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# Europe and the **HERITAGE OF MODERNITY**

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AND THE HERITAGE OF MODERNITY

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## INTRODUCTION

The articles collected in this volume are extended versions of the papers that were presented at the International conference “Perspectives on Europe and the Heritage of Modernity”, held at the Faculty of Political Science in Zagreb on the 2<sup>nd</sup> and 3<sup>rd</sup> of September 2016.<sup>1</sup> The conference was one of the key activities and the final event of the scientific project “Political in the Time of Actual Crisis: the Heritage of Modernity and Contemporary Challenges to the Project of European Unity”, which was granted to the Faculty of Political Science by the European Social Fund. The general theme of the conference therefore reflected the main research problem of the project: the relation between the idea of European unity and the tradition of modern political thought. The theoretical ambition behind the research was based on the firm conviction that the essential features of the idea of European unity are fully conceivable only through critical rethinking of the heritage of Modernity,

<sup>1</sup> The exception is the contribution from the eminent Hobbes scholar Luc Foisneau who held a lecture at the Faculty of Political Science and was one of the lecturers at the summer school in political theory in Grožnjan, which preceded the conference. We are most grateful to Luc Foisneau who, although unable to attend the conference, kindly offered an article based on his newest research for this volume.

inscribed in the core of the idea of Europe. The project of Modernity originates precisely in the search for such an order that would enable and guarantee peace and security as fundamental values and that would make possible the emancipation of the individual in the intersubjective autonomy with others. That programme, however, is still far from fulfilment. Moreover, it has always been open to crisis and exposed to the threat of turning to its opposite, as was shown by the experience of authoritarian and totalitarian regimes of the 20<sup>th</sup> century and by the recent growing support of right-wing populist movement and parties. The crisis of Europe is therefore essentially the crisis of Modernity itself, present in its fundamental preconditions. That is why we found it necessary to question the potentials, ambiguities, problems and challenges to the project of Modernity and to reconsider its constitutive concepts: politics/political, state, sovereignty, civil society, democracy.

In its operational aspect the project was focused on the interpretation and analysis of fundamental writings from the tradition of modern political thought. Research was concentrated on three problem areas constitutive for Modernity. First, modern republicanism in its various forms from Machiavelli to Rousseau as a tradition of political thinking which can provide an alternative way of understanding the contemporary conjuncture. The turn to republicanism seems all the more inevitable when one has in mind the necessary political innovations that are pressingly sought in order to cope with the decline and corruption of society. In sharp contrast with the liberal instrumental and technical concept of politics, republicanism, with its valuable understanding of liberty as non-domination, helps us to rediscover the political in its essential, emancipatory and socially forming dimension.

Second, the state, in the tradition from Hobbes to Hegel, as the fundamental project of Modernity, the politico-legal order that limits its own power with the aim of enabling and promoting the development of moral, legal, economic and po-

litical subjectivity of the individual. The development in question is a process which is not yet near its completion and is always confronted with new challenges. However, it is clear that its potentials cannot be fully realized within the framework of nation states. That is why it has to be continued at the level of Europe as the community of states and their citizens. It is therefore essential to problematize the emancipatory potentials and the limitations of the state as the modern political order.

Third, the civil society, in its modern form, as comprehended by Hegel, that is determined, first and foremost, although not exclusively, by the logic of its economic processes and relations. It is precisely in the critical dialogue with Hegel that it is possible to consider the possibilities of conceiving the state as the “realm of actualized freedom” under the conditions of modern (economic) civil society. For this reason it is necessary to examine the potentials and limits of civil society for the actualization of individual freedom, as well as modalities of the relation between the socio-economic and the political spheres. At last, critical confrontation with Marx’s critique of political economy as the “anatomy of civil society” can help us to develop conceptual tools for grasping the contradictions of contemporary economic conjuncture and to revitalise the socialist strand of modern political thought as basis for at least appreciating the importance of the social dimension of human rights.

Apart from the final conference, one of the activities realized through the project that is significant for this volume and should be particularly stressed is the summer school in political theory “Paths of Modernity – In Search for Alternatives”. Held in Grožnjan from 15<sup>th</sup> to 20<sup>th</sup> July 2016, it gathered researchers of diverse intellectual backgrounds and theoretical interests as well as students of social sciences and humanities coming from across Europe. The lectures were given by distin-

guished scholars in the field of modern political thought. The sessions were oriented towards considering different strands of modern tradition in order to identify possible alternatives to the dangerous reduction of original complexity of modern society to its economic aspect. Among the participants were some of the contributors to this volume, who presented the first drafts or parts of their articles collected here as presentations at the summer school.<sup>2</sup>

Following the summer school, the conference was conceived as a culmination of the project, offering a synthesis of research results for public discussion. In their papers, the participants examined the general theoretical aim of the project, taking into consideration one of the three specific research problem areas described above. The reader will thus notice that the sequence of texts in this volume generally follows the structure of the project and the succession of its specific problem areas. We have decided, however, not to group the texts in chapters, but to let them speak for themselves. In this way, the volume as a whole will present us varying and often conflicting, but essentially interrelated systems of thought, that belong to the same political and intellectual continuum of modern political theory.

It is our conviction that the essays collected here bear witness in the best way possible to the futility of the “loathsome question” – as Adorno designates it with respect to Kant and Hegel – of what in some great classical author of the past “has any meaning for the present”. This question is an echo of the

<sup>2</sup> Although initiated through the project, the summer school was not conceived as a one-time event, ending with the finalization of the project. Its second edition was held this year, with the papers and discussions focused on the problem of relation between unity and conflict in the modern understanding of politics. It is our intention to secure the summer school long-lasting continuity and establish it as an annual meeting place between researchers and students in the field of political theory.

arrogance of the one “who has the dubious good fortune to live later” and of the pretension to “sovereignly assign the dead person his place, thereby in some sense elevating oneself above him”.<sup>3</sup> The question that guided us in the preparation of this volume – and of the project as a whole – was, as Adorno formulates it, the converse one: what does the present mean in the face of a classical author of Modernity? Our tacit and unequivocal assumption was that all of the authors dealt with here are our contemporaries. The volume is therefore not conceived as an “application” of the thought of great authors, or of some aspect of it, to the present, or as an attempt to distil what is “actual” from what is “obsolete” in their thought. It is an invitation to a dialogue between the author, the interpreter and the reader, from which a myriad of meanings of classical texts can emerge, depending on the point of view from which they are approached. What we offer to the reader is therefore a collection of essays that open many paths to the heart of Modernity, calling her/him to rethink the diversity of collective European heritage in the light of our contemporary European moment.

In the opening article, “Reading Machiavelli with Strauss and Lefort: Towards a Critique”, Davorin Žagar takes us back to the dawn of Modernity. In a dialogue with two eminent scholars of Machiavelli’s thought, Žagar elucidates the main features of their respective interpretations. On the one hand, Leo Strauss reads Machiavelli as the initiator of the break with the classical as well as Christian tradition, liberating politics from the reins of morality and lowering it to the status of technique based on selfish impulses stemming from an evil human nature. On the other, Claude Lefort points to an irresolvable class conflict as a source of the social. The opposing desires of the

<sup>3</sup> Adorno, Theodor W. 1993. *Hegel – Three Studies*, Cambridge, Massachusetts and London: The MIT Press, p. 1.

greats and the plebs permanently give birth to a body of laws incessantly reconstructing political society open to history. Finally, Žagar proposes to further elaborate Lefort's discovery of new political ontology by identifying an ethical dimension in Machiavelli's works. According to Žagar, it is possible to read Machiavelli as paving the way for a diachronical process of collective political subjectivization of citizens in terms of autonomy.

Continuing the discussion of the political in republican heritage and connecting it to the Hobbesian section of the volume, Dragutin Lalović in his article on "Republican Synthesis of the Political and of the State in Rousseau's Political Theory" examines Rousseau's attempt at reconciliation of two opposed traditions, the republican tradition of the political and the antirepublican tradition of the state. His argument takes the form of an examination of the relationship between Rousseau and Hobbes as the central figure of the theory of state. There is a triple kind of debt that, according to Lalović, Rousseau owes to Hobbes: regarding the idea of discursive construction of the political body, concerning two-level analysis of politics conducted both from the standpoint of collectivity and its constituent members, and in respect to the role of legal subjectivity as a prerequisite for the constitution of a moral subject. Moving away from Hobbes's theory of the (sovereign) state, Rousseau posits his concept of the (sovereign) general will as a key concept lying at the heart of his republican synthesis. Lalović expounds Rousseau's theory of the general will as regulating the political process that allows for the transformation of a private individual into a political citizen and thereby creating foundations for his becoming a moral man.

In "Simplifying Hobbes: Hume's Conception of Justice in a Hobbesian Perspective" Luc Foisneau conducts an analysis of the soundness of the critique aimed at Hobbes's concept of justice from authors as different as Hegel and Rawls. Foisneau argues that such a critique, insisting that there is no room left

for justice if it is reduced to the instrument of the promotion of individual self-interest, ignores important aspects of Hobbes's views on justice. Hobbes's thought on justice is closely related to his novel subjective theory of good, which is in turn strongly connected to a subjectivist character of modern natural philosophy. In a world devoid of an objective good, justice becomes an answer to the existential problems of coexistence of people following different conceptions of goodness. By insisting on the priority of justice over any of them, Hobbes indeed gives a public dimension to his understanding of justice. Foisneau then turns to Hume as an author who, although espousing Hobbes's modern idea of subjective good, pioneered in the attempt to moralize Hobbes's approach to justice. Whereas natural virtues arise from natural inclinations, for Hume justice, an invention solving the predicament in which mankind finds itself when bereft of common rules, must be an artificial construct because it does not and must not have anything to do with any of our natural affections. However, unlike Hobbes, Hume introduces a new element to his moral theory. Since human beings morally sympathise with others, justice finds its foundation not only in self-interest, but in moral considerations regarding the acts of others as well.

Philippe Crignon's "Representation and the State Paradigm in Hobbes's Political Philosophy" focuses on the central notions of Hobbes's theory of the state. The first of these is union. Crignon argues that union for Hobbes does not mean extinguishment of plurality in unity, but rather their balanced combination allowing for their mutual consistence. Indeed, the central question of politics itself regards the proper regulation of the relation between unity and plurality. Before turning to the question of political union, Crignon traces back Hobbes's ideas about union to his first philosophy and anthropology. His main interest lies, however, with the gradual development of the concept of state as the political form based on the concept of representation in Hobbes's political thought. The main

obstacle in this development was the traditional conceiving of union in terms of incarnation. Such an alternative model of union, prevalent in the premodern era, was grounded in the Christian idea of incorporation, which implies a genuine bodily union, a mutual inclusion of two different natures that remain different in the union. Although Hobbes was, at first, at least partly influenced by this tradition, his thought shifted away from it already in *De Cive*. By the time of *Leviathan*, the concept of incarnation was completely abandoned. Instead of speaking of the state as a body politic, Hobbes defines it as a person whose unity is achieved through representation.

In “Political Stability for Passionate Machines: Hobbes on Manners and Political Education” Dirk Brantl distances himself from the tradition of interpreting Hobbes’s philosophy as a legal one, trying to solve a political problem caused by juridical antinomy brought forth by the concept of natural right. Rather, he argues that the political problem for Hobbes was that of political stability for the humans conceived as beings ruled by passions and deprived of free will. Therefore he emphasises the connection between Hobbes’s political theory on the one hand and his anthropology and moral psychology on the other. The political problem cannot be solved exclusively by relying on the imposition of the legal order and without taking into account the motives that will sustain subjects in complying with it. However, Brantl does not turn to fear as the passion on which Hobbes presumably counts in order to pacify human beings guided by their self-preservation. Instead he tries to outline the traits of a different kind of governance over such beings that rests on morality and education. Morality consists in a right disposition of manners and has peace as its goal. And it is a public political education that by forming opinions shapes those manners in a way that is conducive to the morality’s objective.

In the closing chapter of the section on Hobbes’s political thought, Luka Ribarević proposes an interpretation of the

status of the Old Testament exegesis in *Leviathan*. In “Political Hebraism in *Leviathan*: Hobbes on I Samuel 8” Ribarević proceeds by analysing Hobbes’s reading of a short biblical paragraph in order to point to the ambiguous nature of political Hebraism found in *Leviathan*. Living in the biblical century, Hobbes had before him both rabbinic and Christian tradition of the exegesis of the paragraph. According to Ribarević, Hobbes’s interpretation should be distinguished not only from those two traditions, but also from either their promonarchic or prorepublican usages. On the one hand, Hobbes employs it to gather biblical support for his argument for the absolute sovereignty of the state. On the other, he turns it into a weapon with which he attacks various clerical attempts at appropriation of civil authority. However, Hobbes is not promoting Mosaic constitution as the ideal one since he is subjecting it to a criticism from the standpoint of his theory of state as well.

The article which opens the part of the volume dedicated to classical German philosophy, “Helping the Needy – Duties of Right and Duties of Virtue within the Modern State”, discusses the problem of poverty in the modern state from the perspective of Kant’s political and moral philosophy. Proceeding from Kant’s distinction between morality and legality, Amelie Stuart shows that to each of them corresponds a different set of duties from which the help to the needy can be deduced. The legal obligations of the state or the responsibilities of the ruler toward the poor members of the state are, however, restricted and allow only for minimal policies of social welfare (poverty reduction). The right of the ruler to redistribute wealth is grounded in instrumental reasons of maintaining peace and stability by avoiding social unrest and securing external autonomy of the citizens. In contrast to this, moral duties, which citizens have towards each other as moral agents, are more demanding in their content. Focusing on the beneficence as the fulfilment of duty of love, the author shows that it assumes, on the one hand, assisting others in pursuing their happiness,

which according to Kant includes possession of goods, health, and also the satisfaction of one's needs and inclinations. On the other hand, it is conducive to their morality, as poverty represents temptation to vice. In the end, Stuart concludes that the legal and moral spheres, although clearly separated in Kant's philosophy, should be treated as interlinked, as a result of which a complete set of obligations both of the state and the citizens could be developed.

In "Property and Possession. Kant, Hegel and the Critique of Capitalist Economy", Thomas Petersen offers arguments for developing a new model of economic policy that would avoid problems of both Marxian socialism and neo-liberalism. The key elements of such policy can be found, according to the author, in the classical German philosophy. The first part of the article elaborates on private property (of means of production) as the essence of liberalism, whereby property is understood as disposal of things at will. After outlining the Marxian critique of liberalism, Petersen argues that unlimited property of means of production and capital is incompatible with liberal principles themselves. Proceeding from the conceptual framework of Kant's philosophy of right, "property of means of production" should be understood not as property, but reduced to "intelligible possession" in the Kantian sense. This kind of possession (of means of production) would entail certain obligations of the possessor within a society of private persons which displays traits of a community of solidarity. Such a concept of society was, however, not provided by Kant, but by Hegel's philosophy of right. In the final part of the article, Petersen draws some conclusions from this Kantian-Hegelian perspective, sketching the basic features of society that would be in accordance with it.

Domagoj Vujeva's "Moral Autonomy and Ethical Life. Hegel's Critique of Kant's Conception of Practical Subjectivity" deals with the issue of practical subjectivity in Hegel's *Philosophy of Right*, by re-addressing Hegel's critique of Kant's

idea of moral autonomy. Despite some Hegel's objections to that idea, the author demonstrates that Hegel does not reject its essential traits, but preserves them in his conception of ethical life, which is conceived as actualization of moral freedom within the framework of objectively existing institutions. These institutions, that represent specific structures of Modernity, can be considered "ethical" because they embody different forms of universality of reason, at the same time providing duty with determinate content, which in Hegel's view cannot be deduced solely from Kant's categorical imperative. As the content of duty is secured from indeterminacy, the question of the motive of an action can be put aside. Concentrating on the structure of ethical life, the author shows that Hegel's attempt to overcome the separation of morality and legality and of reason and sensibility in Kant's philosophy depends on the possibility to conceive modern civil society as "ethical". The author sees the clue for this possibility in Kant's ends that are also duties (one's own perfection and happiness of others), relating them to the processes of civil society. However, in the concluding part it is stated that exactly the deficiencies of civil society point to the importance of the independence of the moral standpoint in Hegel's philosophy of right, which grounds the subject's capability and right to evaluate rationality of established social institutions.

"Relational Subjectivity. Private Language and the Paradox of Recognition" discusses the relationship between concepts of freedom and recognition, focusing on the contradictions of the contractual approach to this relationship. Michael Frey criticizes the contractual account of compatibility between individual freedom, i.e. self-determination, and the fact that we live in a system of social relations governed by norms. Freedom is, according to contractualism, actualized through the mutual recognition of a set of norms that is the source of social relations. But, Frey finds the contractual concept of a norm to be incoherent, for it is based on an atomistic view of

subjectivity. This incoherence manifests itself in the paradox of recognition, which is the consequence of the contractual atomistic framework. The source of social norm should be mutual recognition between isolated and self-related individuals in the state of nature, yet the concept of the norm already assumes existence of social relations. In exposing these inconsistencies of contractualism, Frey relies on Wittgenstein's argument against private language. Finally, he proposes the Hegelian conception of relational subjectivity as a convincing alternative to atomistic accounts.

The following article, written by Dimitrije Birač, takes us to the heart of Marx's critical theory. "Marx's Critique of Political Economy: His Views on Productive Labour, Competitiveness and Competition" presents Marx's views on competition and competitiveness, considering them as one part of his general economic thought, that is as one part of his critique of classical political economy. Birač gives us a systematic exposition of Marx's understanding of competition as a form of co-ordination of economic activities and economic processes in capitalism, as expounded in *Misery of Philosophy*, *Early Works*, *Fundamentals of Critique of Political Economy* and *Capital (I-IV)*. In this context, the article describes Marx's considerations of labour productivity and its role in the development of productive forces. In the conclusion, the author underlines that Marx's view on competition and labour productivity as a factor of competitiveness is still relevant, although it is on scale of heterodox schools of economic thought which offer conceptions that differ and conflict with the currently dominant neoclassical conception of competition and competitiveness.

Finally, "The Political Theory of the Balance of Power: From Edmund Burke to Hans Morgenthau" transposes us to the international level, scrutinizing one of the key concepts of international relations theory, that of the balance of power. While contemporary IR theory is dominated by systemic un-

derstanding of the concept, seeing the balance of power as an objective and self-regulating mechanism that equalizes the state's forces, Petar Popović shows that classical and original meaning of the concept is pragmatic. It is, namely, conceived as political doctrine of statesmen and diplomats, who as agents of foreign policy determine the relations between states by their free will. Concentrating on the perspective of two thinkers, Edmund Burke and Hans Morgenthau, Popović elucidates some fundamental presuppositions and principles of the doctrine, which are shared by both authors, though almost two centuries separate them from one another. First, its main aim is not maximization of state-power, but preservation of the basis of the international legal order. This aim can, however, be achieved only because theory stems from practice and not vice versa, i.e. only because legal conceptions of the doctrine are embedded in historically contingent customs and culture ("spirit of gentlemen" and "religion" in Burke, republican principles in Morgenthau). Second: the 'international' and 'national' are different, yet in principle intertwined and of the same logic. In other words, the international balance of power reflects the domestic balance (Burke's 'natural aristocracy' and Morgenthau's checks-and-balances). What is essential to the doctrine is that its ethic is self-restraint (Burke) or limited politics (Morgenthau). States should refrain from ideological or crusade types of foreign policy, for these lead to unlimited warfare and abolishment of the balance of power. By respecting sovereignty through the principle of non-intervention, which is central to international law, states preserve their own independence as members of the international society.

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## Introduction

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Domagoj Vujeva and Luka Ribarević,  
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Philippe Crignon is lecturer at the Université Paris 1 Panthéon-Sorbonne. Author of *De l'incarnation à la représentation. L'ontologie politique de Thomas Hobbes* (Classiques Garnier, 2012) and *La philosophie de Hobbes* (Paris, 2017). He has also translated into French and edited Hobbes's *De cive* (Paris, 2010). Besides his publications on Hobbes, his topics include contemporary political philosophy and philosophy of the European Union.

Dirk Brantl studied philosophy and history at the Eberhard Karls University Tübingen and worked as Assistant Professor in Tübingen and Graz. He specializes in early modern political and moral philosophy and the development of classical political economy. His publications include *Die ökonomische Theorie des Gesellschaftsvertrags* (Münster, 2013) and articles on Machiavelli, Hobbes, Locke, Spinoza, and Rawls.

Luka Ribarević is Assistant Professor at the Faculty of Political Science, University of Zagreb. Author of the book *Hobbesov moment. Rađanje države* (Zagreb, 2016). Alongside his articles on Hobbes, his research interests cover early modern political thought, representation, theory of the state, and totalitarianism.

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Domagoj Vujeva is Assistant Professor at the Faculty of Political Science, University of Zagreb. He was visiting researcher at Hegel-Archiv (Ruhr University of Bochum), University of Heidelberg and Institute for Social Research (Frankfurt on Main). Author of the book *Država i demokracija – građansko društvo i politička država u "Filozofiji prava"* (Zagreb, 2015). His research interests are: classical German philosophy, Marx and Marxism, history of political ideologies.

Michael Frey studied philosophy and sociology at the universities of Basel and Copenhagen and is currently a PhD student at the University of Leipzig. He is mainly interested in questions concerning normativity, autonomy and interpersonal relations. His central areas of specialization are German Idealism, especially Hegel, philosophy of right, social philosophy and philosophy of mind.

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Davorin Žagar  
READING MACHIAVELLI  
WITH STRAUSS AND LEFORT:  
TOWARDS A CRITIQUE

**Introduction<sup>1</sup>**

This paper consists of three parts. In the first part (A), I briefly examine the main features of Strauss's interpretation of Machiavelli's political thought which rests on destructive analysis of moral virtue and consequent reduction of politics to a technique of conquering fortune. In the second and central part (B), Strauss's reading is complemented by another classical interpretation, that of Claude Lefort. In contrast to Strauss, Lefort reads Machiavelli as a theoretician of *the political* conceived as a specific modern way of instituting the social through irresolvable division. Lefort launches Machiavelli into motion by throwing him in the insurmountable void opened up by the division of desires, setting off a constitutive play of politics and *the political*. The great Florentine is thereby exal-

<sup>1</sup> References to Machiavelli's works are presented as follows: if there are several books in one work, first the title of the book is signified (by a capital letter), followed by the number of the book, then the number of chapter is indicated, and finally, after the colon, the number of page is marked. In case the work consists of only one book (as in *The Prince*) the way of quoting is the same, but naturally without labelling the number of the book. I have used the University of Chicago Press editions of *The Prince* (1998) and *Discourses on Livy* (1998) in Mansfield's and Tarcov's translation for the latter, and in Mansfield's for the former.

ted as the inventor of nothing less than the *new political ontology*. However, class struggle seems to be completely trapped in the forks of the ontological dimension, and Machiavelli's theory of political freedom is reduced to its legal dimension. That is why I intend to provide an outline of a possible critique of such a reading, inquiring, in the conclusive part (C), into a (hidden) ethical dimension of the political implied in the desire of the people for freedom, which leads us to the assumption of possible diachronic success of collective political subjectivization of citizens.

The aim of this article is not a (detailed) comparison of the two classical interpretations of Machiavelli. Rather, my intention is merely to highlight a few orientation points in their respective readings, in order to join critically their invitation for interrogation of Machiavelli's *oeuvre de pensée*<sup>2</sup>.

### **A) Strauss: Machiavelli's Revolt Against Antiquity and Christianity**

In his *Thoughts on Machiavelli* (1978) Leo Strauss famously analyses Machiavelli "as a teacher of evil" (*ibid.*: 9) who is aiming at liberation of political thought from its antique foundations. *The Prince* and *Discourses* taken as a whole, under the label of "new modes and orders", present a daring attempt

<sup>2</sup> About Lefort's specific usage and the meaning of this syntagma, see Lefort, 2012: 3-61 (*The Question of the Oeuvre*). If the reader is sceptical about the choice of the two interpretations mentioned, Pierre Manent's judgement (1998: 49) could be of help in persuading him (if it previously does not enrage him, of course): "These interpretations [Lefort's and Strauss's] are so obviously more interesting than the others that with even a moderate confidence in the progress of Enlightenment one would expect to see them dominate, or at least be an object of emulation, in the domain of Machiavellian scholarship. (...) [But] this is not the case..." In spite of Manent's excessive statement, it seems plausible to affirm that rich contemporary discussions on Machiavelli are (at least partly) enabled by the space opened up by these two great interpretations, which in many ways represent *oeuvre* of the *oeuvre* of thought themselves (cf. Lefort, 2012: IX).

to break with the unity between morality and politics as a distinctive feature of the entire classical political philosophy and Christian theology. According to Strauss, Machiavelli does not only proclaim the autonomy of politics from morality and religion, in fact, he goes a step further, courageously professing the primacy of politics in relation to morality, which can be designated as the founding moment of modern political philosophy (Strauss, 1975; 1978; 1988).<sup>3</sup>

In the framework of classical political philosophy, man is the measure of all things but he is not the master of all things (Strauss, 1975: 85). This means that although man has been assigned an eminent place, Nature always withholds priority. Man is compelled to comply with the hierarchy of Nature and its normative, teleological order. While man is subjected to Nature, at the same time it provides him with the highest standards/transcendent criterions for the organisation of human life and for the establishment of “a well-ordered society” (*ibid.*). These standards are entirely independent of man’s will. Thus, man’s power is essentially limited. Although he is called upon to comprehend Nature, he will never be able to overpower and defeat her. Since man is determined from the “outside”, which forever remains elusive, the importance of measure is strongly emphasized (*ibid.*: 86). In classical Aristotelian formulation, a man is *zoon politikon* which means that political activity is essential in order for him to develop

<sup>3</sup> The main points of the following analysis are developed from the great book by Leo Strauss *Thoughts on Machiavelli* (1978). Several other Strauss’s texts are also consulted: *Three Ways of Modernity* (1975), *What is Classical Philosophy?* (1998) and *On Classical Political Philosophy* (1988). Of great and irreplaceable help were P. Manent’s excellent text *Toward the Work and Toward the World: Claude Lefort’s Machiavelli* (1988) (essentially important for part B of our article as well), Lefort’s text *La verità effettuale della cosa* (2000), as well as R. Howse’s analysis of Strauss’s work (2014), especially the fourth chapter dedicated to Machiavelli (pp. 82-123). We have to mention here also Vatter’s valuable insights on Strauss dispersed throughout his book (2000).

his own inner nature. The goals of political action are defined as cultivation of virtue, which becomes the main criterion for the organisation of a “good and just society” (Strauss, 1978: 254). In view of the defined normative criterion, Strauss argues that the main question of classical political philosophy is the definition of the best type of political order (*ibid.*). Polis is primarily an ethical-political community since it exists precisely for the cultivation of virtue. Cultivation of virtue<sup>4</sup> is the norm organising political life and morality is thus essential to it (Strauss, 1988: 41). At this point, the fundamental unity between morality and politics in Antiquity comes to the fore. Morality is the crucial part of human beings and the highest feature of Nature. Morality precedes the political and consequently provides it with the right measure (Strauss, 1988: 42; 1975: 86); justice means compliance with natural order, and virtue is moderation. Hence, political life is subjected and dependent on morality. Quality of man and citizen’s character correspond to the amount and quality of (primarily internal but also external) good(s) he possesses (Manent, 1998: 57). Virtue emerges only through education proper; it requires leisure and consequently some degree of wealth. Strauss reminds us that the best type of political regime (a good regime) is the aristocratic republic: the rule of the best (the *aristoi*), most educated and thus most affectionate to virtue. As opposed to the desire of people (who do not have) for acquisition, aristocracy (those who have and therefore possess virtue) is naturally directed towards moderation and a stable political order which is in accordance with order and stability of nature. The final realisation of a clearly aristocratically biased ideal of political order is not possible. The Whole remains elusive; the natural principles cannot be reproduced entirely in the realm of the real human life. The inevitable distance/gap between the real (what

<sup>4</sup> It goes without saying that Classics dismiss democracy as an inferior type of regime, since “the goal of political life is virtue, not freedom” (Strauss, 1988: 36-38).

is) and the ideal (what *ought to be*) is presented as “untameable fortune” (Strauss, 1975: 86). This gap represents the key target of Machiavelli’s rebellion. Classical political philosophy lacks actuality because it culminates in utopia; “traditional political philosophy aims too high” (Strauss, 1975; 1978; 1988).

If we briefly look at Machiavellian theory from the angle of his radical critique of Christian religion, we find an amazing compatibility with the analysis just sketched. Christianity is reproached from the same direction: it is analysed as the radicalisation of the classical concept of morality aiming too high and resulting in disastrous consequences, worst bestialities (Strauss, 1988: 43-44).<sup>5</sup> The classical conception of good and just life and principal Christian teaching regarding the need for salvation of the immortal soul, are deeply intertwined in the idea and the function of morality which (in both cases) seems to prescribe the goals of political action.<sup>6</sup> According to the Christian doctrine, man is created in the image of God, but at the same time God has assigned him a determined place in the divine order. In the framework of Christian thought nature is equated with God, and the space of fortune is termed as providence. God himself becomes a good that has to be appropriated (Strauss, 1975: 86; Pocock, 2003: 31-48). The good of religion/moral good is above the good of politics.<sup>7</sup>

<sup>5</sup> While analysing the behaviour of Ferdinand of Aragon, Machiavelli writes: “Besides this, in order to undertake greater enterprises, always making use of religion, he turned to an act of pious cruelty, expelling the Marraños from his kingdom and despoiling it of them; nor could there be an example more wretched and rarer than this” (P, 21: 88).

<sup>6</sup> Although the church is not interested in the organisation of Cesar’s world directly, it still has to pay special attention to the deeds and behaviour of the ruler since he can endanger the salvation of his subjects. See Manent, 1995: 3-10 (first chapter: *Europe and the Theologico-Political Problem*).

