4. Violence and Legitimacy

The variety of meanings of the word "violence" (see Grimm [1911] 1999:4910–5093; TOED 1989:654–655 has 273 lines under the "violence" entry) make it impossible to use the term as a theoretical concept. For the purposes of a social theory, we must restrict its semantic content, an approach that has proven successful with other terms, e.g., "power." I begin with a provisional definition:

Violence is an action that an ego performs against an alter ego. The violent act interprets an action/statement as the disappointment of an expectation that has to be maintained at all costs. The disappointment of the expectation contains the experience of a threat to the coherence of institutions and symbolic and institutional mediations. When an embodied operator exerts violence, she claims to be exerting legitimate violence. Violence is legitimate if a pattern in its use can be identified from the perspective of thirds, that is, the valid representation of valid normative expectations. The normative expectations legitimate violence represents as valid can be understood as the first forms of the formation of law. Since this law can only be applied to legitimate social persons, the boundaries of violence symbolize the boundaries of sociation.

Understanding violence in this way is to understand it as a constituent of the social, i.e., as a modus of sociation, without thereby losing sight of the specifically embodied components of violent interaction. This understanding of violence brings together three strains of the more recent sociological discussion around violence, which so far have run alongside each other without intersecting, and adds to them the question of the boundaries of the social. These three strains are, first, the treatment of violence as immediate embodied interaction (Sofsky [1996] 2001; Collins 2008), second, as moral action (Black 1983; Cooney 1998; Fiske and Rai 2015), and, third, the discussion surrounding the role of the third in violence (Reemtsma [2008] 2012). My hypothesis is that violence should be understood in the sense of "mediated immediacy" (Plessner [1928] 2019:298ff), that is, as symbolic and institutional embodied action mediated by thirds. Those involved use violence to represent to each other the validity of normative expectations in a generalized way. This necessarily implies that the addressee of the violent action is a social person, as only the latter can violate normative expectations or represent their validity.

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY – https://www.nomos-elibrary.de/agb

The latter point leads to the question of the boundaries of the social, which has to date been largely neglected in the discussion surrounding violence (for an overview, see Koloma Beck and Schlichte 2014). The debate instead presupposes that only living human beings should be considered legitimate social persons and understands violence as an interhuman event. This is why it has not so far been necessary to distinguish between violence and the physical exertion of force: this differentiation only becomes imperative once the sphere of social persons is no longer regarded as supra-historically fixed. I will thus begin by showing how the analysis of violence is connected with the problem of the boundaries of the social, and then put forward a suggestion for how violence can be examined from a sociological perspective that brings together the three strains identified above. Here I will begin by situating my understanding of violence in the theoretical discussion and elaborating the differences between my approach and Hobbes's theory as well as the more recent sociological social theories that tend to marginalize violence. I will then outline a concept of violence that is informed by the notion of mediate immediacy. This concept allows me to integrate different strains of the current discussion around violence, which either emphasize the immediacy of violence (Sofsky [1996] 2001; Collins 2008), its moral nature (Black 1983; Cooney 1998), or the fact that it is mediated by thirds (Reemtsma [2008] 2012). Here I introduce the notion of violence's procedural order, according to which violence cannot be isolated as an immediately given phenomenon, but can only be understood in the context of such an order. Finally I address the particular problems for the analysis of violence emerging from the modern procedural order of violence.

4.1 Violence or the physical exertion of force

Until now, sociological research has not been concerned with distinguishing between violence and an effective deployment of force. And yet if the impact of the wind's force damages the rotor blade of a windmill, we hardly think of this as violence. But if the windmill's owner gets angry and punches the manufacturer in the nose, we consider this to be a case of violence. In both cases, force is exerted and in both cases spatially extended things are damaged. Nevertheless, we distinguish categorically between damage to a rotor blade caused by the wind and damage to a nasal bone caused by a fist.

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY – https://www.nomos-elibrary.de/agb

In order to conceptualize the difference between the exertion of force and violence, I suggest understanding violence as an event taking place within the social sphere. Violence can only be exercised by beings that are recognized as social persons and can only be directed at beings for which this is also the case.

This connection can be established in two ways:

1. The sphere of social persons is equated with the sphere of human beings. It is in this sense that human beings are violent toward each other, leading to an understanding of violence as an anthropological universal. Thus Popitz ([1986] 2017:26) refers to human beings as having an openness to being violated and a power to violate. Similarly, Collins (2008), Reemtsma ([2008] 2012), and Trotha (1997) consider violence to have an anthropological foundation. The sphere of legitimate persons is defined here from the perspective of the modern observer. At the same time, the notion of violence is limited to direct bodily violence, which assumes that violence can be identified firsthand from the observer perspective as an immediate event.
2. But we could also reverse the relationship between violence and the sphere of persons. Rather than defining the sphere of legitimate persons from the observer perspective, we can ask whether violence plays a particular role in defining the sphere of social persons in an observed field. In this case the use of violence would represent for all involved, in a functionally valid way, who a social person is. This perspective does not exclude the possibility that chopping down a tree may be an act of violence towards it. Empirically speaking, this would be the case if there are indications that the practice of chopping down the tree constitutes an act of revenge against the tree, or an act that may invite retaliation (Kelsen [1941] 2009). From this perspective, violence is the symbolic form of communication that represents, or can represent, in a way that is striking and immediately obvious to all involved, the boundaries of the sphere of social persons. Such an understanding of violence conceives it as an integral component of a societal context, which leads to an important consequence: violence cannot be understood as a merely immediate phenomenon. It always involves the identification of an occurrence by those involved as a violent event taking place within the social sphere.

Opting for the second possibility means defining sociality in a formal way that does not decide in advance what entities should be considered social actors and in what way. Instead, sociality is conceived in such a way that

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY – https://www.nomos-elibrary.de/agb

determining the social undecidedness relation becomes visible as a phenomenon. Following the sociotheoretical premises upon which this book is based, I understand social persons to be beings that a) reciprocally expect each other's expectations and b) expect thirds to expect the particular expectations to be expected from others. Beings personally connected like this form an institutional order (mediated by thirds) by communicating. Triadically structured communication forms the smallest unit here that a sociological observer can consider. It is only by taking into account institutional/communicative processes that it can be decided in what ways the sphere of social persons is limited and whether the latter are sociated in an individualizing or dividualizing way. Neither the sphere of social persons nor whether these persons are individuals or dividuals is presupposed by the observer, who instead studies the ways in which social persons and other entities are distinguished by means of triadic processes of communication in the field and whether these persons are sociated in an individualizing or dividualizing way.

How, then, does violence come into the picture when analyzing the distinction between social persons and other entities? The stability of communication structures or of societal institutions has several sustaining elements, including, in a particularly prominent and also problematic way, violence. The most important sustaining element of institutional sociation is the implicitness of expectation structures, which leads those involved to orient their actions/communication/interpretations toward such structures of their own accord. When this is the case, institutionalized action or communication processes take place more or less seamlessly. Institutional action processes unfolding as a matter of course creates a situation in which embodied actors relate to each other in a routine way, using technical artefacts more or less intensively. As long as things go smoothly, it is not vital to distinguish between social persons and other involved entities. This is the aspect that is given one-sided emphasis in actor-network theory, for instance (see above). If, however, there is a crisis, a distinction must be made between beings that count morally and those that don't, or between those that are to be held responsible in the case of trouble and those that aren't.

When it is the matter of addressing a crisis in the institutional process, violence can enter the picture in two ways: it can either stabilize or change institutional procedures.

Stabilization: when expectations are disappointed, the first thing that happens is that institutional repair measures are initiated. Attention is called to the norm violator's mistake and he corrects it, apologizes, or offers an explanation for his behavior, thereby acknowledging the validity of

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY – https://www.nomos-elibrary.de/agb

the normative expectation. In this case, the validity of the norm is also always represented by the norm violator. He acknowledges the norm by changing his behavior, feeling guilty, or being ashamed. The trouble is contained; it doesn't threaten the totality of the action nexus. If the norm violator does not communicate the validity of the violated expectation, the harmed party or a surrogate must represent it. This is particularly necessary when those involved experience the disappointment of expectations as a threat to the overall coherence of societal institutions. In this case, it must be made clear in a generalized way that the normative expectation is still valid. This is done by symbolically representing, in a generally binding way, that the violation of these expectations is not acceptable. Herein lies the importance of violence for sociation processes. The use of violence indicates that those involved are concerned with representing the validity of normative expectations in a generalized way. Violence represents the fact that the addressee belongs to the sphere of persons and that the disappointed expectations are still valid.

Change: the institutional process, however, can also be experienced by certain participants as itself a violation of normative expectations. In this case, violence represents the demand to recognize in a generalized way as normatively valid not the expectations that buttress the institutional processes, but rather the expectations contradicting these. This would be the case, for instance, when workers beat up a foreman insisting on enforcing the prescribed break times.

Violence in this way becomes an element of the communicative process in which those involved represent the validity of expectation structures for each other, and hence differs from the mere exertion of force. Violence is not an immediate event that breaks out of the communicative context, but rather represents the fact that the addressee is a social person and that disappointed expectations are still valid. Violence can thus be understood in terms of "mediated immediacy" (Plessner [1928] 2019:298ff.). On the one hand, it is immediately antagonistic embodied interaction; it is perpetrated and suffered. On the other, violence is also mediated symbolically and communicatively, which is why violence itself can become effective communication. Violence is a symbol that can only be understood in the context of other symbolizations. That is, violence cannot be understood without speech about violence. Speech about violence is required in order to be able to identify violence as such. This makes necessary a theory of violence that conceptually grasps both its embodied immediacy as well as its symbolic mediatedness.

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY – https://www.nomos-elibrary.de/agb

4.2 Violence in social science theories

The institutionalized self-conception of modern democratic states includes their ability to confidently distinguish between the legitimate violence of the state and illegitimate violence. Thomas Hobbes's theory ([1651] 2012) is one of the classic points of reference in the development of the modern state's conception of itself. According to Hobbes, illegitimate violence is violence exerted by individuals and belongs to the state of nature. Violence here functions as a means to the end of survival and as such does not express anything. The transition to society is marked by individuals surrendering the right to violence to the Leviathan. Thus overcoming illegitimate violence for the sake of the only legitimate violence makes society possible. Legitimate violence must continue to be exerted by groups authorized to do so and must be recognized as legitimate by those subjected to it in order for there to be order in society. It is in this sense that Weber includes physical coercion and its threat in his theory of law and domination (Weber [1921–22] 2013a:24, 53f, chap. 3). Violence becomes relevant for Weber in three different instances in the "Basic Sociological Terms" section of *Economy and Society*: for one in his understanding of law, which he ties to the existence of a staff engaged in the enforcement of the validity of norms [*Erzwingungsstab*] (Weber [1921–22] 2013a:33f); for another in his analysis of conflict as a form of social relationship (Weber [1921–22] 2013a:38–40) and in his definition of power and domination (Weber [1921–22] 2013a:53f, chap. 3). In all of these cases, however, violence is not analyzed as such, but only understood as a means for maintaining a social order or of pursuing certain ends.[85] Thus Weber's sociology of domination largely restricts its treatment of violence to the instrumental character of its use without investigating its symbolic significance.

