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HUMAN BEINGS BETWEEN ANIMALS AND POLITICS
LJUDSKA BIĆA IZMEĐU ŽIVOTINJA I POLITIKE

PREFACE

This special edition is devoted to the theme “Human beings between animals and politics”. In the last few decades, scholarly attention has by and large focused on the specific tension between natural and moral aspects of human being. Some authors stressed the naturalness of the *polis*. Some of them were inclined to call Aristotle a “naturalist”. On the other hand, some authors stressed the importance of *logos* and moral aspects of human being.

The authors here gathered relate in this way or another to the famous Aristotle’s idea about the political nature of human being. The subjects of their research concern the specific role of the term “by nature” on the famous Aristotelian definition of man, “the human being is political animal by nature”. Hence we could state that the main subject of their attention is so called “biological turn” in Aristotle’s understanding of human being. One of the articles within this special edition investigates Machiavelli’s concept of nature and shows that, for him, the constancy of human nature is the central premise that makes the scientific analysis of politics possible. In general, the aim of this special edition is to contribute to a more well-rounded understanding of this theme.

Zoran Dimić

Annick Jaulin

LE NATUREL POLITIQUE SELON ARISTOTE

RÉSUMÉ

Quel est le sens de « nature » dans la célèbre formule aristotélicienne : « l'humain est, par nature, un animal politique » ? Dans le cadre d'un débat avec les thèses du Socrate de la *République*, la référence à un naturel politique signifie que la cité n'est pas l'effet d'un manque, mais l'expression d'un désir positif. Ainsi, il n'y a pas pour l'être humain un état de nature antérieur à l'existence politique. Ce qui ne signifie pas que tout ce qui est politique est naturel.

MOTS CLEFS

animal politique,
Aristote, cité,
constitution, loi, nature

La question de la nature dans la philosophie éthico-politique d'Aristote mérite un traitement spécifique. Le fait est qu'Aristote, au contraire de ce qui semble être le cas chez Platon¹, affirme une différence de modalité entre le monde physique et le monde éthico-politique, fondant ainsi l'autonomie de ce dernier domaine. Sous cette perspective, Léo Strauss n'a pas tort d'affirmer qu'Aristote est le fondateur de la science politique². Cette différence entre Aristote et Platon se marque dans le fait qu'Aristote établit une distinction entre la sagesse théorique (*sophia*) et la sagesse pratique (*phronèsis*) ; la sagesse théorique étudie ce qui ne peut être autrement qu'il n'est (modalité de la nécessité ou de la régularité des lois physiques), alors que la sagesse pratique porte sur ce qui peut toujours être autre qu'il est (le domaine du possible où l'action des êtres humains peut modifier ce qui est) (Aristote, *EN VI.3–4*, 1139b14–1140a15).

Ainsi, même si l'on parle de « lois » dans le cas de la nature et dans le cas des sociétés humaines, le terme n'a pas le même sens dans les deux cas : l'humain n'a pas fait les lois de la nature, même s'il peut les modifier, tandis qu'il est l'auteur des lois qui régissent les sociétés. Cette différence est banale, mais signifie-t-elle que les lois sociales ne comportent aucune composante naturelle et qu'elles sont purement conventionnelles ? Cette question est déjà l'objet d'un débat dans l'Athènes du Ve avant notre ère, débat initié par certaines thèses sophistiques qui posent l'aspect conventionnel de la loi³.

1 Comme le montrent le rapport entre la *République* et le *Timée* ou encore le livre X des *Lois*.

2 Strauss 1987: 33 : « Ce n'est ni Socrate ni Platon, mais Aristote qui est le fondateur véritable de la science politique ».

3 Voir par exemple le discours de Calliclès dans le *Gorgias* de Platon.

Or, bien qu'il ait noté cette différence entre les lois de la nature et les lois politiques, Aristote est souvent suspecté, par ceux des modernes qui suivent une perspective kantienne, de verser dans le naturalisme. À vrai dire ce trait naturaliste n'est pas propre à Aristote, car, pour Kant, toutes les morales antiques, qualifiées comme « eudémonistes » sont des morales naturalistes. Ce n'est pas sous cet aspect général de l'eudémonisme que nous étudierons la question du naturel dans le domaine éthico-politique, ni même sous l'aspect où les anglo-saxons soupçonnent Aristote de ne pas connaître la différence humaine entre l'être et le devoir être, car ces deux aspects sont liés (comme le sont Hume et Kant) et concernent principalement la réception moderne de l'aristotélisme.

Notre intérêt est plutôt de dégager la position d'Aristote lui-même, et cette position est loin d'être simple. À cette fin, il faut suivre l'usage que fait Aristote des explications « par la nature/*phusei* » dans certaines de ses thèses éthico-politiques. La plus célèbre de ces thèses est sans conteste l'assertion du début des *Politiques*, selon laquelle « l'être humain (*anthrôpos*) est, par nature (*phusei*), un animal politique ». Nous étudierons cette thèse en détail dans un premier temps, et nous chercherons une confirmation (ou infirmation) de notre analyse, en examinant la situation de la loi chez Aristote : la loi est-elle par nature ou par convention ? Ou bien cette alternative entre nature et convention est-elle non pertinente ? Ainsi nous aurons quelques éléments pour juger de cette question, très débattue, du naturalisme éthique d'Aristote.

L'homme est par nature un « animal politique » : énoncé ambigu

Cette affirmation est posée deux fois au début des *Politiques* :

T1. *Pol.* I.2, 1253a1–4

Ces considérations montrent donc que la cité est par nature et que l'être humain est par nature un animal politique et que celui qui est sans cité à cause de la nature et non par un accident de la fortune est ou bien un être dégradé ou bien meilleur que l'être humain⁴.

T2. *Pol.* I.2, 1253a7–10 et 14–18

C'est pourquoi il est évident que l'être humain est un animal politique plus que n'importe quelle abeille et n'importe quel animal grégaire. Car, comme nous le disons, la nature ne fait rien en vain ; or, seul, parmi les animaux, l'être humain a un langage. [...] Mais le langage existe en vue de manifester l'avantageux et le nuisible, et par suite aussi, le juste et l'injuste. Il n'y a en effet qu'une chose qui soit propre aux êtres humains par rapport aux autres animaux : le fait que seuls ils aient la perception du bon et du mauvais, du juste et de l'injuste et des autres <choses de ce genre>. Or la communauté de ces <choses> est ce qui fait la famille et la cité⁵.

4 ἐκ τούτων οὖν φανερόν ὅτι τῶν φύσει ἡ πόλις ἐστί, καὶ ὅτι ὁ ἄνθρωπος φύσει πολιτικὸν ζῷον, καὶ ὁ ἄπολις διὰ φύσιν καὶ οὐ διὰ τύχην ἤτοι φαῦλός ἐστιν, ἢ κρείττων ἢ ἄνθρωπος [...]

5 διότι δὲ πολιτικὸν ὁ ἄνθρωπος ζῷον πάσης μελίτης καὶ παντὸς ἀγελαίου ζῷου μᾶλλον, δῆλον· οὐθὲν γάρ, ὡς φαμέν, μάτην ἢ φύσις ποιεῖ· λόγον δὲ μόνον ἄνθρωπος ἔχει τῶν ζῴων· [...] ὁ δὲ λόγος ἐπὶ τῷ δηλοῦν ἐστί τὸ συμφέρον καὶ τὸ βλαβερόν, ὥστε καὶ τὸ δίκαιον καὶ τὸ ἀδίκον· τοῦτο γὰρ πρὸς τὰ ἄλλα ζῷα τοῖς ἀνθρώποις ἴδιον, τὸ μόνον ἀγαθοῦ καὶ κακοῦ καὶ δίκαιου καὶ ἀδίκου καὶ τῶν ἄλλων αἰσθησὶν ἔχειν· ἢ δὲ τούτων κοινῶν ποιεῖ οἰκίαν καὶ πόλιν.

Les deux textes qui se suivent, et dont le second semble n'être qu'une conséquence du premier (« c'est pourquoi »), ne disent pourtant pas exactement la même chose :

- T1 Le premier pose l'existence naturelle de la cité et une équivalence entre l'existence en cité (ou politique ; dans tout cet exposé « politique » est en rapport avec la cité qui se dit « *polis* » en grec) et l'humanité : celui qui est « privé de cité », par nature et non par l'effet de la fortune (comme quelqu'un qui aurait été privé de l'existence civique par l'effet de circonstances telles que la guerre ou autres de même genre), est ou un humain dégradé ou un être supérieur à l'humanité. On peut comprendre ce passage comme l'expression d'une idée répandue dans le monde grec et exprimée par les mythes, à savoir que la vie politique marque le propre de l'existence humaine, et dit la différence de l'être humain par rapport aux animaux et aux dieux. Cependant, cela peut expliquer la deuxième partie du texte (que l'être humain est par nature un animal politique et que celui qui est sans cité à cause de la nature et non par un accident de la fortune est ou bien un être dégradé ou bien meilleur que l'être humain.), mais non la première (la cité est par nature), or, du point de vue qui nous intéresse l'énoncé important est celui-ci : la cité est par nature. Ce serait donc de l'aspect naturel de la cité que découlerait l'aspect naturel de l'existence politique humaine. Il n'en va pas exactement de même pour le deuxième texte.
- T2 Dans le deuxième texte, en effet, c'est plutôt la nature de l'être humain, comparée à celle des autres animaux, qui fournirait la raison de l'existence politique de l'humain : il possède le langage et donc il est un animal politique. Le langage est lié à la saisie (perception) de l'utile et du nuisible, ou encore du bon et du mauvais, du juste et de l'injuste. Selon ce texte, à la différence du précédent, ce serait de la nature de l'être humain que découlerait la nature de la cité (et de la famille).

La différence entre ces deux textes pourrait ainsi justifier deux versions distinctes du naturel politique : dans le premier cas, la nature de l'être humain dépendrait de la nature de la cité, alors que dans le deuxième cas, la nature de la cité dépendrait de la nature de l'être humain. On pourrait déduire du premier cas une version politique (ou conventionnelle) de la nature, alors que l'on aurait, dans le deuxième cas, une version naturaliste du politique.

Pour illustrer chacune de ces deux versions, on fera référence à deux interprétations antagonistes du naturel politique, données par deux interprètes contemporains, spécialistes de philosophie ancienne. L'un, Mario Vegetti, pense que « le 'statut politique' est la condition normale, et partant normative, de la nature de l'homme » (Vegetti 2002: 69–70). Si l'on ne vit pas dans une cité, l'on n'est pas digne d'être un humain. Vegetti écrit ainsi :

Être 'par nature politique', en effet, ce n'est pas uniquement vivre dans un contexte social. C'est être adéquat, au niveau moral et intellectuel, à la parfaite intégration dans la société de la *polis* [...] Le statut d'être politique est donc une forme complexe de vie, qui se réalise correctement dans l'homme bon, lequel est aussi, en même temps, le citoyen moralement et intellectuellement adéquat, le *spoudaios*. Par conséquent, décrire la forme de vie de cette figure d'homme, normal-essentiel parce qu'il réalise la nature spécifique de l'animal humain, c'est également, pour Aristote, prescrire la

norme de la condition de l'espèce. [...] Qui n'est pas *spoudaios*, n'est pas un 'vrai' homme, c'est-à-dire qu'il n'a pas réalisé sa nature spécifique, et donc il n'est même pas homme au sens propre du mot ; il se situe alors sur une échelle d'anomalies dégénératives semblables à celle qui sépare la femelle du mâle. (Vegetti 2002: 70–71)

Le résultat auquel M. Vegetti aboutit, à savoir l'identité entre « la norme de la condition de l'espèce » et le « citoyen moralement et intellectuellement adéquat, le *spoudaios* », induit une conséquence incompatible avec les analyses aristotéliennes. En effet, comment accorder l'universalité de l'espèce humaine et la variété des constitutions politiques, variété considérée comme « normale » par Aristote, comme le montre le début du livre IV des *Politiques* : « Car il faut s'occuper non seulement de la constitution excellente, mais aussi de celle qui est possible, et, de même de celle qui est plus facile et plus commune à toutes <les cités> »⁶ (*Pol.* IV.1, 1288b37–39). Identifier l'excellence du citoyen et celle de l'homme de bien n'est pas une doctrine aristotélienne. Cette identité entre ces deux excellences est explicitement mise en question par Aristote lui-même au chapitre 4 du livre III des *Politiques* :

T3. *Pol.* III.4, 1276b30–34

C'est pourquoi l'excellence du citoyen est nécessairement fonction de la constitution. Et puisqu'il y a plusieurs sortes de constitutions, il est évident qu'il n'est pas possible qu'il y ait pour le bon citoyen une excellence unique, l'excellence parfaite. De l'homme de bien, au contraire, nous disons qu'il est <tel> selon une excellence unique, la parfaite. Que donc il soit possible, tout en étant un bon citoyen, de ne pas posséder la vertu qui fait qu'on est un homme de bien, c'est manifeste⁷.

Tout se passe donc comme si Vegetti avait développé seulement un commentaire de T1.

Une interprétation tout aussi unilatérale, mais opposée, est donnée par W. Kullmann (1993: 161–184) dont le point de départ réside dans le souci de soustraire la théorie de la cité à une interprétation hégélienne. Il s'agit donc pour lui de remettre en question « la doctrine de la primauté absolue de l'Etat sur les individus et de la substantialité de l'Etat » (Kullmann 1993: 161). En conséquence, la cité et l'être politique de l'homme vont résulter « du moins, en partie, d'une déduction biologique ». De fait, « l'éthologie et l'ethnologie modernes ont confirmé que le comportement social de l'homme est en partie conditionné génétiquement »⁸. Cela vaut aussi pour « la langue » (traduction qu'il propose pour le *logos* aristotélien),

6 οὐ γὰρ μόνον τὴν ἀρίστην δεῖ θεωρεῖν, ἀλλὰ καὶ τὴν δυνατὴν, ὁμοίως δὲ καὶ τὴν ῥᾶω καὶ κοινοτέραν ἀπάσαις·

7 διὸ τὴν ἀρετὴν ἀναγκαῖον εἶναι τοῦ πολίτου πρὸς τὴν πολιτείαν. εἴπερ οὖν ἔστι πλείω πολιτείας εἶδη, δηλὸν ὡς οὐκ ἐνδέχεται τοῦ σπουδαίου πολίτου μίαν ἀρετὴν εἶναι, τὴν τελείαν· τὸν δ' ἀγαθὸν ἄνδρα φαμέν κατὰ μίαν ἀρετὴν εἶναι, τὴν τελείαν.

8 « Aristote en conclut que la *polis* est, elle aussi, par nature, et que l'homme, par nature, est un être politique. Il s'agit là, du moins en partie, d'une déduction biologique. [...] L'homme, pour Aristote, n'est pas le seul être politique, bien qu'il le soit à un plus haut degré que tous les autres animaux. [...] Les animaux politiques sont ceux qui ont une activité commune. [...] La qualité de 'politique' ne se réfère donc pas, comme l'impliquerait la signification originelle du mot, à la *polis* grecque. [...] Le classement biológico-écologique de l'homme [...] résulte selon Aristote, de ce que l'homme possède certaines caractéristiques d'un animal grégaire, qui lui sont innées comme elles le sont à d'autres animaux. L'éthologie et

« nous trouvons, de nos jours, des approches semblables dans l'éthologie. [...] L'éthologue Konrad Lorenz a très clairement illustré ce point » (Kullmann 1993: 167). Lorenz devient la référence opposée à Hegel, lorsque la primauté anthropologique l'emporte sur la primauté de l'État. Il semble que T2 soit seul pris en compte dans cette interprétation.

Ces interprétations opposées du naturel politique, tel que l'aurait pensé Aristote, ont cependant un point commun : l'incapacité à penser la multiplicité des constitutions politiques, multiplicité donnée également comme naturelle dans les analyses aristotéliennes. Que l'on identifie l'être humain au citoyen ou que l'on conditionne génétiquement le comportement social et politique, le rapport établi entre l'humanité et le politique ne semble pas être celui auquel Aristote se référerait, car l'humanité est une seule espèce, alors qu'il y a une pluralité de régimes politiques et que cette pluralité est justifiée par Aristote. Il semble bien que l'on ne puisse fonder le statut du politique directement sur la nature de l'homme ou encore identifier la nature de l'homme et la nature du citoyen. Même si, pour respecter le principe de charité, on a essayé de justifier le bien-fondé de chacune des interprétations opposées, en soulignant l'ambiguïté de la formule aristotélienne, aucune des deux interprétations précédentes ne semble pouvoir s'accorder avec la manière dont Aristote, dans la suite des analyses des *Politiques*, fait référence à ces premiers énoncés.

Interprétation de la formule par Aristote

En réalité, le fait qu'Aristote désigne la cité comme naturelle alors qu'il semble ensuite la faire découler de la nature de l'être humain signifie que le point important n'est pas, pour lui, de décrire un rapport de causalité entre la cité et l'être humain. Autrement dit, la question aristotélienne n'est pas de savoir si c'est l'humain qui fait la cité ou la cité qui fait l'humain. Le fait que l'on puisse indifféremment trouver une implication de l'humain à la cité ou de la cité à l'humain signale une équivalence entre l'existence humaine et l'existence politique, sans que l'on réduise la cité à une forme d'état particulier, ni sans doute à la seule existence de l'état⁹. Aristote explicitera d'ailleurs dans la suite des *Politiques* (*Pol.* III.6, 1278b17–25) le sens qu'il confère à la formule de « l'animal politique » :

T4. *Pol.* III.6, 1278b17–25

Nous avons dit, dans nos premiers exposés traitant de l'administration familiale (*oikonomia*) et du pouvoir du maître (*despoteia*) qu'un humain est par nature un animal politique (*physei esti anthrōpos dzōon politikon*). C'est pourquoi, même quand ils n'ont pas besoin de l'aide les uns des autres (*mēden deomenoi tēs para allēlōn boetheias*), les humains n'en désirent pas moins vivre ensemble (*ouk elatton oregontai tou sudzēn*) ; néanmoins l'avantage commun (*to koinēi sumpheron*) lui aussi les réunit, dans la mesure où il procure à chacun une part de vie heureuse (*dzēn kalōs*). Tel est assurément le but qu'ils ont avant tout, tous ensemble comme séparément, mais ils

l'ethnologie modernes ont confirmé que le comportement social de l'homme est en partie conditionné génétiquement » (Kullmann 1993: 165–166).

⁹ En outre, la cité, comme beaucoup d'autres termes se dit « en plusieurs sens/*pollakhōs tēs poleōs legomenēs* » (*Pol.* III.3, 1276a23–24).

se rassemblent aussi et ils perpétuent la communauté politique en vue du vivre lui-même (*tou dzèn heneken autou*). Peut-être, en effet, y a-t-il une part de bonheur dans le seul fait de vivre si c'est d'une vie point trop accablée de peines¹⁰.

Le sens de la formule selon laquelle « l'humain est par nature un animal politique » est donc : « même quand ils n'ont pas besoin de l'aide les uns des autres, les humains n'en désirent pas moins vivre ensemble ». Sans que l'on puisse nier l'aspect du besoin dans la communauté politique, le besoin n'est pas le moteur qui pousse l'être humain au partage de la vie avec d'autres humains. C'est le désir d'une « part de vie heureuse » qui pousse l'être humain à cette vie où il trouve l'épanouissement et l'accomplissement de sa nature, qui, en dehors de l'existence politique, ne pourrait atteindre la perfection à laquelle elle vise. La naturalité du politique en l'humain signifie que le désir de la communauté politique n'est pas issu d'une situation de détresse (un besoin d'aide), mais qu'il est désir de l'avantage commun, en quoi consiste la vie heureuse (ou belle) pour les humains ; seule la vie politique permet le dépassement de la vie réduite au simple fait d'exister. Ce que vise la tendance naturelle de l'animal politique humain est la vie heureuse ou belle. La fin du chapitre 6 du livre III illustrera cette « naturalité » de la fin du politique (puisque la fin du politique était bien la question initiale du chapitre, voir 1278b15–17), par la distinction entre le despotique et le politique. Leur différence tient au fait que le rapport despotique, maître/esclave, s'il vise un avantage commun, s'exerce cependant « à l'avantage du maître » (78b35), ce qui n'est pas le cas des pouvoirs économique et politique qui, s'ils visent également un avantage commun, s'exercent en vue des gouvernés (78b39). D'où la proximité de la vie politique et de la vie heureuse qui rend compte de sa naturalité pour l'humain et de l'élan qui le porte vers elle. On retrouve ici la spécificité humaine liée au *logos*, à la perception de l'utile et du nuisible du juste et de l'injuste, dont le partage entre les humains fait la communauté familiale et politique (voir T2). La naturalité du politique équivaut à la recherche de l'avantage commun.

Par cette explicitation, Aristote indique que la formule initiale de « l'homme animal politique » est une critique implicite (et désormais, à partir de la reprise de la formule au livre III, explicite) de la cité du besoin, présentée par Socrate dans la *République*¹¹. Loin que la pénurie et le besoin constituent l'origine de la cité, la forme de communauté achevée qu'est la *polis* est recherchée parce qu'elle permet l'exercice des facultés proprement humaines : les facultés rationnelles. La cité n'est pas l'effet d'un manque (*sterèsis*), mais d'un désir né d'une propriété positive, comme l'est une nature. Une nature est, en effet, une *hexis*. Cette interprétation, donnée

10 εἶρηται δὴ κατὰ τοὺς πρώτους λόγους, ἐν οἷς περὶ οἰκονομίας διωρίσθη καὶ δεσποτείας, καὶ ὅτι φύσει μὲν ἐστὶν ἄνθρωπος ζῷον πολιτικόν. διὸ καὶ μηδὲν δεόμενοι τῆς παρὰ ἀλλήλων βοήθειας οὐκ ἔλαττον ὀρέγονται τοῦ συζῆν· οὐ μὴν ἀλλὰ καὶ τὸ κοινῆ συμφέρον συνάγει, καθ' ὅσον ἐπιβάλλει μέρος ἐκάστω τοῦ ζῆν καλῶς, μάλιστα μὲν οὖν τοῦτ' ἐστὶ τέλος, καὶ κοινῆ πᾶσι καὶ χωρὶς· συνέρχονται δὲ καὶ τοῦ ζῆν ἕνεκεν αὐτοῦ καὶ συνέχουσι τὴν πολιτικὴν κοινωνίαν. ἴσως γὰρ ἔνεστι τι τοῦ καλοῦ μῦρον καὶ κατὰ τὸ ζῆν αὐτὸ μόνον, ἂν μὴ τοῖς χαλεποῖς κατὰ τὸν βίον ὑπερβάλλῃ λίαν.

11 *République* II, 369b : « Or, selon moi, une cité vient à être lorsque chacun de nous se trouve être non autosuffisant, mais en de nombreux manques ; ou bien, selon toi, y a-t-il une autre origine à la fondation d'une cité ? Γίνεται τοῖνυν, ἦν δ' ἐγώ, πόλις, ὡς ἐγῶμαι, ἐπειδὴ τυγχάνει ἡμῶν ἕκαστος οὐκ αὐτάρκης, ἀλλὰ πολλῶν <ᾧν> ἐνδεής· ἢ τίν' οἶει ἀρχὴν ἄλλην πόλιν οἰκίζειν; ». Il faut remarquer que en *Lois* III, 678e–679c, la même simplicité primitive s'accompagne d'une relative abondance.

par Aristote de la formule de l'animal politique par nature, pose la cité comme une fin et non comme un moyen. La cité n'est pas le moyen de répondre aux besoins ou de les satisfaire, elle est voulue pour elle-même. Loin que la pénurie et le besoin constituent l'origine de la cité, la forme de communauté achevée qu'est la *polis* est recherchée parce qu'elle permet l'exercice des facultés proprement humaines : celles qui se déploient dans les activités rationnelles ; on sait que, pour Aristote, c'est aussi « par nature » que « tous les humains désirent connaître »¹².

Les énoncés du premier livre des *Politiques* ne sont donc pas des énoncés absolus, mais des énoncés critiques à l'égard des thèses soutenues par le Socrate de la *République* sur l'origine de la cité. Aristote intervient dans un débat. Vivre en cité est l'état de nature pour l'être humain : celui où il peut développer entièrement ses capacités rationnelles en tant que sujet capable de choix et d'action. Le législateur représente la forme la plus haute de l'intelligence pratique (*phronèsis*) ; la cité est le lieu où il est possible de vivre selon la loi. La question de la « naturalité » de la cité se déplacera donc sur la question de la nature de la loi.

Dans ce même contexte de relation dialectique avec les textes du début de la *République*, Aristote expose que sa méthode, à la différence de celle de Socrate, n'est pas une méthode génétique, mais une méthode analytique¹³ qui décompose en ses éléments constitutifs le tout complet et achevé qu'est la cité ; il exposera ensuite la recomposition de ces éléments à partir de l'élément minimal, suivant une nécessité logique¹⁴. Il s'agit là d'une objection forte à une lecture génétique ou historique de la naissance de la cité que l'on penserait pouvoir trouver dans les premiers chapitres du premier livre des *Politiques*.

Loi naturelle, loi écrite, loi non écrite

Position du problème

Ce que l'on vient d'énoncer comme naturalité du politique, à savoir que l'être humain est, par nature, un animal politique, ne plaide pas pour l'existence d'une conception du droit naturel chez Aristote. Il n'existe pas un état de nature pour l'humain, antérieur au politique ; il n'existe pas non plus une nature de l'être humain qui serait antérieure au politique. Un texte de *Pol.* VI.5, 1319b37–1320a2 où Aristote examine ce qui permet de sauvegarder les constitutions (ou les régimes) est significatif du fait qu'il n'y a de lois que relatives à un régime politique, et que les lois, *aussi bien écrites que non écrites sont établies* :

T5. *Politiques* VI.5, 1319b37–1320a2

C'est pourquoi il faut, suivant nos considérations antérieures sur les modes de sauvegarde et de ruine des constitutions, essayer d'en assurer la stabilité en les prémunissant contre les facteurs de ruine, *et en établissant des lois, aussi bien non écrites qu'écrites*, telles qu'elles contiendront le plus possible de quoi assurer le salut de ces constitutions¹⁵.

12 *Met.*, 980a1 : Πάντες ἄνθρωποι τοῦ εἶδέναι ὀρέγονται φύσει.

13 La méthode est indiquée en *Pol.* I.1, 1252a18–23.

14 Voir la référence à la nécessité avec *anankè* en *Pol.* I.1, 1252a26.

15 διὸ δεῖ, περὶ ὧν τεθεώρηται πρότερον, τίνες σωτηρίαί καὶ φθοραὶ τῶν πολιτειῶν, ἐκ τούτων πειρᾶσθαι κατασκευάζειν τὴν ἀσφάλειαν, εὐλαβουμένους μὲν τὰ φθειρόντα, τιθεμένους δὲ τοιοῦτους νόμους, καὶ τοὺς ἀγράφους καὶ τοὺς γεγραμμένους, οἱ περιλήψονται μάλιστα τὰ σφύζοντα τὰς πολιτείας.

On sait que le souci aristotélicien est la recherche de la sauvegarde de toutes les constitutions, y compris les pires comme la tyrannie qui est presque l'extinction du politique. Pourtant toutes les constitutions n'ont pas, loin de là, la même valeur. On peut même affirmer que *s'il n'y a pas d'existence naturelle pour l'être humain en dehors du politique, cela ne veut pas dire que tout ce qui est politique est naturel* : la distinction passerait ici par la distinction entre les régimes droites qui visent le bien commun et les régimes déviés qui visent le seul bien des gouvernants ; donc les lois des constitutions droites seraient plus naturelles que les lois des régimes déviés. Cela vaut pour la loi écrite comme pour la loi non écrite, puisque l'une comme l'autre sont également établies. La naturalité politique est interne à l'existence politique et s'établit par la confrontation entre les constitutions droites et les constitutions déviées : le modèle du naturel politique est celui de la constitution droite.

Pas d'équivalent du droit naturel

Ce qui précède montre la difficulté, voire l'impossibilité, de concevoir chez Aristote l'équivalent de ce que les modernes ont nommé le « droit naturel ». De fait, il est impossible de trouver chez lui l'hypothèse d'un état antérieur au politique. La description suivante décrit assez bien cette opposition :

Même si elle est périodiquement décriée par les tenants du positivisme juridique, il est indéniable que la problématique du droit naturel, depuis le fameux passage de l'*Antigone* de Sophocle, a toujours été fondamentale dans toute la réflexion européenne sur le droit et la justice. Aujourd'hui, ce sont les Droits de l'Homme qui sont l'expression du droit naturel. Mais ces Droits de l'Homme ont bien sûr une histoire : très schématiquement, on peut dire qu'ils sont le point d'aboutissement du jusnaturalisme moderne dont l'entreprise a été de tenter de déduire des droits à partir de l'idée d'une nature humaine. Mais à ce jusnaturalisme appartient déjà aussi une longue histoire, et cette histoire va nous concerner directement puisqu'on considère traditionnellement que c'est Aristote qui est comme le père spirituel de cette problématique. Il y a cependant au moins deux difficultés majeures dans cette filiation. La première difficulté tient à la différence d'esprit manifeste entre Aristote et nos jusnaturalistes modernes ou contemporains. Pour nous, les Droits de l'Homme sont fondamentalement des revendications d'ordre éthique contre le politique : ces Droits sont comme le rempart ou le garde-fou destiné à sauvegarder la liberté et la dignité de l'homme par delà tout régime politique. Or, c'est l'édifice même de la philosophie pratique d'Aristote et c'est le principe fondamental de son anthropologie qui s'opposent à cette vision. On rapprochera le célèbre principe selon lequel l'homme est par nature un être politique de l'affirmation du début de l'*Éthique à Nicomaque*, que la politique est architectonique : ces deux propositions signifient avant tout qu'il n'est pas d'humanité possible en dehors d'une *polis* et d'une *politeia* : une éthique non inscrite dans le politique n'aurait aucun sens pour Aristote. (Destrée 2000)

Il est donc incontestable qu'il n'y a pas d'existence de l'être humain en dehors de liens sociaux (familiaux) ou politiques : Aristote ne construit pas de « robinsonnades », au sens où Marx parlait des « robinsonnades de l'économie politique », laquelle reconstruit le système complexe des échanges économiques à partir des besoins des individus isolés.

Il n'y a pas, on l'a dit, de droit de nature chez Aristote. Le fait que le naturel soit interne à la cité est confirmé par un texte de l'*Éthique à Nicomaque* (1134b18–21)

qui présente le juste naturel comme une partie du juste politique, manifestant ainsi que le naturel est toujours à l'intérieur du politique et non à l'extérieur :

T6. *Éthique à Nicomaque* V.10, 1134b18–21.

Du juste politique, une partie est naturelle, l'autre légale ; est naturel ce qui a partout la même puissance et non du fait qu'on a l'opinion que c'est tel ou non, mais est légal ce qui, au départ, est indifféremment ainsi ou autrement, mais présente une différence quand il est institué, par exemple payer une rançon d'une mine ou sacrifier une chèvre, mais pas deux moutons¹⁶.

L'importance de ce texte ne saurait être sous-estimée, puisqu'il est situé dans le traitement le plus complet de la question de la justice en EN V.10.

Les lois non écrites

Sur la question des lois non écrites, on trouve deux thèses opposées dans la *Rhétorique* : les lois non écrites sont tantôt (I.13, 1373b4–6) classées dans les lois propres (*nomos idios*) à chaque cité, qui comprennent des lois aussi bien écrites que non écrites, et sont opposées à la loi commune (*nomos koinos*), tantôt (I.10, 1368b7–9) elles sont assimilées à la loi commune, distincte de la loi écrite propre à chaque cité :

T7. *Rhétorique* I.10, 1368b7–9

La loi est soit particulière soit commune. J'appelle loi particulière, la loi qui régit une cité, et loi commune l'ensemble des principes non écrits qui passent pour faire l'objet d'un consentement universel¹⁷ (trad. Chiron 2007).

T8. *Rhétorique* I.13, 1373b4–6

Je qualifie la loi tantôt de particulière, tantôt de commune ; la loi particulière est la loi définie par chaque peuple pour lui-même, elle est soit non écrite, soit écrite¹⁸ ; la loi commune est la loi selon la nature¹⁹

Ainsi, la *Rhétorique* présente un schéma instable de l'opposition entre loi écrite et non écrite : on trouve a) I.10, 1368b7–9 : l'opposition entre une loi écrite propre à une cité (*idios*) et une loi non écrite, commune (*koinos*) ; il faut cependant remarquer que cette présentation s'accompagne ici d'un *dokei* : « principes non écrits qui passent pour faire l'objet d'un consentement universel », lequel, en général, manifeste la présentation d'une opinion qui n'est pas nécessairement celle d'Aristote. En b) I.13, 1373b4–6, l'opposition entre loi écrite et non écrite est une opposition interne à chaque cité et les deux sortes de lois sont opposées ensemble à la loi commune ; cette fois cependant Aristote introduit sa description par un *legô de* qui indique une intervention personnelle dans le classement proposé. On peut en conclure que les

16 Τοῦ δὲ πολιτικοῦ δικαίου τὸ μὲν φυσικὸν ἐστὶ τὸ δὲ νομικόν, φυσικὸν μὲν τὸ πανταχοῦ τὴν αὐτὴν ἔχον δύναμιν, καὶ οὐ τῷ δοκεῖν ἢ μὴ, νομικὸν δὲ ὃ ἐξ ἀρχῆς μὲν οὐδὲν διαφέρει οὕτως ἢ ἄλλως ὅταν δὲ θῶνται, διαφέρει, οἷον τὸ μῆλα λυτροῦσθαι, ἢ τὸ αἶγα θῦειν ἀλλὰ μὴ δύο πρόβατα.

17 νόμος δ' ἐστὶν ὁ μὲν ἴδιος ὁ δὲ κοινός· λέγω δὲ ἴδιον μὲν καθ' ὃν γεγραμμένον πολιτεύονται, κοινὸν δὲ ὅσα ἄγραφα παρὰ πᾶσιν ὁμολογεῖσθαι δοκεῖ.

18 Chiron (2007: 231) indique que « Kennedy [1991] fait remonter ce membre de manière à ce que le texte signifie que la loi commune est non écrite, la loi particulière écrite, en cohérence avec I.10, 1368b7–9 ».

19 λέγω δὲ νόμον τὸν μὲν ἴδιον, τὸν δὲ κοινόν, ἴδιον μὲν τὸν ἐκάστοις ὀρισμένον πρὸς αὐτοῦς, καὶ τοῦτον τὸν μὲν ἄγραφον, τὸν δὲ γεγραμμένον, κοινὸν δὲ τὸν κατὰ φύσιν.

textes ne sont pas de même niveau et que seule la position exprimée en 1373b4–6 est celle d’Aristote ; elle coïncide avec le classement présenté dans le texte 5 : les lois, aussi bien écrites que non écrites sont établies ; elles seraient ainsi « propres » à chaque cité. La loi non écrite ne saurait ainsi renvoyer simplement à la loi commune, comme certains le pensent. On peut d’ailleurs confirmer l’existence de lois non écrites, internes à la cité, par l’analyse du rapport entre le juste et l’équitable.

Le juste et l’équitable

La question de l’équitable (*epieikes*) concerne directement cette question, puisque l’équitable est « le juste qui se situe à côté de la loi écrite/ *estin de epieikés to para ton gegrammenon nomon dikaion* ». Cependant le contenu de l’équité est toujours pensé par rapport à la loi :

T9. *Rhétorique* I.13, 1374a26–33

L’équitable est le juste qui se situe à côté de la loi écrite. Cela se produit tantôt avec l’accord des législateurs, tantôt malgré eux ; malgré eux, quand le cas leur échappe ; avec leur accord, quand ils ne peuvent pas définir <tous les cas>, il leur est nécessaire de parler de manière universelle, et <en même temps> non, mais de parler pour la plupart des cas. Et tout ce qu’il n’est pas facile de définir à cause de l’infinité des facteurs, par exemple dans le cas d’une blessure par le fer, de quelle taille l’arme et de quelle sorte, car la vie ne suffirait pas à tout compter²⁰.

L’équitable est ainsi un complément du juste dans les situations que la loi écrite n’a pas pu prévoir, à cause de l’infinité des cas qui peuvent se présenter dans les actions. L’application stricte de la loi écrite conduirait à des injustices : ainsi il serait injuste d’appliquer la loi sur les blessures par arme métallique à celui qui a blessé involontairement quelqu’un lors d’une dispute avec une bague en métal. La liste de quelques uns de ces cas qui méritent le recours à l’équité est ensuite donnée par Aristote : il faut excuser ceux qui proviennent d’erreurs, les malchances etc. La règle de l’équité est donc de considérer non la lettre de la loi, mais l’esprit du législateur :

T10. *Rhétorique* I.13, 1374b10–16

Il est équitable de comprendre les affaires humaines, de considérer non la loi, mais le législateur et non le discours, mais la pensée du législateur ; non l’action, mais le choix ; non la partie, mais le tout, non la qualité présente de la personne, mais ce qu’elle a toujours été ou la plupart du temps²¹.

L’équité requiert ainsi l’intervention d’un arbitre qui peut éviter le recours au juge et au tribunal (1374b19–22).

Malgré cette complémentarité entre le juste et l’équitable, il n’est pas impossible, dans le cadre rhétorique d’une procédure judiciaire, d’opposer l’un à l’autre,

20 ἔστιν δὲ ἐπιεικὲς τὸ παρὰ τὸν γεγραμμένον νόμον δίκαιον. συμβαίνει δὲ τοῦτο τὰ μὲν ἐκόντων τὰ δὲ ἀκόντων τῶν νομοθετῶν, ἀκόντων μὲν ὅταν λάθῃ, ἐκόντων δ’ ὅταν μὴ δύνωνται διορίσαι, ἀλλ’ ἀναγκαῖον μὲν ἢ καθόλου εἰπεῖν, μὴ ἢ δέ, ἀλλ’ ὡς ἐπὶ τὸ πολὺ, καὶ ὅσα μὴ ῥάδιον διορίσαι δι’ ἀπειρίαν, οἷον τὸ τρωῖσαι σιδήρῳ πηλίκῳ καὶ ποίῳ τινί· ὑπολείπει γὰρ ἂν ὁ αἰὼν διαριθμοῦντα.

21 καὶ τὸ τοῖς ἀνθρωπίνους συγγινώσκειν ἐπιεικὲς καὶ τὸ μὴ πρὸς τὸν νόμον ἀλλὰ πρὸς τὸν νομοθέτην, καὶ μὴ πρὸς τὸν λόγον ἀλλὰ πρὸς τὴν διάνοιαν τοῦ νομοθέτου σκοπεῖν, καὶ μὴ πρὸς τὴν πρᾶξιν ἀλλὰ πρὸς τὴν προαίρεσιν, καὶ μὴ πρὸς τὸ μέρος ἀλλὰ πρὸς τὸ ὅλον, μηδὲ ποιός τις νῦν, ἀλλὰ ποιός τις ἦν αἰεὶ ἢ ὡς ἐπὶ τὸ πολὺ.

et notamment l'équitable et la loi, dans le cas où la loi écrite est défavorable à l'accusé ; l'équitable est alors désigné comme « la loi commune » :

ΤΙΙ. *Rhétorique* I.15, 1375a27–b8

Il est évident que si la loi écrite est défavorable à notre cause, il faut avoir recours à la loi commune et à des lois plus équitables et plus justes. On dira aussi que <juger> « dans le meilleur esprit »²² équivaut à ne pas utiliser dans toute leur rigueur les lois écrites et que l'équitable demeure toujours et ne change jamais, non plus que la loi commune puisqu'elle est naturelle, tandis que les lois écrites changent souvent. De là ce qui est dit dans l'Antigone de Sophocle : Antigone se défend en disant qu'elle a enseveli son frère contre la loi de Créon, mais non contre la loi non écrite :

Justice qui n'est pas d'aujourd'hui ni d'hier, mais de toujours

Ces lois je n'allais pas d'un simple mortel²³....

On dira que c'est le juste et non son apparence qui est chose vraie et utile, en conséquence la loi écrite n'est pas une loi, car elle ne remplit pas la fonction de la loi ; que, comme celui qui teste l'argent, le juge a pour mission de discerner le juste falsifié du juste véritable ; que c'est le propre d'un homme meilleur d'user des lois non écrites que des lois écrites et de s'y tenir²⁴.

Le recours aux lois non écrites est pensé comme un complément de la loi écrite dans les cas où celle-ci est défaillante : il s'agit tantôt de se mettre dans l'esprit du législateur pour permettre à la loi de remplir sa fonction, là où elle pouvait comporter une lacune ; tantôt, comme le montre le serment des Hélistes, d'assurer l'exercice du juste véritable, et de compléter les lacunes inévitables de la loi écrite, par l'exercice de la *gnômè*²⁵.

Le contexte de l'emploi de l'expression, dans la *Rhétorique*, peut donner quelques indications sur le contenu de cette loi commune. En 1373b6–9, il est fait référence à une sorte de « pressentiment/*manteuontai* » (ce qui n'est pas de l'ordre de la connaissance) du juste et de l'injuste, « en dehors de toute communauté et de toute convention » réciproques. Cette forme de justice et de loi se réfère alors à une justice plus large que celle des communautés humaines, à une justice cosmique, telle celle à laquelle se réfère Empédocle pour interdire de « tuer un être animé » (1373b14–15). Le second passage (1375a27–b8) situe la loi commune dans un contexte différent

22 Citation du serment des *dikastai* ou hélistes, membres du jury populaire à Athènes qui jurent de voter dans le respect des lois et si celles-ci font défaut ou sont obscures *gnômè tè aristè*.

23 La fin de la citation est « redoutant le caprice, m'exposer en les violant, au châtement des dieux ».

24 φανερόν γάρ ὅτι, εἰάν μὲν ἐναντίος ἢ ὁ γεγραμμένος τῷ πράγματι, τῷ κοινῷ χρηστέον καὶ τοῖς ἐπιεικεστέροις καὶ δικαιοτέροις, καὶ ὅτι τὸ “γνώμη τῆ ἀρίστη” τοῦτ' ἐστίν, τὸ μὴ παντελῶς χρῆσθαι τοῖς γεγραμμένοις, καὶ ὅτι τὸ μὲν ἐπιεικὲς αἰεὶ μένει καὶ οὐδέποτε μεταβάλλει, οὐδ' ὁ κοινός (κατὰ φύσιν γάρ ἐστιν), οἱ δὲ γεγραμμένοι πολλάκις, ὅθεν εἴρηται τὰ ἐν τῇ Σοφοκλέους

Ἀντιγόνη· ἀπολογεῖται γάρ ὅτι ἔθαψε παρὰ τὸν τοῦ Κρέοντος νόμον, ἀλλ' οὐ παρὰ τὸν ἄγραφον, οὐ γάρ τι νῦν γε κἀχθές, ἀλλ' αἰεὶ ποτε ...

ταῦτ' οὖν ἐγὼ οὐκ ἔμελλον ἀνδρὸς οὐδενός

καὶ ὅτι τὸ δίκαιόν ἐστιν ἀληθές τε καὶ συμφέρον, ἀλλ' οὐ τὸ δοκοῦν, ὥστ' οὐ νόμος ὁ γεγραμμένος· οὐ γὰρ ποιεῖ τὸ ἔργον τὸ τοῦ νόμου. καὶ ὅτι ὥσπερ ἀργυρογνώμων ὁ κριτής ἐστιν, ὅπως διακρίνη τὸ κίβδηλον δίκαιον καὶ τὸ ἀληθές, καὶ ὅτι βελτίονος ἀνδρὸς τὸ τοῖς ἀγράφοις ἢ τοῖς γεγραμμένοις χρῆσθαι καὶ ἐμμένειν.

25 Sur la définition de ce terme, voir *EN* VI.11, 1143a19–24.

(bien que la citation de l'*Antigone* de Sophocle soit utilisée dans les deux endroits), en opposant une loi véritable, non écrite et qui équivaut à l'équitable, à la loi écrite laquelle, alors, n'est plus l'expression du juste. Il en résulte, dans ce cas, que la loi écrite n'est plus véritablement une loi, puisqu'elle n'est plus l'expression du juste véritable. Dans ce second passage, la loi commune est identifiée à la loi non écrite qui se situe à l'intérieur du monde humain et politique, selon une opposition entre juste et utile véritables ou, au contraire, apparents. On peut intégrer cette distinction à l'intérieur de la différence entre constitutions droites et constitutions déviées.

Conclusions

Cette dernière distinction entre une loi véritable et juste et une loi qui n'est qu'une apparence de loi retrouve la distinction entre les constitutions droites et les constitutions déviées. Seules les constitutions droites ont des lois conformes au juste par nature, ce qui signifie le juste véritable, puisque « toutes les constitutions qui visent l'avantage commun se trouvent être des formes droites selon le juste au sens absolu (*haplôs dikaion*) », à la différence des constitutions déviées qui ne visent que l'avantage des gouvernants (*Pol.* III.6, 1279a17–21). De fait, seules les lois des constitutions droites peuvent être appelées justes :

T12. *Ethique à Nicomaque* V.10, 1129b17–19

De sorte que d'une certaine manière, nous appelons justes les prescriptions susceptibles de produire et de garder le bonheur et ses parties constituantes pour la communauté politique²⁶.

On voit donc qu'il n'est pas nécessaire pour Aristote de faire appel à un état de nature, antérieur à la communauté politique, pour déterminer ce qu'est le juste, il lui suffit d'opposer les constitutions droites et les constitutions déviées pour distinguer, à l'intérieur même du politique, par le critère de l'intérêt commun, le juste de l'injuste : la question du droit naturel ne se pose pas pour lui. Le juste est identifié à ce qui produit et conserve le bonheur, qui est aussi l'objet de la visée de la politique en ce qu'il est « le plus haut des biens pratiques » (*EN*, 1095a14–20), même si la définition du contenu de ce bonheur donne lieu à des disputes.

Si l'on veut parler de « naturel politique » chez Aristote, il faudra l'entendre en ce sens, où l'être humain trouve dans le politique l'épanouissement de sa nature, en tant qu'être de raison et de délibération, ce qui signifie en tant qu'un être principe de ses actions. Or l'être humain est le seul animal qui soit capable d'actions.

26 ὥστε ἓνα μὲν τρόπον δίκαια λέγομεν τὰ ποιητικὰ καὶ φυλακτικὰ εὐδαιμονίας καὶ τῶν μορίων αὐτῆς τῆ πολιτικῆ κοινωνίας

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Annick Jaulin

Natural Politics According to Aristotle**Abstract**

What does Nature mean in the famous Aristotelian formula "man is, by nature, a political animal"? Within the context of the discussion with the Socratic assertions in Plato's Republic, Nature means that polis is not the result of deficiency, but the expression of a positive desire. Thus, for human beings, there is no state of nature before political life. This does not mean that everything that is political is natural.

Keywords: political animal, Aristotle, polis, polity, law, nature

Anik Žolan

Prirodna politika prema Aristotelu**Apstrakt**

Koje je značenje prirode u čuvenoj aristotelovskoj tvrdnji „čovjek je, po prirodi, politička životinja“? U kontekstu rasprave sa sokratovskim tezama u Platonovoj Republici, priroda znači da polis nije rezultat manjkavosti, već izraz pozitivne želje. Dakle, za ljudska bića ne postoji prirodno stanje koje prethodi političkom životu. Ovo ne znači da je sve što je političko istovremeno i prirodno.

Ključne reči: politička životinja, Aristotel, polis, ustav, zakon, priroda

Refik Güremen

IN WHAT SENSE EXACTLY ARE HUMAN BEINGS MORE POLITICAL ACCORDING TO ARISTOTLE?¹

ABSTRACT

According to Aristotle, human beings are by nature political animals. It is now common knowledge that being political is not a human privilege for him: bees, wasps, ants and cranes are other political species. Although they are not the only political animals, human beings, for Aristotle, are still *more* political than the other political animals. The present article investigates the precise sense of this comparison; and it claims that the higher degree of human politicalness is *not* to be explained by reference to those exclusively human features like having capacity for speech and moral perception. It is claimed that human beings are more political rather because they live in a multiplicity of communities differing in form.