<sup>7</sup> The inner connection of Christianity and classical political philosophy in the concept of morality, according to Manent’s lucid thesis, shows why it was not possible that the rediscovery of Aristotle with his Latin translations becomes constitutive for modern political thought (Manent, 1995: 10-12).

In Strauss's reading, morality as the point of intersection between Classics and Christianity presents the greatest obstacle for human beings to master their own destiny. Removal of this obstacle requires undertaking a modern project in opposition to the Classics. The most important transformation in this direction is put forward in P, 15: 61 where Machiavelli famously declares: "... it has appeared to me more fitting to go directly to the effectual truth of the thing than to the imagination of it. And many have imagined republics and principalities that have never been seen or known to exist in truth." The Machiavellian project rejects the classical scheme as essentially unrealistic (Strauss, 1988: 41). Political life needs to be organised on the basis of rejection of the moral ideal of good life and directed towards the "objectives that are actually pursued by all societies" (Strauss, 1975: 84; 1978: 256). Machiavellian politics is concerned with factual, positive, practical truth, "la verità effettuale"; it is defined from the viewpoint of what *is*, in the clear contrast with the prevailing domination of idealism in classical political philosophy and Christianity. The political problem thus becomes a mere technical problem of establishment of a political order which men can achieve in reality (Strauss, 1988: 46-47).

As a result of "objectification of politics" Machiavelli posits a new "truth about man and society" (Strauss, 1978: 283): the reality of evil and corrupted human nature which is manifested in permanent conflict of individual selfish interests (Strauss, 1988: 42). Strauss thus highlights the modern premise of "extreme individualism" in Machiavelli (Strauss, 1970: 10). The original situation of society is one of terror (Strauss, 1978: 249): matter is corrupt because prior to the foundation of society men are bad and primarily selfish (*ibid.*: 279), and they are

Indeed, it suffices to read the very first pages of *Discourses* to be stunned by an apparent paradox: while Machiavelli calls for an imitation of Antiquity in the sphere of politics, he uses it in a paradoxical way, highlighting the need for Modern innovation in the politics of the Antiquity (preface to D, I: 5-6).

driven by “the fundamental human fact of acquisitiveness or competition” (*ibid.*: 293). The model of struggle in this initial phase of (not-yet) society is presented by Strauss as the model of permanent hostile competition between isolated individuals stemming from bad human nature and Machiavelli’s anti-Aristotelian anthropology (*ibid.*: 254; Honneth, 1995: 8-9). Men are not naturally inclined towards society or towards virtue as Classics tend to imagine (Strauss, 1978: 280); human beings are not political animals in *sensu stricto*. Strauss’s reading puts heavy emphasis on the pre-political (sub-political) roots of society (*ibid.*: 290). Political society in this optics is preceded by “pre-moral man” and morality is made possible only subsequently, as a consequence of political *virtù* (*ibid.*: 255). Hence, selfishness and antagonism can be transformed: men are malleable and political activity enables them to live together (*ibid.*: 279-280). The political task of the new prince is unification of the political community, hence establishment of a certain kind of common good: primarily security of life and property (*ibid.*: 269). In order to make it possible for the new prince to establish a political society, Machiavelli “liberates the exercise of power from all normative bonds and duties” (Honneth, 1995: 10) and justifies usage of the extraordinary means. Objectification of politics then leads to the necessity of transgression of traditional moral principles and primacy of excess over moderation. The new prince who wants to institute “nuovi modi e ordini” necessarily needs “to learn to be able not to be good” (P, 15: 61).<sup>8</sup> Tyranny is necessarily at the beginning of any society (Strauss, 1978: 293).

The prince’s political art, his *virtù*, rests on the knowledge and the effects of the necessity of initial “badness” that he is confronting. The prince’s political goal of establishing secu-

<sup>8</sup> “He [the prince] certainly needs not to possess and exercise moral virtue proper... But he must possess that virtue which consists of *brain*, or *greatness of mind*, and manliness combined... This is the most obvious message of the Prince as a whole” (*ibid.*: 269).

riety of society (common good) is itself just a reflection of his own selfish ambition: the highest (natural) desire to achieve eternal glory of the founder<sup>9</sup> is the key premise of the prince's undertaking. Concern for his own being (particular self-interest) leads the new prince to understand that achievement of his own security is dependent on the establishment of security (well-being) of his subjects (*ibid.*: 269). Politics becomes an instrument for calculation of strategies for coping with evil human nature and selfish behaviour of man. Transformation of corrupt matter into good matter entirely depends on the prince rather than on fortune. His art consists in directing the selfish human passions towards the common good, which is made possible through the establishment of the rule of law, through threats of punishments, and hence through causing fear (*ibid.*: 249). Laws make and keep men good (*ibid.*: 286). Morality is not derived from nature anymore; it is rather conceptualised as the "artificial product of commonwealth itself, of its laws and institutions" (Strauss, 1975: 86). Hence for Strauss, Machiavelli's political project is essentially destructive of the classical conception of moral virtue as the natural end of society, since he emphasises "the essential dependence of morality on society" (Strauss, 1978: 294).<sup>10</sup> Strauss consequently interprets Machiavelli's project as "what one may call emancipation of acquisitiveness" (*ibid.*: 293). And one must indeed develop full consequences of such an assumption in order to grasp the importance and superiority of the republic in the thought of the Florentine. Machiavelli understands virtue as common good and in the highest sense as patriot-

<sup>9</sup> It goes without saying that "the highest glory goes to the discoverer of an all-important truth, of the truth regarding man and society, of the new modes and orders" (*ibid.*: 288).

<sup>10</sup> "Moral virtue, wished for by society and required by it, is dependent on society and therefore subject to the primary needs of society" (*ibid.*: 294). "He [Machiavelli] denies that there is an order of soul, and therefore a hierarchy of ways of life or goods" (*ibid.*: 295)

ism, understood as “collective selfishness” (Strauss, 1988: 42) or “full dedication to the well-being of one’s society which extinguishes or absorbs all private ambition in favour of the ambition of the republic” (Strauss, 1978: 258). To seek glory and to acquire in the highest sense then implies cooperation of the people and the greats in the framework of an expansionistic republic. The prince’s subjects are dissatisfied with security as soon as they possess it, they demand political power and their own freedom: the common good cannot be reduced to freedom from “foreign domination and from despotic rule, rule of law, security of lives, the property” (*ibid.*: 256). The final (real, not-imagined) end of every society is acquiring the empire (conquering the world) and thus securing the eternal glory<sup>11</sup> of the community (*ibid.*). Achievement of this highest goal is possible only in the framework of the (imperialistic) republic, which hence best fulfils the natural desires of society.<sup>12</sup> The people and the greats are of different nature and they have different functions. The people/multitude cannot rule by themselves (*ibid.*: 260): “they are ignorant, they lack judgement and they are easily deceived”, but at the same time they are “characterised by *goodness*,<sup>13</sup> contempt for seemingly or truly vile, and religion” (*ibid.*: 263), and they are being oppressed by the greats. The latter, on the other hand, dominate and command the plebs, but their virtues are: “prudence and a calculated liberality..., dignity and venerability... patience and

<sup>11</sup> “It is therefore possible and even proper to present the whole [Machiavelli’s] political teaching as advice addressed to individuals as to how they can achieve the highest glory for themselves” (*ibid.*: 282).

<sup>12</sup> “The common good [in the full sense] is the end only of republics” (*ibid.*: 256).

<sup>13</sup> “Goodness” is understood in opposition to (moral) virtue and Strauss refers to it as “innocence”. People lack prudence, they do not know how to colour their actions, they do not understand the common good. People are good only in a sense that they naïvely believe in the possibility of goodness of the ruling class, thus in turn severely resisting the selfish ambitions and avarice of the greats (*ibid.*: 263).

artfulness” (*ibid.*). Machiavelli’s republic is grounded on the premise of selfishness: the greats are shrewd, their “ambition is guided by prudence” (*ibid.*: 264) and they are able to realize that they serve their own interests best when they restrain their desire to oppress and when they agree to share the political power with the people (*ibid.*: 270).<sup>14</sup> The motives of the greats are not different from that of the prince (*ibid.*: 269) and the common good in the republic is eventually related to “the harmony between the good of the many and the good of the great” (*ibid.*: 271). It is important to notice that the greats are not qualified to rule as “men of moral worth”, as the Classics would tend to say, since the *goodness* in Machiavelli is with the people. In Strauss’s reading, the Florentine intends to show indeed that the factual truth of what the Classics called best aristocracy is oligarchy (*ibid.*: 270, 294). But on the other hand, Machiavelli is not a philosopher who originates democratic tradition (*ibid.*: 294), his praise of the people (especially D, I: 58) is only a part of his wider project which intends primarily to destroy the primacy of moral virtue and to show that the bond and the end of society is enlightened self-interest (*ibid.*: 298). Since the common good is defined in an essentially amoral sense, society can never be reduced to a (pure) practice of moral virtue<sup>15</sup> (*ibid.*: 256). The only criterion for political action is its conduciveness to the common good: its “social and political utility” (*ibid.*: 265). Finally, we learn that the best (imperial) republic necessarily leads to corruption and decay

<sup>14</sup> Strauss finds two essential aspects of this self-interested self-restriction (which are fruitful from the stand point of the common good): 1. the need for the use of the plebs for foreign acquisitions (*ibid.*: 260) which correspondingly leads them to give armed plebs a share in political power; 2. fear of the people limits the ambition of the greats since in case of excessive oppression people, in order to protect themselves, may turn towards an ambitious man and help him in setting up tyranny, and the tyrant might in turn “secure himself by cutting to pieces the greats” (*ibid.*: 270-271).

<sup>15</sup> “Moral modes of action are the ordinary modes..., whereas the immoral modes are the extraordinary ones” (*ibid.*: 259).

due to enrichment of its citizens in foreign acquisitions which eventually destroys the civic equality (*ibid.*: 265). Essential badness of the society cannot be extinguished and the foundation of society is presented as a continuous process (*ibid.*: 287-288), hence highlighting the importance of the principate (*ibid.*: 267).

To conclude, Strauss seeks to show that the possibility of actualisation of a sustainable political project under the premise of “*verità effettuale della cosa*” requires “lowering the standards of political action”<sup>16</sup> (Strauss, 1978; 1988), since it brings political order in proximity of the pure human passions. The symbol of Machiavelli’s society becomes the “beast-man” since the Florentine “understands man in the light of the sub-human rather than of the super-human” (Strauss, 1978: 296-297). In the final analysis the political is understood “as if supra-political did not exist” (*ibid.*: 295). Machiavelli detaches politics from natural law, and in turn justice is absorbed completely in human arbitrariness (Strauss, 1975: 88). Nature is converted into matter consisting exclusively of men. Modern political thinking inaugurated by Machiavelli is the product of his ambitious project directed against both the “divine order of the Bible” and “the naturalism of Athens”, which he dismisses as essentially imaginative. Strauss points out that Machiavellian liberation of political action through abandonment of moral/natural principles signifies a substantial transformation and reduction of politics to a technique of mastering *fortuna* (*ibid.*: 87).<sup>17</sup> Machiavellian rebellion fur-

<sup>16</sup> According to Lefort, the great achievement of Leo Strauss is to show that Machiavelli is not a founder of empirical science in opposition to normative philosophy, but that he is seeking to establish a real/objective normative of the latter in opposition to the previous classical understanding (Lefort, 1972: 282).

<sup>17</sup> Strauss concludes his analysis of the *Thoughts* with a particularly harsh statement that is however, I believe, an expression of his sincere nostalgic *umore* for classical philosophy which is “graced by nature’s grace” (Strauss,

nishes a specific modern solution to the political problem, and it is presented as the first and decisive step on the path towards “nihilism, relativism and historicism”, which are the main characteristics of the (dangerous) project of Modernity taken as a whole (Strauss, 1988).

### **B) Lefort: Machiavelli as Columbus of the New Political Ontology**

Although “one must give due homage to Leo Strauss” (Lefort, 2000: 111) since his demanding interpretation introduces us to the truth of Machiavelli’s discourse (Lefort, 1972: 260), still his work cannot satisfy Claude Lefort: “Its defectiveness is discernible in the highest degree” (*ibid.*). Instead of seeking the key of Machiavelli’s political project in the (bad) human nature, Lefort finds “the principio” (Lefort, 2012: 452), the foundation of his political thought and the politics as such, in the “division of desires/class division as a natural given [of all societies], which leads Machiavelli to break up with the aristocratic conception of the city and to found a theory of democracy” (Lefort, 1972: 303).

In D, I.4 and P, 9 Machiavelli famously postulates his thesis that in every city (modern or antique) there are two diverse humors (*umori*): “that of the people and that of the great, the people do not want to be commanded, oppressed by the great; the great want to command and to oppress the people”. In Lefort’s reading the primary terms of Machiavelli’s political analysis are precisely desires and humors (Lefort, 2012: 265).

1988: 40): “Machiavelli does not bring to light a single political phenomenon of any fundamental importance which was not fully known to the classics” (Strauss, 1978: 295). However, and it is a paradox, regaining the multiplicity of the world back precisely through reading Machiavelli and against positivist scientism was a great achievement of Claude Lefort (cf. Manent, 1998: 62). We can only hope that this would, to a certain degree, calm the nostalgic sentiment of Leo Strauss. Maybe it is precisely to this sincere sentiment that we owe Lefort’s homage to Leo Strauss (cf. Lefort, 2000: 111).

Being universal, they are placed within the hearth of every possible society, forming the very being of the City. In opposition to the prevailing opinion of his time, Machiavelli courageously designates the conflict between the people (plebs) and the greats (Senate) as the origin of Roman greatness and the very source of political freedom of the community: “I say that to me it appears that those who damn the tumults between the nobles and the plebs blame those things that were the first cause of keeping Rome free... They do not consider that in every republic are two diverse humors, that of the people and that of the great, and that all the laws which are made in favour of freedom arise from their disunion” (D, I.4: 16). Moreover then, the central content of political freedom is found in its legal dimension directly stemming from the class conflict (Lefort, 2012: 227-228).<sup>18</sup> Which inevitably awakens our curiosity: which of the two classes and the corresponding desire is at the origin of the freedom of political community?

In Lefort’s reading, class conflict, at its most profound level, is reflected as the division of desires (cf. Manent, 1998). Precisely this is the key point of Machiavelli’s announced discovery of the new continent (proem to D, I: 5). Machiavelli points out that the division between the desire to acquire (traditionally related to people) and the desire to keep power, honours, goods (traditionally related to aristocracy and conservation and stability of order) is a false one. Through his analysis in D, I.5 Machiavelli daringly sets forth another understanding: the desire to keep/maintain is more dangerous, because it is itself always transformed into the desire for acquisition due to the fear of losing (D, I.5: 19). The Florentine argues that greats do not want simply to keep what they possess; they

<sup>18</sup> In addition, in the same chapter, Machiavelli adds: “Nor can one in any mode, with reason, call a republic disordered where there are so many examples of virtue; for good examples arise from good education, good education from good laws and good laws arise from tumults that many inconsiderably damn” (D, I.4: 16).

inevitably want more because their appetite for domination is insatiable and it is naïve to consider them to be inclined towards moderation (Lefort, 2012: 230).<sup>19</sup> If we accept the idea that the desire to maintain is in fact and inevitably the desire to acquire, we are in position to grasp a new truth: the desire of the people which was previously condemned because of its excessiveness, and thus conceptualised as a pure aggression against the established order, is in fact only a negatively directed desire not to be oppressed. In the new Machiavellian optics people's desire is then presented as a desire to be, desire for freedom provoked by domination of the greats. It is irreducible to any particular sort of desire to have since achievement of any particular object cannot fully satisfy its cravings. It is defined as an infinitive demand against domination of the greats – as the work of the negative (*ibid.*: 231, 455, 459; cf. Abensour, 2011).<sup>20</sup>

<sup>19</sup> The instability brought by the greats is emphasised by Manent (1998: 58) who puts down this point beautifully: “They [the Greats] truly desire to have [more] because they truly know what does it mean to possess. Their *having* is a principle of disorder.”

<sup>20</sup> Traditionally, man's universal appetite/desire for wealth, power and honours is considered to be the cause of social struggle (Lefort, 2012: 230). But these appetites/passions can be eventually satisfied and hence repressed: the greats, those who have been fortunate to have/possess, are guarantees of the very possibility of an order (*ibid.*: 456). From this perspective then the class division becomes operative only subsequently, as the result of the work of “the coalition of malcontents and the envious” (*ibid.*). But in opposition to such an assumption, beneath the simple fact of the universal appetite Machiavelli “discovers the break of the continuum of desire” (*ibid.*). The Florentine hence does not represent the desire as the one sole appetite for power and wealth, but in addition, he finds in the figure of the people a complementary desire not to be oppressed/dominated. Hence, we are invited to abandon the idea of “natural struggle” as such, and find the “nature of man” in social relation: thus distinguishing between people and the greats as the fundamental principle of any society. A new theory of desires provides Machiavelli a key tool for postulating primacy of class conflict as a true, originative “princípio” of society.

Now, we are in position to discern more precisely the relation that the law and freedom establish with class conflict: it is the desire of the people not to be oppressed that we find at the origin of freedom.<sup>21</sup> In D, I.5 Machiavelli famously confines the guardianship of freedom to the people.<sup>22</sup> Hence, Machiavelli is “subverting the classical representation of law” (Abensour, 2011: 122) related to the moderation of possessors (greats). Law becomes directly related to the (permanent) excess of the desire not to be oppressed (Lefort, 2012: 235). This also means that law originates from the society itself, it is formed *within* the experience of class struggle (Lefort, 2010: 225, 227-229, 455). Society is already a political society: *a contrario* to nature or reason,<sup>23</sup> the internal division of desires as the principal premise of any society, and more specifically people’s desire not to be oppressed, becomes the origin of institutions and laws (Lefort, 2012: 237). Hence, the appropriate departure point for understanding Machiavelli’s political theory in Lefort’s reading is (the political) nature of the city, and not the (evil) nature of man and corresponding social antagonism as in Strauss’s reading.<sup>24</sup>

<sup>21</sup> “I say that every city ought to have its modes with which the people can vent its ambition, and especially those cities which want to avail themselves of the people in important things.” And he adds: “The desires of free people are rarely pernicious to freedom because they arise either from being oppressed or from suspicion that they might be oppressed” (D, I.4: 17).

<sup>22</sup> As early as in D, I.3 we learn that people alone restrain efficiently the domination of the Grandees from the moment of their institutionalization in the form of the tribunes.

<sup>23</sup> Law is not the result of the pure work of reason, because understood in that way it completely avoids the question of social conflict as a class conflict: nature can be deciphered only *in* society where we find “natural wickedness of men” only in the behaviour of the greats (Lefort, 2012: 225, 231).

<sup>24</sup> Compare especially with Lefort’s interpretation of D, I.3 (Lefort, 2012: 224-226). Universal class conflict is not the consequence of bad human nature: men’s appetites cannot be reduced to pursuit of power and wealth. Thus, beyond the (simple) picture of social antagonism originating from the

Lefort's reading of Machiavelli sets forth a decisive insight that original division of the social body is an irreducible, universal and permanent characteristic of all societies. Political order (principate or the republic) can be established only as a response to the new truth of the social. Hence, no order can be established on the basis of total elimination of disorder (*ibid.*: 229). Lefort reveals Machiavelli's social division as a constitutive division through which society is articulated. It therefore becomes impossible to reduce society to unity, because, according to Lefort (*ibid.*: 140), the void produced by the definition of desires cannot be filled, and hence it launches the ordeal of the uncontrollable, the characteristic modern indetermination and contingency. Class figures of the people and the greats are themselves defined only through the conflict of their appetites, which are equally insatiable (*ibid.*). "Their existence is only determined by their essential relation" (*ibid.*: 140), discerned as a relation of inequality, and discovered in the clash of their two appetites driven "by the lack which constitutes the other": while the greats want satisfaction of their appetite for domination, the other wants to obtain protection from it (*ibid.*: 140-141, 455).<sup>25</sup>

insatiability of universal human appetite (leading to a state of war), we are invited to find a split in desire/appetite ("a primordial duality internal to the being of the men"): "the split of the collectivity into two halves and the impossibility of their reunification" (*ibid.*: 455).

<sup>25</sup> Thus, class struggle cannot be reduced to its economic dimension. As Lefort repeatedly aims to prove: "Class struggle is not a *de facto* struggle over something concrete" (Lefort, 2000: 130). And Lefort himself certainly does not help us when he terms the struggle in question as a class conflict which does have a strong Marxist tone. But through reading Machiavelli carefully under the guidance of Lefort, we learn that although economic motivation for oppression can be, and even most often is, the primary cause of social struggle (D, I.37: 80), struggle itself is not the struggle for material goods. Lefort is resolute: "Even if the problem of economic redistribution would be resolved, the result would never be a homogeneous society, but a new division" (Lefort, 2000: 136). Classes are "political" classes and their conflict is irresolvable.

If we approach Machiavelli in a more contextual manner, his writings doubtlessly appear to be directed at winning the truth of democracy in terms of liberation of politics from the dominant conservative and aristocratic discourse that is drawing support precisely from the great Authors of the past. In *Discourses* Machiavelli offers a brand new interpretation of the history of Rome, aimed at discovering an affinity between the Ancients and the Moderns, which could therefore be of an immediate (*here and now*) relevance for the politics of his time. In opposition to the humanist praise of *unione*, concord, moderation and stability of Rome, Machiavelli's Rome finds its strength in conflicts and tumults, and more concretely in the desire of the people not to be oppressed. In *The Prince*, similarly, the play of the same desires is in question, and Machiavelli is advising the new ruler to side with the people in order to produce a lasting order (cf. P, 9).

Despite Machiavelli's apparent democratic *umore* in both cases, reaching a democratic position with Machiavelli under Lefort's guidance is possible, but only under severe limitations.<sup>26</sup> At the same time, however, those limitations bring us to a better position from which to grasp the full meaning of the new theory of desires. We already implied that repression/

<sup>26</sup> Machiavelli does not subscribe to the image of the goodness of the people. People are neither good nor smart (cf. D, I.44). When Machiavelli analyses the nature of the people in *Discourses* as well as in *The Prince*, Lefort shows that he does not take them to have "political savvy, involving guile and calculation" (Lefort, 2012: 270). However, Lefort's final judgement is striking: on the most profound level "considered as a class, people do not make mistakes at all" (*ibid.*). Only the knowledge of the greats implies calculation (aiming at a fatal amalgam of their property/having with power and seeing the prince as their equal, *ibid.*: 141) and thus "only the dominant class makes mistakes" (*ibid.*: 271). People on the other hand remain "innocent and sincere", caught up in the "sensible knowledge" that is tied to "perception and imagination" (*ibid.*). The critique of behaviour of the populace is in fact inevitably tied to the critique of the behaviour of the political authority (*ibid.*).

domination is one indispensable moment of the expression of original social division. Desire for freedom is itself dependent on the stimulations of aggression and domination (*ibid.*: 237). That is why people can never be completely delivered from domination, nor does the republic or the prince ever tend to entirely eliminate the conflict, since that would be equal to destroying the wellspring of liberty and law (Lefort, 2000: 135).<sup>27</sup> People do not even tend to become the whole of the society (cf. Manent, 1998). Machiavelli's theory is not about the simple substitution of aristocratic prejudice with a democratic one (Manent, 1998: 57, cf. Lefort, 2012: 231). The heart of his theory is not the discovery of the "real" nature of two orders of citizens, and consequential "modern" favouring of the people. The essential part of his theory lies in discovering the ontological truth of the modern City. Thus, Machiavelli does not only radically bring into question the key assumptions of the old (Aristotelian) ontology of nature and order, but through its questioning he brings forth the wholly new understanding of the being, the wholly new political ontology (Lefort, 2012: 180). It is the ontology of "history, movement and disorder" and it presents a framework for an understanding of modern politics relevant not only for Machiavelli's time but for our *here and now* (Manent, 1988: 53-54). Therefore, the Aristotelian idea of distortion/denaturation of the "good form" of society is displaced by a new understanding of being which is characterized by a permanent destabilization stemming from the insurmountable abyss produced by class desires.

To return to Strauss once more then, it is not the *imagination* of things that Machiavelli is criticizing in P, 15, but the intention of prescribing the final ends of man and society corresponding to the hierarchy of Being (Lefort, 2000: 133). Con-

<sup>27</sup> "Where free institutions blossom forth, the great remain; they pursue their own objectives: wealth, power, honours. In their own way they are free; their appetites nevertheless are contained; law constrains them" (Lefort, 2000: 135).

cordant and peacefully balanced city arising from the knowledge of the ultimate ends prescribed by Nature is definitely abandoned with Machiavelli. At the same time, however, far from the final conquest of *fortuna*, society is permanently opened to the *events* and *history*. As Lefort unforgettably puts it, Machiavelli confronts us with “the mode of thought that experiences Being within time” (hence within history) (Lefort, 2012: 181). The thought is compelled “to take up the political relation” in order to found an *order*, because no other foundation/essence except division itself is to be found (*ibid.*).<sup>28</sup> The experience of ultimate indetermination and contingency (the political) opens up the space for the corresponding distinct but intertwined second pole of experience, the human action (politics).<sup>29</sup> The gap between politics and the political is irreducible (Lefort, 2000: 138).<sup>30</sup> Therefore, in contrast to

<sup>28</sup> This political relation will be famously named by C. Lefort as “the empty place of power”, which leads him to discovery of the symbolic dimension of politics and “the power of the *imaginaire*” (Lefort, 2012: 459). In contrast to Strauss, Lefort’s Machiavelli “returns from the image of the thing to its actual truth only to decipher the meaning of the image inscribed in it” (*ibid.*: 163). The importance of “representation of politics” is emphasised already in his reading of *The Prince* where he underlines the significance of the image that the prince creates about his behaviour in the eyes of his subjects (cf. *ibid.*: 159-183). The symbolic dimension of politics has direct repercussions for the foundation of Lefort’s theory of democracy (Lefort, 1988, 2000a).

<sup>29</sup> About the different conceptualisations and the meaning of *political difference* (difference between politics and the political), including Lefort’s, see Lalović, 2012.

<sup>30</sup> Marchart (2007) contextualizes Lefort’s differentiation of politics and the political in the framework of post-foundational thought, reworking Heidegger’s original project in a democratic direction. According to Marchart (2007) between the ontic moment of being – politics (as a social sphere) and the ontological moment of the political (mode of instituting the social as a whole) we find the political as well. So, the political *difference* itself is *political* difference, since the political has a function of relating the two moments of political *difference* (*ibid.*: 172), hence guaranteeing the space of freedom in between the ontico-ontological and defining the research task of political theory (Marchart, 2007; Lalović, 2012: 177). Lefort in this sense offers us

Strauss's position, Machiavelli, in Lefort's reading, abandons the idea of final solution of the political problem, which becomes related to permanent confrontation with events produced by class conflict.<sup>31</sup>

Now, for every situation there is "a required politics" (Lefort, 2012: 181) which finds its content in keeping with the being of the social. But while the necessity of situation determines the scope of politics, can we consider certain responses privileged over others (cf. Manent: 1998: 55)? The attentive reader of Machiavelli will remember his words on republics, from his book on principalities, which deserve to be cited here: "But in republics there is more vitality, greater hatred, and more desire for vengeance, which will never permit them to allow the memory of their former liberty to rest".<sup>32</sup> Where the activity of the people is stronger, society can actualize more of its potentials (Lefort: 2000: 134-137; Manent, 1998: 59) since it is putting in full play and strength the very being of the city. Thus, even the actions of a new prince, in bottom line (and in a certain degree) represent the obfuscation

a "historical genealogy of Machiavellian moment" (Marchart, 2007: 85). For the useful contextualization of Lefort's thought, see also Breugh *et al.*, 2015, especially Introduction: 3-33).

<sup>31</sup> This last point can be appropriately supported by a telling Machiavellian passage: "Whoever considers present and ancient things easily knows that in all peoples there are the same desires and the same humors, and there always have been. So, it is an easy thing for whoever examines the past thing diligently to foresee future things in every republic and to take the remedies for them that were used by the ancients, or, if they do not find any, to think up the new ones through the similarity of accidents" (D, I.39: 84). Lefort interprets this passage by asserting that events are not necessarily the same, but the logic of concurrence of these accidents is the same, since it is stemming from the division of desires (Lefort, 2012: 265).

<sup>32</sup> Republics are for Machiavelli the most solid regimes because the authority in them is dispersed among all the citizens (cf. Lefort, 2012: 121) and hence it is even more solid than the French monarchy "as one of the most ordered and well governed kingdoms of our time" (*ibid.*; cf. P, 19: 75).

of the being. “Republic is the only regime which best conforms to the nature of the city” (Lefort, 2000: 130). Republic is established on the premise of (formal) equality under the law, where the outcomes are determined by no one but by the pure work of factually unequal desires, time and time again confronting all established law and exposing it to the effects of desire for non-domination (*ibid.*: 131).<sup>33</sup> But still, and here we begin to outline the first contours of a possible critique, what is the reference point for people’s desire? Manent (1998: 61) brings forth this question when asking how can we be sure that the desire of people is *authentic*, and that it is not the case (at least in part) that under the veil of “non-domination” there is also a hidden path towards a new domination (having in mind people’s desire for vengeance in contrast to merely striving for security). While staying at the same horizon opened with this illuminating question intended to please (more) aristocratic sensibilities, perhaps we should adjust its angle in order to remain more faithful to Lefort’s original (radical) democratic project, and ask: who can represent himself as a plebs desiring freedom?

