Päivänsalo study some basic features in what Walzer regards as thin morality (represented among others by Rawls and Habermas). They approach their subject from slightly different angels, Päivänsalo being more sympathetic to the thinkers mentioned than Molander. Through the discussions in the project meetings they are expected fruitfully to complement each other’s conceptual understanding. The chief perspective of the project will thereby be critically scrutinized. Also Svante Ewalds will contribute to this discussion, working on his book on the social ethical thinking of Løgstrup, Taylor and Winch. Their solutions to the conceptual problems involved are of relevance for the questions of democracy, moral communities and moral-political discourse on all levels of public community life (both on an international and a national level). Lagerspetz will critically discuss some important features in a Wittgensteian tradition contributing to the concept of morality on a basic level. Beside that he argues that there are conceptual links between democracy and nationalism, which would imply the difficulty of establishing democratic principles in non-national societies. The work of Petter Korkman will also contribute to the philosophical understanding of key concepts, through his work on the early modern natural law paradigm.

**Joakim Molander: Rationality and Morality in democratic discussions**

An ethic that builds on utilitarian and Kantian theories assumes that moral problems can be solved in a rationalistic manner. In this respect, the theories offer a kind of value neutral and thus external ground for rational judgment making. Such conceptions play a decisive role for how moral conflicts are perceived and dealt with. They propose that one single solution can be found through a rational ethical dialogue. (In modern ethics John Rawls and Jürgen Habermas, among others, have in different ways defended such a view.) This conception has proven influential in many contexts, for instance, in public debate, in democratic legislative processes, in trials, and in dialogues conducted at an international level concerning e.g. human rights.

In the LARM project Molander analyzed how especially utilitarian ethics has influenced the shaping of the modern legal system, and more specifically the regulation of the judicial and supposedly value neutral judgments that are expected to be made by the criminal court. In the present project Molander will build on his doctoral thesis, and the criticism expressed there against the idea that ethical questions can be discussed and assessed rationally. This will be done by
focusing on the prerequisites of the ethical discourse. In an initial article of a more clearly theoretical character, Molander will examine and criticize the ethics of Rawls and Habermas in particular. This theoretical survey will then form the basis for one or two articles dedicated to the study of the international dialogue on human rights.

This dialogue, as the LARM project also concluded, is, as it seems, to a high degree marked by the idea that a strictly legal application/interpretation of human rights can form the foundation for what could perhaps be called a rational global ethics. Building on his earlier research, Molander aims at showing that it is a mistake to believe that there exists something like a value neutral legal interpretation of human rights. His claim is that the one who interprets/assesses is always part of that interpretation/assessment. Therefore, no external perspective from which an assessment can be made exists. Molander intends to illustrate the moral, and consequently culturally and conceptually formed, character of human rights by studying how the dialogue on human rights develops in Swedish diplomacy and aid policy. This dialogue is not value neutral, rather it is marked by moral commitment. Methodologically, Molander will mostly work with texts of a primarily philosophical and legal character. But he will also conduct interviews with Swedish diplomats and aid workers who have taken part in human rights dialogues.

Ville Päivänsalo: Reasonable Nationalisms after Rawls

The starting point for the study is John Rawls' conception of justice according to A Theory of Justice (1971), Political Liberalism (1993), The Law of Peoples (1999), and Justice as Fairness (2001). Among the recent alternatives to Rawlsian social liberalism have been multiculturalism, such as that of Will Kymlicka, and cosmopolitan social liberalism, such as that of Thomas Pogge. From both of these perspectives, Rawls gave too much emphasis to the old-fashioned national state.

Päivänsalo asks, first: In which respects might it be reasonable, in a Rawlsian sense, to regard a nation as a unit of particular public importance? Rawls' writings point towards moderately positive answers to this question. All peoples should respect the human rights and certain (relaxed) criteria of reasonableness. But Rawls continued to assume that nations have particular significance as the units of fair co-operation and civic friendship.

Rawls defended a reasonably pluralistic society in which no comprehensive doctrine dominates the others. However, in real societies different cultures are not symmetrically represented. Anthony D. Smith, a professor of Ethnicity and Nationalism at the London School of Economics, has recently argued that national ties have deep roots in our cultural and religious traditions and that these are still strong. But how far can the public role of nationally common cultures be regarded as reasonable from the Rawlsian perspective?
The second question in Päivänsalo's research concerns the religious backing for Rawlsian justice. One interesting historical controversy in this respect culminated in 1976. The World Alliance of Reformed Churches, with Jürgen Moltmann as their spokesman, had drafted a document called 'Theological Basis of Human Rights'. Lutheran theologians, however, did not accept it. Carl E. Braaten explained that the approach was too strong reformed-theology bias. The Lutherans saw the basis for the human rights differently. The second question of the research would be: How were the views of Moltmann and Braaten related to each other and could Rawls' idea of the overlapping consensus of reasonable doctrines apply to this case?

The research may be published under the title Reasonable Nationalisms after Rawls (or the like). Päivänsalo might complete the resulting book with a third chapter that would provide further perspectives to the theme. The chapters might also be published as articles. Main Sources: Braaten, Carl E., Eschatology and Ethics: Essays on the Theology and Ethics of the Kingdom of God, and Principles of Lutheran Theology; Rawls, John, A Theory of Justice, Political Liberalism, The Law of Peoples: With "The Idea of Public Reason Revisited.", and Justice as Fairness: A Restatement; Smith, Anthony D., Chosen Peoples: Sacred Sources of National Identity; World Alliance of Reformed Churches, Theological Basis of Human Rights.

Svante Ewalds: Morality and Communication. The Conceptions of Morality of Charles Taylor, K.E. Løgstrup and Peter Winch

Despite their different philosophical foundations, Taylor, Løgstrup and Winch have a common starting point in seeing the moral subject as situated in a) a context of concrete relations and situations, and b) a context of language, culture and society. While most moral philosophers - both rationalists and subjectivists - conceive morality as a product of the moral subject, Taylor, Løgstrup and Winch think that the moral subject is situated in a reality that is "morally constituted".

