

***Anti-Foundationalism, Deliberative Democracy,
and
Universal Human Rights***

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In this paper I shall argue that an approach to liberalism that combines an anti-foundationalist epistemology and a deliberative democratic stance enables us to alleviate the tensions between the universalistic claims of Human Rights and the particularistic claims to autonomy coming from different cultural, ethnic, religious or linguistic groups, which are exacerbating as a consequence of the processes of global integration and fragmentation. It thus enables us to trace a multicultural path to cosmopolitan democracy.

Before being able to appreciate the desirability of anti-foundationalist deliberative liberal democracy I need, however, to illustrate both the viability of an anti-foundationalist conception of knowledge that rejects the possibility to give absolute foundations to our norms and practices and the normative framework of the liberal democratic outlook that is here put forward.

The paper will deal first with the viability issue by giving a sketch of what I consider to be the most plausible conception of normativity, and defending it from the criticisms of epistemological and political unviability. I shall then turn briefly to describe the main traits of the political outlook which I favour, deliberative liberal democracy, and highlight its virtuous relationship with an anti-foundationalist epistemology. We will thus be able to understand why I maintain that an anti-foundationalist deliberative democratic approach to liberalism can help us accommodating the growing cultural clashes associated with contemporary pattern of globalization and in particular the tensions between universal Human Rights and cultural diversity.

Anti-foundationalism

Addressing the viability of an anti-foundationalist epistemology, and thus of an anti-foundationalist approach to liberal democracy, requires showing both the epistemological and political viability of a conception of knowledge that rejects the possibility to give absolute foundations to our norms and practices.

Defending the epistemological viability of anti-foundationalism amounts to defending it from the charge of radical relativism, that is

of endorsing the view that nothing can be said to be true or false, good or bad, any longer, or, equally, that anything goes, thereby, compromising the normative force of our critical faculties. Defending the political viability of anti-foundationalism amounts to defending it from the charges of vicious ethnocentrism, that is of opening the door to any kind of illiberal and oppressive practice or course of action.

As for the epistemological viability I believe we can break free of the cognitive dilemma between foundationalism and radical relativism by distinguishing between *universal grounds for* and *universal scope of*.

Normatively, we will thus be able to appreciate that the universalistic normative force of our norms and practices remains uncompromised by the acknowledgment of the ultimate circularity of our justifications.

This is what I believe to be the main lesson to be learned from the anti-foundationalist conception of normativity and rationality emerging from the works of the neo-pragmatist philosophers who in the last thirty-odd years have best developed the anti-metaphysical and anti-skeptical arguments first elaborated by the founding fathers of American pragmatism – Charles S. Peirce, William James and John Dewey – and by the second Ludwig Wittgenstein, namely Donald Davidson, Richard Rorty, Hilary Putnam and Richard Bernstein.¹

The starting point of this conception is the claim of the grammatical impossibility of the metaphysical project to reach ‘the point of view from nowhere’². Namely, the impossibility of the foundationalist project of metaphysics is considered to be inherent to the very concept of reality towards which it aims in its search for certainty. The epistemic assurance which metaphysics has always sought would consist in fact in a reality that, by definition, is placed beyond our cognitive reach, for it is supposed to be a reality beyond and independent of our particular beliefs and values. Hence, it is the very foundationalist conception of the justificatory ground for our practices and beliefs the source of the radical relativism that corrodes the normative force of our critical faculties.

The result of the rejection of the metaphysical epistemological framework is a volitional conception of knowledge and rationality that avoids the dangers of radical scepticism by placing the source of normative authority in that same dimension of practice, laden with our values, needs and interests, which foundationalists attempt to transcend. This is a conception of normativity that acknowledges that our principles and practices ultimately rest on some ungrounded set of fundamental – yet not foundational – beliefs and values, without considering this as an impediment to the exercise of our reflective and critical faculties, to the formation of more or less precise ideas of what is right and wrong, better and worse in any circumstance of our lives.

Hence, the fact that we have no universal ground for our particular moral and political views and practices – e.g. no transcendent conception of human nature or moral law to justify universally our conceptions of human rights and justice – does not mean that we cannot or should not hold them to be valid, and thus apply, universally. This is what I consider to be the truth in universalism. Claims of human rights, as any normative claim, are indeed universal, but their universality is culturally grounded, not metaphysical. Normative claims are universal in *scope* not in *ground*. *Metaphysical* neutrality thus does not entail *normative* neutrality.