KEYWORDS

Aristotle, political animals, language, nature

Introduction

One of Aristotle's most widely known ideas is: man is, by nature, a political animal. Before Aristotle, Plato used the term "political animal" in the *Phaedo* (82a–c). But it is not until the second chapter of the first book of Aristotle's *Politics* that we find the most elaborate version of the idea. That chapter starts with an historical account of the birth of the *polis* out of more elementary communities, like the family and the village.² As the conclusion of this narrative, Aristotle states that the *polis* exists by nature and that man is a political animal by nature (*Pol.* I.2, 1253a1–4). A few lines later, he adds to this conclusion, saying that human beings are *more* political than any other gregarious animal (1253a7–9). According to Aristotle, being political is a specific form of being gregarious. In the *History of Animals*, he defines political animals as those gregarious animals "for whom the work of all is some one and common thing". This characteristic, says Aristotle, "is not the case for all

1 This article draws from my Ph.D thesis written at the University of Paris I Panthéon Sorbonne (December 2013) and it presents the core idea. The title of the thesis is *L'homme le plus politique des animaux: Essai sur les Politiques, I. 2.*

2 Whether this is meant to be a historical or an analytical *récit* is a matter of dispute. I think both is true. If the remnant fragments are to be admitted to give a genuine idea about Aristotle's lost dialogue *On Philosophy*, it is clear that Aristotle had a historical interest in the development of human societies.

gregarious animals. Such political animals are the human being, the bee, the wasp, the ant, and the crane” (*HA* I.1, 488a7–488a10).

Thanks to the increasing contemporary interest in Aristotle’s zoological works, it is now common knowledge among students of Aristotle that being political is not a human privilege for him: human beings are not the only political animals, but they are just *more* political than the other political animals. Much ink is currently being spilt, however, to explain the superior degree of the human being’s political character: how are we supposed to understand this comparison?³

All past and present commentators on Aristotle’s *Politics* explain the superiority of human politicalness by reference to one or both of the following human features: being capable of rational speech and having a sense of what is just and unjust. The strength of this traditional approach is that it seems to have textual support. Immediately after saying that human beings are more political than other political animals, Aristotle adds: “Nature makes nothing in vain, as we say, and no animal has speech except a human being” (1253a9–10). This is followed by a passage explaining the function of speech:

[S]peech is for making clear what is beneficial or harmful, and hence also what is just or unjust. For it is peculiar to human beings, in comparison to other animals, that they alone have perception of what is good or bad, just or unjust, and the rest. And it is community in these that makes a household and a city-state.⁴ (1253a14–18)

In what follows, before presenting what I consider to be the adequate explanation of human being’s higher degree of politicalness, I shall first show that despite the apparent textual support, all the extant explanations I know of the superiority of human politicalness as Aristotle saw it are flawed in at least one of the following ways:

- 1) Some of them beg the question. They don’t explain anything to us.
- 2) Some do not conform to Aristotle’s theory of animal classification. They carve nature at the wrong joints.
- 3) None of them adequately understands Aristotle’s use of the teleological principle that “nature makes nothing in vain”.

Without denying the fact that human being’s capacity for rational speech and moral perception amounts to irreducible qualitative differences between our political life and that of the other political animals, the following discussion is meant to be an argument for the idea that from an Aristotelian perspective the human being’s higher degree of politicalness cannot be accounted for with reference to these qualitative differences.

3 Jean-Louis Labarrière’s work is by far the most insightful of all. Besides his several articles, see especially Labarrière 2014; 2016. A recently published collection of articles on the question of political animals in Aristotle is Güremen and Jaulin 2017.

4 C.D.C Reeve’s 1998 translation.

Begging the question

Trevor J. Saunders translates the phrase “*ho anthropos phusei politikon zōon estin*” as “man is by nature an animal fit for a state”. He claims that this translation also gives us a clue in understanding the human being’s superiority in politicalness:

‘Fit for a state’ renders *politikon*. [...]. But no animal lives as a member of a state, so the sentence [that man is an animal fit for a state to a fuller extent] sounds absurd. The point is that animals have two characteristics which are necessary but not sufficient for life in a state: the sensation (*aesthesis*) of pleasure and pain, and ‘voice’, *phônê*, with which to ‘indicate’ them to each other. The same is true of men; but men have also a sense/perception of benefit and harm etc., as listed, and ‘speech’, *logos*, to express them. [...] In sum, to pursue their common task (whatever that is), bees etc. have sensation of pleasure and pain, plus voice; to pursue theirs men have in addition a sense of good and bad, just and unjust, plus speech. Men are thus ‘fit for a state to a fuller extent’: they are better *equipped*, in such a way as to be able to live in the complex association, *koinônia*, which is the *state*. (1995: 69)

A very similar explanation comes from C. D. C. Reeve:

[H]uman beings are more political than [the other political animals], because they are naturally equipped for life in a type of community that is itself more quintessentially political than a beehive or an ant nest, namely, a household or polis. What equips human beings to live in such communities is the natural capacity for rational speech, which they alone possess. (2008: 513)⁵

Saunders recognizes the strangeness of comparing the human being and *all the other* political animals in terms of their capacity to fit into a State (which is exclusively a human community), yet he attributes this strangeness not to his own interpretation but to Aristotle! Other political animals would be less political because they are not sufficiently equipped to fit into a State.

The problem with this interpretation is the following: The other political animals are destined to lose this competition right from the beginning. This competition is designed for them to lose. According to Saunders, “being more political” is “being fit for a State”; and “being fit for a State” is defined by possessing all of the following features: pain, pleasure, voice, moral perception and language. It turns out (surprisingly!) that human beings are the only ones among political animals to possess all these. Then, we can conclude, according to Saunders, that human beings are more political, because they are the only ones to satisfy the definition of being fit for a State. In order to explain the human being’s being more political, Saunders starts by taking the human being as the criterion of being more political. However, for a real explanation, what we need is not to *suppose* that pain, pleasure, voice, moral perception and language all together make human beings more political; but we need to explain why this is so. The specious explanatory power of this circularity seems to lead Saunders to the mistake of attributing voice to bees: bees are deaf, they have no voice and Aristotle knew these facts.⁶ In fact, the bees

⁵ See also Reeve 1998: xlvihi.

⁶ See especially *HA* IV.9, 535a27–b14. For a detailed analysis of the semantics and physiology of animal voice in Aristotle see Labarrière 2014: 19–59. Ömer Aygün is defending an unorthodox view about the capacity for hearing in bees. Relying on two passages from

- the other paradigm political animal for Aristotle - have no place in the hierarchy Saunders is eagerly trying to establish among political animals, simply because such a hierarchy does not exist.

C. D. C. Reeve seems to be better off than Saunders because he explicitly takes as one of his premises the fact that communities like a household and *polis* are more political. However, if we look closer, Reeve is not saying that human beings are more political because they constitute such communities which are by nature more political. He is rather saying that these communities are more political *and* human beings are so adequately equipped for living in these communities that they prove to be more political.⁷ There is, however, nothing surprising in the fact that human beings are so adequately equipped for living in these communities, because it is already the same human beings who constructed these communities in this particular way, in accordance with their own natural capacities. In other words if these communities require rational speech, this is because a rational and speaking animal constructed them this way. There is nothing more surprising and explanatory here than seeing, for instance, a bee fitting into the beehive created by its own colony: it is constructed this way for it to fit.

A more subtle version of this circularity, concerning, this time, our capacity for moral perception, can be found in Fred D. Miller. According to Miller (1995), the fact that human beings are able to create households and cities on the basis of a partnership in good and bad, just and unjust is evidence that human beings are more political than any bee or any other gregarious animal. This evidence shows that human beings are adapted for political activity to a fuller extent than the other political animals. For this idea, says Miller, Aristotle invokes one of his principles of natural teleology, according to which “nature does nothing in vain”. That is, insofar as life in *polis* is necessary for human beings to attain their natural ends, nature adapted the human beings for a life in *polis* by giving them not only speech but also a capacity for moral perception. In other words, since a *polis* is not possible without moral perception (because such a life requires co-operation in pursuit of goods, like virtues, which are higher than pain and pleasure) nature endowed human beings with such a perception with the purpose of making the *polis* life possible for them.⁸ Miller formulates his position as follows:

The invocation of teleology at the beginning of this argument [the argument at 1253a1–18] presupposes that humans have natural ends and innate potentials necessary for attaining these ends. In this context humans have the innate capacity to perceive and express justice and injustice because this is necessary in order for them to attain their natural ends. For humans must engage in cooperative forms of social

HA. IX. 40 (namely, 625b9-10 and 627a24-28) Aygün claims that Aristotle thinks bees to be capable of hearing, but what they hear is “not *psophos* in the sense of noise, nor voice as such, but a counterpart of voice, namely the buzz” (p. 343). Aygün also suggests that this peculiar kind of hearing has some political function in the life of bees.

7 I am not sure if the above quoted passage from Reeve would be his most considered position on this question. However, this makes it more interesting for my case here because it testifies to how naturally and immediately we take it for granted that our qualitative differences with the other animals are also the ones which make us more political.

8 For the details of this argument see Miller 1995: 30–35.

and political organization in order to fulfill their nature, and these forms of cooperation require a conception of justice. (1991: 294)⁹

Miller's reconstruction of the Aristotelian argument supposes that life in *polis* requires a capacity for moral perception, and that human beings are so adequately adapted by nature for this life that they have such a capacity. This sounds explanatory, but it shares the same vice with Saunders' and Reeve's positions. The question is again: why does life in *polis* require a capacity for moral perception in the first place? When Aristotle states that human beings have a perception of good and bad, just and unjust, he uses the same generic name as pain, pleasure and the five senses: *aesthesis* (*Pol.* I.2, 1253a14–18, passage quoted above). So, when he is asserting that human beings are morally perceptive, Aristotle does not seem to mean that they *always* and *naturally* have a true opinion about moral questions. This requires education and virtue. Rather, he seems to mean that human beings are never without opinion, right or wrong, about questions of good and bad, just and unjust, etc. They always have *whatever* opinion, not necessarily a true one. This, actually, is why life in *polis* requires a capacity for moral perception. Not only *polis*, but each and every community built by human beings requires such a capacity because this is a natural fact that the human being brings with itself. Things, therefore, are not as put by Miller but the other way around: human beings do not have the capacity for moral perception because life in *polis* requires such a capacity, but life in *polis* requires this capacity because human beings have moral perception. The question of justice is an inextricable question in human communities because human beings are naturally inceptive about this question; not *vice versa*. *Pace* Miller, therefore, moral perception is not given to human beings to fit into the life in *polis*. Such a supposition leads to a circular argument.

Carving nature at the wrong joints

As for the problem concerning the violation of certain principles of an adequate Aristotelian division of natural kinds, the following passage from Wolfgang Kullmann can be considered:

It follows from the description of man as *zōon* that 'political' above all describes a biological condition of a group of animals. So, the precise connection of this human characteristic with the essence of man, as it is expressed in the definition, becomes clear. The definition of man includes the *genus*, animal (*zōon*), and differentia, having reason (*logon echon*) [...] [O]nly the special degree to which the political element is found in man may be traced to this specific differentia of man. [...] According to the text, the greater degree to which man is political is due to the fact that as a being endowed with reason he has a perception of the beneficial and harmful and hence, as Aristotle infers, also of the just and the unjust. (1991: 101)

According to Kullmann, the phrase "the political animal that has a perception of the just and the unjust" does not give us the definition of man, but it derives

⁹ In the context where this citation comes from, Miller is not especially discussing the question of human being's higher degree of politicalness. But it is evidently this very same perspective, as it is put here, which informs his discussion in Miller 1995: 30–35.

from it in the following way. “Political”, as a biological feature, derives from being an animal. This is a factor that we commonly share with other political animals, whereas our perceptiveness about questions of justice derives from our capacity for reason. For Kullmann, it is this rationally-based perception of the just and the unjust that accounts for the higher degree of human beings’ political character. Kullmann, therefore, explains the human being’s political existence by separating the biological aspect (i.e., being political) from the rational aspect, which he considers “an additional” (or “the second”) factor (1991: 103, 102). On this account, human beings are more political than other political animals because, *in addition* to the common biological aspect, human beings possess an *extra* feature, of which other political animals (indeed, all other animals) are deprived. Human beings are more political than all other animals because they are not simply biologically political, but they are *also* rationally perceptive about issues of justice. Human beings’ being more political is not, therefore, a form or a specification of the biological aspect itself. It is explained by human beings’ going *beyond* what is biologically political, and having *extra* non-biological, yet politically pertinent, features. In this account, human beings are political as animals but more political *otherwise* than animal, *otherwise* than biologically.

The main problem with this way of explaining human being’s higher degree of politicalness is the following. For Aristotle, differences according to *the more and the less* between animals have nothing to do with adding up heterogeneous features. The formula of an animal’s being more political cannot be: politicalness (biological constant) *plus* rationality *plus* moral perception *plus* language, etc. This is not how nature is structured according to Aristotle.¹⁰

Comparing animals according to *the more and the less* is one of two ways of comparison that Aristotle appeals to in his biological treatises in order to single out sameness and difference between animal features. The other is the comparison by analogy. These methods of comparison are usually employed in analyses of animal *parts*. For example, we can compare the wings of birds according to how long or short they are, or how much feathering they have, and so on. Analogy, on the other hand, is the method for comparing features of different kinds: as, for example, fish spines are analogous to bones.

However, these methods of comparison are not limited to *parts* of animals. Aristotle thinks that all animal features can be grouped under four principle types of *differentia*, namely *parts*, *ethos*, *bios* and *praxis*.¹¹ This is to say that all animals differ from each other in these four principle ways. In the *History of Animals*, Aristotle explicitly applies comparisons according to *the more and the less* to the other three (besides parts) principal types of animal difference—namely, their *ethos*, *bios*, and *praxis*.¹² Both gregariousness and politicalness are considered by Aristotle under “differences with respect to *bios* and *praxis*” (*HA* I, 487b32ff).

Now, the differences of *the more and the less* result *from* the differences between animals of the same kind. In other words, they result from the specific form

10 For this point and on the general question of the differences according to the “more and the less” in Aristotle’s biology, the principal reference is Lennox 2001.

11 See *HA* I, 1–6 as an introduction to this theme.

12 On this point, see Leunissen and Gotthelf 2010: 328.

a feature takes in species. The wings of birds, for instance, are longer/shorter, broader/narrower, more/less feathered, etc. It is on account of the specific form that being winged takes that a bird's wings will differ by *the more and the less* from the wings of other birds. Put more abstractly: differences by *the more and the less* between biological features—be it parts, *ethos*, *bios*, or *praxis*—result from the specific form that biological feature takes in different animals.

From these considerations, the following can be concluded about political animals: If “being political” is a biological feature, then the differences, by *the more and the less*, between political animals must be the result of the specific form this feature takes in different animals. If political animals differ among themselves by *the more and the less*, this must be the result of differentiation within the biological aspect itself, *as* the biological aspect it is, and not the result of the addition of an extra-biological aspect, as Kullmann suggests. Accordingly, the greater degree of the human being's political character must be accounted for on the basis of its animality and as a differentiation of its political *praxis*, understood as a zoological feature. It is not “otherwise than animal,” but *as an animal* that the human being is more political.

Let us recall Aristotle's definition of political animals: they are those animals “for whom the work of all is some one and common thing” (*HA* I.1, 488a7–8). This definition taken into account, we can conclude that insofar as having some moral perception and having a capacity for rational speech are not specific forms of “having some one and common work” with the other members of the species, we cannot account for human being's being *more* political with reference to these features.

If the foregoing criticisms are sound, then, from a befitting Aristotelian perspective, differences by *the more and the less* between political animals must be due to the specific form their having “some one and common work” takes.

Being more political: Possessing a plurality of communities differing in form

What specific form, therefore, does the human political *praxis* (that is, the human “having some one and common work”) take? After I elaborate on this question, I am going to address the question whether language can be the reason why human beings are more political. My answer will be no.

Now, *Pol.* I.2 gives us a clear idea about the specific form that the human “having some one and common work” takes. That's why, I suggest, the higher degree of human politicalness is also affirmed in this chapter of the book. The higher degree of the human politicalness is just a result of the specific form that its political *praxis* takes. How does Aristotle's argument in *Pol.* I.2 support this interpretation?

The most manifest and distinct idea demonstrated in *Pol.* I.2 is that the human being possesses *a plurality of communities*, which differ from each other in form, and in which it shares some one and common work with other members of its species. My contention is therefore that the human being is more political because it is *an animal of multiple communities*, differing in form.¹³ Starting already from the

13 The idea that the human being is an animal of multiple communities has not escaped the attention of commentators (see esp. Bodeüs 1985 and Labarrière 2016: 150). I am not claiming

first chapter, Aristotle's argument is organized around this idea. In chapter 1, Aristotle's project is to introduce the reader to the idea of the specificity of statesmanship in relation to other forms of power, namely, the household manager (father), the master, and the king. Aristotle says that these forms of power differ in form because the communities to which they correspond differ in form: a city is not an enlarged family, says Aristotle. It is not by magnitude or number, but by form that the communities, to which these different forms of power correspond, differ.

This perspective continues in the second chapter. Aristotle rhythmically reiterates, in the second chapter, a formulation, namely ἐξ ὧν, which develops the idea that a *polis* comes to be *out of* a plurality of communities, and that it continues to encompass those communities as its parts.¹⁴ As is well known, he starts with the family. He analyses the husband-wife, and the master-slave, relationships as parts of the family, and concludes that “the first thing to emerge from these [ἐκ μὲν οὖν τούτων] two communities [the communities of husband-wife and master-slave] is a household.” (1252b9–10). Next, he analyzes the village, saying: “the first community constituted out of several households [ἐκ πλείονων οἰκιῶν] for the sake of satisfying needs other than everyday ones is a village.” (1252b15–16). And, finally, he addresses the *polis*: “The community finally composed of several villages [ἐκ πλείονων κωμῶν] is the *polis*.” (1252b27–28). The family, the village and finally the *polis* are like “emergent communities” which cannot be reduced to their component sub-communities. Therefore it comes out, already at the outset of Book I, that the outstanding characteristic of the human being's *praxis* as a political animal is to compose, and to constitute, different communities - *in the plural*.

To the question of knowing why the human being develops *that much* politicalness, Aristotle provides an explicit answer: the need for self-sufficiency. Especially in *Pol.* I.2, the lack of self-sufficiency is depicted as another biological fact about human beings. For Aristotle, human beings are naturally disposed to live with other members of their species¹⁵, but if their political *praxis* develops and differentiates in such a way as to build up several different communities to the point of founding a *polis*, this is because of their natural lack of self-sufficiency. He who does not need such a community because he is self-sufficient, says Aristotle, must be a god, not a human being.¹⁶ Therefore, it is another biological fact about human beings that they naturally *need* to develop all the multiple communities that constitute their political life.

It's worth noting here that the *Nicomachean Ethics* shares the same perspective about the human *politikon*. At *EN* I.7, 1097b8–11, Aristotle says:

Now by self-sufficient we do not mean that which is sufficient for a man by himself, for one who lives a solitary life, but also for parents, children, wife, and in general for his friends and fellow citizens, since man is by nature political.¹⁷

originality with this idea. But that this fact about the human being must be the explanation for its being more political, to the best of my knowledge, has not been noticed before.

14 On this point see also Saunders 1995: 61.

15 The human being has an *hormé* for a communitarian life, see *Pol.* I.2, 1253a30.

16 *Pol.* I.2, 1253a28–29.

17 D. Ross's translation in The Revised Oxford Translation of the *Complete Works of Aristotle*.

The types of relations mentioned in this passage all correspond to different types of friendship that Aristotle distinguishes in *EN* VII. Yet, according to Aristotle, every kind of friendship corresponds to a kind of community¹⁸; and in the above passage, just like in *Pol.* I.2, he affirms that this multiplicity of communities is indispensable for the human being to be self-sufficient.

The role of language

Now I can address the question whether language can be the reason why human beings are more political. My answer is no. For those who give a positive answer to this question, the ultimate evidence comes from the following passage:

It is also clear why the human being is more political than the bees and any other gregarious animal. For [γάρ] nature does nothing in vain, as we say, and no animal has speech except the human being. (*Pol.* I.2, 1253a7–10)

According to the rest of this passage, language is not in vain because it is useful in manifesting the good, the bad, the just and the unjust. How exactly are we to understand this assertion?

The first thing to notice is that insofar as there are political animals which lack such a linguistic capacity, there cannot even be a correlation between possessing such a linguistic capacity and being a political animal. Besides, human beings could have been non-political solitary animals, and still have experienced problems in their casual encounters with each other, so that language could still have had a function: manifesting the problem. Language is, therefore, neither a necessary nor a sufficient condition for being a political animal.

A more plausible approach is to appeal to what Aristotle says as his *conclusion* about the role of language:

[I]t is peculiar to human beings, in comparison to the other animals, that they alone have perception of what is good or bad, just or unjust, and the rest. And it is community in these that makes a household and a *polis*. (1253a15–18)¹⁹

Commentators interpret this idea as follows: human beings establish families and city-states, because they *can* communicate about justice. Other animals would therefore be less political because, since they cannot communicate about justice, they are unable to make households and *poleis*.²⁰ But as I've tried to explain so far, there is no non-circular way of making this explanation function, unless we suppose that the other animals are also supposed, by nature, to make households and cities and yet fail to accomplish this “work” (*ergon*). This is not true. Moreover, the fact that human beings *can* establish these communities does not explain why they *do* establish them. Saying that human beings establish these communities because they *can* would not conform to Aristotle's most basic principles of teleology:

18 *EN* VIII.9, 1159b32.

19 For the last two passages quoted from Aristotle's *Politics*, I use Reeve's 1998 translation with slight modifications.

20 C. D. C. Reeve's and Fred D. Miller's positions would be, among many, two examples of this approach.

animals do not accomplish “works” (*erga*) because they have the means and capacities to do so. Things are the other way around: animals have such means and capacities because they have such “works” to accomplish.²¹

This perspective must be applied to our capacity for language too. Aristotle’s use of the teleological principle that “nature does nothing in vain” in explaining language suggests that according to him human beings have language because they are naturally destined to establish all this multiplicity of communities; not the other way around.

In his zoological writings Aristotle uses the principle “nature does nothing in vain” to provide an explanation for the *presence* or the *absence* of some biological features in animals. In both cases, this principle functions the same way: by using it, Aristotle invites us to make a counterfactual reasoning. That is: he invites us to imagine the opposite scenario where the feature that is *now* present (or absent) is absent (or present). And the observable consequences of this reversed scenario will point towards the cause(s) of the presence of the biological phenomenon in question, because this counterfactual reasoning makes the observer see the problems that the animal would have experienced had it lacked the capacity in question.²² To give one example from *De Anima* (III.12, 434a30–b8): all those animals which are able to move have at least one distance sense (like hearing, smelling, and sight) because if they hadn’t any, they would never be able to move successfully and they would never be successful in regularly reaching their food. So this is why moving animals have distance senses, while the unmoving ones lack them.

Now, as for the language, the scope of Aristotle’s use of this principle is not limited to saying that language is for communicating our perceptions of justice. The *ultimate* point Aristotle is making about language is that communicating our perceptions of justice has also its own function, and discovering this function will make it clear for us why the human being is a more political animal. So, the communication of our moral perceptions is only the half of Aristotle’s point about language. Aristotle says something more.

So far, we’ve seen Aristotle establishing the following: Human beings are those political animals which are naturally in need of going beyond their domestic spheres and of founding a multiplicity of other communities, which finally make up a *polis: the community of communities*.²³ Once he makes this clear, Aristotle continues with the following as his second point in this chapter (*Pol.* I.2): as the human beings will incessantly have a perception of the good, the bad, the just and the unjust at every single stage of their communitarian activity (that is, in each community, from family to *polis*), there will always be a question of justice to settle in their life. Even the most elementary groupings (e.g. the husband-wife relation) require the observance of justice. So, from family to *polis*, justice will be *the* political problem in human life. Without settling these problems of justice, their political activity will never achieve its natural development. They would never achieve being the political animal they are since they will fail to establish the communities they need to establish. It is therefore in this precise sense that “it is community in these [moral

21 See *Parts of Animals*, Book I.

22 A detailed analysis of this counterfactual reasoning can be found in Leunissen 2010.

23 I borrow this expression from Labarrière 1993: 14.

notions] that makes a household and a *polis*”. However, settling the problems of justice, so as to make household and *polis* possible, is impossible without language. Human beings need language, because they are naturally destined to found all the communities they found as a political species. Put in a more Aristotelian style, language is hypothetically necessary. That is, *if* the human being is to be *that* much political, then the capacity for language is a prerequisite.

It comes out, therefore, that language is present not only for the communication of moral notions. It is rather present for the communication of such notions *with the purpose of* establishing all these communities, from family to the *polis*. This is how Aristotle leads us to discover the function of manifesting our moral perceptions. The human beings need to communicate their sentiments of justice, because they need a multiplicity of communities for a self-sufficient life. Therefore, according to Aristotle, language follows the needs and the activities of the political animal the human being is, it does not create them.

Conclusion

All the extant explanations I know of human being’s higher degree of politicalness according to Aristotle are flawed, because some of them start by taking the human being as their criterion for being more political; some do not conform to Aristotelian division: they do not consider “being more political” as resulting from the specific form that this biological aspect, “being political”, takes in human beings; and they do not understand adequately the teleology of language: language is present not only for communicating the just and the unjust. It is rather present as assistance to the political animal the human being *already* is: a gregarious animal of multiple communities which is at the same time perceptive of moral questions.

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Refik Guremen

U kom smislu su tačno ljudska bića više politička prema Aristotelu?

Apstrakt

Prema Aristotelu, ljudska bića su po prirodi političke životinje. Sada je već opštepoznato da bivanje političkim prema njemu nije privilegija ljudi: pčele, ose, mravi i ždralovi su takođe političke vrste. Iako nisu jedine političke životinje, ljudska bića su, prema Aristotelu, ipak više politička u odnosu na druge političke životinje. U članku se ispituje precizno značenje ovog poređenja; i iznosi se tvrdnja da se veći stepen ljudske političnosti *ne može* objasniti ukazivanjem na isključivo ljudske osobine, kao što su posedovanje kapaciteta za govor i moralno opažanje. Umesto toga, iznosi se tvrdnja da su ljudska bića više politička zato što žive u mnoštvu zajednica koje se razlikuju po formi.

Ključne reči: Aristotel, političke životinje, jezik, priroda

Manuel Knoll

MACHIAVELLIS REALISTISCHES MENSCHENBILD UND SEINE RECHTFERTIGUNG DES STAATS

ZUSAMMENFASSUNG

Der vorliegende Aufsatz analysiert Machiavellis Menschenbild. Er argumentiert gegen die vorherrschenden Auffassungen, die es entweder als *pessimistisch* oder als *optimistisch* charakterisieren und begründet die These, dass der Florentiner ein *realistisches* Menschenbild hatte. Machiavelli ist ein „psychologischer Egoist“, der den Menschen als ein Wesen ansieht, dessen Handlungen durch seine Triebe, Wünsche und Leidenschaften motiviert werden, die ihn häufig zu unmoralischem Verhalten verleiten. Die zentralen Antriebe des Menschen sind „Ehrgeiz“ (*ambizione*) und „Habgier“ (*avarizia*). Der vorliegende Aufsatz untersucht auch Machiavellis Naturbegriff und zeigt, dass die Unwandelbarkeit der menschlichen Natur für ihn die zentrale Prämisse ist, die eine wissenschaftliche Analyse von Politik ermöglicht. Trotz der Tatsache, dass die menschlichen Triebe und Fähigkeiten zu allen Zeiten dieselben sind, kann der Mensch durch gute Gesetze, militärisches Training und Religion verändert und zur „Tüchtigkeit“ (*virtù*) erzogen werden. Die Voraussetzungen für derartige Veränderungen sind jedoch eine gute gesetzliche und politische Ordnung. Machiavelli rechtfertigt den Staat wegen dessen Fähigkeit, die menschliche Natur umzugestalten und den Menschen zu verbessern. Der Staat ist nicht bloß eine Zwangsgewalt, sondern auch eine moralische Institution. Daraus ergibt sich die Konklusion, dass Machiavelli die Politik nicht von der Moral trennt, wie die meisten Wissenschaftler behaupten.

SCHLÜSSELWÖRTER

menschliche Natur,
politischer Realismus,
politische Ordnung,
Ehrgeiz, Habgier,
Erziehung, Religion,
Gesetz und Ordnung

1. Vier Gruppen von Menschenbildern

In seiner Monographie über *Das Bild vom Menschen im politischen Denken Niccolò Machiavellis* führt Lauri Huovinen drei Gruppen von Menschenbildern an, die in der Machiavelli-Forschung unterschieden werden (1951: 10). Den ersten beiden Gruppen zufolge lässt sich bei Machiavelli ein „pessimistisches Menschenbild“ aufweisen. Nach der ersten Gruppe entspringt der Pessimismus daraus, dass Machiavellis Menschenbild „wesentlich von der christlich-dogmatischen Gedankenwelt des Mittelalters bestimmt worden“ ist und – zumindest unbewusst – in der Tradition des christlichen Denkens und dessen Weltauslegung steht (1951: 10). Die zweite Gruppe führt Machiavellis „pessimistisches Menschenbild“ nicht auf das Christentum zurück, sondern versteht es „aus seiner eigenen Zeit heraus“ (1951: 20). Die Interpreten dieser Gruppe sehen Machiavellis Pessimismus zudem nicht als „widerspruchlos“ oder als bloße Konstruktion bzw. Theorie an, „der es an

praktischer Bedeutung fehle“ bzw. die „ohne Folgen für die Wirklichkeit bleibe“ (1951: 20). Die Auffassung, Machiavelli habe ein „pessimistisches Menschenbild“ bzw. bei ihm lasse sich ein „anthropologischer Pessimismus“ aufweisen, herrscht auch in der zeitgenössischen Literatur vor (Buck 1985: 41; Deppe 1987: 297; Diesner 1988: 47; Kersting 2006: 31, 49; Münkler 1984: 263f., 395). Den Interpreten der dritten Gruppe zufolge ist Machiavelli im Grunde gar kein Pessimist, sondern ein „Optimist“: „Die Entstehung dieses „Optimismus“ wird aus der Renaissance erklärt oder aus einer Gegeneinstellung gegen das Christentum“ (Huovinen 1951: 23).

Im Gegensatz zu den angeführten Forschungspositionen argumentiert der vorliegende Aufsatz für die These, dass Machiavellis Menschenbild weder als *pessimistisch* noch als *optimistisch* charakterisiert werden sollte, sondern als *realistisch*. Machiavelli wirft einen nüchternen und realistischen Blick auf den Menschen und die politische Wirklichkeit, der ausschließlich die reine Faktizität berücksichtigt.¹ Sein realistisches Menschenbild steht im Einklang mit seinem illusionslosen und realistischen Verständnis von Politik, die er aus der Perspektive der Macht sowie der Begründung und Erhaltung staatlicher Ordnung analysiert (vgl. Berg-Schlosser und Stammen 1995: 25f.). Das Menschenbild, das Machiavellis Analysen zugrunde liegt, knüpft an die realistische Anthropologie des Thukydides und an die realistischen Bestandteile von Aristoteles' politischer Anthropologie an. Für Machiavelli ist der Mensch ein egoistisches Wesen, dessen Handeln von seinen Begierden und Leidenschaften motiviert wird. Der Menschen ist nicht von Natur aus oder existenziell böse, auch wenn seine natürlichen Begierden ihn oft zu unmoralischen oder schlechten Handlungen veranlassen (cf. Huovinen 1951: 80). Machiavellis Menschenbild ist nicht statisch, sondern dynamisch. Die Natur des Menschen ist wandel- und formbar. Durch gute Gesetze, militärische Übungen und Religion, die in der Regel eine bestehende politische Ordnung voraussetzen, kann der Mensch verändert und zur „Tüchtigkeit“ (*virtù*) erzogen werden.

Der vorliegende Aufsatz analysiert Machiavellis Menschenbild, dessen Verständnis für eine Interpretation seiner politischen Theorie unerlässlich ist. In Abschnitt II erläutert er Machiavellis These von der Unveränderlichkeit der menschlichen Natur, die überhaupt erst eine wissenschaftliche Analyse von Politik möglich macht. Im nachfolgenden Abschnitt III analysiert er, wie Machiavelli die Natur des Menschen begreift und geht dabei kurz auf dessen Naturbegriff ein. In Abschnitt IV thematisiert er den „Ehrgeiz“ (*ambizione*) und die „Habgier“ (*avarizia*) und zeigt, dass der Florentiner diese als die fundamentalsten Antriebe des Menschen versteht. Machiavellis eingehende Analysen des menschlichen Verhaltens rechtfertigen es, ihn als frühen Vorläufer der modernen Motivationspsychologie zu begreifen.² Im abschließenden Abschnitt V untersucht der vorliegende Aufsatz die staatsphilosophischen Konsequenzen, die Machiavelli aus seinem Menschenbild zieht und

1 Vgl. Knoll 2015 und Machiavelli 2003, XV: 119. Francis Bacon erklärt, dass „wir Machiavelli und anderen Autoren dieser Art sehr verbunden sind, die offen und unverstellt erklären oder beschreiben, was die Menschen tun, und nicht, was sie tun sollten“ (Bacon 2006, VII 2: 412f.).

2 In der Regel werden Darwin und Freud als die Pioniere der modernen Motivationspsychologie angesehen (Schmalt 1986: 18–24). Die für diese Wissenschaft spezifischen Fragen nach den Ursachen und Zielen des menschlichen Verhaltens werden jedoch bereits von Machiavelli eingehend untersucht (vgl. Schmalt 1986: 12).

insbesondere die verschiedenen Dimensionen seiner Begründung und Rechtfertigung des *Staaates*³. Um die ihren Leidenschaften unterworfenen Menschen zu zügeln, bedarf es des Staates und des staatlichen Zwangs. Mit seiner politischen Anthropologie rechtfertigt Machiavelli den Staat und seinen Zwangsapparat, dessen Funktion sowohl darin besteht, für *Law and Order* zu sorgen als auch die egoistische menschliche Natur umzuformen und zu verbessern.

2. Die Unveränderlichkeit der menschlichen Natur als Möglichkeitsbedingung der wissenschaftlichen Analyse von Politik

Zentraler Gegenstand von Machiavellis Denken ist nicht der Mensch, sondern die Politik. In seinem Brief an Francesco Vettori vom 9. April 1513 erklärt er: „ich muss vom Staate reden (*ragionare dello stato*), ich muss geloben zu schweigen oder davon zu reden“ (Machiavelli 1961: 240, Übers. M.K.). Wie die menschlichen Handlungen allgemein, hängt das politische Geschehen zur Hälfte von einem gesetzlosen Schicksal ab, das die Menschen durch günstige oder ungünstige Wandlungen zum Glück oder ins Verderben führt. Dennoch überlässt die unberechenbare Schicksalsgöttin Fortuna den Menschen die andere Hälfte ihrer Taten oder zumindest beinahe so viel (Machiavelli 2003, XXV: 191–193).⁴ Der Einfluss, den sie durch ihre Entscheidungen auf das politische Geschehen nehmen können, hängt von ihrer „Tüchtigkeit“ (*virtù*), insbesondere von ihrer Klugheit und Erfahrung ab. Die Menschen können die Erfolgsaussichten ihrer politischen Handlungen maximieren, wenn sie die Lehren aus der Geschichte beherzigen, die Machiavelli durch den analytischen Vergleich der politischen Erfahrungen der Antike und der Zeitgeschichte gewinnt. Mit seiner induktiven und komparativen Methode versucht der Florentiner „allgemeine Regeln“ (*regole generali*) zu gewinnen, die das politische Handeln anleiten können.⁵ Die logische Voraussetzung dieses Verfahrens besteht darin, dass es im Wandel der geschichtlichen Situationen etwas Konstantes gibt, das die Ereignisse vergleichbar macht und induktive Schlüsse von besonderen Begebenheiten zu allgemeinen Regeln erlaubt. Gäbe es in der geschichtlichen Welt keine Notwendigkeiten und wäre alles individuell, ungleichartig und unbeständig, könnte man weder aus der Geschichte lernen noch auf sie eine Erfahrungswissenschaft gründen. Die Konstanz in der Geschichte, die die Voraussetzung für notwendige Zusammenhänge und allgemeine Regeln ist, besteht für Machiavelli vor allem in der Unveränderlichkeit der menschlichen Natur.⁶

In seinem Vorwort zu den *Discorsi* bemängelt Machiavelli, dass in der zeitgenössischen Politik weder Fürsten noch Republiken „die überaus tüchtigen politischen Handlungen“ (*le virtuosissime operazioni*) der großen Männer des Altertums

3 Vgl. zu Machiavellis Verwendung des Begriffs „*stato*“ im Sinne des modernen Staatsbegriffs Knoll und Saracino 2018.

4 Vgl. hierzu Machiavellis *Lehrgedicht über die Fortuna* in Machiavelli 1832/41: 226–230, und in Hoeges 2006: 114–119.

5 Vgl. zu Machiavellis wissenschaftlichem Ansatz und zu seiner Methode Butterfield 1955 und Knoll 2010.

6 Vgl. zu Machiavellis Geschichtsauffassung Münkler 1984: 396, und Kersting 1988: 246; vgl. hierzu Münkler 1984: 254f., und Buck 1985: 156f., 161.

nachahmen. Zu diesen zählt er die Gründung der Republiken, die Erhaltung der Staaten, die Regierung der Königreiche sowie die Einrichtung des Militärwesens und die Kriegführung. Als den zentralen Grund dafür sieht er an, dass

man keine wahre Kenntnis (*cognizione*) der Geschichte besitzt, daß man, wenn man sie liest, nicht den Sinn, wenn man sie kostet, nicht den Geschmack aus ihr zieht, den sie in sich schließt. Daher kommt es, daß Unzählige, die die Geschichte lesen, Vergnügen daran finden, jene Abfolge von Ereignissen (*accidenti*), welche darin enthalten sind, zu hören, ihnen jedoch nicht in den Sinn kommt, dieselben nachzuahmen (*imitarle*), da sie die Nachahmung (*imitazione*) nicht allein für schwer, sondern für unmöglich halten: als wenn der Himmel, die Sonne, die Elemente, die Menschen in Bewegung, Ordnung und Kraftvermögen (*come se il cielo, il sole, li elementi, li uomini, fussino variati di moto, di ordini e di potenza*) verschieden wären von dem, was sie im Altertum waren. (Machiavelli 1990, Vorwort: 128)⁷

Machiavellis These von der Unveränderlichkeit der menschlichen Natur ist in dieser Textpassage deutlich ausgesprochen. Ähnliche Gedanken formuliert bereits Thukydides, dessen Werk über den Peleponnesischen Krieg Machiavellis Denken beeinflusste. Die realistische Geschichtsbetrachtung des Thukydides zielt wie diejenige Machiavellis nicht auf Unterhaltung und Vergnügen, sondern auf Nützlichkeit. Wer „das Gewesene klar erkennen“ kann, so Thukydides, vermag „auch das Künftige, das wieder einmal, nach der menschlichen Natur, gleich oder ähnlich sein wird“, zu erfassen (2002, I 22: 18; vgl. III 82: 206). Die Notwendigkeit des Geschichtsablaufs ist für Thukydides in der Eigentümlichkeit der menschlichen Natur begründet.

Wie ist Machiavellis These von der Unveränderlichkeit der menschlichen Natur genau zu verstehen? Was sind ihm zufolge die entscheidenden Merkmale des Menschen? Was bedeutet es, dass die „Menschen in Bewegung, Ordnung und Kraftvermögen“ (*di moto, di ordini e di potenza*) in der Gegenwart identisch sind mit denjenigen im Altertum? Machiavelli führt dazu aus:

Kluge Männer pflegen nicht grundlos und zu Unrecht zu sagen, wer die Zukunft voraussehen wolle, müsse die Vergangenheit betrachten, denn alle Begebenheiten dieser Welt haben immer ihr Seitenstück (*riscontro*) in der Vergangenheit. Dies kommt daher, daß sie von Menschen (*uomini*) vollbracht werden, die stets die gleichen Leidenschaften (*sempre le medesime passioni*) haben oder gehabt haben. Dieselben Ursachen müssen aber notwendig dieselben Wirkungen haben. (Machiavelli 1977, III 43: 396)

Die Unveränderlichkeit der menschlichen Natur bedeutet, dass die Menschen der Antike von Leidenschaften und Wünschen angetrieben wurden, die ebenso das Verhalten der Zeitgenossen motivieren. Das trifft nicht bloß auf Individuen, sondern auch auf ganze politische Gemeinschaften und Völker zu:

Wer sich mit der gegenwärtigen und antiken Geschichte beschäftigt, erkennt leicht, daß alle Staaten (*città*) und alle Völker (*popoli*) von jeher die gleichen Wünsche

⁷ Vgl. hierzu Machiavelli 1977, Vorwort: 5. Im Rückblick auf die oben angeführte Passage erklärt Machiavelli: „Deshalb schrecke niemand davor zurück, das gleiche auszuführen, was bereits einmal von anderen ausgeführt worden ist; denn Geburt, Leben und Sterben der Menschen geschehen von jeher nach denselben Gesetzen (*nacquero, vissero e morirone sempre con uno medesimo ordine*)“ (Machiavelli 1977, I 11: 46). Die in vorliegendem Aufsatz in die Übersetzungen in Klammern eingefügten Wörter sind den Originaltexten von M.K. entnommen.

(*desiderii*) und die gleichen Launen (*omori*) hatten. Untersucht man also sorgfältig die Vergangenheit, so ist es ein leichtes, in jedem Staat die Zukunft vorauszusehen und die gleichen Mittel (*remedi*) anzuwenden, die auch von den Alten angewandt wurden, oder bei ähnlichen Ereignissen neue auszudenken, wenn bereits erprobte Mittel nicht zur Hand sind. (Machiavelli 1977, I 39: 107)

Machiavellis Auffassung von der Unveränderlichkeit der menschlichen Natur bedeutet allerdings nicht, dass die Menschen aller Orte und Zeiten dieselbe Tüchtigkeit hatten. Waren die antiken Römer außerordentlich tüchtig, trifft für seine italienischen Zeitgenossen das genaue Gegenteil zu (Machiavelli 1977, II Vorwort: 163).⁸ Zwar wechseln die „Sitten“ und „Gewohnheiten“ (*costumi*) der Völker geschichtlich mit der Art ihrer Erziehung, die auf ihrer Religion basiert (Machiavelli 1977, II Vorwort 2: 161, 171).⁹ Dennoch behält ein Volk lange dieselben Gewohnheiten und nahezu immer „dieselbe Natur“ (*medesima natura*) bei. So ist Machiavelli der Auffassung, dass die Deutschen und die Franzosen völlig „habsüchtig, hochmütig, wild und treulos“ sind (*pieni di avarizia, di superbia, di ferocità e d'infidelità*) (Machiavelli 1977, III 43: 396f.). Einige dieser Eigenschaften hatten bereits die alten Germanen und die Gallier. Das Studium der Geschichte zeigt, welche Völker welche konstanten Eigenschaften haben, und dieses Wissen kann bei der Außenpolitik berücksichtigt werden.

Der Kern der Auffassung von der Unveränderlichkeit der menschlichen Natur besteht darin, dass die menschlichen Leidenschaften und Vermögen zu allen Zeiten dieselben sind. Treffend erklärt Herfried Münkler: „Was Machiavelli als eine konstante Größe ansetzt, ist also nicht die menschliche Natur in ihrer historisch ausgeformten Gestalt, sondern vielmehr ihr ‚Rohstoff‘, die Summe der menschlichen Leidenschaften und Fähigkeiten. Sie sind stets dieselben und der sich immer gleichbleibende Motor der geschichtlichen Entwicklung“ (Münkler 1984: 255). Welche fundamentalen Leidenschaften treiben die Menschen an und bestimmen ihre immer gleichen Bewegungen?

3. Die Natur des Menschen

Wie Machiavelli generalisierende Aussagen über Deutsche, Franzosen und andere Völker trifft, enthalten seine Werke eine Vielzahl an Verallgemeinerungen über den Menschen überhaupt. So führt er an, dass die Menschen „neuerungssüchtig (*desiderosi di cose nuove*) sind, wobei die, denen es gut geht, ebenso sehr eine Veränderung wünschen wie die, denen es schlecht geht“ (Machiavelli 1977, III 21: 344). Zudem sind sie ungeduldig, so dass sie die „Befriedigung ihrer Leidenschaften nicht lange hinausschieben“ können (Machiavelli 1977, III 8: 313). Man könne „von den Menschen im allgemeinen sagen, daß sie undankbar, wankelmütig, unaufrichtig, heuchlerisch, furchtsam und habgierig (*cupidi di guadagno*) sind“ (Machiavelli 2003, XVII: 128f.). Auch die „Völker“ (*popoli*) sind von Natur aus wankelmütig: „es ist leicht, sie

8 Machiavelli ist der Auffassung, dass die Tüchtigkeit zwar von Land zu Land wandert, die Welt aber immer dieselbe bleibt (Machiavelli 1977, I Vorwort: 161f.).

9 Vgl. hierzu Machiavellis Begriff der „Verderbnis“ (*corruzione*), dem Staaten und Religionsgemeinschaften ebenso unterworfen sind wie menschliche Körper (Machiavelli 1977, III 1: 274ff.; vgl. dazu Machiavelli 1977, I 17 und 18: 61ff.).

von etwas zu überzeugen, aber schwer, sie bei dieser Überzeugung zu halten“ (Machiavelli 2003, VI: 44f.). Eine natürliche und verbreitete Begierde der Menschen ist ihr Verlangen, zu erobern (*desiderare di acquistare*) und den anderen Menschen zu befehlen (*comandare altrui*) sowie sie zu beherrschen (*appetito del regnare*) (Machiavelli 2003, III: 26f.; Machiavelli 1977, I 1: 9; III 4: 283). Generell lässt sich sagen, dass die Menschen hauptsächlich von „Liebe und von Furcht“ angetrieben werden (Machiavelli 1977, III 21: 345). Machiavellis allgemeinste – aber unbestimmteste – Aussagen lauten, dass „die Menschen schlecht (*tristi*)“ sind bzw. dass viele „nicht gut sind“ (*non sono buoni*) (Machiavelli 2003, XV: 118f.; XVII: 130f.; vgl. XXIII: 186f.).

Machiavellis Verallgemeinerungen umfassen auch differenzierende Aussagen über die menschliche Natur. So vertritt er die Auffassung, dass die Menschen eines von zwei gegensätzlichen Temperamenten haben und ihnen gemäß „entweder mit Besonnenheit oder mit Ungestüm“ (*l'uno con rispetto, l'uno con impeto*) vorgehen. Diese Temperamente begreift er als natürliche Neigungen und betont, dass man nicht von etwas abweichen kann, „wozu man von Natur neigt (*non si può deviare da quello a che la natura lo inclina*)“ (Machiavelli 2003, XXV: 194f.; Machiavelli 1977, III 9: 313). Analog dazu erklärt er, dass wir Menschen uns unserer „eigenen Natur nicht widersetzen“ können (*che noi non ci possiamo opporre a quello a che c'inclina la natura*) (Machiavelli 1977, III 9: 315).¹⁰ Derartige Formulierungen werfen die Frage auf, was für ein Begriff von Natur ihnen zugrundeliegt.¹¹ Einen Hinweis gibt Machiavelli bei dem Vergleich der römischen Feldherren Fabius Maximus und Scipio. Während letzter im Krieg gegen die Karthager ungestüm vorgeht, verhielt sich Fabius besonnen und bedächtig. Machiavelli ist der Auffassung, dass Fabius „aus seiner Natur heraus, nicht aus freier Entscheidung so handelte“ (*facessi questo per natura e non per elezione*) (Machiavelli 1977, III 9: 314). Obwohl er dem Mensch einen „freien Willen“ (*libero arbitrio*) zuspricht, ist Machiavelli davon überzeugt, dass die Natur seine Entscheidungsfreiheit einschränkt (Machiavelli 2003, XXV: 192f.; vgl. XXVI: 202f.). Die Natur determiniert die Menschen partiell und begrenzt das Spektrum der ihnen möglichen Handlungen. Die Natur, von der hier die Rede ist, bezeichnet Machiavelli auch als „unsere Natur“ (*nostra natura*): „Den richtigen Mittelweg einzuhalten ist nicht möglich, es widerspricht unserer Natur (*la nostra natura non ce lo consente*)“ (Machiavelli 1977, III 21: 345). In dieser und anderen Formulierungen verwendet Machiavelli „unsere Natur“ im Sinne von „unser Wesen“. Analog dazu spricht er auch von der „Natur der Völker“ (*natura de' popoli*), von der „Natur der Fürsten“ (*natura de' principi*) und von der „neidischen Natur der Menschen“ (*invidia natura degli uomini*) (Machiavelli 2003, Widmung: 6f.; VI: 44f.; Machiavelli 1977, I Vorwort: 4).¹² Die „Natur der Menschen“ (*natura degli uomini*) ist „ehrgeizig und mißtrauisch“ (*ambiziosa e sospettosa*) (Machiavelli 1977, I 29: 83). Sie disponiert sie zu bestimmten Verhaltensweisen, etwa dazu, eher „Unbilden zu rächen, als für Wohltaten sich dankbar zu bezeigen“, oder

¹⁰ Machiavelli erklärt zudem: „Immer wird der Mensch nur das tun, wozu ihn seine Natur treibt (*ti sforza la natura*)“ (Machiavelli 1977, III 9: 314).