Analyzing the communicative dimension in morality (articulating morality verbally, bodily and in action, moral argumentation etc.), Ewalds hopes to be able to shed some light on the connections between the realization of the personal moral identity and the particular context of the moral subject. A further question is that of common moral standpoints, for example standpoints expressed in the legislation of a society. Is a perspective emphasizing the internal connection between personal identity and morality relevant to communication aiming at common moral standpoints? Can a perspective like that be seen as offering an important prerequisite for the validity of common moral standpoints? Or is the legitimacy of these only dependent on fair rational and democratic procedures?
Ewald plans to present the results of his research in the form of a short monograph. As he mainly does his research alongside his ordinary job he hopes to be able to complete his manuscript no later than the year 2006.

**Olli Lagerspetz: Three different minor projects**

*Questions of Democracy and Nationalism*

Some of Lagerspetz' recent research concerns the relation between the nation state and representative legitimacy. He argues that the idea of representative legitimacy in its modern (post-1789) form involves (at least tacitly) the assumption of a nation, i.e., a political community unified 'horizontally' by a political culture. This invites the question of the relevance of cultural vs. civic criteria of national belonging, as well as the question of the status of ethnic and other minorities in the national community. It is argued that the present meaning of terms like 'nation', 'people', 'minority', etc., are heavily influenced by this political context to which they have also contributed. - The implication of this argument is also that the notions of democracy and the nation are, in their present form, closely connected. - He has now finished two papers on the subject (one recently accepted for publication).

*The Form and Substance of Morality*

This theme will explore the extent to which the analogy between law and morality may be helpful. G.E.M. Anscombe's essay 'Modern Moral Philosophy' (originally published in 1958) is generally considered a landmark in 20th century ethical theory. Anscombe is usually understood to be questioning the coherence of a secular morality that gives absolute and categorical verdicts. This reading of Anscombe's thesis associates her with the discussion on the foundations of morality - a discourse initiated, in the 20th century, by those who addressed Kant's question 'How is the Categorical Imperative possible?' but recalled that it was not (Foot, MacIntyre). According to this interpretation, Anscombe presented what is in effect an updated version of Schopenhauer's critique of Kantian ethics (cf. Diamond, Richter). However, this interpretation of Anscombe is questionable. I argue that Anscombe's main concern was the quest for an honest moral vocabulary. The removal of theological elements was not the key problem. Rather, she argued that we might speak meaningfully of moral imperatives only if we accept that certain specifiable actions (such as murder) are absolutely forbidden. The meaningfulness of a particular form of imperatives is dependent on one's taking a particular stand on questions of substance. This suggestion contrasts with an approach that may be broadly characterised as 'modernist'. On this latter view, philosophers may meaningfully analyse the form of morality (e.g., characterising moral judgments in terms of universalisability or authenticity) without having to enter into substantial questions about right and wrong.
To sum up, this paper will argue that any meaningful characterisation of the form or general role of morality will also involve normative views on its substance. It will be argued that Anscombe also held this view. A Swedish version of this paper has been published. Some further work will be done with the English version, which will be submitted later in 2004.

The Author of the Moral Imperative

This paper will investigate the relation between Kantian and Wittgensteinian views on moral necessity. Famously, Kant identified the difference between moral and other imperatives by saying that the moral imperative is categorical. However, Kant’s approach runs the risk of reducing morality to conformity with a particular set of precepts. An actual imperative is - typically at least - issued by someone. Unlike laws, however, morality cannot be traced back to a specific source. Kant insisted that the Categorical Imperative issues from the moral agent herself; but how should we understand such claims?

In this connection, it will be helpful to look at recent Wittgensteinian attempts to describe the idea of moral necessity as an extension of our spontaneous ('primitive') reactions towards other human beings (Hertzberg, Winch, Cockburn, Gaita). Here, however, it seems that we identify the reaction itself - e.g., 'a reaction towards a fellow human being' - by referring to its assumed object. Such characterisations of the object (a fellow human being - as opposed to, e.g., an enemy, part of someone's body, a moving object) are themselves not neutral. Rather, the reaction itself presupposes the idea that certain characterisations of the relevant object are more appropriate than others. Hence our reactions cannot be represented as constitutive of morality; rather, what makes them moral reactions is the fact that they involve the recognition that something is valuable independently of our reactions. Thus the focus is shifted from the moral agent to the 'object' of her obligation. In fact Kant himself makes this move. He maintains that the absolute value of the person is the only possible 'ground' (Grund) for the Categorical Imperative. Perhaps surprisingly, there is, then, a close analogy between Kant and the dialogical approaches to morality advanced by, e.g., Lévinas and Løgstrup.

Petter Korkman: Reason and Natural Law in early Modernity

Man is famously said to be a rational animal - but what does this mean? In ancient and medieval philosophy, the animal rationalis was thought to have within the rational faculty itself a guide to the good life, to the kind of life that an animal endowed with a rational nature ought to lead. In early modern philosophy, a different view was formed. For early modern natural law theorists like Thomas Hobbes and Samuel Pufendorf, reason merely makes man more efficient (than other animals) at calculating the best means to whatever goals he happens to propose himself. Reason does not provide any insight into the goals suitable for
the rational animal. Rational consensus concerning the good life was in fact deemed impossible, and the wars of religion were adduced as clear testimony of this situation. In order to build moral and political philosophy on a rational basis, the Pufendorfian came to believe, it must be framed within the discussion of man as a rational egoist.