<sup>33</sup> Cf. Lefort, 2012: 228. Machiavelli (and this is the point where Strauss and Lefort do agree, although for different reasons) favours republic above monarchy (Lefort, 2000: 135). According to Lefort, the prince has to use the “republic as an inspirational model” which provides him with a norm for his conduct (*ibid.*: 136). We do know that republics are not possible always and that, depending on the level of corruption of society, principality sometimes represents the only possible solution. On the possibility of change of regime from principality to republic, Lefort’s thought remains (to a certain degree) enigmatic (together with Machiavelli). Certainly, public affairs in the long run cannot remain the affairs of one person only. Equally important, under the presumption of the strong prince who has the sense for the political, and who orders the institutions of principality in such a way as to resemble the republic in strength, is it not possible to imagine a people who fight for their freedom? Is it not then legitimate moreover to wonder whether the death of Borgia (though premature) is something awaiting every *eccellentissimo* prince worthy of the name *virtuoso*?

Can Lefort's reading fully satisfy us? Is it possible to engage into a new dialogue with Machiavelli, together with, and in the same time beyond Lefort, who himself instructs us that the Florentine is not writing only for his time, but at the same time for the indefinite readers from the future, for a reader without identity?<sup>34</sup> On this path, one of Lefort's sentences strikes us as a thunderbolt: "Machiavelli does not maintain that the law *as such* is the product of man" (Lefort, 2000: 132). Hence, the law is the relation which is (potentially) always there, inscribed in the original social division, in the desire of people not to be oppressed (Abensour, 2011: 122). While the law is the product of class struggle, in the same time class struggle is itself caught up in a much greater movement, deriving from the ontological dimension. We find ourselves "submitted to raw being" (*ibid.*: 110). As Abensour nicely puts it, human struggle is "the effect [and expression] of the experience of being", "perennial unveiling of the experience of being in time", "vertical being" (*ibid.*: 118, 121), which animates the desire for freedom in its contact with domination. If the class conflict has such a central place in Lefort's reading, it is precisely "the ontological play" that fuels this conflict and provides its maximum strength, in order to "excavate a non place", "a new disorder", "to puncture the massiveness of the real" (*ibid.*: 120). The political struggle is then caught up completely in this ontological play. The holist "bias" in Lefort's reading, manifested on the level of class struggle, is a conse-

<sup>34</sup> This has been unforgettably recorded in the title of Althusser's famous posthumously published book: *Machiavelli and Us*. Here we can only note down that in contrast to Lefort who is *coming out* from Marxism and moving towards democracy through his reading of Machiavelli, Althusser's interpretation of the concept of void in Machiavelli stays within the framework of Marxism, although critically emphasizing the fundamental contingency regarding the revolution overthrowing capitalism, in contrast to deterministic understanding of historical materialism (Althusser, 2011; Breckman, 2015).

quence of his radical elaboration of social division as an ontological conflict.<sup>35</sup>

Still, if we are willing to accept key premises of Machiavelli's understanding of the political from Lefort's perspective, should we remain satisfied with his conception of political and social order, being confined within the limits of liberal rule of law?<sup>36</sup> Could we not adjust our perspective towards the question of subjectivity in Machiavelli by adding a new layer, an ethical dimension, to Lefort's understanding of *the political*? The emancipatory dimension of the political is implied in the desire of the people for freedom, which leads us to the assumption of the diachronic dimension regarding the possibility of establishing political order in which public activity develops into a form of collective political subjectivization of its citizens. The question of subjectivity discerns what is obfuscated: a specific "human element" of political struggles, thus providing us with the ground for our thesis: the ontological play animates/addresses people's desire for freedom as an (ethical) demand for recognition, which gives birth to their own subjectivization. We could, as an assumption, outline the contours of this process as follows: starting from the

<sup>35</sup> There is a direct relation of Lefort's theory of democracy to the new political ontology that he finds in Machiavelli. See Bilakovics, 2012. Famously conceptualised around the "empty place of power" as the purely symbolic dimension, democracy welcomes and preserves indeterminacy; it does not have a final form and it can never settle down; it is an adventure that will never end (Lefort, 1998: 16). Thus, focusing on the permanent agitation of society, movement between different social configurations becomes more important for Lefort than the specific social outcomes.

<sup>36</sup> For a critical view on the paradoxical liberal emphasis of Lefort's conceptualisation of democracy as a revolution in general, see Lalović, 2000. Human rights are indeed famously defined as generative principles of democracy. However, they are themselves representing only the pure symbolic framework of the society because of "the irreducibility of awareness of right to all legal objectification" (cf. Bilakovics, 2012: 156-160; Lalović, 2000: 34-38).

permanent ontological stimulus which is addressing the desire for freedom as an ethical demand for recognition, group/class logic of political struggle is inaugurated and, through the intermediation of political instance, it results in the production of modern individuals, who keep entering new struggles evolving around some unrecognised part of their ever latent identity, and the circle inevitably continues. Is there then a space for a specific ethical dimension of Machiavelli's understanding of the political leading to the potential establishment of a mechanism of our own subjectivization (even) under the conditions of post-foundational thinking? Such is the nature of these questions that they inevitably direct us to go back to Machiavelli's text – in search for possible landmarks...

### **C) Conclusion: With Machiavelli towards Theory of Recognition?**

While Lefort skilfully shows (in contrast with Strauss) that the social bond in Machiavelli cannot be formed individualistically (from the standpoint of instrumental action and strategies), it is my opinion that at the same time we cannot fully grasp it holistically either (from the standpoint of ontico-ontological play). Although brilliant in discovering the *new political ontology* as a secret and hidden layer of thought beyond Machiavelli's understanding of politics and thus enabling an amazing "ontological" enrichment of Strauss's analysis, Lefort's interpretation reduces Machiavelli's understanding of political freedom to its legal dimension, since it translates the results of class struggle merely into negative liberty. However, if we accept the key ontological premises of Lefort's post-foundational reading, and if we take over his central emphasis on the irresolvable division/class struggle that it brings to full light, we can still contribute to Machiavelli's understanding of the political through discovery of its ethical dimension. Hence, through the reciprocally intersubjective interaction between

the greats and the people, we can assume the possibility of diachronic collective political subjectivization of citizens.

Though Machiavelli indeed conducts a radical break between politics and morality, as it is demonstrated by Strauss and adopted by Lefort, it seems to us that the Florentine does not leave us without solution. We claim that the ethical potential is already inscribed in the social relation between the greats and the people. Under this assumption, we suggest to reinterpret the struggle between the greats and the people as a struggle for recognition. The desire of the plebs not to be oppressed could be interpreted as their demand for recognition stemming from their desire for self-realisation as a normatively significant request. The ethical dimension of Machiavelli's project stems precisely from the normatively based negative experiences of the plebs, which initiate political struggles and political action for individual self-realisation. The normative order of society emerges as a reverse image of the experiences of the oppressed reflected in the symbolical space of the political, projecting an alternative model of social relations. Normativity in Machiavelli is found in the social itself and it is derived from the standpoint of the oppressed/plebs who are pointing to the development of social conditions which are essential to full development of human beings, which however they will never be able to attain fully.<sup>37</sup> Struggles for recognition are directed towards widening the freedom of the oppressed, who through the mediation of political instance at the same time necessarily involve the subjectivization of all members of the political community. The political struggles for sure include, but at the same time transgress, the limits of legal freedom/recognition (cf. Honneth, 1995). *The Prince* can be interpreted as the moment of foundation of the people as

<sup>37</sup> On the basis of Machiavelli's understanding of the political, there is no reason to suppose that the completion of the process of emancipation, as idealized moral progress in a form of "total reconciliation", is a possible, as well as a desirable end.

equal to the greats through recognition of their minimal legal status/subjectivity (legal equality). Legal subjectivity (legal freedom, rule of law) represents the first and decisive step of the political action as a process of collective subjectivization. *Discourses*, on the other hand, might be interpreted as the moment of development of intersubjective logic of recognition to its full effects (political and moral subjectivity). Thus, *The Prince* and *Discourses* taken together as a whole lead us towards the possibility to outline an ethical idea of autonomy (or permanent self-establishment of the people as subjects) in Machiavelli, with the help of the conceptual apparatus of theories of recognition. It seems to us that the indicated direction of research, going back to classical texts (*The Prince* and *Discourses*) in order to improve our understanding of the *here and now*, remains faithful to Machiavelli's own method.

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Dragutin Lalović  
REPUBLICAN SYNTHESIS  
OF THE POLITICAL AND OF THE STATE  
IN ROUSSEAU’S POLITICAL THEORY

One is political, or one is not. And if one is, then one is a democrat. Faith in politics is faith in democracy, in *Contrat social*. For more than a century now, all that is understood by “political” in the most intellectual sense goes back to Jean-Jacques Rousseau. He is the father of democracy, for he is the father of the political spirit itself, of political humanity.

Thomas Mann, *Betrachtungen eines Unpolitischen* (1918)

### Introductory Remarks

Alongside two great modern traditions of political thought (*liberalism* and *republicanism*), a third *modern* orientation of thought can be clearly discerned – the (general) *theory of the state* (Bodin, Hobbes, Hegel). Moreover, one might argue that the latter is – strictly in terms of political theory – superior to the former two traditions, since *this* is the tradition we are indebted to, as pointed out by Skinner, for the “conceptual revolution” in conceiving the state as a modern doubly impersonal power. At the same time, though, Skinner politically values this orientation, eminently modern in the theoretical sense, as an “ideology of counterrevolution” in view of the fact that, historically, it explicitly assumed a polemical stance *against republican political thought* (Skinner, 2002, 2008). In Skinner’s overly contextualistic interpretation, the above-men-

tioned classic theorists of the state are reduced to antirepublican negators of “popular sovereignty” and supporters of “monarchical sovereignty”.<sup>1</sup>

If we concur with Pocock’s classic insight that modern political thought starts with Machiavelli, in fact with the “Machiavellian moment”, as the republican *moment of the political*, then the discovery of the “state” concept can be ascribed to Bodin and Hobbes, and named the Bodinean/Hobbesian *moment of the state*.

If we also agree with Pocock when he states that Rousseau is “the embodiment of the Machiavellian moment in the 18<sup>th</sup> century”, we are faced with a first-rate theoretical challenge: with questioning the relation between the republican “moment of the political” and the antirepublican “moment of the state”.

Is a theoretical synthesis of the two moments conceivable, necessary and possible? At first, the problem does not appear to be insurmountable: one must insert Machiavelli and his notion of the political into the categorial field of the theory of the state, and, simultaneously, insert Hobbes (and Bodin, but he will not be part of this discussion) and his concept of the state into the categorial field of Machiavelli’s notion of the political.

The full challenge and appeal of such a theoretical task can be illustrated by an attempt to inquire closely into the relation between Machiavelli’s *new political ontology* and Hobbes’s *semiology of power* (in the capital interpretations by C. Lefort and Y. Ch. Zarka).

<sup>1</sup> I must refer here to my paper read at the international conference on “Republicanism and Liberalism – *frères ennemis* of Modern Political Thought” (2012), marking the 300<sup>th</sup> anniversary of Rousseau’s birth and the 50<sup>th</sup> anniversary of the Faculty of Political Sciences in Zagreb. The papers read at the conference were published in the periodical *Politička misao*, 4/2012: 15-157). In said article I discussed Rousseau’s republicanism relative to political liberalism (Lalović, 2012d: 45-61), and in this one I look into Rousseau’s attempt to develop his republican ideas and postulates within the conceptual field of the theory of the state.

How could Rousseau assume that such a theoretical synthesis was possible, or, more to the point: that it was *possible to republicanize Hobbes*? Especially since we know that, according to Rousseau, Machiavelli (an eminent republican) and Hobbes (a marked antirepublican) are two antipodes?<sup>2</sup> How could Rousseau be convinced that, be it in the logical-synchronic or in the historical-diachronic sense, we are not condemned to the *either-or* logic when inquiring into the notion of the political and of the state in the categorial fields of the republican theory and the theory of the state?

The initial reply is as follows: Rousseau is not “only” a republican political thinker, but also an important link in the chain of development of the theory of the state, between Bodin and Hobbes as predecessors and Kant, Fichte and Hegel as successors.

At a glance, Rousseau’s belief that a blend of republicanism and the theory of the state is possible – i.e., that *a republican theory of the state* is possible – seems to be a priori unthinkable.

Namely, the differences between the two theoretical orientations appear to be obvious and clearly insurmountable when one knows the following:

1) *the primacy of the political* over the legal and the social in the republican perception is radically thrown into question in Hobbes’s theory of the state, with the thesis that the primacy of the political does not establish the legal order of the Commonwealth, but, on the contrary, creates the disorder of Behemoth. The fundamental task of the state (Leviathan) is to legally pacify the political in its unbridled messianic aspirations, to reduce it to the rational regulatory and security-relat-

<sup>2</sup> As a reminder: “Le Prince de Machiavel est le livre des républicains” (CS, III, 6, OC III, 409). Hobbes’s principles are “... destructifs de tout Gouvernement républicain” (OC III, *Lettres écrites de la montagne*, Letter 6, 811).

ed dimension of politics. Therefore: *one must make a choice between the state and the political.*

2) if we reject the historically conditioned, and theoretically incorrect, ascribing to theorists of the state that they are advocates of *monarchical sovereignty* (as opposed to popular), it seems that the republican notion of personalized sovereignty of *the people*, on the one hand, and the notion of subject-less or doubly impersonal sovereignty of *the state* in the theory of the state, on the other, are completely incompatible and opposed to one another. Therefore: *one must make a choice between sovereignty of the people and sovereignty of the state. There cannot be two sovereigns!*

3) the definition of a political citizen (citoyen) as a free being, alongside with bringing into question man as private person (bourgeois), according to the republican perception, can hardly, if at all, be reconciled with the notion of the theory of the state that man is first and foremost a legal subject, a free subject of the legal state, and a member of civil society, and that he is by no means a subject of forming the political general will. Therefore, the choice is this: *either a citizen or a subject (sujet) and bourgeois!*

So, how can Rousseau think that is it possible *to republicanize the theory of the state*, offer an *and-and* logic instead of an *either-or* logic, reconcile the irreconcilable and carry out a republican synthesis:

- 1) of the political and the state;
- 2) of sovereignty of the state and sovereignty of the people;
- 3) of the figures of political *citoyen* and non-political *bourgeois*?

The scope of this theoretical task – which is the great theoretical dialogue between Rousseau and his predecessors Machiavelli, Bodin and Hobbes, *and* in the light of Hegel's subsequent speculative synthesis – is bound to discourage in advance even the most ambitious interpreter.

Consequently, I will focus here “only” on the *Rousseau-Hobbes* dialogue, and even the analysis of this particular aspect will be limited to several concise observations.

I opt for Hobbes because it is precisely his science of politics that is the epoch-defining theory of the state (Leviathan) in explicit criticism of the republican political theory, and in deliberate distancing from liberalism.

The choice of Hobbes as Rousseau’s privileged interlocutor implies an important interpretative dilemma. Namely, for a long time I was convinced that, after the classic interpretations by Lefort (1972) and Pocock (1975), there could be no doubt whether the beginning of our political modernity was marked by Hobbes or by Machiavelli. It seemed undeniable that Machiavelli’s “moment”, the moment of the political, logically and chronologically preceded Hobbes’s “moment” of the state (Lalović, 2008, 2008a).<sup>3</sup>

Key to the subject we tackle here is the classic dispute between, on the one hand, the republican, “radically democratic” political thought of J.-J. Rousseau, according to which *the political cannot be reduced to the state* (community of free subjects), but can only be embodied in a *republic* (community of free citizens), and, on the other, the “science of politics” of T. Hobbes, in which *the political is reduced to the politics of the state*. In other words, in which the political as *virtù* is restrained in its unpredictability and intractability, and reduced to politics as the juridical instrument of legal government.

<sup>3</sup> After Pocock, there is no point in lingering on the interpretation of the sense of the “Machiavellian moment”. We should just keep in mind that Machiavelli put forward an epochal type of political analysis, which seeks to fathom the political in its ontological dimension (creative *virtù*) and its irreducibility to the ontical dimension of politics as power or to the conceptual schematic of the categorical pair civil society/political state (he was to be followed by Montesquieu and Tocqueville, each in his own way).

## 1. The Meaning of Hobbes's Logical Moment: Moment of State and/or Moment of Language?

First of all, it appears to be indubitable that, while Hobbes is not the initial *theorist of the state* in modern political thought (this would surely be Bodin), he is absolutely the central. Thus there can be no objection to ascribing and acknowledging to Hobbes the founding logical moment of the state within the conceptual constellation of modern political thought. I have been defending this fundamental thesis for years, and it has been systematically and flawlessly argued in the recently published study by Luka Ribarević *Hobbes's Moment – The Birth of the State* (2016).

In the interpretational key of *the theory of the state*, Hobbes is primarily, together with Bodin, the founder of the theory of Common-Wealth as *the state*, the key modern legal-political juridico-political project of constituting sovereign power as the space and guarantee of man's emancipation in the sense of his legal, economic and political subjectivization.<sup>4</sup>

A veritable revolution in the understanding of Hobbes was carried out by one of the most important contemporary French political philosophers and first-rate experts on the classic modern political philosophy – Yves Charles Zarka (1987, 1990, 1995, 2000, 2001a, 2001b, 2002, 2007, 2013, 2015a, 2015b, 2016), in his capital interpretation of Hobbes's theoretical system. His book *Hobbes's Metaphysical Decision. Conditions of Politics* (1999[1987]), proves impeccably, even in

<sup>4</sup> “According to the main contemporary researchers of the state as modern sovereign power (from Passerin d'Entrèves, 1962, to Skinner, 2002), Hobbes is perceived as the greatest *theorist of the modern state*. Of the state as an epochal *novum*, a doubly impersonal public power in which seigniorial and imperial political power, by mediation of law, is transformed into rational legal-political power, into a legal system. The logic of this epochal transformation, the distinctive quality of Modernity, was expounded in the theories of sovereignty of the state. Which is precisely the essential content of *Leviathan...*” (Lalović, 2006b: 119).

accordance with the most rigorous hermeneutic criteria, that Hobbes's ethical-political theory is *semiology*, and not *sociology of power* (*pouvoir*).<sup>5</sup> Only under the assumption that man is primarily a being of language, and not a being of power (*puissance*), is it possible to understand how "natural" man as a being of power (*puissance*) is transformed into a being of law (*droit*), or how mere *potentia* is transformed into legal *potestas*.<sup>6</sup> For the logic of power (*puissance*) is not the logic of mutuality, but the logic of war (the space of radicalization of otherness as an insatiable desire for supremacy). Hence this is the key question: how is it possible to transition from the state of war of conflict (based on *ius in omnia*) of all against all into the civil state of legal peace and mutual recognition? And the key reply: *language is the anthropological condition for the performative act* (since the promise and the contract presuppose the capacity of speech and comprehension) whereby the state is founded, while "l'espace du conflit se transforme en l'espace d'une communauté de reconnaissance juridique réciproque, faisant passer de l'autre comme ennemi à l'autre comme être de droit" (Zarka, 1999: 292). What is decisive is the insight that the solution to this "transformational problem" is to be found in *the theory of authorization*<sup>7</sup>, which at

<sup>5</sup> Cf. "... le langage a-t-il pour condition la société ou la société le langage? C'est parce que Hobbes fait de la parole et de la communication verbale la condition de la société, et non l'inverse, que sa philosophie politique est une sémiologie du pouvoir et non une sociologie du pouvoir" (Zarka, 1995: 97). Zarka's book *Hobbes and Modern Political Thought* (2<sup>nd</sup> ed. 2001), which is quoted here, is very useful in terms of popularization of his *Metaphysical Decision*, and is, in addition to that, easier to read (i.e., translate; it has been translated into German, Spanish, Italian, Portuguese, Catalan – and, in 2016, even into English).

<sup>6</sup> "Le pouvoir n'est politique qu'en tant que producteur de signes codifiés par le droit. En ce sens *potestas* est à la fois *potentia* et *jus*, la dimension du droit relevant entièrement de la fonction symbolique" (Zarka, 1995: 91).

<sup>7</sup> Presently it is impossible to write or speak significantly about Hobbes's *scientia civilis* without acknowledging Zarka's fundamental contribution (a

last makes it possible to find a consistent starting point of the state as civil person and of sovereign power as representative power. The future members of the State do not transfer power (puissance) to the sovereign by means of the contract (since power (puissance) cannot be transferred in the first place), but they authorize him to be their lawful representative, so that his sovereign general will would be the will of each of them individually and of all of them collectively (Zarka, 1999: 293-356).

The following cannot be overemphasized: in Hobbes's definition of *status naturalis* we find an anthropological foothold which *makes it possible to transcend the horizon of political and economic immanence*. Hobbes is aware that man is not a mere mechanism of passions in the insatiable quest for power and supremacy (a "potential murderer", as H. Arendt put it), but that he is *determined by language as his distinctive trait*. In the beginning of everything is *the word, logos*. Language is not an invention of man, it is the very seat being: man is man by virtue of language. *The constitution of the communicative community as realization of inter-subjective autonomy of free people* (irreducible to the logic of power (puissance)/ power (pouvoir) and market) is a precondition for the possi-

case in point, in Croatia: Ribarević, 2009, 2009a, 2011, 2016). But in spite of present-day universal agreement that the "theory of authorization" is the conceptual core of Hobbes's political theory, in this instance also we have a baffling example of fatal *Anglocentrism* of the Western civilizational sphere. Namely, said accord is reached only gradually, under the influence of Skinner's renowned interpretation (2002a [1999]). Deservedly renowned, without a doubt; still, Zarka's not only precedes it (1987. versus 1989/1997), but is also theoretically superior. It is indicative that Skinner, in the aforementioned study (not only in the first variant, in 1989, but also in the second, in 1997, or even in the final, in 2002), feels no inclination to at least mention Zarka's great study. Although Skinner refers in a note to "important French studies on the *person* of the state" and, inter alia, mentions Zarka, we find in his bibliography only two other, less important Zarka's works (cf. Skinner, 2002a: 178, 378).

bility of realizing the republic as a political-economic community.

In his fundamental book *The General Theory* (1999), Jacques Bidet has lucidly shown us that the central issue regarding the starting point of modern political theory is still unresolved (Hobbes, after all?). Fully relying on Zarka's great interpretation, Bidet finds in Hobbes's teaching the source of his theory of modernity: in the beginning there was the word, the word of Hobbes's natural man, the wolf speaking out in the language of the social contract (theory of authorization). *The principle of constitution of the (modern) state is discursive* (Bidet, 1999: 16).<sup>8</sup> "*L'Etat comme être juridique artificiel est fondamentalement lié au langage*" (Zarka, 1995: 20; italics added). But the question arises: how is it then possible that the future members of the State express, in the form of a legal social contract, *the contents of the natural or moral or divine law* (cf. Lalović, 2009: 50-56)?

The far-reaching conclusion imposes itself: prior to the political (in the logical sense) and to the state, there was *the word*. The discursive moment of constitution of modern man precedes the Machiavellian moment of the political, and the Hobbesian moment is split into the moment of discourse and the moment of state.<sup>9</sup> Such a fundamental differentiation of the Hobbesian moment imposes an essential correction in the conceptual field of the theory of the state, one based on recogni-

<sup>8</sup> See Ch. 1. "La contractualité", Section 11, § 111. "De la déclaration aux médiations contractuelles", t. A: "Au commencement est la parole". Bidet asserts: "Yves Charles Zarka souligne à juste titre ce lien du contrat avec la parole. 'L'oeuvre la plus considérable de la parole humaine est d'instituer l'Etat par le pacte social' (*Hobbes et la pensée politique moderne*, 1995: 20)" (Bidet, 1999: 16, n. 1).

<sup>9</sup> Cf.: "... how are we ever to understand Modernity, and ourselves in it, if we do not face with utmost seriousness that which is surely the most important book of modern political thought? *For political scientists, there is no other way – all paths lead through Hobbes. From him, towards him, against him*" (Lalović, 2006: 131; italics added).

tion of the insight achieved by the general theory of modernity regarding the constitutive importance of the discursive dimension of being of modern man.

*1.1. Remark on Hobbism as the Inevitable Horizon of Modern Thought*<sup>10</sup>

The offered interpretation by no means excludes the possibility of others. There is another influential line of interpretation of the meaning of Hobbes's political theory (from Tönnies via H. Arendt to Macpherson), according to which Hobbes is a *theorist of the modern civil, market-exchange society*.

I have in mind the reading and perception of Hobbes's political thought which had been put forward for years by our leading political scientist and political economist Dag Strpić (2017 [1991], 1998, 2015). Strpić read Hobbes in the interpretative key of Marx's critique of political economy, within the line of development of British political and political-economic theory, with Hobbes as categorial and methodological founder followed by Locke, Hume and Smith, the climax being Hegel's speculative science of the state.

Strpić's view on Hobbes's theory of the Common-Wealth, which, in the former's understanding, is a civil community or a political-economic community, is based on the classic and exceptionally influential political-economic view on Hobbes's political theory offered by Macpherson back in 1962. With a very important divergence from it,<sup>11</sup> Strpić expounded

<sup>10</sup> For a more extensive version of this observation, see my afterword to Dag Strpić's book *Towards the New Political Economy* (Lalović, 2015: 278-286).

<sup>11</sup> Cf. Strpić, 2017 [1991], the very important note 33. According to Strpić, "the contemporary interpreter of Hobbes, C. B. Macpherson, brought about a veritable revolution (after Tönnies's) in the interpretation of this great modern-age thinker". Strpić finds fault with Macpherson's analysis of the functioning of power in civil society (as transfer of power and administering the powers of others) for radically "Smith-izing" the categorial structure of Hobbes's system: "Macpherson's interpretation of Hobbes does not result

the original and primarily *political-economic* (but also, in the second layer, political-theoretic) interpretation of Hobbes's "l'oeuvre de pensée", which merits full attention.

According to Strpić's insight, in Hobbes's fundamental "system of political science of the modern age" we find the initial and imperative theoretical basis for understanding the logic of production/reproduction of the Common-Wealth as "state-community of power as wealth, or state as political-economic community" (1998: 7). This is a work-based logic of permanent exchange of all forms of power, both between individuals as private owners and between them and the "seat of power of the Common-Wealth" as sovereign power (Strpić, 1998: 7-19; 2015: 17-27; 2017: 26-35, 52-55, 109-114).<sup>12</sup>

The point is to fathom the logic of constitution and reproduction of the Common-Wealth as a (political-economic) community. The underlying "quality of modern production of the community as state-community" is *the exchange of power*,

from Hobbes's theses, but from Smith's solution to Hobbes's problem". This "Smith-ization" is recognizable in Macpherson's thesis that, with Hobbes, *man's power is treated as a commodity*, as private property separable from him and transferable to another through sale. In contrast, Srpić finds that, "in its foundation, either historical or theoretical, Hobbes's civil society is not yet a market society. It is even less a possessive market society of liberal individualism, with commodity-labour at its foundation, as Macpherson tends to portray it" (2017: 357-359).

<sup>12</sup> For an illustration thereof, see Strpić, 2017: Book One, ch. 1, pt. I: "Systematic Categorical and Methodological Founding of Classic British Political Theory and Political Economy: Thomas Hobbes" (sec. 2: "System of Political Theory", pp. 26-30; sec. 3: "Resolutive-Compositive Method and Ratiocinative System", pp. 30-34); and, ch. 1, pt. II: "Classical Notion of Production as Making of Products and Reproduction of Community – Common-Wealth" (sec. 4: "Hobbes's Founding of the Classic Notion of Production", p. 35). See also ch. III, sec. 1.1: "Hobbes's Founding of the Classic Concept of Labour", pp. 52-55; highly relevant is ch. VI, pt. I, entitled "Power and Common Power as Basis of Stock and Common Stock" (pp. 109-114), and therein especially sec. 2: "Thomas Hobbes: Exchange of Power as Constitution and Reproduction of the Common-Wealth", pp. 112-113.

i.e. the subjection of “labour” (as man’s basic natural power) to the relation of exchange (as the fundamental social relation of civil society)” (Strpić, 2017: 112). And the relation of exchange itself is possible only with the preconditions, on the one hand, of “private property and its market-contractual transfers”, and, on the other, of the “power of the community, Common-power, constituted into an absolute, sovereign power” (*ibid.*). The community is, therefore, *processually* defined as an exchange-driven simultaneous “decomposition” (particularization) and “recomposition” (generalization) of the flows and networks of power, and not as a stable and immutable order.

Accordingly, Strpić ventures to point out that he is a *Hobbist*; indeed, that everyone who is earnestly engaged with research of “modern-age political science and philosophy of society” has to be a Hobbist, *volens volens* (Strpić, 1998: 7). And this applies to everyone who can be considered a political scientist versed in theory.

## **2. How Is Rousseau Indebted to Hobbes?**

Is Rousseau truly “plus ‘hobbésien’ que Hobbes lui-même”, as Althusser averred suggestively and provocatively a long time ago (1978: 24)?<sup>13</sup>

If there had been any doubt prior to Derathé’s classic study (1950), after it there could be none: without deep knowledge of Hobbes’s “science of politics”, the very access to Rousseau’s political theory is barred in advance. Not only to his

<sup>13</sup> “La grandeur théorique de Rousseau est de prendre en charge le plus effrayant de Hobbes: l’état de guerre comme état universel et perpétuel, le refus de toute solution transcendante, et le ‘contrat’ d’aliénation totale, générateur du pouvoir absolu comme essence de tout pouvoir... Le bénéfice qu’en tire Rousseau est *d’être plus ‘hobbésien’ que Hobbes lui-même, et de conserver l’acquis théorique de la pensée de Hobbes*” (1978: 23, 24; italics added).

political theory, of course, but to his thought as a whole, as the study by Robin Douglass (2015) convincingly demonstrates.

