

IDOLA IMPERII

Francesco Romeo*

Abstract. This paper identifies some weaknesses and lacks concerning the functionalist sociological theories, in order for being fully conceived as theoretical derivations of evolutionary theories. In particular, Gunther Teubner's functionalism is taken into consideration, as it embodies the closest junction with the biological theories. The reflexivity, the autopoiesis and the communication among systems, albeit partial, would allow to continue the theoretical autonomy of law from individuals as maintained by Luhmann. Such an autonomy leads, at least as a hypothesis, towards a direction contrary to the individual herself, indeed. This option would investigate a new direction for scientific discovery: if the reflexivity of law is original, this would also apply to primary norms, and from this it would be reasonable to conclude that primary norms also arise from the outset against the individual, against her freedom, and against her immediate calculation of utility. From this it follows that law introduces the unnatural principle of equality in social relations among men. This hypothesis would explain some otherwise inexplicable features of legality.

* Università di Napoli Federico II.