The other epistemic side of this cultural universalistic coin is the truth in cultural relativism. This does not lay in the corrosive claims that we cannot criticize another point of view or culture any longer, or that anything goes, but, simply, in the Wittgenstein recognition that the chain of our justifications must end somewhere, on some contingent set of values and beliefs that cannot non-vacuously be said to be either true or false, right or wrong, since they are our very criteria of truth and right. Yet, they *are* criteria of truth and right, and as such are universal.

Critics of such a cultural universalistic epistemology at this point usually turn from the charge of relativism to that of ethnocentrism. With this charge they intend to accuse anti-foundationalism of opening the door to any kind of oppressive and illiberal conducts, and thus for intensifying cultural conflict, as they believe that anyone would now be legitimated to impose her or his own view of fundamental rights, the good and the requirements of justice.

This critique of political undesirability, however, fails to grasp the crucial distinction between *epistemic* legitimacy and *political* or *moral* legitimacy. Anti-foundationalism confers epistemic legitimacy to circular justifications, yet it does not politically or morally legitimize as a consequence any perspective or practice. The charge of ethnocentrism is a moral and political critique, while the ethnocentric dimension of anti-foundationalism is exclusively of an epistemological order.

Of course, to say that anti-foundationalism is morally and politically neutral is also to deny that it entails liberal democratic principles and practices. However, the question we need to address in order to grasp the virtuous relations between anti-foundationalism and liberalism is not ‘why should an anti-foundationalist *care about* human rights or multiculturalism?’, but the less demanding one ‘why should anti-foundationalism *matter to* a liberal and multicultural society?’ While from an anti-foundationalist perspective there are no conclusive reasons why anyone should abide by liberal democratic

principles and practices rather than behaving in oppressive ways, I maintain that there are good reasons to believe that the fuller realization of the liberal project would be facilitated by the spreading of anti-foundationalist awareness. Before turning to consider the desirability of anti-foundationalism from a liberal point of view I need however to outline briefly my view of the normative requirements of a genuine liberalism.

Deliberative Democratic Liberalism

The liberal tradition cannot be considered the expression of a clearly defined project characterized by a precise and unquestioned set of values, beliefs, norms and institutions and their interpretations and applications. There has always been disagreement amongst supporters of liberalism on the defining characteristics of its political and moral project, on the content and relative priority of its central values of freedom and equality as well as on the form of the practices and institutions that should implement them.

My particular reading of liberalism is centred on the appreciation of the equal dignity of all human beings, and on a conception of human dignity centred on people's capability to conduct an autonomous life. I take personal autonomy, not in its negative meaning as the absence of external constraints to one's freedom of choice and action, but in the positive sense of being, as much as it is reasonably possible, in control of the circumstances affecting one's own life. This appreciation of personal autonomy as a fundamental human right leads us directly to the deliberative democratic principle of political legitimacy according to which only those norms and practices can be deemed politically legitimate which are the result of *free* and *fair* processes of public decision-making that include *all* who will *significantly* bear the consequences of their implementation.³

Of course, the problem faced by any such procedural conception of democratic decision-making is that in order to start deliberating on issues of common interest people should come first to an agreement on the terms and rules of deliberation, on the criteria of 'free' and 'fair' conditions of public discourse as well as on the boundaries of the legitimate *demos* admitted to participate in decision-making. Nevertheless, these being issues of public interest, they should be resolved exactly by means of those very free, fair and inclusive procedures of collective deliberation that guarantee everyone's autonomy and that, yet, are the very object of dispute. Unless, of course, we are in the grip of a foundationalist epistemology, in which case we will subordinate the terms and conditions of democratic decision-making to philosophical investigations on the preconditions

of freedom, equality and a democratic community.

From an anti-foundationalist perspective, however, the solution to this infinite regression of democratic deliberation requires shifting from theory to practice; to acknowledge, that is, that we must start from the contingent set of principles and practices we are currently immersed in, muddling through towards improved practices and principles of democracy with the exclusive guide of our contingent convictions. Yet, the practices by means of which we shall try to solve the legitimacy impasse of establishing democratically the terms and conditions of democratic decision-making, if they are not already exclusive and contested, will soon or later exclude someone and be contested.