¹¹ Vgl. zu Machiavellis Naturbegriff Saracino 2012: 298–308.

¹² Machiavelli spricht im Kontext der Übungen in der Kriegskunst auch von der „Natur des Geländes“ (*natura de' siti*) und der „Beschaffenheit der Flüsse und Sümpfe“ (*natura de' fiumi e de' paduli*) (Machiavelli 2003, XIV: 114f.)

dazu, „Partei zu ergreifen, sobald ein Zwiespalt entsteht“, oder zu dem verbreiteten Wunsch, Eroberungen zu machen.¹³

Die Natur legt nicht bloß das Spektrum der menschlichen Motive und Handlungsmöglichkeiten fest, sondern beschränkt und determiniert auch die Dinge dieser Welt: „Denn da die Natur den menschlichen Dingen keinen Stillstand gestattet (*non essendo dalla natura conceduto alle mondane cose il fermarsi*), so müssen sie notwendig abwärts steigen, nachdem sie den Gipfel der Vollkommenheit erreicht haben, wo sie nicht ferner aufwärts zu steigen vermögen“ (Machiavelli 1934, V 1: 241).¹⁴ Machiavelli spricht von der Natur auch als schöpferischem Subjekt. So erklärt er, dass „die Natur die Menschen so geschaffen hat (*la natura ha creati gli uomini*), daß sie zwar alles begehren können, aber nicht alles erreichen können“ (Machiavelli 1977, I 37: 101f.).¹⁵ Machiavellis Rede von der Natur als Schöpferin liegt kein metaphysisches Naturverständnis zugrunde. Vielmehr dürfte er damit seine Distanz zum jüdisch-christlichen Menschenbild zum Ausdruck bringen, dem zufolge Gott der Schöpfer des Menschen ist. Machiavelli begreift den Menschen als Teil der Natur und als natürliches Gebilde. Zum Verhältnis des Mensch zu der ihn umgebenden äußeren Natur erklärt er: „Alles, was wir tun, ist eine Nachahmung der Natur. Es widerspricht ihren Gesetzen und ist daher unmöglich, daß ein dünner Stamm einen dicken Ast trägt. Ebenso wenig kann ein kleiner Staat Städte und Reiche erobern, die mächtiger und volkreicher sind als er selbst“ (Machiavelli 1977, II 3: 176). Die Natur im Allgemeinen und die menschliche Natur im Besonderen versteht Machiavelli jedoch nicht im Sinne der Tradition. Die traditionelle Sichtweise der Natur ist vor allem geprägt von der teleologischen Naturauffassung des Aristoteles, der zufolge die natürlichen Körper und ihre Teile eine eigentümliche „Funktion“ (*ergon*) sowie einen spezifischen „Zweck“ (*telos*) haben und aus einem inneren Antrieb zur vollendeten Verwirklichung ihrer Funktion und ihres Zwecks streben (*Physik* II und III). Im Gegensatz dazu begreift Machiavelli die Natur bzw. das Wesen des Menschen vor allem als eine Vielzahl von Dispositionen, Wünschen und Leidenschaften, die sein Verhalten motivieren.

4. Ehrgeiz und Habgier als die fundamentalen Motive des menschlichen Verhaltens

Auch wenn Machiavelli die Natur des Menschen auf vielfältige Weise charakterisiert, sieht er als dessen fundamentalste Antriebe den „Ehrgeiz“ (*ambizione*) und die „Habgier“ (*avarizia*) an. So erklärt er im *Principe*, dass sowohl die ungestümen

13 Machiavelli 1934, IV 10: 203: „*sendo gli uomini naturalmente piu pronti alla vendetta delle ingiuria che alla gratitudine del beneficio*“; Machiavelli 1977, III 27: 361: „*dalla natura è dato agli uomini pigliare parte in qualunque cosa divisa*“; Machiavelli 2003, III: 26f.: „*È cosa veramente molto naturale e ordinaria desiderare di acquistare*“.

14 In dem Satz davor erklärt Machiavelli gemäß seinem zyklischen Geschichtsverständnis, die meisten Staaten pflegten von „Ordnung zu Unordnung überzugehen, um dann von der Unordnung zur Ordnung zurückzukehren“.

15 In seiner Dichtung *L'Asino* führt Machiavelli über den Menschen aus: „Die Natur (*natura*) gab ihm Geschicklichkeit und Denkvermögen, dazu aber den Ehrgeiz und die Habgier, die alles wieder zunichte machen“ (Machiavelli 2001: 112f.).

als auch die besonnenen Charaktertypen dasselbe Ziel vor Augen haben, nämlich „Ruhm und Reichtum“ (*gloria e ricchezza*) (Machiavelli 2003, XXV: 194f.; vgl. XIX: 148f.). Zielt der Ehrgeiz vor allem auf Ruhm und Ehre, so die Habgier auf Reichtum und materielle Güter. Wie stark die Habgier bei den Menschen ausgebildet ist und wie sehr sie an ihrem Eigentum hängen, zeigt sich daran, dass sie „schneller den Tod ihres Vaters als den Verlust ihres Erbes“ vergessen (Machiavelli 2003, XVII: 130f.). Im Einklang damit vertritt Machiavelli die Auffassung, dass „die Menschen Besitz viel höher schätzen als Ehrungen“ (Machiavelli 1977, I 37: 103).¹⁶

Die herausragende Bedeutung, die der Ehrgeiz und die Habgier für das menschliche Leben und die Politik haben, verdeutlicht Machiavelli in seinem *Lehrgedicht über den Ehrgeiz (Capitolo dell'Ambizione)*¹⁷. Machiavelli beginnt sein Gedicht damit, dass er dessen Adressaten Luigi Guicciardini zu einer realistischen Weltsicht auffordert, die „die menschlichen Begierden“ (*l'umano appetito*) berücksichtigt. Die beiden zentralen Begierden „Habgier“ (*avarizia*) und „Ehrgeiz“ (*ambizione*), so die zentrale Aussage des Gedichts, sind „die Ursache des Übels“ (*la cagion del male*), genauer die Ursache für Krieg und Zwietracht unter den Menschen, für ihr Unglück und ihr Leiden (Machiavelli 1832/41: 236; Hoeges 2006: 146).

Obwohl Machiavelli in seinem Gedicht Motive der zweiten Schöpfungsgeschichte aus dem Buch Genesis verwendet, stellt es eine „gewollte Distanzierung von der christlichen Erklärung des Bösen“ dar (Buck 1985: 39).¹⁸ Das Übel, das Machiavelli vor allem als politisches Übel begreift, sieht er nicht als Folge des Sündenfalls an. Seine erste Ursache ist vielmehr eine „dunkle Macht (*potenzia occulta*), die im Himmel wohnt“, eine „Feindin des menschlichen Geschlechts“, die dem Mensch die beiden „Furien“ Habgier und Ehrgeiz sendet, den „Frieden ihm zu nehmen und den Krieg zu schicken, ihm alle Ruh' und alles Glück zu rauben“ (Machiavelli 1832/41: 235).¹⁹ Die beiden Furien, die eine „bodenlose Urne“ tragen, um ihre „unersättliche Gier“ (*voglia infinita*) zu zeigen, verführen und täuschen den Menschen, der ihnen nicht entkommen kann (Machiavelli 1832/41: 236). Mit ihnen kommen „der Neid, der Müßiggang, der Haß, mit ihrem Pesthauch die Welt erfüllend, bei ihnen sind der Stolz, die Grausamkeit, die Hinterlist“ (Machiavelli 1832/41: 236). Diese Passage verdeutlicht die zentrale Rolle, die der Ehrgeiz und die Habgier in Machiavellis Menschenbild einnehmen. Denn sie legt nahe, dass all die angeführten Erscheinungen als Folgen zu verstehen sind, die sich aus dem Ehrgeiz und der Habgier ableiten lassen. Der Ehrgeiz und die Habgier führen zu einer ungleichen Verteilung der begehrten Güter, die bei den Schlechtweggekommenen Neid und Hass bewirkt, und bei den Erfolgreichen Müßiggang und Stolz. Der Hass zieht die Grausamkeit nach sich und die unersättliche Gier nach mehr ruft hinterlistiges und allgemein unmoralisches Verhalten hervor. Die Menschen sind für Machiavelli

16 Das trifft sogar auf „die Großen“ (*i grandi*) bzw. „den Adel“ (*i nobili*) zu (Machiavelli 1977, I 37: 103).

17 Machiavelli 1832/41: 235–239. Mittlerweile liegt eine Neuübersetzung des Gedichts vor, der die italienische Originalversion zur Seite gestellt ist (Hoeges 2006: 144–150).

18 Analog dazu erklärt Wolfgang Kersting: „Für Machiavelli ist die Macht des Ehrgeizes und der Habsucht keine Manifestation menschlicher Sündhaftigkeit“ (Kersting 2006: 40). Vgl. hierzu Deppe 1987: 299.

19 In seiner Dichtung *L'Asino* erklärt Machiavelli, dass die „Natur“ (*natura*) dem Menschen den Ehrgeiz und die Habgier gab (Machiavelli 2001: 112f.).

schlecht, weil ihre Habgier und ihr Ehrgeiz sowie ihre anderen Begierden mittelbar oder unmittelbar eine Vielzahl an selbstsüchtigen und sittlich verwerflichen Handlungen zur Folge haben.

Machiavelli führt auch Kains Brudermord an Abel und damit das erste Gewaltverbrechen auf den Ehrgeiz zurück. Nach der biblischen Erzählung war der Ackerbauer Kain auf seinen Bruder, den Schafhirten Abel, neidisch und hasste ihn, weil Gott dessen Opfer vorzog. Nach Machiavelli war bereits der Geist der ersten Menschen „unersättlich, hochmüthig, arglistig, wankelmüthig und über alles boshaft, ungerecht, ungestümm und grimmig“ (Machiavelli 1832/41: 236). Der Ehrgeiz und die Habgier sind für ihn die Ursache des Übels und ziehen vielfältiges Unrecht nach sich. Sie sind nicht bloß die Ursache dafür, dass „der Eine steigt, der Andere sinket“, sondern aus ihnen „entstehet, ohne Gesetz und Recht, der Wechsel aller irdischen Dinge“ (Machiavelli 1832/41: 236). Der Ehrgeiz und die Habgier sind nach Machiavelli auch die Ursache für alle Kriege und ihre schrecklichen Folgen und daher auch für den 1494 erfolgten Einmarsch des französischen Königs Karl VIII. in Italien und dessen verhängnisvolle Konsequenzen für die italienische Bevölkerung und Politik.

Bereits Thukydides hebt den Ehrgeiz und die Habgier als hervorstechende Merkmale des Menschen hervor. Nach einer Schilderung der schrecklichen Folgen, die die vielen blutigen Bürgerkriege während des Peleponnesischen Kriegs nach sich zogen, erklärt er: „Die Ursache von allem war die Herrschsucht mit ihrer Habgier (*pleonexia*) und ihrem Ehrgeiz (*philotimia*)“ (Thukydides 2002, III 82: 207). Auch Aristoteles vertritt die Auffassung, dass die Menschen grundsätzlich nach materiellem Gewinn und Ehre streben. Über das Verhältnis der beiden Ziele äußert er ähnlich wie später Machiavelli: Die „Mehrzahl der Leute strebt mehr nach Gewinn als nach Ehre“ (Aristoteles 1973, 1318 b16f.: 206; vgl. 1302 a31–1302 b 2: 168f.). Aristoteles äußert dies in Buch V der *Politik*, in dem er die Ursachen von politischem Aufruhr und Verfassungswandel untersucht. Dass Machiavelli Buch V gut kannte, zeigt sich daran, dass er aus dessen Kapiteln über die Alleinherrschaften zahlreiche Ratschläge in seinen *Principe* übernahm.²⁰

Das Streben nach Gewinn und Ehre sieht Aristoteles als ein zentrales Merkmal des Menschen an. Dasselbe trifft für ein übermäßiges Streben nach Gewinn und Ehre zu, für Habgier und Ehrgeiz. Dieses Streben fällt für Aristoteles – wie bereits für Thukydides und Platon²¹ – unter den Oberbegriff der „*pleonexia*“, das heißt unter das Mehr-Haben-Wollen (gr. *pleon* = mehr, *echein* = haben). Aristoteles versteht die Pleonexie als ein moralisch verwerfliches Mehr-Haben-Wollen, das sich insbesondere auf die äußeren Güter Ehre und Gewinn bezieht. Wenn in der Polis politische Ämter und die mit ihnen einhergehende Ehre verteilt werden, strebt der *pleonektes*, der Unersättliche und Habsüchtige, danach, unverhältnismäßig mehr zu bekommen, als ihm auf Grund seiner Tüchtigkeit zusteht. Im geschäftlichen Verkehr wird er versuchen, seine Mitbürger zu übervorteilen, und grundsätzlich wird ihn seine Lust am Gewinn dazu treiben, unrechtmäßige Handlungen zu

²⁰ Vgl. Machiavelli 1977, III 26: 358, Mehmel 1948, Sternberger 1984: 172ff., Ottmann 2004: 149, Zanzi 1981: 131.

²¹ Vgl. zum Terminus „*pleonexia*“ in Platons Dialogen etwa *Politeia* 359 c, und *Gorgias* 483 d und 490 a.

begehren. Die Pleonexie ist für Aristoteles ein derart verbreitetes und bedeutendes Laster, dass er sie mit der besonderen Ungerechtigkeit identifiziert, die er der Gerechtigkeit als Teiltugend entgegensetzt (Aristoteles 1991, 1129 b 1 ff.: 204, 1130 a 15 ff.–1130 b 6: 206f).

Auch wenn Aristoteles dem Menschen prinzipiell das Potential zuspricht, seine eigentümliche psychische Beschaffenheit zu vervollkommen und seine ethischen und dianoetischen bzw. intellektuellen Tüchtigkeiten zu entwickeln, kann nur ein kleiner Teil der freien wohlhabenden griechischen Männer diese Möglichkeit umsetzen und die vollendete Glückseligkeit erlangen. Die Mehrzahl der freien Griechen „gehörten ihrer Natur nach (*pephykasin*) nicht der Ehrfurcht, sondern der Angst und lassen sich vom Schlechten nicht durch die Schande, sondern nur durch die Strafe abhalten. Denn sie leben der Leidenschaft und suchen die ihnen gemäße Lust und was ihnen diese verschafft, und fliehen den entsprechenden Schmerz“ (Aristoteles 1991, 1179 b 11ff.: 352). Wie seine Ausführungen über die Pleonexie zeigen derartige Formulierungen, dass bereits Aristoteles ein realistisches Menschenbild hatte. Im Gegensatz zu der verbreiteten Meinung in der Forschungsliteratur bricht Machiavelli also weniger mit der politischen Anthropologie des Aristoteles, sondern knüpft an deren realistische Bestandteile an.²²

In der Regel differenziert Machiavelli zwischen den Begriffen Ehrgeiz und Habgier. Zielt der Ehrgeiz vor allem auf Ruhm und Ehre, so die Habgier auf Reichtum und materielle Güter. In einer bedeutenden Passage der *Discorsi* gibt Machiavelli diese Differenzierung, die auch von der Alltagssprache nahegelegt wird, auf, und subsumiert die Triebziele der Habgier unter diejenigen des Ehrgeizes:

Wenn nämlich die Menschen einmal nicht aus Not (*per necessità*) zu kämpfen brauchen, so tun sie es aus Ehrgeiz; denn dieser ist in der Brust eines jeden Menschen so mächtig, daß er ihn nie verläßt, wie hoch er auch steigen mag. Die Ursache dieser Erscheinung liegt darin, daß die Natur die Menschen so geschaffen hat, daß sie zwar alles begehren (*desiderare*), aber nicht alles erreichen können. Da nun das Verlangen (*desiderio*), etwas zu erwerben (*acquistare*), immer größer ist als die Fähigkeit (*potenza*) hierzu, so entsteht daraus Unzufriedenheit mit dem, was man besitzt, und ferner die Erkenntnis, welch geringe Befriedigung der Besitz gewährt. Hierauf ist der Wechsel der menschlichen Schicksale zurückzuführen; denn da der eine Teil der Menschen *mehr haben möchte* (*desiderando ... di avere più*), und der andere das, was er hat, zu verlieren fürchtet, so kommt es zu Feindseligkeiten und Krieg, der den Ruin des einen und die Erhöhung des anderen Landes zur Folge hat. (Machiavelli 1977, I 37: 100f.; Hervorhebungen von M.K.)

In dieser Passage verwendet Machiavelli den Ehrgeiz im Sinne der Pleonexie, da er das Begehren dieses Triebs unterschiedslos auf den Erwerb von allen möglichen Gütern bezieht. Der Ehrgeiz des Menschen ist ein unablässiger Antrieb seines Verhaltens, der auch den Gang der Geschichte und den Aufstieg und Fall der Staaten bestimmt. Dieser Antrieb ist maßlos, unbegrenzt, unersättlich und nicht zur Ruhe zu bringen. Er kann nie befriedigt werden, weil die Güter, auf die er abzielt, knapp und nicht vollständig zu erlangen sind: „Überdies sind die menschlichen Wünsche unersättlich (*gli appetiti umani insaziabili*), da die menschliche Natur alles begehrt und alles will, das Schicksal uns aber nur wenig gewähren kann“ (Machiavelli 1977,

22 Vgl. zur verbreiteten Meinung Ritter 1940: 24ff., 30; Kersting 2006: 33.

II Vorwort: 163). Wie in seinem *Lehrgedicht über den Ehrgeiz* sieht Machiavelli diesen Trieb als den Motor der Geschichte an und – wie bereits Platon die Pleonexie (*Politeia* 373 d/e) – als die Ursache des Krieges.

Machiavellis Menschenbild weist inhaltlich viele Übereinstimmungen mit demjenigen von Thomas Hobbes auf (vgl. Huovinen 1951: 76–82; Kersting 2006: 30–48, 51). Hobbes vertritt einen psychologischen Egoismus, dem zufolge die Menschen immer selbstsüchtig in ihrem eigenen Interesse handeln. Die Menschen werden von ihren „Leidenschaften“ (*Passions*) und insbesondere von ihrem starken „Verlangen“ (*Desire*) nach Macht, Reichtum, Wissen und Ehre“ angetrieben (Hobbes 1984, I 8: 56, vgl. I 6, 11: 39ff., 75.). Hobbes erhebt den wissenschaftlichen Anspruch, ausgehend „von den ersten Prinzipien der Philosophie nach der synthetischen Methode zur Erkenntnis der Begierden und Leidenschaften“ zu gelangen (Hobbes 1967, VI 7: 62). Wie ihm wohl selbst bewusst war, vermochte er seinen Anspruch, die Grundlagen seiner Anthropologie durch „wissenschaftliche Forschung“ zu erlangen, jedoch nicht einzulösen. Deshalb räumt er ein, dass man zu den allgemeinen Leidenschaften der menschlichen Gattung auch auf empirischem Weg durch Selbstbeobachtung und Introspektion gelangen könne (Hobbes 1967, VI 7: 62; Hobbes 1984, Einleitung: 6). Auch Machiavelli dürfte keine andere Methode als die Analyse seiner eigenen Erfahrungen und der Motive seiner Mitmenschen zur Verfügung gestanden sein, um die fundamentalen Axiome seiner Anthropologie zu gewinnen (vgl. Huovinen 1951: 41, vgl. 39). Im Ehrgeiz, in der Habgier, im Machtstreben, in der Furcht und in anderen Leidenschaften erkennt er geschichtlich invariante anthropologische Prinzipien, aus denen er als bekannten Ursachen mit Notwendigkeit auf ihre Wirkungen in verschiedenen politischen Situationen schließen kann. Das meint Machiavelli, wenn er sagt, aus den gleichen menschlichen Leidenschaften entstünden „notwendig dieselben Wirkungen“ (Machiavelli 1977, III 43: 396). Wie Hobbes baut Machiavelli seine Lehre von der Politik auf geschichtlich invariante anthropologische Axiome auf, die er auf empirischem Wege gewinnt. Dessen ist sich Machiavelli durchaus bewusst. So erklärt er in seiner Schrift über die Kriegskunst, jede Wissenschaft habe „ihre allgemeinen Grundsätze, auf die dann weiter gebaut wird (*ogni scienza ha le sue generalità, sopra le quali in buona parte si fonda*)“ (Machiavelli 2008a, III: 781).

5. Die Begründung und Rechtfertigung des Staates

Mit seiner komparativen und induktiven Methode zielt Machiavelli auf allgemeine Regeln, die das politische Handeln anleiten können und es erlauben, die passenden Mittel oder Handlungen für einen Zweck zu bestimmen, den ein Politiker erreichen möchte. Als einen zentralen Zweck des politischen Handelns sieht Machiavelli die Gründung einer guten staatlichen Ordnung an. Unter allen berühmten Männern werden – unmittelbar nach den religiösen Führern und Religionsstiftern – die „Gründer von Freistaaten (*republiche*) oder von Königreichen (*regni*)“ am meisten gepriesen (Machiavelli 1977, I 10: 39). Diese Wertung erklärt sich so, dass Machiavelli die „Anarchie“ (*licenza* bzw. *stato licencioso*) wie den Bürgerkrieg als den schlimmsten Zustand unter den Menschen ansieht, weil sich in ihm die destruktive und Leiden verursachende Seite der menschlichen Begierden voll entfalten

kann.²³ Ein Staatsgründer muss als zentrale Regel beachten, dass er sein Werk ganz alleine zu tun hat; er „muß allein die Macht ausüben, und sein Geist muß alle Einrichtungen des Staats bestimmen“ (Machiavelli 1977, I 9: 36; vgl. 38). Machiavelli begründet dies folgendermaßen: „Viele Köpfe sind nicht dazu geeignet, Ordnung in ein Staatswesen zu bringen, weil sie bei der Verschiedenheit der Meinungen, die von allen Seiten geltend gemacht werden, das Beste für dieses nicht zu erkennen vermögen“ (Machiavelli 1977, I 9: 37). Zusätzlich zu dieser Regel muss der Staatsgründer die menschlichen Begierden und Leidenschaften, die die Ursache für viele unmoralische Handlungen sind, in Rechnung stellen:

Alle, die über Politik (*vivere civile*) schrieben, beweisen es, und die Geschichte belegt es durch viele Beispiele, daß der, welcher einem Staatswesen Verfassung und Gesetze gibt, davon ausgehen muß, daß alle Menschen schlecht sind und daß sie stets ihren bösen Neigungen folgen, sobald sie Gelegenheit dazu haben (*é necessario ... presupporre tutti gli uomini rei, e che li abbiano sempre a usare la maglignità dello animo loro, qualunque volta ne abbiano libera occasione*). (Machiavelli 1977, I. 3: 17)

Nach Fichtes Interpretation formuliert Machiavelli in dieser Passage die zentrale anthropologische Voraussetzung und den „Hauptgrundsatz“ seiner Staatslehre, und er fügt hinzu: „jeder Staatslehre, die sich selbst versteht“: „Es tut hierbei gar nicht Not, daß man sich auf die Frage einlasse, ob denn die Menschen wirklich also beschaffen seien, wie sie in jenem Satze gesetzt werden, oder nicht; kurz und gut, der Staat, als eine Zwangsanstalt, setzt sie notwendig also voraus, und nur diese Voraussetzung begründet das Dasein des Staates“ (Fichte 1919: 19f.). Nach Fichte legitimiert Machiavelli mit seiner anthropologischen These von der Schlechtigkeit der Menschen den Staat und seine Zwangsgewalt.

Aus Machiavellis „Hauptgrundsatz“ der Staatslehre folgt nicht bloß die Rechtfertigung der staatlichen Zwangsgewalt gegenüber den „einfachen“ Bürgern in Form von polizeilichen Ordnungs- und Sicherheitskräften, Strafrecht, Straf- und Steuersystem etc. Aus ihm lässt sich auch das für den modernen Staat charakteristische Misstrauen gegenüber den Inhabern der politischen Gewalt ableiten. Machiavelli betont öfters, dass der „Adel“ (*nobili*) bzw. die „Großen“ (*grandi*) die „Gesinnung“ (*umore*) oder das „Verlagen“ (*desiderio*) haben, das Volk zu beherrschen und zu unterdrücken. Dagegen habe das „Volk“ (*popolo*) nur das Verlangen, nicht beherrscht und unterdrückt zu werden (Machiavelli 1977, I 5: 21; Machiavelli 2003, IX: 75).²⁴ Um den sozialen Konflikt zwischen den Großen und dem Volk zu institutionalisieren, plädiert Machiavelli nach dem Vorbild der römischen Republik für eine Mischverfassung, die zwischen den beiden Schichten ein spannungsvolles politisches Gleichgewicht herstellen kann. Die gegenseitige Überwachung und Kontrolle zwischen den Ständen und den Verfassungsorganen bewahrt dieses Gleichgewicht und stellt einen wichtigen Grund für die Stabilität einer Republik dar (Vgl. Saracino 2010 und Münkler 1984: 379).

23 Vgl. zur „Anarchie“ (*licenza*) als dem untersten Stadium des Kreislaufs der Verfassungen Machiavelli 1977, I 2: 14f., und zum Bürgerkrieg in Pistoia Machiavelli 2003, XVII: 126–129, und Machiavelli 1977, III 27: 359–361.

24 Machiavelli erklärt jedoch auch, dass „jeder Staat die ihm eigenen Mittel haben muß, dem Ehrgeiz des Volkes Luft zu machen (*il popolo possa sfogare l'ambizione sua*)“ (Machiavelli 1977, I 4: 20).

In modernen Staaten ist das Misstrauen gegenüber den Inhabern der politischen Gewalt vor allem durch das Prinzip der Gewaltenteilung verwirklicht, das auf Donato Giannotti, John Locke und Montesquieu zurückgeht. Lockes zentraler Gedanke ist, dass diejenigen, die im Staat die Gesetze geben, sie nicht zugleich vollziehen dürfen. Diese Forderung begründet er anthropologisch mit der „Schwäche der menschlichen Natur (*human frailty*), die stets bereit ist, nach der Macht zu greifen“ (Locke 1983, § 143: 111). Lügen Gesetzgebung und Vollzug in denselben Händen, dann wäre für die Inhaber einer derartigen Machtfülle die Versuchung zu groß, sie zu missbrauchen. Lockes Kerngedanke, dass die Trennung der staatlichen Gewalten einen Missbrauch der Macht und des Rechts und damit eine Willkürherrschaft verhindert, ist eine zentrale theoretische Grundlage des Aufbaus moderner demokratischer Verfassungsstaaten. Vorläufer dieses Gedankens ist Machiavellis Konzeption einer Mischverfassung, deren ideengeschichtliche Wurzeln zu Polybios und Aristoteles und letztlich zu der Verfassungsordnung zurückreichen, die Platon in den *Nomoi* entwirft.

Fährt man mit der Lektüre des Aphorismus²⁵, in dem Machiavelli den „Hauptgrundsatz“ der Staatslehre formuliert, fort, dann eröffnet sich eine weitere Dimension seiner Begründung des Staates. Machiavelli führt ein Beispiel aus der römischen Geschichte an, das ihm zufolge bezeugt, dass

die Menschen nur von der Not (*necessità*) gezwungen etwas Gutes tun. Wenn ihnen freie Wahl (*elezione*) bleibt und sie tun können, was sie wollen, gerät alles sofort in Verwirrung und Unordnung. Darum sagt man: ‚Hunger und Armut machen die Menschen arbeitsam, Gesetze machen sie gut‘. (Machiavelli 1977, I 3: 18)²⁵

Machiavellis Ausführungen zufolge ist der Staat nicht bloß dadurch legitimiert, dass er die Schlechtigkeit der Menschen unterdrücken und dadurch für Sicherheit, Ruhe und Ordnung sorgen kann. Dem Staat kommt auch die Funktion und Aufgabe zu, die schlechten Menschen zu verbessern und die menschliche Natur umzuformen. Auch wenn sich der Mensch von seinen natürlichen Begierden nach Ansehen und materiellen Gütern nie ganz befreien kann, vermag es eine gute politische Ordnung doch, die Habgier und den Ehrgeiz einzudämmen.²⁶ Damit kann sie die egoistischen Begierden ihrer Bürger abschwächen und ihre Handlungen umlenken, so dass sie auch dem Wohl der politischen Gemeinschaft zu gute kommen. Letztlich kann eine gute politische Ordnung den Menschen ein gutes und gelingendes Leben ermöglichen. In idealisierender Weise erklärt Machiavelli über die Zeit unter den römischen Kaisern Nerva bis Marc Aurel:

Wenn ein Staat gut regiert wird, wird er auch immer sehen, daß der Herrscher sicher inmitten seiner zuverlässigen Bürger und die Welt in Frieden und Gerechtigkeit lebt; er wird den Senat geachtet und die Behörden mit den ihnen gebührenden Ehren bedacht sehen. Die Reichen genießen ihren Reichtum; Adel und Verdienst werden herausgehoben; überall herrschen Ruhe und Wohlstand. Es gibt keinen Streit, keine

²⁵ Analog dazu erklärt Machiavelli im *Principe*: „die Menschen werden sich dir gegenüber immer als böse erweisen, wenn sie nicht gezwungen werden, gut zu sein (*sempre ti riusciranno tristi, se da una necessità non sono fatti buoni*)“ (Machiavelli 2003, XXIII: 187).

²⁶ Lauri Huovinen bemerkt treffend, dass Machiavelli in der Abwehr der *ambizione* „die eigentliche Aufgabe des Staates“ sieht: Die „Heilung der *ambizione*“ erscheint „als politische Aufgabe“ (Huovinen 1951: 57, 70).

Zügellosigkeit, keine Bestechung und keinen Ehrgeiz. Es ist das goldene Zeitalter, wo jeder seine Meinung haben und vertreten kann. (Machiavelli 1977, I 10: 41)²⁷

Die Verbesserung der Menschen in der politischen Gemeinschaft ist eine zentrale Aufgabe der „Erziehung“ (*educazione*), die Machiavelli wie Aristoteles als eine Hauptaufgabe der Gesetze und damit vor allem als eine politische Aufgabe begreift (vgl. Aristoteles 1991, 1103 b 2–6: 132). Das oberste Ziel der Erziehung bestimmt der Florentiner – wiederum in der Tradition des Aristoteles – als die Erziehung der Bürger zur „Tüchtigkeit“ (*virtù*). Pointiert formuliert er über die vorbildliche römische Republik: Beispiele hervorragender Tüchtigkeit „entstehen durch gute Erziehung, gute Erziehung durch gute Gesetze“ (Machiavelli 1977, I 4: 19). Nach Friedrich Meinecke ist die Erziehung zur Tüchtigkeit für Machiavelli sogar zentraler Staatszweck: Die „Entfaltung und Schaffung von *virtù* war ihm der ideale, der sich von selbst verstehende Zweck des Staates“ (Meinecke 1929: 43).

Die Gesetze nehmen ihre Erziehungsaufgabe auch dadurch wahr, dass sie darauf abzielen, „gute Sitten“ (*buoni costumi*) zu schaffen und zu bewahren. Nach Machiavelli haben alle neu gegründeten politischen Gemeinschaften „notwendig etwas Gutes“ und insbesondere sind die Menschen in ihnen gut (Machiavelli 1977, I 18: 64; III 1: 274).²⁸ Seiner „Korruptionstheorie“ zufolge verderben die Menschen jedoch unweigerlich im Laufe der Zeit und mit ihnen ihre Sitten. Daher bedurfte es etwa in Rom der Änderung der Gesetze, „die die Bürger im Zaum halten (*frenavano*) sollten, wie das Gesetz gegen den Ehebruch, die Gesetze gegen den Aufwand, das Gesetz über die Bewerbung um Staatsämter und viele andere“ (Machiavelli 1977, I 18: 64).²⁹ Trotz der Möglichkeit, durch Gesetze eine sittliche Erziehung der Bürger zu bewirken, ist ab einem gewissen Verfallsgrad der Sitten die Korruption eines politischen Gemeinwesens auch durch Gesetzesänderungen kaum mehr aufzuhalten. Denn die Achtung der Gesetze setzt voraus, dass im Staate gute Sitten bestehen. Eine hypothetische Hoffnung, dem Verfall entgegenzuwirken, erblickt Machiavelli darin, dass die Gesetze von einem Mann ausgehen, der „sie mit äußerster Strenge so lange anwendet, bis die Sitten wieder gut werden“ (Machiavelli 1977, I 17: 62).³⁰

Von besonderem Interesse ist, wie Machiavelli in seinem *Lehrgedicht über den Ehrgeiz* das Verhältnis von menschlicher Natur und Erziehung begreift. Der historische Hintergrund von seinen Äußerungen ist der Unterschied zwischen der außerordentlichen Tüchtigkeit und des Erfolgs der antiken Römer und dem jämmerlichen Zustand des zeitgenössischen Italiens:

Und wer die Natur beschuldigen wollte, daß jetzt Italien gebeugt und erschöpft,
kein tapfres und hartes Volk erzeugt, / Der würde nicht entschuldigen und frei sprechen
unser Italien, denn *ersetzen kann Erziehung, was Natur versagt (può supplire*

27 In ähnlich idealisierender Weise charakterisiert Machiavelli die Vorzüge der Republik (Machiavelli 1977, II 2: 173).

28 Dies trifft für Machiavelli auf alle „Kollektivgemeinschaften“ (*corpi misti*) zu, worunter für ihn auch „Religionsgemeinschaften“ (*setti*) fallen (Machiavelli 1977, III 1: 274).

29 Machiavelli führt zudem aus: „Wo von selbst ohne Gesetz gut gehandelt wird, sind Gesetze nicht nötig; hört aber die gute Gewohnheit auf, so ist sogleich das Gesetz nötig“ (Machiavelli 1977, I 3: 18).

30 Eine andere und effektivere Variante, dem Sittenfall entgegenzutreten, besteht nach Machiavelli in einer Änderung der „Verfassungsordnung“ (*ordini*) (Machiavelli, II 18: 64).

l'educazione dove natura manca) / Sie war's, die einst Italien blühen machte, und die ganze Erde zu erobern gab die stolze Erziehung (*fiera educazion*) die Kühnheit (Machiavelli 1832/41: 237f.).

Diese Strophen zeigen auf eindrucksvolle Weise, welche Macht Machiavelli der Erziehung zuspricht.³¹ So kann je nach Art der Erziehung aus ein und demselben natürlichen „Rohstoff“, dem „Italiener“, ein völlig verschiedenes „Endprodukt“ geformt werden. Die Strophen verdeutlichen zudem wie viele seiner Werke, dass Machiavelli unter der Erziehung zur „Tüchtigkeit“ (*virtù*) vor allem die Erziehung zur Tapferkeit und Härte und damit zur militärischen Tüchtigkeit versteht. Diese entsteht vor allem durch regelmäßige militärische Übungen, denen die Bürger unterzogen werden sollen.³² Machiavellis Begriff „*virtù*“ ist nicht im Sinne der christlichen Tugendlehre, sondern der griechischen „*aretè*“ und der römischen „*virtus*“ zu verstehen. In „*virtus*“ steckt das Wort „*vir*“ für „Mann“, so dass der Terminus auch mit „Mannhaftigkeit“, „Tapferkeit“, „Mut“, „Tatkraft“, „Entschlossenheit“, oder im übertragenen Sinne mit „Kraft“, „Vortrefflichkeit“ oder „Vorzüglichkeit“ übersetzt werden kann. Zur *virtù* gehören für Machiavelli auch die List, die Voraussicht und die „Klugheit“ (*prudenzia*).

Worin besteht der Unterschied zwischen der „stolzen Erziehung“ der Römer und der schwächlichen Erziehung des zeitgenössischen Italiens, der die Entstehung von derart verschiedenen Menschenarten erklären kann? Machiavelli sieht die Differenz der beiden Erziehungsarten vor allem in den erheblichen Unterschieden zwischen der römischen und der christlichen Religion begründet. Die Eigenart einer Erziehung hängt nämlich nicht bloß von den Gesetzen einer politischen Gemeinschaft ab, sondern auch wesentlich von ihrer Religion. Machiavelli erklärt über den von ihm hochgeschätzten Begründer des römischen Kultes: „Numa Pompilius fand noch ein völlig ungebändigtes Volk vor; er wollte es mit friedlichen Mitteln zu bürgerlichem Gehorsam erziehen. Um sein Ziel zu erreichen, nahm er seine Zuflucht zur Religion, da er diese als die unentbehrlichste Stütze der Zivilisation erkannte (*religione come cosa al tutto necessaria a volere mantenere una civiltà*)“ (Machiavelli 1977, I 11: 43f.). Diese Passage zeigt wie viele seiner Äußerungen, dass Machiavelli ein instrumentelles Verständnis der Religion hat. So begreift er sie als ein Mittel, dessen sich ein kluger Politiker zum Wohl des Gemeinwesens

31 Das kommt auch in einer Äußerung aus der *Arte della Guerra* zum Ausdruck: „Die Natur erzeugt wenig mutige Männer, Kunst und Übung bilden viele“ (Machiavelli 2008a: 849). Analog dazu äußert Machiavelli in den *Discorsi* über das Phänomen, dass die Gallier im Laufe der Schlacht ihre anfängliche Kühnheit völlig verlieren: „Denkt man über die Ursache dieser Erscheinung nach, so glauben viele, dies läge in ihrer Natur; auch ich halte dies für richtig. Doch ist damit nicht gesagt, daß diese ihre Natur (*loro natura*), die am Anfang so mutig macht, nicht durch Erziehung so ausgebildet werden könnte, daß sie bis zum Ende der Schlacht kühn bleiben“ (Machiavelli 1977, III 36: 383).

32 Nach Lauri Huovinen enthält Machiavellis Lebensbeschreibung des Castruccio Castracani, die er als „eine Art „Fürstenspiegel““ versteht, „Machiavellis pädagogisches Programm“ (Huovinen 1951: 112, 115). Im Zentrum der Erziehung Castruccios steht die Ausbildung der militärischen Tüchtigkeit (Machiavelli 2008b: 860f.). Analog dazu lobt Machiavelli in den *Discorsi* eine weise Maßnahme des Gesetzgebers, die dem „Müßiggang“ (*ozio*) vorbeugen kann. Sie besteht darin, dass „die wehrfähigen Männer zu regelmäßigen Übungen gezwungen“ werden (Machiavelli 1977, I 1: 9f.).

zu bedienen hat. Ein kluger Gesetzgeber muss sich wie Numa bei der Gesetzgebung auf die Autorität Gottes berufen, damit sein Gesetzeswerk vom Volk akzeptiert wird (Machiavelli 1977, I 11: 44f.).³³ Die Religion stellt auch ein zentrales Instrument dafür dar, eine Vielzahl anderer politischer Ziele erreichen zu können: „Wer die römische Geschichte aufmerksam verfolgt, wird stets finden, wie viel die Religion dazu beigetragen hat, die Heere in Gehorsam, das Volk in Eintracht zu halten, die guten Menschen zu stärken und die schlechten zu beschämen (*mantenere gli uomini buoni, a fare vergognare i rei*)“ (Machiavelli 1977, I 11: 44). Machiavelli begreift die Religion als zentrales Mittel, das es der politischen Gemeinschaft und einem klugen Machthaber erlaubt, die Menschen zu erziehen und zu verbessern. Dieses bedeutende Ziel kann nur in einem existierenden Staat erreicht werden, der die organisierte Ausübung und Anwendung der Religion ermöglicht. Daher gewinnt der Staat seine Legitimation auch durch dessen Funktion, die habgierigen und ehrgeizigen Menschen durch die Religion zu verbessern und zu erziehen. Da die Furcht ein zentraler Antrieb der Menschen darstellt, kann ein kluger Machthaber deren Furcht vor einer göttlichen Macht dazu benützen, sie zum Wohl des Staats zu disziplinieren und umzuformen.

Nach Machiavelli ist die „Schwäche der gegenwärtigen Menschen“ (*debolezza de' presenti uomini*) vor allem die Folge „ihrer schwächlichen Erziehung“, für die er das Christentum verantwortlich macht (Machiavelli 1977, III 27: 360; Vorwort: 5). Die christlichen Wertvorstellungen und Wertungen der Welt bilden einen diametralen Gegensatz zu denjenigen des antiken Heidentums. Das Christentum „läßt uns die Ehren dieser Welt weniger schätzen, während die Heiden diese sehr hoch schätzten, ihr höchstes Gut darin erblickten und deshalb in ihren Taten viel kühner waren“ (Machiavelli 1977, II 2: 171). Während das Heidentum die Welt bejaht und Männer von weltlichem Ruhm heiligspricht, verneint das Christentum die diesseitige Welt und verherrlicht die demütigen und kontemplativen Menschen statt den tatkräftigen. Das Christentum „sieht das höchste Gut in Demut, Selbstverleugnung und in der Geringschätzung der weltlichen Dinge. Die Religion der Alten dagegen sah es in der Größe des Muts, in der Kraft des Körpers und überhaupt in allen Eigenschaften, die die Menschen möglichst tapfer machen“ (Machiavelli 1977, II 2: 171).

Machiavellis Vergleich der entgegengesetzten Wertungen und Wertvorstellungen veranschaulicht, dass eine christliche Erziehung völlig andere Menschen hervorbringt als eine heidnische. Sein Vergleich verdeutlicht zudem, weswegen er der Erziehung die Macht zuspricht, die menschliche Natur in beträchtlichem Maße umzuformen und zu gestalten. Unter der Verbesserung der Menschen durch Erziehung versteht der Florentiner nicht bloß ihre moralische Besserung im Sinne einer Eindämmung ihrer Habgier und ihres Ehrgeizes und deren Umlenkung zum Wohl der politischen Gemeinschaft.³⁴ Verbesserung bedeutet für ihn auch eine Ertüchtigung

33 Vgl. zu Machiavellis Auffassung, die Religion sei ein Mittel für die Politik (Machiavelli 1977, I 11–15: 43–56).

34 Nach Machiavelli lässt sich der Ehrgeiz auch in der bestmöglichen politischen Ordnung nicht völlig beseitigen. Er lässt sich aber zum Wohl der politischen Gemeinschaft umlenken. Als Vorbild hierfür führt er in seinem *Lehrgedicht über den Ehrgeiz* das siegreiche Frankreich an, das er mit dem von ihm teilweise besetzten Italien vergleicht: „So wisse, daß wo sich mit Ehrgeiz ein kühnes Herz vereint und tapfre Waffen (*virtute armata*), nur selten eignes Übel zu fürchten ist. Wenn die Natur ein unbändiges Volk erzeugt, und

der Bürger im Sinne einer Steigerung ihrer Tüchtigkeit, ihres Mutes, ihrer Kraft und ihrer Tapferkeit. Eine gute Erziehung kann sich dabei das egoistische menschliche Streben nach Anerkennung, Ansehen, Ehre und Ruhm zunutze machen und es zu tüchtigen Charaktereigenschaften ausformen und auf virtuose Handlungen ausrichten, die der politischen Gemeinschaft zugutekommen.³⁵ Machiavellis Vorbild für derartige Verbesserungen ist zweifellos die politische Ordnung, Religion und Erziehung der römischen Republik, deren Renaissance und Nachahmung er sich wünscht und seinen Zeitgenossen empfiehlt.

6. Konklusion

Machiavellis anthropologische Begründung des Staates rechtfertigt diesen nicht bloß als Zwangsgewalt, sondern legitimiert ihn zudem als moralische Instanz, die den Menschen durch Gesetze, Sitten, Erziehung und Religion verbessern kann. Das verdeutlicht, dass der Florentiner dem Staat – genauer einer guten staatlichen und rechtlichen Ordnung – eine moralische und sittliche Dignität zuspricht. Aus dem moralischen und ethischen Wert, den Machiavelli einer guten staatlichen Ordnung zuerkennt, folgt notwendig, dass er ihre Gründung und Erhaltung als erstrangige und moralisch wertvolle Ziele politischen Handelns ansieht.³⁶ Das verdeutlicht wiederum, wie unangemessen die immer noch vorherrschende Interpretation ist, nach der Machiavelli die Politik von der Moral trennt.³⁷ Die Gründung und stabile Bewahrung eines Staates sind moralisch und sittlich wertvolle Zwecke der Politik. Die erfolgreiche Verwirklichung dieser Zwecke durch virtuoseres politisches Handeln rechtfertigt für Machiavelli auch den Einsatz von moralisch verwerflichen Mitteln. Die geschichtliche und zeitgenössische Erfahrung lehrt den politischen Realisten, dass Gewaltmittel in verschiedenen politischen Situationen unumgänglich sind.³⁸

es dann durch Zufall mit guten Gesetzen versehen und zur Ordnung gebracht wird, So richtet der Ehrgeiz seine Wuth nach Außen, weil ihm Ausbruch in der Heimat weder das Gesetz noch der König gestattet. Das eigne Uebel endet dort fast immer, doch zu zerstören pflegt es des Andern Heimath, wo es die Kriegsfahne schwingt“ (Machiavelli 1832/41: 237). Machiavelli spricht sich somit für eine expansive Außenpolitik aus, die dem menschlichen Ehrgeiz ein Ventil und Ziel gibt, um Schaden von der eigenen politischen Gemeinschaft abzuwenden (vgl. zu anderen Gründen für eine expansive Außenpolitik Machiavelli 1977, I 6: 24–29).

35 Vgl. hierzu und zur Deutung Machiavellis als „Thymotiker“ Saracino 2012: 115f., 271f., 421–434.

36 Vgl. hierzu und zu einer Argumentation, die Machiavelli als Verantwortungsethiker erweist, Knoll 2003.

37 Vertreten wird diese Auffassung in der neueren Literatur etwa von Mittermaier 1990: 398, Kersting 1988: 240f., Münkler 1984: 290, 292, und Schwaabe 2007: 112–117.

38 Vgl. hierzu Knoll 2003, Knoll 2015, Knoll und Saracino 2018, Riklin 1996: 70–87, Schröder 2004: 44 (Fn. 4).

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Manuel Knoll

Machiavelli's Realist Image of Humanity and His Justification of the State

Abstract

This article examines Machiavelli's image of humanity. It argues against the prevailing views that characterize it either as *pessimistic* or *optimistic* and defends the thesis that the Florentine has a *realist* image of humanity. Machiavelli is a psychological egoist who conceives of man as a being whose actions are motivated by his drives, appetites, and passions, which lead him often to immoral behavior. Man's main drives are "ambition" (*ambizione*) and "avarice" (*avarizia*). This article also investigates Machiavelli's concept of nature and shows that, for him, the constancy of human nature is the central premise that makes the scientific analysis of politics possible. Despite the fact that human drives and capabilities are the same at all times, good laws, military training, and religion allow man to be changed and educated toward "virtue" (*virtù*). To make such changes in man, however, presupposes a good legal and political order. Machiavelli justifies the state because of its capacity to reshape human nature and to improve man. The state is not only a coercive power but a moral institution. This leads to the conclusion that Machiavelli does not separate politics from morality as most scholars claim.