Parsons and Luhmann only refer to violence indirectly—when they are addressing power. For Parsons, violence is not itself symbolic, but is symbolized in the medium of power (Parsons 1975:97, 101), which is characterized by legitimacy and generalization and not simply by the threat of violence. Parsons's focus, then, is on the symbolically generalized communication medium of power. The relationship between power and violence is similarly conceived in Luhmann's theory of media, where violence appears

85 Michael Mann, who works out the historical realities underlying Weber's theory of power and domination, does not study violence as a discrete phenomenon either, but rather focuses on the organization of violence and means of violence in the service of power and domination (Mann 1986–2013).

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY – https://www.nomos-elibrary.de/agb

as a symbiotic mechanism, but not as a symbolically generalized communication medium (Luhmann [1974] 2005a, [1974] 2005b). Luhmann does not give a detailed account of how the symbiotic mechanism of violence works (Luhmann [1974] 2005b). We only learn that violence has something to do with the body and that it is not particularly pleasant for a body when violence is done to it.

I attribute this reticence toward the phenomenon of violence to the fact that since Durkheim ([1895] 2013) and Simmel ([1908] 2009a, [1908] 2009b), sociological theory has come to distance itself from the notion of a state of nature. Instead, sociological research addresses logical problems in the emergence of structures and the reproduction of order, with violence becoming a side issue. For the most part, more recent social theories and theories of society leave aside the topic of violence altogether, instead foregrounding the formation or the taken-for-granted process of institutional societal ordering systems. An ordering system is understood, e.g., as the action context of rational actors (Esser 1993), as the order of communication of autopoietic systems (Luhmann [1984] 2005), as the cooperative action context of human beings (Mead [1938] 1972a, [1938] 1972b) or of things and human beings (Latour [2005] 2007), or as the communicative or systemic coordination of action (Habermas [1981] 2004, [1981] 2006). The basic categories used to describe the principles of sociation in these social theories do not include violence, and so their premise seems to be that sociation can, or should, come about without violence. As noted, violence features most prominently in Weber's theory of action, and modern rational-choice theories thus also take it into account, albeit only as a means to an end—e.g., as resource or restriction when trying to secure power or domination. Bourdieu does refer to violence and distinguishes between "overt" and "symbolic violence" (Bourdieu [1980] 2014:126), but hardly addresses the former, focusing instead on symbolic violence as it serves to obscure relations of domination. Thus overt violence is excluded from the realm of the symbolic, and its own symbolism—that which is at stake in a sociological understanding of violence—disappears from view.

Violence does not figure at all as an issue within the general elaboration of current social theory. It does not play a key role for either White (2008) or Schatzki ([1996] 2008, 2003). The exclusion of violence in more recent theories, in particular network theory and practice theory, almost seems programmatic. The same holds for current work in the tradition of pragmatism: there are arenas of justification, but no violence (Boltanski and Thévenot [1991] 2006). In addition to Weber, who, however, largely understands violence in an instrumental sense, Foucault is an exception

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY – https://www.nomos-elibrary.de/agb

here. In *Discipline and Punish* (Foucault [1975] 1995), he gives a detailed account of the symbolic importance of violence. I will return to his work below.

The marginalization of violence as a topic for general sociology seems to have to do with theorists no longer assuming a state of nature and therefore not needing to conceptualize a transition from such a state to a sociated one. The notion of a state of nature was dismissed for good reason: sociology has replaced the origin narrative with a material investigation into the difference between modern and non-modern societies. The question is whether this must necessarily lead to dismissing violence from general social theory.

4.3 The mediated immediacy of symbolic violent communication

In my attempt to formulate a concept of violence in the context of social theory, I do not follow Weber. He primarily understands violence as an instrumental means, which obscures the sociologically relevant dynamic of the immediacy of violent interaction and the symbolic and communicative dimension of the use of violence. Instead I follow Plessner ([1928]2019: 298 ff.) in my understanding of violence as "mediated immediacy," i.e., as immediate embodied interaction that can also be technically mediated and at the same time communicates in a symbolically mediated and generalized way and can only be identified and understood as violence by means of communicative mediation.

4.3.1 The mediated immediacy of violence

In my analysis of violence as mediatedly immediate, I bring together three aspects that often appear alongside of but disconnected from each other in the sociological research on violence, and add to these the insight that violence plays an important role in the determination of the social undecidedness relation.

1. Violence is immediately embodied and can almost completely absorb the attention of those involved. This is particularly true for those who suffer violence. The willingness to allow oneself to become absorbed in this way can become habitual.
2. Violence takes place within the moral realm and in the context of institutionalized courses of action. It is directed at an alter ego not fulfilling

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY – https://www.nomos-elibrary.de/agb

the expectations of her institutional position. Ego uses the violent act to insist that the institutional expectations be held onto counter-factually. Anyone who suffers violence either experiences this as the assertion of a normative claim and allows themselves to be forced into a corresponding institutional position, or as an act not justified normatively that must be delegitimized.

3. The normative claim asserted by the violent act holds in a generalized way if it is legitimized by thirds. Violence whose legitimacy is claimed or disputed takes place not only between two actors, but also always in reference to thirds. This allows for the procedural structuring of violence.
4. Violence takes place in the social realm. It symbolically represents who is to be recognized in what way as a social actor: as a friend, as an enemy, as one subjugated.

The first point can be illustrated by looking at simple physical altercations. Collins does not look for the cause of violence in the individuals involved, but rather in the situative embodied interaction that leads into the "tunnel of violence" (Collins 2008:360ff). In this tunnel, the attention of those involved is focused on each other; they are completely absorbed by the dynamic of the violent interaction. This focusing of attention can also be found in more subtle embodied forms of violence—e.g., in conflicts that are carried out on the level of glances and gestures. Allowing oneself to be monopolized by violent interactions in this way can become habitual: embodied actors in this case adopt a permanent attitude to the world in which they can be monopolized by violent interactions. The willingness to fight or the possibility of being attacked become integrated into the actor's habitual attitude to the world, his habitus as Bourdieu ([1980] 2014:52ff.) theorized it (see Koloma Beck 2016 passim).

Understanding violence as a means is to take on the perspective of those who decide how it is to be used. For those who exert it or suffer it, by contrast, it is not a means that is applied in a clinical and calculated way (Sofsky [1996] 2001:70ff.). Those involved are caught up in the situation, are carried away by its embodied dynamics, and even as perpetrators are always at risk of suffering violence. Parties to the situation are harmed by their opponent or are afraid of becoming harmed and act accordingly. Only if one side were completely inaccessible to the other and could, without fear, command the means of destruction, would the logic of reciprocal violence be broken. Even in the case of a perfected drone war, this would only hold if one side's command center were safely out of the opponent's range.

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY - https://www.nomos-elibrary.de/agb

Second point: the use of violence at least implicitly asserts a normative claim. Initially, this claim does not (yet) have to be generally valid, and we should not expect an elaborately substantiated claim from the beginning. Black found in his analysis of the phenomenon of "self-help" that the vast majority of acts of violence are morally motivated; i.e., are retributions for a previous norm violation (Black 1983:36). Cooney (1998) arrives at a similar conclusion by way of an analysis of court records. Resorting to violence seems to practically force perpetrators into a moral discourse. They legitimize their actions: the violence they exert serves to represent the necessity of holding on to certain normative expectations at all costs. Fiske and Rai (2015) explicitly elaborate on this aspect from an ethnological perspective. The outcome is reflected in the title of their book: *Virtuous Violence*.

The moral dimension of the use of violence can be expressed in two ways: either the violent act is a reaction to a disruption in the institutional process and a totalizing representation of the necessity of holding on to the expectation of continuity (case A); or the violent act is an assertion of a normative claim aimed against the institutional process (case B).

Case A: There is a disruption in the expectations individual participants have of institutional coexistence, to which there is an immediate violent reaction. The degree of generalization of such moral orientations can be very different: "No one looks at me like that, no one like you anyway." "No one shows up here wearing Nike sneakers, no one like you anyway." This reflects the "code of the street" elaborated by Anderson (1999) in his ethnography of drug dealers. Normative orientations more broadly generalized include the Ten Commandments of the Christian God or the rules of Sharia. A normative orientation claiming to go beyond the boundaries of religions would be the ethos of human rights.

Case B builds on disruptive experiences such as these and makes a normative demand (to be materially better off, for instance) aimed against the institutional process. An example of this would be superiors who are beaten up for trying to enforce compliance with institutional work processes (see above). Or random strangers being held up and robbed. Since property is an institution (Mead 1925:266f), even the latter case takes place in the context of institutionalized procedures. The institution of property, mediated by thirds, guarantees that the legitimate access to X is restricted to an actor or to a group of actors. A robbery, then, is not only about using force to take hold of an object held by another (individual gain). A robbery denies the legitimacy claimed by anyone who owns something, whether this is the intention of the robber or not. By taking away the object, she claims to be its legitimate owner, forcing the former owner of X into the institu-

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY – https://www.nomos-elibrary.de/agb

tional position of non-owner. Whether violence against institutional procedures is a legitimate political act or is delegitimized as a crime is a question to be answered in the communication following upon the violent communication.

Victims of violence do not experience it as a simple physical occurrence. Being robbed is not simply the experience of losing a thing, but rather of an attack on a legitimate possession. If I am slapped in the face, I do not experience this as a hand impacting on my cheek, generating a painful feeling, but as an either normatively justified (as in the case of punishment) or an unjustified attack on my person. In the latter case, the suffered violence must be delegitimized.

Points 3 and 4: The third point, which is frequently neglected in the sociological (non-) understanding of violence, is the role of the third (Reemtsma [2008] 2012:266). Violence does not take place only between two parties, but in reference to thirds (Cooney 1998; Koloma Beck 2011; Nedelmann 1997:73; Reemtsma [2008] 2012:270).[86] This is already implicit in the above, since institutionalization can only be conceived in reference to thirds. Only by including thirds can we understand how violence is woven into the distinction between social persons.

For one, thirds are essential when it comes to identifying the use of force as violence as well as legitimizing the normative claim asserted by the violent act. The violent act interprets a prior event as an unacceptable violation of a normative claim by a social actor. If this claim is tacitly or explicitly recognized, the normative claim becomes a generally valid norm.