In this context, Bernardi's major study, with excellent analyses of Rousseau's "conceptual invention", is worthy of special attention. The main focus is placed on the critical reception and creative rewriting of the central concept of "volonté générale". As regards this treatise, indispensable also to our subject-matter, I will only stress here his noteworthy view on Rousseau as "*le plus hobbesien des anti-hobbesiens*" (2006: 546-547).<sup>14</sup>

In accordance with the outlined perception of the Hobbesian moment, I would just like to single out here the three conceptual clusters whereby Hobbes, in my judgment, influenced decisively the forming of Rousseau's political-legal theory.

### 2.1. *Discursive Constitution of the Political Body* (*Contractual Political Theory*)

Rousseau's Hobbism may have been revealed most obviously in his notion of *pactum unionis* as the discursive principle of constitution of the political body (in Hobbes, the Commonwealth = the State or civitas, and in Rousseau, the republic or civitas). One is bound to agree with the important insight that "c'est la voix qui porte l'institution du politique", as well as with the methodically instructive caution in respect of "la richesse polysémique de la notion de voix" in Rousseau's en-

<sup>14</sup> The very important Chapter 5: "Guerre et état de guerre: un détournement conceptuel" (Bernardi, 2006: 225-268) certainly deserves to be mentioned, at the very least. In a meticulous analysis of Rousseau's manuscript *Principes du droit de la guerre*, Bernardi argues very convincingly that, in critical reliance on and inventive divergence from Hobbes in the perception of war and state of war, one can persuasively offer a significantly different reading of Rousseau's entire political theory in general, and of the *Social Contract* in particular. The distinct and systematic discussion is worthy of the conclusion that precisely *Principes du droit de la guerre* point to a deep change in our perception of Rousseau's political thought (2006: 259, 544, 551-554).

tire opus, not just in the *Social Contract* (cf. Bernardi, 2006: 216, n. 1 i 2).

While there is no doubt, as I pointed out, that, as it pertains to Hobbes, the discursive formula of the social contract in *Leviathan* designates *the word* of the “natural man” (“as every man should say to every man: ‘I Authorise and give up my Right of Governing my selfe, to this man, or to this assembly of men...’” (L, XVII, 227), whose then is *the voice* we hear in the formulation of the “fundamental political problem” in the *Social Contract*? Who is addressing whom with the words “Trouver une forme d’association...” (CS, I, 6)? If *the multiplication of voices* is a trait characteristic of Rousseau’s type of argumentation,<sup>15</sup> can we be certain that the formulation of the social contract truly confirms the following: “only in the *Social Contract* would the author of the discourse reach the stage in which he put aside the roundabout way via the plurality of voices and tell us on his own behalf the ultimate *truth about the political*” (Beysade, 1992: 44; italics added)?

A possible answer can be found in the first version of the *Social Contract*, in the notable second chapter “De la société générale du genre humain”, which was left out of the final version. In this chapter, namely, the typical polyphonic structure of argumentation can be discerned: in a direct polemical confrontation with Diderot, who resorts to the fictive character of the “raisonneur violent” and passes fierce moralistic judgment on him as an “enemy of mankind” and a “monster”, Rousseau

<sup>15</sup> Based on the example of the *Second Discourse*, Beysade stressed the “plurality of voices” in Rousseau’s exposé, of which the following are clearly discernible: 1) the voice of the poor man, 2) the voice of the rich man, 3) the voice of the sage, as opposed to the voice of the author (philosopher). The genuine *art of writing* whereby the author, via fictive collocutors, indirectly sheds light on various aspects of the truth, and finally delivers his verdict. According to Beysade, both the *Second Discourse* and the *Social Contract* are to be read as “an ordered interplay of different voices, and the author’s voice must not be confused with the voices of his characters [personnages]” (1992: 33).

alters essentially the characterization of this key *personnage* – in his inscenation, the latter becomes a modern independent man shaped by the present-day “natural state” of civil society. Diderot himself is featured there as the “sage” or “philosopher”, barely less violent in his wrathful philosophical pretentiousness to “calmly” make his fictive character see what is reasonable and just (Lalović, 2006: 82-92, 112-118).

Instead of analysing extensively this important polilogue, which has deservedly attracted attention (e.g., Bernardi, 2006: 331-348, 383-391, 424-430, 460-462, 477-484; Douglass, 2015: 55-58, 108-113),<sup>16</sup> we may just note that, in the combination of three voices, Rousseau partly agrees with both characters of his play. He agrees with the philosopher that man is essentially a split being, torn between his particular will, which speaks to him in the language of private interest, and *volonté générale*, which speaks to him in the language of moral law. He also agrees with him regarding the nominal definition of this moral *volonté générale*. Indeed, all are of one mind in that respect! It's just that the “independent man” perplexedly wonders about the guarantees that, should he follow the moral will, the others would do the same; in other words, instead of needlessly teaching him to be just, one must offer him a convincing synthesis of interest and justice. And the author, through his voice, deems such a demand of the independent man to be legitimate; indeed, his “principles of political law (*droit*)” and the developed political art can be understood as *a constant dialogue with the independent man*.

<sup>16</sup> Both authors, all differences between them notwithstanding, strive to show that, in the *Geneva Manuscript*, Rousseau is in fact, indirectly, through dialogue with Diderot, critically facing Hobbes. Indeed, Douglass believes that, in the character of “raisonneur violent” (whom he consistently refers to as “violent interlocutor”), he recognizes the voice of Hobbes himself. In J.-P. Marcos' judgment, on the other hand, “la figure du ‘raisonneur violent’ n'est pas sans évoquer celle de l'*Insiptiens* chez Hobbes, présente au chapitre XV du Léviathan” (Marcos, 1996: 6, n. 12; 1993).

Two points are key in this imagined polilogue, which the author concealed in the final version of his political theory.

First, let us note that the independent man, as “personnage conceptuel”, as “man such as he is”, is precisely the modern bourgeois, a person internally divided through historical socialization, but nonetheless a subject not only of the private particular will, but also of the moral *volonté générale*.

Second, the underlying agreement on the definition of *volonté générale* (“que la volonté générale soit dans chaque individu un acte pur de l’entendement qui raisonne dans le silence des passions ... nul ne disconviendra”, *MG, OC* III, 286) is only nominal. The author takes over the philosopher’s (Diderot’s) definition, he even asserts that everyone agrees on this point, but the discord is immediately noticeable in the utterly non-Rousseauan primacy of reason over passions. It is paramount to realize that – from the standpoint of Rousseau’s mature political theory – what we have here is a very important categorical differentiation between the moral *volonté universelle* (of the cosmopolitan) and the political *volonté générale* (of citizen). Although Rousseau never actually affirmed this conceptual differentiation in the nominal sense, there is no doubt that all his “fervour” in advocating the perfected political art, whereby he would persuade the “independent man” that “nous commençons proprement à devenir hommes qu’après avoir été Citoyens” (*ibid.*: 287), relies upon this differentiation between the abstract universal will of mankind and the concrete universalism of the general will of a particular people.<sup>17</sup> If the violent *raisonneur* is to reconcile within himself the imperatives of interest and of justice, of the particular will and the

<sup>17</sup> I have shown that the political is precisely generality in my interpretation of Rousseau’s theory of “general will” (*Possibilities of the Political*, 2006). Such an interpretation had become possible only after Patrick Riley expounded for us in his important book (*General Will before Rousseau*, 1986) the conceptual difference between “universality” (universalité) and “generality” (généralité) in the French Cartesian tradition.

universal will, he must be taught to “préférer à son intérêt apparent son intérêt bien entendu”, i.e. to truly become a virtuous man. And the latter is possible only in a “société bien ordonnée” (*ibid.*: 288-289), in a legitimate political order based on true principles of political law (*droit*).

The fact that the *Social Contract* tacitly implies this doubling of voices with the “raisonneur violent” is shown most obviously in the formulation of the “fundamental political problem”. Let us hear it one more time: “Trouver une forme d’association qui défende et protège de toute la force commune la personne et les biens de chaque associé, et par laquelle chacun s’unissant à tous n’obéisse pourtant qu’à lui-même et *reste aussi libre qu’auparavant*” (CS, I, 6, 360, *OC* III; italics added).

There is no doubt whatsoever that, with these words, Rousseau expresses the fundamental self-perception and aspirations of none other than the “independent man”, who firmly believes that he is already free, in a pre-contract quasi-natural state wherein he supposedly “n’obéisse qu’à lui-même”. Consequently, the processual emancipatory character of man’s existence as citizen can be conceived as political subjectivization of the “independent man”, as simultaneous generalization of his particular will and particularization of his universal will.

It remains to be assessed whether Rousseau managed to convince his constitutive interlocutor “how to combine interest with justice”, and why mediation of the political *volonté générale* between private particular will and moral universal will, between man as private being and man as moral being, is necessary and sufficient.

Does the removal of explicit traces of this supremely important dialogue with the “independent man” from the final version of the *Social Contract* not testify to the fact that the author himself was plagued with doubt in that regard?

## 2.2. *The Two-level Type of Analysis of Politics*

That Hobbes wrote two books entitled *De cive* (1642) and *De civitate* (1651) (or *Commonwealth*, i.e. “Leviathan”) is noteworthy in and of itself. Therefore, on the citizen and the State – and republicans of all times and sorts were convinced that, in the two books, Hobbes *proved the impossibility of both citizen and republic in modernity* with a logically unbearable superiority. Which surely was his direct polemical intention.

Hobbes’s methodical starting point that politics can be adequately analysed only in a “two-level” way, from the standpoint of the “citizen” and from the standpoint of the “totality of the political community” – is critical for Rousseau as well. The interdependence of the two levels is co-constitutive: *the citizen forms the political body, and the political body forms the citizen*. In a strictly synchronic construction, Hobbes’s reduction of the (political) citizen to the (legal) subject, and of the republic to the state, encompasses the decisive point of *the conceptual link between the individual and the totality*. The point is decisive because it reveals that the individual *is already in the beginning, in the so-called natural condition (which is in fact eminently political), precisely a citizen*.<sup>18</sup>

This point is comprised in his *theory of authorization*, in which the individual-citizen is defined as “author”, the state as “person”, and the sovereign as “actor”. Since *the sovereign is*

<sup>18</sup> A careful scrutiny reveals that the character of the hypothetical natural state is not extremely conflictual solely and primarily according to the logic of man’s instinctual structure and desire for power (supremacy over others), but first and foremost because this state is a *completely unnatural state of civil war*, or, more precisely: *civil-religious war*, therefore an *eminently political state of conflict over political freedom and religious conscience*. In this revolutionary context, Hobbes proves that (legal) peace is a more primary value than freedom (political), that it is decisive to establish the legal (sovereign) state that will guarantee legal security, respecting the “status libertatis” of its free subjects (i.e. their subjective rights), and suppress the destructive political and religious passions which fundamentally endanger civil mutuality and cooperation (Lalović, 2013: 117-118).

*just a representative, or a ruler explicitly authorized by contract*, individuals are always *virtually citizens* regardless of their actual status in the constituted order.

This creates a hiatus between the formal definition of man as author-citizen and his actual position as a free subject (in the legal State). If this definition is not merely formal, but has a constitutive status, then the logic of this conceptual field opens up a diachronic dimension – the dimension of the logical and historical process of overcoming the hiatus. The initial reduction of man to subject was necessary in order to *de-politicize the conflictual social field* and to reduce the political to the effectiveness of political power. With the purpose of ensuring legal peace and security, and preventing the latent civil war, which is the inevitable outcome of an attempt at *non-mediated establishment of a republic*. More than that: the effectiveness and lasting prospects of political power consist of *establishing society as a sphere of freedom, exchange and production, scientific research and quest for salvation*. The commonwealth or republic are possible – if they are, of which Hobbes is not convinced – only through differentiation of the political and the economic, as spheres of the individuals' existence. Now, the initial form of this relation is only initial, this must be the starting point, so that its potential may eventually develop. But however successful the project may be of developing civil society and the potential of individuals in it as subjects of private law, Hobbes's construction does not allow *an all-embracing re-politicization of the legally pacified social field*. The structural tension between "author" and "actor" is part of "the matter itself", *the logic of the political cannot be reduced to the logic of society, to the logic of property*.

The two-level type of analysis of politics is the basic characteristic of the *Social Contract*. First of all, the social contract<sup>19</sup>, on the one hand, is a legal act whereby a people

<sup>19</sup> As pact (*pacte*) 13 times, as contract (*contrat*) 8 times, in the *Social Contract*.

becomes a people; on the other, it is a legal act whereby the individual becomes a political being, a citizen/subject. At work here is *a political process* of double subjectivization: of the people as a demos or sovereign and of the individual as a citizen, member of the sovereign. Furthermore, with regard to *the way the political general will works*, the two-level logic of the general will is expressed in the legislative process: the general will is both the political will of the sovereign and the will of each citizen as member of that body. This distinction is manifest in the logical and dynamic differentiation/equation of the general will (as the will of the entire people and of each member of that body as citizen) and the will of all (as the sum of all individual wills of citizens voting on a law).

The key differentiation/equation of the general will and the will of all as the “sum of particular wills” is made possible by another conceptual innovation, namely a differentiation of the singular and the particular within the concept of “particular”. Although Rousseau never recognized it explicitly, it is nonetheless implied with sufficient clarity in seemingly cryptic hints at the preconditions for the will of all citizens (under the tacit, but essential assumption that this is about voting for a law) to express the general will: the will of all as the “sum of particular wills” always expresses the general will as a “large sum of small differences”, but never as a “small sum of large differences”. I have extensively argued elsewhere that a “large number of small differences” yields a “sum of *singular* wills”, while a “small number of large differences” yields a “sum of *particular* wills” (cf. Lalović, 2006: 152-202). Only this distinction between the singular will (of citizen as individual) and the particular will (of citizen as member of “partial associations”) resolves the notable contradiction between the assertion that particular wills can be brought in accord with the general will and the assertion that they always work against it.<sup>20</sup>

<sup>20</sup> I quote Althusser’s classic formulation of said contradiction: “Nous sommes en pleine contradiction: l’intérêt particulier est l’essence de l’intérêt

### 2.3. *The Subject (sujet) in Its Legal Definition as the Essential Prerequisite for Subjectivizing Man as a Moral Being*

Hobbes's theory of the state comprises a far-reaching conceptual intervention that appears to be genuinely scandalous. Namely, if man is to be truly free, which he can be only in the state, he must in agreement with others relinquish the perception of his subjectivity primarily as moral, and be content with becoming a legal subject, as a free subject (*franc-sujet*) submitting to the will of the sovereign and to his laws, as prerequisite for the possibility of his civil freedom.

Hobbes's intervention is not a sophistic witticism, but an ingenious conceptual construction. If we define the subject as an autonomous being, as a being which does not submit to some heteronomous will, but only to itself, we realize that the theory of authorization enables us to understand that the representative sovereign is a legitimate authority solely due to the fact that his political will is *eo ipso* the will of each subject.

It was already Diderot who noted that "Hobbes ne met aucune *différence entre le sujet et le citoyen; ce qui est vrai*, en prenant le terme de sujet dans son acception stricte, et celui de citoyen dans son acception la plus étendue; et en considérant que celui-ci est par rapport aux lois seules, ce que l'autre est par rapport à un souverain. Ils sont également commandés, mais l'un par un être moral, et l'autre par une personne physique... Puffendorf, sans égard à cette exception, a divisé son ouvrage des devoirs en deux parties, l'une des devoirs de l'homme, l'autre des devoirs du citoyen" (*italics added*).<sup>21</sup>

général, mais il est aussi son obstacle, or tout le secret de cette contradiction repose sur un 'jeu de mots' par lequel Rousseau appelle *d'un même nom* l'intérêt *particulier* de chaque individu pris isolément, et l'intérêt *particulier* de groupes sociaux. Ce second intérêt qui est un intérêt de groupe, de classe, de parti, et non l'intérêt de chaque individu" (1978: 35-36).

<sup>21</sup> The article "Citoyen" in the *Encyclopédie*. There the sovereign is also understood as "l'être moral" (public person) and as "l'être physique" (particular person), which is why one must "distinguer en lui le souverain et le sujet

In principle, Rousseau agrees with Hobbes's definition of the legal subject, but he rejects the mediation through authorization of the sovereign. However, it is actually not a rejection, since he was not acquainted with Hobbes's *Leviathan* or, consequently, with his crucial theory of authorization. If that is so, if Rousseau may have overlooked the far-reaching character of Hobbes's definition of the legal subject and the sovereign as representative power, we are faced with a paradox that Rousseau actually found a congenial solution to the relation between freedom and sovereignty in the very spirit of Hobbes's theory of authorization: a subject is only one who submits to himself. Rousseau radicalizes such a standpoint due to the fact that he reached the insight (which would have been totally inconceivable to Hobbes) that, in the actual political process, the general will can and must be, as we have already pointed out, the will of all citizens in deliberating on a law. Thus, for Rousseau also, just as for Hobbes, a (*legal*) subject is one who submits only to the sovereign and his law, but only insofar as he himself as a citizen is a *political* subject who specifies these *political laws*. With a key divergence from Hobbes in the definition of political laws, which are no longer, and not at all, *commands of a superior to an inferior*, but judgments of the sovereign on the state, i.e. of the people on itself.

In the pre-contract "natural" condition, which is in fact a socialized condition, man is an individuum split between his particular will as a private selfish being (*amour-propre*) and his universal will as a moral subject. The split is fatal, for the logic of the first will fully prevails over the logic of the second will in the individuum (i.e. interest prevails over justice), and it can and must be alleviated through the necessary political-legal establishment of the individual as a legal subject. In Hobbes's view, this is both an indispensable and a sufficient

de la souveraineté". Hence the "inconvenient", characteristic of government in general, that, in some situations, the sovereign is both "juge et partie".

condition, while in Rousseau's, this is only an indispensable condition. What is necessary for the moral universal will to be effective, instead of being a non-obligatory and abstract regulation (*in foro interno*), is the mediation of the general will as, simultaneously, the particularization of the universal will and the universalization of the particular will of the member of the political body as citizen.

The split in the natural man between private selfishness and moral duties can be bridged only by collective endeavour of all fellow-citizens – within one people, through achievement of collective inter-subjective autonomy – to bring about, first, their political subjectivity, and then also their full moral subjectivity.

Instead of the liberal duality of “bourgeois/citoyen”, in Rousseau we come across the duality of “citoyen/sujet”. According to Balibar, precisely the Rousseauist citoyen-sujet is the “prototype of the autonomous ‘subject’ of modern philosophy”. In the political community, man expresses his universal nature as citoyen, and his particular nature as sujet, but one may still say that Rousseau, in a “jeu de mots”, turns the designation “sujet” against its traditional legal meaning (of obedience and submission), and defines it in the sense of autonomy. Henceforth, the “sujet [is] celui qui n’obéit qu’à lui-même, mais dans la forme de l’universalité, c’est-à-dire en tant qu’il est aussi un citoyen” (Balibar, 2002: 22-23).

### **3. Rousseau's Republican Synthesis of the Political and the State**

From Rousseau's standpoint, the constructional deficit of Hobbes's theory of the state is obvious. The main problem concerns *the status of political freedom*, the freedom of citizens to form the general political will of the political community together in the public space. The abolishment of the “natural condition” of the war of all against all does not result

in the establishment, *stricto sensu*, of a *political community*, but of a *legal* (or, more precisely, legal-economic) *community*. Hobbes's state is legal, not political, it is a community of legal subjects and economic citizens (*bourgeois*), and not a community (republic) of political citizens (*citoyens*). He proves that (legal) peace is a value more primary than (political) freedom, that it is of paramount importance to establish a legal (sovereign) state which would guarantee legal security and respect the "status libertatis" of its free subjects (i.e. their subjective rights), and to suppress the destructive political and religious passions which jeopardize the foundations of civil mutuality and cooperation (Lalović, 2013: 117-118).

It is paradoxical that Rousseau, conditionally, agrees with this in reducing the state to the totality of subjects/sujets, as opposed to the sovereign as the totality of citizens/citoyens, within the political community of one people as the republic.

This reduction of the state makes it possible not to ascribe sovereignty to the state. Rousseau ascribes it to the general will, in its double generality as the source of political laws. He offers sovereignty of the general will (of the law), and not of the people, as a means of overcoming the antinomy between sovereignty of the state and popular sovereignty.

The interpretational key for understanding Rousseau's view on the relation between the political and the state is provided, firstly, by this crucial distinction between the sovereign and the state in the definition of the republic. Secondly, it results from a complex apprehension of politics, in the broader sense, as a *synthesis of abstract principles of political law and concrete political art* (paradigmatically: *of the abstract-legal general will of the sovereign and the concrete-empirical will of all citizens in voting on a law*). In that respect, the fundamental political problem is focused on preconditions for the possibility that the will of all members of the political body is expressed as the general will.

The entire categorial field of the *Social Contract* is based and structured on *the theory of the general will* (mode of forming of the general will, mode of functioning of the general will, logic of transcendence of the political general will towards the moral universal will) – in a logical sequence from private individuum via political citizen to moral man.

### 3.1. *The Character of the Political Process in a Republic*

The theory of the general will (Bosanquet, 1899; Thakurdas, 1976; Philonenko, 1968, 1984; Gilden, 1983; Riley, 1986; Levine, 1993; Lalović, 1997, 2006; Bernardi, 2006; Silvestrini, 2010) enables us to fathom the logic of the political process in the emancipatory dimension of the political, as well as in the regulative and coercive dimension of politics. In the literal form, such an insight into the “political difference” (Marchart, 2007), naturally, cannot be found in Rousseau. But the essence of it is there, and it is secured by distinguishing the sovereign (legislative power) and the government (executive power), and, in real political life, in the relational character of the political process.

The sovereign and the government are the two main actors of the political process, which can be conceived only in their interrelation. This is why the *Social Contract* becomes understandable only with the third book, which begins with a definition of government as such.<sup>22</sup>

The most important thing is that the government is not the sovereign and does not have the right to make laws. While the sovereign is the embodiment of the moral will, the government is the embodiment of force. Consequently, the sovereign is not simply the people, but the general will and, accordingly, the people only as the embodiment of the general will. And the people, previously defined in its absoluteness, proves to be constrained in multiple ways: first, it can make only political

<sup>22</sup> For a more extensive discussion of this point, see Lalović, 2013.

laws (which is defined as the relation of the people to itself, as the relation of the sovereign to the state), and not edicts and decrees; second, the sovereign has no right to convoke itself, otherwise the sovereign would usurp the legislative power and become a despot; third, the sovereign is always convoked by the government, which occasionally, when necessary, convokes the sovereign assembly and seeks its approval of a law.

The relational character of Rousseau's fundamental political-legal concepts is suggestively demonstrated by the key formula, expressed mathematically, which elucidates the complex and controversial dynamics of the political process. Naturally, I am referring to the  $S : G = P : E$  formula (to be precise: sovereign in relation to government equals prince in relation to state). This concerns a strict differentiation between the sovereign as the legislative power and the government/prince as the executive power, and the strict primacy of the former over the latter. Their relation is such that the sovereign must be powerful enough to impose the implementation of a law to the government, while the government must be powerful enough to impose obedience to a law to the subjects. Obviously, the central problem has to do with the fact that the government, initially defined as “*un corps intermédiaire établi entre les sujets et le Souverain pour leur mutuelle correspondance, chargé de l'exécution des lois, et du maintien de la liberté, tant civile que politique*” (CS, III, 1, OC III, 396; italics added), is by no means just that; it is also *an autonomous political body*, which has its own identity, its own particular will. As such, the government has a permanent tendency not only to strengthen its position with regard to the sovereign, but also to impose its particular will as the general will of the entire body, thus usurping sovereign power. If it succeeds in doing so, we have a despotism, and the ruler becomes a despot. In the opposite case, when the people as sovereign oversteps its legislative authority and strives to take over the executive power as well, i.e. all power, then the people itself becomes a tyrant. If, finally,

the subjects grow too strong in following their private wills in opposition to the sovereign and the ruler, we have anarchy. This threefold game of power, in a constant achieving and losing of balance between the three – the sovereign, the government/ruler and the state – lies at the root of the basic, irremovable tension of the political process.

In that respect, Rousseau's criticism of democratic government as extremely bad and dangerous (since no distinction is made there between legislative and executive powers, laws and decrees, public and private interests) as well as Utopian (it becomes the gods because it is a "gouvernement sans gouvernement"), is of utmost importance. Namely: "Il n'est pas bon que celui qui fait les lois les exécute, ni que le corps du peuple détourne son attention des vues générales, pour la donner aux objets particuliers. *Rien n'est plus dangereux que l'influence des intérêts privés dans les affaires publiques*, et l'abus des lois par le Gouvernement est un mal moindre que la corruption du Législateur, suite infaillible des vues particulières." Thus, "l'Etat étant altéré dans sa substance, toute réforme devient impossible" (CS, III, 4, 404; italics added). At the same time, the democratic government is also perfect ("S'il y avoit un peuple de Dieux, il se gouverneroit Démocratiquement. Un Gouvernement si parfait ne convient pas à des hommes", p. 406), for it is the rule of law with no use of force; otherwise, there would be no government at all (and consequently no politics or art of the political). Which is, *per definitionem*, the rule of virtue.

This is why Rousseau explicitly prefers the aristocratic (electoral) government as the best. Although he states this in relative terms (democracy is fitting for small states, aristocracy for middle ones, and monarchy for large ones), his definition of government as a small political body within the republic as a large one (which has its own self, its own will, therefore its own political autonomy) imposes the conclusion that aristocracy is not only the best, but also *the only pure form*

*of government in a well-ordered republic, for that which must be clearly differentiated is clearly differentiated only in a republic – namely the sovereign from the government, indeed, the general will of the sovereign from the general will of the government (CS, III, 5, OC III, 406).*<sup>23</sup>

In such an institutional constellation, the people is only the bearer of the legislative power. It is unreasonable to plead, against Rousseau, for a restriction of the supposed omnipotence of the people as sovereign (à la Constant). To weaken the power of the sovereign would necessarily mean to strengthen the power of the government as the embodiment of force, i.e. to make the apparatus of violence independent of the legislative power. The problem is just the opposite – the particular will of the government, as an autonomous small political body, permanently works against the general will of the sovereign, as a large political body, in a paradoxical, but necessary configuration in which the government is simultaneously the main instrument and the main enemy of the citizens' political freedom.

This brings us to a sort of theoretical concluding point in Rousseau's political theory, to the reply to the fundamental question: *what is law (loi)*? More precisely, what is political law as relation of the people in the active sense (the sovereign) towards the people in the passive sense (the state). Rousseau's originality has nothing to do with him considering the law as an act of the general will on a general object.<sup>24</sup>

<sup>23</sup> According to Rousseau's definition of aristocracy: "Nous avons ici *deux personnes morales* très distinctes, savoir le Gouvernement et le Souverain, et par conséquent *deux volontés générales*, l'une par rapport à tous les citoyens, l'autre seulement pour les membres de l'administration" (*ibid.*; italics added). *Electoral aristocracy* is undoubtedly a *representative government*, which has every authority except to make laws (as per the Rousseauan definition of the concept).

<sup>24</sup> Specifying the meaning of *political* law, Rousseau even speaks of "l'universalité de la volonté et celle de l'objet" (CS, II, 6, OC III, 379), thus at-

The originality lies elsewhere: 1) first, it is manifest in the fact that laws are not a command of a superior to an inferior, but merely a constantly renewed *convention du corps avec chacun de ses membres* (CS, II, 4, OC III, 374-375). It follows from the above that the legislative power is not a power at all in the strict sense, but a constantly renewed initial social contract, a constantly renewed integration of the totality of demos and its citizens; 2) the law is always the result of the will of all citizens, but not only as the minimal demand of reason for limitation of political power, i.e. as a hypothetical judgment of the sovereign on the future conduct of the subjects. For Rousseau, the legislative process is much more than that; it is the essence of political subjectivization of members of the political body. To say that the law is an expression of the will of all citizens and that it can be only that – therefore, that it cannot be expressed by representatives – does not simply mean that the decision of anyone but the citizens themselves would be illegal, but, quite strictly speaking, that citizens as citizens exist only inasmuch as they participate in the forming of the sovereign general will. For this reason, there is no possibility of domination over the people in the name of the general will, for such a domination would lead directly to the liquidation of the very idea of citizenship.

Accordingly, the entire republican pathos of Rousseau's teaching can be summed up in the insight that the principal danger of denying political freedom is encompassed in *the reduction of the republic to the state, i.e. of free citizens to passive subjects submitted to the sheer force of an illegitimate political power*.

tempting to “strengthen” through the choice of terms the *moral* character of law as guarantee of justice. Still, it is sufficiently clear that this is not about universality of either the will or the object, but precisely about the generality of both the legislative will and the object of the law.

#### **4. The Limits of the Republican Synthesis: *citoyen/sujet is a Negation of bourgeois***

Let us delve into the telling example of Christopher Brooke, who broaches the subject of “limites de la volonté générale” (2007: 423-444).

If the general will expressed in a law is always a precondition for the freedom of the individual as a citizen, what is he to do if he cannot possibly agree with it, if he finds the voted law to be deeply flawed? Refuse to commit to obedience? Therefore, what is to be done when “un citoyen, une fois que les suffrages sont décomptées et que la volonté générale est déclarée, non seulement continue de penser qu’il n’a commis aucune erreur touchant ses propres intérêts les plus fondamentaux, ainsi que de ses concitoyens, c’est-à-dire la pérennité du gouvernement libre lui-même, sont mis en danger par le vote de la loi” (pp. 433-434)?

The author states a specific example: voting on the law introducing market economy. What is the citizen to do who does not agree with it at all, but ends up in the minority (p. 434)?

Brooke fails to see that this is a borderline case, a law in which the citizens would express their political will to return to the pre-contractual natural state, when they were bourgeois. Thus, the law on introducing market economy would be a decision of the general will to abolish itself, to abolish the republic, for the people to no longer be a demos, and for citizen to no longer be a political being and to be reduced to a private individual.