Keywords: human nature, political realism, morality, political order, ambition, avarice, education, religion, law and order

Manuel Knol

Makijavelijeva realistička slika ljudskog roda i njegovo opravdanje države

Apstrakt

Ovaj tekst ispituje Makijavelijevu sliku ljudskog roda. Nasuprot preovlađujućim shvatanjima da je njegova slika bilo *pesimistična* bilo *optimistična*, brani se teza da ovaj Firentinac gaji realističku sliku ljudskog roda. Makijaveli je psihološki egoista koji shvata čoveka kao biće čiji su postupci motivisani njegovim nagonima, željama i strastima, što ga često podstiče na nemoralno ponašanje. Glavni nagoni čoveka su „ambicija“ (*ambizione*) i „pohlepa“ (*avarizia*). Ovaj tekst ispituje i Makijavelijev koncept prirode i pokazuje da je, prema njemu, stalnost ljudske prirode centralna premisa koja dozvoljava naučnu analizu politike. Uprkos činjenici da su nagoni i sposobnosti čoveka isti u svakom trenutku, dobri zakoni, vojnički trening i religija obezbeđuju čoveku da se promeni i obrazuje za „vrlinu“ (*virtù*). Međutim, da bi se takve promene izazvale u čoveku, potrebno je dobro zakonsko i pravno uređenje. Makijaveli opravdava postojanje države zbog njenog kapaciteta da preoblikuje ljudsku prirodu i unapredi čoveka. Država nije samo sila prinude, već i institucija moralnosti. Ovo vodi zaključku da Makijaveli ne razdvaja politiku od moralnosti, kao što tvrdi većina autora.

Gljučne reči: ljudska priroda, politički realizam, moralnost, politički red, ambicija, pohlepa, obrazovanje, religija, zakon i red

II

THE COMMONS

ZAJEDNIČKA DOBRA

Filippo Valguarnera

LEGAL IDEOLOGY AND THE COMMONS: WHY ARE JURISTS FALLING BEHIND?

ABSTRACT

The last quarter of a century has featured a surge in interest and studies on the commons, spearheaded, of course, by the efforts of Elinor Ostrom. These efforts have problematized the once well-established paradigm of the tragedy of the commons most clearly described by Garrett Hardin in 1968. One could say that the commons, thus, have become a fundamental field of study in most social sciences. This is not the case in the field of legal scholarship (with one noticeable exception that I will discuss later), which leads me to the overarching issue of this essay, namely the difficult relationship between jurists and the commons. The phrase “difficult relationship” does not refer to an explicit antagonism, but to something even worse: complete indifference and a scandalous lack of knowledge. While my main purpose is to try to explain this sorry state of affairs, I also hope to make a more general point on the nature of law and legal change. In this sense, the commons can be considered a case-study in legal theory. The main issue of this paper is to tackle following sub-questions. What is the status of commons in the Western European legal discourse? Why do most legal scholars pay such a poor attention to the growing literature on the commons in other disciplines? What factors contribute to this peculiar case of cultural deafness? What promise of improvement does the future hold?

KEYWORDS

commons, law,
paradigm shift,
legal change

1. Posing the question

Let us start with a true but banal statement: since at least the 1990s the commons have become a major topic in almost all social sciences. If I had no fear of overburdening the patience of my readers with an even more banal phrase, I would speak of a paradigm shift. The clearest manifestation of the success of the commons – and of the critique levelled against the previous paradigm, the “tragedy of the commons” – is the Nobel Prize for Economics awarded to Elinor Ostrom in 2008. In her work “Governing the Commons”, Ostrom shows that Garret Hardin’s prediction about the destruction of common goods because of overuse is less than accurate in a wide array of practical cases. I am not going to expand further on the vast front of research that is being conducted in the field, nor am I going to discuss the merits of Ostrom’s work and of her design principles for a functioning commons regime. I am instead going to focus on the role, or rather its absence, played by legal scholars.

The most perceptive readers have probably noticed that I opened this Article by mentioning “*almost* all social sciences”. Among these, legal scholarship is playing the role of the great absentee. Of course, this statement needs some qualifications. Firstly, there is at least one legal field that has displayed a healthy interest for the commons: intellectual property law. However, the inroads made by the new paradigm in intellectual property can easily be explained by the peculiar goods which the field is concerned with. Indifferent to the limitations typical of material goods, intellectual property can be shared without diminishing its functionality. This feature has of course been stressed by the development of information technology, generating a wide set of practical issues that lend themselves exceptionally well to be addressed through the prism of the commons. Secondly, there is a minority of legal scholars that has displayed a considerable interest for the commons even outside of intellectual property. A particularly interesting case concerns the Italian legal academia, spearheaded in this regard by scholars such as Ugo Mattei and Stefano Rodotà.¹ These have managed to effectively bridge the gap between the academic analysis and the political discourse, injecting the commons in the national political debate. Moreover, the Italian Court of Cassation itself has been influenced by the work of the aforementioned scholars in a series of cases concerning enclosed fisheries in the Venetian Lagoon.²

Regardless of the importance of these exceptions, it is difficult to deny that the average Western legal scholar is unaware of, or at least not interested in, the rich debate about the commons that in the last decades has been so crucial in other social sciences. In this article, I will try to explore some of the factors that have contributed to making the legal discourse a less than fertile ground for the commons. Such an exercise is of obvious interest for legal scholars, as it offers an occasion to discuss the capacity of the legal discourse to relate to other social sciences and to update its own theoretical foundation. It is fair to say that many of the challenges that our societies are facing transcend the classical distinction between private and public law, which mirrors the state-market dichotomy. For instance, one could argue that the preservation of the biological conditions for our survival on the planet requires a different approach to law. Until now, the recipe has largely mirrored Hardin’s recommendations. In other words, private law, concerned with interest of individual parties in the present, handles the resources that are on the market with little concern for the interests of future generations. These are instead dealt with by applying a band aid of public law, commonly known as environmental law. A strong case can be made for a restructuring of private law itself to take into consideration collective interests. Such a realignment will be difficult to achieve without a better understanding of the commons and the theoretical work that is being done in the field by other social scientists.

The topic, however, is not an insular one. The attitude of legal scholarship towards the commons, or indeed any other socially desirable institution, is a crucial factor for the success of said institution. For better or worse, law is the main normative tool of the West and its conceptual landscape defines the way states, as

1 Of particular interest are the works of the Rodotà-commission, charged with reforming the provisions of the Italian Civil Code about public goods. See Mattei et al. 2010.

2 Cassazione, S.U., nr. 3665, 3811, 3812, 3813, 3936, 3937, 3938 and 3939 of 2011.

represented by judges and civil servants, describe reality and define facts as relevant or irrelevant for decision-making. One could speculate about what long-lasting success 19th century liberalism would have had without the enthusiastic participation of jurists. Non-lawyers invested in promoting the commons as a tool to promote social progress, be it in the form of sustainable development or in the form of a limitation of free market capitalism, would therefore be wise not to ignore the legal discourse, as its particular nature may very well nullify any advances achieved in other fields and domains.

The main issue of this article can be articulated in a few sub-questions: a) What is the status of commons in the Western European legal discourse? b) Why do most legal scholars pay such a poor attention to the growing literature on the commons in other disciplines? What factors contribute to this peculiar case of cultural deafness? c) What promise of improvement does the future hold?

2. Property: the heart of Western private law

To understand the shaky status of the commons in the legal discourse it is useful to have a basic appreciation for the majestic role played by property in Western private law. In fact, one could argue that the core of the Western legal tradition, which was largely moulded in its current shape during the 19th century, is born out of an ideological reaction against the commons and a matching support for private property. The topic that I am now addressing is of immense historical complexity. Thus, I can only offer a few snapshots from the French and the English legal systems, which can be considered good representatives of their respective legal families (the civil law and the common law).

Already in the earliest years of the Norman domination, the commons, a constant feature of the English countryside since the Saxon time, had come under strong pressure from the aristocrats, especially keen on enclosing forests to use them for their favourite pastime: hunting (Wright 1928: 166–167; Shoard 1999: 100). The most serious menace against the commons did, however, arise during the 16th century, when the profitable wool-trade (largely responsible for making England a dominant economic power and for starting capitalism itself) encouraged a transition from agriculture to shepherding (Scrutton 2003: 72). This growing industry required an intensive use of land and greatly accelerated the enclosure of the commons. This development is eloquently depicted by Thomas More in his *Utopia*. Hythlodai is explaining the causes of criminality in England:

The increase of pasture, (...) by which your sheep, which are naturally mild, and easily kept in order, may be said now to devour men and unpeople, not only villages, but towns: for wherever it is found that the sheep of any soil yield a softer and richer wool than ordinary, there the nobility and gentry, and even those holy men the abbots, not contented with the old rents which their farms yielded, nor thinking it enough that they, living at their ease, do no good to the public, resolve to do it hurt instead of good. They stop the course of agriculture, destroying houses and towns, reserving only the churches, and enclose grounds that they may lodge their sheep in them. As if forests and parks had swallowed up too little of the land, those worthy countrymen turn the best inhabited places into solitudes; for when an insatiable wretch, who is a plague to his country, resolves to enclose many thousand acres of

ground, the owners, as well as tenants, are turned out of their possessions by trick or by main force, or, being wearied out by ill usage, they are forced to sell them; by which means those miserable people, both men and women, married and unmarried, old and young, with their poor but numerous families (since country business requires many hands), are all forced to change their seats, not knowing whither to go; and they must sell, almost for nothing, their household stuff, which could not bring them much money, even though they might stay for a buyer. (More 1751: 17–18)

Despite the early concerns of several prominent English intellectuals, the enclosure movement accelerated and did eventually receive a strong support by the Parliament starting in the 18th century (Neeson 1996; Mingay 1997: 20). The enclosures did also leave clear traces in the common law. The primary and most vulnerable target were the customary rights that depended on the rightsholder's status (for instance, as inhabitant in a village). The Gateward's Case of 1607, frequently quoted in the following centuries, concerned a case of trespass in which the defendant claimed a customary right for the inhabitants of the town of Stixwold in Lincolnshire to pasture their animals on the land of the plaintiff. The Court of Common Pleas rejected this argument by affirming that such a right of common would have been too uncertain:

What estate shall he have who is inhabitant in the common, when it appears he hath no estate or interest in the house (but a mere habitation and dwelling), in respect of which he ought to have his common? For none can have interest in common in respect of a house in which he hath no interest. (...) Such common will be transitory, and altogether uncertain, for it will follow the person, and for no certain time or estate, but during his inhabitancy, and such manner of interest the law will not suffer, for custom ought to extend to that which hath certainty and continuance. (...) It will be against the nature and quality of a common, for every common may be suspended or extinguished, but such a common will be so incident to the person, that no person certain can extinguish it, but as soon as he who releases, &c. removes, the new inhabitant shall have it.³

This principle was then applied, in 1741, in *Dean and Chapter of Ely v. Warren*, concerning a common right of turbary.⁴ The court concluded that “an occupant, who is no more than a tenant at will, can never have a right to take away the soil of the lord”. In a similar fashion, the Court of Common Pleas in the case *Steel v. Houghton* (1788) denied the customary right of the poor of a parish to glean on the fields after harvest. Of course, the courts' antipathy towards property rights different from individual property did not develop in a cultural void. The 16th and 18th centuries saw the rise of natural law political theories that promoted property as a fundamental human right. The most well-known is without a doubt John Locke's work (1986: 129), which assumed that property already existed in the state of nature and that the state, created through the social contract, had among its core duties to protect it. In the realm of legal scholarship, William Blackstone (1765–1769: 2), in an often-quoted passage of his *Commentaries on the Laws of England*, encapsulated the ideological passion for individual property typical of his epoch:

3 Gateward's Case (1607) 77 E.R. 344.

4 *Dean and Chapter of Ely v. Warren* (1741) 26 E.R. 518.

There is nothing which so generally strikes the imagination, and engages the affections of mankind, as the right of property; or that sole and despotic dominion which one man claims and exercises over the external things of the world, in total exclusion of the right of any other individual in the universe.

As pointed out by Carol Rose (1998: 601), it might be the case that this quote has been overused and isolated from its context. A broader reading of Blackstone certainly results in a richer and more nuanced impression of his view of property rights. However, the success of these bombastic lines is by itself revealing.

A similar development occurred in France, although filtered through a very different legal tradition. As in England, farmers in a large area of France relied since the Middle Ages on common rights on the land. As in England, these rights came under pressure at first by the aristocracy, wanting to extend its control over the land, and later by novel economic theories, best represented by the influential physiocratic movement, which promoted individual ownership of the land, reasoning that only an individual owner would invest the capital needed to develop the resource adequately (Quesnay 1969: 331–332; Samuels 1961: 99). The Crown itself, during the 18th century, actively promoted a division of common land among individual owners, although only with limited success (Vivier 1998: 35). This can in part be explained by the fact that the Crown could not muster the strength to attack the feudal system on which its own power was based.

The French Revolution was obviously not constrained by such considerations. Individual property became in fact the new ideological foundation of the bourgeoisie in power, effectively substituting the religious basis of the monarchy. A clear signal of the new status attributed to private property came as early as in 1789, firstly with the decree of the 4th of August which abolished the feudal order (Lévy-A. and Castaldo 2010: 459–460) and a few weeks later with the Declaration of the Rights of Man and of the Citizen. Article 17 states that:

Property being an inviolable and sacred right, no one can be deprived of private usage, if it is not when the public necessity, legally noted, evidently requires it, and under the condition of a just and prior indemnity.

Those political acts, however, could not have been translated into factual social change without an alliance between the ideals of the revolutionary bourgeoisie and the *hommes de loi*. After a short crisis brought about by the revolutionaries' distrust for judges and lawyers – who were perceived as an expression of the old regime – jurists became an integral and vital part of the new order (Kelley and Smith 1984: 202–203).

The most prominent result of the alliance between the jurists and the bourgeois ideology is the Code Civil of 1804. This monument of French private law embodied many of the ambitions of the Revolution: a radical simplification of the sources of law (with legislation acquiring monopoly, at least formally), the unification of the legal subject, the idea that legislation should be linguistically accessible. Most importantly, property became the central pillar of the whole Code, with two of its three books expressly dedicated to it. Article 544 defines property as:

(...) le droit de jouir et disposer des choses de la manière la plus absolue, pourvu qu'on n'en fasse pas un usage prohibé par les lois ou par les règlements.

The phrase “the most absolute way” is obviously a poetic license (as nothing can be more absolute than anything else) aimed at emphasizing the importance of property in the new social order.

3. Law and society: mirrors or bubbles?

The problem of self-referentiality

The previous section, despite its inevitable brevity, has hopefully managed to establish that modern Western private law has been shaped by an alliance between the bourgeois ideology and the legal community, inserting private property, conceived as an individual and exclusive right, at its very core. This fact, however, cannot by itself explain the peculiar impermeability displayed by contemporary legal scholarship to the rich theoretical work that has made the commons such an important field of study in other social sciences.⁵ After all, the bourgeois ideology managed in its heyday to influence much more than just the legal community. Why then does other scholarly fields show a much greater capacity to adapt to changing circumstances? Moreover, if the legal community was so welcoming towards the liberal ideology, why has it been so refractory towards later developments? An interesting example of this cultural stubbornness is provided by the Italian legal system, where the republican constitution of 1948 – influenced by the necessity to combine all the political forces that had opposed the fascist regime, including Catholics, liberals and communists – at Article 42 attached a “social function” to private property. With few interesting exceptions, for example Pugliatti 1964: 278, this normative element was largely ignored by Italian legal scholars in the following decades.

To address the issue, it is thus crucial to narrow the discussion to the specific conditions that might set apart legal scholarship, and more generally the legal community, from other scholarly fields. The trajectory of this topic inevitably gets intertwined with the broader issue of the relationship between law and the general culture. In an insightful article published on *The American Journal of Comparative Law*, William Ewald describes two main types of theories: theories that conceive law as a reflection of a specific aspect of society such as the economy (Marx) or the *Volksgeist* (Savigny). Ewald (1995: 491) gives these theories the apt label of “mirror theories”.⁶ According to these theories law is simply “life of man itself, observed from a particular perspective” (von Savigny 1828: 30). On the opposite side of the spectrum, we find conceptions of the relationship between law and society that we could (but Ewald does not) call “bubble theories”, that consider law as pertaining to a sphere largely isolated from the general culture. Although you could find several types of legal scholarship that historically displayed surprisingly little concern for the actual problems of society, such as both the German and American brands of legal formalism that thrived during the 19th century, it is rare for a legal scholar to claim that law and jurists are culturally isolated from society at large. One of the few well-known jurists that have made this claim with some degree of consistency is professor Alan Watson. Ewald identifies two variations of this claim in Watson’s

5 For a collection of articles about the commons written by scholars in a variety of fields (law being represented only by Carol Rose) see Ostrom et al. 2002.

6 See Ewald 1995: 491.

writing. He calls them “weak Watson” and “strong Watson”, the first being more nuanced and therefore more convincing. I am going to focus just on “weak Watson” for the purpose of this Article.

Watson’s thesis is complex and touches upon four main areas of legal scholarship and their mutual connections: legal history, comparative law, law and society and legal transplants. His main critique against the mirror theories develops from his view on the social role played by legal elites, the agents of the legal tradition. These consider the sources of law “as a given, almost as something sacrosanct (...)” (Watson 1985: 119). Lawyers tend, in other words, to look backwards, seeking legal authority to support the claim that a certain rule is legally valid. As Watson puts it, “it is being in conformity with ‘lawness’ that makes law law” (Watson 1985: 119). The legal tradition tends therefore to be circular and, to some extent, isolated from the rest of the cultural life of society. The claim, at least in the case of “weak Watson”, is not that the legal tradition is completely detached from other parts of society, nor that it does not to some degree reflect the values and aspirations of a certain culture. Watson rather criticizes the assumption of the most extreme mirror theories that law is a direct and immediate response to impulses external to the legal tradition. He does so by presenting several examples, from both Roman and English law, that show how the legal tradition keeps alive, often for centuries, rules that has ceased to have any meaningful social purpose (Watson 2001: 23).

Watson is not the only legal scholar who has been pointing out the self-referentiality of the legal tradition. A major contribution in this direction has come from the German scholar Günther Teubner (1988: 1) who introduced the concept of “legal autopoiesis” to break “a taboo in the legal thinking – the taboo of circularity”. Legal autopoiesis is an adaptation of Niklas Luhmann’s notion of social autopoiesis, which in its own turn is derived from the biological notion of autopoiesis. More precisely, the legal system, according to this vision is a second order autopoietic system, autonomous with regard to the first order autopoietic system, namely society itself. The term autopoiesis refers, in its essence, to the capacity of a system to reproduce and maintain itself.

An important difference between Teubner and Luhmann is that Luhmann conceives the alternative autonomy/heteronomy as a rigid dichotomy (Teubner 1993: 2). Teubner conceives autonomy as a matter of degree and develops a model according to which the autonomy (and thus self-referentiality) of law develops in three stages. In the first phase, law is socially diffuse, meaning that “the elements, structures, processes, and boundaries of the legal discourse are identical to those of general social communication – or, at least, are heteronomously determined by social communication” (Teubner 1993: 36–37). In a second phase, law achieves partial autonomy by the formation of components – such as legal procedures, legal acts, legal norms and legal doctrines – that tend to separate from society (the first order autopoietic system). These components, in a third phase, are coupled together in a hypercycle. The hypercycle entails that “law begins to reproduce itself in the strict sense of the word if its norms and legal acts produce each other reciprocally and process and dogmatics establish some relationship between these” (Teubner 1993: 33).

Teubner’s theoretical model shares several points of contact with Watson’s claims. A few differences, however, should be pointed out. The most obvious, but also the least important for our purposes, is that Teubner’s model, and general

style, is considerably more abstract than Watson's. Both authors take advantage of biological metaphors, but Watson's transplant metaphor is more accessible and readily understandable than Teubner's autopoiesis and hypercycle. On the other hand, Teubner's model, because of its abstract nature, captures a larger slice of social reality, as it conceives law as one among several autopoietic systems. More to the point, Teubner (1998: 16), following his own model, stresses that law has achieved a high degree of autonomy from the national culture and that institutional transfers (transplants, in Watson's terminology) are not "longer a matter of an inter-relation of national societies" but rather of "a direct contact between legal orders within one global legal discourse". Teubner (1998: 16–17) however, criticizes Watson for neglecting law's residual cultural ties. It is unclear if Teubner's critique encompasses all of Watson or just "strong Watson", to adopt Ewald's vocabulary. Moreover, while Watson sees a clear connection between the historical importance of legal transplants for legal change and the peculiar nature of the legal elites, Teubner (1998: 16) prefers to point out "the inner logics of the legal discourse itself that builds on normative self-reference and recursivity". To stress the internal logic of the law carries some undeniable advantage. In particular, it avoids the suspicion that the theory is too closely tailored to the historically close-knit English legal community and thus makes the reasoning easier to extend to other legal traditions.

Teubner (1998: 18) formulates four theses about the ties between law and society:

- (1) Law's contemporary ties to society are no longer comprehensive, but are highly selective and vary from loose coupling to tight interwovenness.
- (2) They are no longer connected to the totality of the social, but to diverse fragments of society.
- (3) Where, formerly, law was tied to society by its identity with it, ties are now established via difference.
- (4) They no longer evolve in a joint historical development but in the conflictual interrelation of two or more independent evolutionary trajectories.

The normative processes of the legal tradition have parted ways, according to Teubner, from the mechanisms responsible for producing social norms, leaving broad areas of the legal landscape relatively isolated from society. Teubner (1998: 18) then explores the different types of ties that law still has with society. This ambition, as I will be discussing further on, is particularly interesting for legal scholars who intend to formulate strategies to bring ideas and concepts formulated in other social sciences into the legal tradition.

As stated in his first thesis, Teubner (1998: 18) sees the ties between law and society as being generally loose, in the sense that the law mainly confronts social conflicts "on the ad hoc basis of legal 'cases'". There are, however, areas of the law where the legal tradition is much more closely coupled with other social discourses. A key example in Teubner's analysis is played by contracts, that he sees as tightly coupled (in a so-called "ultracycle") to the economic discourse. This not unproblematic. As Teubner (2007: 68) explains:

Private law receives (...) information about the rest of society quasi automatically and almost exclusively through the cost-benefit calculations of the economic discourse. Any other discourses in society, whether research, education, technology,

art, or medicine, are first translated into the world of economic calculation, allocative efficiency, and transaction costs and, then, in this translation, presented to the law for conflict resolution. This means a serious distortion of social relations. This distortion of social relations by their economic contractualization has four dimensions: (1) bilateralization-complex social relations are translated into a multitude of closed bilateral relations; (2) selective performance criteria; (3) externalization of negative effects; and (4) power relations.

This shows how urgently private law needs rid itself of this monopoly of economic calculation and forge direct contact with the many other social subsystems in society that have different criteria of rationality than the economic discourse.

As Teubner (2007: 68) admits, there are instances in which the legal tradition inserts corrections which allow private law to connect to other social discourses, such as good faith clauses in contract law, but their effect is too limited to effectively challenge the dominance of the economic efficiency paradigm. This aspect of Teubner's analysis is of particular interest for the subject of this article. It is important to remember that the main coupling between legal scholarship and the economic discourse is the influential law & economics movement, in which the orthodox view on property rights, most famously elaborated by Harold Demsetz (1967: 348–349), has been that individual, exclusive and transferable property rights are a key element for an efficient allocation of resources, as they favour the so-called internalization of externalities. The historical roots of this argument, regardless of the sophistication of the surrounding theoretical discourse, are deep, as it can be found, for instance, both in Aristotle and in the already mentioned physiocratic school. Another way of expressing this idea is simply that the possibility to exclude others from using a resource provides an incentive to the owner to invest in his property. The point of contact between the legal discourse and economics is, in other words, quite small and it serves to reinforce, rather than dispel, the ideological bias against the commons that we saw erupt during the 18th and 19th century.

What lessons can be learned from Watson's and Teubner's analytical models for the issue of relative impermeability of the legal tradition to the theoretical developments concerning the commons? In addressing this issue, we must first of all recognize that there is a significant overlap between the two models. Both Watson and Teubner clearly oppose the more simplistic versions of the mirror theories. They also identify some peculiarity in the legal discourse that makes it a closed, self-referential subsystem in society. Law, in other words, follows its own patterns and conceptual structures in relative isolation from what theoretical advances occur in other segment of social science. In the areas of law that regulates the consumption of natural resources, this path dependence of the legal tradition has prevented the adoption of a new legal category, the commons, despite its relevance in other social sciences and despite its obvious usefulness to collect similar phenomena under one conceptual umbrella. Using Teubner's explanatory model, the commons have made a negligible impression on most legal scholars due to the fact that the main coupling between legal scholarship and other social sciences is law & economics, which is founded on the tragedy of the commons.

A particularly interesting jurisdiction, from this point of view, is Sweden. It is hard to deny that the Swedish legal tradition contains some prominent legal institutes that other social sciences would immediately recognize as commons. One

such phenomenon is the so-called *allemansrätt* (literally “every man’s right”), which allow every person to walk on someone else’s private land, pick a reasonable quantity of mushrooms or berries, and even plant a tent and spend a night or two. There are limits, expressed for instance in criminal law, that protects the privacy of the landowner as well as his economic interests, but among cultural geographers, for instance, there is no hesitation in categorizing this phenomenon as a commons (see for example Sandell 2011: 5). The legal discourse has yet to develop a similar category. Something similar can be said about the right of the Sami, established in legislation as well as in case law, to use the land, including someone else’s private land, for reindeer husbandry (Bengtsson 2011: 527). Also in this case, especially interesting as it clearly reminds us of the chief example discussed by Garrett Hardin in his analysis of the “tragedy of the commons”, the legal discourse seems not to have taken notice of the commons.

As mentioned, one large area of the law where an interest for the commons has flourished is intellectual property. Using Teubner’s model, one could argue that this is a segment of the legal discourse that features a tight coupling with other social subsystems and that this is largely due to technological novelties that have made the classical property paradigm inadequate.

4. Legal ideology at work: incrementalism vs. institutional design

While the focus of legal scholars such as Watson and Teubner is largely to describe the relationship between the legal tradition and the surrounding social environment, there is also a strand of legal scholarship that has manifested the ambition of changing the way the legal discourse operates, effectively erasing the cultural inertia described by Watson. This theme can be found among legal realists both in Scandinavia and in the American legal tradition. I am referring, in particular, to the Swedish scholar Vilhelm Lundstedt (whose work, from this perspective, has in more recent times been discussed by Ulf Petrusson and Mats Glavå) and to the Brazilian-American scholar Roberto Unger, most prominently in his book “What Should Legal Analysis Become?”.

Both Lundstedt and Unger conceive the duty of legal scholarship as something more than the incrementalist aspiration to perfect the coherence and quality of the legal system one little corner at a time. They rather regard legal analysis as a tool for institutional design. In other words, their ideal jurist is not merely the judge, as is the case for most law schools, but also the legal expert lending her knowledge to legislative reforms.

Lundstedt was one of the most prominent legal scholars to follow in the theoretical footsteps of Uppsala philosopher Axel Hägerström (1868–1939), whose ambition was to grant law scientific value by cleansing it from the influence of metaphysics. Hägerström pointed out that already the much-celebrated Roman law featured rituals, such as *mancipatio* (the ritual of buying a *res mancipi*, which imposed on the buyer to recite a solemn statement and to put a piece of bronze on a scale), that were nothing short of magical. Hägerström (1927: 25) also criticized, often in harsh terms, the attempts of the European legal scholarship to reframe this genetic defect of Roman law by attributing to it a rational meaning (for instance,

claiming that the *mancipatio* ritual simply was a way for the buyer to express his intention to conclude the purchase).

Lundstedt developed Hägerström's ideas by criticizing what he called "legal ideology", the idea that some concepts, that have no connection with reality and occupy an autonomous space in legal reasoning, are objectively true rather than being constructed and shaped by jurists. Glavå and Petrusson (2002: 109) remark that this attitude responds to at least two deeply felt needs: the scientific need to present law as the study of an objective reality and the democratic need not to depict lawyers as producers of norms. Concepts such as "ownership", "rights" and "duties", according to this point of view are, at best, linguistic representations of psychological phenomena and did not have the dignity of facts in and by themselves.

For instance, if a subject A has recently purchased a certain product, and subject B somehow damages the product, a common way of framing the analysis would be to say that B owes damages to A by virtue of A having ownership of the damaged product. The idea of ownership therefore acts, according to Lundstedt, as a metaphysical and entirely unnecessary part of legal analysis. Lundstedt instead suggests that A's status with regard to the product is defined by a series of psychological mechanisms of variable complexity. A's position would be completely empty of factual meaning if there was not a state apparatus able to defend his control over the purchased product and if other subjects – because of fear of processual consequences, as well as because of their culture and morality – did not abstain from interfering (Lundstedt 1944: 518). Once the veil of metaphysics is removed from legal analysis, the legal system appears as a machinery whose wheels are humans and their psychological structures. This frees the actors of the legal system – the legislature, the courts, the legal scholars – to observe law from "realistic viewpoints" which can be used to further "social welfare", so described by Lundstedt (1956: 140):

With the method of social welfare (...) as a guiding motive for legal activities, I mean in the first place the encouragement in the best possible way of that – according to what everybody standing above a certain minimum degree of culture is able to understand – which *people in general strive to attain* [italics in the original].

In other words, Lundstedt saw the "legal ideology" as the main obstacle to reorienting legal scholarship from being a merely incrementalist endeavour to becoming a tool for social engineering. This view was clearly influenced by the political inclinations of Lundstedt, who was deeply involved in the social democratic party, responsible for the large wave of reforms that, during the 20th century, generated the Swedish welfare state.

A similar position, despite the well-known differences between American and Scandinavian legal realism, has been formulated by Roberto Mangabeira Unger, who criticizes legal scholarship for its inability to turn legal analysis into "institutional imagination". Legal scholarship, in Unger's view, should be a driving force in elaborating new and better institutional arrangements but has been unable to do so because mainly because of what Unger (1996: 7) calls "institutional fetishism": the tendency of legal scholars to preoccupy themselves only with existing institutional arrangements, which are only a subset of all possible arrangements. Legal scholars, in other words, are usually quite happy to polish their respective fields, changing a few rules here and there, but without letting their institutional imagination run

unbridled. This appears as another way of framing Watson's circularity argument ("it is being in conformity with 'lawness' that makes law law"). However, its cause is not traced back to the idiosyncrasies of the legal elites, nor is it considered the product of an unavoidable feature of the legal discourse. Its root is rather to be found in the "rationalizing legal analysis", which is "a way of representing extended pieces of law as expressions, albeit flawed expressions, of connected sets of policies and principles. (...) Through rational reconstruction, entering cumulatively and deeply into the content of law, we come to understand pieces of law as fragments of an intelligible plan of social life" (Unger 1996: 36).

5. Conclusions

Several factors seem to contribute to the relative impermeability of the legal discourse to the commons. A crucial aspect of the Western legal tradition is its self-referentiality. This idea can be expressed by referring to jurists' deeply felt need to base reasoning on normative authority (jurists tend to be looking backward) or, in more sophisticated terms, by discussing the legal tradition as an autopoietic subsystem in society. Regardless of the details of the preferred explanatory model, Watson, Teubner, Lundstedt and Unger all conceive the legal tradition as more or less circular, with limited ties to other social discourses. How these ties are formed can to no small degree be explained with reference to ideological and cultural forces.

To use a physics metaphor, one could say that, though history, different ideas has exercised different degrees of gravitational pull on the legal tradition. The "mass" of these notions is largely determined by political, ideological or technological factors. When the mass is large enough large chunks of the legal tradition will start circling around these concepts creating new trajectories. The liberal revolutions of the 18th century, as well as the cultural and political hegemony of the bourgeoisie during the 19th and 20th century, has projected the individualistic and exclusionary notion of property into the centre of the Western legal tradition, making other elements of the legal discourse reorient themselves accordingly. With a slight exaggeration, one could say that the Western private law is, by and large, still following the planetary orbits that emerged during the 19th century. A challenge to the gravitational pull of private property has emerged, not only scholarly but also politically, as a response to the perceived failure of the state-market dichotomy following the 2008 economic crisis. However, while the commons have managed to become an important part of the political platforms of movements critical of the status quo, such as Occupy Wall Street in the United States, the Indignados in Spain and the Movimento Cinque Stelle in Italy, they have yet to have a significant impact on mainstream politics. A true paradigm shift will therefore require a considerable amount of political and intellectual energy and will, in any case, be delayed vis-à-vis other social sciences.

Legal education, especially in Europe, puts emphasis on interpretation and application of the law. Jurists are trained to be judges rather than to assist in legislative reforms. This aspect is clearly connected to the circularity of the legal discourse, as law students will be trained to work within institutional arrangements that have already been legitimized by the legal tradition. This, to use Lundstedt's terminology, reinforces the legal ideology, namely the idea that legal concepts and

ideas are an objective reality that is given to jurist rather than created by the legal community. The legal autopoiesis described by Teubner seems to imply not only a detachment of the legal discourse from the production of social norms but, on a deeper level, also a psychological detachment between the legal community and the intellectual responsibility for its own conceptual world.

These observations allow us to formulate some rudimentary strategy to close the gap between the Western legal tradition and the commons. If one agrees with Teubner's view of the legal discourse as characterized by varying degrees of autonomy, it is sensible to inject the commons paradigm into areas of the law where the coupling with other social sciences is relatively close. We have already mentioned intellectual property law. Other promising areas are those where property rights interact with obvious public interest, such as environmental law. It is clear, for instance, that the notion of sustainable development, which since the Rio Declaration on Environment and Development of 1992 has become a central concept in environmental law, has strong ties to the commons, insofar both require that attention is paid to the preservation of the resource for future generations.

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Filippo Valguarnera

Pravna ideologija i zajednička dobra: zbog čega pravnici zaostaju?

Apstrakt

U posljednjih četvrt veka bili smo svedoci rasta interesovanja i istraživanja zajedničkih dobara koje je predvodila Elinor Ostrom. Ovi napori su doveli u pitanje prethodno ustanovljenu paradigmu tragedije zajedničkih dobara koja je najbolje izražena u radu Gareta Hardina iz 1968. godine. Moglo bi se reći da su u međuvremenu zajednička dobra postala sfera istraživanja od fundamentalne važnosti u društvenim naukama. To nije bio slučaj kada je reč o pravnoj misli (uzimajući u obzir da postoji jedan izuzetak koji će biti analiziran kasnije) i to je tema ovog eseja, naime, složeni odnos između zajedničkih dobara i pravnika. Izraz „složeni odnos“ ne treba da upućuje na otvoren antagonizam, već na nešto još gore: potpunu ravnodušnost i skandalozan nedostatak znanja. Iako je moj glavni cilj da ovde objasnim dato stanje stvari, namera mi je da takođe iznesem opštiju tvrdnju o prirodi prava i pravne promene. U tom smislu zajednička dobra se mogu uzeti kao studija slučaja u pravnoj teoriji. Ovaj članak će razmotriti sledeća potpitanja. Koji status zajednička dobra imaju u zapadno-evropskom pravnom diskursu? Zbog čega većina pravnih mislilaca obraća tako malo pažnje na rastuću literaturu o zajedničkim dobrima? Koji faktori su na delu u ovom čudnom slučaju kulturnog slepila? Da li postoje razlozi da u budućnosti dođe do promene u tom pogledu?

Ključne reči: zajednička dobra, pravo, promena paradigme, pravna promena

Aleksandar Stojanović

ON THE BLINDING CLARITY OF PROPERTY RIGHTS: SEVEN FRAGMENTS OF REDUCTIONISM IN THE THEORY OF PROPERTY

ABSTRACT

This paper presents a historical commentary on arguments in theory of property that reinforce the vision of strong and clear property rights dominant in developmental policy today. Building upon the article from Duncan Kennedy in 2013 that analyses this vision, this paper tackles additional issues in emergence of the vision. In doing that the paper relies on broadly genealogical approach to focus on a binary opposition that has been present in the theory of property almost since its historical establishment in Western thought. This methodology allows us to conceptualize the problem in more substantive terms than Kennedy does and show how radical shift is necessary to overcome the problems that the vision entails.

KEYWORDS

property, economic development, exclusion, rights

I

Let's try to imagine two worlds.¹

In one of those worlds we find the individual confused as to what resource she is entitled to use. It is equally unclear to her in what way she is entitled to use it. There are many legal limitations and her ownership is weak and unstable. Furthermore, others also seem to be entitled to the same resource in this weak manner. For this reason, it is hard for the individual to determine where the other's entitlement stops and hers begins. As a consequence, the individual living in this world is confused with regards to her duties and obligations in relation to the resource. As she is not the sole owner and her entitlement is limited, she certainly is not the only one obliged to care about the resource, or at least to care about the whole of the resource. Finally, if the individual has a need for a different resource than the one she is entitled to, she will be powerless to do anything about it. It will be very hard for her to change the one for the other, as her entitlement is a weak one and others entitled to the same resource would have to agree to the transfer. As the saying goes, what belongs to everybody, belongs to nobody.

1 This paper is a byproduct of the research on relation between commons and law-and-economics conducted under supervision and in cooperation with prof. Ugo Mattei.

Turning to the other world we are confronted with a completely different reality. In it, the individual is the sole owner of the resource and her entitlement is strong. It is easy for her to determine what resources she is entitled to and in what way she is entitled to use them. In truth, to the extent that she is not limiting other's use of their resources by using the resource she owns – she is not doing anything wrong. Clearly, with such a strong entitlement, duties come hand in hand. The individual is obliged to take care of the resource, not to spoil it in any way. In rare cases she might be obliged to give it up to the sovereign if its' use is necessary for a common benefit. Besides the obligation, the individual has a reason to care for the resource in every possible way, as she would be the one to suffer a loss of utility from its' destruction. Finally, if the individual has no direct need to consume the resource she is entitled to, she will always have two ways to deal with this situation. As the sole and full owner of the resource she will be in the position to sell it to an interested party. Or, which is even better, she will be in the position to extract in a sustainable way the use values of the resource and sell them.

Looking at these two contrasting pictures a rhetorical question comes to mind: “Who would not want to live in the better world?”

Clearly, the persuasive power of this argument lies in its obviousness and its appeal to the common sense. As consequence, the imagination of these two contrasting worlds has defined our way of thinking in many diverse fields. How should we deal with externalities that result from the interaction of economic actors? How should deal with state owned companies? How should we compare different historical property regimes? How should we interpret the malfunctions of non-market arrangements or hybrid markets? Finally, if markets exist but do not lead to desirable outcomes what could be the cause for that? In all of these cases the reality appears to be at odds with the ideal world of strong and clear property rights. The contrast between the two worlds has an analytical purpose, but that is not all. The analysis is followed by the prescription. If reality is disagreeable it has to be changed and the vision of clear and strong property rights is there to lead us in the right direction.

For almost half of a century this vision has been implicit in the dominant view on economic development (Kennedy 2011), it has been the foundation of *International Property Rights Index* (internet), it has played a central role in the renowned *Doing Business Reports* (internet) and it has been the topic of multiple studies (Kennedy 2011).

Duncan Kennedy (2011) was the first to explicitly treat this vision of clear and strong property rights in a critical manner. He argued that it serves as both an analytical and historical claim. (Kennedy 2011: 3) In his view, the vision of clarity and strength of property rights is a false one as we can observe that very different property arrangements have led to economic growth (Kennedy 2011: 5). Additionally what seemed to be clear and strong ones at least from standpoint of some social actors also lead to stagnation and crisis. Finally, Kennedy showed that this vision moves the attention away from crucial issues of choices among different social interests involved in different modes of property entitlements, distributions of resources and related developmental paths (Kennedy 2011: 7).

Kennedy argued that the vision is founded upon a number of lay conceptions about property (Kennedy 2011: 7). These represent property in its ideal form as

something that can be distinguished as a system of private ordering from public regulation, has irrelevant distributive effects, is not concerned with issues of social justice. Finally, if the goal underlining the vision is to set an economy on the right path by facilitating growth, it can easily lead in turn to exclusion of alternative developmental paths (Kennedy 2011: 10). The fact that each of these claims has been clearly contradicted in legal scholarship leads us to the obvious question of how has it come to develop and establish itself in such a dominant fashion.

Kennedy made some comments on the history of the vision of clear and strong property rights (Kennedy 2011). I will argue that this vision has deeper and stronger roots than might be expected if one takes into account that only in the last half of the century it has become explicitly present and pervasive in issues of economic policy. I will try to show that a more thorough and conceptually powerful historical account can and should be made. The vision of clear and strong property rights has been developing throughout the history of Western thought in a quite particular manner.

An account of this development clarifies how a preference for strong property rights could become so commonsensical. Following up on the description at the outset of this paper, I want to argue that in its essence this contrast of two worlds operates as a binary opposition. A classic form of a binary opposition is the presence-absence dichotomy (see e.g. Derrida 1976). As it is well known, in much of Western thought, distinguishing between presence and absence, viewed as polar opposites, has played a fundamental role (Macsey and Donato 1970: 254). In addition, according to post-structuralist criticisms, presence occupies a position of dominance in Western thought over its' opposite, absence, that is conceived as pure lack of that what can be present. As binary oppositions are such a fundamental trait of Western thought, it stands to reason that they also characterize the domain of property. What makes the case of interpreting this vision as based on binary oppositions compelling is the explicit reference to clarity and strength, features largely developed during the Enlightenment. The issue is closely linked to all those that are in focus nowadays in the treatment of the contrasts to clarity and strength, i.e. non-conformity, ambivalence and weakness related to gender, race etc. Thus, the ability to acknowledge the binary opposition in the foundation of the vision of clear and strong property rights should allow us to approach property with fresh eyes.

As it will be shown in the following sections, it allows us to see that because of the logic of the binary opposition, strong and clear property rights are understood as the presence, or put simply the only coherent way for property to exist. Everything that does not fit the vision is left out and interpreted as absence, that is, as if it is not a system of property rights at all (Royle 2000). Secondly, as in case of any binary opposition, we have the opportunity to trace its genesis in history. The history in question is at the same time the history of thought and of our legal systems. Engaging with this history should allow us to substitute the commonsensical appearance with a historical specific reality (Royle 2000). Finally, the fact that we are dealing with a binary opposition implies operation of reduction and erasure (of really existing diversity) that is foundational for the vision. Our ability to grasp this erasure should allow us to see what property in reality is, what has been ignored in thinking about it and excluded in law making (Royle 2000).

For the present purposes I want to comment on a number of fragments from the history of thought that has led to the emergence of the vision of strong and clear property rights. The goal of the exercise will be to show how these discourses spanning across centuries all fall under the operation of reduction and erasure of property understood in any way other than strong and clear exclusive rights of the individual agent. Even though sphere of property law in all times included many other arrangements, reflections about property have in an equally pervasive manner ignored this multiplicity. As it has become quite usual today in the discourse on clear and strong property rights, any absence or limitation to this arrangement is taken to be the directed against property *itself* and is unconditionally condemned.

Before we begin two caveats are in order. First of all, this commentary is not intended to be exhaustive with regards to any of the bodies of thought that it approaches. Due to the overarching goal, these will really be treated as fragments. The expectation that will hopefully be justified is that even as only fragments they will be enough to reconstruct the foundational character of the opposition. Secondly, as the other mentioned dimensions of this subject are inseparable I will touch upon the legal history and the legal reality that has been excluded in thought and marginalized in practice but this will be only occasional.

II

1

It is unclear where one should start with the history of this binary opposition. As we have seen, it has been engraved in the proverbs spanning across cultures and traditions. According to most historians, if we exclude different examples of Aristotelian tradition, the first explicit milestone can be found in the reflections of William Blackstone who equates property and possession.

The importance of William Blackstone in history of law is incontestable. In his highly influential *Commentaries on the Laws of England* (1765–1769) he has given us the best-known natural-law definition of private property as the “sole and despotic dominion which one man claims and exercises over the external things of the world, in total exclusion of the right of any other individual in the universe.” Narrative in the foundation of Blackstone’s account of property has at least two peculiar traits. Mattei and Capra (2015) show that this narrative is a cartesian one in the broad sense² and that it relies on the fundamental distinction between physical (*res extensa*) and mental (*res cogitans*). Thus, as Hohfeld (1913) famously noted, Blackstone’s discussion of property relies heavily on the distinction between corporeal and incorporeal.

...An hereditament... includes not only lands and tenements, but whatsoever may be inherited, be it corporeal or incorporeal, real, personal, or mixed... Hereditaments, then, to use the largest expression, are of two kinds, corporeal and incorporeal. Corporeal consist of such as affect the senses, such as may be seen and handled by

² This should not be confused with actual work of Decartes but only interpreted as part of tradition that in many ways simplified his work. Thanks to Mark Losoncz for this insight.

the body; incorporeal are not the objects of sensation, can neither be seen nor handled; are creatures of the mind, and exist only in contemplation. (Blackstone 1830)

Further on, Blackstone struggles to apply Cartesian narrative to property and define the specificity of incorporeal: “An incorporeal hereditament is a right issuing out of a thing corporate (whether real or personal), or concerning, or annexed to, or exercisable within, the same” (Blackstone 1830).

As Hohfeld (1913) notices, there is inextricable confusion between the physical or “corporeal” objects and the corresponding legal interests, all of which latter must necessarily be “incorporeal.” The second related trait of the narrative that we find in Blackstone is the identification of property with physical possession. Hohfeld (1913) admits that “Much of the difficulty, as regards legal terminology, arises from the fact that many of our words were originally applicable only to physical things; so that their use in connection with legal relations is, strictly speaking, figurative or fictional.” Even with all the difficulty that comes with the ambiguity, the fixation on the relation to the physical in conceiving property in this narrative not only survives historically but also becomes dominant. The famous Locke’s reflection that we shall turn to shortly, identifies its fundamental trait in the act of appropriation through physical contact. This can be termed as the physical metaphor in property. It is important to notice that this dominance is not present only in theory but also in legal practice. As Hohfeld (1913) notices, in *Wilson v. Ward Lumber Co* it is stated that “The term ‘property’, as commonly used denotes any external object over which the right of property is exercised” and at the same time that “property ... in a determinate object, is composed of certain constituent elements, to wit: The unrestricted right of use, enjoyment, and disposal, of that object.”

In this manner, the philosophical Cartesian narrative in a particular historical moment in the western culture comes to shape how we think of property and consequentially how this field of law develops. Property in this manner becomes defined by the existence of a single cogito that through its spatial existence appropriates other physical entities. Property is understood on the basis of possession and the impossibility of two things occupying the same space at the same time determinant for possession becomes determinant for property, and exclusion is taken to be essential. A multiplicity that has property in the same thing is by consequence a contradiction. It can only be understood as lack of property. At the same time, the ambivalence between property as the physical thing or a non-physical claim stays unresolved. Blackstone’s original Cartesianism and physical metaphor had become the conceptual determinant of law.

2

Here we skip on a more exhaustive commentary on property in the natural law theories of Pufendorf, Grotius and others. We will focus directly on Locke, but this is not to say that mentioned theories are less important. Locke presented his famous natural law account of property in the section *Of Property* in *the Treatise*. There Locke ([1690] 1991: 286) commenced his argument by claiming that “God... has given the Earth to the Children of Men, given it to mankind in common.”

The use of the phrase “in common” certainly catches attention in the context of our inquiry. Some interpreters understand Locke’s argument as referring to common ownership while others take it to mean simply the absence of ownership, or open access property. “That which is common is not ownership” (Valcke 1989: 957). Before dealing with that issue let us first take look how Locke’s argument developed.

In the next step, Locke explicitly relied upon the concept of natural rights. In his theory, these generally range from the broad and abstract, to the narrow and materialistic. Among the former are the rights to one’s own life and liberty. The latter relate to rights to produce not only useful consumer goods but also to any concomitant producer-good. The main example of a producer-good was improved land, as explained in section 27 of Locke’s *Second Treatise* ([1690] 1991: 287):

Though the earth, and all inferior Creatures be common to all Men, yet every Man has a Property in his own Person. This no body has any Right to but himself. The Labour of his Body, and the Work of his Hands, we may say, are properly his. Whatsoever then, he removes out of the State that Nature hath provided, and left it in, he hath mixed his Labour with, and joyned to it something that is his own, and thereby makes it his Property. It being by him removed from the common state Nature placed it in, hath by this labour something annexed to it, that excludes the common right of other men.