Decisive for the normative claim is not the psychological intention of the perpetrator, but the communicatively formed insight into his intention. An event only immediately becomes violent because it is interpreted as such by thirds. Legitimation by thirds, or the pressure to be legitimized by thirds, refers to three aspects:

1. Determining the social undecidedness relation: do the entities involved in the violent communication belong to the sphere of those who count morally, i.e., are they legitimate social persons who can have intentions and do they exist within an individualizing/dividualizing institutional frame?
2. Rationalization and critique of normative expectations: should the normative claim asserted by the perpetrator of violence apply?

86 Keppler (1997) makes this point as well, albeit in a less emphatic way.

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – CC BY – https://www.nomos-elibrary.de/agb

3. Rationalization and critique of the appropriateness of the violent act: is/was the violent act an appropriate way to represent the validity of the norm?

The legitimacy of the violence can be questioned, i.e., criticized, by thirds in all three of these aspects. A distinction has to be made in all of them between exerting and suffering violence. A recognized social person being "violent" toward entities not belonging to the sphere of those who count morally is a case of non-violence. According to the rules of a modern society, a human being who feels offended by a rabbit and kills it in response is classified as having a mental disorder. The same applies if someone feels violently attacked by a rabbit and tries to sue it. At most the owner of the rabbit, if there is one, would be considered liable for not having properly supervised it. But even then this would not be considered a case of violence—unless the owner sicced the rabbit on the other person. In distinction to the current delimitation of the sphere of social persons, in pre-modern Europe animals could be held accountable for their deeds as perpetrators of violence (see Lindemann 2009b:chap. 3 with additional literature). In a modern institutional framework, perpetrators have to be individualized; it is never a group, but an individual actor who is responsible for a violent act.

Once the basic question has been settled of whether the violence took place between social persons, rationalizations can develop in reference to the second and third aspects. These can be quite informal or strongly formalized. The second aspect concerns whether the asserted normative claim is supposed to apply or not. If ego knocks down an alter ego because the latter looked at the former in an unacceptable way, the question becomes whether the demand not to be looked at in this way will be approved or delegitimized by thirds. The fact that there are cases in which there is a clear expectation that such a demand will be legitimized, and it is, shows that rationalization by means of references to thirds cannot be equated with pacification. Thirds can also embody an obligation to be violent. Ego does not actually want to strike alter ego, but he cannot afford to put up with being looked at like that in front of thirds.

Once it has been settled that the normative claim itself is justified, the third question is whether the *kind* of violence exerted was appropriate. Assuming that it is legitimate to react violently to the infringement of the right not to be grinned at, it is still an open question whether it is appropriate to knock the norm violator down. This could be too violent; it would have been enough to slap him in the face. But it could also be not

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY – https://www.nomos-elibrary.de/agb

violent enough. Ego's reaction was too restrained; he should have at least beaten the norm violator to a pulp, if not killed him.

If violence is understood as an immediate act and as suffering in the context of a triadically structured occurrence, the violent occurrence already contains the potential for criticism, for justification in response to criticism, and thus rationalization in all three aspects.[87] This highlights an important feature of my understanding of violence: I do not separate violence as embodied interaction from its communicative rationalization. Violence is not an isolated, irrational act taking the place of communication and rationalization but, understood as triadic, itself contains the potential for its rationalization. Understanding violence in this way as mediately immediate makes its inherent reflexivity clear. Violence is not a purely immediate act that can always and everywhere be identified as violent from the observer perspective. It is rather a triadically reflexive event and thus embedded in communicative contexts where other legitimations and delegitimations take place. In order to be able to identify events as acts of violence, it is thus necessary to trace back the semantic structure of the communication taking place in the observed field. Only by reconstructing the logic of the field can events be observed as violent. For empirical research this means that every identification of an event as violent must be contextualized (Schlichte 2014). What violence is always also depends on speech or discourse about violence, which leads to the connection between violence and the formation of legitimate ordering systems.

4.3.2 Violence as embodied act and its symbolic generalization

Mediation by thirds is an integral component of violent communication; it is what turns an application of force into violence. This means that from the outset violence is already integrated into forms of rationalizing institutionalization, which secures the legitimacy of violence or which can be delegitimized by it. In order to understand how situative legitimations with overarching, generalized semantic structures are mediated, we must turn to the theory of reflexive institutionalization, following Berger und Luckmann ([1966] 1991) as well as Luhmann ([1972] 2014), as shown in section 3.4. Reflexive institutionalization allows us to understand how further generalizations of meaning follow upon the institutionalization of sit-

87 I follow Habermas's ([1981] 2006:35f) grounding of rational criticism in triadic constellations here.

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY – https://www.nomos-elibrary.de/agb

uationally observable processes (see above, section 3.4.2). We can distinguish here, as shown above, different levels of meaning generalization. The lowest level is formed by institutions in the sense of concretely unfolding institutionalized processes, which can also be described as composite acts following Mead (1925:265). In order to ensure the practical cohesion between such institutions, mediating institutions must be created to integrate individual institutionalized composite acts into overarching action and communication contexts. This is the main idea underlying reflexive institutionalization. Institutions become integrated by the creation of institutions that create meaningful contexts between them. Thus it is a matter of higher-level institutionalization that reflexively connects with the institutionalization of processes. Legitimizing descriptions of institutions and mediating institutions can be understood, following Berger and Luckmann, as legitimations or theories of legitimation (Berger and Luckmann [1966]: 1991:110ff). This level is concerned with societal discourses. It is decisive for my argument here that the assumption of a tiered generalization of meaning makes it possible to combine the level of concrete processes with that of societal discourses (see above, section 3.4; Lindemann 2009b:19ff). For the concept of mediated immediacy, this means that mediatedness also includes embodied practice being mediated by discourses. The concept of mediated immediacy also makes clear why discourses and their analyses are relevant: only if discourses function as mediations of embodied relationships to the environment do they have an effect on practical societal processes (see Lindemann, Barth and Tübel 2018). It is in this way that we can understand the relationship between violence and law.

The connection between violence and legitimate order, i.e., also the law of this order, was already pointed out by Luhmann in his early sociology of law (Luhmann [1972] 2014:83–90). In an early article that has been roundly ignored by the more recent discussion surrounding the sociology of violence, he describes violence as symbolic generalization. For Luhmann, symbolic communication media are characterized by the congruent generalization they achieve in the three dimensions of meaning: substantive, temporal, and social (Luhmann [1974] 2005a:213). Now the violent representation of holding on to disappointed normative expectations, he argues, achieves precisely this same generalization. Luhmann understands law as the nexus of normative expectations that is congruently generalized in all three dimensions of meaning (material, temporal, and social). “This requirement leads to the primacy of physical violence in the treatment of legal infringements” (Luhmann [1972] 2014:84).

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY – https://www.nomos-elibrary.de/agb

When violence represents holding on to congruently generalized expectations, it becomes symbolic itself. "Physical violence only gains far-reaching significance within social systems through generalisation as symbol for further possibilities" (Luhmann [1972] 2014:84–85). Violence is itself a symbol representing the validity of normative expectations in such a way as to attain a generalization in all dimensions of meaning.

Conceiving violence as symbolically generalizable embodied action forces us to give up the idea of violence as symbiotic mechanism (Luhmann [1974] 2005b). Symbiotic mechanisms integrate organic processes into sociation, and Luhmann's early systems theory already tended to portray these processes as devoid of meaning. This becomes explicit in his late theory, where meaning processing is limited to systems of consciousness and communication. Assuming a separation between meaningless organic processes and meaning-processing systems, symbiotic mechanisms fulfill an important function by making meaningless organic processes accessible to communication and the order formed by meaningful symbolic media. Symbiotic mechanisms are not necessary for the theory, however, if symbol formation is thought of as originating from the relationship of excentric, embodied action centers to their environment. In that case, symbolic generalization can begin immediately with embodied experience in the sense of mediated immediacy.

Excursus on the dispensability of symbiotic mechanisms

I will now look at two pairings between symbiotic mechanisms and symbolically generalized media to show the advantages of an approach based on a theory of the lived body.

Symbiotic mechanisms become necessary as a theoretical concept when a separation is presupposed between meaningless natural mechanisms subject to universal laws on the one hand and meaningful consciousness and communication processes that make cultural variety possible on the other. In other words, symbiotic mechanisms derive from a division between organic elements and meaningful, symbolically generalized communication media that is more or less in line with the nature/culture distinction. According to this division, meaningless nature can only be connected to symbolic generalizations by way of symbiotic mechanisms. Examples are sexu-

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY – https://www.nomos-elibrary.de/agb

ality and violence as symbiotic mechanisms and love and power as the corresponding symbolically generalized communication media.[88]

I am not convinced that these divisions adequately capture the phenomena. According to Luhmann, romantic love, which in *Love as Passion* (Luhmann [1982] 2012) he describes as a symbolically generalized communication medium, is supposed to be able to access meaningless organic-physiological processes. Thus sexuality refers to the ways in which symbols, words of love, are connected to the meaningless act of copulation. Ego utters tender words to alter ego; alter ego plays coy but doesn't rule anything out and holds out the prospect to ego of carrying out the meaningless physiological copulation mechanism; ego communicates that he only wants to if alter ego does too. The symbiotic mechanism of sexuality constitutes meaningful references like this to the meaningless organic mechanism.

Alternatively, we could circumvent the modern separation between meaningless organic processes and symbolic generalization presupposed by Luhmann with a theory of the lived body. Understanding the relationship between sensuality and meaning [*Sinnlichkeit und Sinn*] from the perspective of the lived body's relationship to its environment makes it possible to understand symbolic generalizations from the perspective of and in reference to the lived body. This allows for other ways of describing the meaningful, sensual phenomenon of romantic love, being in love, and sensual desire. Instead of talking about words of love, sexuality, and meaningless organic processes, we should be looking at how lovers express the longing they feel in their own breast for the one they love using gestures and language. They have butterflies in their stomach; they want to breathe in the smell of the one they love and feel the other's lived body next to their own. Following the theory of mediated immediacy does not compel us here to dismiss the possibility that the conditions experienced in the lived body or the experience of directing oneself at the beloved are symbolically mediated. People in love can learn from books or the Internet how they should be feeling, how to show themselves, and how to symbolically express what they are meaningfully and sensually experiencing. But this doesn't change the fact that the symbolically mediated embodied condition is also experienced in an immediate way by the lived body. If we analyze sensual encounters in this way, we find that any time lived bodies touch there is meaning. This is also true when embodied experience takes on a form that can be described as the mechanism of body parts and mucous membranes

88 Luhmann refers to the following pairs: sexuality/love, violence/power, perception/truth, need/money (Luhmann [1974] 2005b:268–271).