In every republicanism, and accordingly in Rousseau’s, the political has precedence over the social, and the logic of the public sphere over the logic of economy. But Rousseau goes a decisive step further: he radicalizes the primacy of the political in making completely impossible a reconciliation between citizen and bourgeois, since the civil, market society is not a sphere of freedom, but of dissolution of the political community.

For Rousseau, the political is not instrumentally determined, its purpose is not to guarantee the autonomy of the private sphere of civil society as the hearth of historical progress. As opposed to liberals, according to whom people are politically free if they are *out* of reach of the arbitrariness of political power as members of civil society, for Rousseau they are free only if they are *above* political power (i.e. the government) as associated citizens/self-legislators.

The boundary in principle of Rousseau's republican synthesis of the political and the state is revealed in the absolutization of the political citizen over the non-political bourgeois. Moreover, the very character of bourgeois is radically thrown into question. Although Rousseau clearly distinguishes between the public-political sphere in which the individual as citizen enjoys political rights, and the private sphere in which he enjoys natural rights as man, as an independent being – man's freedom is realized only in the public sphere, in political activity. In contrast, the private sphere in a legitimate order is certainly not contemporary society, civil society in the making. Rousseau considers it the *natural condition* and denounces it as *perverted*. Market economy and competition are not instruments of exchange- and production-related socialization, but a state of war of all against all, a struggle for supremacy based on the quasi-natural "law of the strongest", in a bad infinity of perpetuating such a condition as an eternal present. The present-day *natural man* perverted by selfishness and greed is a mere bourgeois, neither a real man nor a true citizen.<sup>25</sup>

<sup>25</sup> In this sense Rousseau addresses his fellow-citizens of Geneva: "Vous n'êtes ni Romains, ni Spartiates; vous n'êtes même pas Athéniens... Vous êtes des Marchands, des Artisans, des Bourgeois, toujours occupés de leurs intérêts privés, de leur travail, de leur trafic, de leur gain; des gens pour qui la liberté même n'est qu'un moyen d'acquérir sans obstacle et de posséder en sûreté" (*Lettres écrites de la Montagne*, Letter 9, OC III, 881).

Only a reductively contextualist interpretation could claim that such a denial of the character of bourgeois as a man in market society is a theoretically sufficient argument for denying the very meaning and potentials of Rousseau's republican synthesis of the political and the state. Under the historical circumstances of Rousseau's age, such a notion had to be perceived as a conservative advocating of pre-modern models of sociability, or at least as petit-bourgeois Utopism. In the present-day context, however, the matter is cast in a different light, for Rousseau enables us to comprehend how the full swing of political subjectivization of the citizen points to a post-market model of sociability. Perhaps it is there that we uncover the meaning of the well-known verdict by Leo Strauss regarding Rousseau's "passionate and forceful attack on modernity in the name of what was at the same time classical antiquity and *a more advanced modernity*" (1965/1950: 252-353; italics added).<sup>26</sup>

Consequently, Rousseau's radical fundamental postulate that "at bottom everything depends on politics", for the people is always what the rule under which it lives turns it into<sup>27</sup>, demand precisely of politics to open up possible emancipatory horizons of new historicity relying on "true principles of political law" (*droit*). It is the mission of politics to overcome the current anti-legal quasi-natural state in which legitimate rule has been perverted into despotism, a man's original love for himself has been degraded to sheer egotism of a superficial existence.

The true meaning of the *Social Contract* as the republican manifesto of political freedom and of the general will as the

<sup>26</sup> The attack which would then be "... repeated, with no less passion and force, by Nietzsche, who thus ushered in the second crisis of modernity – the crisis of our time" (*ibid.*).

<sup>27</sup> Cf. "Il est certain que les peuples sont à la longue ce que le gouvernement les fait être. Guerriers, citoyens, hommes, quand il le veut; populace et canaille quand il lui plaît..." (EP, *OC* III, 251).

regulative idea of modern political thought is manifest in consistent care to suppress the danger of arbitrary power (whoever its bearer may be, including the people).

### **5. Final Remark on Hegel's Speculative Synthesis of Bourgeois and Citoyen, Derived from Rousseau's Lesson on the Precondition for the Possibility of Forming a Political General Will as a Sum of Individual (Singular) Wills**

An enlightening clarification of the failure of Rousseau's republican synthesis of citizen and bourgeois can be derived from the different failure of Hegel's speculative dialectical analysis of the two paradigmatic aspects of modern man. In essence, in the state of reason based on the principle of individuality one can clearly differentiate the spheres of freedom of the individual as member of the state (of the totality of a people): legal freedom in the sphere of abstract law, moral freedom in the sphere of morality, economic freedom in the sphere of civil society, political freedom in the sphere of the political state. Unlike Rousseau, Hegel clearly recognizes and acknowledges identity in the difference between the spheres of civil society (wherein the individual is defined as bourgeois) and of the political state, but he fails to achieve identity in the difference between bourgeois and citizen. Namely, citizen does not even exist in the sphere of the political state, for he is not a subject of the forming of the general will, which would be possible only in a democratic state. Moreover, not even bourgeois is a general definition of man in the sphere of civil society, since Hegel abandons the principle of individuality in his elaboration of the concrete spheres of ethical life (*Sittlichkeit*), so that, for instance, the individual *is* formally defined as an economic bourgeois, but it transpires that civil society is not an individualistic market community, but an estate-, corporation- and class-society. Accordingly, bourgeois is not a general definition of man in this sphere, but the indivi-

dual is necessarily either integrated into the dominant class (its three estates), where he is subjectivized through work, or else he is rejected into the inferior class of the poor, which in fact, at the same time, are and are not members of the sphere of civil society. Hegel's "realism" prevents him from carrying out the postulated consistent logical application of the principle of individuality to civil society and the political state. In Hegel's State of reason, the individual is understood in the general sense only in the first two spheres of freedom, the legal and the moral. In the concrete spheres of freedom, the economic and the political, generality is no longer possible. While bourgeois, formally proclaimed as the general definition of man, has simply become impossible in the structural sense, citizen is not even formally conceivable. If modern civil society is not individualistic, it necessarily follows that the political state cannot be democratic. Therein I detect Hegel's recognition of Rousseau's lesson: the will of all as the sum of particular wills (of estates), with the exclusion of the entire lower class, as a small number of great differences, cannot express the general will. What is more, the general will, as the will of all citizens, does not exist at all, nor can it exist, since it is expressible only in the law. Also, there is no political law in its double generality. And so Hegel, having come full circle, returns to Hobbes and reduces the political in its emancipatory dimension to politics in its regulative and coercive function.

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Luc Foisneau

SIMPLIFYING HOBBS:  
HUME'S CONCEPTION OF JUSTICE  
IN A HOBBSIAN PERSPECTIVE

The general problem I would like to address in this paper is why Hobbes's contribution to the theory of justice has been discredited, systematically simplified and most of the time simply refuted? Why have the elements of a theory of justice, that are obviously present in Hobbes's major political works,<sup>1</sup> only been accepted under very restrictive conditions? In a word, why has Hobbes's moral philosophy had to undergo this process of simplification, which very often amounted to no less than mere caricature?

The critiques addressed by Hegel to liberalism and Rawls's answer to them can help us understand the not so enviable situation of Hobbes in the history of theories of justice. The Hegelian critique is that the meaning of liberalism is well captured by Hobbes's version of it, and that what Hobbes does is invent a political system in which the state and justice are nothing more than instruments of private interests. In his *Lectures on the History of Moral Philosophy*, Rawls agrees with this critique: the Hobbesian institutions of justice, including the state, share a common aim, but it is as if these were but

<sup>1</sup> For a first series of remarks on this topic, see Foisneau, 2004: 105-122; see also Foisneau, 2016: 254-276 (chap. 11: "La justice, le contrat et l'insensé").

instruments of the happiness and of the security of the sole individual.<sup>2</sup> As a logical consequence, those institutions cannot be considered by the citizens of the state as just in themselves, nor as motivating their sense of justice. But, whereas Hegel tends to identify liberalism with Hobbes in order to criticize the liberal tradition in general, Rawls wants to show that there is no reason whatsoever to condemn liberalism because of Hobbes's errors. And the reason is that Hobbes simply missed the point of liberalism, that is, of a public doctrine of liberties. There is therefore a good use of liberalism, as is shown by Kant, and a bad use of it, as demonstrated by Hobbes. Rawls's point is to show – against Hegel – that it is not true that liberalism ignores the public scope of justice and of the state. Such an error is only true of Hobbes's version of it. This answer to a major critique of liberalism by a major contemporary figure of liberal thought has, as you can guess, far-reaching consequences in our reading of Hobbes today.

The hypothesis I would like to consider now is that some of the elements of this late discussion on liberalism are already present in the way Hume discusses Hobbes. Not that the social dimension of justice would be there already, since Hume does not consider institutions to be the proper subject of justice, but because Hume wanted to add a moral dimension to Hobbes's contribution. To cut a long story short: how can you say that people act with a moral sense of justice, if justice has only to do with arranging conflicting interests in circumstances of moderate scarcity? There seems to be a gap between the artificial, that is, both social and conventional, conditions of justice and the requirement of morality that is put unto it.

<sup>2</sup> Cf. Rawls, 2000: 365 (“Hegel”, Lecture 2): ‘The society of *Leviathan* is a kind of *private society*. Hegel says of Hobbes's approach that “it excludes mind because it leads only to a juxtaposition”. There is no real unity since the very same end is not publicly shared. This is one sense of atomic individualism.’

The difficulty faced by Hume and his successors, I would like to suggest, is not so much due to the errors committed by Hobbes, but also and foremost due to the nature of the modern way of dealing with the problem of justice. In this perspective, Hobbes obviously plays the role of the bad guy, and Hume is among the good guys, as is sufficiently proved by the respective place Rawls gives to Hobbes and Hume in his lectures on the history of political philosophy (Rawls, 2008: 23-99, Lectures I-IV). My guess is that Rawls's way of dealing with Hobbes is a convenient way of concealing a real substantial problem with modern conceptions of justice: since Hobbes clearly identified the source of the problem without establishing the existence of a sense of justice in men, he was to pay for it.

In what follows, I'll try to show, firstly, that Hobbes well identifies the elements of what could be a modern theory of justice, whose radical character has to do with a radical change in the conception of the good. To this problem, there is of course a Hobbesian solution, but this solution was not judged 'moral' enough by Hume and Hobbes's successors in the theory of justice, who all deemed it necessary to introduce some changes into Hobbes's approach to justice. The Humean 'simplifications' to Hobbes's elements of justice will be central to the second part of the paper, where I shall try to show how the selection among Hobbesian materials is dealt with by Hume. The last part of the paper will be concerned with the way Hume introduces a moral point of view into the Hobbesian framework of the theory of justice.

## **I. Hobbes's Elements of Justice**

### *Why Hobbes's Conception of the Good Cannot Be Reduced to Egoism*

First of all, it is important to insist that Hobbes did not consider himself as a defender of a new egoistic moral philosophy. The portrait of Hobbes as an egoistic philosopher belongs to a

later stage of the debate in moral philosophy. On the contrary, Hobbes thought of himself as a moral philosopher: firstly, because he defended a new conception of the good, and secondly, and maybe foremost, because he developed his moral thought within the traditional framework of a natural law theory. That some of his readers may have thought that the new conception of the good was in contradiction with this general framework is undeniably true, but this does not imply that Hobbes himself did not try hard to make both elements stand together.

The first point to be made concerning this moral theory of a new kind is the transformation it introduces into the notion of the good: ‘But whatsoever is the object of any mans Appetite or Desire; that is it, which he for his part calleth *Good*: And the object of his Hate, and Aversion, *Evill*; And of his contempt, *Vile* and *Inconsiderable*’ (Hobbes, 2012: 80, chap. VI, 7). This new definition of the moral lexicon introduces a great transformation in moral thinking, since in it desire is no longer instrumental in obtaining something that is good in itself – ‘simply and absolutely so’ (*ibid.*) – but appears as what makes something good to us. It follows that the notion of the good is no longer to be found in ‘the nature of the objects themselves’ (*ibid.*), but in the aims and goals of the several persons who desire those objects. There is here, quite clearly, a subjectivist turn operating in moral philosophy, that is connected, in Hobbes’s thought anyway, with the subjectivist turn of the modern natural philosophy. A confirmation of this is given by the fact that the definition of the good in *Leviathan* is presented in a chapter on passions, which itself comes not long after a chapter on sense and another on imagination. In privileging such an order, Hobbes clearly says that the new moral philosophy depends on the great philosophical discovery of the modern era, that is, that we do not know the things in themselves but as they appear to us through our perception (see Foisneau, 2016: 12-16).

But saying that about the good – that it depends not on what is really good in itself, but on what each of us perceives

as such – does not mean that Hobbes opts for a particular system of morality, let alone for the system that is now called ‘rational egoism’, ‘that it is necessary and sufficient for an action to be rational that it maximize one’s self-interest’ (Shaver, 2015). Whether the good chosen by us will be the promotion of our wealth, career, and reputation – a set of preferences that are related to our self-interest – or the advancement of learning, morality, or the public good – a plan of life that can be called altruistic, really depends on the decision of each of us. What has happened, indeed, is that Hobbes’s critics have confounded two distinctive features in his philosophy: his subjectivist approach to the notion of the good has been wrongly and hastily associated with the fact that he famously describes modern life as a race after wealth and reputation.<sup>3</sup> But the truth is that the two things belong to different perspectives: Hobbes’s vivid description of the modern individualistic man belongs to some kind of sociology *avant la lettre* rather than psychological egoism, whereas his theory of the good belongs to moral philosophy proper. Making of Hobbes a defender of egoism on the basis of his sociological descriptions really does not do justice to his deep philosophical analysis of the modern subjectivist approach to the notion of the good, which informs the way Hobbes has handled the problem of justice, thus opening the way to modern philosophy.

#### *A New Conception of Justice in an Old Framework*

A second difficulty can be identified in the way Hobbes deals with moral philosophy: it is a fact that his new definition of justice – respecting one’s conventions, one’s commitments to others – is developed within the traditional framework of

<sup>3</sup> Hobbes, 1889: 47 (chap. 9, art. 21): ‘The comparison of the life of a man to a race, though it holdeth not in every point, yet it holdeth so well for this our purpose, that we may thereby both see and remember almost all the passions before mentioned. But this race we must suppose to have no other goal, nor other garland, but being foremost.’

a natural law theory. Herbert Hart has acutely seen that the Hobbesian transformation in moral philosophy operates in such a traditional framework: ‘Yet other thinkers [i.e., other than Aristotle and Aquinas], Hobbes and Hume among them, have been willing to lower their sights: they have seen in the modest aim of survival the central indisputable element which gives empirical good sense to the terminology of Natural Law’ (Hart, 1997: 191). I won’t comment on the association of Hobbes and Hume in this respect. But one point is sure: Hobbes claims to belong to the natural law tradition, as is sufficiently proved by the fact that his definition of justice, in chapter 15 of *Leviathan* – ‘*That men performe their Covenants made*’ (Hobbes, 2012: 220, chap. XV, 1) – is both said to be ‘the Fountain and Originall of JUSTICE’ and a ‘law of Nature’ (*ibid.*: 2). The same can also be confirmed by the fact that Hobbes affirms that ‘the Science of them [i.e., the laws of nature], is the true and only Moral Philosophy’ (*ibid.*: 242, chap. XV, 40). But in the present discussion, I would not so much stress, as Hart does, the importance of survival and the short-sightedness of modern morality as the new definition of the good that appears as a central element in the Hobbesian conception of justice.

If men no longer have an objective criterion of the good for orientating their action according to it, how then can they all agree on moral laws and justice? The classical natural law theories could deduce justice from an objective conception of the good (a superior conception of the good life, or, in Latin, a *summum bonum*); but this is no longer possible for Hobbes and those who, like him, do moral philosophy during a civil war, or its aftermath. The reason for it is not primarily a theological one, but depends on a strong philosophical change: if God can no longer give us a definition of the good in itself, it is not only because there is no God, but because, even if there is one, God’s good is, as any other good, a good for us, and not a good in itself, that is, it is a good which is determined by the desire of a subject.

Hobbes's problem is, therefore, to come to terms with the meaning of justice – and more widely, of natural laws – not only in the particular context of the state of nature but in the more serious perspective of a new conception of the good.

This broader scope of the theory is well summed up in the penultimate paragraph of chapter 15 of *Leviathan*:

For Morall Philosophie is nothing else but the Science of what is *Good*, and *Evill*, in the conversation, and Society of man-kind. *Good* and *Evill*, are names that signifie our Appetites, and Aversions; which in different tempers, customes, and doctrines of men, are different: And divers men, differ not onely in their judgement on the senses, of what is pleasant, and unpleasant to the tast, smell, hearing, touch, and sight; but also of what is conformable, or disagreeable to Reason, in the actions of common life. Nay, the same man, in divers times, differs from himselfe; and one time praiseth, that is, calleth Good, what another time he dispraiseth, and calleth Evil: From whence arise Disputes, Controversies, and at last War. [...]. And consequently all men agree on this, that Peace is Good, and therefore also the way, or means of Peace, which (as I have shewed before) are *Justice*, *Gratitude*, *Modesty*, *Equity*, *Mercy*, & the rest of the Laws of Nature, are good; that is to say, *Morall Vertues*; and their contrary *Vices*, Evill. Now the science of Vertue and Vice, is Morall Philosophie; and therefore the true Doctrine of the Lawes of Nature, is the true Morall Philosophie. (*ibid.*)

What is striking in this famous text is, firstly, that the subjectivist definition of the good appears as a wide-ranging one, that not only includes differences in perception of the good, but also differences in comprehensive conceptions of the good – ‘but also of what is conformable, or disagreeable to Reason, in the actions of common life’ (*ibid.*) – and secondly, that this definition implies a new definition of the laws of nature – ‘And consequently all men agree on this, that Peace is Good,

and therefore also the way, or means of Peace, which (as I have shewed before) are *Justice, Gratitude, Modesty, Equity, Mercy*, & the rest of the Laws of Nature, are good' (*ibid.*).

This clearly shows that the new definition of justice in Hobbes is a response to his subjectivist definition of the good. Since there is no longer only one common conception of goodness, we need to agree at least on certain rules that will allow us to live together peacefully with people with whom we don't share the view of the good. Since this plurality, not only of tastes and perceptions, but of religious doctrines and moral conceptions, can all too easily lead us to wars, it is a major moral and political problem to find artificial arrangements to prevent those wars to happen. Justice and natural laws in general are therefore meant by Hobbes as solutions to the modern problem of the good.

*The Fool's Argument and the Priority of Justice over Goodness*

All students in moral philosophy know the famous objection made to the new system of morality. The objection of the fool, who 'hath sayd in his heart, there is no such thing as Justice' (*ibid.*: 222, chap. XV, 4), is not a recent argument, or a late critique addressed to Hobbes by one of his successors, but it is an early critique, as early indeed as the English version of *Leviathan*.

What is the point made by the fool, this buffoon of modern moral philosophy? His point is a straightforward questioning of the new philosophy, which it attacks at its very root. If you say, as Hobbes does, that the good is to be found in the desire of a particular person, how can you be so sure that it is always preferable for that person to have justice come before goodness? In its broadest extent, the critique made by the fool concerns the priority of justice over goodness, or, more generally speaking, of a system of the laws over any conception

of the good. Taking the definition of the good seriously, that is, as what is good for a particular person – who can also be a collective person<sup>4</sup> – reveals the frailty of justice. If everyone pursues one's own good, and if there is no objective criterion to differentiate human plans of life, how can you be so assured that it will always be preferable for you to respect a system of justice rather than your own good – whatever it may be?

It is not necessary to go deep into the technicalities of Hobbes's answer to the fool to grasp the nature of the problem. By deciding not to abide by one's contracts and not to obey the laws of his group of 'confederates', an individual decides to have his own conception of the good prevail over justice. This general idea can sometimes be publicly expressed – the fool 'sometimes' says 'with his tongue' (*ibid.*) that there is no justice – but only as a general idea, as a provocative individualistic manifesto, not as a personal decision to be followed by breaches of the law. It is quite clear, indeed, that the decision not to abide by the rules of justice cannot be publicized, as one has never seen any burglar making a public announcement of his next burglary.

This condition of secrecy shows well enough that the fool does not really believe that his good prevails over the justice of the group. As a matter of fact, he acknowledges that there are covenants that have to be obeyed. Those secret clauses and practices cannot be an answer to the priority of justice; on the contrary, they are, as Talleyrand said of hypocrisy, a homage paid by vice to virtue; Hobbes's refutation of the fool's argu-

<sup>4</sup> 'For these words of Good, Evill, and Contemptible, are ever used with relation to the person that useth them: There being nothing simply and absolutely so; nor any common Rule of Good and Evill, to be taken from the nature of the objects themselves; but from the Person of the man (where there is no Common-wealth;) or, (in a Common-wealth,) from the Person that representeth it; or from an Arbitrator or Judge, whom men disagreeing shall by consent set up, and make his sentence the Rule thereof' (Hobbes, 2012: 80-82, chap. VI, 7).

ment shows that justice not only prevails over a conception of the good, but also has a public dimension which a conception of the good does not necessarily have. It is therefore the proof, against Hegel's objection to Hobbes's liberalism, that there is a public dimension to Hobbesian justice, even when justice applies also to interpersonal private transactions.

Before turning to Hume's comments on Hobbes, it is necessary to make two remarks: firstly, the Hobbesian way of dealing with justice is due to a new conception of the good, which is still at the core of the theory of justice today. Secondly, although major philosophers, such as Rawls, have criticized Hobbes, they have done so because of what they thought was wrong in the latter's philosophy, missing the important point Hobbes rightly made, namely that it is difficult to have a moral point of view on justice while you no longer have an objective conception of the good. It is precisely this that makes Hume's approach to Hobbes so stimulating, since Hume tried to cope with the dilemma of modern justice without making a caricature of Hobbes.

The paradox I would like to defend now is that the contrast between Hobbes and Hume is not so much to be found in their analysis of the origin of justice, not even in their analysis of the moral dimension of justice – although there are undeniable differences on those two points – but in the way they deal with the problem of the priority of justice over the good, or more exactly, in the case of Hume, in the way he does not deal with it.

The first part of my argument will be to show what kind of problem Hume substitutes for the problem which is so central in Hobbes, that is, the problem of dealing with justice that be compatible with the pursuit of the good, and to assess the Humean way of handling the problem. In the second part of my argument I will suggest that the meaningful differences between Hume and Hobbes are not where they are generally expected to be, and, as a consequence, that if the compari-

son between the two philosophers is undeniably favourable to Hume because of his genius for simplifying certain elements in natural law theory, it may prove to be much more favourable to Hobbes as far as the scope of the theory is concerned.

## II. Hume's Simplifications in the Theory of Justice

The first point to be made is that the general problem of the priority of justice over goodness, by which I have characterized Hobbes's approach to justice, has no place in Hume's theory. This problem is replaced in *A Treatise* by the more technical question of determining whether justice is a natural or an artificial virtue:

I have already hinted, that our sense of every kind of virtue is not natural; but that there are some virtues, that produce pleasure and approbation by means of an artifice or contrivance, which arises from the circumstances and necessities of mankind. Of this kind I assert justice to be. (Hume, 1978: 477, Part. II, sect. 1)

Hume spends indeed a great deal of energy trying to prove that justice is not a natural, but a social virtue; that it is not founded on a natural affection, or propensity of human nature, but on a social arrangement, or convention. But what else does a doctrine of social contract mean, let alone that the justice that proceeds from it is not already there in nature? Why is it, after all, so important to prove that justice is not a natural disposition of mankind?

I tend to think that this way of posing the problem is a relatively awkward way of dealing with the fact that justice is not a good as others, i.e. that it is not a good desired as a personal goal, within an individual plan of life. To put it in other words, being just is not equivalent to being good. Instead of posing the problem as such, as Hobbes has remarkably done, Hume naturalizes the notion of the good, which, as a matter of fact, is not referred to as such in the third book of *A Treatise of*

*Human Nature*; or, if you prefer, Hume reduces the question of the good to the question of the natural motives of human actions.

One possible objection, of course, would be to say that the good in Hobbes is also part of a naturalistic vision of human action. If I desire something, even a sophisticated plan of life based on higher values, it is also because it contributes something to my vital movement in a mechanistic conception of nature. But this answer is not satisfactory since Hobbes considers that some sort of good can be pursued by collective bodies, and can also be had by means of ‘conceptions of reason’, that is, by means that are quite different from the simple expression of our tastes or of our natural inclinations. Another way to answer that objection is to say that Hobbes stresses not only the fact that conflicts are triggered by competition for limited resources, but also that disputes arise on the basis of contention for glory and reputation, that is, for motives that are not strictly connected with natural inclination or our needs, but also with a representation of ourselves as persons to be recognised by others.

The success of the Humean way of dealing with the problem of justice<sup>5</sup> is possibly due to the fact that it introduces simplifications of certain aspects of natural law theory, and that those simplifications have been much welcomed by his successors, including Rawls, who, in his chapter on ‘The circumstances of justice’, praises Hume for his ‘especially perspi-

<sup>5</sup> Hume obviously has in mind the fool’s argument when he characterises the following situation at the beginning of his argument: ‘Now to apply all this to the present case; I suppose a person to have lent me a sum of money, on condition that it be restor’d in a few days; and also suppose, that after the expiration of the term agreed on, he demands the sum: I ask, *What reason or motive have I to restore the money?*’ Although the fool does speak in terms of motives, he does explicitly raise the question of the reason he has, or has not, to abide by the convention, that could be a commitment to reimburse a sum of money.

cuous account' of those circumstances and, implicitly, '[f]or simplicity'.<sup>6</sup> Nevertheless, the position of the problem, 'Justice, whether a natural or artificial virtue?',<sup>7</sup> is not characterized by its simplicity; one could even say that it is quite an indirect way of making one's point.

Let us briefly recall the main parts of this far-fetched argument: the analysis starts somewhat surprisingly with a demonstration that moral actions depend on natural motives, and not on a concern for the morality of the action itself, or for the moral obligation or duty to do that action; the example which is given is that taking care of one's children is moral, because it derives from the natural affection that parents have for their children, and not because parents would have a separate obligation to care for them; the argument goes on by showing that there is no natural motive at the basis of our just actions; therefore, since the duty of justice needs some kind of motive, and can find none in our natural affections, the argument concludes that justice is not a natural virtue, but a virtue derived from the awkward circumstances of mankind that creates a new interest in having common rules.

The first remark to be made on the first part of the argument is that Hume's approach has been considered very advantageous, and a source of great simplification again, because it disposes of some of the difficulties traditionally attached to the notion of obligation and duty: no need, when you follow the Humean way, to make, for example, the distinction that Hobbes makes in *On the Citizen*, between obligation understood as necessity and obligation understood as an action prompted

<sup>6</sup> 'For simplicity I often stress the condition of moderate scarcity (among the objective circumstances), and that of conflict of interests (among the subjective circumstances)' (Rawls, 2001: 110, chap. 22).

<sup>7</sup> This is the title of Section 1, which introduces part II, entitled 'Of justice and injustice'.

by hope and fear;<sup>8</sup> all you need to do is consider that obligation proceeds from a regular connection between certain kinds of motives, such as loving one's children, which are virtuous motives, and certain types of actions, such as taking care of the same children. No surprise, therefore, if one of the most often quoted passages from *A Treatise* is the one in which Hume points out the error of those moral philosophers who pass without further ado from descriptive propositions, connected with 'is', or 'isn't', to normative propositions, connected with 'ought', or 'ought not'.<sup>9</sup> What Hume has very efficiently done

<sup>8</sup> 'But if God has the right to reign on the basis of this omnipotence, it is evident that men incur the obligation to obey him because of their weakness. For the obligation which arises from agreement (discussed in chapter ii) is out of place in a situation like this where the right to command arises from nature without the intervention of an agreement. There are two kinds of natural obligation: one, where liberty is excluded by physical obstacles, as when we say that heaven and earth and all creatures obey the common laws of their creation. The other, where liberty is excluded by hope and fear; as when we say that a weaker man cannot disobey a stronger man whom he has no hope of being able to resist. It is this weakness (in the face of divine power), that in the natural kingdom of God gives rise to our obligation to obey him; that is to say that reason tells all men who acknowledge the power and providence of God not to kick against the pricks.

Because of their weakness] If anyone thinks this harsh, I ask him to reflect quietly, if there were two who were omnipotent, which one would be obligated to obey the other. It will be admitted, I believe, that neither is obligated to the other. If this is true, my point is also true, that men are subject to God primarily because they are not omnipotent. For when our Saviour warned Paul (who was at that time an enemy of the church) not to kick against the pricks, He seems to have required obedience from him on the ground that he did not have strength to resist' (Hobbes, 2003: 174-175, chap. XV, art. 7).

<sup>9</sup> 'I cannot forbear adding to these reasonings an observation, which may, perhaps, be found of some importance. In every system of morality, which I have hitherto met with, I have always remark'd, that the author proceeds for some time in the ordinary way of reasoning, [...] when of a sudden I am surpriz'd to find, that instead of the usual copulations of propositions, *is*, and *is not*, I meet with no proposition that is not connected with an *ought*, or an *ought not*' (Hume, 1978: III.1.1, 469).

has been to separate the question of what makes an action virtuous, that is, that it proceeds from a virtuous motive, from the question of what makes us *feel* that such an action is, or is not, virtuous.<sup>10</sup> To put it otherwise, virtue and morality have to do with our way of perceiving actions, and not with our way of doing those actions; our 'virtuous' actions are not moral in themselves, but thanks to the moral point of view that we have on them; there is nothing in moral actions but regular connections between events in a naturalized human world.