Korkman, research fellow at the Helsinki Collegium for Advanced Studies financed by a post-doctoral research grant from the Academy of Finland, studies the implications of this modern reconfiguration of moral and political thought in the writings of the early Enlightenment heirs to Hobbes and Pufendorf. Key concepts of his study include: rationalism, statism, toleration, human rights, moral obligation, and moral science. He strives to provide a scholarly monograph on the fate of Pufendorfian natural law theory in the works of Jean-Jacques Burlamaqui, Emmerich de Vattel, Jean LeClerc, and Jean Barbeyrac: all central mediators of the natural law paradigm into the mature French Enlightenment. This monograph, Reason and Natural Law in the Early Enlightenment, will be published by an international publisher. Korkman also provides new English- language editions of Burlamaqui’s main natural law treatise Principles of Law Natural and Politic (for the Liberty Fund) and of sections from Barbeyrac’s Morale des Pères de l’Eglise (possibly for a Rodopi series). In addition, he will publish 3-4 journal articles in international journals and participate in a number of international conferences and seminars. He will also organize some smaller workshops on the history of philosophy, and especially a large international conference Pluralism and the State at the Collegium in 2005.

Global level

On a global level a highly important unifying phenomenon, besides the global political institutions such as the United Nations, is the different legal norms seen as expressions of Human Rights. This theme is studied in juridical documents by Annika Tahvanainen. She studies some key concepts in Human Rights law and in what sense these kinds of legal norms can be said to be binding without exception for states and other legal subjects. In this context, a key question is what role moral values play in enhancing the legitimacy of these legal norms throughout the international community. Mikaela Heikkilä is studying international criminal law from a juridical point of view. But she also focuses on some important features related to moral justice. In the domains studied by her, the question of moral aspects is at the same time highly fundamental.

Annika Tahvanainen: International law and Human Rights

The aim of the research is to examine the constitutional and hierarchical character of certain international law and human rights law norms. While having been codified in positive law they are, irrespective of their form and irrespective of whether states have consented to be bound by them, binding for states and other
subjects of international law. These norms are characterized by non-derogability and universality, and they protect values and interests which are common to the international community as a whole. While the research is not committed to a natural law theory at the outset, the discussion of universal values will involve concepts like human dignity in human rights law. While non-derogable rights exclusively pertain to human rights and the protection of individuals, as a concept 'non-derogable rights' is connected to the international law concepts 'erga omnes obligations' and 'jus cogens norms'. To which degree do non-derogable rights constitute jus cogens norms, and do they coincide with the erga omnes character of these norms? Human rights law, it is claimed, to some extent constitutes a self-contained regime. However, it differs from other similar regimes in that the norms claim to apply to other regimes in international law as well. Based on the outcome of this inquiry, an attempt will be made to examine the ways in which the study of human rights law can provide us with greater insight into the normative values to be protected not only within human rights law but in international law in general. Based on the findings, conclusions will also be drawn concerning issues like the nature of the international legal system, conflicts of norms, norm hierarchy and the constitutionalisation of international law.

The methods to be used include theoretical analysis, discussion and interpretation of binding legal norms and the elaboration of ideas related to the further development of the current normative framework. The examination of jurisprudence of courts and monitoring bodies as well as state practice will be of central importance. Tahvanainen's research, which aims at producing a doctoral thesis, is partly (a two-year funding within the project 'Constitutional Issues of the International Community - Hierarchy of Norms in Public International Law') funded by the Academy of Finland.

Mikaela Heikkilä: On International Criminal Law and the Nature of Crimes of International Concern

The main aims of Heikkilä's research are to increase the understanding of the nature of international crimes and to study what this nature means to international and domestic criminal law. The research project will focus on the international core crimes (i.e., genocide, crimes against humanity, war crimes and the crime of aggression) and terrorist offenses and organized crime. The research approach will be multidisciplinary. The dissertation will have elements that are criminological, philosophical and traditionally legal. The research is financed by the research project "Legal System in a Changing Society" (OMY) (1st November 2003 - 31st December 2006). It is expected that the dissertation will be finalized in 2007.

The European level
In the European Union the ongoing work on a constitution for the European countries offers a range of examples of the conceptual questions which the search for a core of fundamental rights, a thin consensus on the level of interstate law, brings to the fore. Mats Lindfelt will contribute to the project with some important features of his doctoral thesis Fundamental Rights or Economic Freedoms: A Shift of Paradigm? Study of Fundamental Rights Protection in the European Union in the light of the EU Charter of Fundamental Rights focused on the fundamental rights doctrine of the European Union.

**Mats Lindfelt: The quest for legitimacy in the European Union - the role of fundamental rights?**

The ongoing research project deals with the fundamental rights doctrine of the European Union. The doctrine is and old and well-known one. However, during recent years new elements have emerged that could result in a need to rethink the role of fundamental rights within the legal order of the Union. This research project deals precisely with the role that fundamental rights might have in building up the future of the European Union. Human rights are perceived as a symbol of the integration process and as a central building block in ensuring the legitimacy of the 'European project'. Fundamental rights do have a central role in the creation of a political Union and its connected common values and identity, i.e. legitimacy. EU has its foundation in the principles of "liberty, democracy, respect for human rights and fundamental freedoms and the rule of law, principles which are common to the Member States", (article 6:1 TEU) thus being essential elements for the democratic legitimacy of the EU. Yet, the issue of legitimacy of the 'European project' has been questioned and debated from the early 1990s onwards. It is generally recognized that the European Union suffers from a lack of legitimacy based upon a so-called democratic deficit. The EU addresses this issue by, inter alia, adopting an EU Charter of Fundamental Rights to be part of the Constitutional Treaty. The EUCFR is believed to strengthen the legitimacy deficit and underline a commitment to human rights/fundamental rights by the political institutions creating a close link between the EU and its citizens. The main argument presented by the European Council in 1999 was that people need to be aware of their fundamental rights by stating that "there appears to be a need, at the present stage of the Union's development, to establish a Charter of Fundamental Rights in order to make their overriding importance and relevance more visible for the Union's citizens".

Key questions: What is meant by the notion legitimacy? (empirical/normative) How are Fundamental Rights connected to the question of legitimacy? What is the role of the EU Charter of Fundamental Rights in this context? Are fundamental rights instrumental and not "trumps" or ends in themselves to be used to achieve other goals such as integration, legitimacy etc?