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY - https://www.nomos-elibrary.de/agb

touching. Modern actors well versed in sexual medicine can experience the meaning of their sexualized embodied encounter by allowing their embodied experience to be guided by their physiological knowledge, thus indulging in meaningless skin-to-skin and mucous membrane-to-mucous membrane contact. The fact that meaningless organic processes exist for these actors can then be understood as a possible—modern—symbolic form of embodied touch.

Now one might object that love is too big a subject to be included in an analysis of order formation. But the theory of the lived body also renders superfluous the other symbiotic mechanisms—the relationship between violence and power can also be understood without recourse to the concept. As in the case of "sexuality," it seems inappropriate to me to assume the existence of meaningless organic processes which symbolic generalizations in the form of power can only access by means of the symbiotic mechanism of "violence." If, on the contrary, we give up the separation between meaningless organic mechanisms and meaningful processes of consciousness and communication, the embodied, meaningful phenomenon of violence and the claim of symbolic generalization it expresses come sharply into view. Violence is aimed at other social actors who violate ego's expectations, which he holds on to nevertheless. This also holds for cases of violence that are easily mistaken as antisocial. Here is a fictitious example: "Ego is walking down a city street and notices someone with a face ego finds unbearable, a face 'asking to be slapped.' Ego socks the person one." Even in this case, ego was not senselessly throwing punches, and it is difficult to differentiate between a meaningless physiological process and meaning. The perception of a face as unbearable, as a face "asking to be slapped," is characterized as meaningful precisely by the surge of arousal provoked by the obtrusive sensory presence of such a face. This is why it impossible not to punch it. The vehement bodily gesture of punching explicates the meaning of this face as one that must be punched. The meaningfulness of the embodied experience has not yet been symbolically generalized itself, however. This requires a third to approve of the violent act as legitimate. The third's recognition means that the violent act is no longer only a current embodied execution, but that it symbolizes violated normative expectations in a generally recognized way. – End of the excursus

Understanding violence as the basis of law formation is to understand law from the perspective of embodied touch. The disappointment of an expectation affects the embodied state of one or more of those involved such

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY – https://www.nomos-elibrary.de/agb

that they turn violently on the norm violator. Violence is the communicative interpretation of an action as norm-violating. The dyadically structured act of violence (A injures B) has not yet been symbolically generalized here, however. By injuring B, A represents the fact that her normative expectations were disappointed and that she is holding on to them. She thereby claims that her expectations are generally valid and thus legitimate. But the violent act only represents the validity of normative expectations and thus becomes symbolic when it is carried out in reference to thirds. These have to recognize the appropriateness of the normative expectations and the appropriateness of the reaction. The violent act within the dyad is initially an assertion of a claim, but it is only by means of thirds that it becomes a semantically identical symbol that appropriately explicates valid expectations. The violent act must be identified and recognized as appropriate by thirds from the perspective of thirds. We can formally distinguish between three triadic constellations:

1. The thirds are present and legitimize the violent act as an appropriate explication of holding on to valid normative expectations. The present thirds can intervene if the violence goes too far or not far enough and they therefore consider it illegitimate. As long as they don't do this, they condone the violent act, which thereby becomes a symbolic explication of valid normative expectations. It is also possible for the violence or the explicated normative expectations to be delegitimized after the fact. Those who deemed valid the use of violence and the normative expectations it explicates come under pressure to justify themselves. For the present thirds, an after-the-fact delegitimation can be hampered by the imperative to represent oneself in a consistent way as an individual. An actor might make a fool of himself if he at first condones a violent act and then questions this after the fact. The importance of present thirds is enhanced if they are experienced as the representatives of absent thirds.
2. The legitimizing thirds are absent but their consent is imputed. This puts the claim of legitimacy asserted by the violent act in limbo. Since the claim has not been contested, those involved will tend to experience it as legitimate. But it has not (yet) been legitimized by thirds, and it is possible that there was a spontaneous error of judgment. It is always possible that someone will ask after the fact whether these were valid normative expectations or whether the violence went too far or not far enough, and that the claim to legitimacy contained in the use of violence will be voided. Then it becomes the case that the act of violence was never a legitimate, symbolically generalized representation of

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY – https://www.nomos-elibrary.de/agb

valid normative expectations; from the beginning it was a case of non-legitimate violence.

3. Finally we have a boundary case of a form of violence not containing a claim of symbolic generalization. The actors themselves do not assert a normative claim of any kind and thirds are present, but not as thirds who objectify embodied touch between ego and alter and identify a pattern. They are rather drawn themselves into the dynamic space of reciprocal embodied touch. There are no actors that fulfill the function of a third; only an additional ego or alter ego in the antagonistic embodied space of interaction. Everyone involved is drawn into the dyadic, reciprocally focused, antagonistic relationship dynamic between lived bodies.

I include the third constellation as an ideal-typical boundary case that is empirically highly unlikely. Even apparently random violence can scarcely escape reference to legitimation. Street gang ethnographies demonstrate a close connection between violence and honor. They are full of youths beating up or killing others for not showing them the proper respect (Anderson 1999), for standing around on their street corner (Papachristos, Hureau, and Braga 2013), and so forth. Collins, however, criticizes this discourse of violence and honor in the social sciences for being well-intended, but missing the heart of the matter. The point is, he argues, to achieve dominance through violence (Collins 2008:233). Collins is right, that is obviously what is happening, but he is so caught up in his own notion of bodily immediacy that he cannot see what is just as obvious. The claim to dominance is itself normative/moral and is symbolically represented and generalized accordingly. Achieving dominance through violence demands an understanding of self that is touchy in matters of honor, constantly allowing oneself to be provoked to violence. Sensitive honor is part of a symbolically structured relationship between the lived body and its environment where everything can be at stake very quickly. It is precisely in cases like this where we can see that being violent in front of thirds is to find oneself in legitimizing triadic constellations and thus automatically caught up in the sphere of legitimation, morality, and, ultimately, law. And yet for the purposes of empirical research, we should not exclude the theoretical possibility of symbolically meaningless violence, for this allows us to see more clearly the structural peculiarities of triadically structured violence. It is also important to note (in reference to constellations 1 and 2) that we can never exclude the possibility that there will be different legitimizing triadic constellations, such as when the others' violent act is expe-

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY – https://www.nomos-elibrary.de/agb

rienced as a violation of law and one's own as the representation of the maintenance of a valid normative expectation.

What is distinctive about violent communication is that it symbolizes a congruent generalization in all dimensions of meaning. Violence is aimed at the operators of sociation, the excentrically embodied action centers. As such, violence does not affect only partial institutional participation in individual composite acts, but the possibility of participation in *all* possible institutionalized composite acts. This means that violence affects the order in the social dimension as a whole. Violence directed at embodied action centers affects the operative possibility of order formation in general. The use of violence asserts that violated expectations will be held onto in the future as well (temporal dimension)—the disappointment of this expectation will be responded to violently not only now, but in the future as well. And it is not only here, in this place, that violated expectations will be held onto—the norm violator will be struck dead elsewhere as well (spatial dimension). As a symbol, violence also represents the substantive dimension to which the violated expectations refer. Violence against the offender establishes a substantive context, communicating the fact that the disturbance caused by such a deed will not be accepted without retribution. Thus generalization takes place in the social, spatial, temporal, and substantive dimensions. Violence is a symbol that captures the normative structure of the relationship between the lived body and its environment in all dimensions and symbolically represents it. The symbolic nature of violence refers to the totality of triadically structured relationships between lived bodies and their environment as well as to their discursive legitimation.

The sociological dimension of Derrida's critique of Benjamin

Understanding violence in this mediately immediate way as a symbol of law sheds an interesting light on Benjamin's ([1920–1921] 2009) notion of mythical violence as imposed by fate, as well as on Derrida's critique of Benjamin's argument. This discussion allows us to more precisely work out the embodied, communicative meaning of violence. In his essay "On the Critique of Violence," ([1920–1921] 2009) Benjamin analyzes the relationship between violence and law, distinguishing between violence that can appeal to already existing law and that is thus legitimate from violence that posits law. Violence that posits law cannot appeal to existing law, which only comes about in the first place by means of an act of violence.

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY – https://www.nomos-elibrary.de/agb

But if lawmaking violence cannot appeal to law, it must be unjust. If law is posited by an act of violence, subsequent acts of violence that are said to be legitimized by law become problematic, for their legitimacy is based on a non-legitimized act of violence (see also Menke [2011] 2018:49ff).

Derrida (1992) objects to this that the reciprocal interpenetration must be thought in both directions: the lawmaking act of violence participates in the legitimacy of the law it makes. I understand this to mean that there is a logical simultaneity here. If the violent act makes law, law is given with the violent act; it does not follow the act but is equiprimordial with it. Because law is given with it, the violent act is legitimized in its very execution. But Derrida also poses the question of the relationship between law and justice [*Recht und Gerechtigkeit*]: if the two do not coincide, law is unjust and thus also unable to legitimize the violence that makes it.

A sociological analysis of the connection between violence and law—one that is oriented toward the concept of expectation—allows us to clear up this controversy. In particular, it allows us to better understand the temporal relations between violence and law. Violence does not posit law, but rather explicates normative expectations that already existed, thereby making them into law. The many expectations that ego-alter-tertius have of their surroundings and in particular of each other form—as I worked out above—a relatively chaotic multiplicity. There is little clarity at the outset about what the individual expectations are and who has them of whom and will uphold them. It is only in the case of disappointment that individual expectations are identified from the (relatively) chaotic multiplicity of expectations and are identified for everyone as such.[89] Violence does not posit law: if the expectations that are held onto had not already existed, they could not have been disappointed. Expectations that are held onto despite being disappointed form the legitimate, lawful rules that must be in place for the overall context of the involved embodied action centers' communication to be upheld. Legitimate violence explicates the rules in place as law by representing them as binding for everyone. This obligation derives from the symbolic generalization made possible by the triadic violent communication. Violence legitimized in triadic constellations is experienced by those involved as necessary, and it is this necessity that Benjamin understands as being imposed by fate. The expectation must be upheld for the sake of upholding the order. This state of affairs is symbolically represented in the triadic violent communication.