This consideration takes us to what I regard as the vital condition for a genuine liberal democratic society. In order to give equal consideration to the voices of all those relevantly affected by public decisions, and thus avoid risking that legitimate claims to freedom, equality and fundamental rights are left unheard, unacknowledged and unsatisfied, a political community should be ready to keep open to public discussion and revision the outcomes of its deliberations as well as its most fundamental assumptions, namely, its procedural rules, its conditions of political membership and the content of its constitutional rights, as well as their practical implementations. A genuine liberal democratic society should, therefore, conceive of itself as a self-reflexive community committed to the never finished project of devising, in the light of its members' contingent convictions, the most appropriate institutions and principles for the respect of everyone's autonomy.⁴

It is by reflecting on this self-reflexivity condition that we can appreciate how the requirements of genuine democratic deliberation make anti-foundationalism a desirable, if not necessary, epistemology.

Anti-foundationalism and Deliberative Democracy

In fact, the self-reflexivity principle should not be taken as standing on the anti-foundationalist predicament and thus as a way of coping with a social consequence of imperfect human cognition, but must be taken instead as a central and vital part of what the liberal values of equality and freedom themselves command in a society dominated by the fact of pluralism. The self-reflexivity principle must be taken as standing on the priority accorded to the respect of individual autonomy over any other consideration, even foundationalist ones. Indeed, it is a requirement of a society fully committed to the respect of the

autonomy of all its members that it should avoid conceiving of its particular practices and institutions as just *sub specie aeternitatis*, and thus immune from revision, even if foundationalism were a feasible project. Such a society, so to speak, would urge God himself, or its representatives, to sit at the all-inclusive and self-reflexive table of free and fair public conversation and deliberation

This ultimately means that an anti-foundationalist awareness is particularly suited for a democratic liberal culture because, denying that any particular practice has an absolute epistemic authority over all the others, as well as reminding us of the contingency of our convictions and practices, and thus that every consensus reached is only a temporary resting-point prone to turn into oppressive *status quo*, it removes the obstacles to the free questioning of received opinions and institutions and to a fair consideration of all points of view, and exhorts democratic liberals to keep the outcomes and procedures of collective deliberation open to dissent and revision, thereby enabling the fuller realization of the ideal of equal respect for the autonomy of every human being – included the freedom to epistemological error. Foundationalism, instead, with its idea that there is a particular point of view that ought to be given absolute authority because of its correspondence with the metaphysical order of things compromises the realization of free and fair conditions of inquiry and conversation; it closes the conversation, even the conversation within liberalism itself, thus betraying what I have claimed to be the central value of a genuine liberal democratic society, namely the permanent openness of collective deliberation.⁵

The priority accorded to individual autonomy over foundational considerations points to another way in which an anti-foundationalist conception of normativity is particularly suitable to the deliberative democratic project. In fact, by affirming that a democratic resolution of multicultural conflicts requires replacing *reasonable conversation* for both *rational confrontation* with a reality beyond humanity and *violent confrontation* with our fellow human beings as means of accommodating diversity and managing conflict, the deliberative liberal democracy embraces the same view of the nature of moral and political conflict advanced by anti-foundationalism. It makes us acknowledge, in fact, the anti-foundationalist point that the problems deriving from the plurality and conflict of points of view and traditions – in fact from any normative conflict – must be seen as of an evaluative order, not a cognitive one; as appealing, not to our cognitive faculty to look at how things *really* are and should be, but to

our moral and political sensitivity and commitment.

We can thus say that anti-foundationalism is beneficial for liberalism, not only because bringing the source of normative authority back to people's individual assent eliminates the epistemological obstacles to the realization of the anti-authoritarian and egalitarian liberal democratic project, but also because bringing to the fore the volitional nature of political and moral conflict helps us facing our responsibility in the creation and support of a liberal culture that makes the respect of everyone's autonomy its central value. It makes us realize that there is no other way to guarantee a free and equal setting for every point of view except by engaging ourselves in the difficult and never-ending effort of bringing into existence and fostering the right institutions, values and sensibilities for a just society of free and equal persons.

It is this combined recognition of the volitional nature of normative conflicts, and of self-reflexive and all-inclusive collective deliberation as the only acceptable means to manage them, that enables anti-foundationalist deliberative democracy to alleviate the tensions between cultural and individual particularism and the universality of human rights.