It is therefore easy to go one step further in the argument: since there is no intrinsic morality in the way we act, but regularities, it would be quite improbable that we should rely on a distinctive sense of duty to accomplish our ordinary duties. Hume is clearly as anti-Kantian as one can ever be, without having read a single line of Kant's ethics. Even though an action can possibly be accomplished on the basis of a sense of duty, such an action is anti-natural, and hopefully cannot be repeated very often.

The argument, then, after this quite long preliminary, turns to justice proper,<sup>11</sup> and shows that among the possible candidates that could claim to be a natural reason or motive for acting honestly, none can resist a serious examination. Neither the love that I have for myself and my self-interest, as they contribute more certainly to partiality and dishonesty, nor the interest for the public as such, as it is too far and too 'sublime' (Hume, 1978: III.2.1, 481) a motive to account for ordinary acts of justice, can pretend to be natural motives of justice.

<sup>10</sup> 'No action can be virtuous, but so far as it proceeds from a virtuous motive. A virtuous motive, therefore, must precede the regard to the virtue; and 'tis impossible, that the virtuous motive and the regard to the virtue can be the same' (*ibid.*: III.2.1, 480).

<sup>11</sup> 'Tis requisite, then, to find some motive to acts of justice and honesty, distinct from our regard to the honesty; and in this lies the great difficulty' (*ibid.*).

But the crux of the argument is that not only can you not find in human nature a natural affection that could account for your duty to be honest in dealing with others, but that such affection, if it existed, would be contrary to justice. Honesty and justice have nothing indeed to do with the intensity – or lack of intensity – of our affections for others, whoever they are, whether our compatriots, strangers, the opposite sex, or even any other fellows whom circumstances may make us live with. In a passage reminiscent of the famous Hobbesian critique of friendship in Chapter 1 of *On the Citizen*, Hume clearly says that the extension of our affections is not relevant to the matter of justice:

We love company in general; but 'tis as we love any amusement. An *Englishman* in *Italy* is a friend: A *European* in *China*; and perhaps a man wou'd be beloved as such, were we to meet him in the moon. But this proceeds only from the relation to ourselves; which in these cases gathers force by being confined to a few persons. (*ibid.*: 482)

Just as Hobbes pointed out that politics cannot be based on friendship, since there only exists love for oneself and company is for amusement, Hume argues that justice cannot be based on natural affections, since affections vary according to the circumstances and justice is indifferent to affective circumstances.<sup>12</sup> To put it another way, there is too much partiality in our affections, whatever extension we may hope to give them, for fitting the requirements of justice. Whatever my personal feelings to my banker, whatever variations they can go through, justice and honesty make it indisputable that I reimburse my loan. The striking thing about justice is precisely its impartiality; there is obviously something in it that contradicts human motivations, and affectivity: the fact that it has to be

<sup>12</sup> Hume's remark on the affection between the sexes ('a passion evidently implanted in human nature', *ibid.*: 481) is an important element in his argument.

totally indifferent to the natural affections that characterise all human relations without exception.

The logical conclusion of this argument is that justice is not based on our natural inclinations. Since it cannot be based, we have already said why, on a separate sense of justice, or a separate sense of obligation, there is only one solution left: justice must be based on the interest we have to be able to rely on common rules, which we know will be respected by others; that is to say, that justice rests on an invention that allows men to live in an impartial world in which people are faithful to their wives and husbands, pay back their bankers, give their papers on time, if they have promised to do so, and so on. Hume has very well captured the fact that this world of justice expresses our need for artificial circumstances in which our natural partiality and affectivity cannot intervene. He has perfectly well understood that men are naturally motivated by their passions, and that they need to be able to abstract from them not only for the sake of justice, but simply for their own survival.

### **III. On Justice: Hobbes vs. Hume**

There are several ways of dealing with what distinguishes Hume's and Hobbes's approaches to justice.<sup>13</sup> One way is to compare their ways of describing the circumstances of justice, what Hume calls by this name, and what Hobbes calls the state of nature, that is, the conditions common to all human gatherings that explain why men need common rules so much. The other way, which I shall follow, is to try and see where the difference really lies between them, as far as the scope of a theory of justice is concerned.

I shall start with what is common to the two authors: both have perfectly understood that the question of justice is es-

<sup>13</sup> For seeing what Hobbes and Hume may have in common, see Hampton, 1997.

sententially connected with the question of keeping at bay, in an impartial way, the overwhelming affectivity of human beings. If they can sometimes appear to be treating our passions, affections, and other sufferings harshly, it is not out of indifference for the common destiny of mankind, but because they are both aware that those natural passions are a major obstacle on the way to a just society. They are both aware that justice and politics have to do with the necessity of inventing common rules in order to avoid the destructive effects, whether direct or indirect, of our bad, but also, of our good feelings towards each other.<sup>14</sup> Whereas Hobbes insists in a way which he has been much reproached for on the dark side of human feelings, Hume rightfully corrects him in reminding him that generosity and love, although in a restricted form (1978: III.2.2, 487), are all around. But the important idea, which Hume has no doubt found in Hobbes, is that justice is a human invention to limit the effects of our natural partiality to each other. And they both agree that, whatever difference there is in their description of human feelings, you have to come to the conclusion that those feelings have to be checked, one way or another, or there will not be any justice, nor even any sustainable life on earth.

The substantial differences I can see between Hobbes and Hume, if we agree to let aside the question of the circumstances of justice, come from their understanding of the notion of the good. I have already said something on that point at the beginning of the paper, and I would like to come back to it as a way of conclusion. To paraphrase the famous saying that England and America are two nations divided by a common language, one could say that Hobbes and Hume are separated by a common conception of the good. As a matter of fact, Hume

<sup>14</sup> ‘Were we, therefore, to follow the natural course of our passions and inclinations, we shou’d perform but few actions for the advantage of others, from disinterested views; because we are naturally very limited in our kindness and affection’ (Hume, 1978: III.2.5, 519).

does agree with the subjectivist definition of the good that we find in Hobbes:

Vice and virtue, therefore, may be compar'd to sounds, colours, heat and cold, which, according to modern philosophy, are not qualities in objects, but perceptions in the mind: And this discovery in morals, like that other in physics, is to be regarded as a considerable advancement of the speculative sciences; tho', like that too, it has little or no influence on practice. Nothing can be more real, or concern us more, than our own sentiments of pleasure and uneasiness; and if these be favourable to virtue, and unfavourable to vice, no more can be requisite to the regulation of our conduct and behaviour. (*ibid.*: III.1.1, 469)

Both authors refer to the subjectivist turn in natural philosophy, and both relate our conception of vice and virtue to our sentiments of pleasure and pain. But what Hume does with this analysis is introduce a new dimension in moral theory, a dimension that has no equivalent in Hobbes. He stresses the fact that human beings are capable of feeling pleasure and pain, not only as a result of their own actions, but also in the observation of the behaviour of others. This remark is a very interesting one, since it allows us to affirm at the same time that a theory of justice is there to check our natural affections, and that we are not indifferent to the moral, or immoral, behaviour of our fellow men, but that we morally sympathise with them. This discovery permits a very elegant solution to the problem of the morality of justice, since Hume can say that justice is based, on the one hand, on self-interest, and on the other hand, on the feeling we have for others' behaviour with regard to justice. How is it possible? The strong interest we have in justice is due to the fact that we observe 'that 'tis impossible to live in society without restraining' ourselves 'by certain rules' (*ibid.*: III.1.6, 533). But we also observe that this interest is 'common to all humanity', and that 'men receive

a pleasure from the view of such actions as tend to the peace of society, and an uneasiness from such as are contrary to it' (*ibid.*). Whereas Hobbes could see only one foundation of justice in the vital interest we have to check our (bad) feelings to each other by a system of common rules, Hume also sees that there is another foundation of justice in the moral feeling we have in contemplating the actions of others. What Hume has thus invented is nothing less than the famous moral point of view: 'moral', because it considers morality in the actions of others, and 'point of view', because morality is not so much for him a question of what one does, as a question of what one feels about the actions of others. Therefore, action can be based on natural motives, completely indifferent to the question of their morality, without having to bid farewell to morality as such, since morality is present in the way we perceive and judge the actions of others. Self-interest and morality, the duality at the core of the fool's argument, can now live together in complete – more or less – harmony.

But this remarkable invention of the moral point of view tends to make us forget what Hobbesian justice is about, that is, our self-interest that others observe some kind of common rules despite the fact that we don't have a common conception of the good, and, all the more, that such a conception is also shared by Hume (to some extent).

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Philippe Crignon

REPRESENTATION AND THE STATE PARADIGM  
IN HOBBS'S POLITICAL PHILOSOPHY

**Introduction**

A well-known paradox makes Hobbes a crucial step into modern politics though from the start his absolutist views fell short of the modern ideal of political emancipation. He may be understood as a major contributor to modernity as well as the one against whom this modernity developed. My guess is that this paradox originates in a confusion between two different theoretical levels: that of the political form and that of the form of government, the distinction of which I intend to make clearer here. The concept of political form needs a thorough and accurate definition. I suggest that it sketches a specific relation between unity and plurality of a group of men, which determines to what extent they can carry out public actions and how they can do so, individually and collectively. As such, a political form is strongly connected to a specific conception of union. I claim first that Hobbes's own political theory addressed this very issue of union because of his first philosophy on the one hand, and of his anthropology on the other hand (I). Then I show that the contemporary prevalent conception of union was that of the theologico-political doctrine of incorporation, based on the archetype of incarnation (II), and that Hobbes knowingly substituted representation for

incarnation as a means to understand and realise the civil union (III). In the conclusion, I carry on beyond Hobbes to assess the paradigmatic and normative value of the state and of democracy.

## **I. Political Union as a Problem**

Although many philosophers elaborate a series of arguments in such a way as to aim at a comprehensive and systematic theory, most of them eventually address one primary and core issue and start it afresh from scratch. As for Hobbes, I believe that the problem that puzzled him most and which he endeavoured to solve concerns the union of men. This was not a problem at first glance, but it became gradually so. Such a union proved to be puzzling both in its meaning and in its realisation, as an idea and as a creation. But why may we be so perplexed about union and specifically union of men? We undoubtedly feel untroubled in using the word and the concept, and in considering how politics deal with the preservation of a common existence.

In order to come closer to the issue, it must be recalled that union is not unity, but the combining of unity and plurality. The point is crucial and sheds light on what politics is about. It is neither about dealing exclusively with what is or should be common to all, nor about satisfying a maximum of individual claims or social groups' demands. Politics aims at elaborating a basic structure in which unity and plurality determine each other in a specific way. As Aristotle argued against Socrates's "fundamental principle", it is simply not true that a city should have "the fullest possible unity", on the contrary, "the components which are to make up a unity must differ in kind" (1959: II, 1261a15, pp. 71-73). A city, a state or any other kind of civil community forms a union, wherein unity and plurality stand as the two poles which must be correlated and balanced, in one way or another. Hobbes clearly echoes Aristotle on this subject. And he had strong philosophical ar-

guments to understand how unity and plurality confront. In his first philosophy he elaborates a specific theory of unity, individuality and identity of beings, which he applies to the state as well as to any other body. Meanwhile, in his philosophy of human nature, he makes it clear that men change and grow different with culture, education and society, so that they become strangers one to the other.

Hobbes's first philosophy deals with traditional categories such as "being", "essence", "matter" or "form" in a non traditional way (1973: I, 1, 107; 1999: XI, 7, 106). As a being is *one* being, Hobbes naturally explains what unity is or what it means and his assertion is that unity is indivision ("unum definiunt omnes per indivisum" [1973: II, 1, 108]) or rather individuality (*individuitas* [*ibid.*: XII, 1, 188]). As Hobbes endorses a nominalist approach, the principle of individuation must be rephrased into a principle of identity through time. There is no doubt that this is a significant shift with important consequences. First, a being ceases to be the same being (*ens*) or the same body (*corpus*) as soon as its matter (*materia*) changes, because these three concepts are equipollent. Second, a determinate being remains the same determinate being depending of what signifies the word attached to it. A word may stand for some matter (as "wax") or some form (as "river"). Consequently, it is to be said that, once melted, a piece of wax is still the same being, the same body and the same wax, and that a river remains the same river, though not the same being, nor the same body, because its matter has been replaced (*ibid.*: XII, 4, 190). Every being is grounded on a principle of identity through time which depends on the true signification of the corresponding word. In the same way Hobbes questions what makes a man's identity: Socrates is not the same being, nor the same body from childhood to old age, but he is still the same Socrates then and now because of the same "unity of the flux through which matter is expulsed and reintegrated", which is the source of the vital movement. Hobbes eventu-

ally applies this methodology to the state. Given the perpetual loss and new acquisition of people inside the state, especially through death and birth, the state is not the same being and the same body. However “the continuous order and movement of the government, which is what is meant by a state, as long as it exists as one, makes it the same state numerically speaking” (*ibid.*: XII, 4, 191).

Consequently, it appears first that the state can be addressed ontologically as any other being, and second that the unity of the state depends on the preservation of its institutions, not on the permanence of its demography, on the natural person of the sovereign, or on the identity of laws.<sup>1</sup>

On the other hand, a state is not to be reduced to its unity. As *Leviathan*'s title puts it, a commonwealth provides a matter, a form and a power, and the matter is the multitude of men subjected to it (Hobbes, 1996: 7). This multitude is not only a numerous group of similar individuals, it is a plurality of men with highly various profiles: diversity, and not quantity alone, is the issue here. One of the striking features of part I of *Leviathan* is that it deals with both man and men, with the common human nature and with the diversity of men (mostly in chapters VI to XI). The differentiation between men's profiles is avowedly rooted in man's departure from nature: “nature itself seldom makes men remarkably good or remarkably evil, remarkably mad or remarkably wise. Some master finishes the work undertaken” (Hobbes, 2008: v. 31-34, 306; our translation). By nature, men are only numerous exemplars of the same pattern. They are very similar to one another. But it is a matter of fact that the common nature of man is also common to most beasts and therefore is not only characteristic of humanity. It sums up to sensation, imagination and train of thoughts:

<sup>1</sup> “Et una civitas, cujus acta ab unâ et eâdem institutione continuo derivantur, sive iidem sint in ea homines, sive alii” (Hobbes, 1999: XI, 7, 108).

There is no other act of man's mind, that I can remember, naturally planted in him, so as to need no other thing, to the exercise of it, but to be born a man, and live with the use of his five senses. Those other faculties, of which I shall speak by and by, and which seem proper to man only, are acquired and increased by study and industry; and of most men learned by instruction, and discipline; and proceed all from the invention of words, and speech. (Hobbes, 1996: III, 11, 19)

So the similarity between men ends with speech, which extends the ability to retain experience, to compute on trains of consequences and to foresee the future, for better or for worse. "Nature itself cannot err; and as men abound in copiousness of language, so they become more wise, or more mad than ordinary" (*ibid.*: IV, 13, 24).<sup>2</sup> Those who are to establish a commonwealth and to live in it are barely alike. They share the same general framework but their passions, their minds and their manners have followed different directions. This is part of the problem as men have grown strangers to one another, social knowledge being thus weakened to a considerable extent. If everyone experiences love and hate, desire and fear, reason and opinion, every one loves, hates, desires and fears different objects just as he reasons or opines in his own specific way (*ibid.*: 8). One cannot speculate on his neighbour's thoughts or inclinations and cannot anticipate his actions from his own purposes. This is the source of diffidence which is one of the three causes of the state of war.

Combining unity and plurality defines what politics is about. The multitude of men is doomed to war and destruction if unity is not obtained in one way or another. Accordingly, Hobbes gives an account of how a multitude of men change into one people. But it is sometimes assumed that this multi-

<sup>2</sup> The quoted passage from *Historia Ecclesiastica* seems to respond to this one.

tude vanishes along the process of unification. Undoubtedly, however, it is untrue. In *De cive*, Hobbes makes a clear distinction between the “disorganised crowd” (*dissoluta multitudo*) and the plain “crowd” (*multitudo*).<sup>3</sup> The disordered crowd describes the state of nature where no unity obtains at all, but the multitude of men are still preserved within the state. In Hobbes’s words, “in every commonwealth, the *people* reigns [...]. But the citizens, i.e. the subjects, are a crowd” (Hobbes, 1998: XII, 8, 137). Unity and diversity are mutually consistent; they are equally required in a civil community and their combination is what makes a union of men.

The multifaceted and heterogeneous crowd is still extant within the unitary state. If unity and plurality (diversity) are both necessary elements, plurality alone is naturally<sup>4</sup> given. Unity must be added to it without wiping it out. It is thus far more difficult to unite a group of men than a piece of mere matter. Let us consider three different cases. A heap of stones is only nominally one; there are many stones but no real unity at all (1). A society of bees is naturally one, if only because “amongst these creatures, the common good differeth not from the private” (Hobbes, 1996: XVII, 8, 113); there is a real unity and a mere numerical plurality (2). An artefact is made one by assembling many pieces; there is a real though artificial unity with no plurality left (3). The union of men differs from these three situations. Against (1), it entails a real unity. Against (2), unity is not natural and men are qualitatively dissimilar. And against (3), unity is not to be had at the expense of diversity. The challenge of politics is to keep the balance between the two requirements.

<sup>3</sup> “Multitudo dissoluta” in *De cive*, VII, 5; VII, 10; VII, 11; VII, 16; XII, 7; “multitudo” simply in V, 5; VI, 1 and annotation; VI, 2; VII, 7; XII, 8, etc.

<sup>4</sup> Naturally in the sense of the natural condition of men, though plurality is mostly due to education and social life.

We may consider that the hypothesis of the state of nature functions as a means not to prejudice what union means and how it can be made. Union – unity and plurality bound together – is a hugely complex concept, which needs some kind of schematic configuration, rather than a rationale, because the fact that something may be one and many at the same time is kind of paradoxical. We may also call such a configuration a political form.

## **II. Union as Incarnation**

Around the mid-seventeenth century, there was still a traditional way to construe the meaning and the making of a union. It is theologically inspired and it is so traditional that it goes back to the event of the Incarnation of Christ and to the New Testament, especially to the Gospel according to saint John and to the Pauline epistles. Incarnation is a kind of union allowing an understanding of both the indivisible person of Christ and his two wholly different natures. It may be difficult to rationalise Incarnation, but it is easy to account for it. It is an inclusion of one in the other. In Christ, God dwells. But He does not dwell in Him as a spirit lies within a body, because of His consubstantiality and coeternity to the Father. As Christ unfolds God's plan, He dwells in the Father as well. Many phrases confirm such an incarnational union: "Believe me that I am in the Father, and the Father in me" says Jesus (John 14, 11).<sup>5</sup> Incarnation – mutual inclusion – gathers and unites two different natures which remain different in the process of union. This is the core of the Christian faith and it calls for imitation. Indeed, the believer imitates Christ heart and soul, so that "Whosoever shall confess that Jesus is the Son of God, God dwelleth in him, and he in God" (1 John 4, 15). This is of

<sup>5</sup> Cf. "If I do not the works of my Father, believe me not. But if I do, though ye believe not me, believe the works: that ye may know, and believe, that the Father is in me, and I in him" (John 10, 38).

course the ground of the sacrament of the Eucharist in which the faithful makes Christ a part of him and at the same time reiterates his participation to him: “He that eateth my flesh, and drinketh my blood, dwelleth in me, and I in him” (John 6, 56).

Incarnation is not only a genuine kind of union, it is also a bodily one. This is the second essential aspect: the mutual inclusion of the Father and the Son is performed in a body (*corpus quâ caro*). When the faithful eats the host during the Eucharist, he makes Christ a part of his own body, just as he is renewed as a member of the body of Christ. According to this scheme, the community of the faithful – the church – is the second body of Christ. Saint Paul’s writings are particularly relevant here, for instance when he elaborates on the gifts: “For as we have many members in one body, and all members have not the same office: So we, being many, are one body in Christ, and every one members one of another” (Rom 12, 4-5). Mutual and bodily inclusion became the Christian archetype of all unions. Even the conundrum of Trinity has been clarified this way by John Damascus who purposely created the word *perichoresis*: each person lies within the two other ones (1864: I, VIII and XIV; III, VIII and XVII; IV, XVIII).

The paradigm of the incarnational union had a great success and it has been of first importance in ecclesiastical and political history. Ernst Kantorowicz has knowingly detailed the steps by which it developed in the two realms of power from the late Antiquity through the Middle Ages and up to the Tudors (Kantorowicz, 2016). If Cyprian declared in the 3<sup>rd</sup> century that “the bishop is in the church and the church is in the bishop” (Cyprian, 1844: letter 69, col. 406), Lucas de Penna applied the idea to the king more than a millennium later: “the prince is in the *respublica* and the *respublica* is in the prince” (*In Codicem* 11, 58, 7, n. 8, quoted by Kantorowicz, 2016: 214). The *corpus mysticum reipublicæ* emerged as the twin brother of the *corpus mysticum ecclesiæ* in the thirteenth century and the kingdom eventually came to be construed as

a body politic, a *corpus politicum*. It is essential to distinguish this theological concept of the body politic from a mere metaphor as can be found in literature, but also from the legal notion of corporation, though they have intertwined throughout history, as Kantorowicz demonstrated (Kantorowicz, 2016: 207 *sqq.*). My purpose here is only to focus on the political form entailed by the body politic. It means that the king is the head of this body of the realm, in a sense that he is a part and, at the same time, the whole of it. As the highest member, he is in the realm; and as the fate of the realm depends on his living existence, it is in him. Kantorowicz followed the evolution of this normative concept and the legitimacy it provides up to the Tudors. There is no better illustration of the English acclimatization of the paradigm than Edmund Plowden who explained that “the Members [of the Body Politic] are his subjects, and he and his Subjects together compose the Corporation, as Southcote said, and he is incorporated with them and they with him, and he is the Head, and they are the Members” (Plowden, 1816: 234).

Though Kantorowicz did not consider the theological doctrine of the body politic beyond the Tudor era, it remained very common under the first Stuarts. King James I elaborated on the organicist nature of the kingdom, with the head caring for every member. He concluded that when one member is affected by an infirmity, all the members are troubled, so that the head has to cure it whenever it is possible, or to cut it when it is not.<sup>6</sup> John Forset made the most of the idea in his *Comparative Discourse of the Bodies Naturall and Politique* in 1606 and Bacon himself quoted Plowden on the incarnate union of the body natural and the body politic: “Though there be in the king two bodies, and that those two bodies are conjoined, yet are they by no means confounded the one by the other” (1869: 231). Later on, the royalist Henry Ferne endorsed the

<sup>6</sup> *The Trew Lawe of Free Monarchies* (1598) in James I, 1918: 64-65.

doctrine and used it against the argument for resistance (1642: 9), and John Bramhall took advantage of it and emphasized that “the spirituality [is] ever an essential part of this ‘body politic’” (1844: 328). At the time Hobbes took up the issue of the political union, the incarnational interpretation was still vivid among his contemporaries.

### **III. Union as Representation**

The prevailing incarnational pattern of union that determined what it should mean and how it should be described is precisely what is suspended by the hypothesis of the state of nature where mankind is disbanded and unable to unite. One may say that this is a means not to take the incarnational pattern for granted, or even to dismiss it and to raise explicitly the issue of union as a political principle. Indeed, the state of nature allows us not to predetermine a specific kind of union. Yet, Hobbes’s explanation of the natural condition of men as a war of everyone against everyone sketches also one important element for an alternative scheme of union that would eventually allow to reshape the civil community on new grounds. Actually, we should not consider here the three main causes of the state of war, namely competition, diffidence and glory (Hobbes, 1996: XIII, 6, 83), but rather the general principle that accounts for such a disagreement among men. In fact, the interpretation of disunion determines the coming interpretation of union. Now, Hobbes’s claim here is anthropological and it states that men are naturally at odds with one another because they are all inclined to follow their own wills and desires and because those are not bound to the same and common end. As the state of nature originates from disunion of wills, civil society can only be obtained through a union of *wills*, not simply a union of *men*. At first sight, this further step in the demonstration may seem poor, scanty and of little value. Yet, further consideration shows how significant it is. On the one hand, incarnation had never been intended to unite

different *wills*, but rather different beings, especially beings of different natures. On the other hand, the *unio voluntatum* had always been considered as an ethical concept,<sup>7</sup> not a political one. Hobbes innovates in politicising such a union of wills and regarding it as the ground of civil community and not of friendship or of love.

This interpretation of the natural condition of mankind explains why Hobbes focuses on the meaning and on the realisation of the “union of wills” already in the *Elements of Law*. He gives the following definition of union:

When many wills are involved or included in the will of one or more consenting, (which how it may be, shall be hereafter declared) then is that involving of many wills in one or more called UNION”. (Hobbes, 1994: XII, 8, 72)

This is a definition of what union means, though the explanation of how it could be made is postponed to chapter XIX. But this definition is striking, for the inclusion of many wills in a single one retains some of the fundamental features of the incarnational pattern, even if this inclusion is construed here as one-way, instead of mutual. In this statement, Hobbes seems to be not so free from the theologico-political trend. He reiterates the idea throughout the *Elements of Law*, for instance when in chapter XIX he recalls the above quotation and considers how men could unite: “And that this may be done, there is no way imaginable, but only union; which is defined chap. XII, sect. 8 to be the involving or including the wills of many in the will of one man, or in the will of the greatest part of any one number of men, that is to say, in the will of one man, or of one COUNCIL” (*ibid.*: XIX, 6, 106). Or when he draws the distinction between the multitude and the people, “that is to say, either one man, or one council, in the will

<sup>7</sup> Cicero, *De amicitia*, IV, 15; *Pro Plancio*, II, 5; Thomas Aquinas: “*concordia est quaedam unio voluntatum*”, *Summa theologiae*, IIa-IIae, q. 29, a. 1.

whereof is included and involved the will of every one in particular” (*ibid.*: XXI, 11, 124).

As inclusion is Hobbes’s understanding of union in the *Elements of Law*, he consistently pictures the community as a collective body with an organicist structure: “This union so made, is that which men call now-a-days a BODY POLITIC or civil society” (*ibid.*: XIX, 8, 107)<sup>8</sup> – an assumption which is repeated more than thirty times in 1640 and which Hobbes elaborates here and there. For instance, when he compares the drawbacks and the advantages of government in general, he highlights the dangers that threaten the sovereign and gives the analogy with the head of the body: “the head always is that part, not only where the care resideth, but also against which the stroke of an enemy most commonly is directed” (*ibid.*: XXIV, 2, 136).

However, at the same time, Hobbes is embarrassed with the effective realisation of this union. Given the principle that the political union unites many particular wills, it fails to explain how those wills could be included or incorporated, so that he has to fix his rationale several times. Eventually, he precludes the whole idea of wills being included in order to be united.

His first statement is that the union is made when every man obliges himself to obey one man or one assembly, in other words when the particular wills are transferred to and involved in the will of the sovereign. But the elaboration of the contractarian approach surprisingly falls short. First because one cannot really alienate his own will: one may will what another wills, but he cannot communicate his will to him. In a first attempt to revise the argument, Hobbes considers a transfer of strength rather than a transfer of will: “though the will of man, being not voluntary, but the beginning of voluntary actions,

<sup>8</sup> Cf. “this done they are united, and a body politic” (Hobbes, 1994: XX, 3, 110).

is not subject to deliberation and covenant; yet when a man covenanteth to subject his will to the command of another, he obligeth himself to this, that he resign his strength and means to him, whom he covenanteth to obey" (*ibid.*: XIX, 7, 106). Here, Hobbes clearly aims at accounting for the irresistible power of the sovereign. This point is crucial because the covenant must produce its own security to be valid and it can only do so in creating a powerful authority. The gathering of everyone's strength would result in such a common power.

But of course, one cannot really divest himself of his own strength or transfer it to a sovereign. A second correction is thus needed: "because it is impossible for any man really to transfer his own strength to another, or for that other to receive it; it is to be understood: that to transfer a man's power and strength, is no more but to lay by or relinquish his own right of resisting him to whom he so transferreth it" (*ibid.*: XIX, 10, 107).

In short, there is no real transfer of anything, neither will, strength or right, and the union is supposed to be made with a covenant of non-resistance. Those passages have raised a lot of difficulties among scholars about the nature and the efficiency of the covenant and about civil obligation as well (Gauthier, 1969: 101-107; Hampton, 1988: 115). For my purpose, I would like to emphasize two specific problems concerning the realisation of the political union. First, it is not the same thing to erect an irresistible and coercive power and to oblige everyone *not to resist* it. The latter without the former is null because the covenant will not be secured. If everyone renounces his right to resist some man or some assembly, the promise does not make this man or this assembly stronger or more powerful: they simply retain their natural and unaugmented power. The passive non-resistance of the subjects does not amount to a positive contribution to the administration of the civil power. This kind of covenant leaves the sovereign dramatically alone and frail in front of the subjects and unable to coerce those

who may be willing not to keep their word. And the lack of security weakens the covenant, as no one is obliged to divest himself of his right to care for his own preservation.

The second problem concerns the inconsistency between the idea of a body politic – which suggests some kind of solidarity among the various parts, included between the head and the other members – and the mere obligation not to resist the sovereign’s will. As a consequence, Hobbes comes to imagine quite a weird kind of body:

A body politic of what kind soever, not subject to another, nor obliged by covenants, ought to be free, and in all actions to be assisted by the members, every one in their place, or at the least not resisted by them. For otherwise, the power of a body politic (the essence whereof is the not-resistance of the members) is none, nor a body politic of any benefit. (Hobbes, 1994: XX, 18, 117)

This passage is indicative of the difficulty. Considering the absolute freedom of a sovereign commonwealth, Hobbes suggests in the first place a “strong” interpretation of the political union, according to which the body politic would be *assisted* by everyone, then gives it up and puts forward the “weak” interpretation, dictated by his former conclusion, that the body politic, instead of being positively assisted by its own members, will not encounter any resistance from them. This is obviously a very curious way of conceiving the anatomical constitution and the life of a body!

