The Corona Crisis in Light of the Law-as-Culture Paradigm

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Modernity has not only established itself in a confrontation with nature and in various forms of communicative self-assurance, but it has come to express itself in its normative dynamics: Revolutions are defined by breaking from given normative orders and replacing them with new ones – the act of which, however, is met by restorative counter-movements.

Crisis of modernity unfold in the ‘realm of the normative’. And sociology emerges as a science of crisis that, especially in Durkheim’s work, analyzes the structural change of modernity as a dynamic of its development from repressive to restitutive orders; views anomie, or “normlessness”, as a fundamental ill of misguided modernity; and blames individuals’ struggles to bond with others as the cause behind rising suicide rates. Even though Weber devotes great methodological effort into differentiating between empirical and normative validity, the basis of social order – namely the avoidance of a Hobbesian state of nature “where life is poor, nasty, brutish, and short” – can be found in the orientation towards an at least collectively envisioned normative order.

Of course, ‘validity cultures’ vary among societies and civilizations and, to this extent, their crisis scenarios also differ. This is recognizable, for example, in world wars, and the ensuing cultures of martial law, as well as in the handling of financial crises. In such normative crises, a ‘state of emergency’ is declared. It is impossible to imagine the realm of normativity without it. On both the left and the right, the master of the state of emergency, Carl Schmitt, is quoted: He still attempts to give a legal form to both the ‘a-juridical’ and the history of validity of the state of emergency, as examined by Giorgio Agamben, which he typologically introduces to the source of charismatic, anti-legal rule per auctoritas thoroughly in the sense of Weber. Here, however, neither the ‘actual’ nor the ‘fictive’ nor even the ‘intended’ state of emergency of constitutional theory is meant, but rather the extraordinary ‘mode of validity’ of law, morality, custom, decorum, and lifestyle, which is encapsulated in the overarching concept of the normative complex.

This mode of validity thrives on the pathos of the ‘exception’, which counters the banality of the ‘normal’. As an extra-judicial decision-making power, it clings to the illusion of normative form in order to place the totality of normative orders under a single premise of validity for that which is extraordinary; the decision-making power to suspend normative orders appears as an impersonal institution of war – of the pandemic – in order to frame ‘real life’ as a deadly ritual ‘vitalism’ of wartime propaganda or to recommend the remedy of social abstinence.
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Using the coronavirus pandemic as an example, it will be illustrated how the normative dynamics and normative implications of a societal crisis can be analyzed from the perspective of the Law-as-Culture paradigm.

1. How do upper limits, as seen with gatherings of 1,000, 100, or two people (pas de deux), gain their own self-evident normative power, and which roles do the natural sciences play in this? What are the paradoxical effects of the standardization of culturally determined distances, which Argyle analyzed in social psychology and which are now being held responsible for the different speeds at which the illness spreads in the global North and South? In places where family solidarity does not exist anyway, the occurrence of infection is less dramatic. Comparative family sociology teaches us, of course, how simple and misguided these images of family are.

2. Without meaningful explanations, the uncertainty generated by the pandemic can hardly be endured. Which roles do religious patterns of meaning and justification play in the process? The financial crisis revealed, for example, how the biblical metaphor of the Great Flood plays a central mythological role. Doesn’t economic globalization take on such a role if the coronavirus is interpreted as a punishment for the crimes of globalization? And how do religious systems deal with their greatest strength, namely the ability to create ‘community’ through ritual and communication, when authorities close holy places of worship? (We know that in Arab countries, mosques have been exempted from communications restrictions; in the Occident’s European societies, funerals all are that remain of religious communitization!)

3. What exactly is meant by globality in the event of a pandemic? The discourse, the medialization, the contagion, the infection’s democratic character, which appears to strike royal houses and slums equally?

4. Given the considerable tension between normative universalities and particular trends in global societies, it can be asked to what extent social-cultural factors play a role in the different patterns of spread. It also begs the question of whether the respective ways of reacting are somehow related to collective patterns of overcoming fear, ‘stances on the world’ based on active involvement, or diverging health economies that are derived from different understandings of social policy.

5. Camus’s plague, Kleist’s earthquake, Jünger’s wars, and Dante’s inferno are represented in the respective media culture’s phantasmagorias: from theater to sculpture, painted pictures to negative utopias of film. How does an aesthetic reflection of the crisis develop, which, in symbolic representations, can hardly be denied its own viral aesthetic?

6. Lastly, the question can be raised whether we – at least for a certain period of time – should review all of our actions in the various spheres of society to ensure that we act
in accordance with the demands the pandemic has induced. Put more exaggeratedly: Do politics, law, economics, art, and culture now take place in the name of corona? And what logic of action unfolds in the process? How will statistical assessments of the suspected pandemic development and protection of risk groups, which are prioritized over other factors such as economic stability, individual security, etc., be acknowledged? How can this ‘gerontic discourse of justification’ be characterized more precisely?

The validity culture of the ‘state of emergency’ is determined by the unlimited power to suspend the entire existing normative order and align it with the extraordinariness of war, plague, or natural catastrophe. Symbols and rituals of validity, as well as the organizational validity of the commissioners, censors, and norm-bound agents of the state of emergency, are fixed on this one basis for validity, which superimposes traditional histories of validity.

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Crises ultimately have a tremendous effect on a society’s mode of differentiating. While one can speak of an ‘implosion’ of spheres during the financial crisis, an enormous mixing and blending of politics, economics, law, and culture is taking place as if the epidemiological idea of ‘contamination’ has also torn down the boundaries of spheres…

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