**The level of the political state**
The political system within a state can be divided into two parts: the political system proper which in a modern democratic state is channeled into political parties and the parliamentary system, and the extra-parliamentary actions by different individuals and loosely or more tightly organized groups. Through his study of some central features in the formation of the independent Finnish State in the early 1900's, Markku Suksi deals with some important concepts on a constitutional level, forming the framework for a democratic state. This framework sets the stage for the normal political process. In LARM Mikael Forslund began his study of moral discourse in Finnish legislative processes. He intends to finish this study, while working full time as a parish priest, and will take part in the joint work of the LEMO project. Mari Lindman, who is still working on her master’s thesis, intends, in her work in LEMO, to analyze the concept of political discussion on a philosophical level, criticizing the idea that discussion in politics can be reduced to negotiations between competing interests, and arguing that partisan interests are transformed in being made matters of public concern. Tom Kettunen, for his part, will use the treatment of animals as a test case for the idea that public morality is expressive of an agreement among the members of a human community. These kinds of question are studied on a conceptual level.

**Markku Suksi:** The prohibition of the imperative mandate as a social contract for the creation of legitimacy

A substance-based theory of legitimacy which is founded in the constitution adopts as a starting point a vision of the common values that the members of parliament should take into account in their activity. The common values should be of such a nature that they are capable of comprehending those features which are authentic to a specific legal order and which justify its existence. The common values should be such that the individuals or at least the citizens could agree that exactly these values are shared by everyone. In a Finnish context, the cut-off point in this respect could be the period in the beginning of the 20th century, when Finland as an autonomous part of the Russian Empire was experiencing a russification which, ultimately, resulted in a reform of the institutions of representation (the creation of a unicameral parliament with proportional elections based on general and equal suffrage and the right of everyone to stand as candidate). During this period, two general values were established, those of justice and truth. One of the aims of the reform of the Finnish legislative power in 1906 was to secure that domestic legislation is enacted for application on Finnish territory. These Acts of Parliament would be enacted so that they reflect the Finnish understanding of law. The reform of the institutions of representation can also be seen as a reaction against the special interests represented by each of the four Estates. The strengthening of the Finnish legislative power and the replacement of the special representation which through the Estates covered around ten per cent of the population of the country required the establishment of
such values which the representatives of the people could adopt as common values. These values, justice and truth, replaced those values which each of the Estates had developed inside themselves and for themselves. The common values joined the representatives of the people, elected in a uniform way since 1907, into an interpreter of the concept of justice of the whole population. The reference to justice and truth which is included in Section 29, first sentence, of the current Constitution of Finland has since 1906 been included in the constitutional regulation of Finland. The contents of these terms are likely to be rather philosophical. The term "justice" in Section 29 should probably not be understood as containing a reference to positive legal rules, but rather as a more philosophical understanding of justice that should be guaranteed by the Constitution. The term "truth" in the same provision, again, is probably not a reference to the empirical truth, but rather to the conviction or view of the world that a representative of the people has. Taken together, Section 29, first sentence, contains a proposition that the political conviction of a representative should, given that he or she is representing the people of Finland, function as a principle which guides the representative in his or her task especially when legislation is passed. The Constitution is therefore neutral in not establishing any specific political ideology which would identify the best possible contents for a legislative enactment and in not limiting the mutual competition of the political convictions. A similar set-up can be identified in other countries, and therefore the inquiry will in part utilize a comparative method. The topics that the article will touch upon on in addition to the prohibition of the imperative mandate are elections, different concepts of representation and political philosophy. The article will be finalized by the end of 2006.

**Mikael Forslund: The State as a Moral Community**

The aim of Forslund's research is to analyse how morality and moral language are understood and used in the work that the Finnish parliament and government carry out when laws are discussed and adopted. Forslund's approach is therefore language analytical and moral philosophical. The aim is to study an empirical material and Forslund has chosen to narrow his analysis to the law concerning domestic partnership between persons of the same sex, which came into effect in March 2002, and the law concerning child-support from the year 1992. The latter law has been changed a number of times since it came into effect in January 1993, because it is been part of a larger socio-political reform which aimed to reduce the economical expenses of the state in the 1990's. From this, there will arise a need to discuss the legitimacy of the welfare state. The material for Forslund's study will therefore consist of the preparatory work connected with the passing of these laws: government bills, reports from the different parliamentary committees and also opinions and reports from experts that have been heard during the legislative process. In this material Forslund will especially study how moral language is
understood. One could argue, and it is often said, that the state has to be neutral concerning moral issues. It is said that the aim of the state is not to uphold certain ethical or religious values. But Forslund finds this view problematic, especially when it, actually, turns out that the state does uphold certain ethical values. What is then meant by this neutrality? How can we understand it? In connection to philosophers like Ludwig Wittgenstein, Peter Winch, John Austin and Lars Hertzberg, Forslund thinks that the way a person acts and uses language in ordinary life shows something about the values and the morality of that person. What Forslund then wants to argue is that the way language is used in the Finnish parliament and the actions of the state do reveal what the legislative assembly thinks is important and valuable. The language then also functions as a practice which gives legitimacy to the issues in question. Forslund plans to complete his dissertation by 2008.

**Mari Lindman: 'Political discourse' - a moral discourse?**

Within the LEMO project, Lindman's contribution will consist in dealing with questions of legitimacy by, through the concept of 'conversation', looking at what role politics might play in people's lives. Using the concept of moral conversation, she wants to open up for a notion of politics that focuses on what people find important and troublesome in their lives - rather than politics as the interests of individuals and groups.

At what point do we call something a political problem? An uncontroversial answer Lindman wants to take a closer look at is: a political problem arises when there are groups that make claims that are taken into account within democratic institutions, where their claims are weighed against demands made by other groups. If the interests of collectives or individuals are taken as the primary building blocks of political life, political conversation appears, consequently, to aim at the bringing about of compromises between different competing interests. In the political sphere, private (but fixed) priorities are transformed into public matters. Politicians, then, do their best to fulfill the wishes of those whose interests they represent.