89 On the difference between chaotic and relatively chaotic multiplicities, see p. 145–146.

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – CC BY – https://www.nomos-elibrary.de/agb

Here we can see the precise meaning of Derrida's criticism of Benjamin. If the violent act's claim to legitimacy is honored by thirds, then the violence was justified. Legitimate violence takes place in front of thirds and the relation in which the violent act takes place becomes objectified in its representation in front of thirds. From the perspective of thirds, the pattern in the act in question becomes recognizable and acknowledged as such and the expectations at work become identifiable, which gives the violence as it is wielded the rule toward which it is oriented. From the chaotic multiplicity of expectations that guide action and its interpretation, the expectations that ought to apply as law are explicated in a way that is valid for everyone. Whether this is *successful* or not is an empirical question. The explicating symbolic representation may fail, so that the violent act is not legitimized as a valid representation of the normative expectations to be upheld. A strikes B dead, thereby representing in front of C the fact that the killing of A's relative X was not justified. But A does it in a way that is not recognized, or A should have killed M or N and not B. But this only becomes clear after the fact—the expectations were not defined to this degree for anyone beforehand. The violent act misses its symbolic explication; it is not a successful explicative representation of valid expectations, but merely the killing of a social person. Every violent representation of the validity of normative expectations contains this risk, which should not be confused with a change in law. While the incorrect explication of normative expectations does not change the law, there is always the possibility of such a change. Triadic embodied relations exist in time, and in the temporal executions of composite acts, the chaotically structured background expectations may change and new explications become necessary. Since violently explicated law exists in time, successful explications are always conditional. As such, law is always also potentially unjust.

The difference between my argument and those of Derrida and Benjamin is, for one, that both start from the premise that violence posits law instead of violence symbolically explicating normative expectations. For another, the concept of triadic violent communication contains the possibility of the rationalizing structuring of legitimate violence, which is of decisive importance for the analysis of the relationship between violence and order formation (see below).

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY – https://www.nomos-elibrary.de/agb

Perpetrators – victims – thirds

So far our analysis has tended to follow the perpetrator by theorizing as communication the violent act ego uses to interpret alter ego's action as a violation of normative expectations. Taking the perspective of the victim means asking how alter ego interprets ego's representation of her legitimate holding onto normative expectations. We can distinguish here between two ideal-type situations. Either alter ego (victim) or perpetrator (ego) has homogenous relations to thirds that legitimize the violence. In this case the violence is legitimate and alter ego has to accept it. Or alter ego can appeal to competing relations to thirds, so that there are thirds that legitimize the violence while other thirds delegitimize it. I have already addressed the situation of competing relations to thirds, so I will focus here on the first case in which alter ego has to accept the use of legitimate violence.

Sofsky ([1996] 2001:chap. 4) gives a powerful description of the victim's experience of violence. He emphasizes two aspects: the experience of fear and of pain—the fear of violence and being at the mercy of the pain inflicted by the violence.

"Violence has an effect even before the first wound has been inflicted. An acute, overpowering menace shatters the forms of time and space. The familiar world suddenly seems alien and chaotic. It is as if an abyss has suddenly opened up. […] When fear is rife, the world shrinks; nothing exists outside of your immediate vicinity. Being terrified means being frozen in place, unable to move. You want to escape the danger, but you can't. Your flight impulse is blocked. Fear, after all, is nothing other than this antagonism between paralysis and flight" (Sofsky [1996] 2001:71). In the extreme case of panic, a differentiated perception of the world breaks down. This can also occur when experiencing pain (see Scarry [1985] 1987:33ff). Intense pain reduces everything to the experience of the hurting lived body as it exists in the here and now, which also has the effect of the lived body being experienced as real in the here and now. It is precisely in the paralysis of the inhibited "get away!" that the reality of the pain or fear undeniably forces itself upon the sufferer.

In situations that are not extreme cases, however, the experience of fear and pain has a different effect. If fear is tied to the experience of being threatened by violence, the structures of the world as they are experienced by the affected individual do play a role in the undeniable reality of his experience of fear. My fear makes what I am afraid of into a reality I cannot

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY – https://www.nomos-elibrary.de/agb

call into question.[90] The experience of measured doses of fear and pain introduces the sufferer to the reality of a particular approach to the world. From the child's perspective, growing up is made up of the interplay between feeling threatened, being afraid, experiencing pain, and being lovingly held. This process leads growing embodied actors to experience as real a world, along with its normative structures, that is ordered in a certain way.

A theoretically abstract, psychoanalytically grounded description of this process can be found in Habermas's analysis of the stages of perspective-taking in the sociation of children. Almost as if he were inadvertently stumbling into a theory of violence, he takes a surprising approach to the violent communication of child rearing by describing it from the perspective of the victim of violence: alter ego recognizes the superior power of ego and therefore follows ego's threat-supported imperatives by taking the perspective of the perpetrator. "*B* no longer connects his announcement of sanctions only with individual imperatives but with the generalized expectation that *A* will exhibit a willingness to obey under the condition of the care he receives from *B. A* anticipates this threat and takes up *B's* attitude toward himself when following B's imperative '*q.*' This is the basis for the internalization of roles—to begin with, of particularistic expectations that are connected in pairs" (Habermas [1981] 2006:34). On this basis, *A* experiences the opposition of a "suprapersonal will" (Habermas [1981] 20076:34), i.e., *A* not only submits to the violent threats of a concrete, nurturing interaction partner, but to the group to which *A* belongs. The figure of the third brings this process even more sharply into focus.

I am not concerned here with recapitulating the structure of perspective-taking; I have already done that above. What is interesting here is rather the fact that Habermas, following Freud and Mead, describes sociation as violent communication that leads to a pattern of ordered interaction. Violence and nurturing balance each other out in this process and create a framework for each other. Both are essential. Alter ego, the victim, comes to see the violence communicated to her in this way as legitimate and recognizes it as such. Habermas thus emphasizes the importance of inflicting pain (sanctions) or causing fear in measured doses (threats) for the involved parties' experience of a particular social order and its norms as the reality in which they live.

90 I here follow Schmitz ([1965] 2005:§ 24) and Berger and Luckmann ([1966] 1991), both of whom define reality in similar terms as that which someone at a given moment cannot deny and has to accept as given.

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY – https://www.nomos-elibrary.de/agb

Diabolical symbolization – the boundaries of violence

The analysis of violence brings the explication of social theory full circle. I began with the social dimension that is the social undecidedness relation, already then indirectly addressing symbolization: our sensitization to the touch of other social persons is stabilized by giving it expression in front of and for each other. The drawing of boundaries as well as the preference for individualization/dividualization must be symbolized if they are to become stabilized. Mediated by the symbolic representation of how the social undecidedness relation is determined, the sensitization to other personal, embodied action centers is immediately experienced in embodied relationships of touch. Violence now turns out to be a particularly significant symbol of such a symbolically mediated immediate relationship: on one hand, legitimate violence as embodied relationship is immediate; on the other, it is mediated by thirds as a symbol of law.

As a symbol, violence can only be understood in reference to the communicative context in which it is embedded. This is relevant in several different respects. The embodied action centers involved in triadic constellations of representing law do not have to be bodies in the modern sense of the term. Anyone experienced by those involved in a particular order as an action center with embodied directionality—in other words, able to touch others—is an action center. Again, an instance of touch must be understood as violence if it is recognized as such in the context of a triadic constellation. What violence is cannot be decided by an external observer, but must rather be identified according to the internal logic of the field. Since the relationship is mediated-immediate, its order can be modified by both sides. On the level of embodied touch, something can spontaneously be experienced as violence that was not experienced as such before. If this experience finds symbolic expression, there is a general modification of the sensibility of the involved embodied action centers, leading to a change in what is considered violence. On the other hand, there can also be symbolic proposals of new sensibilities, e.g., in literature. If lived bodies become sensitized by these representations, this too can lead to a change in the prevailing understanding of violence.

Ritual circumcision allows boys or girls to become real men or real women. Whether and in what ways this can be considered a case of pedagogical violence can only be decided by means of empirical study. The same holds when a doll is pierced with needles. According to a modern understanding of law, this is nothing more than an inept attempt to inflict bodily harm, while in other ordering systems, such an act is seen as a

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – [cc BY] - https://www.nomos-elibrary.de/agb

harmful act of violence with potentially lethal effects against which the victims must defend themselves accordingly (Favret-Saada [1977] 2010). When the Araweté go hunting, they are exposed to attacks by spirits, some of whom also kidnap and rape the accompanying women. It is the responsibility of the shamans to ward off these spirits' attacks and to kill them. Without this act of violence or the threat of it, the Araweté could not maintain the expectation of moving about freely in the forest.

This leads to the following hypotheses:

1. The boundary between the personal sphere and other non-personal beings must be immediately realized in embodied relationships of touch, otherwise it is not experienced as a real boundary. For this reason, symbols that immediately include the embodied participants in the symbolization are particularly effective. This is what is unique about violence.
2. Who can become a victim of violence, in what way (as an individual or as an element of a group) and what a violent act is can only be determined in the communicative context.

The institutionalization of a rule that distinguishes between those with whom communication is possible and those who are excluded from the personal sphere both brings these circles together and separates them from each other. This rule is literally symbolic and diabolic. Etymologically, *symbolon* is a sign of recognition, such as a broken ring whose two halves can be joined together.[91] It allows a guest to identify himself by producing the matching piece. *Diabolos*, on the other hand, derives from the Greek verb *diabállein*, which means to divide, antagonize. Luhmann is one of the few to have seen the connection between *symbolon* and *diabolon*, which he points to in his analysis of money (see Luhmann [1988] 2008:chap. 7): money allows acquisition and communication to take place between ego and alter while explicitly excluding others. Luhmann does not emphasize this aspect for the other communication media as he does for the symbolically-diabolically generalized communication medium of money.[92] In the case of the logically prior first tier of a two-tiered interpretation (see above), it is obligatory to

91 See *A Comprehensive Etymological Dictionary of the English Language*, 1 Vol, s.v. "symbol."

92 In the case of truth, the reference to the diabolical remains rather vague (see Luhmann [1990] 20015:193, 195). In his theory of society, Luhmann claims that the diabolical is universal, but his example derives from the medium of money (Luhmann [1997] 2012:192f).

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY – https://www.nomos-elibrary.de/agb

understand the interpretation of the expression executed in front of tertius as a symbolic/diabolical generalization.[93] In a rule-governed process, those who can communicate with each other are brought together and those with whom communication is inherently impossible are excluded. It is important to remember that symbolic-diabolical generalization does not aim at a moral distinction in the sense of good/bad. It rather delimits the area in which moral distinctions and obligations are relevant in the first place. Legitimate violence, by symbolizing a holding fast to valid, disappointed expectations, does precisely this. It represents the definition of the sphere of those of whom it is normatively expected that they will fulfill expectations. For this reason and for this reason alone it is legitimate to represent to them and in front of thirds that violated expectations are being held onto. Violence is symbolic; it brings together those who should be able to expect normative expectations from each other.

Symbolic-diabolical generalization constitutes the binding reference point for the representation of boundary drawing. It is a matter here of symbolizing the context in which beings encountering each other can touch each other as persons in a comprehensible way. This symbolization represents the institutionalized boundaries for the communicative context in question, in a generalized and valid way. In order to capture the distinctiveness of this diabolical symbolization, I refer to it as the *diabolon-symbolon* of a communicative context, abbreviated as *dia-symbolon* or *dia*-symbolization.