This aporia must have perplexed Hobbes a lot. As a matter of fact, he strived to find a way out of it later on in his treatises *De cive* and *Leviathan*. On this specific issue, the evolution is crucial. His stroke of genius is to shift from an argument based on subjection to an argument based on identification. Individual citizens are no longer expected to subject their will to the will of the sovereign, but to acknowledge it as their own. Indeed, if one cannot transfer his *own* will or his *own* strength,

then the problem lies in a static conception of *ownership*. Hobbes needed a theory that would enable him to assert that an action performed by someone would not be his own, but someone else's, that would enable him furthermore to claim that a will resolved by someone would not be his own, but someone else's. The shift is in progress in *De cive*, where it is said that the will of the sovereign no longer "includes" the wills of the citizens, but "stands for" them:

A COMMONWEALTH, then, (to define it) is *one person*, whose *will*, by the agreement of several men, is to be taken as the *will* of them all; to make use of their strength and resources for the common peace and defence. (Hobbes, 1998: V, 9, 73)

It is true that there is no clear-cut discontinuity between the *Elements of Law* and *De cive* on this conceptual issue. In 1640, the union of wills is sometimes construed as lieutenantancy and not only as an inclusion.<sup>9</sup> But this is exceptional and the scheme of inclusion (or involving) prevails. Conversely, *De cive* undoubtedly retains some traces of the model of inclusion, for instance when it is said that "the will of each citizen is comprehended [*comprehenditur*] in the will of the commonwealth [which] comprehends [*complectitur*] the wills of individual citizens" (*ibid.*: VI, 14, 84; see also VI, 15, 85; VII, 7, 95; X, 5, 119; XII, 4, 134; XVI, 9, 191). Nevertheless the conceptual change cannot be denied and Hobbes now clearly construes the union of men as a process through which the will of the sovereign is taken for the wills of all individual citizens (*ibid.*: V, 9, 73; X, 5, 119).

As a consequence, the state is no more conceived as a body politic. Whereas Hobbes mentions the "body politic" more than thirty times in the *Elements of Law*, he ignores it

<sup>9</sup> "The will of some one man [is supposed by covenant] to involve and be taken for the wills of every man" (Hobbes, 1994: XX, 3, 111).

completely in *De cive*, eighteen months later, and explicitly rules out the organicist metaphor and the notion of a body politic.<sup>10</sup> From then on, Hobbes will never more characterize the state in these terms. This claim may seem odd in the case of *Leviathan* because of the elaborated analogy between the Commonwealth and a greater man that can be found throughout the book. It is true that Hobbes gives pride of place to the comparison. Nevertheless, I think that it would be a mistake to take it seriously or as a backward step to the incarnational doctrine. It would be easy to stress what distinguishes Edward Forset's analogies between the natural body and the body politic on the one hand and Hobbes's amused comparisons of the state with a body on the other hand. To go straight to the point, Hobbes's use of the comparison belongs to what Quentin Skinner characterized as a rhetorical turn in *Leviathan*, not to a theoretical approach. The comparisons are a useful pedagogical tool, they do not represent a doctrine about what union means. In Forset, the analogy is a condition of intelligibility of a political community whereas in Hobbes it is a dispensable way to describe the administration of the commonwealth. Forset considers the body political in a traditional way, comparing the head with the sovereign (and the soul with his reason) (1606: 27) with a strong and "sympathetic" connection with his subjects. This is not at all the way Hobbes delivers this comparison, in the introduction and in many chapters. More often than not, they come at the end of these chapters in order to shed light on what has already been rationally demonstrated. As it is known, Hobbes compares the sovereign to the soul of the commonwealth, not to its head. And the more Hobbes elaborates on the analogy, the less it is to be taken seriously. The body of the commonwealth experiences digestion, lethargy, epilepsy and bulimia,

<sup>10</sup> "But it appears from what has been said that the recipient of such power [...] has the relation to the commonwealth not of the head but of the soul. Because the soul is that which allows a man to will or nill" (Hobbes, 1998: VI, 19, 88; our translation).

cysts and roundworms! More importantly, the specific notion of “body politic” is almost never applied to the state itself but exclusively attached to the “political subordinate systems”, that is to say to public administrative organisations (Hobbes, 1996: XXII, 3, 149). The three exceptions (in the introduction and in chapters IX and XXIX [*ibid.*: introduction, 7; IX, 56; XXIX, 218]) can easily be explained by their context where the baroque analogy is overplayed. If one cannot ignore the resurgence of the pattern of the body in *Leviathan*, it is to be analysed on the basis of its previous dismissal in *De cive*. And this undoubtedly pleads for a minimalist interpretation.

Instead of a body, the state is now equated to a person on the ground that a faculty to will or nill defines a person. As it is put in chapter XVI, the state is an artificial person and a represented one. Just as Hobbes shifts from subjection to identification, and from inclusion to lieutenancy, he shifts from incorporation to personation. Unity in a commonwealth is no more construed in an inclusivist and organicist way, but through representation, which achieves what lieutenancy had initiated in *De cive*.

*Leviathan* carries on this change to its achievement with the famous theory of representation, where Hobbes can eventually say that:

A multitude of men, are made one person, when they are by one man, or one person, represented; so that it be done with the consent of every one of that multitude in particular. For it is the unity of the representer, not the unity of the represented, that maketh the person one. And it is the representer that beareth the person, and but one person: and unity, cannot otherwise be understood in multitude. (*ibid.*: XVI, 13, 109)

Our understanding of the modern state owes much to Hobbes's philosophical construct – even though almost nobody followed him in his absolutist views about government. Indeed, in the first place, representation means disincorporation. Unlike

incarnation, representation entails that public institutions and civil society stand at a distance. This distance is not a disconnection. Civil society cannot remain peaceful and well-ordered without the assistance of political institutions. The reduction of social conflicts and division depends utterly on them. But policy is based on the representation of the people by the sovereign rather than on his sympathy for his subjects.

Representation was a crucial issue throughout the 17<sup>th</sup> century in England, concerning the nature of the whole Parliament and even more specifically of the House of Commons. Hobbes is only one among many writers of the time to speculate on political authority and legitimacy and to relate them to their representative character. Hobbes's contribution to the problem is to demonstrate that absolute representation is a necessary means to constitute a commonwealth. Yet, such a representation is not liable to gradation. It defines a political form – the modern state – not a cogent form of government. The sovereign representative is not intended to mirror any pre-existing reality, but to produce the civil community in representing it. But this cannot be the end of the story. Among the opponents of Hobbes in the 17<sup>th</sup> century, some elaborated the idea that the people demands and requires an equal representative in the Parliament. Such different writers as Edward Coke<sup>11</sup>, Henry Parker<sup>12</sup> and John Lilburne<sup>13</sup> supported this claim for a

<sup>11</sup> “All the commons of the realme are represented in parliament by the knights, citizens, and burgesses” (Coke, 2003: 930); cf. “[...] his Majesty and the Nobles being every one a great person, represented but themselves, but the Commons though they were but inferiour men, yet every one of them represented a thousand of men”, *Journal of the House of Lords*, April 1593.

<sup>12</sup> “They [...] are to be accounted by the vertue of representation, as the whole body of the State” (Parker, 1642: 45).

<sup>13</sup> “[...] the Representative Body of the Kingdome (that is to say, the House of Commons alone, the Lords representing no Body, but themselves,)”, Lilburne, *Regall Tyrannie discovered: Or, A Discourse, shewing that all lawfull (approbational) instituted power by God amongst men, is by common agreement, and mutual consent*, January 6<sup>th</sup> 1647.

parliamentary representation, and the vindication for an equal representative was eventually brought forth in the *Agreement of the People* in 1647. Of course, this entails that the civil community exists before being represented and that its representative is bound to faithfulness. Though still something more than a bunch of mere delegates, the whole representative is no sovereign at all and is inferior to the people it is supposed to mirror: “the power of this and all future representatives of this nation is inferior only to theirs who choose them”.<sup>14</sup> For all of them, representation defines a form of government and aims at reflecting as good as possible the constituents. As they are bound to an adequate representation, members of Parliament are accountable to those they are supposed to represent, something utterly irrelevant to the Hobbesian sovereign. The two concepts of representation – as a political form and as a form of government – were historically opposed and belonged to adverse political views. Nevertheless, they may not be as mutually exclusive as James Harrington may suggest,<sup>15</sup> though this hypothesis would need further textual support.

### **Conclusion: Democracy and State as Normative Categories**

In this conclusive part, I want to carry on beyond Hobbes and still, to isolate, if one may say so, two important Hobbesian concepts from Hobbes and his own theory, in order to sketch what I see as his main legacy for our modernity. These two concepts are *sovereignty* and the *state*, and I want to show why this concept of sovereignty has a democratic appeal and how the state became a normative category.

<sup>14</sup> *An agreement of the People* (1647), in: *The English Levellers*, 1998: 94.

<sup>15</sup> “The diffusive body of the people is not a natural capacity of judging; for which cause the whole judgment and power of the diffusive body of the people must be interely and absolutely in their collective bodys, assemblys or representatives, or there can be no commonwealth”, *Aphorisms Political*, LXXXII (Harrington, 1977: 772).

Of course, Hobbes is not famous for his democratic leanings, and I will not dare to recall all he said (1996: XIX, 4, 124) against democracy or rather against the democratic ideology which claims that freedom is greater in a popular than in any other kind of state. In one respect, Hobbes is indifferent to the forms of state. He confessed in *De cive* that he demonstrated all his conclusions in the book except that monarchy is to be preferred, though he strongly believed it was so (Hobbes, 1998: 14). Indeed, the extent and the nature of sovereignty are the same in any kind of commonwealth and do not depend on the number of those who possess it. In this sense, Hobbes was not opposed to democracy. And yet, this concession is simply irrelevant to our times because we do not understand democracy in opposition to monarchy or aristocracy, but rather to despotism, dictatorship or totalitarianism. If we want to estimate what was Hobbes's contribution to democracy, we should simply not turn towards this kind of statements, and rather turn to his conception of sovereignty, not so much because it is an absolutist conception, but because it is essentially connected to representation.

In the first place, representation is now grounded on an act of authorisation, which expresses its contractarian aspect: no representation without consent. Political authority is established by the people who are to speak with one voice. It is a radical bottom-up construct, which states that the sovereign is only sovereign as long as he (or she or they) is a representative of the people, even though he is not liable to misrepresent it. It simply means that the sovereign power is never *owned* by the one or those who exercise it. In a transitive way, it is always the power of the people represented: "in every commonwealth the *People* Reigns; for even in *Monarchies* the *People* is sovereign" (*ibid.*: 137; our translation).

In the second place, such a united people, being one person with one voice, is not to be expected to emerge immanently from the multitude itself, but requires an external and repre-

sentative institution. It is nowhere to be found in the crowd of the citizens themselves, who can only represent themselves as one through a mirroring device. At the same time that representation drives downwards to the people, the people turns upwards to its representative. Consequently, we can draw two inseparable conclusions from Hobbes's conceptual framework. First, that the concept of sovereignty is analytically and unavoidably the sovereignty of the people. So much for Bodin. Second, that it is analytically and unavoidably a represented sovereignty. So much then for Rousseau. We may just as well say that this concept of sovereignty combines the constituent and the constituted powers.

Assuredly, we would not call democracy the kind of state Hobbes promoted. Although many of Hobbes's contemporaries worried about his absolutist views, others were more anxious about what we would call their democratic potentialities. Filmer argued (1991: 185) that although Hobbes denied the consequence, he claimed "a right for all the people to govern". For the German lawyer Johann Friedrich Horn, the very idea of authorisation implies that the people are sovereign (1664: 169). Edward Hyde chided the assertion that a king could be termed a "representative" of the people (1676: 57). Eventually, a French revolutionary writer like Røederer declared that "it is to Hobbes that Rousseau borrowed the principle of the sovereignty of the people" (1859: 306; preliminary note to his translation of *De cive*, in 1794). Hobbes would certainly not have admitted this, but the main categories of his theory fostered the elaboration of the idea of popular sovereignty.

Another way to put it is to observe how the state and philosophy are strongly connected and committed one to the other and that the state came to be a philosophical creature. Not that philosophy begot the state in any sense. States emerged in a very slow process from the 12<sup>th</sup> century onwards, through many social, economical and administrative changes. Norbert Elias (1994) once described the sociogenesis of the state,

especially the French state, thanks to mechanisms of monopoly. Yet, if several European states resulted from these mechanisms in the modern era, philosophy reworked the historical product so as to construct a rational concept of the state. Though Rousseau and Hegel were of equal importance in this rationalisation of the state, I will briefly pinpoint what I take as Hobbes's own contribution to the process. Indeed, according to him, the concept of the state is not empirical. It is not inferred from the various statal constitutions he could have experience of. Contrariwise, the concept of the state based on authorisation and representation is supposed to be demonstrated by reason. It is a logical necessity that any state needs a sovereign representative of the people. As a rational construct, the state became a philosophical creature, though not a philosophical creation. Its nature is just as ground-focused as philosophy itself. It is just akin to it. The states took shape through history, but philosophy contributes to provide unity to the concept and, most importantly, to give it its normative import. Thanks to its rational credentials, the representative state became paradigmatic.

As a consequence, the state is considered as the sole political form. Free cities, leagues, federations, kingdoms and empires are other kinds of political forms and they sometimes existed side by side. None was exclusive of the other ones. But as a rational entity, the modern state regards itself as a universal. Formal diversity vanishes or is absorbed. There are only states and what Hobbes called "non-states" (*non civitates*, 1998: VII, 2). He consistently dealt with Athens and the Roman Empire as states, small or large, just as he dealt with American societies as not political at all. He had no word for the Holy Roman Empire, which did not fit his binary concepts. Hobbes clearly contributed to establish the statal paradigm, which was to become more and more important until the present day.

The normative concept of the state and the normative concept of democracy stand together. Not that all states are de-

mocratic. We are obviously far from it. But a non-democratic state is still seen as abnormal; it is not what it should be. In a state, the people are the ground of the constitution. One should always be able to refer to the people as its constituent power, and to the state organisation as its constituted power, sovereignty being nothing else than those powers taken together.

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POLITICAL STABILITY  
FOR PASSIONATE MACHINES:  
HOBBES ON MANNERS  
AND POLITICAL EDUCATION

**Introduction**

Hobbes' political theory has been the subject of many divergent, and often mutually contradictory interpretations. In this paper, I will position myself against a juridical reading that considers Hobbes' a legal philosophy with a juridical antinomy as the political problem. Rather, I will argue that the political problem for Hobbes is one of political stability for human beings that are passion-guided and that have no free will.

Appreciating the role of the passions for Hobbesian individuals, however, often leads to interpretations of his political theory that ground political stability either straightforwardly in fear or in an education of fear. I will argue that, contrary to this, reading Hobbes' political texts closely and setting his theory of political education within the context of his philosophy at large leads to an interpretation that grounds political stability in the citizens' peaceful dispositions and an education of truth conducive to this end.

**1. The Juridical Reading of Hobbes' Political Theory**

One of the most prevalent schools of interpretation in the German speaking Hobbes community, starting from Kant scholar Julius Ebbinghaus and especially his student, Georg Geis-

mann, develops what can be dubbed the juridical reading of Hobbes' political philosophy. According to this reading, Hobbes described the state of nature to delineate an antinomy of right. The political problem, then, lies in the fact (a) that the natural right was extended to everything that could serve as a means to self-preservation and (b) that every person herself was judge as to when (a) was fulfilled.

Among members of this school, Hobbes is regarded as a "legal philosopher" and his project as one of a philosophy of law. Considering the state of nature as an idea describing human coexistence without legal boundaries, Georg Geismann, for example, sketches it as a situation of conflicting claims of right which are (almost) all of them considered legitimate and thus believes Hobbes' fundamental question to be framed thus: "under which conditions may people be coerced, i.e. their freedom of action be restricted?" (Geismann, 1982: 162). Taking Hobbes' rationalist tendencies seriously, he describes Hobbes as the first to argue for a necessity of political government "without recourse to experience, particularly to any kind of empirical human nature", that is, "purely from the juridical contradictoriness of the natural state of mankind" (*ibid.*: 168). Consequently, "Hobbes' revolution in legal philosophy lies in the purely rational deduction of a necessity of the state" (*ibid.*: 167).

As a result, the political problem arises because of a "structural [...] absence of a secure" peace (Schröder, 2012: 19) which is based not on a will to harm but on everyone's "equal right to curtail the other" (*ibid.*: 34). This juridical antinomy is taken to define the state of nature and its purpose within Hobbes' theory, and as it is based on a deficiency within the normative structure of natural right, it is considered to be independent of how the bearers of this right are described. In other words, Hobbes' political philosophy is independent of his anthropology, his moral psychology, and his natural philosophy at large: "Hobbes's reason for [the *ex eundum*] is gi-

ven by analyzing the juridical structure of a condition in which there are mutually reciprocal legal claims and by showing the immanent contradiction of this structure” (Geismann/Herb, 1988: 24). The anthropological arguments Hobbes introduces in his political works are, then, admitted only “at most to support or illustrate the argument” (*ibid.*: 26; cf. Hüning, 1998: 14, who allows it “a merely explicatory function”, and *ibid.*: 45) and are considered to be potentially misleading (Geismann, 1982: 168, fn 25).

There are a number of things to say regarding this reading. The first is that it is unclear if any actual juridical antinomy can be constructed from Hobbes’ concept of right. As right is merely the freedom to do, it is more closely related to the notion of power – it is power that both enables and limits the use of my freedom – than to any normative concept. The normative dimension enters the picture only with the notion of law. And even the definition of right in the *Elements* which contains a normative dimension in that it implies a “blameless liberty of using our own natural power and ability” (*Elements of Law* I.14.6, 71) is at pains to build its normativity on the reasonableness of acting according to nature. But if right denominates not a normative claim in any meaningful sense, but merely a blamelessness in acting according to one’s power if one actually believes that so acting is necessary to self-preservation, then, as Daniel Eggers points out, it is unclear how an antinomy can be said to exist at all (Eggers, 2008: 162 f.). My power may well interfere with others’ as theirs with mine, but as none of us has any normative claims upon the other, there can be no antinomy. Rather, our conflict is one of power, and a normative solution in terms of law is necessary precisely because it introduces a normative concept into a situation that is void of it.

Second, the juridical reading turns Hobbes’ political philosophy into a legal philosophy, and him into a legal philosopher (cf. Geismann/Herb, 1988: 10). Often, its proponents are at pains to reconstruct Hobbes’ project as a precursor to

Kant's (*ibid.*: 33 f.; Hüning, 1998: 42 f.), sometimes with the acknowledgement that Hobbes "didn't yet recognise" what he allegedly did (Geismann, 1982: 164). It comes as no surprise, then, that they concentrate mainly on *De Cive*: it isolates Hobbes' political theory and hence his talk of right and law in a manner neither the *Elements* nor *Leviathan* do, because the anthropology and psychology contained in these works is here treated of in the earlier volumes of the tripartite *Elementa philosophiae*. And *De Cive's* Preface even argues for its methodological independence from the two parts that systematically precede it (*De Cive*, Praefatio, OL II, 151; cf. Geismann/Herb, 1988: 21).

While law, both natural and civil, certainly is important to Hobbes, it is questionable if he saw the political problem as one of an *a priori* conceptual antinomy. Rather, he was concerned with how political stability was possible in the face of human passions and opinions, and he spent the overwhelming part of his political treatises sketching duties and responsibilities for passion-guided human beings. It is questionable, then, if the legal order itself is the answer to the political problem which is one of stability, and if this problem can be solved without bringing human nature into the picture.

Law has to be enforced, it doesn't enforce itself. And it will be human beings who will enforce the laws. This is not to say that Hobbes was not also an eminent legal philosopher in his own right. Moreover, Georg Geismann is correct in pointing out that Hobbes developed his theory of natural right within the context of a long-standing debate that connected right, nature, and God into a normative theory of natural right (Geismann, 1982: 163). Hobbes even subsumes his right of nature under the Stoic formulation of "Natura dedit omnia omnibus" (*Elements of Law* I.14.10, 72 and *De Cive* I.10, OL II, 165).

But to reduce his political theory to a legal theory means missing the political problem per se to which the creation of norms is necessary and incidental at the same time: political

stability can be fostered by creating an order which is law-based, but the existence of civil laws is by no means the solution to political instability (cf., e.g., *Leviathan* XXX, EW III, 323).

Finally, there is ample textual evidence that Hobbes meant his anthropology and thus his moral psychology to be read in conjunction with his political theory, and that the latter is by no means independent of it in a relevant manner. The people's passions and opinions, their fallibility and corruptibility are often at the centre of his political theory, such as when he discusses the relative hierarchy of the different forms of government with respect to how efficiently they prevent the shortcomings of human nature to influence government action (*Leviathan* XIX, EW III, 173 ff.). Probably the biggest problem of the juridical reading is in explaining the presence of the vast effort Hobbes invests in describing human nature, contextualising it within his theoretical philosophy at large, and utilizing it in developing his political theory.

## **2. Hobbes on the Human Mind**

Hints of this dependence of Hobbes' political theory on anthropology and moral psychology can be found even in *De Cive*. While it is true that he has less to say on human nature there than in his other political works, he does introduce the important lesson on human nature that human beings don't have free will. This follows from his definition of liberty as an "absence of hindrances to motion" (*De Cive* IX.9, OL II, 259), likening human freedom to the freedom of movement enjoyed by a river. And while this definition of liberty isn't explicitly connected to the notion of free will, it is so implicitly by arguing that we strive for preservation and shun death with the same necessity with which a stone yields to the demands of gravity (*De Cive* I.7, OL II, 163, where he again compares human liberty to a natural process).

A strict determinism is a property of Hobbes' anthropology already in the *Elements of Law* (I.12.5, 62 f.), and it remains unaltered throughout his philosophical career. The will is considered only as "the last appetite" in the deliberation process (*Elements of Law* I.12.2, 61), which in turn is nothing but an automated weighing of appetites and aversions concerning an object and which is triggered by the presence, remembrance or consideration of the object. *Leviathan*, arguably Hobbes' political masterpiece, proceeds in the same manner (cf. *Leviathan* VI, EW III, 39 f., for his treatment of appetite and aversion, and *ibid.*: 47 f., for his conception of deliberation). There, when treating of the passions, Hobbes argues that the "Will [...] Is The Last Appetite In Deliberating", making clear that he speaks of "the Act, (not the faculty,) of Willing" (*Leviathan* VI, EW III, 48 f.). This formulation not only conveys Hobbes' strict determinism, it also adds one element in Hobbes' attempt to reduce the instruments of traditional Aristotelian and Scholastic philosophy, as he insists that all that needs to be said about the human will can be said without assuming the existence of a faculty: the act of willing is a motion of the human mind and nothing more. While he doesn't so much as deny that the will is one of the human faculties, he argues that you don't need to enter into discussions of its nature to develop a theory of human nature.

This reduction of the will to desires, appetites and aversions poses the first problem for the juridical approach in that it leads to the question as to how people can be motivated to help sustain a legal order once it has been established. How are they made to desire to follow the law?

One way could be to show them the rationality of doing so. Things do get complicated, though, even if, at least in *De Cive*, Hobbes allows reason to be one of the faculties that define a human being. But when Hobbes introduces reason in *Leviathan*, while he speaks of it as a one of "the faculties of the mind", he does so only to add that what we call thus "is noth-

ing but Reckoning (that is, Adding and Subtracting) of the Consequences of generall names agreed upon, for the Marking and Signifying of our thoughts” (*Leviathan* V, EW III, 30): it is a process, not a faculty at all.

Yet it is also clear that while reason is nothing but a calculating process, it does influence Hobbes’ theory of the mind as well as his moral theory. The latter, because the solution to the political problem is in creating an order governed by the laws of nature, “precept[s ...] found out by reason” that calculate every human being’s long-term interest (*Leviathan* XIV, EW III, 116). They refer to the sustainable self-preservation, the “peaceable, sociable, and comfortable living” that can only be attained through striving for peace, which is the goal everyone aims at as the (hence universally valid) instrumental good that enables individual happiness (*Leviathan* XV, EW III, 146 f.). With few exceptions, this is what everyone would want if they knew what was really good for them.

But reason as calculation is also a part of Hobbes’ theory of the mind in a different way: passions aren’t simply desires (appetites or aversions) but almost always desires combined with an opinion, i.e. a calculation of consequences. Thus, even hope and despair are appetites distinguished by the fact that the former is “Appetite with an opinion of attaining”, the latter “The same, without such opinion” (*Leviathan* VI, EW III, 43).

Thus, while reason is treated of as a mere calculating process, it cannot be excluded as part of the anthropological basis of Hobbes’ political theory. On the other hand, it is also merely a component of calculating the effects of the realization of desires. Reason is not a motivating factor in its own right, and it is triggered externally by a desire that aims to realize or avert an event.

Desires, again, are endeavour, motion, and they are caused by sense perception or memory (or imagination), both of which are motions within the brain caused by an external

object either present or past (*Leviathan* II, EW III, 4 f.). In sense perception, we store both the image of an external object and its effect on us, the impact it has on our vital motion, i.e. whether it furthers or hinders our preservation (*Leviathan* VI, EW III, 42). Stored as a memory, these sense perceptions help us calculate the effects of present objects or – if triggered by an imagination – absent objects. Reason enables us to subsume individual objects into classes, thus generalizing the class of desirable and undesirable objects and enlarging our ability to judge them. However, all motivation is based on a judgment concerning sensible objects, and thus operates on imagination. (Hobbes also speaks of “trains of imaginations”, identifying them with “trains of thoughts”, *Leviathan* III, EW III, 11.) And while, unlike in the case of the will and reason, Hobbes isn’t explicitly saying so, neither is imagination a faculty in the sense of an active capability to tap into imagery. The faculty of the imagination is merely the process of imagining determined by circumstances not under our control.

So, in *Leviathan*, Hobbes does start with a rather extensive anthropology, and it is one compatible with his natural philosophy at large. Indeed, he starts the book by saying that he has “els-where written of the same [i.e., the original of sense] at large” (*Leviathan* I, EW III, 1). Hobbes is and remains a sensualist and a determinist, and these two traits of his natural philosophy and his anthropology form the foundation of his political theory in *Leviathan*. Also, he pursues a program of strict reductionism not only by being a monist or by having desires to be the only motivating factor of human beings, but by turning all traditional faculties of the mind into mere processes of the mind, arguably turning the mind itself into the sum of mental processes, an epiphenomenon of the material brain. In doing so, human beings are depicted as strictly determined processes who act on their desires, and centrally on their desire for self-preservation. As such, they enter the picture of Hobbes’ political theory proper: politics is the cre-

ation of a stable coexistence of passionate animals hard-wired to pursue their own preservation.

### 3. Morality for Determined Bodies

If the juridical reading saw the solution to the political problem in overcoming a juridical antinomy by constituting civil law, taking Hobbes' anthropology seriously seems to point to a very different picture regarding political stability. However, while the first approach can't say much about the creation of political stability, merely about an admittedly important conceptual issue, the latter seems to lead to a rather narrow notion of how political stability is to be brought about.

If human beings are hard-wired to follow their desires, and if these desires are guided by an instrumental reason, then, in order to ensure political stability, people have to be provided with reasons that would shape their desires so that they would strive to uphold political stability. And this may well imply making them desire to follow the law, but it also seems to provide us with a solution to the political problem that is equal parts straightforward and sobering, namely a government through fear. As fear of death is a central passion that inclines to peace (cf. *Leviathan* XI, EW III, 86), and thus the most important social passion, it seems plausible to operate on it if the political problem is to be solved by governing the passions. And indeed, when Hobbes introduces his notion of a guided train of thoughts, his example is "The Crime, the Officer, the Prison, the Judge, and the Gallows" (*Leviathan* III, EW III, 14), and in reply to Aristotelian political theory he scoffs: "What man, that has his naturall Senses, though he can neither write nor read, does not find himself governed by them he fears, and beleeves can kill or hurt him when he obeyeth not? or that beleeves the Law can hurt him; that is, Words, and Paper, without the Hands, and Swords of men?" (*Leviathan* XLVI, EW III, 683).

But even those who put an emphasis on fear as a source of political stability qualify this claim. Leo Strauss argues that fear of violent death is the “origin of law and the State” (Strauss, 1936: 17) but that it is different from the “fear of punishment” which guides the unjust man (*ibid.*: 25 f.). Building on Strauss, Geoffrey Vaughan speaks not of a well-governed, but a “well-educated fear” (Vaughan, 2002: 57). And most recently, Eva Odzuck constructs a *Leviathan* that is a manual of disseminating different fears targeted at different types of readers (Odzuck, 2015: 174 ff.).

Thus, even those who argue that fear is the source of political stability believe this fear must be formed and directed. In both Vaughan and Odzuck this forming is simply a shaping of the objects of fear, preferably through manipulation (cf. Vaughan, 2002: 38 ff.; Odzuck, 2015: 239 ff.).

However, there are two arguments that Hobbes considered political stability to build on a different governance of passion-guided beings. First, he speaks of morality as a science of virtue and vice and considers morality to consist in the right dispositions or manners. Second, in shaping manners by education, Hobbes makes reference to learning the truth, not to rhetorical persuasion and propaganda. Both of these traits of his political theory point to a mechanism of creating political stability beyond utilizing the people’s fear.