Political institutions are largely seen as external constraints on conduct - means of keeping the political game fair - and, furthermore, political institutions function as ensuring a just distribution of resources. Here, the ideal of justice is still in use. In another common idea of the nature of politics - the conception of politics as 'realpolitik' - the competing interests are seen as being about power - here there is no room for 'justice' at all. It might be useful to ask whether there is a real difference between this 'realistic' picture of politics, and the idea, made common by thinkers like Rawls, about just distribution of power and resources. Both pictures seem to place the concept of 'interest', the interest of the party or of the voters, at the centre of political life.
The primacy of political interests seems to determine the status given to political conversation / dialogue. Here, conversation = negotiation. The main task of politics, and also, political conversation, is finding solutions, bringing forth the optimal compromise. Justice is attained when everyone’s voice is equally taken into account (at least according to the more Rawls-inspired picture). Democracy is described as a combination of the rule of the majority and not ignoring the demands of the minority. Is there a place for political dialogue at all here - if this picture is drawn to its extreme - or are we faced with a picture of politics as calculus - a political science?

By comparing a political dialogue with a moral dialogue Lindman wants to see what room there is for concepts of understanding and mutuality in the context of politics. In a moral dialogue, there seems to be no room for power. In politics, questions of power appear to have a more complex role. Lindman will discuss in what way political power is exercised in how interests are introduced on the political arena. But this might be a too limited picture of political power. She is neither trying to see what is empirically feasible within politics, nor is she trying to make prescriptions of what a 'better politician' would look like. Of course she does see that 'interests' and 'negotiation' are parts of politics - but has the emphasis on these aspects of politics led to a too simplistic picture of political life?

Parallels between moral and political conversation could be drawn by focusing on the following concepts: dis/agreement, criticism, learning, 'argument'/justification. By reminding ourselves of different aspects of the roles politics plays in human lives and in society a less one-sided concept of 'political conversation' could be attained. Conceptual parallels between the moral and the political conversation might also give new perspectives on the institutional aspect of politics.

Feminists, among others, have been grappling with the question of what it is to have a voice, to make oneself heard and to be seen justly. With this question comes the feminist critique of the isolated subject, represented in institutions with societal authority or being excluded from them. Feminists treat subjects as being created within political conversations - subjects and interests are not pre-existent. Political power is related to power exercised in other contexts in our lives - that is why politics is not reducible to 'deciding on public affairs'.

Tom Kettunen: Our Shared Communities

One of the objectives of the project 'Legitimacy and Ethics: The Individual, the Community and the Rule of Law' is to show in which ways the political sphere is an expression of the shared concerns of a community. Kettunen's work concentrates on deepening the understanding of what it means to belong to a community, by discussing the different ways in which some animals can be said to share a moral and social community with humans.

When animals have figured in philosophical works, they have, with a few exceptions, most often been the negative Other in characterizations of Man and Humanity. The human-animal relationship has only lately received some attention in Western philosophy, partly because questions of the treatment of animals have become a part of the political agenda. One of the principal aims of Kettunen's work is to outline the kinds of reactions and responses that form the framework of our thinking about our moral relationships to animals. By investigating the works of Elias Canetti, Cora Diamond and Peter Winch, Kettunen will try to discuss some of the basic concepts that shape our conceptions of ourselves as humans, and underlie our moral questions about humans and animals.

Feminist theorists like Barbara Noske and Donna Haraway have discussed the ways in which the nature-nurture dichotomy, i.e. the debate around 'the biological' and 'the social', can be opened up by thinking about human-animal interaction in our communities. In Kettunen's work, he will discuss different aspects of what it means, both for humans and animals, to belong to a shared community. By anchoring the discussions of our moral relations to animals in concrete life situations, he will try to show different ways of thinking about the perceived gap between them and us. His intention is to show the different kinds of places animals have, or don't have, in our lives. One of the main questions in Kettunen's project is: What do our ideas about animals say about us as moral and social beings?

It seems clear that animals inhabit a twilight-zone in our thinking about morality. When we think about our social and moral communities, animals only figure in a peripheral way, if they figure at all. This becomes especially evident in traditional social philosophy. One example is the discussion about the criteria according to which a just society is established in A Theory of Justice by John Rawls. According to Rawls we can arrive at a set of basic principles of justice by imagining the kind of a society individuals in a natural state would want to create, if they knew the basics about the conditions of social life, but not what kinds of capacities, desires or backgrounds they themselves would have in that society. However, if we agree that our communities also include animals, it may become difficult to sustain the idea of a social contract as constitutive for a society, and the idea that justice is the sum of the ideas of the individuals in a society loses some of its weight. A minor
aspect in Kettunen’s work is to try to show how a critical discussion of the concept of animal rights can expose some of the fallacies in discussions on human rights.


**Smaller communities**

In the community, governed by the state authorities, there are different tensions between public and more private spheres. The borders between are moving, for example, in today’s Finnish society. And they move in many directions, as can be seen, for instance, in changes occurring in criminal law practice. Molander and Martin Scheinin studied questions connected with this in LARM. Molander made a critical study of the modern understanding of punishment, pointing at its inability to deal with the more private and moral aspects of the crime. This study resulted in his doctoral thesis Straffets grammatik (The Grammar of Punishment). Scheinin, in an article to be included in the LARM anthology, discussed the ways in which religious communities are sometimes seen to be entitled to a legislative power of their own, thereby privatizing some parts of the public state’s legislative domain. In LEMO two research students will study some central themes in this field. Malena Björkgren will continue to develop the work she has done in her Master’s thesis presented to the Faculty of Theology in May 2004. She studies violence between (married) couples. This subject is of special interest because in Finland intermarital violence has recently received a changed legal status in Finnish criminal law. Formerly it was a matter that could lead to criminal charges only if reported by the victim of the crime. From 1995 onwards it is a matter for the public prosecutor to act on his own initiative. This means that some questions formerly taken to belong to the private sphere, are today seen as belonging to the questions of public concern. What role morality plays in this connection is of key interest in Björkgren’s planned research. Heidi Jokinen intends to study a social phenomenon in which the development can be said to move in the opposite direction. Jokinen has in her Master thesis (to be completed in the autumn 2004) studied some conceptual questions related to the process of the so called Truth and Reconciliation Commission in South Africa. In LEMO she will study the experiments carried out in Finland involving the use with reconciliation as an alternative to more traditional penalties in relation to some minor crimes. In a way this is an example of an interest of the public society moving in the direction where it becomes a more private affair - a question of two private partners solving a difficult situation on their own - although with some help of the officials of society. The focus here is on the moral aspect of the crime committed. Jokinen intends to study what these kinds of changes in criminal thinking could mean on a conceptual level.
Malena Björkgren: Morality, conflicts and violence in intimate relationships and the conception of the private and public spheres