Finally, in the section 27 of the *Treatise*, Locke amplifies and qualifies his theory of appropriation, or creation of property, as follows, “For this labour being the unquestionable Property of the Labourer, no Man but he can have a right to what that is once joined to, *at least where there is enough, and as good left in common for others*” This clause is recognized in the literature as Lockean “proviso” and it somewhat obscured his general argument, and much has subsequently been written in attempts to fully understand it. As it is well known, this statement lead to a lot of controversy among interpreters as some put more accent on Locke’s account of appropriation and took him to be a proto libertarian thinker while others relied on proviso and understood him to be a kind of socialist.³

What is important in the context of our inquiry both when we think of the opening claim of things being held in common and the proviso is that Locke reserves the concept of property for the result of the act of appropriation. This is the main focus of his explanation. Proviso and the initial commonality of things provide the context within which property emerges. They are not an object of explanation. It is within the context defined by them that Locke explains how property emerges. Thus the property in question is the exclusive property of an agent against all others, that is precisely in the foundation of the vision of clear and strong property rights. It is only the existence of this this type of property rights, taken to be property rights as such that has to be explained and justified, while the context that was there before them is not considered as an institutional creation with its own rules and ways of operating.

Additionally, Locke’s case relates to the well-known concept in liberal theory of government: the maximum liberty of the individual. In this approach, one of main duties of government is to protect property rights. Property rights are central as they are the medium through which the individual practices her liberty. The

3 See for example the work of James Tully and Robert Nozick.

dominant negative-liberty-based (Berlin 1969) liberalism implies that to allow for the maximum practice of liberty is to allow the individual to act in any way it desires on the condition that this does not make any limitation of freedom of others. According to the definition, negative liberty is the absence of obstacles, barriers or constraints. In this sense, property is equated to the legal institute that delineates the object and allows the individual to act in this unconstrained manner. This is related to the strength that the property rights should have. Similarly, to the case of Blackstone, the property that is limited appears to be no property at all.

3

A more exhaustive comment would certainly include an account of utilitarian revolt against natural law arguments on property. Due to the limited space and the need to focus only on the essential milestones, we will not go in that direction. Instead we will now turn to the economic theories that dealt with property.

Beginning with economists we should note that most of them do not even consider property explicitly – this is particularly problematic as the economic relations they analyse can only exist inasmuch they are legally articulated. And as many of them are concerned with exchange they are especially dependent on how property is articulated. This may as well be the most destructive outcome of the reductionism in the basis of the vision of clear and strong property rights. Here we will consider only those economists that did recognize the decisive role of property for the economic relations

First among them is certainly Adam Smith. Smith, one of the fathers of economics considered himself as a moral philosopher writing from a Lockean point of view. In his “Lecture on Justice,” Smith (1896) made one important distinction that departed from Locke’s reasoning: he confined natural rights to the rights to liberty and life, whereas the right to property was an acquired right depending on the current disposition of society. “The rights which a man has to the preservation of his body and reputation from injury are called natural...” (Smith 1896: 401). Smith’s separation of natural rights from the rights to property are further expressed in the following quotation from his Glasgow lectures:

The origin of natural rights is quite evident. That a person has a right to have his body free from injury, and his liberty free from infringement unless there be a proper cause, nobody doubts. But acquired rights such as property require more explanation. Property and civil government very much depend on one another. The preservation of property and the inequality of possession first formed it, and the state of property must always vary with the form of government. (Smith 1896: 401)

Smith spent quite a lot of energy in arguing why the inequality that follows property is justified and this is something of interest for our inquiry.

Before going into that we should consider that Smith’s argument that almost explicitly argues for clear and strong property rights. Importantly, even though he assigned right to property the status of acquired right, he famously condemned all legislation that interfered with free individual trading. Such freedom to trade affected the incentive to create and maintain property. Because of the existence of continuous markets, prices were being kept reasonably stable and thus incentives

to further property accumulation, were emerging. Accumulation of property as capital, in turn, was encouraging further divisions of labour that is, specializations and these were resulting in sustained technological progress. This argument directly treated property as the foundation of trade and Smith showed consciousness of the legal foundation of the economic reality that is rare among economists that followed. At the same time, we can see that this recognition of the role of property implied also a reduction in its understanding. Property that is foundational for exchange is the property of the sole owner with power to transfer the good. It was this type of property that Smith as a Lockean considered. Any other type of property that could have been relevant for economic reflection is absent from his account. This relates to the issue between property and inequality. It is precisely the property of sole owner with power to sell that implies unequal relations. On the other hand, any type of property that at the same time implies many owners with different rights to the resource creates at least a limited sphere where the distinction is not between more or less but between different ways of relating to the resource.

4

A caesura in the historical development of the vision of strong and clear property rights occurred when Smith began to explicitly refer to its beneficial economic role. As the vision played an essential role in conceiving the economic mechanism that leads to desirable outcomes, the rising importance of this economic mechanism was paralleled by the rising importance of the vision itself. One of the most illustrative cases of this is the thought of Ludwig Von Mises. Within the socialist calculus debate Mises defended the superiority of market mechanism on the basis of its relation to property. Peter Boettke provides a very clear account on the essential role that property plays in the Austrian economists' position in the debate:

Mises does present four arguments which include: (1) private property and incentives, (2) monetary prices and the economizing role they play, (3) profit and loss accounting, and (4) political environment. In a fundamental sense, all of these arguments are derivative of an argument for private property. Without private property, there can be no advanced economic process... Mises had to explain how private property engenders incentives which motivate individuals to husband resources efficiently... [and] that the real problem was one of calculation within the dynamic world of change, in which the lure of pure profit and the penalty of loss would serve a vital error detection and correction role in the economic process... [and] finally... that the suppression of private property leads to political control over individual decisions and thus the eventual suppression of political liberties to the concerns of the collective... On the other hand, the private property market economy is able to solve each of [these]... economic issues, and constitutional democracy does seek to guarantee individual rights, and protect against the tyranny of majority.

It is important to notice that in explaining their understanding of what property is Austrian economists referred to spontaneity and nature. As Hodgson shows, Von Mises (1981: 27) considered property as “purely a physical relationship of man to the goods, independent of social relations between men or of a legal order” and his defence of property, exchange and markets does not promote a clearly-defined socio-economic system. This in turn led to somewhat simplified concept of

exchange economy as according to Hodgson (2010: 42) exchange is defined simply as an action.

Here we can observe how in a context that is no longer encumbered by issues of natural law, Von Mises still gives a naturalist account of property. Again, similarly to natural law theories, this implies that one type of property arrangement, that concerning one actor, tight of exclusion and power of transfer is isolated as the only property arrangement possible.

The other great economist participating in the calculus debate was Friedrich Hayek. Hayek was not explicitly naturalist when it came to property. Among many arguments related to property that he makes, maybe the most useful for our purposes is Hayek's identification private property as the fundament of modern civilization:

Modern civilization, which enables us to maintain four billion people in this world, was made possible by the institution of private property. It's only thanks to this institution that we achieved an extensive order far exceeding anybody's knowledge, and if we destroy that moral basis, which consists in the recognition of private property, I think it will destroy the sources which nourish present day mankind and create a catastrophe of starvation beyond anything mankind has yet experienced (Hayek, internet).

The point of Hayek's discourse revolves around the point that private property is the only institution that allows sustained coordination and progress. Additionally, as he made clear in the calculus debate, the exclusive type of property right belonging to the individual is based upon the right measure of responsibility and knowledge. It makes the owner responsible for his activity, incentivized to utilize the property to his benefit with knowledge that he posses. This account marginalizes all the other property arrangements as leading to lack of clarity about responsibilities and lack of incentives to act with economic interest.⁴

5

If we can recapitulate previous accounts of property in economics as being essentially interested in how the exclusive property belonging to the individual, regarded as baseline property arrangement, couples with market exchange that it allows for, the following economic arguments go a step further. These link clear and strong property rights to a functional economic system and take a look at cases within this system where the same logic can be extended to deal with remaining problems and disfunctionalities. There are two dominant strands in which this has been done: one related to the tragedy of commons and the other to property and externality in law-and-economics.

Hayek's argument is strongly reminiscent of the tragedy of commons. The latter is certainly one of the most prominent articulations of the vision of clear and strong property rights. Two of the most famous tragedy-of-commons arguments

4 It is important to notice here the argument made by professor Hodgson on the fact that the socialist opponents of Austrian economists in the debate were not any better in conceptualizing property. Their positions stemmed from the early ones arguing for abolition of property to the later ones leaning on neoclassical economics and neglecting the issue of property completely.

were made by Garret Hardin (1968) and Harold Demsetz (1974). While Hardin pictures commons as a lack of any kind of property and in this manner adopts the implication of the vision that the strong and clear property rights are the only true property rights, Demsetz apparently recognizes the communal ownership:

Suppose that land is communally owned. Every person has the right to hunt, till, or mine the land. This form of ownership fails to concentrate the cost associated with any person's exercise of his communal rights on that person. If a person seeks to maximize the value of his communal rights, he will tend to overhunt and overwork the land because some of the costs of his doing so are borne by others. The stock of game and the richness of the soil will be diminished too quickly... If a single person owns the land, he will attempt to maximize its present value by taking into account alternative future time streams of benefits and costs and selecting that one which he believes will maximize the present value of his privately-owned land rights... The land ownership example confronts us immediately with a great disadvantage of communal property. The effects of a person's activities on his neighbours and on subsequent generations will not be taken into account fully. Communal property results in great externalities. The full costs of the activities of an owner of a communal property right are not borne directly by him, nor can they be called to his attention easily by the willingness of others to pay him an appropriate sum... (Demsetz 1974)

Demsetz identifies the division of the commons into private property as a key tool for overcoming the inefficiencies generated by pervasive externalities. “[P]rivate ownership of land,” he says, “will internalize many of the external costs associated with communal ownership.” This is because the private owner “can generally count on realizing the rewards associated with husbanding game and increasing the fertility of his land.” Because the owner's wealth is now tied to the skill with which she cares for her property, she has the incentive to use the resources on that property as efficiently as possible. In this manner commons that splits the property rights among multiple actors, implies lack of clarity. It allows for illusion in accounting of activities of users. Only the sole proprietor that does not share property can account for its use in the adequate manner.

It should be clear by now that tragedy of commons is the exemplary case for the clear and strong property rights vision. The starkness of the argument is probably more visible in Hardin's version according to which there seems to be nothing out there before exclusionary individual rights are established. On the other hand, Demsetz' version clarifies a further important point. Even if some other arrangement is recognized as property formally, what seems to be implied is that it lacks the necessary conditions for it to be a right with economic role. The economic role of the property rights comes only with the exclusive individual rights being put in place.

6

The most famous application of the economic rationale to the object of property and externality is the one provided by Ronald Coase. It came to be epitomized by George Stigler (1987) as the Coase theorem. Coase develops this argument referring to a variety of other legal solutions to externalities like tax, liability, or damage. Indeed, the theorem draws its significance from the fact that it can be utilized in a very general context of policy and regulation.

Let us take the known example of farmer and the cattle rancher live in vicinity to each other. Coase intends to tackle the problem of externality and thus we suppose that their productive activities interfere. The farmer grows corn on some of his land and leaves some of it uncultivated. The rancher runs cattle over all of her land. The boundary between the ranch and the farm is clear, but there is no fence. Thus, from time to time, the cattle wander onto the farmer's property and damage the corn. There is a harm suffered because of the interference of productive activities.

The damage could be reduced in a number of ways: by building a fence, continually supervising the cattle, keeping fewer cattle, or growing less corn. Each of the ways of reducing damage is costly.

There are two possible patterns of dealing with the harm. The rancher and the farmer could bargain with each other to decide who should bear the cost of the damage. Alternatively, the hard law could intervene from the outset and assign liability for the damages. If the case is presented before the law, Coase argues that the main relevant issue that is to be considered with the achievement of a valid decision is the possibility of bargaining between parties.

There are two specific rules the law could adopt, both relying on introducing a responsibility for the damage:

1. The farmer is responsible for keeping the cattle off his property, and he must pay for the damages when they get in (a regime we could call „ranchers' rights" or „open range"), or
2. The rancher is responsible for keeping the cattle on her property, and she must pay for the damage when they get out („farmers' rights" or „closed range"). (Cooter and Ulen 2012)

Under the first rule, the farmer would have no legal recourse against the damage done by his neighbour's cattle. To reduce the damage, the farmer would have to grow less corn or fence his cornfields. Under the second rule, the rancher must build a fence to keep the cattle on her property. If the cattle escape, the law could ascertain the facts, determine the monetary value of the damage, and make the rancher pay the farmer.

At this point Coase introduces *monetary values* relevant for the parties. For this, monetary evaluation of harm by the parties has to be determined. Coase ([1960] 2009: 3) proposes that in all of the cases of interference of rights it is an imperative to begin by *treating rights as productive factors*. This pertains to the introduction of parties as utility-maximizing agents with budgetary constraints and production functions. For example, suppose that when the problem of efficiency is introduced, it is concluded with absolute certainty that:

efficiency requires the farmer to build a fence around his cornfields, rather than the rancher to build a fence around her ranch. (Cooter and Ulen 2012)

This is followed up by a further consideration of outcomes under different legal decisions. Both legal rules (ranchers' and farmers' rights) are considered with appropriate monetary values and it is concluded that looking at legal rules as a judge would, with focus on the question of who is responsible for the damage, the first rule seems to be more efficient than the second rule, which saves.

At this point Coase presents his famous argument. According to Coase, this efficiency is only apparent. By bargaining to an agreement, rather than following the law non-cooperatively, the rancher and the farmer can save the amount that is saved in the most efficient scenario. That is, if the parties can bargain successfully with each other, the efficient outcome will be achieved, *regardless of the ruling of law*. Cooperation leads to the fence being built around the farmer's cornfields, despite the fact that the second legal rule (farmers' rights) was controlling. Thus Coase concludes that the greater efficiency of the first legal rule is apparent, not real. In view of the cooperative surplus, parties will start from their threat values and try to settle in the manner that allows them to reach more desirable outcome. For each of the parties, appropriation of any part of the surplus makes the bargaining worthwhile. The following argument is at the same time a proof of the priority of the bargaining/transaction cost consideration for dealing with cases of interference of rights.

Coase used the term "transaction cost" to consider the possible obstacles to the depicted process. If the inherent costs of bargaining between the parties were to pass the supposed threshold of bargaining surplus, this would imply that there is nothing to be gained from cooperation.

This type of analysis led to the articulation of the famous Coase theorem:

When transaction costs are zero, an efficient use of resources results from private bargaining, regardless of the legal assignment of property rights.

The theorem points out towards an invariance. Its most important achievement is that it synthesizes two disciplines and two problems: externality, a problem usually treated by economists and property rights—i.e., law. Its proposition suggested an effort to use property rights to solve problems of externalities in a variety of situations. This became an important proposal fundamental to law and economics but also to economics and law as distinct disciplines.

Essentially the theorem points out that externalities are something that private parties can deal with if the conditions necessary for bargaining to take place are present (Kennedy 1998: 4). This was a highly counter-intuitive conclusion at the time, as externalities were understood to be costs incurred privately but paid externally. Coase pointed out that the reciprocal relation between the parties that appears as if one is harming the other can become object of their own negotiation.

What is crucial in the consideration of Coase within the genesis of the vision of clear and strong property rights is the idea of the spontaneity of bargaining. In Coase's view the liability defined and allocated by the court will immediately be taken up by the bargaining process. Within this process the actors will treat it as property and they will reallocate it on the basis of their evaluations. This process is only possible as the court has defined the right that was contested between parties as a strong right with clear definition of its limits. Lack of clarity and strength of property rights is by definition implying rise in transaction costs. As we have seen Coase does recognize that this type of cases will take place, but the point is to understand that at that point the issue is already framed and economic analysis is inherently inclined to further one type of property arrangement while not even noticing its' possible alternatives.

Tragedy of commons and Coasean analysis of externalities were quite influential as lessons on how to do economics with explicit focus on property rights. Among many strands that adopted these lessons, the approach that came to be known as economic analysis of property rights is among the most pertaining and most recognized. This will be the last case that we will treat even though when we get closer to the present times the explicit connection to the vision of clear and strong property rights seems to be ever more pervasive.

When it comes to EAPR proponents, maybe the most controversial and visible aspect of the approach is its' habit of defining pre-legal facts independent of any normativity as rights. This relates to the point previously made about Demsetz who can be taken as forbearer of the EAPR approach. Alchian (1965) for example, defined private property rights in terms of assignments of the ability to choose the use of goods (without affecting the property of other persons). Later Alchian (1977: 238) defined these rights in relation to 'the probability that [owner's] decision about demarcated uses of the resource will determine the use'. In the same vein, Barzel (1997: 394) defined property as "an individual's net valuation, in expected terms, of the ability to directly consume the services of the asset, or to consume it indirectly through exchange." As he underlines "[the] key word is ability: the definition is concerned not with what people are legally entitled to do but with what they believe they can do." Barzel is also famous for his distinction between *economic* and *legal* property rights. According to him (Barzel 1997: 3) the term 'property rights' carries two distinct meanings in the economic literature: "One . . . is essentially the ability to enjoy a piece of property. The other, much more prevalent and much older, is essentially what the state assigns to a person. He decides to designate the first 'economic property rights' and the second 'legal (property) rights.'" Later he goes on to explain that "economic rights are the end (that is, what people ultimately seek), whereas legal rights are the means to achieve the end. Legal rights play a primarily supporting role..." Finally, Allen (2014: 4) claims that in his view "Following others, economic property rights are defined as the ability to freely exercise a choice."

Hodgson (2015a: 11) rightly notices this general intuition can be interpreted to stem out from the standpoint adopted by property rights economists according to whom the 'structure of property rights' refers primarily to a set of constraints upon, and incentives and disincentives for, specific individual behaviours. This diagnosis rings a bell in the argument put forward recently by Di Robillant and Syed (forthcoming) that a deeper issue in L&E approach to property has to do with the habit of omitting of the legal-architectural issues (what property is) related to property law and rushing into substantial issues (how property emerges and what incentive structure it implies) that involve cost analysis.

Hodgson's criticism of this way of approaching property is maybe best summarized in the following passage:

When [some of EAPR authors] referred to property they reduced it simply to the fact of possession or control. Likewise, when [others among them] refer to 'economic rights' they simply mean possession or control. My objection to these accounts is illustrated by the case of a thief who manages to steal an item and retain control of it. According to [the former] this would become the thief's 'property'. According to

[the latter], the thief would have established an ‘economic right’ to the stolen goods. (Hodgson 2015b: 736)

In a way the approach perused by EAPR authors summarizes many of the important points present in previous cases. First of all, it reminds explicitly of Blackstone with its substitution of property with possession. The abstract relational character of property as legal arrangement can easily be marginalized by the simplicity of possession as an individual physical fact. Secondly, the argument has a clear naturalist connotation as actors involved seem to behave according to innate principles described as utility maximisation for the present purpose. Finally, EAPR case takes the Coasean intuition of putting theoretical priority on pre-legal reality in approaching legal institutions a step further when instead of bargaining it introduces the cases of robbery and others.

III

The cases of economic arguments for strong and clear property rights imply that only if these exist a beneficial cooperation between different actors is possible. The paradoxical nature of the underlying argument that has reached the status of common sense is that the strength and clarity of the property rights in reality consists of clearest possible delineation of the subject and the strongest right to exclude others. What makes the argument paradoxical is that intuitively one would think that cooperation is linked to inclusion and not exclusion. It is precisely this possibility that is being erased by the presented arguments.

In the context of tragedy of commons, the potential of inclusion beyond the scope of clear and strong property rights was the object of study of Elinor Ostrom. Still Ostrom’s understanding of the legal and proprietary side of the commons relies on the bundle of rights conception that we will comment upon shortly. At this point though it is important to notice that Ostrom doesn’t consider property arrangements in their substantial differences but stays on the level of providing comments how commons can lead to non tragic outcomes within appropriate legal frames. On the other hand, in the analysis of externalities after Coase, even less was done. While the so called heterodoxical Coaseans noted that sometimes transaction costs are indeed high, this was never a reason enough to consider inclusion as a possibility to deal with externalities. One strand of Coaseans considered public ownership and facilitation of bargaining while the other, spearheaded by Guido Calabresi considered inalienability. In both cases cooperation within a common property regime that relies on the well-defined inclusion of multiple participants with developed models of participator decision making was not seriously considered.

One possible understanding that could stem from the previous exposition of the vision of clear and strong property rights as based in the idea of individual exclusive owner is that all that has to be done to combat it is to summon the bundle of rights theory. In relation to the points made previously we should be reminded that both Ostrom, Coase and Calabresi adopt this theory. The theory is vaguely connected to arguments put forward by Wesley Hohfeld, but as contemporary interpreters (di Robilant and Syed) point out thing can become difficult when we try to coherently present an account of bundle of rights theory in relation to his

approach. On the other hand, very explicit and clear theorization of property as bundle of right can and is usually related to the work of Tony Honoré. Let us take a moment here to consider it. Honoré explicitly articulates what he defines as full ownership. It consists of the following bundle of rights:

- 1) Right of Use: Alf has a right to use X, that is,
 - (a) Alf has a liberty to use X, and
 - (b) Alf has a claim on others to refrain from use of X.
- (2) Right of Exclusion (or possession): Others may use X if and only if Alf consents, that is,
 - (a) If Alf consents others have a liberty to use X;
 - (b) If Alf does not consent others have a duty not to use X.
- (3) Right to Compensation: If someone damages or uses X without Alf's consent, then Alf has a right to compensation from that person.
- (4) Rights to Destroy, Waste, or Modify: Alf has a liberty to destroy X, waste it, or change it.
- (5) Right to Income: Alf has a claim to the financial benefits of forgoing his own use of X and letting someone else use it.
- (6) Absence of Term: Alf's rights over X are of indefinite duration.
- (7) Liability to Execution: X may be taken away from Alf for repayment of a debt.
- (8) Power of Transfer: Alf may permanently transfer (1)–(7) to specific persons by consent.

Having the previous point in mind it is quite easy to recognize some implicit presuppositions of Blackstone and Locke explicitly stated by Honoré. Looking at this list, two things are of particular importance. First according to Honoré, subtraction or even a limiting definition of any of the rights from the bundle makes the property become less than a full one. In this way Honoré dismisses the possibility that it would be a different type of property, and solely on the basis it being less it is deed not to be property in its full form of existence. Secondly, as we can see, Honoré's bundle presupposes that property is something that belongs to a singular actor, Alf. The idea of there being multiple interrelated actors with sharing the mentioned rights is out of the picture. To the amount that this is the case, we can conclude that even Honoré's type of bundle of rights theory complicates the issue of property by distinguishing among different elements that form a property arrangement, it still does not break away from the idea of exclusive individual ownership as paradigmatic case of property. Consequently, the fact that certain authors rely on bundle of rights conception does not amount to proving that they escape the vision of strong and clear property rights.

To conclude one can ask a question that should have become obvious by now: What about legal reality of property? Does it recognize inclusion and commons? The answer is the positive one but it deserves a number additional clarifications about further investigation. These will have to serve instead of a more final conclusion.

Firstly, the legal reality of inclusionary property arrangements is a diverse one. From the commons fisheries and forestries described by Ostrom, worker managed

factories and citizen managed water systems, community land trusts and P2P networks and right to roam, the alternative to strong and clear property rights is diverse field. Inclusion can be a defined and conditional one, or it can just be a lack of exclusion as in cases of open access. The number of included and the activity of the included can be defined or they can be unspecified. Finally, the participatory decision making that is underlying this type of property arrangement can be of very different kinds. It is important to understand that this reality exists and develops on the margins of a legal field dominated by the vision of strong and clear property rights. It develops in places where the dominant model is so explicitly unsuccessful, inapplicable or there is no interest of actors to propose its application. Accordingly, its diversity is related to the specific context of the resource and the actors connected to it.

Secondly, in thinking about the reality of proprietary relations once we free ourselves from the false binarity, a general conclusion can be made. The point is that there is no property with big "P". Instead there are different arrangements and combinations, among which none is more property than any other. Different bundles can be designed following logic of the relations established, and none of the is better than others as such. The value judgment should always have made comparing different ones with the attention to the context of the specific resource.

Thirdly once, we understand that there is no clarifying and strengthening, we can become open to innovating and starting over in design and allocation of property rights. As Kennedy (2011) rightly points out historically this starting over has happened many times over and new property arrangements are constantly emerging. At the same time, this dynamic is interconnected with visions that assert themselves as dominant. The vision of property treated as essentially exclusionary right in the hands of the individual has made visible impact and has at the same time been reinforced by social legal processes on the ground. In fact, the only way for this commentary to be complete is to have coupled with an account of social context that surrounds the intellectual production of reflections we witnessed. The period from Blackstone to Smith is determined by the primary enclosure of commons, while the socialist calculus debate is related to property transformations before and during Cold war and finally, the accounts of Hardin, Demsetz, Coase and EAPR authors precedes and parallels the so called new enclosures. There has already been a lot of work on this context and this connection, but an encompassing account relating it to the issue of property and the vision that has dominated this field is certainly still lacking.

Finally, even if we try to think in narrower economic terms about property, we should not allow ourselves to be constrained by the usual imperative as transactions cannot be distorted by change in property rights because these only occur in the shadow of law. Need to take the economic impact of property arrangements is certainly a crucial one. As Kennedy notice this is especially true in the contemporary world as the complexity of property rights parallels the rise of general social complexity in the ever more interconnected network of actors. The need for a more reflected practice of property management in societies only becomes more pressing as the simple commonsensical recopies like that of clear and strong property rights are shown to be unsuccessful in accruing the promised results. At the

same time, previous pages should have made even more cautious than we already might have been, as this type of recipe is shown to be routed much deeper in our thinking than we have previously recognized. As many cases of post-structuralist accounts have shown, escaping strong pattern of binary opposition proves to be much more difficult than it might seem. Still the fact that today's society is slowly discovering ways to incorporate non-conformity and weakness towards achieving its' end should motivate us to push further in the case of property.

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Aleksandar Stojanović

O zaslepljujućoj jasnoći svojinskih prava: sedam fragmenata o redukcionizmu u teoriji svojine

Apstrakt

Ovaj članak se sastoji od istorijskog komentara na argumente u teoriji svojine koji osnažuju viziju jakih i jasnih svojinskih prava, koja je dominantna u savremenom razvojnom polisiju. Nadovezujući se na članak Dankana Kenedija iz 2013. koji je izneo prvu analizu ove vizije, ovaj članak se bavi nizom dodatnih pitanja koja se tiču njenog nastanka. Da bi postigao ovaj cilj, u članku se oslanjam na genealoški pristup u širem smislu koji je usredsređen na binarnu opoziju prisutnu u teoriji svojine od njenih istorijskih početaka u Zapadnoj misli. Ova metodologija omogućava da se problem konceptualizuje na supstantivniji način nego što je to učinjeno od strane Kenedija i da se pokaže kakav radikalni iskorak je potreban da bi se prevazišli problemi koje pomenuta vizija nosi sa sobom.

Ključne reči: svojina, ekonomski razvoj, isključivanje, prava

III

STUDIES AND ARTICLES

STUDIJE I ČLANCI

Filip Čukljević

THE PROBLEM OF COGNITIVE SIGNIFICANCE – A SOLUTION AND A CRITIQUE

ABSTRACT

In this paper I will deal with the solution to the problem of cognitive significance offered by the so-called new theorists of reference, as well as with the critique of that solution given by Howard Wettstein. I will claim that the answer to this critique provided by John Perry is not sufficiently convincing. First, I will clarify some relevant concepts in order to present the problem of cognitive significance in a clear manner. Then I will expose the solution to the problem offered by Perry and David Kaplan. After that, I will present Wettstein's critique of that solution. Subsequently, I will also analyze Perry's attempt to defend against this critique. Finally, I will discuss the extent to which Perry's attempt is successful. It will be shown that it is significantly not so.

KEYWORDS

cognitive significance,
proposition, referent,
thought, sense,
character, semantics,
pragmatics

The problem of cognitive significance

The concept of *cognitive significance* should explain the existence of the various *cognitive states* in which we find ourselves in, as well as the difference between them. When we speak of cognitive states, we will most commonly speak of *beliefs*. They are manifested in the subject's inclination to accept certain sentences as true in certain contexts. The content of cognitive states – the so-called *cognitive content* – we shall call a *proposition*. Hence John's belief that Socrates is mortal manifests itself in John's inclination to accept sentence "Socrates is mortal" as true, and that sentence expresses the proposition that Socrates is mortal.

A few remarks should be given here. First of all, for the time being, a proposition should be understood just as the content of our cognitive states – what we believe is the case for example, *i.e.* what we accept as true. We will soon talk more about what exactly is a proposition, and what is its relation with cognitive significance. Regarding the relation between propositions and cognitive significance, it should also be mentioned that we are not supposing here that propositions must be the *bearers* of cognitive significance. We will see that this presupposition is accepted by some, but not by all the philosophers who deal with the problem of cognitive significance. Finally, in this paper we will mostly focus on the cognitive significance of sentences which include *indexicals*, like personal and demonstrative pronouns, *etc.*

After these introductory remarks we can move on to the problem of cognitive significance itself. It is best to begin this by showing the three curious types of cases in which the concept of cognitive significance should have a major explanatory role. We get these types of cases once we describe what Wettstein calls *Frege's riddles*, or *Frege's data*, but without accepting an assumption which Gottlob Frege accepts, according to which propositions must be the bearers of cognitive significance (Wettstein 1986: 186, 188).

The cases which belong to the first type are those in which a subject sincerely and reflectively accepts as true – or is inclined to accept as true – a sentence which includes a certain indexical which, in that given context, has no referent. Let us take Wettstein's example. A soldier in an enemy's prison camp has a hallucination of a fellow soldier who has come to save him and he says – thinking that he is talking to that soldier – “You are wonderful”. In this context the term “you” has no referent, because the soldier to whom this term should refer is actually just a figment of imagination. However, we are inclined to say that the imprisoned soldier is indeed in a certain cognitive state in which he would find himself even if this fellow soldier would in fact exist. His utterance is a consequence of that very cognitive state. Because of this, it seems that we are required to find some semantic component of this sentence which would be present in the given context, and which would be the bearer of cognitive significance (Cf. Wettstein 1986: 187, 191).

The second type of cases includes those circumstances in which a subject is inclined to accept as true just one out of the two given sentences. These sentences differ from each other only insofar as they include different indexicals. Those indexicals, however, have the same referent in the given context. Hence these sentences express the same proposition. Wettstein provides the following example. Let us imagine that a certain person finds herself in a room full of mirrors which are so arranged that a person has an illusion that she sees some other person when in fact she sees herself. Next, Wettstein humourously adds that this person notices that the person she sees in such a way is about to be mugged by a prominent philosopher of language. In this case, the person in question will be inclined to accept as true the sentence “She is about to be attacked by a neo-Fregean”, but not the sentence “I am about to be attacked by a neo-Fregean”, thinking that there are two different persons involved in this situation. In other words, the inclinations to accept these two sentences as true are expressions of different cognitive states, so these sentences must have different cognitive significance (Wettstein 1986: 187–8).¹

In the end, there is the third type of cases. It is quite similar to the previous one, but now the key fact is not that a subject can be inclined to accept as true just one out of the two given sentences, but that the beliefs that are manifested in these inclinations typically lead to different actions. Let us again take the example from the previous paragraph. The beliefs expressed by the acceptance of sentences “She is about to be attacked by a neo-Fregean” and “I am about to be attacked by a neo-Fregean” as true, typically lead to quite different sorts of behaviour. For example, in the second case we will be much more prone to act as swiftly as possible, as a result of the perceived danger than in the first case – that is unless we are exceptionally altruistic. Given that invoking certain cognitive states is a basic

1 Similar example can be found in Kaplan 1989: 537.

explanatory strategy in elucidating human action, cognitive states in which a subject finds herself when accepting these sentences as true can not be the same (Wettstein 1986: 188).

With this in mind, for our current purposes the problem of cognitive significance could be formulated as the following question – what are the bearers of cognitive significance? Besides that the previously discussed types of cases provide us with a motivation for this question, they also show us that a certain, at least *prima facie* solid candidate for an answer to that question, is unacceptable. That candidate is a proposition, or to be more precise, a proposition understood in a specific way. According to this way of understanding propositions – which is in essence the *Russel-Kaplanian view of propositions* – the constituents of the proposition expressed by a certain sentence are the *referents* of the referring terms of that sentence. These referents are understood to be the *objects* to which we attribute something by means of accepting the given sentence as true, as well as the *properties* which are attributed to these objects in the same manner. For example, if we look at a traditional philosophical sentence such as “Socrates is a human being”, the proposition expressed by this sentence would have the actual human being Socrates and the property of being human as its constituents. If, however, a sentence contains certain indexical – as is the case with the sentence “I am a human being” – the constituents of proposition expressed by that sentence will depend on the context in which that sentence is uttered. If I would be the one to utter it, than I – a human being by the name of Filip Čukljević – would be among its constituents (Wettstein 1986: 186–7).²

Why is a proposition understood in such manner not a good candidate for the bearer of cognitive significance? Firstly, it does not pass the test set for it by the initial type of cases. Namely, given that in the sort of cases we are presented by a sentence which includes certain indexical with no referent, that sentence will not express a *complete* proposition. If, however, a proposition is to be the bearer of cognitive significance, a subject could not express any *determinate* cognitive state by accepting the given sentence as true, since it expresses no complete proposition. That is, the sentence should have no cognitive significance. But, since a subject *does* express certain determinate cognitive state by accepting this sentence as true, then it must have cognitive significance. In short – there is no (complete) proposition, but there is cognitive significance, and that is a big problem (Cf. Wettstein 1986: 187).

The remaining types of cases also present a problem for someone who would accept the assumption that a Russell-Kaplanian proposition is the bearer of cognitive significance. The pairs of sentences from these two sorts of cases differ from each other only insofar as the indexicals they contain are not the same – given that these indexicals have the same referent – *ergo*, (Russell-Kaplanian) propositions expressed by these sentences will be identical. However, we have seen that these sentences should have distinct cognitive significance, in order to explain the possibility of accepting one of them as true but not the other – *i.e.* in order to explain typically different action that stems from accepting one of these two sentences as true. If a proposition is the bearer of cognitive significance, however, these sentences must have the same cognitive significance. The problem here, essentially, is

² A bit more information regarding this conception of propositions can be found in Kaplan 1989: 500–7, 523–4.

the identity of expressed propositions accompanied by the difference in their cognitive significance (Cf. Wettstein 1986: 187–8).

The fact that a Russell-Kaplanian proposition can not be the bearer of cognitive significance does not necessarily mean that a proposition *as such* can not be the bearer of cognitive significance. Frege for sure would not accept such a judgement. He would rather suggest that this failure of a Russell-Kaplanian proposition provides us with a reason to discard such view of the nature of propositions. Unlike those who think that a proposition is constituted by the referents of the referring terms which are the parts of the sentence that express the given proposition, Frege claims that the real constituents of a proposition are not the referents of the appropriate referring terms, but the *senses* of these terms. We will not pursue Frege's conception of a sense in more detail here. There will be more discussion about it in the next section. Currently, it suffices to say that according to Frege the true bearer of cognitive significance is a *thought* – the term he uses for the proposition – and it is in fact the sense of a sentence (Cf. Wettstein 1986: 188).

We will not specifically discuss whether a proposition thus conceived is the true bearer of cognitive significance. Here we are not primarily interested in Frege and his views on the matter, but in the new theorists of reference, such as Kaplan and Perry. These theorists base their theory to a significant extent on the explicit rejection of Frege's understanding of propositions and the acceptance of the aforementioned Russell-Kaplanian theory of propositions (Wettstein 1986: 186–7). However, we have seen that a Russell-Kaplanian proposition itself can not be the bearer of cognitive significance. A Fregean proposition at least initially seems like a better candidate, but that path is not open for the new theorists of reference. That being said, if they are of an opinion that the problem of cognitive significance presents a genuine problem of philosophical semantics, these theorists must find some other candidate for the bearer of cognitive significance.³

Kaplan's and Perry's solution to the problem of cognitive significance

Kaplan and Perry claim that the true bearer of cognitive significance is what they call a *character*. Similarly to Frege's sense, the character of a term is a certain *mode of presentation* of the referent of that term (Kaplan 1989: 530; Wettstein 1986: 190; Wettstein 1988: 23–4).⁴ A character of an indexical is a certain mode of presentation

3 Some of these theorists, like Kaplan and Perry, openly regard this problem as a genuine problem of philosophical semantics. Cf. Kaplan 1989: 529–40, Perry 1988: 3–5. On the other side, Wettstein – for example – in some places claims that it does not present a problem for philosophical semantics, but that it might be a problem of some other philosophical discipline. Cf. Wettstein 1986: 196–204. However, even Wettstein eventually provides a solution to this problem that is, at least in part, the product of his considerations about philosophical semantics. Cf. Wettstein 1988: 22–8. More is to be found about Wettstein's conception of the problem of cognitive significance in the final section of this paper.

4 Certain philosophers, like Gareth Evans, consider this talk about modes of presentation of a certain object to be too metaphoric. As a consequence, Evans suggests that instead of speaking about different *modes of representation of a certain object* we should speak about *particular ways of thinking about certain object*. Cf. Evans 1982: 15–7. I think that for the purposes of this paper the second way of speaking does not bring considerable benefits compared to the first one, so I will stick with the original.

of an object, while a character of a sentence is a certain mode of presentation of a proposition. The relation between a character and a proposition is such that a character of a sentence, together with a context in which that sentence is uttered, *determines* the proposition that is expressed by the given sentence (Kaplan 1989: 505–6).

In contrast to Frege's sense, a character of some term does *not* determine its referent independently of context, by the means of certain qualitative description which is satisfied only by the referent of that term. The character of the term "I", *e.g.*, is expressed by the *linguistic rule* according to which this term refers to the person uttering it. This means that this term, independently of the context, does not refer exclusively to one object. That is, this term represents in the same way different objects in different contexts, and refers to the specific object only given the specific context (Kaplan 1989: 505; Wettstein 1986: 190). That being said, the sentence "I am hungry" – uttered in the context in which I am the one uttering it – expresses the proposition that Filip Čukljević is hungry, due to its context and character. However, when uttered by John Perry, it expresses the proposition that John Perry is hungry. It should also be mentioned that, unlike Frege's senses, characters are not the constituents of propositions. Referents of the terms which form the given sentence constitute the proposition expressed by it. The constituents of the previous propositions are the property of being hungry and myself in the case of the first one, and the same property and John Perry in the case of the second proposition.

In Kaplan's and Perry's view, characters are simply specific *cognitive perspectives* from which we grasp the given propositions (Kaplan 1989: 530; Wettstein 1986: 190–1; Wettstein 1988: 24). The same proposition can be grasped from different cognitive perspectives, and from the same cognitive perspective – in different contexts – different propositions can be grasped (Cf. Kaplan 1989: 524). For example, the proposition that Filip Čukljević was born in Belgrade can be grasped by John Perry from the particular cognitive perspective if he accepts as true the sentence "The author of the paper "The problem of cognitive significance – a solution and a critique" was born in Belgrade", and from another cognitive perspective if he accepts as true the sentence "You were born in Belgrade" in the context in which he is speaking directly to me, having met each other in the street perhaps. The perspectives are different because Perry does not need to know that the person he is talking to in the street is the author of this text, so here we are faced with sentences having different characters while expressing the same proposition.

Having clarified the concept of a character, we must ask in what way do Kaplan and Perry use this concept in order to explain the three enigmatic types of cases from the previous section. In the first type of cases we have a sentence which expresses no (complete) proposition. However, it does have a certain character. Uttering a sentence like "You are wonderful" is an attempt to represent in a certain way an object, or, to be more precise, a person to who we purport to speak to. This mode of presentation is present independently of the fact whether the object it purports to present actually exists. In this manner, there is a bearer of cognitive significance because there is a character (Wettstein 1986: 191).

Concerning the two remaining types of cases, sentences like "She is about to be attacked by a neo-Fregean" and "I am about to be attacked by a neo-Fregean", express the same proposition, however they have different characters. Using the

terms “she” and “I” obviously goes hand in hand with quite different cognitive perspectives. Because of this, these sentences also have different cognitive significance. The character of the former sentence represents the given proposition in a way that a person accepting that sentence as true (more or less) asserts that the female person pointed to in that context is about to be attacked by a neo-Fregean. The character of the latter sentence does the same thing, in a way that a person accepting that sentence as true asserts that the speaker, *i.e.* she herself, is about to be attacked by a neo-Fregean (Wettstein 1986: 191–2). In this manner, Kaplan and Perry claim that they, as well as the other new theorists of reference, can indeed offer a satisfactory solution to the problem of cognitive significance.

Wettstein’s critique of the Kaplan’s and Perry’s solution

Wettstein’s critique of the solution to the problem of cognitive significance provided by the new theorists of reference, Kaplan and Perry, consists of – roughly speaking – two parts. In the first part Wettstein claims that a Russell-Kaplanian proposition can not be an adequate bearer of cognitive significance. We have already discussed the reasons behind this claim in the first section, so we will not repeat them here. In the second part Wettstein criticizes the Kaplan’s and Perry’s solution, as it is laid out in the previous section. It is important to emphasize that Wettstein does not infer from this (alleged) inability of the new theorists of reference to offer an adequate solution to the problem of cognitive significance, to the conclusion that their entire semantic theory is completely wrong. What he does infer is that the (originally Frege’s) assumption that all of these theorists share, and according to which the problem of cognitive significance belongs to the domain of philosophical semantics, is wrong (Cf. Wettstein 1986: 200–4). In the last section we will see exactly in what way this Wettstein’s claim is to be understood. Before doing that, Wettstein’s argument in favour of this claim should be completely exposed. That is, his critique of the Kaplan’s and Perry’s solution must be presented.

Wettstein considers the Kaplan’s and Perry’s solution to the problem of cognitive significance, as displayed in the previous section, to be inadequate solution to that problem. Wettstein’s critique of this solution consists of two parts. In the first one he criticizes the Kaplan’s and Perry’s solution when applied to the sentences which contain *proper names*.⁵ Since in this paper we have focused on the sentences in which indexicals occur, we will not elaborate upon this part of Wettstein’s critique.⁶

In the second part Wettstein criticizes the Kaplan’s and Perry’s solution when applied to sentences which include indexicals. It is interesting to notice here that Perry, whose defense from Wettstein’s critique will be the topic of the next section, almost completely ignores this second part of Wettstein’s critique. Namely, it seems that Perry is suggesting that Wettstein’s critique of the new theorists of reference is completely based on their inability to explain the possibility of difference in cognitive significance by using the concept of (expressed) proposition (Perry 1988: 2–3). Wettstein, however, besides this principled critique of the new theorists

5 Proper names are those terms which pick out a unique object in the world to which they refer. Some examples are personal names, names of places, *etc.*

6 More about this part of critique can be seen in Wettstein 1986: 192–5.

of reference, explicitly criticizes the Kaplan's and Perry's solution to this problem which makes use of the concept of character. According to Wettstein, the key problem with this solution is the case of synonymous sentences (sentences with the same linguistic meaning, *i.e.* character) which have different cognitive significance.

Let us take a slightly modified Wettstein's example with the sentence "She is about to be attacked". Suppose there is a certain person who finds herself at the rock concert. From a certain angle at the spot where the concert is taking place, that person sees unusually dressed rock singer (a reader can choose her or his favourite). After awhile, the person gets lost in that strange place and, thinking that she ended up at some different rock concert, she just changes a point of view from which she sees the same rock singer. However, from this new angle the singer appears like a completely different person, due to her unusual costume and makeup. Moreover, from this new angle the lost concertgoer sees that an unknown person is getting ready to attack our beloved rock singer.

This scenario presents a serious problem for the Kaplan's and Perry's solution to the problem of cognitive significance. The person, before she gets lost, is not inclined to accept as true the sentence "She is about to be attacked" while pointing to the rock singer. However, after she gets lost and again sees the singer – now from a different point of view – she will be inclined to accept that sentence as true while pointing to the same singer. It is crucial to emphasize that this person – the lost fan of rock music – does not know that in both cases she is seeing the same singer. So she did not lose her initial belief that the singer is not about to be attacked (due to circumstances seeming completely normal and her having no reason to believe something like that is likely to happen), but she retained it while forming another belief – that the singer she currently sees, and who she believes is different from the first one, is about to be attacked.

The main problem which this example presents, according to Wettstein, is not the fact that two different utterances of the given sentence express the same proposition while they have different cognitive significance, as Perry understands it (Cf. Perry 1988: 2–3). The real problem is that this sentence in these two cases has the same character but different cognitive significance. If the given person would be inclined to accept that sentence as true in both cases, she would do it by means of the same mode of presentation of the proposition which that sentence expresses. In both cases by the means of uttering the sentence "She is about to be attacked" she would (more or less) claim that the female person pointed to is about to be attacked. The disposition to accept different utterances of this sentence as true could also lead to different action, if our scenario were enriched in an adequate way. So the Wettstein's point is the following – the Kaplan's and Perry's solution does not actually explain certain possible circumstances which fall under the second and third type of problematic cases, which means that a character can not be the bearer of cognitive significance (Cf. Wettstein 1986: 195–6).

Perry's answer to the Wettstein's critique

Perry begins his answer to the previous critique by enumerating certain conditions which, according to him, Wettstein holds that the bearer of cognitive significance

must satisfy. There is no need to enlist these conditions here, because they will not play an important role in evaluating how successful Perry's answer is.⁷ The main point of the enumeration of these conditions is that – and Perry agrees with Wettstein here – they can not be satisfied by the concept of proposition which is expressed by a certain sentence, or, to be more precise, by the utterance of that sentence (Perry 1988: 5–6). However, Perry thinks that Wettstein infers directly from this fact that the problem of cognitive significance does not belong to the domain of philosophical semantics (Perry 1988: 3). As we have already seen, this is simply not the case, because Wettstein also considers adequacy of the solution to this problem which makes use of the concept of character, not of the concept of proposition. But let us stay with the Perry's reading of Wettstein's critique for now.

Appearing to have quickly abandoned the concept of character, Perry now holds that Wettstein's critique ignores the distinction between the two sorts of propositions. One sort consists of those propositions which are *expressed* by certain utterances, and Perry agrees that they can not be the bearers of cognitive significance. However, Perry is of the opinion that there exists another sort of propositions, whose specimens *do* in fact satisfy Wettstein's conditions for the bearer of cognitive significance. This sort of propositions Perry calls propositions which are *created* by utterance (Perry 1988: 8).

What is the difference between these two sorts of propositions? Propositions which are expressed by utterance are identical with – by now familiar – Russell-Kaplanian propositions. The utterance of the sentence "I am *F*" by the subject *S* expresses the proposition that *S* has the property *F*. On the other hand, a proposition which is created by a certain utterance *U* is the proposition that the truth conditions of the utterance *U* are satisfied (Perry 1988: 7–8). If we consider previous example, *S*'s utterance "I am *F*" creates the proposition that the truth conditions of the utterance "I am *F*" are satisfied in the context in which that utterance is uttered. These conditions are satisfied iff the context in which the given utterance is uttered is such that the utterance is uttered by a subject who has the property *F*. In this manner, unlike the proposition which is expressed by the previous utterance *U*, the proposition which is created by that utterance does not have subject *S* as its constituent, but the utterance *U* instead (Perry 1988: 7). That is, by the means of this created proposition we do not claim something about subject *S*, but about utterance *U*. Perry holds that the bearer of cognitive significance is, in fact, this created proposition of his (Perry 1988: 8).