The Desirability of Anti-foundationalist Deliberative Democratic Liberalism

Turning then to the main contention of this paper I pass now to illustrate how a non-cognitive and deliberative approach to liberal democracy, whether applied within a multicultural state or in the international arena, permits us to mediate between the universalistic aspirations of human rights and democracy and cultural particularism. I maintain that it can achieve this by enabling us to bypass two main obstacles in the way of a peaceful and reasonable resolution of cultural conflict. These are at the same time the two opposed epistemological positions that keep swinging the pendulum between foundationalist universalism and cultural relativism. I am referring to the foundationalist appeal to transcendental authority – be it in the form of the Will of God, the Essential Nature of Human Beings, or the Force of Reason – and the no less essentialist cultural relativist appeal to cultural authority – the authority of the *Ethnos*, intended as a homogeneous and static whole, a natural object.

The rhetoric of moral necessity and cultural tradition are two important factors behind the exacerbation of cultural conflicts as well as behind most violations of liberal principles and internationally recognized human rights. The foundationalist rhetoric is behind most of the imperialist and oppressive practices that human history has witnessed and is continuing to witness including those conducted in

the name of freedom and democracy itself. The cultural relativist rhetoric is behind most of the violation of human rights that – alas! – are undertaken under the liberal and multicultural banner of the collective rights to self-determination and cultural diversity.

By breaking free of the foundationalism/relativism standoff, a deliberative democratic approach to political legitimacy opposed to any foundationalist conception of normative authority, as well as to any essentialist conception of culture, will consider legitimate only those practices and policy proposals which are responsive to the autonomous will of the people who will bear the consequences of their implementation, and not those that correspond to alleged noumenal or cultural truths. It will thus help us depriving of epistemic and political credibility the attempts to rationalise and justify oppressive and imperialist practices and policies either through the foundationalist rhetoric of moral obligation and universal truth or the cultural relativist rhetoric of cultural tradition and authenticity, thus helping us to bring back political and moral decisions into the arena of public reasoning.

An anti-foundationalist deliberative democratic approach, therefore, by emptying of epistemological credibility the foundationalist and cultural relativist manipulation of the liberal discourses of universal human rights and cultural self-determination, and placing the respect of individual autonomy above any epistemological or metaphysical consideration, will contribute significantly to the effort of bringing the crucial questions affecting people's lives, included the interpretation and application of human rights and democratic principles, back into the arena of free and open public confrontation and deliberation, and away from the disenfranchising hands of God, Nature, Reason, Culture, or, in fact, the vested interests which hide behind them. It will thus contribute both to bring about the enabling conditions for the fuller realization of the liberal democratic project, i.e. free and open spaces for deliberative civil society, free and vibrant public spheres, at all levels of human organisation, as well as to restore and win people's trust in the ethics and politics of human rights and multiculturalism.

In particular, it will enable us to save the valuable principles expressed in the body of international human rights treaties and conventions, as well as in liberal democratic constitutions, from the discredit that has been brought on them by those who appeal to them as a smokescreen for the pursuit of vested interests and expansionist policies, as well as by those who, unwilling to abide by those principles, strategically use as justification of illiberal practices the criticism that can *only* be made of hypocrite liberalism or liberal

fundamentalism, namely, the criticism that, as Sami Aldeeb puts it, 'human rights are used as a political instrument and not at all as a guarantee for the respect of human rights.'⁶

If, on the one hand, the rejection of universalistic and cultural essentialism makes us wary of any attempt at interfering with the autonomy of individuals and communities that is not carried out in respect of the universal respect of individual's autonomy, on the other hand, our previous rebuttal of the charge of radical relativism makes us appreciate that there is no principled reason preventing liberal democrats from intervening in the internal affairs of an oppressive state or a community, even if the standards of moral and political legitimacy to which they would resort to justify their intervention cannot be justified in a non-circular way. We must, in fact, insist that to acknowledge the ethnocentric epistemological character of our most cherished moral persuasions does not deprive them of their normative bite, nor does it deprive us of the rational defences against what we consider as threats to our most valued principles and practices, let alone of the possibility to resort to forceful pressure.