The aim of Björkgren's research is to highlight how the thought of a borderline between the private and the public sphere relates to moral issues concerning intimate relationships. In the last century the borders between private and public life changed in various ways. Partly because of the idea of Human Rights, today the individual is also a matter of public concern. Again, the family is not only a private institution. The recognition of violence against women as a human rights violation has meant, at least in theory that violence is not just a private issue, to be considered in separation from the concerns of society, states, governments and legislation. Since 1995, violence in intimate relationships has been publicly prosecuted in Finland. On the other hand, in discussions about violence against women in partnerships, this kind of violence is often regarded as a private affair. The threshold against interfering in a violent relationship is high, and for those women experiencing violence from their partner it can be very hard to seek help from outside. In Finnish culture, the prevalent discourse seems to present conflicts in a relationship as matters that should always be solved inside that relationship.

The focus of Björkgren’s research will be on conflicts and violence against women in intimate relationships. But it’s not so much the concrete violence as the underlying ideas that uphold this violence that Björkgren aims to analyze. The distinction between the private and the public sphere will here be of importance: Are the moral demands in a private sphere different from those in a public sphere? And, as far as ways of speaking about violence are concerned: Is the family considered a place where violence is permissible if it is not too "cruel or severe"? Is violence in a public place more acceptable if we know that it the persons "fighting" are a married couple? To which extent do people accept the intrusion of the state into the family sphere?

Another aspect of the research concerns the question what happens when one partner crosses the border between private and public and reaches out to a public institution for counseling or help. Encounters with outsiders break the code of privacy, but what does this mean on a moral level? By interviewing family counselors Björkgren wants to illuminate this aspect and also investigate the possibility of a moral conversation between the partners in an intimate relationship.

In her analysis Björkgren uses feminist perspectives and theories. A central task for feminist ethics is to challenge the distinction between the private and the public sphere, as women in history have often been reduced to the private sphere with less power and influence. Further, feminist ethicists have pointed out that the private sphere is not always the safest place for a woman and that the notion of equality in many ethical theories has been restricted to public life.
A more ideological aspect of this research concerns the problem of a "Christian ethic of kindness". What are the consequences for the woman as a moral agent in the relationship and in the moral conversation if she ought to be "kind" or even submissive? From a gender sensitive perspective and with conflicts in the relationships in mind Björkgren wishes to challenge the following notions that are more or less common in Christianity: kindness and self-sacrifice as virtues and pride as sin. Björkgren’s thesis is that these, if used thoughtlessly, can legitimize inequalities in relationships and even violence against women.

**Heidi Jokinen: Discussion as a Way to Reach Mutual Understanding in Mediation**

Victim-offender mediation aims at resolving disagreements and reconciling differences. It seeks to identify a win/win solution different from legal action. In mediation, parties to criminal cases or disputes can meet each other in the presence of an impartial third party (the mediator).

Social mediation is a further form of mediation. It is used in situations in which parties to conflicts come from different ethnic communities. The aim is also to facilitate the integration of refugees and to create structures through which ethnic conflicts can be processed and prevented. Parties have the opportunity to propose that a disagreement be sorted out. The agreement, based on the results of the mediation session, contains the modalities of the understanding reached among the parties. It elaborates means of compensation (such as apologies, financial compensation, work compensation, etc.) as well as the modalities of compensation.

There are various social advantages to mediation: it enhances the parties' understanding of the causes and consequences of conflicts; supports sustainable solutions to disputes; enables people to take responsibility for their actions and increases their possibilities to influence an out-of-court settlement; and decreases the level of fear and anxiety in a community. An additional advantage of mediation is that it helps to discharge the judicial system and can be a faster and cheaper solution to a dispute, both for society and the individual.

The aim of the study is to highlight the challenges of a multiracial community and to develop the capacity for mutual understanding as a means to avoid further conflicts or crimes. This is done by focusing on the mediation discussion. The discussion is understood in two ways: partly as a way to obtain a deeper understanding between the two parties thus creating a feeling of responsibility, partly as a way to legitimize the mediation in itself, as opposition to retributive justice. Through the mediation discussion the meaning of an overall moral discussion in the society will be studied more comprehensively.

The social ethical approach introduces the question of the effective value of mediation. When mediation as a way of solving conflicts is prioritized this shows how other judicial forms of conflict resolution are not seen as fruitful enough for
future crime prevention. Thus Jokinen needs also to take a judicial approach to understanding the meaning of mediation from the legislator’s point of view.

The primary interest in the study is to focus on mediation processes in Finland. Since restorative justice is, despite the differences in legislation in each country, a branch where countries exchange experiences, it is possible to relate to situations in other countries as well. This implies a certain comparative element in the study method. The study will be analytical in order to clarify the narrative elements in the mediation discussion, and explain how it can legitimize an activity with such wide implications in society. A certain input of empirical study is also possible through interviews with people involved in mediation. There are several previous studies on mediation in Finland. These studies come from different disciplines, which ensures a wide basis for the current study. However, the publications of Juhani Iivari will be of central interest. To grasp the mediation discussion and specially its narrative elements, the works of Paul Ricoeur and Jürgen Habermas will be of interest.