At first glance it would seem that violence is a universal *dia-symbolon* since it addresses those of whom normative expecting is to be expected, and represents this symbolically and immediately. Only entities that can be handled in an instrumental or technical way are excluded from this communicative context. And yet there is no ordering system in which violence itself constitutes the *diabolon-symbolon*. The reason for this lies in the necessity of the procedural structuring of violence.

93 I recall that the dual problem of “who is a communicating person?” and “what is the relationship about?” leads to the expansion of the sociological concept of communication, and in particular that of interpretation. Here it is a matter of interpreting, first, who is eligible to be a social person and, second, what a social person is communicating. A single-tiered concept of interpretation was enough for traditional sociological theory with its starting point of simple world-openness; by contrast I am emphasizing the connecting aspect which is symbolic in the proper sense. Starting from expanded world-openness requires a two-tiered, triadically structured concept of communication and interpretation that also takes into account the interpreted representation of the separation between persons and other entities.

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY - https://www.nomos-elibrary.de/agb

4.4 Procedural orders of violence

Procedural orders of violence are ideal types of how the social undecidedness relation is determined. The starting point for the development of such procedural orders is the triadically structured concept of violence worked out above. Violence is not only an immediate event; as a result of its triadic structure, it is also essentially integrated into communicative and symbolic mediations, including those of an overarching and discursive nature. The stabilized structures of expectation of such procedural orders are the result of reflexive institutionalization processes. An institutionalized structuring of the use of violence can exhibit two tendencies: either the tendency toward an uninterrupted, reciprocal, institutional obligation, mediated by thirds, to use violence or the tendency in a society to increasingly sublimate violence. The first case would be given when, e.g., kinship groups oppose each other in an inextricable cycle of the obligation to return violence for violence. In a situation like this, no group member can break rank and cease being violent to the others since everyone has an obligation to their group to seek revenge. Girard describes this as the "obligation to exact vengeance" that can lead societies into self-destruction (Girard [1972] 2005:15). This too is a case of triadically structured rationalization, which, however, leads to the unleashing of what is ultimately physical violence. Rationalization means here that violence is not exercised spontaneously, but is rather driven by the obligation—mediated by thirds and thus criticizable and justifiable—to take revenge. Societies caught in the obligation cycle of *lethal* vengeance tend to destroy themselves. But the institutional rationalization of violence, mediated by thirds, can also lead to directing violence into channels that are more compatible with everyday life.

Tertius shows itself here to be relevant for a theory of the connection between law and violence in more ways than one. It becomes clear by looking at the triadic constellation that the symbolic act of violence contains its own rationality and legitimacy: it is symbolic because it is carried out in front of thirds. As such it can be criticized and thus potentially be governed by rules. The claim to legitimacy asserted in the violent act can, in the case of absent thirds, turn out to have been based on an error of judgment and can be voided after the fact, or the claim to legitimacy can be supported by present thirds but called into question by other thirds. The empirical possibilities here are vast. The most impressive criticism of violence consists in exerting violence in return, which delegitimizes the prior violence in reference to other legitimizing thirds. The more procedurally structured the violent communication is, the more likely it is that criticism

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY - https://www.nomos-elibrary.de/agb

of it can be directed into procedural channels. A highly elaborated procedure for the establishment of legitimacy is the verbal criticism of a verbally asserted validity claim and its justification. Habermas describes this form of sublimated violent communication as rational discourse free of domination. The lethal blow is replaced by the gentle compulsion of the better argument. The sine qua non of this procedure is that those involved submit to the violence legitimizing the order (see the section "Perpetrators-victims-thirds," above) or, in other words, follow a recognized procedural order. The order is no longer challenged by violence; instead those involved use the non-violent procedures of criticism and justification the order made possible. This transition is enabled by the shared structure between violent and verbal criticism. The rationality or legitimacy of violence is carried by the social reflexivity of triadic symbol formation and communication just as much as are the procedures of reciprocal rational criticism.

This leads to a logically three-tiered understanding of normative order.

> First tier: taken-for-granted expectations in the execution of communication and composite acts. In this case the normative expectations guiding actors in the execution of composite acts and communication are not identified as such or explicated. If normative expectations are violated nevertheless, this is either overlooked or repaired in a situation-specific way in reference to the particular problem. Everyday life continues more or less without a hitch.
>
> Second tier: explication of law by legitimate violence. The violent act identifies normative expectations and asserts the claim a) that these expectations should be generally recognized and b) that the violent act represents the normative expectations in an appropriate way. If both of these claims are approved by thirds, the violence is legitimate.
>
> Third tier: the rationalization of legitimate violence by procedures. Legitimate violence can be criticized and thus tends to be rule-governed. The rule-orientation of legitimate violence makes possible non-violent procedures of representing law. The criticism of violence can thus also take on non-violent forms.

4.4.1 Violence and procedure

Vague indications of the link between violence and procedure can be found in Luhmann. The legitimacy of law, he writes, can either be represented by violence or by procedures (Luhmann [1972] 2014:88–89). He ob-

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY – https://www.nomos-elibrary.de/agb

serves that procedures have come to replace violence as the symbolic representation of law, and thus ascribes the same function to procedures as to violence. Luhmann does not, however, work out this functional similarity in any detail and it thus remains unclear how we are to understand the transition from one form of the representation of the legitimacy of an order to another. His earlier study on legitimation through procedure is not enlightening in this regard either. Luhmann does not theorize the relationship between violence, legitimacy, and law, and he refers to premodern legitimacy and dispute settlement procedures only in order to demarcate rituals from the procedures societies in the process of differentiation use to guarantee legitimacy (Luhmann [1969] 2013:40).

In order to work out more precisely how procedural orders of violence can be understood, I propose, following Girard, distinguishing between four such ideal-type orders meant to serve as heuristic devices for guiding empirical research. Procedural orders of this kind determine

1. how to delimit the sphere of legitimate persons,
2. whether lived bodies are addressed as individuals or dividuals,
3. how to identify the use of violence,
4. what ways there are to exert violence (differentiation into zones of permitted, prohibited, and mandated violence, see Reemtsma [2008] 2012:103–106),
5. how violence can be legitimized and how we can distinguish between legitimate and illegitimate violence,
6. what expectations violence can explicate as legitimate and normative, therefore making them into the law of a society, and
7. how norms should be appropriately explicated and law appropriately represented.

Only if it is possible to transform the procedural structuring of the representation of law in such a way as to break the cycle of reciprocal violent obligations can the self-destruction of sociation processes be arrested. According to Girard ([1972] 2005:21), three possibilities have developed for transforming the immediately violent representation of law:

1. The violent representation of law is inflicted on a victim. Here law is still represented in an immediate and violent, even if in a focused and thus channeled way.
2. Violent representation is made more difficult and the conflict is solved by means of pacifying compensatory acts or shifted onto proxy struggles.
3. The representation of the validity of normative expectations is carried out vicariously by a court, which punishes the guilty party. Here legal

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY – https://www.nomos-elibrary.de/agb

proceedings become the condition for the violent representation of law, such as by public hanging or torture (Foucault [1975] 1995:chap. 1; see also Girard [1972] 2005:21f). Only the third form recognizes the principle of guilt and criminal law in the proper sense.

4. Girard fails to consider a procedural structuring of violence that builds on the third form: the modern constitutional form. Here even the representation of law by the central power is no longer violent. The law-representing procedures are themselves non-violent. The use of violence (confinement) is kept out of the public eye. Violence in this context appears as a means that can be used for any desired purpose. It was probably their fixation on the fourth form of the procedural structuring of violence that led sociologists to conceptually turn their backs on it and to focus instead on power and authority.

4.4.2 The procedural order of the sacrificial victim

According to Girard, the first channeling of violence occurs when it is no longer exerted in an endless series of vendetta murders but instead comes to be focused on a sacrificial victim. The sacrificial victim is killed as a general violator of all norms whose validity is relevant to an existing order. Symbolizing the validity of the norm by the violent act of sacrifice allows all other conflicts to be solved in a nonviolent way. Girard suggests that there was an original cathartic sacrifice that was then ritually repeated. There is a twofold substitution here. In the first sacrifice, a sacrificial victim is chosen who has not violated the norm but is similar enough to the norm violator to become the target of violence. The ritual then repeats the first sacrifice in order to maintain its pacifying effect. In order for the ritual sacrifice to be effective in this way, it also has to repeat the moment of reversal, in which the reciprocal violence is directed toward the sacrificial victim (see Girard [1972] 2005:chap. 4).

The victim symbolizes all norm transgressions, thereby homogenizing different references to thirds. These references can thus be detached from concrete thirds in the violence exerted against the sacrificial victim, and a generalized third becomes institutionalized as normative point of reference. In this way, all participants communicate to each other that the norm is valid, but that they do not have to kill each other in order to represent its validity. Despite occasional norm violations they can all continue to participate in institutionalized composite acts and pass from one act to another.

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY – https://www.nomos-elibrary.de/agb

4.4.3 The procedural order of compensation

The second form of channeling introduces the principle of compensation and begins to institutionalize particular procedures made possible by specific tertiary positions. These procedures entail nonviolent forms of reciprocality as well as mediation and arbitration between the parties. On this level, the aggrieved party's violent representation of law is replaced by particular procedures such as the exchange of gifts or the payment of punitive damages, or by divine judgments or proxy struggles.[94] But even the violent representation of law does not always have to involve killing, as evidenced by the phenomenon of "sham vengeance" (Kelsen [1941] 2009:307). Sham vengeance clearly shows that violence is about representing the validity of a violated norm. Here it is the spirits of the dead that demand blood vengeance (see Steinmetz [1898] 1928:290ff), and it is in front of them that this vengeance must be represented. This is done by carrying out the envisaged attack, which is considered tantamount to blood vengeance even if no one from the other group is killed. What matters is that the fulfillment of the duty to enact blood vengeance has been represented before the spirits (see Kelsen [1941] 2009:307f).

Introducing the principle of compensation into a triadic theory of the social allows us to think through an important distinction. If a triadic constellation is taken as the basis of our understanding of violence and law, it becomes a question of the representation of the validity of normative expectations. This allows us to distinguish ordering systems according to whether they emphasize the side of the norm violator or that of the aggrieved party when representing the validity of a violated norm. Law develops differently depending on whether pacification hinges upon the responsibility of the norm violator to represent her intention of following the norm in the future or upon the responsibility of the aggrieved party to represent the norm violation. In the latter case, law can develop in such a way as to codify subjective rights that can be asserted by actors and whose violation they can respond to with legal action. This is the path Europe took as it transitioned into modernity. From this we must distinguish other under-

94 Simmel's distinction between the positions of mediator/arbitrator/judge and those of the two conflicting parties is a very early instance of an author pointing to the significance of triadic positions for law (Simmel [1908] 2009a:101ff). He glosses over a key difference here, however: as long as there is no judge but only an arbitrator or mediator, there can be no talk of guilt. When the aim is to bring about a settlement between the parties, it is conciliation rather than the determination of guilt that has priority.