Surely, there is no blue print from which to derive the concrete policies that deliberative liberal democrats should endorse to deal with illiberal states, communities and individuals, just as there is no blue print for the concrete realization of the liberal democratic project in general. The adequate courses of actions will have to be hammered out case by case, by hunch and compromise, taking into consideration issues of feasibility and convenience as well as questions of justice. Yet, the fundamental principle that should guide deliberative democrats will have to be, of course, that of giving priority to free, fair and inclusive self-reflexive discursive practices of conflict resolution and collective decision-making over violent, distorted, exclusivist or dogmatic ones. And, from this deliberative democratic commitment we can derive as a corollary the further commitment to resort to force exclusively on the basis of a transparent collective evaluation of both the alleged human rights violations perpetrated and the full social impacts of an eventual military intervention, which gives due weight to the voice of all sectors of the society directly interested, as well as all the other communities which will be affected, and with the utmost concern to restore genuine self-determination.

These guiding principles, thus, despite their generality, enable us to appreciate how the anti-foundationalist deliberative democratic approach to intra-state and inter-states multicultural conflict is centred on the commitment to empower individuals and communities through the fostering of an autonomous civil society at all levels of human organisation; and, accordingly, the commitment to subordinate the

implementation of international human rights standards and constitutional fundamentals to the autonomous acceptance and interpretation of the different communities – as far as this is consistent with the equal autonomy of other individuals and communities. It is exactly by remitting the last judgment on policy-choices to the result of a free, fair, and self-reflexive debate among all sectors of society involved, by fostering and strengthening a robust and unconstrained civil society at all levels of human governance, that we can accommodate universalism with cultural diversity, thus opening a multicultural path to cosmopolitan democracy.

Conclusions

I have argued for the viability and desirability of a political and moral position that combines an anti-foundationalist conception of normativity and a deliberative democratic reading of liberalism centred on the principle of all-inclusive and self-reflexive procedures of collective deliberation. As for the viability issue, I have illustrated how anti-foundationalism does not entail either corrosive relativism or vicious ethnocentrism. The argument for the desirability of anti-foundationalist liberalism has brought us to appreciate how such an approach represent the most appropriate way to accommodate cultural conflicts in accordance with the equal respect and concern for everyone's autonomy.

In particular, an anti-foundationalist and deliberative approach to liberal democracy can help us release the tensions between conflicting normative claims by depriving of epistemic and political authority the appeals to moral law and cultural tradition that so often have contributed to exacerbating cultural conflicts. It also offers us guidance in deciding which among conflicting social practices should be dropped and which should be given priority, by placing, as far as it is pragmatically possible, respect for individual autonomy above any other concern, and promoting those practices and institutional settings that foster the exercise of people's right to be master of their own life. It can help us, that is, to achieve what Susan Moller Okin describes as 'a form of multiculturalism that gives the issue of intra-group [and inter-group] inequalities their due – that is to say, a multiculturalism that effectively treats all persons as each other's moral equals'.⁷

Furthermore, anti-foundationalist deliberative liberal democracy can play a crucial role in restoring people's trust in, and strengthening people's commitment to, the ethics and politics of human rights and multiculturalism by saving them from the discredit into which they have been thrown by the often manipulative use of the rhetoric of moral necessity and cultural tradition to justify imperialist policies and

oppressive regimes. It can accomplish this by bringing the crucial questions affecting people's lives, included the interpretation and application of human rights, back into the arena of free and open public confrontation and deliberation, by empowering and strengthening civil society from the local to the global. Indeed, as Anne Phillips has observed from the other side of the anti-foundationalist deliberative democratic coin,

we always need the maximum possible dialogue to counter the false universalisms that have so dogged previous practice, as well as the 'substitutionism' that has allowed certain groups to present themselves as spokespersons for the rest.⁸

Anti-foundationalist deliberative democracy will surely not extinguish cultural and political conflicts, especially as these conflicts will reappear around the question of what are the essential conditions for the exercise of an autonomous life, and whose autonomy should be given priority. Yet, I believe it represents our best hope for civilising them, for replacing violent and deaf confrontation with peaceful and fruitful conversation across differences, and thus for starting building a common ground for cross-cultural debate and cosmopolitan citizenship.