Tage Kurtén and Pamela Slotte both study the role of a smaller moral community in relation to the larger political community. Kurtén is working on conceptual problems concerning the way a member of a religious community (the Christian Church) can deal with moral questions in the larger society. In a situation where a religious community lives in pluralistic surroundings the question how this influences the religious self-understanding, both of a religious institution and of religious individuals, becomes urgent. Slotte, for her part, is studying questions connected with the freedom of religion where a religious community comes into conflict with some fundamental human rights defended by the state.

**Tage Kurtén: The Christian living in two Worlds? Morality in religion and society**

Kurtén will continue his search for conceptual keys for understanding the role morality plays in the life of a religious (Christian) person simultaneously belonging both to a religious context and to a wider society and culture. His point of departure is the internal understanding of morality and explicated in LARM. That implies that he dissociates himself from moral relativism, normative utilitarianism and Kantian rule ethics.

Through a critical presentation of some main ideas by the American Methodist Ethicist Stanley Hauerwas, Kurtén intends to discuss an understanding of morality in which focusing on the character of a person as continuously developing in interrelation with important others and expressed in personal narratives. This will lead to questions about the borderlines between private and public spheres, both in religious community life and in the life of a larger society. In a more religious context there are questions concerning the relation between the individual and a tradition with authority, and between the individual Church member and religious authorities (bishops, ministers, Church boards etc.). To
what extent can one meaningfully belong to a certain public religious community if one dissociates oneself from a commonly held understanding of that context? How could we understand private religion, pointed out by sociologists of religion?

In relation to the secular society the question of the role of religion in moral, democratic dialogue arises. How could we understand situations where citizens differ fundamentally from each other on morally urgent questions, such as genetics, euthanasia and so forth? To what extent can people with very differing points of view on urgent problems be said to use the same ethical language? Kurtén will not look for answers in normative ethical theories, but in an understanding of morality where the commonality does not lie in shared normative statements, but rather in shared lives.

Kurtén will build his analysis of Hauerwas on some commentators like A Rasmusson, BJ Kallenberg and E Katongoole, and critics like G Stout, C-H Grenholm. And he will relate some of his findings to central writings by Peter Winch and Raimond Gaita. The work will result in 1-2 scholarly articles published in 2005 - 2007. He will mainly do it in his present position as a professor. The work is part of a larger work on a monograph on moral life in late modern societies.


During Slotte's period of financed research within the project she aims at writing two to three articles. She wants to publish the results of her doctoral thesis in English, and possibly also in German. In her doctoral thesis, planned to be finished in 2005 and written in Swedish, she analyzes questions closely related to those of the research project at hand. She studies human rights as a legal and moral concept, focusing on certain aspects of the issue of the legitimacy of human rights. Furthermore, Slotte wants to continue working with questions concerning morality and law as this relates to the relationship between the phenomena of religion and human rights. Her aim is to write one extensive, or two shorter, articles on this subject.

The democratic society presupposes a common sphere with common rules regulating the life of its citizens. In a pluralistic democratic society the option to define the public space is open to many different actors and it is not clear in advance how the public space can be organized or defined in a way that will seem legitimate to the greatest number of people. In the legal (and political) debate, it is often claimed that it is easier to reach a consensus on formal principles governing the life in the public sphere than on specific goals. One way to seek such a solution is viewing human rights as embodying that kind of formal common standards.

One important element, when discussing these issues, is the role religious communities have in shaping the public space. Looking at human rights discourse, it becomes apparent that the role of religion in the lives of individuals is
recognized, e.g. through the explicit rights to freedom of religion, of thought and of conscience. These rights are interpreted as focusing on the relationships between the state and religious denominations on its territory, between these groups and their members, and between the state and the individual as a potentially religious person. The conceptualization of these relations in human rights debate has the interest of the individual human being as its "guiding star", allowing for freedom to and freedom from religion, and - in Slotte's opinion - for a person's acceptance of the norms governing his/her religious community, and for the questioning and repudiation of such norms or practices. The right to freedom of religion is not without its limits, but it is recognized that a democratic society that has human rights at the core of its value discussion must also make room (to some extent) for interpretations of human life that "stretch" the limits of that which is accepted by all. What is sought after for the pluralistic society is a balance in interpretation of that which has traditionally been identified as within the public sphere.

In Slotte's opinion, however, much of the legal debate on how to understand the relationship between human rights (law) and morality and religion has taken on a formalistic and legalistic form that in its normative reading stretches/makes claims beyond the strictly legal sphere. Inherent in the advocacy seems to be a certain understanding of the human being as a moral and religious person - an understanding Slotte wants to question. In her critique she draws on results from her own doctoral thesis and from the LARM project, both of which emphasized the internal link between a person's moral convictions and his/her acceptance of the legitimacy of a legal rule. Slotte wants to underline that a person with a religious view of life is explicitly part of a narrative (tradition) that colors his/her understanding of morality. She questions whether this aspect of religious personhood is receiving enough attention in a legal/moral debate that seems to draw more on Rawlsian and Kantian ethics, than on the thoughts of such theoreticians as Charles Taylor and Stanley Hauerwas, who are among the theoreticians whose writings Slotte will build on in her research. The methods she will use are some of those common but not exclusively belonging to her field of studies, i.e. theological ethics; analysis of meanings (which entails an analysis of concepts, of sentences, and of texts), comparative analysis, and analysis of coherence.

The article relates closely to the overall goal of the research project in asking for the consequences of this understanding of religious personhood for the value discussion in the pluralistic democratic European countries, and for the way in which human rights may be thought of as embodying standards common to all segments of these societies. What is the role of human rights in this value discussion - and what is it not? If we understand human rights as a dynamic concept, Slotte argues, as the object of an on-going discourse on the borderline of humanity and inhumanity, the role of human rights standards will be perceived differently than if we defend their unambiguousness as norms. Consequently the
way human rights unfold in the public sphere - because law participates in the
political and moral debate - will be one of acceptance rather than of exclusion and
a fixed rigidity that brings the less favorable tendencies of natural law thinking
into the human rights debate. Slotte sees the former view as paramount since
religious groups are not static entities but rather fora for continuous
conversations. "Technical attempts" to draw up the rules for the interplay between
the state, a group, and its individual members are therefore bound to fall short of
their goals.