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY – https://www.nomos-elibrary.de/agb

standings of law that place a greater emphasis on the norm violator herself expressing the validity of the norm, such as with shame or self-punishment. Here subjective rights are not foregrounded as much as integration into societal ordering relationships. This also prevents a society from being destroyed by the violent representation of its laws, but the development takes quite a different course.

4.4.4 The procedural order of the judicial system

One example of how law can develop when it is primarily the responsibility of the aggrieved party to represent the validity of normative expectations can be found in Achter (1951), who treats the transition to the procedural, judicial enforcement of law, Girard's third form of the channeling of violence. The development Achter describes is based on the monopolizing of the use of violence, which Elias ([1939] 2009) characterized as a central component of the European process of civilization. Incipient centralization made it possible to "secure the peace" by consolidating the possibility of using violence with the central ruler. The ruler's power to exert violence allows him to posit law himself and to guarantee its enforcement. The administration of justice is assigned to a court with the authority to determine the facts of the case, identify the guilty party, hold him responsible as a subject, and punish him (Achter 1951; Lindemann 2009b:chap. 3). This procedural structuring of violence relieves those involved from their duty to themselves represent the legitimacy of normative expectations by means of a violent act. The representation of the validity of law, however, is still violent and takes place in a violent procedure before thirds that Foucault calls "the spectacle of the scaffold" (Foucault [1975] 1995:32). Law buttressed by a central power and judges rendering verdicts in legitimate trials create the conditions for a distinction between is and ought. I read Achter's study as an indication of a connection between the development of a central power and the ethicization of law. The latter refers to the attribution of the crime to the perpetrator and its judgment in moral terms. It is because the perpetrator did not act how he ought to have acted that he must be punished.

In ethicized criminal law, the symbolic aspect of violence becomes less important for the everyday structuring of the relationships between embodied action centers. A violent representation of law is no longer the responsibility of the aggrieved party, but is restricted to the violent and public punishment enacted by the central power. This also allows for violence

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY – https://www.nomos-elibrary.de/agb

to be rationalized in a non-normative way, including the aesthetic or technical rationalization of the means of injuring and killing.[95] A seemingly paradox rule follows from this. The less the symbol of violence immediately dominates the relationships between embodied action centers, the more likely it is that the means of killing and injuring will become rationally perfected. It is easier in pacified societies to learn how to injure and kill more efficiently.

4.4.5 The procedural order of the non-violent representation of law

A procedural order not taken into account by Girard is the almost exclusively procedural representation of the validity of law which characterizes modernity and which is built upon the judicial ethicization of law. Court trials in a constitutional democracy largely dispense with violent representations of law; offenders tend to be treated non-violently; and violent punishment—confinement—is not represented before thirds, but is for the most part kept out of view. In the United States, "the people" fulfill the role of petitioner in criminal trials ("the people vs. accused x"), but the act of violence, confinement, is not represented before the people (see, on this transition, Foucault [1975] 1995). It could even be claimed that modernity is characterized by a development of trust in non-violent communication (Reemtsma [2008] 2012). As a result, violence loses even more of its function as a representation of the validity or legitimacy of law, its symbolic nature recedes even further, and the consequences described above become even more radical. Violence becomes a fascinating aesthetic phenomenon and the technical rationalization of the means to injure and kill also increases considerably—to the point of a possible destruction of the planet. This makes it seem as if violence is no more than a tool to be administered in an instrumental or value-rational way.

The fourth, that is, the modern procedural order, developed in the transition to modern, horizontally differentiated society as the dominant procedural order and implies a paradoxical understanding of violence. While it still holds here that violence can only be exerted within the social sphere, the social sphere at the same time is supposed to be violence-free, with violence understood as the exclusion from the social. This understanding of

95 Aesthetic rationalization includes, e.g., athletic aestheticized violence in ancient Greece, gladiator fights in the Roman Empire, medieval knights' tournaments, and the modern aesthetics of combat sports.

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY - https://www.nomos-elibrary.de/agb

violence corresponds to the differentiation structure of modern sociation into substantively specified communication and action contexts such as economy, politics, science, and so forth. From the perspective of reflexive institutionalization, such contexts are formed by higher-level generalizations of meaning, i.e., by discourses, that describe institutional contexts as meaningfully connected in a way that is relevant for institutional procedures. Within the framework of this kind of differentiation, social persons are sociated in a logically twofold way: on the one hand, as human beings they are the institutionalized element of sociation (Lindemann 2018:101ff) and, on the other, they are as such also sociated in different sub-universes. In order to preserve the overall structure of a plurality of sub-universes, none of these contexts should completely monopolize a human being's horizon of experience (Lindemann 2018:316ff).

It thus becomes clear why violence is seen as the exclusion from the structure of modern sociation: victims of violence in particular are completely monopolized in their experience and thus structurally excluded from the substantively differentiated form of sociation. But this is only perceived as a problem because human beings are, precisely, not supposed to become totally monopolized by individual institutional contexts or certain procedures. It is the criticism of violent exclusion that makes clear the presupposition of a basic inclusion. Violence can only be done in a criticizable way to those against whom violence ought not to be done, that is, to human beings (see, e.g., Butler [2005] 2008:49). The criticism of violence expresses its inclusivity.

In a society that is horizontally differentiated into different institutional contexts, violence becomes a thoroughly problematic event that is not supposed to occur. Violence is only supposed to take place on the margins of society, and in such a way as to be "pure" or "legitimate" in Girard's sense ([1972] 2005:25ff.). This kind of violence is superior; its goal is to make violence superfluous. Pure violence sees itself as the ultimate and conclusive use of violence in the service of sociation, which will then continue to take place without violence. Pure violence is always "mandated violence" (Reemtsma [2008] 2012:104); in principle, the modern state is the entity authorized to exert it. This understanding of the modern procedural order of violence necessarily gives rise to an argument over what violence is and what should be considered illegitimate behavior. In modernity, all violence apart from pure violence is considered normatively reprehensible and calls for criticism. It thus becomes highly problematic to describe events as violent, as this implies the necessity of normative criticism. Successfully labeling certain events as violent imputes a normative consensus

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY – https://www.nomos-elibrary.de/agb

that state-exerted, i.e., pure, violence must put an end to the violence being criticized.

The analytical potential of the reflexive understanding of violence presented here can be explicated by looking more closely at the argument over how violence should be defined. The analytical distance created by the reflexive understanding allows us to see parts of the sociological discourse around violence as integral components of the phenomenon they purport to analyze. The debate over Galtung's (1969) concept of structural violence is explicitly a debate about what can meaningfully be called violence (see, for instance, Trotha 1997; Schroer [2006] 2016). While Trotha (1997) makes the case for a narrow concept of violence, Schroer ([2006] 2016) advocates a broad one, arguing that sociology cannot otherwise articulate a criticism of society.

From the perspective of the understanding of violence I am putting forward here, the debate looks like this: if, for instance, it were possible to identify as violence the fact that children die of malnutrition even though they could be adequately provided for, it would become imperative to use state violence in order to put this violence to an end. It is true that such an understanding of violence would have an exclusively sociopolitical character (Trotha 1997:14), but this accusation applies equally to critics of a broad understanding of violence. Every argument over whether or not a particular phenomenon constitutes violence participates in society's negotiation of what should explicitly be considered violence and thus be deemed illegitimate. The institutionalized discursive negotiation process over what should be considered violence is part of the modern procedural order of violence.

Keeping in mind the notion of mediated immediacy, it is vital to include this discourse in our understanding of violence. It is these discourses that legitimize or delegitimize, and thus steer, the immediately functional use of violence. According to the modern procedural order of violence, defining a phenomenon as violent prompts the call for legitimate violence as the violence to end all violence. Herein lies the implicit motive of Galtung's proposal. He himself writes that the words "structural violence" can be replaced by the words "social injustice" (Galtung 1969:171). While he does not explicitly state the advantage of referring to structural violence, it is evident that it becomes more urgent to put an end to something by means of state violence that has legitimately been defined as violent.

It is unlikely that starving children would be considered victims of violence today, although there are marginal discourses that do claim this. We should consider, however, that in the 1950s the institutional performance

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY – https://www.nomos-elibrary.de/agb

of marital duties was unlikely to be seen as containing sexual violence. In today's view, sex without the consent of both partners is considered violent, including within marriage, and it appears problematic to us that this was not so in the 1950s. In the same way, it may be that in the future it will have been an act of violence that children died of hunger.

Thus instead of becoming involved in the debate surrounding narrow or broad definitions of violence, it seems more useful to ask whether states of affairs described by a broad concept of violence can be identified as violent from the perspective of a mediatedly immediate understanding of violence. Galtung himself proceeds from the perspective of the victims of violence, who objectively suffer from their inability to realize the possibilities available in a given society. Both of his examples as well as his operationalization of the concept of structural violence at the end of the book (Galtung and Höivik 1971:73ff.) foreground those suffering from illness or malnutrition, particularly children, who indisputably suffer from pain, hunger, and thirst. For Galtung, this suffering constitutes structural violence if it was brought about by institutional action sequences performed by human beings and if it could be avoided by changing the structure of institutional action sequences.

It is the task of peace studies, Galtung argues, to connect the dots here. If a connection between perpetrator and victim can be meaningfully communicated in the field, children dying of starvation would be an instance of violence. If there is no connection between institutional procedures and the death of children, we cannot speak of structural violence. There is an implicit insistence here that the perpetrators who cause the starvation have to be human. The difference between those who kill by means of direct violence and those who do so by means of structural violence has to do with whether they are connected to their victims by shorter or longer action sequences (Galtung 1969:178). Identifying the institutional event chain is to pinpoint a "violence channel" (Galtung 1969:178). Those benefiting from the institutional structure or who actively sustain it become, from Galtung's observer perspective, users of violence. Societally speaking, this occurs at the moment the identified institutional event chain (a world trade order, for instance), is widely enough recognized for those concerned to be aware of the murderous nature of their institutional acts. From this point onwards, their killing is at the very least due to negligence, if not premeditated, and their actions should be seen as a form of violence that must be stopped by the use of legitimate state violence.