In what way would Perry answer to the Wettstein's counterexample with the sentence "She is about to be attacked", bearing in mind this theory of the bearers of cognitive significance? Although he does not say it explicitly, the following answer seems to be the only reasonable one. Namely, two different utterances of that sentence – despite the fact that in their respective contexts they *express* the same proposition – *do not create* the same proposition. The reason for this is quite simple – since these utterances are the constituents of the propositions they create, and these are *two different* utterances, as they are uttered at different times and places – the created propositions will be different.

7 These conditions can be found in Perry 1988: 6.

The reason for Perry's lack of enthusiasm about this type of response might be the following. It seems that this answer to the question – how is it possible for the two utterances of the same sentence, which in their respective contexts express the same proposition, to have different cognitive significance – at the bottom line comes to this. It is possible because these are *two different* utterances. This response obviously does not look especially satisfactory, due to its not being particularly informative. It appears that the difference in cognitive significance is explained by the difference in created propositions which are its bearers, while the difference in the created propositions in turn is explained by the (numerical) difference in utterances which create these propositions. Therefore, it is hard to see which explanatory role the concept of created proposition actually has. It is difficult to use it in providing sufficiently interesting answer to the question – why the difference in utterances is relevant to the difference in cognitive significance. Perry does not give any suggestions as to how we could manage this problem.

This might be the reason why Perry formulates his solution to the previous problem in a different way. He is quite concise about it – it is possible that these two utterances have different cognitive significance because the person who utters them, as well as the one who hears them, does not need to know that the term “she” in both cases refers to the same person (Cf. Perry 1988: 11). Perry argues that an analogous explanation can be offered for the problematic cases in which, instead of coreferential indexicals, there are coreferential proper names. This, he claims, is true of the classic case in which it is possible at the same time to accept as true sentence “Cicero is *F*”, but not to accept as true sentence “Tully is *F*”. Perry explains this by asserting that in order to be linguistically competent, *i.e.* to be able to understand and use these names – as well as the previously mentioned indexicals – we do not need to know that they have the same referent (Cf. Perry 1988: 12–5). This sort of explanation makes use of neither the concept of created proposition nor the concept of character, and it seems considerably more plausible than the explanations we have been dealing with in the previous paragraphs, which do use one or the other of these concepts. However, to what extent is such a response to the Wettstein's critique satisfying? We will deal with this question in the next, final section.

The success of Perry's answer to the Wettstein's critique

Well, to what extent then is Perry's response to the Wettstein's critique satisfying? I believe that it is to large extent unsatisfying. First, we must consider a bit more carefully what is exactly the conclusion of Wettstein's critique, *i.e.* what does he actually mean by the claim that the problem of cognitive significance does not belong to the domain of philosophical semantics. I think that the best interpretation of this Wettstein's claim is the following one. For start, Wettstein does not claim that the problem of cognitive significance does not belong to the domain of philosophy of language. Philosophical semantics presents just one subfield of philosophy of language. This is a subfield which deals with, traditionally speaking, the relation between the language and the world. That is, with meaning. There are other subfields of philosophy of language, such as philosophical pragmatics for example, of which more will be presented shortly.

Therefore, Wettstein does not claim that the problem of cognitive significance does not belong to philosophy of language, but only that it does not belong to the one particular domain within it. However, what does it exactly mean to say that the problem of cognitive significance does not belong to philosophical semantics? I think that in Wettstein's view this means that the cognitive significance should not be identified with some semantic component of terms or sentences, at least not as an initial assumption. Russell-Kaplanian propositions, Fregean thoughts and Kaplan's and Perry's characters are concepts which are supposed to express certain part of the meaning of sentences and terms, and which are to be used to clarify the relation between language and extralinguistic reality. That is why all of these concepts are semantic components.

Wettstein, however, argues that the advantage of Kaplan's and Perry's solution over the initial Russell-Kaplanian and Fregean options consists in their rejection of Frege's assumption, which some of the new theorists of reference share, according to which the bearer of cognitive significance must be the proposition. Wettstein holds that this is the first step in the right direction, but that it should not be the last one (Cf. Wettstein 1986: 196–7). Since they think that the bearer of cognitive significance is a character, Kaplan and Perry retain the assumption that some sort of semantic component has to be the bearer of cognitive significance.

Wettstein rejects this assumption. It could be said that Wettstein would think that formulating the problem of cognitive significance in the form of the question – what are the bearers of cognitive significance – is misleading, because it presupposes that there must be something like a *bearer* of cognitive significance. And if there are certain bearers of cognitive significance, then it seems natural to seek for them inside the limits of the meaning of terms. Hence, in my opinion, Wettstein would be more prone to formulate the given problem in the following, more neutral, manner – how is it possible for a subject to be inclined to accept as true just one utterance out of the given two in the second type of problematic cases (due to simplicity we will not deal with the remaining types of cases at this point)? Wettstein's response to this question is essentially the same as the one which Perry eventually comes up with. A competent language-speaker can be able to understand and to use indexicals, proper names, *etc.* while not knowing whether they are mutually coreferential. Wettstein is here motivated by a more general story about the rejection of *representationalism* in philosophical semantics, which is a too broad topic to be dealt with here.⁸

In any case, in this type of explanation we make no use of any specific semantic component as the bearer of cognitive significance. Indeed, we would rather say that there are actually no bearers of cognitive significance. That is why this problem does not belong to philosophical *semantics*, but it rather belongs to philosophical *pragmatics*. Philosophical pragmatics deals with, traditionally speaking, the relation between the language and its speakers. *Inter alia*, it deals with the conditions which a speaker needs to satisfy in order to be able to understand and to use certain terms. These two subfields of philosophy of language are surely not completely mutually independent. In the case of Wettstein's solution to the problem of cognitive

8 More about this can be found in Wettstein 1988: 22–8.

significance, philosophical pragmatics is motivated right by philosophical semantics itself. One of the basic reasons why a speaker does not need to know whether the terms she uses are mutually coreferential is the fact that these terms refer directly to their referents, not indirectly by the means of some specific cognitive perspective, like Frege's sense for example.⁹

Once we have in mind what has been said in the last couple of paragraphs, Perry's defense from the Wettstein's critique seems quite unconvincing. First, it appears that he identifies philosophical semantics with philosophy of language *tout court*, which leads to – as we have seen – the misguided and incorrect interpretation of Wettstein's conclusion (Cf. Perry 1988: 3–5). Next, Perry's claim that the created propositions are the bearers of cognitive significance is problematic for a couple of reasons. One reason is that such an explanation is not informative, as we have already discussed. The second reason is the following. If the created propositions are the bearers of cognitive significance, it should not be possible for a case in which there are two different utterances which have the same cognitive significance to exist. Any two utterances, just by the fact that there are *two* of them, are different from each other, hence they create different propositions. However, in this case any two different utterances of a sentence like "Belgrade is the capital of Serbia" or "I was born in Belgrade" would have different cognitive significance for one and the same subject. This looks highly improbable. If in normal circumstances a subject (me, for example) accepts as true utterances of one of these sentences which are uttered in an interval of just a few seconds, how are we to explain their having different cognitive significance for that subject? Perhaps this might not be necessarily impossible to do, but Perry offers no suggestions as to how to do this, at least in principle.

Ultimately, as we have already noticed, Perry himself does not explain either the second or the third type of problematic cases by using the concept of created proposition. Rather, he appeals to the fact that a speaker does not need to know almost anything concerning the referent of a term she uses in order to be able to understand that term. To say it again, this explanation is essentially the same as the one given by Wettstein. It makes no use of the concepts of (expressed) proposition, created proposition, character, *etc.* Therefore, Wettstein's solution appears as superior when compared to Perry's, in so far as it has (at least) the same amount of explanatory power, while it makes no use of the concepts which have no real explanatory role – which is the main problem of Perry's explanation.

Because of all the mentioned reasons, I argue that Perry's response to the Wettstein's critique is not convincing. Looking at it more broadly, I am of the opinion that Wettstein is right when he suggests that the solution to the problem of cognitive significance should not be searched for in the framework of philosophical semantics. Semantic considerations are relevant, but the area in which the ultimate solution to this problem is to be found is, in the first place, philosophical pragmatics. Nevertheless, more earnest consideration of this topic has to be the subject of some other research.

⁹ Wettstein himself nowhere says that the problem of cognitive significance belongs to the domain of philosophical pragmatics, not semantics, but I strongly believe that his attitude towards the given problem is best expressed in this way. Cf. Wettstein 1988: 22–8.

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Filip Čukljević**Problem saznanje vrednosti – jedno rešenje i jedna kritika****Apstrakt**

U ovom radu baviću se rešenjem problema saznanje vrednosti koje nude takozvani novi teoretičari referencije, kao i kritikom tog rešenja od strane Hauarda Vetstajna (Howard Wettstein). Tvrdiću da je odgovor na tu kritiku koju pruža Džon Peri (John Perry) nedovoljno ubedljiv. Najpre ću razjasniti neke relevantne pojmove, da bih onda na jasan način predstavio sam problem saznanje vrednosti. Potom ću prikazati rešenje datog problema koje nude Peri i Dejvid Kaplan (David Kaplan). Nakon toga, izložiću Vetstajnovu kritiku tog rešenja. Zatim ću analizirati i Perijev pokušaj odbrane od ove kritike. Naposljetku, razmotriću u kojoj meri je Perijev pokušaj uspešan. Pokazaće se kako on to u značajnoj meri nije.

Ključne reči: saznanje vrednosti, propozicija, referent, misao, smisao, karakter, semantika, pragmatika

Aleksej Kišjuhas

REASON WITHOUT FEELINGS? EMOTIONS IN THE HISTORY OF WESTERN PHILOSOPHY

ABSTRACT

The paper critically analyzes the interplay between reason and emotions in the history of Western philosophy, as an inadequately ambivalent interrelationship of contrast, control and conflict. After the analysis of the philosophies of emotions and passion amongst the most important philosophers and philosophical works of classical antiquity and the Middle Ages, the paper presents ideas on this interrelationship within the framework of modern philosophy, or during the so-called Age of Reason. Finally, the paper analyzes the character of emotions in the contemporary philosophy, while examining possibilities for the history of (philosophy of) emotions and feelings, but also the possibilities for overcoming the undue opposition of reason and emotions, which was present in the dominant Western philosophical tradition.

KEYWORDS

emotion, reason,
feelings, passion, the
history of philosophy,
the history of emotions

*These are the feelings of my depression and indolence;
and indeed I must admit that Philosophy does not
help me to resist them.*

[Hume 1740/2009: 421]

In many respects, the relationship between emotions and reason in the Western thought has been a relationship filled with ambivalence, dichotomization, contrast, or even an open conflict. Already in the popular imagination there is a Manichaean attitude on the sharp contrast between a “reason” and a “heart,” which is also a reflection of a long, unbroken and relatively ruinous tradition in the history of Western philosophy. Ancient Greeks spoke of emotions as of *pathema* (πάθημα), which was a rather narrow term that referred to passion, suffering, and psychological events which overwhelmed an individual. In French and English language of modern philosophy, emotions were also interpreted as *passion*, what additionally

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implied their moodiness, incapacity, impulsiveness, and passivity (Frijda 2008).¹ The wider term of “emotions” in French in the 16th century (*émouvoir*) originated in the Latin word for “movement” or “migration” (*ex + movere*, “move to the outside”), implying that they mentally triggered people. However, although the term “emotions” is of more neutral nature, it retains the connotation of a person torn between the sensible and the sensual, where the emotions are interpreted as a kind of threat to rational cognition.

Namely, passions are different from (rational) actions in the sense that an individual feels actions or inclinations toward emotions in a passive, uncontrolled and overwhelming way, instead of actively creating them on one’s own initiative (Frijda 2008: 68). Ideas of individual passivity or a kind of “possession” refer to the idea that particular feelings and behavioural tendencies are aggressively, reluctantly, and disastrously imposed on the current behaviour and rational thinking. In this regard, the scientific study of emotions, which seemed to be encouraging after the pioneering work of Darwin (Darwin 1872/1989), James (James 1884, 1890), and Freud (Freud 1900/1955), was stopped by the advancement of behaviourism in the 1920s, as well as cognitivism in the 1950s. Both perspectives viewed emotions as irrational, or at least inaccessible to a rigorous scientific analysis (TenHouten 2007). This is another expression of the long-lasting philosophical heritage of studying the *reason without emotions*, or the “sense without the sensibilities”, which is the topic of this paper.

On the other hand, emotions were motives of various texts, myths and narratives since the very beginnings of civilization and the development of writing (Oatley 2004). In the *Epic of Gilgamesh*, we read about the negative emotions of the goddess Inane (due to Gilgamesh’s refusal of sexual intercourse with her). In the texts from the period of the Egyptian Middle Kingdom there were songs about negative emotions of sorrow and loneliness, in Hebrew (Old Testament) myths, God *felt* satisfied after the Creation because of it (and Adam and Eve *felt* shame because they were naked), and the first verse of *The Iliad* testified about Achilles’ feelings of anger and fury, which was why it could be said that “rage” was the first word in the Western literature (Engelen 2009: 395). In other words, emotions were, and still are, typical and fascinating motives of human culture and society, but also a sort of puzzles or mysterious paradoxes with which the Western philosophy was coping in its characteristic ambivalent manner. In this regard, it is not surprising that majority of the greatest and most influential Western philosophers indeed *have formulated* clear and recognizable theories of emotions.

1 The term “emotions” appeared in the Oxford Dictionary of the English Language only in 1580, after terms such as “self” and “consciousness” lost their negative connotation, and after the situation where individual experience became worth of attention (Franks 2001). The practice of grouping different emotional experiences into the framework of a unique and distinct psychic phenomenon is a relatively recent phenomenon, while rage, love, sorrow and similar phenomena usually were not conceptualized within the broader category of “emotions” until then. Also, it could be said that the subjective experience became a more relevant phenomenon, as the attributed identities in the Middle Ages gave way to the acquired identities in the modern era (Franks 2001: 4478).

Emotions in Ancient and Medieval Philosophy

Even the Presocratic philosophers, like Heraclitus and Empedocles, conceptualized emotions as phenomena that distracted attention from intellect and reason, with the focus on the most appropriate ways of *controlling* emotions (Mandler 2001: 4438). This tradition was continued in Plato's works, with a bit more sophisticated analysis of the characteristics of human emotionality. It could be also said that Plato's theory about three parts of the soul in *The Republic* (Plato 2004) was the first detailed systematization of emotional phenomena in the history of the Western philosophy (Knuuttila 2004: 5). According to Plato, the human soul is divided into three parts: rational, spiritual and appetitive, whereby (only) the rational part is capable for love towards knowledge and wisdom. The appetitive part is guided by direct sensual pleasures and avoidance of suffering, while the intermediate spiritual part is the part in which emotions are found (see Plato 2004: 280–285). The rational part is symbolically presented as a human, the appetitive part is presented as a multi-legged beast, while the “emotional” part is presented as a lion.² The basic model of emotional dynamics in Plato is in the rational control of negative emotions, that is, in empowering positive emotions and virtues by using the rational part of the soul. In his critique of art forms such as painting, drama and particular forms of music, Plato primarily implies their (devastating) influence on human emotions (Lyons 1999: 23). In other words, a kind of a struggle between reason and passion for the “dominance” actually takes place in an immaterial arena of the human soul.

In *Phaedrus*, Plato offers additional sophisticated theories of emotions which are specifically devoted to Eros and love, including a homoerotic love (Plato 2002; see also Plato 1993). In this dialogue, Eros (as a special form of “madness”) is attributed to the irrational part of the soul, but it is also conceptualized as the feeling of a person who recalls the forms of beautiful, being stimulated with the passionate love between two people with a “philosophical” soul (Knuuttila 2004: 15). In *Philebus*, he analyzes both bodily pleasures and pain, stating that these feelings could be characterized as processes of (dis)integration of the harmonic state of a living organism (Plato 1975). Finally, in *The Laws*, Plato separates emotions which could have some positive effects if they are mediated by education: pleasure, fear, shame, love, hatred and others (Plato 1988: 25–30).

When it comes to Aristotle, he preferred the term *pathos* for emotions, which also implied emotions as passive states. These were the reactions of the embodied (“political”) animals to the outside world, which made them reminiscent of perceptions, thus creating an integral part of human experience. In this regard, Aristotle's *Rhetoric* (Aristotle 2007) was the first detailed and systematic analysis of a

² Plato treated these parts of the soul as if they were mutually separated, though allowing interactions between them. The rational part of the soul was also characterized by certain emotions, such as love for wisdom, as well as the shame and fear of bad reputation, and similar. Although Plato remained very critical about bodily pleasures and passions, it was interesting that he highly appreciated the “erotic” appetites, which he viewed as a reaction of the entire soul, including its rational, intellectual part. In other words, he argued that the intellectual element was not sufficient for a comprehensive and full understanding of the truth and the attainment of wisdom, implicating that this requires an indispensable emotional involvement of the individual (Plato 1993).

series of individual emotions in Greek philosophy (Knuuttila 2004: 27), as well as one of the first systematic discussions on human psychology. In that sense, a detailed philosophical discussion about the nature of emotions actually began with Aristotle, and not with Plato (Lyons 1999: 22).

Writing about what constituted a high-quality public discourse, Aristotle differentiated and contrasted *the ethos* (or a projection of the speaker as a moral person), *the logos* (inductive and deductive logical argumentation), and *the pathos*, evoking emotions in persons from the audience (Aristotle 2007: 112–113). With regard to the search for the truth in public debates, this argument acted like the Platonic tripartite logic about the soul, but Aristotle gave a much more important role to emotions than Plato. Concrete emotions by Aristotle were the following: anger, calmness, friendship, fear and self-confidence, shame and impudence, kindness, envy, compassion, indignation, and others (see Aristotle 2007: 116–147).

For example, Aristotle in his unusually detailed discussion on anger emphasized that emotions had a biological component (physical feeling of pain), a complex cognitive component (for example, a perception of an undeserved insult), and a specific intention (e.g. a desire for revenge), which resulted in culturally-standardized behaviour (Aristotle 2007: 117–118). He clearly distinguished the physiological dimension of emotional experience, as well as the individual (cognitive) and social (cultural) component of that experience (Barbalet 2007: 1374). Accordingly, he approached emotions in an unusually comprehensive way, where his analysis of anger or fury incorporated a distinctive cognitive content, a certain social context, behavioural tendencies, and recognition of physiological excitement (Solomon 2008: 5).³

Aristotle would also argue that human actions were induced by habit, as well as by rational and irrational desires, and not that they were products of natural necessity, coincidence or constraint (Knuuttila 2004: 28). However, “rationally” in his conceptualization denoted both practical goals and morally correct actions, and not merely Platonic rationality. For these reasons, emotions had a prominent place in *Nicomachean Ethics*, where perception was of a key importance for feelings of pleasure (Aristotle 2011). Unlike his teacher, Aristotle was not a dualist, and he offered a much richer insight into emotions, including the analysis of their use in politics (Lyons 1999: 23).

In the ethical sense, the emotions for Aristotle were neither virtues nor flaws, but were the facts important for a morally correct life. Since he considered emotional experience as a phenomenon of an extreme importance in human life, every description of life filled with virtues had to refer to emotions as well. For these reasons, emotions for him *were not* actually something that should be opposed or subjected to the rational control, but only directed in the right direction, in the right (either moderate or optimal) scope, and under appropriate circumstances. A virtuous human life involved the development of human rational capacities, as

3 It is interesting to find Aristotle’s claim that the object of anger as an emotion is an individual own self, while the emotion of hate refers to objects such as thieves or traitors. The social or cultural dimension is important to Aristotle only because the social situation is the one that causes emotions, while the biological and psychological element of the emotional experience is “only” a structure that provides the basis for this experience (for the detailed scheme of Aristotle’s theory of anger see Power and Dalglish 2008: 36).

well as the right feelings and emotional involvement in different forms of social life (see Aristotle 2011: 10–18).

Thus, Aristotle took certain elements of his analysis from Plato, but their general attitudes about emotions were quite different. Since Plato postulated three different abilities of the mind (thinking, spirit, and passion), he interpreted emotions as something that was separate from the mental capacities of a human being. Aristotle rejected such conceptualization, combining all the capacities (as well as the consequences and influences) of the mind in his practical philosophy. For him, it was impossible to separate the mind from the body and vice versa, which was of particular importance for the consideration of emotions (Mandler 2001: 4438). Such a biological context allowed the analysis of emotions as natural phenomena (see Griffiths 2004; Barrett 2006; Izzard 2007), along with the stimulating incorporation of the cognitive element of emotional experience in that analysis. Finally, the different conceptualizations of emotions (as well as the interrelations of emotions and culture) in Plato and Aristotle could be seen as models for all subsequent claims of these phenomena in the Western thought (Barbalet 2007).

A completely different, but equally influential, conceptualization of emotions was offered by the Stoics. While Aristotle considered that emotions were the key to keeping a good life, Stoics analyzed them as conceptual mistakes that lead to suffering and distress, making people unhappy and frustrated (Solomon 2008: 5). They insisted only on cognitively and morally problematic contents of emotional experience, advocating their reduction or elimination both from the public and private life. Accordingly, while Plato and Aristotle saw emotions as the inevitable elements of the soul or the human experience, the soul for Stoics was purely rational and bodily in their nature (Knuuttila 2004: 47). In this way, Stoics such as Seneca or Chrysippus developed a strictly cognitive theory of emotions two millennia ago, stating that emotions were simply (distorted) judgments or (wrong) conclusions about the world and one's own place in it (Solomon 2008: 5).⁴ For Stoics, an emotional release was a kind of “a cure for the soul,” in discussions about emotions that resembled modern self-help manuals (see Oatley 2004: 39–43). In addition to the philosophical analysis of emotions, Stoics also offered a kind of a “therapy” (for mental disorders) by analogy with medical therapy.

In other words, emotions had a marginal or even a negative role in the Stoic perception of a human experience, and the practical philosophy as well. Happiness or *eudaimonia* could be achieved only by perfecting the intrinsically rational nature of an individual, while emotions or “passions” were unreasonable or excessive reactions to preferred or unwanted things such as wealth, illness, etc. Therefore, for example, Cicero called for a state of apathy (*apatheia*) or tranquillity (*tranquillitas*) as the absence of passion or emotions (see Cicero 2002). It could be also said that

4 According to Stoics, the soul was a physical substance that was completely mixed with the body, which controlled the body like the central nervous system. They clearly distinguished pleasure and pain (relating to the Present), and appetite and fear (relating to the Future), while other emotions were subtypes of these primary types (Knuuttila 2004: 51). This systematization was very influential in Hellenistic philosophy, and the negative implications of the emotional experience were present in the terms used for emotions: emotions were “instincts”, “passions” or “sufferings.” All these meanings implied passivity that could have devastating effects on the human well-being.

the Stoics did not condemn the emotions as such, but they observed emotionality and emotional persons with a certain dose of suspicion (Lyons 1999: 24). For them, there was nothing intrinsically immoral in the emotional experience. Emotional evaluations were based only on the false images of themselves and inappropriate conceptions of reality (Knuuttila 2004: 56).

Epicureans also represented similar attitudes about emotions as Stoics, although they belonged to a rival Hellenic philosophical school. As it is well known, the basic dynamics for Epicureans during the life of human beings was reduced to the search for pleasure and avoidance of pain, which made it necessary for a truly rightful life to be released from the tyranny of emotions (Oatley 2004: 44). In that sense, the basic task of the moral development of an individual was to distract attention from ephemeral desires, like money or fame, and consequently to distract attention from emotions such as greed, envy, lust, or anger. The state of this static, peaceful satisfaction arising from the absence of both physical and mental pain was called *ataraxia* (*ataraxia*).

When it comes to the Medieval (Christian) philosophy, Augustine observed emotions in a similar way as his ancient predecessors, which dramatically influenced many later philosophers and theologians. Interestingly, he preferred the term *passio* (*passio*), as the Latin version of the Greek *pathe*, using it without the excessive negative connotations. His discussion on emotions in *The City of God* was actually a part of a longer discussion on demons, where he presented a detailed overview of ancient ideas about the emotional experience from a theological angle (Augustine 2009: 250–270).

Augustine testifies that (pagan) demons feel emotions like anger, sadness, or joy, just like humans, arguing that it is exactly why it is meaningless to worship them like a Christian God (Augustine 2009: 251). In a Platonic way, he emphasizes emotions as an “inferior” part of a human nature, stating that wise, rational people avoid strong emotional experiences. He particularly exposes the Stoic theory of emotions as unnecessary and dangerous mental unrest (Augustine 2009: 252–254). On the other hand, Augustine distinguishes those passions that characterize the souls of Christians, not leading them towards sin, but towards virtue, such as compassion for others and obedience to God.⁵

Some other early Christian fathers were heavily influenced by the Stoics and the Stoic ideas, transforming emotions as obstacles to reason and rightful life into the conceptualization of sin (Oatley 2004: 50). For example, the Alexandrian theologian

5 Augustine also exposed the inspiring systematization of emotions in the form of four versions of “love”: lust, joy, fear (love that rejects what it opposes), and sorrow (love that feels the rejection) (Augustine 2009: 404). For him, an appropriate love was also a virtue, one of the three basic theological virtues, along with hope and faith. A variant of love that was of the highest value was the *caritas*, a desire to unite with God. It could be said that Augustine was attracted to Stoic conceptualizations of emotions, as well as to their ideas on *apatheia*, but he was probably aware that such a feeling was practically impossible. Neither Adam nor Eve, after their creation, or before the original sin, were free from their emotions, including the love and respect for God (but also a desire for “the forbidden fruit”), and many Christian saints also had emotions. For him, even the citizens of the “City of God” were filled with certain “passions”, but these were reasonably “regulated” passions according to God’s will, (Augustine 2009: 409–411).

and ascetic Origen, from the third century, wrote about the necessity to numb one's passions and to reduce evil thoughts in function of giving oneself to God, therefore acquiring God's grace (Knuuttila 2004: 121). Origen's examples of this reduction were most often related to the renunciation of sensual desires, as well as of anger, fear, pleasure, appetite, and the like. It is interesting that Origen was not interested in emotions as such, but called for a specific and radicalized version of the Stoic *apatheia*, as an inevitable element for perfecting the soul and approaching to God.

Similarly, the Christian monk Evagrius, a theologian and ascetic from the 4th century highlighted eight "dreadful thoughts" as different forms of temptation, which included voracity, greed, laziness, regret, lust, anger, vanity, and pride (Oatley 2004: 50). Two centuries later, this "list" was modified in the famous doctrine of "Seven Deadly Sins", which were also emotions or had emotional quality. Evagrius commendably wrote about the Stoic doctrine of *apatheia*, stating that a person bound with passion could not see the spiritual power of a prayer and a peaceful attitude before God.

Nevertheless, it could be argued that subsequently there was a chronic *absence* of Aristotelian or Stoic theory of emotions from the (dominant) philosophy of emotions until the period of contemporary philosophy and psychology (Lyons 1999). This occurred primarily due to the influence of (Neo)Platonism, the Christian "Platonisation" of Aristotle, and the marginalization of Stoicism, due to the favouring of (idealistic) philosophies which conceptualized a mind as a spirit, i.e. a soul (Lyons 1999: 26). In the Middle Ages there were also some detailed, (quasi)medical studies on the effects of certain parts of the body (bile, spleen, blood, etc.) on the emotions and behaviour or temperament. However, the emotions were primarily associated with desires and instincts, which were then typically perceived as sin (Solomon 2008: 6).

A developed theology of emotions under clear Aristotle's influence could be found only with St. Thomas Aquinas, whose discussion on emotions from the second book of *Summa Theologica* (see Aquinas 2003) was the most comprehensive discussion on emotions in the Middle Ages. Thomas integrated many allegations on emotions that existed in Aristotle, Stoics and Augustine, but he also significantly improved the understanding of this concept. He analyzed "passions" or "passions of the soul" (*passiones animae*) as emotions felt both by animals and humans. However, the discussion on emotions as "passions" repeatedly implied their passive nature, with dramatic intensity (Kagan 2007: 12). For Thomas, emotions were phenomena related to sensuous objects or objects of imagination, which were important to our own or others' well-being (Cates 2009: 9). Accordingly, they were internal movements caused by the human knowledge, but also phenomena with a clear appetitive and motivational dimension.

Thomas also emphasized that within the emotional impulse there was a certain non-cognitive impulse of attracting/rejecting the object, along with the accompanying physiological dimension, as well as the propensity for action (Power and Dalglish 2008: 39). Like Augustine, he argued that God and angels did not possess passions, and that their actions were guided by purely rational will or intention. In non-human animals, passions were most often awakened by instincts or experience (for example, the danger from the wolf for sheep and the resulting fear), while the humans might subject them to the rational evaluation. For Thomas, emotions by themselves (as the movement of irrational appetites) did not possess either moral

good or evil, but these dimensions depended on reason (Aquinas 2003: 143). However, he, like Aristotle, was preoccupied with the consequences of the misbalance between socially and politically dangerous emotions of excessive anger, lust, greed, and so on (which were difficult to suppress, and which had a devastating effect on life in the community), and benevolent emotional states (which empowered virtues and preserved social harmony) (Kagan 2007: 12)⁶. On the other hand, the explicit “politicization” of emotion came only in the Renaissance, i.e. in Machiavelli’s (realistic) political philosophy (Machiavelli 1532/1998).⁷

Emotions and the Age of Reason

Modern philosophy, led by the rationalism of René Descartes, additionally deepened a gap between emotions and reason, which were present in various formats since antiquity. In *Passions of the Soul*, Descartes was dealing with emotions in details and very influentially, while he argued that the discussion on emotions in the ancient philosophy was in many respects wrong. Hence, he argued that he wrote

6 Thomas also conceptualized the taxonomy of eleven basic types of emotions or passions, based on Aristotle’s classification of physical movement (for a detailed scheme of Thomas’s description of the emotion of fear see Power and Dalglish 2008: 39). The variables of good and evil, along with three different types of movements, generated six “lustful” passions: love and hatred, lust and aversion, joy and pain. Then, as “impetuous” passions related to the direction and the object of movement, he distinguished hope and despair, i.e. fear and courage (Knuuttila 2004: 242–246). For him, the last, eleventh emotion (which did not have a pair, and which only referred to the current situation) was anger, and he was critical of Augustine’s taxonomy of love-based emotions. Nevertheless, he distinguished two types of love as well: a friendship love and a lustful love, defining general love as a good will directed towards something (Aquinas 2003: 144). He also argued that affection aroused both in the friendship love and in the lustful love, which was why he attached the cognitive nature to these emotions. The consequences of love were the external unity (when two people were in company with one another), and the internal unity, through the feeling of affection (Aquinas 2003: 147).

7 In the Renaissance philosophy, along with the restoration of Platonic and Neoplatonic ideas on emotions (for example, by Marsilio Ficino and Pico della Mirandola), Machiavelli’s contributions were especially distinguished. His decisive anti-idealistic or realistic political theory was extremely closely related to the emotions, i.e. to the emotional experience of rulers and their citizens. In that context, he dealt extensively with fear, greed, love, compassion and other similar emotions in an unequivocally political context. According to Machiavelli’s *The Prince*, people could be divided into different geographical groups according to their emotional characters and, consequently, the patterns of behavior which motivated these emotions (Machiavelli 1532/1998: 5–48). Since he considered the actions as the outcomes of emotions, Machiavelli’s venture was clearly focused on teaching political leaders how to *manipulate* the emotions of citizens in order to maintain the public order (and/or their own authority). One of these techniques was in the projection of the ruler as a person with praiseworthy emotional and character traits (which could be completely different from real or subjective feelings) (Machiavelli 1532/1998: 61–65, 87–91). Another technique, by which Machiavelli became known, was provoking fear among citizens, i.e. the claim that it was better for the ruler if the citizens fear him than love him, since fear was considered to be a powerful motivator (Machiavelli 1532/1998: 65–68). Finally, he claimed that it was necessary for the ruler to avoid the emotions of contempt and hatred among citizens (Machiavelli 1532/1998: 71–82).

about emotions in a way that no one wrote about them earlier (Descartes 1649/1989: 18–19). He exposed the unambiguous and harsh dualism between the spirit and the body, whereby he associated “warmth and movement” with the (mechanical) body, and the thought with the spirit, which was the basis of his earlier and more famous works (see Descartes 1641/1996: 16–23, 50–62). For him, the immortal soul contained everything that was important to humans, although it could be also said that Descartes’ theory was at the same time the first attempt at (re)conceptualization of studying emotions into an unambiguously scientific venture (Lyons 1999: 28).

After a detailed description of the functions belonging exclusively to the body, Descartes emphasized that the functions of the spirit could be reduced to thought that had two aspects: actions of the spirit (will) and passion or emotions (Descartes 1649/1989: 28). For him, emotions were primarily the functions of a spirit, which were not actions but perceptions. When the human spirit perceived something that did not exist, “like a vicious palate or chimera”, and also when it referred to one’s own nature (i.e. towards “the movement of the spirit”), it resulted in passions (Descartes 1649/1989: 29). In that sense, passions were caused, sustained, and empowered by the movement of the spirit by analogy with Harvey’s mechanistic principle of the movement of blood in the organism. This “physiology” of emotions was of a great importance, because the causes, consequences, functions and the regulations of passion depended on it.⁸

Accordingly, it *was not* necessary to erase or suppress emotions. They were the source of satisfaction in this life, as they were intrinsically good in nature, with particular exceptions. However, Descartes was repeatedly warning that emotions or passions *could* get into the conflict with rational evaluations of the external world. In this regard, it was essential for a person to change his/her evaluation of feeling the emotions in order to approach the world more rationally and, consequently, generate new and more appropriate habits. In a way that did not differ in its consequences from the attitudes of Stoics or Epicureans, Descartes saw this procedure as a kind of the “cure for the soul”, i.e. as a prerequisite for maintaining the mental health.

Subjecting emotions to the rational control is a therapeutic tool through which the spirit enhances its own imagination, and emotions are transformed from pure bodily reactions into a key element of wisdom (Solomon 2008: 6). Like Plato and Aristotle at the time, Descartes’ ideas were extremely influential for the latter philosophy, as well as for reflecting emotions in the sciences in the following centuries.⁹ It could also be said that Descartes has been a symbol or an “emblem” of a series

8 According to Descartes, every individual emotion is characterized by certain body changes (such as color, body temperature, facial expression, movement of the extremities, etc.), which could be associated then with the movement of the spirit. The key consequence of emotions is to prepare the spirit to wish things, then preparing the body for the wishes. According to these ideas, the spirit then initiates the “small gland in the middle of the brain” (epiphysis), as the “seat of the soul”. He distinguished six “primitive” emotions: wonder or complicity (which he considered the first and foremost), love and hatred, desire (lust), happiness and sorrow. He viewed all the other “infinitely numerous” emotions as combinations of these six basic emotions (see Descartes 1649/1989: 50–101).

9 For the stimulating and critical synthesis of Descartes’s philosophy of emotions, as well as the continuation of Cartesian tradition in reflection on emotions, see also Kenny 1963/2003: 2–10.

of ideas about a body and a spirit, or a brain and a mind, which are still present and very influential in various ways in the sciences and humanities of the West (Damasio 1994).¹⁰

Spinoza continued the rationalist tradition in the conceptualization of emotions, with significant sophistication. Almost half of his *Ethics* (volumes III and IV) consisted of the discussions on the affects (*affectus*), which demonstrated the central role of emotions in Spinoza's philosophical system (Spinoza 1677/1992). For him, emotions were "the feelings of the body through which the power of physical activity is increased or decreased, helping or stopping it, along with ideas about these affects" (Spinoza 1677/1992: 103). His ultimate contribution was in the explanation of a freedom or "blessing", defined as knowledge, as well as the "intellectual love" toward God (Spinoza 1677/1992: 201). With this in mind, it could be said that Spinoza rebelled against the prior philosophical orthodoxy when it came to emotions, as his views on the human nature were specifically opposed to Descartes' views (Lyons 1999: 29).

According to Spinoza, the mind was constituted on the basis of the ideas of the body, i.e. a person became aware of his body based on the changes or activities in it (Spinoza 1677/1992: 107). In other words, feelings or emotions actually constituted the human mind. Spinoza did not conceptualize only passive feelings or the Cartesian passions (derived from inadequate ideas), but also active emotions such as affect, for which he claimed that the emotions grew from the appropriate ideas. Nevertheless, even in Spinoza there was an obvious cognitive element, where in the case of emotions, he particularly emphasized phenomena which were of the utmost importance for the mind, i.e. the instinct to defend or survive. For these reasons, the desire was central for understanding of the affects, or the very essence of the nature of emotions (Spinoza 1677/1992: 137). Finally, Spinoza, like Stoics, perceived the emotions as a form of thinking, which often led to misunderstanding of the world, making a person unhappy and frustrated. However, he did not advocate the renunciation of emotions, but reaching of bliss through active emotions mediated by reason (Solomon 2008: 7).

Accordingly, reason remains a great topic of Spinoza's philosophy of emotions, but he no longer opposes emotions, nor sees the control of emotions as a moral imperative. The use of reason is the way of increasing the human power, or increasing a physical activity (Spinoza 1677/1992: 111). Reason provides the ability to understand good and bad feelings, and therefore a reasonable man always acts

¹⁰ Damasio calls Descartes's dualism, in the form of a sharp contrast between the "thinking" and the "non-thinking" parts of the human, "the mistake" that burdens studying of both the mind and the brain, as well as the emotions. It is wrong to distinguish the body as visible and mechanical, and the mind as an invisible and spiritual element of the human experience (Damasio 1994: 249–250). This narrative refers to the suggestion that the logical reasoning and moral reasoning *can* exist separately from the body, and therefore they can be separate from the human emotions. It is interesting that Damasio calls for the return to Aristotle, who has conceptualized both the mind and the emotions as an element of body experience, while claiming "how much Aristotle would be annoyed with Descartes only if he knew" (Damasio 1994: 251). For Damasio, the Cartesian idea of the "untamed mind", or the Cartesian "metaphor of the mind as software", dangerously (re)shaped biology, psychology, medicine, as well as social and humanistic sciences.

right, honestly and honourably. Emotions manifest a human psychic stability or instability, and a rational knowledge about our emotions can contribute to a kind of reconciliation with one's own complex psychic structure and organization (Lyons 1999: 30). Probably the most significant Spinoza's moving away from Descartes is in the assertion that it is impossible for a person to gain control over his/her emotions, because it is metaphysically impossible for the human mind to be autonomous in the way that it has been claimed by Descartes (Spinoza 1677/1992: 104).

When it comes to the conceptualization of emotions in modern philosophy, a distinguished position was taken by Thomas Hobbes, who discussed the emotional experience in works such as *Elements of Law* (Hobbes 1640/2013) or *Leviathan* (Hobbes 1651/1998). Hobbes' idea was distinctive due to his unambiguous materialism: instead of the previous "metaphysical" ideas of emotions as movements of the spirit, he identified emotions (which were again re-defined as passions) exclusively with material, internal movement in the body. It was interesting that Hobbes, like Aristotle and Machiavelli at their time, testified about the stimulation of emotions in listeners during the public speeches by officials, which function was persuasion or propaganda (Hobbes 1640/2013: 68). The function of speech, according to Hobbes' opinion, was the communication of passions, i.e. he claimed that the language often signaled particular emotions (Hobbes 1651/1998: 21). He also postulated the universal nature of human emotions, along with differentiating objects of these emotions among different individuals (Hobbes 1651/1998: 8). For these reasons, he argued that every individual naturally started from his/her own tendencies embodied in passions, as the actual balance between good and evil. In this way, he greatly opposed both Aristotle's and Descartes' ideas of passions.¹¹

In the context of *Leviathan* and emotions, it is important to emphasize the most famous idea of Hobbes' political philosophy, according to which the crude laws of nature were opposed to the human natural passions and desires. Namely, the natural state (the universal conflict) was opposed to the natural emotions (a desire for survival, safety, and happiness), which resulted in the creation of power and social order. In this sense, particularly important for political and social theory were natural emotions such as fear of death (or of wounding and pain), as well as passions that aroused an individual's tendency to peace and well-being (Hobbes 1651/1998: 66). According to Hobbes, both emotions *and* reason suggested the transformation of the natural state of "the war of all against all" into the state of existence of

11 Hobbes expounded and described in details a series of emotions as results of satisfaction or dissatisfaction over the indicators of honor (or dishonor), such as: glory (distinguishing a desire for glory, false fame, and glory filled with vanity), humility, shame, courage, anger, vengeance, hope, trust, compassion, indignation, laughter, salvation, lust, love, admiration, etc. (Hobbes 1640/2013: 36–48). In *Leviathan*, Hobs identified six "simple" passions: appetite, desire, love, aversion, hatred, joy and sorrow, describing appetite and aversion as the basic instincts (with the addition of contempt as the instinct in between them), which produced many variations of the emotional experience (Hobbes 1651/1998: 36). Among them there were the following: self-confidence (a continuous hope), a natural lust (love for people who were satisfied with senses), ambition (a desire for power), etc. It is interesting that the emotion of "a fear of invisible power" as the power that was "invented by publicly allowed stories" for him was simply "a religion" (while the fear of power produced by "unallowed" stories was "a superstition") (see Hobbes 1651/1998: 37–42).

the sovereign power and authority. Thus, Hobbes' political theory implicitly implied an assertion about the emotional causes or the emotional basis of the social order, which was subsequently explicated in sociology of emotions (much) later (see Massey 2002).

David Hume was extensively dealing with emotions, including the first and the second book of his famous *A Treatise on Human Nature* (Hume 1740/2009), a part of the "Dissertation on Passions" in the study named *Four Dissertations* (Hume 1757: 119–181), as well as in the numerous essays (see Hume 1742/1889). According to Solomon, most philosophers "then, and to this day" rather read the first and third chapters of the *Treatise*, which were dedicated to knowledge and ethics, thereby ignoring the central place of emotions in Hume's philosophy (Solomon 2008: 7). Emotions for him were the affective perceptions in the close analogy with movement, and he divided them into calm and violent ("passions") (Hume 1740/2009: 430–431). For him, passions were lower-order perceptions, while "calmer" feelings reflected in a higher level of reflexivity, among which there was the taste. In other words, according to Hume, there were impressions (feelings) and ideas (thinking), where the impressions were very lively and rich, and the ideas were comparatively weak, indistinct, and obscured (Hume 1740/2009: 429).¹²

Hume particularly dealt with emotions of pride and humility, love and hatred, as well as with direct passions related to the will. Pride and humility (modesty) for him were simple and uniform impressions caused by the same *object*, which was the *self*, conceptualized as the succession of close ideas and impressions preserved in the memory and consciousness (Hume 1740/2009: 432–433). Emotions such as pride and humility were caused by the image which the individual had about himself/herself, based on the perceptions of self and the outside world, in an interesting interrelation of the subject and the object. Hume thus exhibited an unusually modern and (proto)interactionist theory of the emotional experience (see, for example, Shott 1979), and the similar dynamics was in action with emotions such as love and hatred. A feeling of empathy took a special place in the Hume's system as a causal mechanism by which individuals began to feel the emotions of others (e.g. sadness or happiness), based on their real or false expression of emotions (Hume 1740/2009: 490). These ideas remind of certain contemporary ideas of the interactionist-oriented sociology of emotions about the central place of empathy in the social life (Clark 1997).

Hume's prominent place in the history of philosophy about emotions was contained in the unambiguous claim that "the reason is, and can only be a slave of passions, and can never pretend to do anything else than listening to them and obeying them" (Hume 1740 / 2009: 636). It was an iconoclastic statement for the previous tradition in the history of philosophy (Solomon 2008: 3). In this way, Hume placed

12 In an inspirational essay on tastes and passions, Hume wrote about the importance of sophistication and cultivation of passion in order to achieve higher or better taste, including the taste in relation to art and science (Hume 1742/1889: 91–94). Delicacy of the taste was significant for him in the context of love and friendship, i.e. it was important for an appropriate choice of life partners. Concerning the superstitions and the enthusiasm followed by religious beliefs, he wrote in the context of emotions such as hope and pride, but also cruelty, violence and ignorance, which represented an enormous social danger and a threat to civil liberties (Hume 1742/1889: 144–150).

almost entire human motivation in the domain of emotions, observing emotions as a basic instinct for action, and as a fact with the “original existence” in a human experience. His affinity for emotions and the emotional experience, in fact, mostly aroused from the sceptical attitude toward the abilities and capacities of reason. That was why he also wrote in a particularly inspired way about his own scepticism, and the need for continuous checking of each of his own conclusions, attitudes and opinions, which (in him) produced the feelings of anxiety, loneliness, and melancholy (see e.g. Hume 1740/2009: 345–346, 411–427).

For Hume, emotions could be opposed to reason only if they were followed by certain judgments or attitudes. However, even in the “unreasonable” emotions, it was not the *emotion* that was unreasonable, but the individual’s judgments about it. In that sense, “it is not contrary to reason to prefer the destruction of the whole world to the scratching of my finger” (Hume 1740/2009: 637). For these reasons, he questioned the inferior position of “passions” in the previous philosophy, while developing an extremely stimulating theory and dealing with (scientific) problems, which would be explicitly formulated only much later (Solomon 2008: 7).

On the other hand, Immanuel Kant continued the tradition of a kind of animosity toward human emotions, describing the dangers of affects and passions, and (again) advocating the Stoic apathy and self-control. For example, in *The Metaphysics of Morals*, he emphasized that if reason did not overpower feelings and passions, they would start to control an individual (Kant 1797/1991: 208). Apathy and self-control were also crucial both for the expression and protection of the inner freedom, which was under a continuous threat by affects and passions. Hence, Kant viewed affects (*Affekte*) as abrupt emotions that were temporarily imposed on the rational thinking and self-control (e.g. anger), and passions (*Leidenschaften*) as permanent tendencies which represented a continuous challenge or temptation (e.g. hatred) (Kant 1797/1991: 208).

Kant emphasized the importance of rationally rooted feelings through which individuals could feel satisfaction or dissatisfaction on the basis of pure consideration of the morality of their own actions. Therefore, in order for a rational being to work in accordance with certain moral imperatives, reason must have the capacity to generate a sense of satisfaction by fulfilling certain moral duties (Kant 1797/1991: 48). In this regard, he explicitly distinguished and described the moral feelings, conscience, love for the neighbour, and respect for others (Kant 1797/1991: 200–204). This did not mean that Kant had a unique model of emotions, but the emotions for him were primarily a *continuum*, ranging from emotions that could not be controlled (like rage) to those that could be cultivated and controlled in a rational manner (Borges 2004). He therefore advocated self-control or an active resistance to the affects, arguing that the only actions of moral value were those performed on the basis of a sense of duty. Therefore, the sense of respect for moral law was the only ethically relevant for emotions (also see Oakley 1990).

In his philosophy, Kant critically responded exactly to Hume’s scepticism, formulating an uncompromising defence of reason, which, unfortunately, further strengthened an inappropriate distinction between reason and emotions. However, Kant had much more respect for emotions than his philosophical predecessors, including the importance he attached to common (intersubjective) feelings in aesthetics (Solomon 2008: 8). For him, every choice came out of the representation of a

possible action based on a feeling of satisfaction or dissatisfaction, which implied that he considered emotions as important motivators for action (Kant 1797/1991: 201). He argued that people were not passive in terms of their own emotions, but that emotions responded to human rational tendencies, i.e. they were the product of our choices (Kant 1797/1991: 203).