1. See for instance D. Davidson: *Inquires into Truth and Interpretation* (Oxford: Clarendon, 1984); R. Rorty: *Objectivity, Relativism and Truth* (Cambridge: Cambridge University Press, 1991); H. Putnam: *Realism with a Human Face* (Cambridge, Mass.: Harvard University Press, 1990); R. Bernstein: *Beyond Objectivism and Relativism* (Oxford: Blackwell, 1983).

2. T. Nagel: *The View from Nowhere*. (New York ; Oxford : Oxford University Press, 1986)

3. I hasten to make clear that this principle is not grounded, as for Habermas and Apel, on a transcendental argument from the pragmatic presuppositions of rational argumentation, but rather it rests on the fundamental, ethnocentric, moral conviction that everyone should have the right to contribute on an equal footing to shape those collective decisions that will affect her or his life. Briefly stated, the problem with any transcendental justification such as Habermas's and Apel's is that it is unavoidably circular. It would work only if it could demonstrate that communicative action is the *universal* and *inescapable* presupposition of *any* kind of action we may be involved in; that is, that *whatever* we might do we are *always already* engaged in acts of mutual understanding guided by the deliberative democratic principle (Habermas's rule of discourse U). If we can resort to alternative forms of social behaviour to that of communicative action, as for example Habermas recognizes admitting of the possibility to turn to strategic behaviour, then, it does not matter how much the principles of a democratic and pluralist ethics of conversation are ingrained in such communicative practices, no analysis of their structures and pragmatic presuppositions could ever show us that we should recognize the obligation to commit ourselves to the ethics of deliberative democratic liberalism on pain of performative contradiction. According to anti-foundationalist deliberative democrats, non-liberals

sin against people's right to autonomy, not against Reason.

4. Amy Gutmann and Daniel Thompson have advanced a similar conception of deliberative democracy in *Democracy and Disagreement* (Cambridge, Mass. and London: Harvard University Press, 1996). See also Seyla Benhabib: 'Toward a Deliberative Model of Democratic Legitimacy', in *Democracy and Difference*, S. Benhabib ed. (Princeton: Princeton University Press, 1996); Joshua Cohen: 'Procedure and Substance in Deliberative Democracy', in *Democracy and Difference*; Iris Marion Young: 'Communication and the Other: Beyond Deliberative Democracy', in *Democracy and Difference*. Seyla Benhabib has recently re-stated the importance for democracy of keeping the public debate open with regard to the terms and conditions of democratic membership by elaborating the concept of 'democratic iterations'. See *The Rights of Others* (Cambridge: Cambridge University Press: 2004). Incidentally, the centrality of self-reflexivity for liberal democracy entails that the debates over the guiding values and institutional assets of a liberal society, as well as those over the very criteria for 'free' and 'equal' terms of collective deliberation and for democratic membership, must be considered as a vital part of the liberal democratic tradition itself.

5. Surely, even the concrete liberal democratic practices and principles that anti-foundationalists may endorse, no matter how close to the deliberative democratic ideal they might be, will always manifest some degree of conservativeness and exclusiveness. But still, anti-foundationalist awareness, as opposed to a foundationalist one, will not be *a priori* against possible reforms of the particular set of liberal principles and practices endorsed, even if it might not be able to ensure them or to make them any easier.

6. A.S.S.A. Aldeeb: 'Dialogue conflictuel sur les droits de l'homme entre Occident et Islam', in *Islamochristiana* n.17, pp.58-59. The point I want to raise has been well made by Bartolomeo Conti when he observes that 'it is unlikely that the universality of human rights will be able to show its [moral] power amongst the third world cultures [indeed any culture] as long as they will remain an integral part of a strategy of political, economical and cultural control of the West, used as an excuse to intervene in and interfere with other countries' B.Conti: 'Universality of Rights Tested by Cultures: Islam and Arab Declarations on Human Rights', in *Mediterranean Journal of Human Rights*, Vol.6 p.182.

7. S.M.Okin: *Is Multiculturalism Bad for Women?* (Princeton: Princeton University Press, 1999), p.131.

8. A. Phillips: 'Multiculturalism, Universalism and the Claims of Democracy'. Democracy, Governance and Human Rights Programme Paper number 7. (United Nations Research Institute for Social Development, 2001), at <http://www.unrisd.org/unrisd/website/document.nsf/0/62A0530438570AB3C1256BF30051CC19?OpenDocument>