This understanding of violence is indeed compatible with the concept of violence as mediated immediacy. The immediate, embodied suffering of a

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY – https://www.nomos-elibrary.de/agb

starving child would then be conceivable as the embodied effect of violence, provided that an institutional functional chain has been identified as a violence channel. From this point onwards, perpetrator and victim are identifiable as embodied actors connected to each other by such a channel. That is to say: if we assume that sociation takes place as a process of reflexive institutionalization, the execution of institutional procedures is carried by embodied actors. If the connection between perpetrator and victim has been discursively generated, the execution of individual, immediately occurring, institutionally mediated procedures contains the knowledge that they are structurally deadly. It is institutional procedures carried by embodied actors that force starving children into a powerless, institutional position that affords them only immediate suffering or death. Whether this concept of violence is too broad is not a question that can be meaningfully answered from the observer perspective. It can only be decided what effect it has or would have if such an institutional event chain were to be legitimately described as violence.

The logical structure of this argument can be illustrated with an example where technically mediated rather than institutional event chains are identified as violence: imagine a huge desert area, thought to be uninhabited, that serves as an army test site for bombing from high altitudes. However, the desert is not in fact uninhabited, but is populated by an ethnic group that lives underground. The bombing repeatedly leads to deaths in the group. As long as the military is able to convince the public that the area is uninhabited, the bombing does not constitute violence. If, on the contrary, the event chain between the bombings and the deaths among the desert population is identified, the bombing comes to constitute violence. It is then the case of embodied actors using violence against other embodied actors, which the latter have to suffer. Here we have a technical event chain between perpetrator and victim. As long as the technical event chain does not affect beings who count morally, there is no violence. If, on the contrary, it affects beings who do count morally, it is generally considered to be a case of violence. Galtung's concept of structural violence applies this notion to institutional event chains.

As long as it has not been established that the institutional event chain constitutes a violence channel, structural violence is at most *suspected* of constituting violence without the possibility of treating it as such, i.e., without the obligation of confronting it with legitimate violence. Perhaps structural violence of this kind could be described as pure violence par excellence: it chronically forces its victims with their waning embodied resis-

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY – https://www.nomos-elibrary.de/agb

tance into a low institutional position without the possibility of identifying it as violence.

4.4.6 Methodological implications of a reflexive concept of violence

It is in this way that the concept of violence I am proposing here takes a position on whether a narrow or broad concept of violence is appropriate. A narrow concept of violence ties violence to an immediate physical interaction. Popitz ([1986] 2017), Sofsky ([1996] 2001), and Collins (2008) all prefer this definition. Galtung's (1969) concept of structural violence paradigmatically formulates a broad understanding of violence. According to this understanding, violence does take place in immediate, embodied interactions, but there are also forms of indirect, that is, structural violence, such as when societal structures impair the development of beings recognized as persons or their ability to live healthy lives. According to Galtung, an instance of violence would be a situation in which malnutrition is not prevented although it would be possible to so.

A reflexive concept of violence invites us to exercise restraint as regards the choice between a broad or narrow concept of violence. The (self-) definition of events or experiences as violence is itself part of the phenomenon to be analyzed. A concept of violence that determines from an observer perspective how to understand it no longer measures up to the field-internal reflexivity of the mediated immediacy of violent phenomena. Violence is always, at least in part, a rationalizing discourse about whether an event should be described as violent or not. Understanding violence in this sense as mediatedly immediate has important methodological consequences for its study. It allows us to look at violence both from the perspective of the immediacy of embodied experience, working out its mediatedness from there, as well as from the perspective of the mediatedness of violence, factoring in the immediacy of embodied experience in a second step. These two perspectives serve as each other's correctives.

Approaching the phenomenon from the perspective of mediatedness would initially foreground discourses around violence. The analysis here would take place on at least the third step of reflexive institutionalization, primarily looking at discourses that identify phenomena as violent events (see for instance Koloma Beck and Werron 2013). Researchers would have to consider phenomena as violent that are identified unequivocally as such in the field as well as phenomena whose status is debatable. This methodological approach would compel researchers to read many contributions to

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY – https://www.nomos-elibrary.de/agb

the debate around violence in the social sciences and social philosophy, including critical pieces, as operations in the field of violence. From the perspective of a reflexive understanding of violence, texts that determine violence from the observer perspective or that criticize a too narrow or too broad understanding of violence would be read less as analytical contributions and more as assistance in the quest to identify possible violent phenomena in the observed field.

In order for a violent phenomenon identified discursively in the field to also be considered as such from the analytical perspective, we must ask whether it can be reconstructed from the perspective of immediacy. What I mean is the following: once a phenomenon has been discursively identified as violence, it can only be considered as such from the observer perspective if it can be shown that there are immediate, embodied events that can be held to be realizations of the described phenomenon. It would thus have to be asked whether

a) ego and alter are involved in a monopolizing, antagonistic, embodied interaction (imposed/suffered) that
b) serves to represent the validity of normative expectations
c) with the expectation that thirds will legitimize this and
d) that the violence will push alter ego into adopting an institutional position or force him out of his assumption of an institutional position.

Exclusively looking at phenomena that have been discursively identified as violence in the field, or whose status as violence has been problematized in the field, runs the risk, however, of identifying legitimate violence not as violence but as the legitimate form of the creation of order. As long as it is uncontested, the violence that is recognized as violence to end all violence is seen as legitimate, as pure violence (Girard [1972] 2005:23f.). Particularly in modern society there is a tendency to refer only to illegitimate violence as violence. If scholars rely exclusively on the discursive identification of violence in the field as their search mechanism, they run the risk of repeating the field's blindness to legitimate violence in their analyses. The possible invisibility of legitimate violence thus makes it necessary to conduct a search in the opposite direction, starting from the immediacy of violence.

A fictitious example will serve to clarify: married couples in the 1950s may have assumed that it was not a case of violence when he enforced the fulfillment of marital duty, i.e., sexual intercourse, against her resistance. Performing the act of sexual intercourse may have been an event that was considered, including by the parties involved, to be an integral part of the institutional processes of a marriage. Exclusively using the discourses in

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY – https://www.nomos-elibrary.de/agb

the field as a search method would lead researchers to overlook this case of possible violence.

Pretending for a moment that we could travel back in time, we can develop the following case. Even without it being discursively identified as violence, a time-traveling external observer still perceives the performance of marital duty on November 26, 1955, as violence. It is an instance, in any case, that satisfies the criteria of the concept of violence laid out above: there is an antagonistic embodied interaction in which the two jostle with each other and he overcomes her resistance, forcing her into the symbolic and institutional position of a wife obliged to fulfill her duty. Since the consent of thirds is assumed by those involved, this is a case of legitimate violence. Thus the external observer identifies a phenomenon as violence against the explicit view of the field. This, however, can only be the first step; in a second, the observer would have to look for indications that the event is identified as violence in the field. Perhaps there are conversations between friends complaining to each other about their marital suffering or soothing words of a mother explaining to the young wife that that's just how men are; she'll have to put up with it. In the first case, the friends institutionalize an action sequence, e.g., meeting for coffee, in which it is legitimate to identify the fulfillment of marital duties at least in part as violence. In the second case, the right to complain about illegitimate violence is delegitimized by the mother. Observers finding out about things of this sort from diaries, for instance, would have initial discursive indications of the fact that the fulfillment of marital duties was also discursively or communicatively identified as violence. If no such indications are found, it must remain an open question whether there was in fact no violence here or whether it was a case of legitimate violence that could not be discovered at the time.

Understanding violence in this way as mediatedly immediate shows that it is impossible to isolate violence as a phenomenon and to identify it as an immediate event from the observer perspective. Rather we must analyze violence in the context of its rationalizations, legitimations, or delegitimations as mediated by thirds.

Summary

Violence is understood here according to the principle of mediated immediacy. This has the effect of expanding the field of research, as there is no such thing as exclusively immediate violence this side of institutions. The

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY – https://www.nomos-elibrary.de/agb

immediate exertion of force against bodies is only violence if it is directed at bodies institutionally recognized as social actors. The pull of immediacy generated by the descriptions of Sofsky ([1996] 2001), for instance, presupposes the institutional boundary establishment between legitimate social persons and other entities. If the human victims of violence in his descriptions were replaced by mice, they would not affect a modern reader in the same immediate way. Adherents of the mouse totem, on the other hand, might be affected similarly to how we moderns are when confronted with human victims of violence.

Giving up an exclusive focus on the immediacy of the violent event allows us to see that, and how, violence should be understood as an institutionally and tertiarily mediated, immediate, antagonistic, embodied relation. This does not negate the immediacy of embodied relations to the environment, but rather accentuates the fact that immediate, embodied relationships to the environment are institutionally mediated. This communicatively frames the violent event and makes it communicative itself. I refer to all of the institutionalized symbolic mediations in a given context as its procedural order of violence. It is in the framework of such a procedural order that it is determined how the boundaries of the sphere of social persons are drawn, whether involved embodied action centers are addressed as dividuals or as individuals, how an event can be identified as violent, and how the validity of normative expectations is to be represented. In the final chapter I show how the procedural order of the judicial system and the modern procedural order have an individualizing effect, while the procedural order of reciprocity, in particular, is associated more with an institutional preference for dividualizing sociation.

Since violence can only be identified as such within the framework of a procedural order, the analysis of violence must necessarily adopt a two-pronged approach. In accordance with the principle of mediated immediacy, we must on the one hand consider embodied immediacy, antagonistic conduct and suffering, and on the other the institutionalized symbolic as well as the technical mediations at play. Only within the framework of an analysis of communicatively rationalizing procedural orders can violence be understood, for it is only within the framework of a communicative procedural order that a violent event can be identified as such. Empirically it is a matter of asking whether a particular sociation context contains only one or several competing or coexisting procedural orders of violence. Black (1983) and others point out that modern societies are characterized by competing procedural orders of violence. An analysis of a social context must therefore include a consideration of what procedural order of vio-

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY – https://www.nomos-elibrary.de/agb

lence is relevant for the maintenance of normative expectations in this context and what relationship this order has to other procedural orders. There is a procedural order of violence in a nursing home as well as in a family, a business, or a military barracks. It is an open question what their relationship to each other is and what relationship they have to the modern procedural order buttressed by the state/the law, considered by many social scientists to be the only valid one.

This reflexive understanding of violence also leads to a new perspective on the debate surrounding a narrow or broad concept of violence. This debate should be analyzed as a component of the modern procedural order of violence; in other words, this debate is part of the field to be analyzed. The understanding of violence I am proposing here is an attempt to establish a sufficient analytical distance to my object of study. This distance allows for a more precise distinction between the use of violence in the field and its analysis.

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – (cc) BY - https://www.nomos-elibrary.de/agb

https://doi.org/10.5771/9783748922124-231, am 21.08.2024, 09:20:36
Open Access – [CC BY] - https://www.nomos-elibrary.de/agb