Finally, some liberal and conservative social philosophies and proto-sociologies of emotions referred to human sensitivity, as, for example, in the case of Adam Smith and Edmund Burke. In the *The Theory of Moral Sentiments*, Smith dealt with emotions in details, as well as with the importance of emotions in moral, social, and political life (Smith 1759/2007). For him, emotions were not the “shameful” part of the human psyche, but the very basis of human social existence and morality (Solomon 2008: 8). The basic concept of Smith’s philosophy was exactly affection or sentiment, which he conceptualized as an individual’s common feeling of sympathy towards feelings or passions of another person (Smith 1759/2007: 2–3).¹³

On the other hand, Burke was a conservative social theorist, remembered primarily by his sharp criticism of the French Revolution (Burke 1790/1951). Also, along with the opposition to the revolution (and the Frenchmen), based on his political ideology and personal prejudices, Burke opposed the Enlightenment concept of establishing the social order on the principles of Reason as the only source of truth and authority. He also considered that society was not suitable for rapid construction or reconstruction, and favoured the gradual and slow implementation of proven or traditional methods in establishing a safe, secure and stable social order. In his conservative opposition to worshipping Reason among the leading figures of the French Revolution, Burke emphasized the validity of the *emotional* basis of social solidarity (Kemper 2000: 773). In his opinion, long-term or traditional ways of acting induced emotional reactions, which then prevented violent, rapid and destructive social changes.¹⁴ It turned out that this was an indirectly in-

13 Thus, the creation of feelings in individuals emerged due to the fact that feelings most often expressed a general idea of something good or evil that happened to the person or the situation which we observed. He argued that sympathy was the basis of individual reasoning, as well as the basis for the assessment of other people: when the feeling of the observed person was in accordance with our feeling of affection, then we would consider the person to be just or righteous (Smith 1759/2007). Smith argued that by observing other people, an analogous emotion appeared in the viewer, while moral virtue was a result of the process of mutual emotional adjustment of these persons. According to Smith, the mutual feeling of affection produced a sense of satisfaction, which was why the individuals were motivated to participate in the happiness or grief of other people (Smith 1759/2007: 6–7). It means that the feelings were based on a rational personal interest, as well as that they created motivation for mutual interactions, especially for the exchange processes. These ideas brought Smith to the famous claim that the work of an individual in a rational, own interest increased the well-being of all people, which became the basis of the *laissez-faire* market economy and the liberal political thought.

14 A similar conservative and antidemocratic sentiment was expressed by Gustave Le Bon. However, in his classic *Psychology of a Crowd* (Le Bon 1895/2002), he opposed the character of modern social movements and new social classes precisely on the basis of their emotions or affections. For him, a contemporary society was distinguished by the pathological manifestation of emotions with destructive consequences for the social order (also see Barbalet 1998: 3).

fluent position among the (continental) founders of sociology, such as Auguste Comte, who were themselves interested in the phenomena of establishing social order and stability in the post-revolutionary society.

However, for the true “defence” of human emotionality from “narrow-mindedness” of reason, it was necessary to wait for contemporary philosophies of anti-rationalism and existentialism. Yet, by contrasting the Apollonian and Dionysian cult, Nietzsche opposed rationality and instincts and passions (i.e. emotions), favouring the latter (Nietzsche 1872/1999). For him, the Cartesian tradition was a problem, and the solution was seen in the claim that people were biological creatures with “built-in” need for expression of their will. On the other hand, Nietzsche also advocated a kind of control over emotions, since he saw them as products of the (inappropriate) culture, experience and upbringing, and not as instincts (Solomon 2003: 83). Finally, Sartre explicitly dealt with the phenomenon of emotions (Sartre 1939/1993) in his study *Outline of a Theory of Emotions*, attributing them a central place in the context of human existence (Solomon 2008: 9). Emotions, as spontaneous and conscious acts of cognition, were in fact means of understanding the essential nature of a man, which was the consequence (and not the cause) of his existence (Sartre 1939/1993: 10).

Emotions and Contemporary Philosophy: Towards the Historicity of Emotions?

Today, it could be said that emotions are a significant topic in the contemporary philosophy, which is evident in a series of studies and proceedings dedicated to the philosophy of emotions (for example, Hatzimoysis 2003; Solomon 2004; Ebbersmeyer 2012).¹⁵ The explicit renewal of the interest in emotions in the contemporary philosophy occurred after World War II, and the work of Errol Bedford was among the first ventures of this kind. He emphasized the importance of contextual factors when it came to the nature of emotional experience (Bedford 1957). Then, the philosopher Anthony Kenny dealt with desire and pleasure in a separate study, seeing them as bridges between the phenomena of action and emotions (Kenny 1963/2003). For Kenny, emotions were not feelings separated from the influence of the will and reason, and he observed them as motives for human action, in the spirit of classical philosophical tradition. The latter philosophies of emotion were often in close communication with the scientific research of emotions, primarily in biology and psychology.

The work of the philosopher of emotions Robert Solomon stands out among the first comprehensive contemporary conceptualizations of emotions in philosophy (Solomon 1976/1993, see also Solomon 2008). He strongly criticizes the

15 For a summary of contemporary philosophical issues and research related to emotions, such as the dilemma between essentialism and existentialism, the interrelation between the subjective and the objective during the emotional experience, concerning phenomenology, intentionality, cognition, (i)rationality, expression, biological and cultural backgrounds, and functions of emotions see (Solomon 2008: 10-14). For a summary of basic or “initial” issues within the framework of contemporary cognitive philosophy of emotions, see (Power and Dalglish 2008: 17-18).

rationalistic assumption that “passions” pose a threat to objectivity and the philosophical knowledge of reality, and tries to “regain central and defining a role of passions in our lives, which has been persistently and so long denied to them” (Solomon 1976/1993: xiv). For him, emotions dominate human lives and represent the basic source of meaning, as well as sense in that life. He rejects reason as an alleged antithesis to emotions and calls the traditional conceptualization of the relationship among these domains as the philosophical “myth of passions” (related to the myth of the passivity of emotions) (Solomon 1976/1993: 67).

Equally important is the contribution of the philosopher William Lyons, who provides the causal-evaluation theory of emotions (Lyons 1980). For him, it is not possible to differentiate emotions in a behavioural, physiological or motivational way, emphasising the cognitive nature of the emotional experience. According to Lyons, emotions are the states of “occurrence” or “events”, not of a disposition. The individual is “eventfully” sad, angry, happy, vain, and the like (Lyons 1980: 53–54). Human beliefs about the current situation, usually caused by perception, are the basis for the evaluation of a given situation, which create desires that cause behaviour, psychological changes, and subjective feelings, accordingly (Lyons 1980: 57).

Finally, in his philosophical research of emotions, Peter Goldie provided both scientific and literary conceptualizations of emotions, trying to deepen the daily discourse on the phenomenon of emotional experiences, as well as the connection between emotions and consciousness, thoughts, feelings, imagination and action (Goldie 2000). Goldie insisted on the importance of taking a personal perspective or the point of view of a conscious person, with a new critique of the normative nature of the conventionally understood rationality in the study of emotions and similar topics. He also questioned the idea that only rationality could adequately explain emotional phenomena, with a critique of over-intellectualized discourse about emotions (Goldie 2000: 3). He especially dealt with the connection between emotions and evolution, as well as between emotions and cultures (Goldie 2000: 84–121). According to Goldie, humans might be a special species of animals, but the study of emotions in the evolutionary, as well as in the cultural context, could reveal many primitively intelligible emotional desires, and their causes in the human past and present (Goldie 2000: 122).

In this regard, understanding the place of emotions in the history of philosophy must be supplemented with the *history of emotions*. Philosophizing about emotions has simultaneously *reflected* and *produced* the historical context of the Western sentiment. For example, the practical dualism between the Apollonian and the Dionysian cult reflected the sharp dualism between reason and sensitivity in Classical Antiquity and ancient philosophy. In the Middle Ages, since the only emotional dedication approved by the church was the love for Christ, emotions were reinterpreted as fiery, harsh, abrupt, and overwhelming passions, which was related to the Christ’s suffering (Barbalet 2007). Emotions that were not related to the Christian devotion were presented as subversive for the Christian faith, and therefore condemned as irrational (Barbalet 2007: 1375). In the late Middle Ages, emotions were followed by a rigid system of conventional forms and strict rules, since the passions produced by difficult living circumstances would probably make social order impossible (Huizinga 1924/1987: 48). That was why the medieval scholastics

were so concerned about how emotions interfered with purely logical thinking, just as they were interested in their rational control (Mandler 2001).

In the 16th and the 17th centuries there was more interest in emotions without theological prejudices, and with the emphasis on the expressive and rhetorical significance of emotional dynamics. The reason for this was probably an increased significance of market exchanges and diplomacy, i.e. the importance of forming an attitude on the intentions of others (Barbalet 2007). This trend continued in the 18th century in the mentioned discussions on moral feelings (Smith 1759/2007), whereby “moral” no longer implied only ethical analysis, but also social and cultural analysis, while “feelings” implied cognitive and even the intellectual content of emotions (Barbalet 2007: 1375). Finally, the increased commercialization produced a growing interest in the family emotionality in the modern period, while the separation of professional and private life (i.e. a job from home) caused new emotional re-evaluations in the 19th century (Stearns 2008: 27).

At the end of the 19th and early 20th century, due to the development of anatomical and physiological sciences, there was an increased interest in physical (not just ideational) basics of emotionality. The first scientific (biological) theories of emotions followed afterwards (Darwin 1872/1989), as well as psychological experiments that were limited only to the emotional experience which could be explored in a laboratory context (James 1890). Finally, in the second half of the 20th century, there was almost an explosive interest in emotions in almost all natural and social sciences, as well as in the popular imagination and reflexive interest of the public for their emotional life (TenHouten 2007: xi).¹⁶

The historical analysis allows a deeper investigation of causality that works within the social context of emotions. Namely, the historical research deals with the factors that lead to new emotional formulations, initiating a causal analysis that is more extensive than simple cross-cultural comparisons of the relevant variables (Stearns 2008: 27). The research of the histor(icity) of emotions generates important new data, evaluation tools, and theoretical perspectives for the study of emotions. These researches also offer examples of emotional dynamics and an explicitly

16 Accordingly, historical researches indicate fundamental transformations of emotional standards in the centuries of the early modernity, i.e. in the centuries after 1500, and especially in the 17th and 18th century (Stearns 2008: 23). Inaugural addressing of Caroline Bynum, one of the leading historians of the Middle Ages, specifically referred to the significance of changes in the forms of emotionality between medieval and modern Europe, on the occasion of the election for the president of the American Historical Association in 1997 (Bynum 1997). For her, the Middle Ages were characterized by the prevalence of feelings of wonder and awe (before various miracles, ghosts, monsters, fantastic exploits, descriptions of other worlds in travel books, etc.) as a source of information, which was not the case in the modern age. Also, the study of emotions in Western Europe at the dawn of the Protestant Reformation emphasized the omnipresence of the atmosphere of melancholy and repentance (for example, in works of art, personal diaries, etc.). The situation changed again in the 18th century, in the form of the return of significance to the emotions of happiness and joy, which, in a certain sense, lasts even today (Stearns 2008: 17). Some theoreticians call certain manuals or instructions for actors in the 18th century as “protosociologies of emotions”, primarily due to detailed discussions of the meaning (and body expression) of specific emotions, as well as the character of the (appropriate) emotional experience in these publications (Cassidy and Brunström 2002).

historical starting point for the evaluation of the current directions of changing the emotional experience.

Then, the history of emotions rooted in the broader aspect of the social history becomes a part of important interdisciplinary and integrative efforts in terms of studying the role of emotions in social life (Kišjuhas 2015). For these reasons, the historians of emotions argue that sociological discoveries about the emotional trends “cry for synthesis” within a comprehensive historical framework (Stearns 1989: 593). In addition, the historical perspective offers an extremely important factor of *change* as the central variable of the analysis of the way in which emotions develop and function (Stearns 2008: 28). The social scientists have gradually understood the role of variable emotional standards for their own research, and the history (of emotions) can help them to better understand the socio-historical context of these intellectual, philosophical and social changes.

With bright exceptions such as Spinoza, Hume, or Sartre, emotions in the history of the Western philosophy imply an ambivalent and uncomfortable history of the contrasts and conflicts between reason and emotions, which is a relationship that does not suit contemporary (neuro)scientific knowledge (see e.g. Damasio 1994; LeDoux 2000; Pessoa 2008). Although philosophers have been interested in the nature of emotions since the time of the Presocratics and Socrates, the philosophy has largely evolved as a quest for *reason without emotions*, or *senses without the sensibility*. Yet, emotions have always “lurked from the background”, although usually as an unusual threat to reason, philosophy and philosophers (Solomon 2008). In this sense, one of the typical and most persistent metaphors on reason and emotions in philosophy is the metaphor of a master and a slave. The “wisdom” of reason has had a dominant role and a firm control, while the “dangerous impulses” of emotions have been safely suppressed or in harmony with reason.

This metaphor also takes place in philosophical, as well as in everyday discourses on emotions even today, in a form of an attitude that the emotions are “more primitive, less intelligent, more brutal, more unreliable, and more dangerous than reason”, and in the context of creating the very distinction between the reason and emotions, as it applies to two different, opposed and antagonistic aspects of the soul (Solomon 2008: 3). Even those philosophers who have been trying to integrate these two aspects, usually by reducing emotions into an inferior element of reason that distorts perception, have kept this distinction and insisted on the unambiguous superiority of Reason.

However, in spite of such attitudes, the philosophers of the West in their works and their intellectual networks (see Collins 1998) have never completely neglected the emotions, even when they characteristically deny their central significance (Solomon 2008: 4). Philosophers like Aristotle, Thomas, Descartes, Kant, have succeeded in creative ways to integrate rational and emotional elements in their philosophies (of emotions), in a way that represents a kind of avant-garde of the (scientific) understanding of this complex interrelation.¹⁷ In this sense, the relationship

¹⁷ Alluding to the problematic absence of the philosophy (of emotions) from the contemporary scientific debates on emotions, a philosopher William Lyons illustratively noted the following: “Very recently I acquired a shiny new textbook on the psychology of the emotions. In the chapter entitled ‘What is an emotion?’, I was astonished, in the way that

between reason and emotions in the history of the Western philosophy remains largely the relationship that is filled with ambivalence, i.e. contradictory contrasts, but also an overwhelming attraction between these spheres of human experience and human existence.

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one might be astonished to be served mackerel described as salmon, to find that the definition of an emotion, which began with the words, 'An emotion is usually caused by a person consciously or unconsciously evaluating an event as relevant to a concern (a goal) that is important...', was held to be a recent major breakthrough in the psychology of emotion and given a reassuringly recent date of 1986 . . . However, the causal-evaluative theories of emotion are arguably as old as Aristotle and the Stoics, and in our own time have been much discussed by philosophers and psychologists well before 1986." (Lyons 1999: 21).

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Aleksej Kišjuhas

Razum bez osećanja? Emocije kroz istoriju zapadne filozofije

Apstrakt

U ovom radu se kritički analizira uzajamni odnos razuma i emocija kroz istoriju zapadne filozofije, kao neprimereno ambivalentni međuodnos kontrasta, kontrole i konflikta. Nakon analiziranja filozofija emocija i strasti među najuticajnijim filozofima i filozofskim delima antike i srednjeg veka, u radu se izlažu ideje o ovom međuodnosu u okvirima moderne filozofije, tj. tokom takozvanog Doba razuma. Na kraju, u radu se analizira karakter emocija u savremenoj filozofiji i ispituju se mogućnosti za istoriju (filozofiju) emocija i osećanja, ali i mogućnosti za prevazilaženje neumerenog suprotstavljanja razuma i emocija, koje je prisutno u dominantnoj zapadnoj filozofskoj tradiciji.

Ključne reči: emocije, razum, osećanja, strasti, istorija filozofije, istorija emocija

Ivor Altaras Penda

THE EUROPEAN NATIONAL WELFARE STATES AND THE DISSOLUTION OF THE EU

ABSTRACT

This paper examines the causes of prominent radical political options and behaviors that are already visible on a daily basis in the European Union. In public discourse there is a simplified belief that the primary responsibility for this lies with the immigrants and fear caused by terrorist attacks carried out in Europe or the old European latent nationalism. Although these elements undoubtedly contribute to the development of radicalism, the author argues that the key sources for this issue should be found in the difficulties encountered by the European national welfare states. This is the source of ever-greater mutual intolerance among the citizens of the European Union, which can take on various forms of political, cultural, ideological and physical conflict. On the basis of these arguments the author concludes that the European Union is indeed in a historic milestone but the real danger of the European Union's disintegration is not primarily in cultural, civilization, confessional, security or geopolitical sources, but this source should first be sought through the prism of the European national social states and the expectations of citizens referring to them.

KEYWORDS

European Union,
welfare, dissolution,
radicalization

1. Introduction

David Cameron, now the former Prime Minister of Great Britain visiting a meeting of the German Christian Democratic Union (CDU) in the Bavarian spa resort Wildbad Kreuth in early 2016, stated:

It is necessary to do everything in order to make our social systems unattractive to migrants within the European Union. (*David Cameron in Germany*, internet)

This sentence and the corresponding attitude is essentially multidimensional message that has strongly echoed in the European Union (EU), and reveals the great social, economic and political rift within the EU that does not even have a hint of solution. In fact, this paper aims to show how exactly these requirements could be devastating for the continued existence of the European Union.

There is no doubt that the European Union and its origin should primarily be understood in the context of post-war and Cold War political landscape, with the overall ideological charge that goes with it. Fundamental and original intention of

the founders of the three European Communities¹ in the 1950s, and then the European Union in 1992 was to prevent a potential new war between European nations. The experience of two great, actually the greatest, international conflicts on European soil in a period of only 40 years, which took tens of millions of human lives and economically and demographically decimated Europe, have encouraged European leaders to come up with such an integration that would thwart any serious attempt at another military imbalance in Europe. As a further result of such efforts, it was created an increased interdependence between, until then, the warring European powers. Especially the largest ones, such as France and Germany, or Great Britain and Italy. In this regard, the European Union has managed to realize its main task because European history almost does not remember 70 years of continuous peace on European soil, except for the unfortunate war episodes in European countries which, *nota bene*, at the time of emergence were not a part of European Communities, i.e. the European Union – such as the revolution in Hungary in 1956, the wars in the former Yugoslavia in the 1990s or conflicts in Ukraine that started in 2014 and are still in progress.

We could say that the ominous prophecies about the disintegration of the EU more and more often appear in public media. Such visions are expressed equally in circumstances where such assessments have no credible basis in reality, as well as when the European Union really falls into serious and to many recognizable global, institutional, and foreign policy crisis situations. Such situations in the past two decades were many, and we can enumerate some of them: disorientation of EEC with regard to the conflict in the former Yugoslavia and leaving this problem to be solved by other international institutions such as the UN and NATO (1990–1995); the lack of a common European policy in relation to Turkey’s membership in the EU (1999–present), the lack of a common European foreign policy regarding the “coalition of the willing” that participated in the overthrow of Saddam Hussein from power in Iraq (2003); inability to agree on the question whether to call on Christian roots, the spirit and tradition of Europe in a multicultural and secular EU in the proposed text of the “Constitution for Europe” (2005); rejection of the proposed “Constitution for Europe” in referendums in France and the Netherlands (2005); “forcing” democracy in a way that Ireland – where a referendum initially rejected the text of the Lisbon Treaty in 2008 (replacement for the constitutional text) – was intended to be submitted to a referendum on this Treaty until it accepts it (which they did in a repeat referendum 2009); the existence of the so-called “democratic deficit” that has many faces, such as insufficient and unclear communication between European citizens and the European institutions, over-regulation of EU legislation and its excessive intrusion into private life of Europeans (continuous); efforts to formalize the suspension of the Law of the Schengen borders over a period of two years by activation of Art. 26 of that Act, which would re-introduce internal border controls within the EU and would seriously call into question the existence of four fundamental EU freedoms – the free flow of people, goods, capital and services (2016); radicalization of European political scene on the entire

¹ Three European Communities are: *European Coal and Steel Community* – ECSC (established 1951); *European Economic Community* – EEC and *European Atomic Energy Community* – EURATOM (established 1957).

political spectrum (continuous), and the most recent, the lack of a consistent policy of the EU in terms of inflows and care of refugees and immigrants on its territory mainly coming from the Middle East and North Africa. So every day we witness the quite unworthy and inhuman situations at the external borders of the EU countries, and the Mediterranean Sea, “Mare Nostrum”, is turning into a big blue grave of those who are trying to get to the fortress Europe (2014–present). These are just a few of the most prominent crises European Union faced or is still facing.

Those examples partly managed to overshadow European successes such as the adoption of the Lisbon Treaty that institutionally reformed the EU and strengthened the role of the European Parliament or the introduction of a single currency (which does not include all EU countries but only those within the euro zone), which should have served for further and closer European integration.

This paper will show that the very concept of social states with a whole set of social services that they offer to their citizens is the original European “product” and to jealously keep it only for members of their own country might be a rational approach to the real socio-economic policy, but such attitude also represents a direct “blow” to the very essence of a supranational Europeanism. Therefore, the European Union is now really at a kind of a historical turning point, but the basis of this milestone is primarily of a social character, and only then of cultural, confessional, military, security, political, geopolitical, ideological or some other character.

2. Welfare State as a Premier European Product

It is a historical fact that the first legal regulation of social rights and policies were related to the first chancellor of the German Empire Otto von Bismarck, who is therefore considered to be a kind of “father” of the welfare state. He brought into existence in the period from 1883 to 1898, under the rule of a “strong hand” – resulting in unification of many disunited German states and duchies into the powerful German empire – many social laws, like the Law on compulsory insurance in case of illness, the Law on occupational injuries, the Law on old-age and disability insurance, (these three laws make the so called Code of Social Insurance), and others (Puljiz 2005: 72–75). Regardless of the subsequent reasonable argument that the basic intention of making these social laws was not for state to offer care for its citizens (with respect to the prescribed age of those who would be able to get the care and life expectancy of people of the time), but it was a way to maintain the obedience of their subjects (Hartley 2007: 142), it has undoubtedly constituted a kind of social and legal novelty.

From then until now, the idea of social protection of own citizens has spread throughout the world and thus this concept has become the original European global “export product” (along with the industrial capitalism of the British type of the 18th century, introduction of double-entry bookkeeping, and the appearance of modern banking). Applied legal forms and modalities of the welfare state – which is defined as *such a social system in which the state assumes responsibility for the implementation of socio-economic security offered to its citizens* (Esping-Andersen 1990) – differ considerably from country to country, and this in turn depends on many factors such as the prevailing socio – economic relations in society, the

level of democracy, demographic characteristics, political system and more. Consequently, even Europe has no unique and uniformed system of the welfare state, but it depends directly on the tradition and the economic power of the individual European nation-states.

In the analysis of the existing welfare state in the European Union, the general typology of welfare states made by Gøste Esping-Andersen, Danish sociologist and the most prominent social system researcher is most commonly accepted. Its typology contains three basic forms of social state, namely:

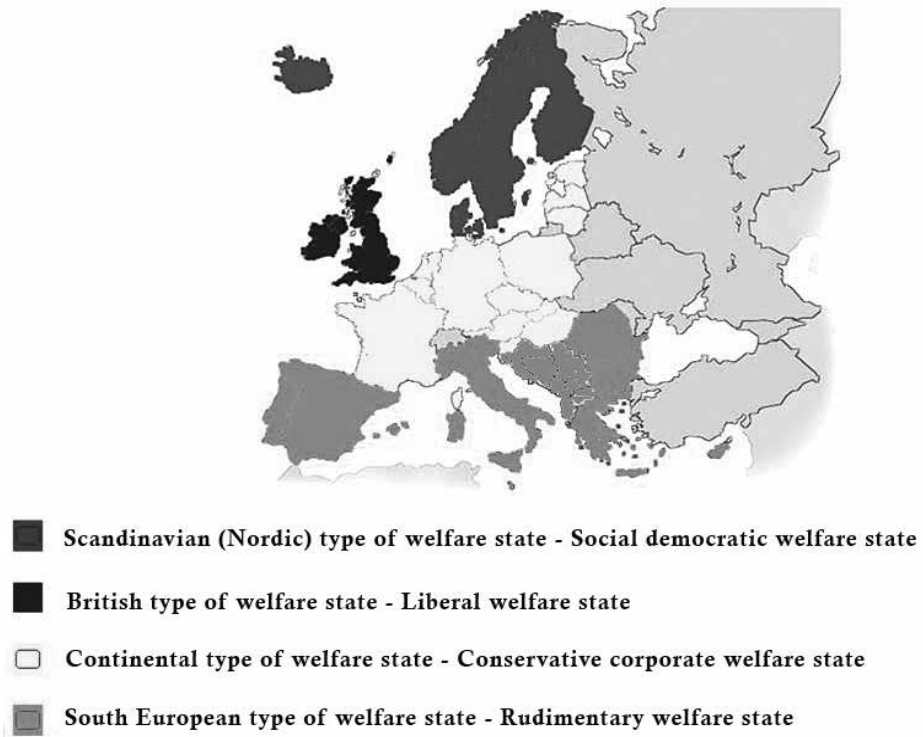
1. *A Liberal Social State* – best represented by the United States, characterized by low and time-limited social transfers overseen by the state and the strong presence of the market in the social sector.
2. *The Social Democratic Social State* – represented by the example of Sweden which is most marked by the universal delivery of developed social services by the state, and by the spread of vertical and horizontal redistribution of income
3. *The Conservative – Corporate Social Welfare* – which exists in Germany, whose main characteristics are subsidiarity in social assistance and reliance on a high level of employment and the protection of citizens through insurance funds (Esping-Andersen 1996; 2002).

Drawing on this typology of social states, author Maurizio Ferrer offered an additional, fourth category of so called. a South-European social state that has its distinctive features (Ferrera 1996; Puljiz 1996: 45–49).

In the context of recent events related to the outbreak of Great Britain from the family of the nations of European Union, social contributions are significant to the author of Bob Deacon, who argued that within the liberal social state it is possible to subdivide two subspecies, which are the American and British subtypes of liberal social states. If we would like to merge all these classifications and present them through the prism of the geographic position of individual countries within the European Union then we could say that the comprehensive structure of the existing social states of the European Union looks like this:

1. *Scandinavian (Nordic) type of welfare state* – whose representatives are Denmark, Finland, Iceland, Norway and Sweden. This type represents the social democratic model of the welfare state.
2. *Continental type of welfare state* – which primarily refers to the welfare state of Germany and the countries of Central Europe. This type represents a conservative-corporate type of welfare state.
3. *South European type of welfare state* – which includes economically less developed countries of Southern Europe, but also Italy. This is the so-called rudimentary type of welfare state.
4. *The welfare state of the UK* – which is attributed a separate status within the European Union because it is, according to this division, the closest representative of the liberal welfare state in Europe.

Figure 1 Typology of the European welfare states according to Gøsta Esping-Andersen



Source: systematization by the author from quoted Gøsta Esping-Andersen's works

From this viewpoint, it is clearly visible all the varieties of European social models, which has a very real and very different situation of social protection in which the inhabitants of the European Union live.

In the context of the aforementioned statement by the former British prime minister, and in particular with regard to the positive outcome of the British referendum on UK leaving the European Union on June 23, 2016, it becomes increasingly noticeable that the British social model differs in relation to the rest of Europe. Such its status is reflected not only in relation to the question of the model of the welfare state that it promotes, but it is also visible in other segments of European integration, which could clearly be seen in significant concessions that the United Kingdom successfully won for itself multiple times in the negotiations on important issues with regard to its rights and obligations within the EU. Examples for this are many – from the customs and tariff regimes, the principle that 66% of funds allocated for the work of the EU must be returned to the United Kingdom, freedom of choice which European laws in the field of justice and home affairs to apply, all the way to rejection of the agreement on greater budgetary discipline of EU countries or refusal to participate in the joint EU defense policy (Sorokin 2014: 63–69). There was an attempt to maintain such “picky” behavior in 2016 with the aim to

obtain additional concessions in exchange for not holding the aforementioned referendum (Duhaček, internet). Since it was a whirlpool of circumstances in which the stakes were large, diverse egos too expressed, and political assessment obviously completely wrong, it is not surprising that the insistence on maintaining the referendum finally reaffirms the phrase derived from the French Revolution that: “the revolution eats its own children”. By this we can perhaps explain the political fate of David Cameron, and perhaps can guess the fate of the European Union, if it does not change the approach to European social reality.

The reality of the 1950s to the present day has changed significantly while the European social state programs have mainly inadequately trotted behind these changes very slowly. It was easy to rely on public and state services in the period of restoration of economies of Europe from 1945 – 1975, which was marked by economic growth, raising the level of social rights and demographic renewal. This period is also called the “golden age of welfare state” and is also known by the term “famous thirty years” as expressed by a French economist Jean Fourastié (Zrinščak 2006). Of course, it is quite something else when the economy of European countries is continuously stagnating, when perpetual oil shocks and the terrorist crisis are occurring, when the baby-boom generation is no longer involved in the creation of new value but goes into well-deserved retirement and is starting to be a user of public services, the demographic picture is rapidly deteriorating. From historical perspective, it is considered that the era of crisis and policy of “retrenchment” (limiting) of social policies began with the first oil crisis in 1973 (Puljiz 2005: 158). In such circumstances, there is bound to be delamination to successful and less successful countries within the European Union itself. These are, without a doubt, clear processes of divergence that have been receiving their explication since 1980s in concepts of the President of the European Commission, the Frenchman Jacques Delors, about Europe in concentric circles (the famous so-called “Delors circles”) according to which there are main EU countries and a ring of countries around them that have yet to build their Europeanness.² This trail of thought has not ended with Delors, but has gained permanent success in the European political thought, and therefore from 2000 onwards there is talk of “two-speed Europe”. Such a turn of events for a united Europe has multiple effects on both conceptual and very practical level. New challenges in the new times do not offer a guarantee that valid answers could be found for them, but we can safely say that the existing sources of European unity are no longer enough. The generations that have come into the world between 1970 and 2000 mostly are not acquainted with the war confronted Europe. They, to their great fortune, have not known what it means to have war experience and for them it is therefore no longer enough motivating and integrating to say that the united Europe is good because there is no war. For

2 The nineties were the time of enlargement of the number of EU Member States (in 1995 EU was joined by Austria, Finland and Sweden), a large part of the eastern European countries that were under the heel of communism in the nineties repeatedly submitted their candidacy for EU membership: 1990 – Cyprus and Malta; 1992 – Switzerland and Norway (Swiss rejected membership in referendums in 1992 and 2001, and Norwegians in the referendum of 1992); 1994 – Hungary and Poland, 1995 – Bulgaria, Romania, Slovakia, Estonia, Lithuania and Latvia, and in 1996 – Czech Republic and Slovenia.

them it is a natural state of things. What they pursue is the life in prosperity, i.e. the abundance that they have seen in the generation of their parents or still see in some other parts of the world. They will as their role models look to the United States, Canada, Australia and New Zealand, and occasionally will be amazed with the Middle Eastern countries that have achieved their own well-being with oil and petrodollars. Of course, at the same time they will turn a blind eye to the fact that although they are dissatisfied with their life's achievements, they still belong to the richest and best-off part of the general human population. They will forget that there is a hungry Africa, the Middle East in conflicts and poor and overpopulated Asia. What citizens of the ailing, but still rich Europe have not even expected is that the very people from forgotten parts of the world would knock at their door in the XXI century. Only then they will become aware that they have the benefits of the welfare state (no matter that they have certain social shortcomings)³ and will by all means try to limit others to participate in these comforts.

3. National Welfare States in the Supranational European Union

One of the fundamental characteristics of all, including the European, welfare states is the fact that they are still functioning mechanisms at the national level. It is self-evident because all the social services that the state provides are primarily intended for its citizens. In addition, funds to finance costly social services are obtained from paid taxes and contributions of citizens. In this context, the power of economies of individual states directly influences the strength and scope of social services that the state can provide to its citizens. On the other hand, as we have already indicated, after the Second World War, the very desire for overcoming national animosities among European nations was the main engine of supranational European integration (Rosamond 2000). Therefore, a thought of Jean Monnet, the French politician and one of the people that are considered the founder of the European Union is particularly meaningful, which stated (*Jean Monnet 1888–1979*, internet):

We are not forming coalitions of states, we are uniting men.

This is a thought that undoubtedly encourages European unity and promotes the existence of the European idea. And as much as this idea is an emotional and inspiring, it within a sort of repeated i.e. “second” reading opens up more questions and concerns, and at the same time promoted European unity remains only wishful thinking. If you do not offer concrete economic models of performance of an imaginary social project, the concept of some kind of supra-national fraternity of the people of Europe is nothing but a sheer utopian idea. And history has so far through many examples thought us that attempts to realize social utopian ideas usually end up in various forms of totalitarianism that typically soak the land with

³ This was particularly true in the criticism addressed to the conception and realization of the welfare state from the perspective of liberalism in which the view is expressed that the social state contributes to social apathy of the individual, strengthening the concept of social mediocrity and of complete reliance of the individual on the state as a provider of social assistance rather than to increase the enterprising efforts of individuals themselves and in all segments of human life.

human blood. Therefore, it is advisable to take along these undeniably humanistic ideas and also offer a way of realization of these ideas in practice. That is the very thing that Elmar Altvater, a German political scientist at the Otto-Suhr Institute in Berlin, speaks about in his book, *The Limits of Globalization* when he tries to explain the structure and modalities of gradual regional integrations that are applicable particularly to the European integration processes. Altvater said that although there is no guarantee of the success of European integration they will nevertheless necessarily follow the following string:

System of nation-states connected by market → Preferential Trade Agreements
 → Free Trade Area → Customs Union → Common Market → Monetary Union →
 Political Union

Source: Altvater and Mahkopf 1999: 371

This presentation is of multiple interest to us because it reveals many aspects of political thought and action – from the real motivation for European integration, through the determination of the ultimate goal of European integration, to the clear and unambiguous determination of where our integration can now be found, as well as segments of European integration where there is possible resistance.

It is significant to note that from this setup of European integration in the end there can really be the realization of Monnet’s dream of a “Union of people”, but also that the path to achieving this Union is primarily reflected in the economic interests of those who should make the Union, and not some imaginary human effort to achieve in practice a brotherhood and unity of the European peoples. We note that the terms such as: common market, trade area, customs and monetary union – are first-class economic terms. Therefore, perhaps it is still first necessary to create a coalition of countries to later come to the Union of people. Of course, if they wish so.

If we look at the current level of achieved European integration processes, we could say that the European Union has already made the most of its integration work. The introduction of the euro in 1999 as a means of payment in the euro area⁴ is the realization (at least partially) of the European Monetary Union, which according to the integration concept by Elmar Altvater represents the last stage of integration before political union. In this context, it becomes understandable that the attempt to introduce the proposed European constitutional text, flag and anthem, but also the position of Minister of Foreign Affairs of the European Union in 2005, had the aim of implementing a European political union, both on the symbolic and the factual level, as the final stage of the European integration process (Čapeta 2010). However, the fact is that, according to the expressed will of the people in referendums, this has failed. This has sent a clear message that Europeans are not yet ready for that kind of a political union, and it is not known whether they will really be ready, and if – when. Political union is obviously too reminiscent of a federal political organization of Europe (a kind of United States of Europe) to people, for which the European nation states are quite openly not expressing interest.

4 Currently, the euro area is comprised of 19 out of 28 EU member states, namely: Austria, Belgium, Cyprus, Estonia, Finland, France, Greece, Ireland, Italy, Latvia, Lithuania, Luxembourg, the Netherlands, Germany, Malta, Portugal, Slovakia, Slovenia and Spain. Denmark and the United Kingdom have refused to introduce Euro as their new currency.

Republic of Croatia has a very great experience from its own political history on how to end a multinational state (the Habsburg Monarchy and two Yugoslavias).

In such choices, are the European nation-states the greatest enemies of a unified Europe? Are we dealing with well-known European nationalisms just waiting to wake up again in some utter war? Answers to these and similar questions can be affirmative. Indeed, a new European war in which old European mutual animosities would float to the surface is not impossible. But this reasoning would be a too simplistic way of thinking and it seems without basis in the European reality. Perhaps a better explanation for these choices of Europeans lies in the fact that we can not live from beautiful ideas without content. Open, unique, legal, secular, socially sensitive, all available and attractive European Union inevitably brings realization of the idea of the four fundamental EU freedoms, as well as all elements guaranteed by the system of the so-called *acquis communautaire*, i.e. the common European acquis. This common framework has its clear ideological foundation, and for Member States (or those who want to become ones) is financially not neutral at all. On the contrary! If we consider the requirements which the candidate countries through the process of accession negotiations must accept (the existing 35 chapters) to comply with the acquis we can see that these requirements are fully in line with the political construction of new liberalism and by successful “passage” in such kind of a classification entrance exams state candidates confirm precisely their political, but also economic commitment (Staničić 2005). This, in terms of our line of argumentation, is a very important attitude because it reveals that although the European Union brings together members of all political spectrum (as can be seen in the representation of political parties in the European Parliament), in its everyday political practice, however, it acts in accordance with positions of neoliberalism. And the concept of the welfare state is in a continuous state of conflict with neoliberalism and this is exactly along the lines of a different basic philosophical approach about what should prevail – the concept and practice of freedom or action through the concept of the common good and democracy as the rule of the interest of majority. On this topic there is a remarkable study by an Italian philosopher of law and political science in his famous book *Liberalism and Democracy* (Bobbio 1992).

The main characteristics of the existing European social model is that the costs of welfare states remain at the level of European nation-states while at the same time it is expected that the social services should be available to supranational level – to citizens of individual countries, the ones that just moved in, immigrants, refugees and asylum seekers as well as all other Europeans who are looking to settle their business and/or to settle personally in the individual member states of the European Union. From this perspective, the request by David Cameron to do everything to make social programs of the Member States less appealing to everyone else becomes completely understandable. And it becomes completely understandable why the current European social model is not economically viable. Therefore, increased European nationalisms which we witness every day – and which even European leaders publicly warn are the greatest risk for the future of united Europe – are only the result of a supranational Europe designed with unambiguously national costs of their welfare states, and not their cause.

This understanding of reality essentially changes the attitude about the most serious problems currently occupying the EU – as to whether the European migrants (migrants from the EU who are moving from country to country within the EU), as well as the European immigrants (immigrants from around the world, mostly from north Africa, the Middle East and central Asia, coming to Europe as a promised land wanting to stay mainly in the rich countries of Europe: Germany, Sweden, Denmark, the Netherlands, France, Great Britain ...) are a real danger for the European Union. The understanding of the current situation is made even more difficult by the world view or way of thinking, which is inspired by the concept of a clash of civilizations (promoted by the authors of the book with the same title by Samuel Huntington) in which migrants and immigrants are seen as people whose main characteristic is that they belong to another and different cultural (that whether and civilization?) circle and that they differ in language and belief system (religion), which are some of the most prominent characteristics of culture.

Europe is, in the manner of promoted political correctness particularly sensitive to subtle forms of diverse discrimination (gender, sexual orientation, race, religious denomination, political affiliation, etc...) and it is this area that is the cutting issue in European public discourse. So we could divide the European concerned public into so-called “multicultural” segment that for itself seeks to snatch characteristics such as advancement, openness, modernity, liberty, of cosmopolitanism and the like. On the other hand there are the opponents of such an attitude, i.e. those who are invoking the traditional values, the protection of one’s own culture, solidarity, conservatism, national consciousness, and in doing so will call and state intervention in the resolution of existing problems (such as, for example, demand for military defense of national borders or legal hindering and/or limiting of immigration). All of them will interpret the existing reality in the wake of their own worldview about how the future of Europe should look like.

Both will, of course, point out those arguments that are in their favor. Thus, at the example of resolving doubts about the impact of migration on the economic situation in the UK, members of the aforementioned liberal option will refer to multiple research findings, which are mainly conducted within the institutions of the European Union or in the context of numerous scientific institutes, which clearly show that the population migration within the EU does not have a devastating effect on the social systems of the countries to which people come to, but on the contrary, migration promotes economic activity in the selected countries (Dustmann et al. 2010; Springford 2013; Poptcheva 2014; Devlin et al. 2014).

In addition, Martin Kahanec, a professor with the Central European University, points out that back in the 1990s the fear of the old EU member states was recognized that after the great European Union enlargement of 2004 and 2007 there will be an appearance of the phenomenon of migration of new EU citizens to rich countries precisely in order to obtain significant social assistance as an alternative to seeking employment. It was given its name – so-called “welfare tourism”. However, Kahanec points out, that one can argue that there was not much reason to fear because the migrants in 99% of cases decide to leave their home to other EU countries because of the search for work, which means that they do not intend to go to somewhere else to be on welfare. Migration within the EU is at the

level of 3.2% of the total European population,⁵ and the cost of social benefits to migrants within the EU does not exceed 1% of social transfers in countries such as Austria, Bulgaria, Estonia, Greece, Malta and Portugal, and this percentage is between 1% – 5% in the countries that are the most common countries of destination for European migrants (Germany, Finland, Sweden, the Netherlands and France). It is interesting also that for the medical assistance to migrants goes only 0.2% of health expenditure in the countries providers of social benefits (*Recent EU Migrants Entitlement to Welfare*, internet; *Mobile EU Citizens and National Social Security*, internet). These are all indications that the fear of migration is in great part an imaginary fear that the media primarily uses for the purpose of daily political competition and promotion of interests of certain policies.

On the other hand, members of the conservative worldview will justifiably question the morality of the situation in which more generous social benefits are obtained by those who have just arrived in a country in relation to people who, for example, have been paying state taxes and contributions their entire working life (such examples are many in the countries of EU, and in media the most prominent are those of Sweden and Denmark), and will also use arguments to look at quite inadequate policies of integration of immigrants into local communities (examples of Roma slums or Muslim communities in France, Germany, the UK and elsewhere).

The ever stronger division of the European public, regarding this issue, inevitably entails tightening the overall European political scene (that is most clearly seen in the strengthening of the extreme options that are participating in the electoral processes in the Member States of the European Union), and contributes to the more common examples of radical Islamism which drives frightening terrorist activity in Europe and around the world. This radicalism is, on one hand, guided by the idea of proselytism⁶ and jihadism,⁷ while on the other hand it may be led by the desire to undermine the existing European political and ideological system or simply as a revenge for the participation of some European countries in the military campaign against radical Islamism in the Middle East. These occurrences are doubly harmful. First, there is a direct damage to the innocent victims of these terrorist actions. And secondly, in a direct way harm is done to the Muslim community in Europe, who themselves are becoming victims of increased Islamophobia driven by crimes committed by religious fanatics in the name of Islam.

It is a known political science fact that radicalisms feed each other. They are contributed by lack of information of people and the media promoted fear. As a result of such an environment, like a self-fulfilling prophecy, the negative news becomes our reality. And Europe from a proclaimed open and inclusive society is becoming a closed and exclusive community.

5 Looking at the real numbers it is still 16 million people who sought their fortune elsewhere within the EU.

6 Proselytism – (from the Greek. *Proselythos* – newcomer) indicates the intrusive and sometimes violent and fanatically recruitment for a religious community, a political group or for certain worldviews in order to gain as many new supporters (proselytes).

7 Jihadism – militant efforts to realize an important religious obligation for Muslims, which requires each member of this community to do everything in order to preserve, protect and spread the Islamic religion (Jihad). In the western world, the term jihadism is often translated as “holy war”.

In order to reform the existing model of the welfare state, the Republic of Finland decided to make a kind of a revolutionary breakthrough and has launched a social experiment called *guaranteed minimum income*. The primary intent of this idea (which is currently still in the experimental stage on a small sample of people who participate in the experiment), is to see whether the state guaranteed income (which would abolish core fear for ones own existence), have the effect on people to be more entrepreneurial and economically active as they can do what they love and what they feel best, while not wanting to meet their basic needs. This maneuver would at the same time abolish the high costs of income redistribution that exist within the existing model of the welfare state, while on the other hand, it would move citizens away from poverty. And while we wait for the results of the social experiment, which sees both praise and criticism, we note two important facts. First, for such an experiment to succeed Republic of Finland must be a sufficiently rich society that can meet the cost of the experiment (especially if this is applied to the total population of Finland). That wealth should somehow be gained and someone must finance it. And secondly, this experiment is primarily a national project of the Republic of Finland and if it is moved to its full realization it would refer exclusively to the citizens of the Republic of Finland, which is a great difficulty in the context of the membership of the Republic of Finland in the European Union and respect for the rules of 4 fundamental European freedoms. If the political elite in the Republic of Finland estimate that this is a good enough model for citizens of Finland, perhaps they, like the UK could opt out from the European Union to be able to freely carry out their social policy. But it also means to re-raise their own national borders.

That the Europe is increasingly closing (and this is at the level of the EU, as well as at the level of individual Member States within the EU) is not a phenomenon of the new age but a permanent identified direction. This is perhaps best reflected in the public opinion of EU citizens towards the issue of its possible further enlargement (in particular the countries of the Balkans, but also Turkey). All relevant research by the Eurobarometer, which is an integral part of EUROSTAT, show that the resistance of EU citizens towards its further expansion is rapidly increasing (*Public Opinion*, internet). Thus it is now evident that the number of those who oppose further EU enlargement has become the majority in 13 EU member states, with further such a tendency and the rest of its members. Once the idea of European integration was the backbone of its social, economic and political integration. The opportunity to become a part of the EU was the main driver of reform potentials of candidate countries, which saw their chance for development in the EU. However, today there are countries that are already officially leaving the EU, while the European Union fears about the political options that will win on the elections in the European countries and whether they will go down the same road. In such circumstances a new (old) crack is opening in the foundations of the European Union.

4. Europe at the Crossroads

From the previous arguments we find that for the European Union potential enemies are not just (“some distant, foreign and different”) Syrians, Iraqis, Afghans

and other nations of mainly Muslim religion and darker skin than the Europeans, but the “enemies” are also white-skinned Christians from other countries of the EU member states who come to “our” country, exploit “our” blessings of “our” welfare state. In fact, all who come to us potentially become our enemies. Therefore, we can be justified in asking the question: to what is the open, multicultural and transnational European Union transforming? As we can see, the words of David Cameron have not even been addressed to foreign immigrants in the European Union but primarily to citizens of other EU countries. At the same time, immigration policies of the German Chancellor Angela Merkel are diametrically opposite to the policies of Great Britain and Hungary. She continuously accepts the vast majority of asylum seekers, and as the reasons for this states a more powerful argument. First, she thinks that they should help people in need. Second, she is fulfilling the constitutional obligation of Germany on the acceptance of asylum seekers.⁸ Third, she wants to be an example as a society that the modern European Union should become. And fourth, she contributes to the future economic viability of the German economy which is already missing workforce. But even such Angela Merkel in a speech to young members of her political party the Christian Democratic Union (CDU) stated that “multiculturalism as a project in Germany has completely failed and that multiculturalism is actually dead” (Weaver, internet). The recent terrorist act in Berlin only contributed to further collapse of the political influence of Chancellor Merkel, and her announcement that she wants to re-run for chancellor has the least support throughout her political activities. Instead in the political arena throughout the EU the right option, which is often attributed the title of political radicalism, is becoming stronger and stronger. This primarily refers to the political options and parties in countries that was holding elections during 2017 as Germany (Pegida) and France (National Front), but also elsewhere in Europe as e.g. in Denmark (Danish People’s Party), Hungary (Fidesz), Finland (Real Finns), Sweden (Swedish Democrats), the Netherlands (group of right-wing parties which together won 2/3 of the seats in the Norwegian Parliament) and elsewhere.

The cause of the strengthening of the radical political options, as we have seen, is not in the migrant crisis, or unexplained strengthening of European nationalism, but it is the result of fear of people that their national welfare state is jeopardized and their social protection. That the sustainability of European welfare states is threatened is an indisputable fact, but they would be endangered without immigrants and the potential risk that among them are people willing to undertake terrorist actions. European national welfare states are in crisis by the fact of long-term economic stagnation, unfavorable demographic situation of Europe, lower labor productivity in Europe compared to other parts of the world, unrealistic promises of states on the amount of social transfers to households and consequent excessive expectations of that population addressed to the country as their protector virtually from the cradle to the grave. In such circumstances, the European Union may be a less socially functional community, so it is logical that the citizens of Europe

8 Constitutional definition of acceptance of persons seeking asylum in Germany (under the conditions prescribed by law, such as language proficiency or proof of persecution in the country of origin) is the result of post-war Germany’s efforts to become a multicultural and open society so that the ideology of Nazism would never again take root in Germany.

are turning to new options, especially those that in the wake of radical thinking about the common enemy and the need to combat it, offer simple solutions. But such solutions are usually the most dangerous because they represent only a small step to the expansion of various prejudices that typically end up in some form of discrimination. In doing so, the targeted group can be truly anyone by any criterion, depending on the prevailing media image that is created in public.

Therefore, the first real victim of scattering European national welfare states is the very proclaimed solidarity and openness of the multi-ethnic and multi-religious European Union that encourages the free flow of people, goods, capital and services on their territory within which mutual borders are abolished and a common European currency is being used.