PARTICIPANTS, INTERNATIONAL CONTACTS AND RESOURCES

Composition of the research team and division of labor

The project is led by three professors (Kurtén, Hertzberg, and Scheinin), who
contribute to it, on the one hand through their own research, and on the other
hand by co-ordinating the work of the other participants and by supervising the
postgraduate participants.

One main objective of the project is to develop the multidisciplinary work further.
The experiences from the former LARM project has encouraged this new project
setup where the multidisciplinary discussions in two annual two-day project
meetings are seen as an important methodological resource. The project differs
from many other through its wide scope of participants. Funding is applied for six
doctoral students (Björkgren, Jokinen, Kettunen, Lindfelt, Lindman and
Tahvanainen) and for three postdoctoral researchers (Molander, Päivänsalo and
Slotte, the latter being expected to finish her doctoral thesis in 2005). Beside these
the project group consists of four full-time professors (Suksi beside the above
mentioned), three postdoctoral researchers financed through other sources
(Korkman, Lagerspetz and Ewalds, the first two being more or less full time
researchers, Ewalds doing his research alongside his ordinary work), three
doctoral students financed by other instances (Heikkilä, Slotte and Forslund, the
first two being full-time students and Forslund doing his doctoral studies
alongside his civil occupation).

All participants will contribute with individual research projects, and by taking
part in the multidisciplinary reflections. The core of the project consists of the
same persons who participated in the LARM project. Most of them will participate
in this new project without any need for financing through the project (apart from
meeting costs twice a year). The aim is that all doctoral students will be helped in
finishing their personal dissertations, and that the senior researchers will
participate in a fruitful interchange of ideas. At the time for making the
application four of the doctoral students are still undergraduates. Two of them,
though, have finished their Master's Theses and their degrees are a pro forma
matter. Two others are expected to finish their Master studies during the autumn.
Instead of excluding them from the project, thus risking that they will leave the Academic on graduation, the persons in charge have found it very important to attach these talented young students to this new project at this early stage.

In LARM a joint aim was in the anthology with contributions by every participant which has been accomplished. In LEMO the plan is to develop a joint larger article concerning the central theme. Proposals for this text will be put forward at the project meetings and discussed in order to reach a common presentation. The chief person in charge will be responsible for this joint text coming into being.

Other (project related) research activities by the participants in the project

Most of the scholarly work related to the subject of the LEMO project can be read in the CV’s and lists of publications attached to the application. There are some facts worth mentioning, however.

Professor, Dr Phil. Lars Hertzberg has written articles on legal concepts, on the concept of trust and on the internal conception of moral notions. His current work, "Grammars of the Will" deals with the moral and legal significance of attributions of will to persons.

Professor, Dr Theol. Tage Kurtén has written a monograph and several articles on the concept of trust, related to religious and secular life-views and especially to morality. In connection with LARM he has written several articles dealing with the social ethical significance of the Christian tradition. His analyses of Stanley Hauerwas have so far resulted in some articles in which questions concerning an understanding of a religious attitude to life in the context of a pluralistic society are studied.

Professor, Dr iuris Martin Scheinin has written extensively in the field of human rights, including on themes such as freedom of religion and conscience, minority rights including their relationship with the rights of the individual member of the group, and universalism vs. cultural relativism in the human rights discourse.

Dr Olli Lagerspetz has also written a monograph and several articles on the concept of trust. He and other senior researchers (professor Markku Suksi, Dr Petter Korkman, Dr Joakim Molander, Dr Svante Ewalds) have also written a number of articles on different other themes related to the project.

International co-operation

The LARM project invited three internationally known scholars. Prof, Dr Theol. Svend Andersen (Denmark), prof. em. Nils Christie (Norway) and prof, Dr Phil. Raimond Gaita (Australia, United Kingdom) visited the project, giving lectures and participating in the discussions around individual projects.

While the LARM project has been under way working, some Nordic networks have developed and co-operation has been initiated with them. In the Nordic
Network in Human Rights Research, funded by NorFA in 2002, Scheinin is on the executive board (see http://www.abo.fi/institut/imr/norfa/) And in 2003 the Nordic network on "Religion, Ethics and Justice in Nordic Societies" was founded. It was granted funding by NorFA for three years. Both Kurtén and Scheinin are on the board of that network (see http://www.teol.ku.dk/ast/norfa/). In cooperation with this network LARM organized a Nordic workshop in September 2004 in Åbo/Turku. The program primarily built on the anthology text of the LARM project. These networks will be of importance also for the LEMO project.

RESULTS

The project will result in a number of scholarly articles, by Hertzberg (1) Kurtén (1-2), Scheinin (1), Suksi (1), Korkman (2), Lagerspetz (3), Molander (2), Slotte (3), which are to be published in international journals with referee practice. In addition there will be some monographs, by Ewalds and by Päivänsalo.

In the course of the project the participants will obtain the following postgraduate degrees: Nine doctorates (Slotte, Heikkilä, Lindfelt, Tahvanainen, Björkgren, Jokinen, Lindman, Kettunen and Forslund).

It is expected that many of the participants will also take part in current public debate on matters related to the project. Thereby the conceptual findings of the project will reach a wider audience. The results will contribute to a deepening understanding of the pluralistic society and of the relations between private and public, religious and secular views and their importance for the ongoing democratic discourse. The project will also make evident the importance of mutual trust for the moral discourse which seems to be a sine qua non for the legitimacy of the rules of a community at any level. The experiences of the cross-disciplinary work in the project will contribute to the methodological development of multidisciplinary research.