As a defense against such a scenario the citizens of Europe are being offered a closed-door policy, raising walls and wires on each other's borders, creating a rift between the richer north and the poor south and the expulsion of all others and different. And since no one is the same, colloquially we could say that the "hunt is on" in Europe.

5. Conclusion

The welfare state is a concept and a project that was originally created exactly here in mainland Europe, and represents its important contribution to modern, civilized and solidary society which has been adopted, to a greater or lesser extent, by almost all countries of the world. Based on the idea of mutual support, the welfare state offer to its citizens a whole set of social services that make life easier to people in case of need. An important feature of this social model is that it works primarily at the level of nation states because it is also a way of its funding. In addition to the fact that the welfare states due to objective circumstances over the world are facing considerable difficulties in functioning, those in supranational political communities, such as the European Union, are faced with numerous additional challenges. Due to the inability to meet the needs of all those who appear as seekers of help, increased hostility between the local population and the newcomers whether it was about the European Union citizens from other Member States or the people who come from all over the world to find their life's happiness in Europe. And while those who come from abroad see in Europe a kind of salvation, and to the parts of the world affected by war or poverty it certainly is, locals in these people see a threat to their way of life. In such circumstances, and supported by radical political options to find their place in the political life of the European Union as well as media campaigns produced by the so-called seventh power, Europe is becoming a breeding ground for various forms of prejudice that potentially leads to violent behavior. With such times Europe historically has a very bad experience and we should be careful to recognize them in order to avoid possible bad scenarios in time. The entire situation is exacerbated by the fact that in the geopolitical sense we live in a much more tense time that brings with it an increased number of terrorist actions that are also increasingly and more brutally affecting European states, which enables European radicalism to further gain strength. Therefore, it is utterly wrong to look for blame for the current situation in others who are different from

us no matter according to which criteria we look at these others and from where they come. Much closer to the source of the real problem would be if we put focus on the merits of the matter. And this is primarily a question of existing models of social and public services that offer the sustainability of European national welfare states. So it is a question of reform and survival of welfare states that will be the source of future integration or dissolution processes in the European Union.

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Ivor Altaras Penda

Evropske nacionalne države blagostanja i raspad EU

Apstrakt

U ovom radu se ispituju uzroci istaknutih radikalnih političkih opcija i ponašanja, koja se već mogu svakodnevno primetiti u Evropskoj uniji. U javnom diskursu je prisutno pojednostavljeno uverenje da su za ovakvo stanje najpre odgovorni imigranti, kao i strah izazvan terorističkim napadima širom Evrope ili stari evropski latentni nacionalizam. Mada ovi elementi nesumnjivo doprinose razvoju radikalizma, autor tvrdi da se ključni izvor ovog problema nalazi u poteškoćama sa kojima se susreću evropske nacionalne države blagostanja. Ovo je izvor još veće uzajamne netolerancije među građanima Evropske unije, što može da se ispolji u različitim vidovima političkog, kulturalnog, ideološkog i fizičkog konflikta. Na osnovu ovih argumenata, autor zaključuje da, i pored toga što Evropska unija zaista jeste istorijska prekretnica, stvarna opasnost da se Evropska unija raspadne ne leži prevashodno u kulturalnim, civilizacijskim, konfesionalnim, bezbednosnim ili geopolitičkim izvorima, već njen izvor prvo treba sagledati kroz prizmu Evropskih nacionalnih socijalnih država i očekivanja njihovih građana.

Ključne reči: Evropska unija, blagostanje, raspad, radikalizacija

IV

REVIEWS

PRIKAZI

ELIZABETH S. GOODSTEIN, *GEORG SIMMEL AND THE DISCIPLINARY IMAGINARY*, STANFORD UNIVERSITY PRESS, STANFORD, 2017.

Dejan Petrović

Barely anyone reads Simmel today, except those who are within relatively small circle of specialists concerned with the work of German author. Elizabeth S. Goodstein, Professor of English and Liberal Arts at Emory University, starts her analysis from this, rather depressing, point. There are two basic questions that Goodstein tries to answer in this book. First, why Simmel, who was marginalised in German academia during his life, remains in that position nowadays, despite his canonization as one of the founders of sociology, and second, how can his work contribute to the understanding of contemporary, ruthlessly changing, world?

At first glance, it can be said that Simmel's treatment within contemporary sociology is no better or worse than a number of authors who worked shoulder to shoulder with "the great three", Marx, Weber and Durkheim, like Tönnies, Sombart, Worms, Tarde or Michels, to name a few, who got some recognition as a kind of "second or third tier founding fathers" and are mostly forgotten today for various reasons. But beneath this level lies complex question that concerns mechanisms of remembering and attitudes toward disciplinary history as important parts of collective identity shared by one scientific community. In other words, why some things are remembered and

celebrated, while others are, more or less deliberately, forgotten?

In Simmel's case, disciplinary boundaries, unquestioned between today's producers of scientific knowledge, caused unrecognition of liminality of his work. Goodstein underlines that his work wasn't philosophical or sociological and in the same time it was both of them. Because of that, Simmel's canonization as one of sociology's founders that completely ignored important philosophical aspects of his work is part of the problem (p. 8). As author of this book points out on the account of her objectives: "Thinking his [Simmel's] liminal position can open a new and urgently needed perspective on the contemporary intellectual world, where disciplinary divisions of dubious ontological purchase have become deeply naturalized features of our mental and institutional landscapes" (p. 9). But this ambitious goal that Goodstein sets for her study was only partially attained.

Considering book's structure, it is divided into three parts. In the first part Goodstein shows a brief review of Simmel's academic career while examines the way in which his work was incorporated in anglophone, or more specifically, American sociology. The second part is concerned with Simmel's most famous book *Philosophy of Money* and here Goodstein tries

to show richness and complexity of German philosopher's thought that is mostly overlooked in today's sociology but also in philosophy. In the third part American author revisits Simmel's canonization as one of sociology's founding fathers and offers liminality that characterises his work as a cure for ossified and problematic disciplinary divisions. It should be added that Goodstein reconstructs evolution of Simmel's thought throughout the book, from his early works influenced by positivism and evolutionism through relativistic turn in Simmel's mature work to further development of his relativistic philosophy and philosophy of life in years that he spent in Strasbourg before his death.

Although Simmel's thought was changing throughout his life, Goodstein argues that there is common thread connecting mentioned phases. That thread is his desire to understand world at the turn of centuries, characterised by rapidly changing reality in which Gods met their demise and science rose to shape new hegemonic worldview. Young Simmel believed that sociology could deliver answers for the world in flux, at the end of nineteenth century. But at the beginning the twentieth century he realized that sociology wasn't enough. Philosophy was needed because sociology could give only partial answers and only from the standpoint of that particular science. Questions concerning meaning and purpose that continued to occupy human thought in the time of change, even harder than ever before, only philosophy could answer. That was the main reason why Simmel's work continued to exist in between disciplines.

As Goodstein's argument continues, liminality of Simmel's work caused hostile attitude towards him in German academia circles, particularly defensive of existing disciplinary order threatened by emerging social sciences (pp. 38–39). Behind this lies the reason for the lack of academic recognition that Simmel felt throughout his whole career and for his late appointment to the university position that came only few years before German philosopher's death. On the other hand, Goodstein's

explanation of contemporary marginality of Georg Simmel, or to put it in other words, his status of founding father whose works are barely read by anyone, is founded in the history of American sociology.

Above mentioned explanation has two components. On the one hand, as a result of personal contacts that existed between Simmel and pioneers of American sociology, such as Albion Small and Robert E. Park (pp. 98–99), parts of German author's works have been translated relatively quickly after they were originally published. But translation of his books in English in their entirety lagged considerably behind. Extreme case is greatly revised second edition of *Sociologie. Der Untersuchungen über die Formen der Vergesellschaftung* published in 1908 which remained unavailable in English until 2009 (303). Highly influential textbook edited by Ernest Burges and Robert E. Park *Introduction in Science of Sociology* which appeared in multiple editions between 1921 and 1979 contained ten selections from Simmel's work (p. 100). Goodstein argues that this appropriation by bits and pieces, without connection to larger works that they are part of resulted in creation of image of Simmel as influential but unsystematic and too essayistic author (p. 118).

On the other hand, dominance of pragmatic and research-oriented vision of sociology with Paul Lazarsfeld and Robert Merton as its most prominent figures in post-World War II American sociology left little space for Simmel's relativistic and heavily philosophical social theory. Works of German author were located in the realms of discipline's pre-history and read without taking in account historical context in which they were created and referred to (pp. 115–118). Although this type of structural-functionalism was later rightfully criticised, Goodstein continues, twenty-first century American sociology is still characterised by "a fairly unsophisticated empiricism" and "ethic of instrumental activism" (p. 119).

At study's end Goodstein states that reading Simmel today can provide us with epistemological tools that continuously

question existence of disciplinary orders. In other words, knowledge needed to understand contemporary, always changing, world must not be constrained by disciplinary boundaries but like Simmel's thought it should be free to roam between different domains of human existence (p. 330).

If we turn now to the problems characteristic for Goodstein's study, it will become apparent that they are caused by omissions in author's arguments. In her explanation of Simmel's academic marginality during his life, implications of his Jewish ancestry are downplayed. The fact that Simmel was financially well off assimilated Jew who tried to get professorship in one of the state university centres in anti-Semitic Wilhelmine Germany deserves more than few footnotes. This also applies to his connections to socialist circles in Berlin that were only casually mentioned in Goodstein's study. On the other hand, accusations of German nationalism made by scholars after World War II caused by Simmel's support of German war efforts at the beginning of the Great War, were mentioned in the same manner. Although he later condemned war as catastrophe and suicide of European values (p. 338) and because of that was in danger of losing professorship in Strasbourg, his early enthusiasm could have the impact on reception of his work.

There are great problems concerning Goodstein's perception of sociology that make her analysis of reception of Simmel's work inadequate. This author views sociology as monolithic discipline and implicitly equates American sociology with sociology in general. This is erroneous standpoint because of number of different theoretical perspectives, national and research traditions, sometimes with great differences between them, that constitute body of knowledge called sociology today. The same applies to Goodstein's view of American sociology. No matter how strong position of American sociology on international scale is, to implicitly treat it as a sociology in general in 21st century is deeply dubious position. Goodstein's standpoint

weakens even more if it is added that most of the theoretical innovations in this discipline in the last three decades came from Europe. To put it differently, if there is a great injustice done to Simmel's work in American sociology, what is its fate within other national sociologies? Goodstein's study cannot answer this question.

In similar manner Goodstein ignores rise of micro and relativistic theoretical perspectives that occurred in United States in the late sixties and early seventies, and great impact of postmodernism on sociology in general during the eighties of the previous century. These perspectives were also characterized by qualitative research program, making them more open to Simmel's influence. It is easy to understand why German philosopher's work was misread or greatly ignored within Parsonian or Mertonian structural functionalism, but what is the case with inherently relativistic theoretical perspectives like constructivism or postmodernism? All this remains in Goodstein's blind spot because of her perception of sociology.

Finally, there is a little of Simmel in this study that has his name in its title. To be more accurate, there isn't much space given to Simmel from where he can speak through his work to a reader. This is a strange thing for a study whose author spent a lot of ink trying to convince her readers of values of Simmel's relativistic approach to social reality. As it is mentioned before some important biographical facts are only casually mentioned and Goodstein's interpretations are in times too tiresome, but in the same time author positions herself as interpreter of Simmel's work whose interpretations are more truthful than others. With this in mind it is difficult for a reader to come independently to conclusion what Simmel and his work can provide to understanding of social reality in the first decades of 21st century, which was, when all is considered, Goodstein's main intention.

In conclusion, if we put above mentioned problems aside, it can be said that Goodstein's study is noteworthy one. This is the case because serious studies of Georg

Simmel's work and life are unfortunately rather rare today and every attempt to better understand vast legacy of this imaginative and innovative thinker is certainly welcomed. Problems characteristic for this study can be related to the complexity of

its object and American author should be congratulated for the courage to explore this theme. Hope remains that similar studies will follow and *Georg Simmel and Disciplinary Imaginary* presents important referent point for them.

ANNE DENEYS-TUNNEY AND YVES CHARLES ZARKA (EDS.), *ROUSSEAU BETWEEN NATURE AND CULTURE: PHILOSOPHY, LITERATURE, AND POLITICS*, DE GRUYTER, BERLIN, 2016.

Janos Kun

Rousseau Between Nature and Culture: the title of the collection of essays straightaway evokes our most essential understanding of Rousseau's oeuvre, the antithetical relation of nature and civilization. The collection approaches this relation on three different levels, reflected by three parts: the first, *Technology: Between Nature and Anti-Nature*, poses the very question of the natural man versus the modern man depicting the human being as the subject in its physical and moral existence in Rousseau's work. The second part, *Politics and Ethics: Beyond Nature/Culture Polarity*, develops this further, but instead of the individual it turns to the political in man, as the product of the subject emerging at intersections of nature and culture. As a synthesis, the third part, *The Philosophical Novel: Culture as Nature's Supplement*, reconciles opposing entities (nature-culture; individual-society) and indicates possible ways that Rousseau proposed to step out of the binary, mutually exclusive oppositions.

In order to present the originality of this volume and the novelty it brings to existing scholarship, it is important to be familiar with certain fundamental concepts in Rousseau's philosophy. Therefore, these will be reviewed here along with the findings and ideas presented in the essays. The compilation itself builds

upon well-known notions to many readers: the very aporia between nature and culture is embodied by the famous *Second Discourse* or the *Discourse on the Origin and Basis of Inequality Among Men*, written in 1754. Widely read and taught even today, the emblematic text of the Enlightenment opened new ways of questioning the political, anthropological and ethical horizons of modernity, and continues to do so. Modern anthropology and philosophy (e.g., Lévi-Strauss, Derrida, Starobinski), simply put, would not be the same without the elemental questions raised by Rousseau: what is natural in man, if anything, and how could we preserve it? Could men, living in a corrupted society, return to the ideal (natural) state of humanity, if it ever existed? But most importantly: what is the artificial, what constitutes culture in our societies? Rousseau's importance is twofold: being inherently part of the Enlightenment, his inquiry into the natural – feeling, law and moral – of man, made him simultaneously the counterpart of the mainstream Enlightenment philosophy.

However, as this compilation ingeniously underscores, the full extent of the *philosophe's* questions and possible answers is not limited to this particular text. The oeuvre of the Genevan thinker is a web of ideas, where the reader can find multiple

aspects of the relationship between nature and culture, meticulously interwoven with distinct levels of the social and individual man. The critical approach adopted in these studies assumes that this duality (nature/culture) dominates all of Rousseau's work – from the autobiographical writings through the political and pedagogical essays to the novels – and thus, makes it possible to comprehend the *philosophe's*, oftentimes paradoxical, system as a whole. Reading and analyzing the *Second Discourse* detached from its immediate intertext, which remains a common practice among scholars even today, at best leads to a fragmentary understanding of Rousseau's impact on contemporary thought, or to misinterpretation at worst.

Following the different facets of man's social state where this fundamental complementarity is disseminated, the studies are grouped into three main parts. The logic of the arrangement of the articles follows that of Rousseau's reasoning: before we can arrive at the abstract, and playfully transcendental query about politics, the thinker returns to the question of the pre-social and the pre-moral in man. That is because man, before sealing the "social contract," i. e. creating an ever-changing community with the Other, had already been subject to two primal qualities that predetermined the fabric of society. These two attributes, which constitute man before the creation of society, are *love of oneself* (*amour de soi*) and *pity*. Consequently, when Rousseau turns to an idea of a pre-moral man, he takes on one of the central concepts of his contemporaries: the savage man, who, metamorphosed through the lenses of modern European morals is presented as the noble savage (*le bon sauvage*), is an antipode of the modern social man (e.g., as he appears in various works of Voltaire and Diderot). Nevertheless, for Rousseau, the fully pre-civilizational does not exist, given that culture is not contradictory to nature, but rather its continuation – whether this is a positive or negative evolution is an entirely different question for him. Hence the need for the characteristics mentioned above that are at once inherently human

and natural. It is important to emphasize that, in opposition to Descartes, but also to Locke, Rousseau does not assume the existence of innate ideas nor the dominance of sensations in the development of society (Knee, pp. 30–31). It is rather the natural feeling of being that leads to new sociability: "We did not begin by reasoning but by feeling" (*Essay on the Origin of Languages*, Chapter 2, 1781).

This transition is best illustrated in the *Essay on the Origin of Languages* where the *philosophe* hypothesizes the emergence of the first human communities. It probably seems self-evident to us now but associating the advent of society with the evolution of language – which is no longer a cultural artifact or a tool, but the foundation of any civilization – was yet a novel idea in the 18th century. Rousseau's anthropological approach thus presumes that human associations and communication were, at least in part, not born from primal or instinctive needs, as those would essentially scatter the population on the face of Earth, but from feelings bringing them together. These feelings, as mentioned earlier, are love of oneself and pity: they require a short explanation to demonstrate how these natural feelings – natural as in they are perfectly present in animals as well – in the end, provide a passage to culture. Love of oneself or *amour de soi*, which is not to be confused with its corrupted form, self-love or *amour-propre*, is an essential attribute in Rousseauist thought. It is the inner feeling of existence, an instinct of self-preservation without which no species could survive: a life-instinct in other words, but also the voice of nature that attaches the Self to the Other. Because if one wants to persist in existence, this means that this other being must feel so as well. For that reason, the other pillar of the natural man is pity: an inner feeling that the Other must also have the same sense of pain, hunger, and fear as I do. As a consequence, the Self as an individual entity becomes capable of identifying with the Other, and thus the first bond between beings is created based on the pure love of oneself, which is ultimately the love of the other. It is essential

to emphasize – as does the very first article written by Pierre Guenancia – that this feeling of pity is not merely compassion. The latter would not convey group identity, which, in the end, is prerequisite to the formation of any society: “If the cogito consisted in distinguishing the self from what not-self, pity consists in identifying the self from what is not self” (Guenancia, p. 24).

Nonetheless, these feelings of love of oneself and pity do not remain untouched, and it seems that our societies are irreversibly based on a false contract, marked by the act of enclosure. Founded on violence and force, rather than consent, modern society quickly degrades passions and morals, and Man succumbs to what Rousseau names self-love (*amour-propre*) and becomes the slave of the Other’s gaze. Self-love gives way to inequality and individual identity, however perverted, as it presents itself as a spectacle to others: luxury, selfish gain, and love for power; all nourish this newly acquired excess of artificial needs, propelled by the desire of being seen. Being in nature is thus supplemented by being seen or seeming: “Looking is a splitting faculty that divides being and seeming and thus leads the way to the great stage of the civilized world and, in so doing, introduces the leaven of corruption” (Lojkin, p. 52). Subsequently, the deformation of love of oneself to self-love establishes a continually deteriorating political, anthropological and ethical stance which in fact is anti-nature and anti-republican for Rousseau.

The first part of the book, consisting of five articles, undertakes the interpretation of these principal notions in relation to the transition of man from nature to culture and technology, or rather man’s alienation from nature for the benefit of self-love. The second part, *Politics and Ethics: Beyond Nature/Culture Polarity*, takes a step further and examines the political and moral ramifications of the Rousseauist thought. Here, his work – in particular, the *Social Contract* – is read along with Machiavelli, Hobbes or Carl Schmitt, and thus becomes painstakingly timeless and contemporary to us. The articles unfold central ideas of the *philosophe*,

such as the general will, sovereignty and the social contract itself, and one cannot help but see our era, particularly the worrisome processes currently vitiating, corrupting and consuming our democracies, mirrored in these argumentations. The image of the Sovereign followed through the ages, reappears with Rousseau, but under a different cloak. As the figure who suspends or limits some or all democratic institutions during a crisis by delegating power to the executive branch – in order to safeguard and reinstate those once the menace is dissipated – is a familiar picture to the 21st century citizen who very recently experienced the state of emergency in Western democracies after the terror attacks. Rousseau’s political thinking not only foresaw the possibility of imbalance in power but coded the Sovereign, becoming the Dictator with Carl Schmitt into the normal functioning of modern societies. Can we, in fact, tell democracy from dictatorship today? As these studies point out, Rousseau’s notions of contract and general will – both the product of the love of oneself and pity – could help us understand our sovereignty in our modern republics.

The third part of the collection, *The Philosophical Novel: Culture as Nature’s Supplement*, offers a reading of various texts from the vantage point of the educator. The essays, primarily relying on the tenets found in *Emile ou l’éducation*, accentuate the possible reassimilation of the natural into culture. Education, just as gardening for *Julie*, does not prepare the child to enter society as an ideal „Citizen,” but to be a free subject in a society that has been fundamentally corrupted (L’Aminot, p. 183). In the end, Rousseau does not advocate for returning to a fictitious ideal state but proposes acknowledging nature’s presence and recognizing culture in its supplementarity to Nature. The term supplement, rich in significance, theorized by Derrida (*Of Grammatology; Structure, Sign, and Play in the Discourse of the Human Sciences*) is construed in relation to various texts, which comes into play with and modulates our understanding of the *philosophe*’s definition of Nature.

Analyzing the critical notions mentioned above (love of oneself, self-love, pity, general will, supplement, etc.) is undoubtedly the best way to approach Rousseau's philosophy; nevertheless, this collection undertakes this task by juxtaposing the Rousseauist concepts with our current vision of nature. That is a crucial contribution to existing scholarship because it posits traceability of an impending ecological threat, such as the exploitation, abandonment, and destruction of nature, which goes hand in hand with the establishment of an artificial, corrupted society. Rousseau thus offers a new way of thinking when it comes to our unilateral relation with the environment and its resources whose finality becomes increasingly palpable in our era. His theories do not solely apply to the abstract substratum

determining the structuration of our societies (e.g., inequality and the organization of modern democracies), but they can raise more tangible issues: could our current environmental catastrophe be caused by the same, voluntary detachment from Nature that created our modern societies? Is there a way to reverse this process or find a remedy to it and if so, can we discover it in the current state of affairs or do we need to reevaluate our subjectivity – corrupted by self-love – in relation to the Other on the social, moral and political level in order to prevent the devastation of Nature?

This collection of essays sheds light on the value of Rousseauist thought in the 21st century: facing new political and ecological challenges, our expanded civilization could once again turn to the illustrious figure of the 18th century for enlightenment.

JULIE L. ROSE, *FREE TIME*, PRINCETON UNIVERSITY PRESS,
PRINCETON, 2016.

Marko Konjović

Liberal egalitarian theories of distributive justice focus predominantly on determining what a just society owes its citizens in terms of material resources (such as money), opportunities (such as the chance to obtain an education, to secure employment, to buy insurance, and to participate in political life), welfare, or capabilities. However, they tend to say nothing directly about the time people have available to pursue the ends they choose. Julie L. Rose's *Free Time* spotlights this omission.

Rose's specific concern is, as the title of her book indicates, *free time*, defined as "the time beyond that which it is objectively necessary for one to spend to meet one's own basic needs, or the basic needs of one's dependents, whether with necessary paid work, household labor, or personal care" (p. 58). Working within the boundaries of liberal egalitarianism that is committed to anti-paternalism, anti-perfectionism, and state neutrality (pp. 27–30), Rose argues forcefully that free time should be regarded as a separate and vital resource or opportunity, alongside money and other goods that figure prominently in theories of distributive justice. She further attempts, in a less developed way, to draw out the implications of recognizing free time as an independent concern for distributive justice in regulating working hours, as well as in assisting caregivers generally and parents specifically.

But, why have liberal egalitarian theories of distributive justice ignored free time in the first place? After all, it is during those hours in the day when we are not sleeping, doing housework, buying essentials, and earning enough "to attain a basic level of functioning in one's society" (p. 58) when almost all of what we really care about occurs. Rose offers two explanations for this neglect.

In Chapter 2, Rose provides a very good and useful summary of what political philosophers, such as John Rawls (1974 and subsequent writings), Michael Walzer (1983) and Phillippe Van Parijs (1995), have said on the topic. She characterizes these discussions as being about time as a specific good (which she labels as 'leisure'), whereas she is concerned with time as a general good (which she labels as 'free time') and thus as a resource in its own right (a claim defended in Chapter 3). The distinction between specific and general goods is that the former are "*particular* goods that one requires to pursue one's *particular* conception of the good," while the latter are "*all-purpose* means that one generally requires to pursue one's conception of the good, *whatever it may be*" (p. 27. Emphasis in the original).

In Chapter 4, the book's "normative core," however, Rose offers a different and more appealing explanation. Liberal egalitarians, namely, assume that if money,

opportunities, or other resources are distributed justly, everyone will have plenty of time left to spend as they please, whether in play, additional work, civic or religious activity, or whatever else matters to them. The *time-money substitutability claim*, Rose contends, is mistaken.

The time-money substitutability claim is false because it rests, according to Rose, on two further assumptions, both of which are false. The first assumption is *the perfect divisibility of labor demand*: namely, the assumption that “all individuals can freely choose to reduce their hours of paid work to the level they prefer” (p. 68). This assumption is empirically untrue: most employees cannot decide to work shorter hours if they like for reduced pay, jobs often specify working hours with little or no flexibility, and a variety of factors push employers to demand more rather than fewer hours from their workers, often in the form of nondiscretionary overtime (pp. 77–80).

The second mistaken assumption is *the perfect substitutability of money and basic needs satisfaction* which holds that “all individuals can unobjectionably meet their household and bodily basic needs by purchasing goods or services in the marketplace” (p. 68). However, some activities cannot be bought with money, such as sleeping or grooming, and for those whose (special) needs are extremely time-consuming to satisfy money is of no use (pp. 81–83). Moreover, under some social circumstances, Rose argues, hiring somebody to help meet one’s household or bodily needs presents a threat to civic equality. Even when those (unspecified) social circumstances do not obtain, “citizens may reasonably believe that hiring the services of another to meet their household and caregiving needs may undermine the personal goods of commitment and intimacy in their relationships, degrade the value of the labor itself, or injure their own personhood” (pp. 83–84).

Chapter 4, furthermore, offers a defense of the book’s central claim: all citizens are entitled, as a matter of justice, to their fair share of free time. The core

argument relies on the widely endorsed *effective freedoms principle*, which states that legal freedoms are not enough for liberals: citizens need to be able to effectively use their formal liberties and opportunities. Free time is, hence, a precondition for the effective freedom to participate in politics, religion, and family life, as well as to exercise central rights such as freedom of speech, assembly, association, and occupation. Far from being trivial or illiberal, free time is necessary both for autonomy and for access to most of the fundamental liberal rights (pp. 69–74).

If we have a right to free time, as Rose argues, what institutional and policy changes would follow? The last two chapters of the book attempt to sketch out some of the implications.

In Chapter 5, Rose argues that for free time to be useful, at least a significant portion of it must be made available in a way that allows people to take real advantage of their freedom of association. Rose surveys three possibilities to accomplish this goal: universal basic income, mandated flexible working hours, and a common period of free time. Providing a universal basic income that offers abundant free time to all, however, may not be economically or politically feasible. Complete discretion over working hours, similarly, is likely to prove impractical. Rose, thus, advocates for a common period of free time, such as Sunday closing laws. In order to avoid her proposal from conflicting with economic and religious liberty, Rose argues that voluntary work on a rest day will generally not be prohibited; rather, what is important is that workers are able to refuse to work on Sundays. So, it is *access to a common period of free time* that is guaranteed. As for those who would have to work on Sundays anyway – such as the police, nurses and medical doctors, childcare providers, and transportation workers – they should do so voluntarily or on a shared rotation, Rose argues, and employers could be prohibited from inquiring about someone’s willingness to work on Sundays or from providing a higher salary or benefits to those who do, to further protect a person’s

right to effective freedom of association (pp. 93–111).

Chapter 6, finally, aims to show that free time must be guaranteed to caregivers generally, and specifically (and more controversially) to parents. Many people, the vast majority of whom are women, relinquish some of their free time to care for others. Focusing particularly on the time parents spend on caring for their children, Rose recognizes that some liberals believe that children “are personal projects like any other, and parents have no more claim to additional public support to pursue their particular conceptions of the good than do any other citizens” (p. 120). Without offering new arguments, however, Rose endorses the opposing claim that children are public goods; those who benefit from childrens’ existence should contribute to the cost of bearing, raising, and educating them (pp. 120–123).

Not surprisingly, Rose concludes that citizens with caregiving responsibilities are entitled to either (i) *publicly funded care* – that is, publicly funded (though not necessarily publicly provided) care services that are either free at the point of use or heavily subsidized for those engaged in full-time work, or (ii) *publicly funded income subsidies* – that is, publicly funded payments made to those caring for others directly and full-time. The first option provides citizens with a break from the demands of caring, while the second option provides citizens with disposable income. Rose also contends that citizens must be provided with (iii) *workplace accommodation* – that is, regulations that provide periods of publicly funded paid leave, part-time contracts, and flexible working hours (pp. 124–126). After all, to deny people the time and resources for direct caregiving would be to deprive them of one of their legitimate interests; to commit them to full-time caregiving would be to deny them occupational choice.

Free Time is certainly an admirable defense of a neglected issue in political philosophy. Although there is much to agree with, there are some pressing concerns. Due to limited space and the density of

Rose’s arguments, I shall only mention one substantive and two strategic.

Perhaps the most vexing issue is that Rose focuses throughout the book on the amount of free time citizens have per week. She is mysteriously silent, however, as to why (only) such a way of measuring our free time should be relevant. For, wouldn’t the amount of free time a person has across her adult lifetime be an equally (if not more) appropriate concern? Imagine Anne and Becky, both at the age of 25. They have exactly the same working hours and same caregiving responsibilities throughout the week; likewise, they spend the same amount of time on other necessary activities, such as personal care. In other words, they have an equal amount of free time per week. The difference between Anne and Becky, however, is that Anne will only live for another five years, whereas Becky will live to be 80 years old. With her shorter lifespan, Anne suffers a corresponding free time deficit; that is, Anne will have less free time *overall*. What would be a fair share of free time for a person who is expected to live 30 years only and for a person who is expected to live 80 years?

Even if we were provided with an argument to the effect that it is free time per week that matters normatively, two strategic worries arise. First, Rose’s approach to liberal egalitarianism is highly ecumenical. Her characterization of liberal theories of distributive justice is intended to encompass an impressive array of the most influential contemporary contributions: from John Rawls’s justice as fairness, Ronald Dworkin’s equality of resources, Richard Arneson’s equal opportunity to welfare, G. A. Cohen’s access to advantage, to Elizabeth Anderson’s version of the capabilities approach. Adopting such a wide-ranging theoretical framework serves well for Rose’s main end: namely, to establish that citizens have a justice claim to their fair share of free time. Nonetheless, it downplays the important differences within the family of liberal egalitarian theories of distributive justice, especially the diverse stances on the question of responsibility for our choices (such as where we live, which jobs

we accept, which skills we develop, or whether children are rightly seen as public goods). Thus, while a liberal egalitarian might agree with the book's key claim, she might vehemently disagree with the implications Rose herself develops.

Furthermore, Rose's (legitimate) decision to explore some issues rather than others may leave the reader wanting. One can easily find examples throughout the book that point out to other interesting, and perhaps even very radical, implications for distributive justice. Consider just one example from the book. An heiress who obtains a large fortune does not only gain materially over other members of society but also gains in terms of free time. With her wealth, she is not required to work in the same way that other members of society are. Even if she works 40 or 50 hours per week she does so as part of her free time; work for her is effectively a leisure

activity (albeit one for which she also gains materially) (pp. 42–43). The radical implication of the heiress having more than her fair share of free time could be that such inheritances should be taxed at very high rates to equalize access to free time. Yet, this issue remains untreated.

Perhaps these two strategic worries are not disadvantageous at all; they can be seen as an invitation for liberal egalitarians of various stripes to engage with Rose's principal idea in more detail. Rose has, after all, opened an important new area of enquiry for those thinking about distributive justice. So, while there is certainly much more to say on this topic still, I hope that Rose's book gets the readership it deserves, influences law-makers to reconsider some of the ways in which societies are structured, and helps citizens to receive their fair share of free time (whether per week or during a lifetime).

MARGARET MOORE, *A POLITICAL THEORY OF TERRITORY*,
OXFORD UNIVERSITY PRESS, OXFORD, 2015.

Jovica Pavlović

Although the relationship between the citizen and the state has perhaps been the most prominent topic of political philosophy since the Age of Enlightenment, political theorists have only recently begun to comprehensively problematize the role that territory plays in the mentioned individual-state equation. Political aspects of territory – “...the geographical domain of a political entity...” (Moore 2015, p. 15), which should be appreciated as the spatial and thus an essential component of the ‘social contract’ – must be thoroughly comprehended if theoretical concepts such as political obligation and the right to self-determination (but also related/current political phenomena such as secessionist movements and prevention of illegal immigration) are to be appropriately theorized and understood.

Aware of such a need for a comprehensive ‘Political Theory of Territory’ – one that will be able to problematize and explain both theoretical and practical/current political issues concerning territory – Moore gives her 2015 monography the mentioned grandiose title, one worthy of her work in which she first lays down the conceptual and theoretical groundwork for developing her theory (chapter two), then outlines her theory and the basic logic and moral reasoning behind it in chapter three, before proceeding to defend her

arguments by successfully scrutinizing the two most prominent groups of theories regarding territory (cultural-nationalist theories proposed by authors such as David Miller and Avery Kolers and statist or functionalist theories advocated by theorists such as Allen Buchanan) in chapters four and five, while using the rest of the book to strengthen her arguments through an outstanding comparative examination of illustrative examples that deal with issues such as contested areas, creation of boundaries, border control, immigration, corrective justice, territorial integrity of states and the right to natural resources. In doing so, she contributes to the ongoing debate about territorial rights by arguing that any theoretical approach to territory must thoroughly consider the ‘attachment problem’ and justify why groups have (or should have) a right to a particular territory – a heartland – instead of just any random piece of land.

In the third and foundational chapter of her work (which flows naturally from the introductory and conceptual chapters that precede it), she takes on the attachment problem by drawing on theories about the individual’s moral right to residency, a group’s moral right to occupancy and the collective right to self-determination – as well as on the reflective equilibrium methodology outlined by Rawls in

his Theory of Justice – and thus proposes the following core logic that defines her political theory of territory: State S legitimately holds territorial rights over territory T only as long as it acts as a vehicle of self-determination of group G, which itself is the right kind of group to be the ultimate source of territorial rights only if it legitimately occupies territory T, with legitimate possession being based on territory T being tied to group G's political identity and history, as well as on group G's political capacity to govern itself on territory T (Moore 2015, p. 66).

Moore thus argues that her theory of territory solves the attachment problem by defining territorial right-holders as collective agents that have a common political project and identity which is tied to a particular geographical area. She then justifies her theoretical proposal by exemplifying how cultural (chapter four) and statist theories of territory (chapter five) fall short of solving the attachment problem. She deems that while statist theories succeed in justifying territorial rights of states when the state is both functional and just, they do not offer a persuasive account of why particular groups have rights to particular territories (Moore 2015, p. 107). At the same time, they require the aid of justice theories in order to solve the moral problems that arise due to the existence of unjust and failed states, as statist theories alone imply that (all) states are rightful carriers of territorial rights, which disregards the inherent right to rebellion against (and perhaps even secession from) unfair regimes.

Cultural theorists succeed in justifying why certain peoples have rights to certain territories better than their statist counterparts do, but in doing so they place too much emphasis on cultural and historical ties of groups to their homelands, therefore noticeably disregarding the importance of political aspects of identity, thus failing "...to distinguish between shared cultural features and shared political identities..." (Moore 2015, p. 80). In other words, cultural theories often have a hard time justifying territorial rights in cases in which 'nations' do not coincide with a 'cultures'.

In order to overcome the outlined problems that cultural and statist accounts come across, Moore's theory of territory does not define territorial right-holders as legal actors (states) nor cultural groups (nations), but instead as groups that are politically/institutionally distinct. With such a theoretical grounding, Moore goes through a set of empirical examples and cases – Kashmir, Kurdistan, Northern Ireland, Quebec, Kosovo, Crimea, Israel and Palestine – which serve to illustrate her theoretical proposals and arguments regarding territorial rights. For example, in chapter six, she reflects on the case of Northern Ireland when applying her political theory of territory to the problem of contested areas, boundary-drawing and secession. Here, however, she admits that although her theory is capable of determining (and justifying) territorial headlands of particular groups, it can only serve as a general normative guideline for developing procedures and mechanisms that would aid in drawing precise political borders between groups, while the theory does not represent such a mechanism itself.

Similarly, in chapter seven, Moore touches on the case of North American Natives when speaking of how her theory might be applied in solving problems related to the wrongful taking of land, touching upon concepts of corrective justice and territory as property. She interestingly concludes that a people's right to return to a land that was unjustly taken weakens as time passes, as it is difficult to reason that new generations should be held accountable for the offences committed by their forefathers, as they themselves have just claims to land a group different from their own once occupied.

When speaking of territorial rights through the prism of natural resources in chapter eight, Moore claims that disputes over natural resources on unoccupied land should not be treated as territorial disputes, but rather as property disputes, while the same is not true for natural resources found on inhabited territory. Here, she draws on the example of the Lakota Sioux, as she claims that "... any significant form of

collective self-determination would have to involve making rules regarding use of the Black Hills.” (Moore 2015, str. 175)

In chapter nine, she considers the right to control borders and immigration, and challenges theorists who set high burdens of justification for those states that intend to apply their right to exclude. Although she argues that the right to preserve one’s own community is an essential aspect of self-determination, Moore further states that no state has a valid claim in turning away refugees. “We should accept the state’s right to control entry for reasons connected to the self-determination of political communities, but only if these are accompanied by measures that are aimed at addressing the concern for basic rights of the people who are either excluded or left behind.” (Moore 2015, p. 175)

Finally, Moore touches upon the right of states to use force in the tenth chapter of her monography in an attempt to defend the state’s right to protect its sovereignty and territorial integrity. She rightfully claims that the state’s right to guard itself from external aggression stems from the community’s right to protect itself and that therefore states can justly apply force when there is a need for defensive action. However, an unjust state/regime surrenders its claim to territorial integrity once it gives its citizens just cause to rebel and secede (Moore 2015, p. 238).

Although Moore’s approach to developing a political theory of territory is systematic and very thorough, there is a point that could be deemed as needing further attention and clarification, and it concerns the just mentioned right to secede. As has been mentioned, Moore – as most contemporary political theorists – correctly understands secession as an inherent right of peoples who are being unjustly treated by the state which they reside in. Based on her proposed theory of territory, as well as her earlier work on nationalism and self-determination, it can be concluded that she further extends this right to all

peoples who fulfil the criteria of peoplehood; those that have a historical political identity, a territorial heartland and the capacity to govern themselves on this territory, regardless of whether they have been unjustly treated by the state or not. If we set aside the issues that political theorists who support the ‘remedial right only theory of secession’ would have with such a way of conceptualizing of the right to external determination (i.e. many of them would argue that it is unwise to set the risky and difficult process of state dismantlement/building in motion if a national minority can exercise internal self-determination within the borders of an existing democratic state), it may be argued that a more detailed proposal for a procedure of conducting secession – one that would include institutional rules for drawing borders and holding referendums – might be needed as a supplement to Moore’s proposed normative theory territory, as secession – even when there is justified cause for it – may turn into an unjust act without predefined democratic rules of conduct. In other words, it would be interesting to read about how the norms proposed in Moore’s political theory of territory could be used for developing and codifying procedures for territorial self-determination of peoples, and this is perhaps a small but important issue that could have been further elaborated on and problematized, especially in the sixth chapter of the monography.

Regardless of this minor observation, it should be stated that Moore’s *A Political Theory of Territory* fulfils all the major aims that the author sets out to accomplish, and does so in a manner which allows the reader to contrast and compare the proposed theory not only against other theories but also against practical examples of issues concerning territory, making the work a ‘must-read’ for those dealing with the political problems and questions related to nationalism, identity politics and territorial justice.

JELENA ČERIMAN, IRENA FIKET I KRISZTINA RÁCZ (UR.), ŽONGLIRANJE
IZMEĐU PATRIJARHATA I PREKARIJATA: USKLADIVANJE PORODIČNIH
I PROFESIONALNIH OBAVEZA AKADEMSKIH RADNICA, IFDT I CELAP,
BEOGRAD, 2018.

Sanja Milutinović Bojanić

Zbornik tematizuje pitanje usklađivanja porodičnih i profesionalnih obaveza akademskih radnica u institucijama visokog obrazovanja u okviru Univerziteta u Beogradu. Zaključci su zasnovani na rezultatima empirijskog istraživanja sprovedenog 2017. godine. Cilj istraživanja je uočavanje i prikazivanje barijera koje akademske radnice na početku akademske karijere sprečavaju u potpunijoj radnoj samorealizaciji. Analizom je trebalo utvrditi njihove potrebe, karijerne planove, kao i u kojoj meri je moguće usklađivanje porodičnog života sa profesionalnom sferom. Konačno, trebalo je ustanoviti i pristupačnost sredstava i načina kako bi se zatečeno stanje moglo promeniti na bolje.

Rezultati istraživanja, analiza i perspektive prevazilaženja objektivnih i subjektivnih čimbenika sabrani su u vidu zbornika tekstova pozvanih istraživačica. Uvidom u sadržaj zbornika moguće je prepoznati utemeljenost i razloge samog istraživanja ali i konceptualnu strukturu analize koja nakon uvoda u premise istraživanja i predstavljanja metodologije, naglašava dvostruki teret koji žena opredeljena za akademsku karijeru najčešće nosi jer ne nailazi na razumevanje sredine ukoliko paralelno odluči da zasnuje porodicu, kao i strogo

hijerarhizovanu prekarnost kao kontekst rada akademskih radnica.

Tekst pod nazivom „(I dalje) dupli teret na leđima (akademskih) radnica“ Irene Fiket cilja na sagledavanje dvostruke uloge koju imaju akademske radnice, ukrštajući posao i domaćinstvo. Fiket ističe da se neravnomerna podela obaveza i moći između muškaraca i žena u domaćinstvu, a u korist muškaraca, preslikava i na sferu rada, s tim da akademske radnice koje imaju decu ovaj dvostruki teret teže nose od akademskih radnica bez dece, ali i od akademskih radnika koji imaju decu. Tekst Gazele Pudar Draško i Krisztine Rácza „Strogo hijerarhizovana prekarnost: žene na početku svojih naučnih karijera“ istražuje uslove rada u sistemu visokog obrazovanja, s posebnim fokusom na institucionalne odnose moći i njihovo rodno konstituisanje i manifestaciju. Autorke zaključuju da interakcija roda, starosti i profesionalnog statusa akademske radnice na početku karijere pozicionira na dno hijerarhije u ustanovama visokog obrazovanja. Uprkos svojoj javnoj i izuzetno kvalitetnoj profesionalnoj aktivnosti, žena i dalje vrlo često perpetuira mehanizme nasledene iz tradicionalnih i patrijarhalnih registara žrtvovanja: birajući zahtevnu akademsku

karijeru ili se opredeljujući za kompromis između porodice i radnog mesta, žena neretko živi udvostručenim životom kojem ni tridesetosatni dnevni raspored ne bi bio zadovoljavajući. „Zamke kule od slonovače i mogućnosti promena“, kako glasi naslov teksta Jelene Ćeriman nakon kojeg slede zaključci analize, kroz upotrebu metafore upućuje na osetljiva mesta dvostrukih merila sa kojima se akademska radnica suočava ukoliko nastoji da bude uspešna u svom poslu i ostvarena u okvirima svoje novoosnovane porodice. Na kraju, zbornik je uokviren priložima na osnovu kojih je moguće evidentirati postupnost i temeljnu pripremljenost istraživanja kao i njegovu naučnu zasnovanost. Kao prilozi figuriraju Vodič za moderatorku, formulisan tako da obuhvati pitanja o svakodnevici akademskih radnica u sferi rada ali i domaćinstva, kao i Online upitnik sa svrhom kvantifikacije podataka dobijenih u intervjuima. Na osnovu dobijenih rezultata, moguće je prepoznati sve elemente eksplorativnosti, eksplanatornosti i konfirmativnosti pristupa u svakoj fazi istraživanja.

Početna pretpostavka fokusiranja na početke akademskih karijera žena omogućila je razumevanje rodne hijerarhije u okviru ustanova članica Univerziteta u

Beogradu, što je poslužilo za artikulaciju mogućih praksi u razvijanju podrške razvoju akademskih karijera žena koje još nisu učvrstile svoje pozicije u okviru institucija.

Zbornik tekstova sačinjava pregled problematike jasno predstavljene i tokom samog istraživanja ali i pripremu dokumenata namenjenih akterima u sistemu visokog obrazovanja i rodne ravnopravnosti kako bi se omogućila njihova upotreba u procesu definisanja inovativnijih i sveobuhvatnijih socijalnih politika. Tekstovi sabrani u ovom zborniku precizni su indikatori za buduće zagovaračke aktivnosti svih zainteresovanih aktera na lokalnom i državnom nivou. Primenjivost analize je s jedne strane izazov za naučnu izvrsnost samog istraživanja, ali s druge, omogućava visoku komunikativnost o temama koje neprestano iziskuju nove pristupe i kritičke osvrte.

Zbornik zaslužuje punu pažnju, ne samo akademske zajednice već i različitih aktera socijalnih politika u Srbiji, jer se u izloženim tekstovima mogu pronaći značajni uvidi u prekarni položaj akademskih građanki Srbije, ali i analiza paradoksa sledom kojih garancija emancipovanog profesionalnog života teško da se može potvrditi i emancipacijom žene u okviru porodice.

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U napomeni: Hartman 1980: 108

10. ZBORNICI

U spisku literature: prezime i ime priređivača, u zagradi skraćeni „prir.“; u zagradi godina izdanja, naslov zbornika u italiku, mesto izdanja, izdavač i strana po potrebi. U tekstu: u zagradi prezime autora, godina izdanja, dvotačka, stranica. U napomeni: prezime autora, godina izdanja, dvotačka, stranica. U napomenama, zbornici se citiraju isključivo na skraćeni način.

Primer:

U literaturi: Espozito, Džon (prir.) (2002), *Oksfordska istorija islama*, Beograd: Clio.

U tekstu: (Espozito 2002).

U napomeni: Espozito 2002.

11. TEKSTOVI IZ ZBORNIKA

U spisku literature: prezime, ime autora, u zagradi godina, naslov teksta pod navodnicima, slovo „u“ (u zborniku), ime i prezime priređivača zbornika, u zagradi „prir.“; naslov zbornika u italiku, mesto izdanja, izdavač, dvotačka i broj stranice (ako je potrebno). U tekstu: u zagradi prezime autora, godina izdanja, dvotačka, stranica. U napomeni: prezime autora, godina izdanja, dvotačka, stranica. Skraćeni „str.“ dopuštena je samo u spisku literature.

Primer:

U literaturi: Nizbet, Robert (1999), „Jedinične ideje sociologije“, u A. Mimica (prir.), *Tekst i kontekst*, Beograd: Zavod za udžbenike i nastavna sredstva, str. 31–48.

U tekstu: (Nizbet 1999: 33).

U napomeni: Nizbet 1999: 33.

12. ČLANAK IZ NOVINA

U spisku literature: prezime, ime, u zagradi godina, naslov članka pod navodnicima, naslov novina u italiku, datum, stranica.

Primer:

U literaturi: Logar, Gordana (2009), „Zemlja bez fajronta“, *Danas*, 2. avgust, str. 12.

U tekstu: (Logar 2009: 12).

U napomeni: Logar 2009: 12.

13. INTERNET

Prilikom citiranja tekstova s interneta, osim internet-adrese sajta na kojem se tekst nalazi i naslova samog teksta, navesti i datum posete toj stranici, kao i dodatna određenja ukoliko su dostupna (godina, poglavlje i sl.).

Primer:

U literaturi: Ross, Kelley R., „Ontological Undecidability“, (internet) dostupno na: <http://www.friesian.com/undecid-1.htm> (pristupljeno 2. aprila 2009).

U tekstu: (Ross, internet).

U napomeni: Ross, internet.

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1987– (Beograd : Donat Graf). – 24 cm

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