#### *a. Manners in Hobbes*

In *Leviathan*, Hobbes defines moral philosophy as the “science of Vertue and Vice” and the “true Doctrine of the Lawes of Nature” as “the true Morall Philosophie” (XV, EW III, 146). In elaborating this doctrine, he makes a reference as to when we attach the denomination “virtuous” to a person. This definition appears in his treatment of the third law of nature, concerning justice: “The justice of Manners, is that which is meant, where Justice is called a Vertue; and Injustice a Vice”

(*Leviathan* XV, EW III, 136). A just action in accordance with the laws of nature does not satisfy the standards of justice as a virtue; this presupposes a “constant and unfeigned endeavour” to act justly. Thus, a moral person is one who in conscience has a will to act morally and does so from this will, and not from fear of punishment (*Leviathan* XV, EW III, 145; cf. *De Cive* III.27, OL II, 195, where the laws of nature are considered always valid “*in foro interno sive conscientiae*”). Acting justly is denominating a person merely guiltless.

Thus, what Hobbes constructs seems to be a moral theory structurally very close to the Scholastic Aristotelianism he combats, and it looks almost as if he tried to mould his theory into an innocuous shape. Indeed, while he attacks the moral tradition on a number of specifics, the structure of his theory at large only differs in one, albeit crucial point: “But the Writers of Morall Philosophie, though they acknowledge the same Vertues and Vices; Yet not seeing wherein consisted their Goodnesse; nor that they come to be praised, as the meanes of peaceable, sociable, and comfortable living; place them in a mediocrity of passions” (*Leviathan* XV, EW III, 146 f.). Virtue lies in the habit to do the right thing, which in turn is what Hobbes styles “good manners” (*De Homine* XIII.8, OL II, 116.), yet the right thing is not defined by a means between extremes but by a consequence, namely, by whether an action is conducive to peace or not. Hobbes makes it abundantly clear that this goal, a political one to start with, is the purpose of all morality.

Now manners (or *mores* in Latin) are not intended by Hobbes to be the “Decency of behaviour” or “*Small Morals*”. Rather, he introduces them in chapter 11 of *Leviathan* as “those qualities of man-kind, that concern their living together in Peace, and Unity” (*Leviathan* XI, EW III, 85). What follows is a list of objects and desires and their effects on people, as far as these objects dispose or incline people to peace or war. Thus, “desire for ease” inclines to peace as “Competition of

Riches, Honour, command, or other power, enclineth to Contention, Enmity, and War” (*Leviathan* XI, EW III, 86). Here, Hobbes knows negative and positive incentives that may dispose either to peace or to war. Thus, fear of death and love of praise equally dispose to peaceful behaviour (*Leviathan* XI, EW III, 86 f.).

Manners, then, describe behaviour supportive or disruptive of social order. As far as they describe behaviour conducive or disruptive of peace, they form a connection between the single passions and their long-term effects and are thus of universal character (as concerning effects which, according to Hobbes, always follow from the passions given) and different from the customs of a particular place or era. And, more importantly, manners do not describe single actions, but dispositions or inclinations to certain actions. Thus Hobbes defines “Injustice of manners” plainly as “disposition, or aptitude to do Injurie” without further qualification (*Leviathan* XV, EW III, 136). It is, then, not the doing but the aptitude of doing injury to someone that constitutes bad manners. Accordingly, the laws of nature, one of which is to be just, “oblige only to [...] an unfeigned and constant endeavour” (*Leviathan* XV, EW III, 145).

This treatment of justice as divided into just actions and just manners with its insistence on manners as the morally relevant aspect is exemplary for all laws of nature. In *Leviathan*, justice is the only law of nature described in such depth, probably because it is the first to command concrete actions – it is a specification of the abstract second and a realization of the general first law of nature – and thus simply the first one mentioned that lends itself to a full description of all its facets. Once this is done for one law of nature, the foil can easily be copied to the others. There is a gratefulness in actions and in manners, and we only call the latter a virtue, and so on... That this is what Hobbes had in mind, can be gathered from the *Elements* where he does provide a list: “As for example, justice is

that habit by which we stand to covenants, injustice the contrary vice; equity that habit by which we allow equality of nature, arrogance the contrary vice; gratitude the habit whereby we requite the benefit and trust of others, ingratitude the contrary vice; temperance the habit by which we abstain from all things that tend to our destruction, intemperance the contrary vice” (*Elements of Law* I.17.14, 94).

We can conclude, then, that manners are not only an important concept in Hobbes’ moral philosophy, one touching on the same issues as the laws of nature, i.e. peace and unity, and thus relevant for self-preservation. Rather, they describe a person’s ability to contribute to the goal of morality, that of “peaceable, sociable, and comfortable living” (*Leviathan* XV, EW III, 146 f.), and thus her moral worth in an individual as well as in a social perspective. Manners become good manners by habituating those actions which reason finds to be conducive to peace and self-preservation; these dispositions, being just, grateful, sociable, renouncing pride and arrogance, constitute the moral virtues the science of which is moral philosophy. Thus the concept of virtue provides the aim manners have to take if they are to be good manners, and this aim is the peaceful stability of the society a person lives in.

*b. Political Education in Hobbes*

That Hobbes considers political education to be of importance for political stability is accepted by interpreters like Geoffrey Vaughan and Eva Odzuck. However, the view that political education ties in with good manners, with the development of a peaceful character, is not. To Vaughan, political education is concerned with peace, not truth, by forming the opinions of the people through rhetorical persuasion, rather than their reason through evident demonstrations: “regarding governing the actions of citizens, Hobbes never mentioned governing by means of truth, only by means of opinion” (Vaughan, 2002: 39). This is appropriate, according to Vaughan, because

opinions operate on people's desires in a manner more easily governed politically and without recourse to quarrels about the truth of doctrines: "But education even in matters of truth could, according to Hobbes, threaten the peace. Not all people would agree to the truth, due either to faulty reason or to opposing passion. Therefore opinion, or well-governed opinion rather, as the source of all actions, provides a much better hold on the people" (*ibid.*). Ultimately, the most important 'lesson' of this political education would be the fear of the state of nature as a consequence of refusing passive obedience (*ibid.*: 57). And if there is any connection in Vaughan's interpretation on how political education and a peaceful character tie into one another, it is merely in the fact that "[o]ur natural fear, if well educated, will predispose us to distrust others. This predisposition does not have to be created, but it does have to be fashioned in the proper direction. It also has to be fashioned in the proper manner; the means of education cannot be allowed to undermine the content of the lessons" (*ibid.*: 91).

While in Vaughan Hobbes' materialism plays almost no role, more recently Eva Odzuck has argued that to understand Hobbes' political theory properly, stress has to be laid on his materialism, especially as it touches on his anthropology. Placing her project within the wide area of 'biopolitics' (Odzuck, 2015: 137 ff.), she nevertheless considers his political education to consist in rhetorical persuasion. Concentrating on *Leviathan*, where Hobbes lays down his theory of education in the chapter on the duties of the sovereign, she claims that Hobbes' materialism describes not so much the framework of a functioning education but rather its contents: Hobbes wants to alter the citizens' opinions regarding their own nature away from a dualism in which they are concerned with their eternal welfare to a materialist monism in which the already existing fear of death becomes the prevalent guide of the citizens' behaviour. Thus, Odzuck sees Hobbes' anthropology as part of a

type of “conceptual politics” in which the notions of sensuality and corporeality cease to be tainted by being judged as decadence and atheism (*ibid.*: 243 ff.). Rhetoric and persuasion feature prominently as the didactical instruments of choice in Odzuck’s interpretation precisely because she takes seriously Hobbes’ description of human beings as passion-guided bodies and thus believes that they are not to be swayed by reason, the less so the stronger their private interests and their private passions are (*ibid.*: 251). At the same time, Odzuck’s analysis of Hobbes’ materialist anthropology and his moral psychology remains on the level of passions and especially predominant passions, and makes no use of the notion of manners. It thus misses an important element of precisely the aspect of Hobbes’ theory she rightly highlights.

That the notion of education is important for Hobbes, can be taken already from the *Elements* where he says that “[a]nother thing necessary, is the rooting out from the consciences of men all those opinions which seem to justify, and give pretence of right to rebellious actions” and that these opinions “cannot be taken away by force, and upon the sudden: they must therefore be taken away [...] by time and education” (*Elements of Law* II.9.8, 183). And what follows contains the contents of Hobbes’ theory of political education in a nutshell which remains unchanged from the *Elements* through *De Cive* to *Leviathan*: “And seeing the said opinions have proceeded from private and public teaching, and those teachers have received them from grounds and principles, [...] there is no doubt, if the true doctrine concerning the law of nature, and the properties of a body politic, and the nature of law in general, were perspicuously set down, and taught in the universities, but that young men, who come thither void of prejudice, and whose minds are yet as white paper, capable of any instruction, would more easily receive the same, and afterward teach it to the people, both in books and otherwise, than now they do the contrary” (*Elements of Law* II.9.8, 183 f.).

Hobbes seems to depart sharply from any interpretation that political education is about swaying passions through rhetoric: the people who instigate rebellion are as misguided and ignorant as their teachers, indeed they reproduce what they have learned from them, so that the primary fault lies with the teachers who have learned their doctrine at the universities. What they need to be taught is a ‘true doctrine’, so that the students who in time become preachers, teachers, and tutors themselves are actually learning those facts that are true about the grounds and maintenance of civil society. And the students are void of prejudice, which is certainly not to say that they enter the university unaware of moral or civic duties or without a notion of justice, gratitude, equality, equity and the like. What they lack is actual political persuasions, and it is in this sense that they are ‘clean paper’, ‘not yet scribbled over’: they are politically malleable.

This connection of political education and political stability is tightened in *Leviathan* and, again, in *Behemoth*. In the former, Hobbes clarifies that the right of the sovereign to control the curricula entails a necessary duty not “to let people be ignorant or mis-in-formed of the grounds, and reasons of those his essentiall Rights”. Why not? “[B]ecause thereby men are easie to be seduced, and drawn to resist him, when the Common-wealth shall require their use and exercise” (*Leviathan* XXX, EW III, 323). In other words, because as long as they only have an opinion concerning the foundations of civil society and no actual understanding yet, based on principles, the citizens are easy prey to rhetorically skilled ambitious people. Indeed, “the grounds of these Rights, have the rather need to be diligently, and truly taught; because they cannot be maintained by any Civill Law, or terrour of legal punishment. For a Civill Law, that shall forbid Rebellion, (and such is all resistance to the essentiall Rights of Sovereignty,) is not (as a Civill Law) any obligation, but by vertue onely of the Law of Nature, that forbiddeth the violation of Faith; which naturall

obligation if men know not, they cannot know the Right of any Law the Sovereign maketh. And for the Punishment, they take it but for an act of Hostility; which when they think they have strength enough, they will endeavour by acts of Hostility, to avoyd” (*Leviathan* XXX, EW III, 323 f.). Thus, civil society is ultimately based on an epistemic act, an understanding of the normative implications (punishment) of natural phenomena (pain meted out by another human being). Political education, teaching the people an understanding of the actual foundations of the sovereign’s rights, becomes a central obligation for the sovereign itself, and a necessary element of maintaining political stability.

In *Behemoth*, finally, Hobbes assures that ignorance of civil duty was the main cause for the civil war (*Behemoth* I.4.; cf. IV.159) and that “the fault [of political miseducation] may be easily mended, by mending the Universities” (*Behemoth* II.71). That this mending does not consist in a revolution or coercion of the then present institution may be taken from two passages. First, when Hobbes argues on the limits of coercion: “A state can constrain obedience, but convince no error, nor alter the minds of them that believe they have the better reason. Suppression of doctrine does but unite and exasperate, that is, increase both the malice and power of them that have already believed them” (*Behemoth* II.62). Second, he argues that, once true political education takes place at the universities, “there will come out of them, from time to time, well-principled preachers, and they that are now ill-principled, from time to time fall away” (*Behemoth* I.58). Hobbes envisages, then, a slow reform of the teaching personnel imbued with the truth about the grounds and maintenance of civil society, a necessity in the face of the inevitable continued existence of diverging and conflicting opinions about this issue.

These passages give evidence to both the importance of political education for political stability and to a certain truth-requirement regarding the formation of political opinion.

But so far we only treated of opinions as the object of political education. How are opinions connected to manners as the source of a peaceful character? We saw above that opinions, understood as epistemic assessments of the effects of an object present, remembered or projected, were part and parcel of almost all human passions. Indeed, pure desire, appetite and aversion, only function based on an immediate impact, but the desires that feature in deliberation almost always imply a weighing of a present or projected object (not past, as “of things past, there is no Deliberation; because manifestly impossible to be changed”, *Leviathan* VI, EW III, 48) with the experience we had of the same or similar objects before, their uses and dangers, their implications on other desires and so on. Thus, opinion is always present in deliberation, influencing the passions by altering the calculations of reason concerning the effects of objects and influencing the will by altering possible aims by weighing some objects superior to others based on their short- or long-term impact on vital motion. If opinions are based on reason, they form a permanent basis of the inclinations of a person, shaping her passions, her deliberation, and her will sustainably in the direction her opinions point her. In Hobbes’ determinism with its close connection of opinions and desires that places the former in the service of the latter and consequently of vital motion, reasonable opinions, while not motivating on their own, do shape the motivating desires in a reasonable direction with the same necessity as any other source of desires. And over time, these sustainable desires become habitual, become manners, and shape the character of a person (*De Homine* XII.8, OL II, 116). Finally, if manners are developed based on opinions shaped by reason, reason counselling peace, then reason-based opinions will lead to a peaceful character when habituated, to what Hobbes simply styles good manners (*ibid.*). This is why he can say, in *Leviathan*, that “though in matter of Doctrine, nothing ought to be regarded but the Truth; yet this is not repug-

nant to regulating of the same by Peace. For Doctrine Repugnant to Peace, can no more be True, than Peace and Concord can be against the Law of Nature” (*Leviathan* XVIII, EW III, 164).

So, in order to fulfill their moral duties, a peaceful conduct, people have to habituate behaviour that makes them want to follow the laws of nature, and a public education has to elucidate the actual, true relations between their conduct and peace as the goal of morality. Hobbes continually highlights not that opinion must be inculcated by persuasion but that there are “Principles of Reason” that can be taught, and that indeed everyone is able to understand them as “the obstructions to this kind of doctrine, proceed not so much from the difficulty of the matter, as from the interest of them that are to learn” (*Leviathan* XXX, EW III, 325).

#### **4. Conclusion**

Hobbes constructed the political problem as one of continued political stability. And he described human beings as passionate, desire-driven, only instrumentally guided by reason, and strictly determined in their actions. Thus, generating political stability turns into the question of how to determine people to strive for peace and maintain it once a peaceful order is in place. Yet his solution to the political problem seems to do more than to just plausibly threaten fearful consequences of disobeying the sovereign. It implies the development of manners conducive to peace through political education: ultimately it requires the development of civic virtues. And because “the power of the mighty hath no foundation but in the opinion and belief of the people” (*Behemoth* I.16), and as opinions are both most stable and most peaceful when based on reason that counsels to follow the laws of nature, “without [the civic] virtues, Hobbes’ political model wouldn’t function” (Pinzani, 2009: 133).

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Luka Ribarević  
POLITICAL HEBRAISM IN *LEVIATHAN*:  
HOBBES ON I SAMUEL 8

Almost half a century ago in his seminal essay “Time, history and eschatology in the thought of Thomas Hobbes” J. G. A. Pocock (1971) justly emphasized a stunning lack of scholarly interest in the third and fourth parts of *Leviathan*.<sup>1</sup> In contrast to the vivid debate regarding various aspects of Hobbes’s political philosophy *stricto sensu*, the second half of *Leviathan* was cast in shadow. Since then a lot has changed and a great effort has been put into charting what was only a few decades ago virtually a *terra incognita*. In recent reviews of the state of the discipline Hobbes’s political theology plays almost as prominent a part as his political philosophy (see e.g. Springborg, 2007; Martinich and Hoekstra, 2016). Today we have become familiar with the view that Hobbes’s political theology was of central importance to his political project. Far from being an extorted addendum conceived as a concession to religious orthodoxy, the second half of *Leviathan* forms an

<sup>1</sup> “The two books in which Hobbes expounds Christian faith and its sacred history are almost exactly equal in length to books I and II; yet the attitude of far too many scholars towards them has traditionally been, first, that they aren’t really there, second, that Hobbes didn’t really mean them” (Pocock, 1971: 160).

integral part of the argument, completing the rational account of sovereign State expounded in its first half.

However, much less has been accomplished regarding another Pocock's admonition stated in the very same essay. He held that Hobbes "most rigorously separated the Hellenic from the Hebraic component of his cultural tradition and went further than any major philosopher since Augustine in rejecting the former and relying upon the latter" (Pocock, 1971: 200; cf. Schwartz, 1985: 8-10). Research in that respect was held back by a "fixed unwillingness" to recognize "the enormous significance" which "the Hebrew and eschatological elements" exercised on seventeenth-century thought (Pocock, 1971: 161). It is my intention to contribute to the developing discussion of the political Hebraism in *Leviathan* by assessing Hobbes's reading of I Samuel 8.<sup>2</sup>

### **Hobbes and the Biblical Century**

After a millennial pause, contacts between Christianity and Hebraism began to intensify at the time of Renaissance. Humanist Europe became acquainted with "the 'third culture', the Hebrew, which alongside the Greek and the Latin was once an ornament of the trilingual gentleman-scholar" (Manuel, 1992: 11; cf. 32, 36-37, 66-76). In accordance with the standard Protestant position that the Hebrew text of the Bible is a true word of God, Luther's call of *sola scriptura* promoted the study of the original text into a religious duty of every Christian (Nelson, 2010: 13; Parker, 2007: 427; Neuman, 2008: 59). This allowed Hebrew scholarship to flourish throughout Europe. Thriving

<sup>2</sup> In her soon to be published essay "Mosaic Leviathan: Religion and Rhetoric in Hobbes's Political Thought" Alison McQueen identified "a small but growing literature on the 'Hebraic Hobbes'" including Schwartz, 1985; Mitchell, 1991; Elazar, 1992; Sommerville, 2000; Coleman, 2004; Nelson, 2010; Beiner, 2011; Jones, 2017. Along with her research I would add to the list Kraynak, 1992; Parker, 2007 and Hackenbracht, 2014 (McQueen, "Mosaic Leviathan").

on the quickly growing corpus of printed Hebraica, European scholars became familiar with both the Hebrew Bible and the post-biblical rabbinic heritage. In addition, numerous Latin translations of some of the key texts of the Hebrew tradition made it accessible to an even wider audience. In the seventeenth century Hebrew studies reached their peak. At its very end, Carlo Giuseppe Imbonati was able to enlist Latin works of no less than thirteen hundred Christian Hebraists in his *Bibliotheca latino-hebraica* (Manuel, 1992: 66; Nelson, 2010: 14).

Political thought was one among various areas of scholarship in which the impact of this ‘biblical archeology’ (Kriegel, 1989: 122) or even ‘Mosaic moment’ (Neuman, 2008: 60) was particularly strong. Political philosophers of the age read and interpreted the Bible not only as a divine message bearing on fundamental religious questions, but primarily as a political text containing a description of the Jewish commonwealth. Since its author was none other than God himself, *Respublica Hebraeorum* acquired a privileged status. It became a model, the perfect constitution. The problem was, however, that many different and often opposing political and religious groups identified themselves with Old Testament Israelites and sought to legitimize their particular solution of the predicament they were facing by turning to the authority of the same sacred text retelling the history of the “archetype for the ideal republic” (Oz-Salzberger, 2002: 101; 93-94). From Bodin to Harrington, most of the leading figures of political thought dealt with the juridico-political content of the Old Testament. In order to decipher its particular nature, scholars frequently turned to the vast sea of rabbinic sources steadily flowing in from printing presses all over Europe (Nelson, 2010: 16-17; Jones, 2008: x). In many works of political philosophy Hebrew tradition started to overshadow Greek and Roman sources that rose to particular prominence during Renaissance.

The consequences of this turn to political Hebraism in the early modern period can hardly be overstated. French phi-

osopher Blandine Kriegel has convincingly argued that the sovereign state, *l'État du droit*, is founded not only on the New Testament morality of faith but also on the Old Testament morality of law (Kriegel, 1989: 105-127). Kriegel identifies the source of modern political ethics in Hebrew morality of collective justice, equality and peace brought about by submission without exception to the law of the covenant between God and Israel. It is a morality of people whose national identity is formed and preserved through observance of the law which emancipated them from slavery. It was “a political ideal, a theologico-political authority” that was unearthed from the Scripture in the early modern period (*ibid.*: 122; cf. Oz-Salzberger, 2002: 96-98, 101). It proved invaluable in the search for a new kind of political order that would, in contradistinction with seigneurial and imperial political formations, guarantee peace, security and legal equality of free subjects collectively submitted to the power permeated with law. Thomas Hobbes was one of the leading figures in this groundbreaking quest.

Hobbes lived in “the most biblical of European centuries” (Oz-Salzberger, 2002: 92). Although Hobbes was not a Hebraist and he probably did not even read Hebrew,<sup>3</sup> there is no doubt that he was deeply interested in the Old Testament. That

<sup>3</sup> According to Noel Malcolm, “Hobbes was not himself a Hebrew scholar” and he could not read Hebrew (2004: 253; 247). Johann P. Sommerville agrees that Hobbes’s “use of Hebrew was rather less impressive” and that he “was no Hebraist” (2000: 178-179). Similarly, Menachem Lorberbaum argues that in spite of the fact that Hobbes’s political theology revolves around “detailed exposition of the Hebrew Bible’s politics”, “*Leviathan* does not reflect knowledge of Hebrew” (2007: 80). Of different opinion are Yoram Hazony whose “Hobbes was learned in Hebrew” (2005: 39), Fania Oz-Salzberger who depicts Hobbes as “a dedicated Hebraist” (2002: 97), as well as Ryan Hackenbracht who argues that although “Hobbes could not read Hebrew”, he “availed himself of the methodology, ancient sources, and contemporary works of the Hebraists” and adopted “a Hebraic worldview” (2014: 89).

Hobbes was thoroughly familiar with the Bible is proved time and again on the pages of *Leviathan* which contain “over six hundred biblical citations” (Parker, 2007: 446), which in large part are drawn from the Old Testament. Furthermore, it can be surmised that he was also introduced to the rabbinic tradition at least through the works of his friend John Selden, “the greatest Hebraist of the age” whom Hobbes greatly esteemed (Nelson, 2010: 21; Martinich, 1992: 381; Sommerville, 2000: 162).<sup>4</sup>

However, it has only rarely been pointed to the fact that the third part of *Leviathan*, *Of a Christian Commonwealth*, provides a systematic account of the Jewish Commonwealth, which plays a pivotal role in the argumentation of *Leviathan*. It is my intention to give an explanation of its importance by analysing only a short fragment of it. By focusing on Hobbes’s reading of I Sam. 8, I will try to illustrate the nature and status of his Old Testament exegesis in the English *Leviathan*.

### **Biblical Account of the Establishment of Israelite Monarchy**

The eighth chapter of the first book of Samuel, containing the famous description of the creation of Israelite monarchy, “constitutes the political turning point of the Old Testament” (Austin, 1996). Prophet Samuel was the last in a line of judges

<sup>4</sup> Hobbes thought highly of Selden’s *Mare Clausum* which he read already in 1636, the year following its publication (Sommerville, 1992: 13; 2000: 162). In *Mare Clausum* Selden drew on the Bible and the Talmud in order to refute the principle of the freedom of the seas elaborated by Hugo Grotius in *Mare Liberum* (Oz-Salzberger, 2002: 98). Although its first volume appeared only a year before the publication of *Leviathan*, Hobbes must have been familiar with many of Selden’s arguments from his voluminous trilogy *De synedriis* (1650-1655). In it Selden advanced Erastian positions by examining the history of Sanhedrin which he likened to the English Parliament (Sommerville, 2000). Finally, it should be noted that Selden had one of the finest collections of Hebrew manuscripts of his time (Manuel, 1992: 102).

who ruled under God in Israel. The Book of Judges describes this period, starting with the death of Joshua, as one without permanent government institutions during which God intermittently intervenes in order to alternately chastise His chosen people for falling out with his law and deliver them from oppression by operating through the judges, charismatic leaders of his choice (cf. Walzer et al., 2000: 109-111). It was a time of chronic instability during which Israel was vulnerable both to external aggression and internal strife. “In those days there was no king in Israel, but every man did that which was right in his own eyes” (Judg. 17:6; 18:1; 19:1; 21:25).<sup>5</sup> These infelicitous days reached their climax with a most cruel civil war almost wiping out an entire tribe of Israel (Judg. 19-21). It is against this backdrop that the elders of Israel, unhappy with the conduct of Samuel’s corrupted sons, approached him and demanded that they be given a king to judge them like all the nations (I Sam. 8:5).

Displeased by their demand, Samuel turned to God who understood their act as a rejection not of Samuel, but of Himself. Indeed, what the elders demanded amounted to a replacement of God’s theocratic rule with human kingship. In a curious reversal of the habitual biblical image according to which God or the prophets speak and the people submit to what is said, God said to Samuel: “Hearken unto the voice of the people in all that they say unto thee” (I Sam. 8:7; cf. Walzer et al., 2000: 123). However, before yielding to their request God ordered him to “shew them the manner of the king that shall reign over them” (I Sam. 8:9). So Samuel described to the elders the nature of the kingship they would have to endure. And he did it in most unpleasant terms.

This will be the manner of the king that shall reign over you: He will take your sons, and appoint them for himself,

<sup>5</sup> Quotations from the Bible are from the King James version.

for his chariots, and to be his horsemen; and some shall run before his chariots. And he will appoint him captains over thousands, and captains over fifties; and will set them to ear his ground, and to reap his harvest, and to make his instruments of war, and instruments of his chariots. And he will take your daughters to be confectionaries, and [to be] cooks, and to be bakers. And he will take your fields, and your vineyards, and your oliveyards, even the best of them, and give them to his servants. And he will take the tenth of your seed, and of your vineyards, and give to his officers, and to his servants. And he will take your menservants, and your maidservants, and your goodliest young men, and your asses, and put them to his work. He will take the tenth of your sheep: and ye shall be his servants. And ye shall cry out in that day because of your king which ye shall have chosen you; and the LORD will not hear you in that day. (I Sam. 8:11-18)

Although they were all to become God's servants, the people of Israel, and not only its elders, persisted in their demand to have a king to "judge us, and go out before us, and fight our battles" (I Sam. 8:20). With God's consent, Samuel gave them Saul as their first king.

### **Rabbinic Commentary on I Samuel 8**

The question of the proper interpretation of I Sam. 8 in rabbinic tradition was closely connected with the understanding of yet another biblical passage.<sup>6</sup> In Deuteronomy 17:14-15 God foretold the establishment of an Israelite monarchy. "When thou art come unto the land which the LORD thy God giveth thee, and shalt possess it, and shalt dwell therein, and shalt say, I will set a king over me, like as all the nations that are about

<sup>6</sup> For the rabbinic discussions on the question of monarchy, see Blidstein, 1982; Walzer et al. 2000: 108-165; Funkenstein, 2007: 162-163; Nelson, 2010: 26-37.

me; Thou shalt in any wise set him king over thee, whom the LORD thy God shall choose.” This text was subject to opposing interpretations due to the fact that “the meaning of the Hebrew is ambiguous as to whether this is a permission or a commandment” to establish a monarchy (Walzer et al., 2000: 133; cf. Nelson, 2010: 31-32). However, in spite of some opposing voices, the Talmud teaches that God explicitly commanded Israel to establish a monarchy (Nelson, 2010: 35, 41).<sup>7</sup> Such teaching combines seamlessly with the rabbinic view in the Talmud that I Sam. 8 enumerates the king’s prerogatives and thereby expounds the law of kings (BT Sanhedrin 20b, quoted in Walzer et al., 2000: 141-142).

If God permitted or even commanded Israel to submit to a king, then the reason for His anger in I Sam. 8 cannot be found in their requesting a king, but rather should be seen as a result of the manner in which the request was made. In *Sifre. A Tannaitic Commentary on the Book of Deuteronomy*, section 156, Rabbi Yudah, who accepts the view that God ordained the establishment of monarchy, blames Israel for initiating the request for a king “prematurely on their own” (*Sifre*, 1986: 191; cf. Walzer et al., 2000: 148; Blidstein, 1982: 19-23).<sup>8</sup>

In the Talmud rabbis provide a further reason for God’s disapproval of Israel’s wish. Kingly prerogatives listed in I Sam. 8 are seen as a threat to scare Israel whose intention to submit to a human king is motivated by a corrupt desire to “be like all the other nations” (BT Sanhedrin 20b, quoted in Walzer et al., 2000: 142). In the above-mentioned commentary on the book of Deuteronomy, Israel is blamed not because

<sup>7</sup> According to Rabbi Yehudah in BT Sanhedrin 20b: “There were three commandments that Israel were obligated to fulfill once they had entered the land: appointing a king, exterminating the offspring of Amalek, and building the temple” (quoted in Walzer et al., 2000: 142). In the Middle Ages this view was espoused by Maimonides in *Mishneh Torah* (Laws of Kings 1:1).

<sup>8</sup> In *Mishneh Torah* Maimonides follows such a reading, underlining the manner of the request being made (Nelson, 2010: 34).

it rushed matters, but for demanding “a king only so that he might lead them into idolatry”. The request for a king therefore amounts to a rejection of God (*Sifre*, 1986: 191; Walzer et al., 2000: 147-148).

Such an interpretation of Deut. 17 and I Sam. 8, most clearly espoused by Rabbi Nehorai, is founded on the idea that, since only God is the king of Israel, “human kingship is the political correlative of religious degeneration” (Blidstein, 1982: 17). It paves the way for the more radical understanding of monarchy in the rabbinic tradition found in *Deuteronomy Rabbah*, rabbinic commentary on Deuteronomy (1939: 109-113; cf. Blidstein, 1982: 17-19; Walzer et al., 2000: 148-149; Nelson, 2010: 35-37). Its openly antimonarchical nature is evident in section 5:8-11. God envisaged Israel to “be free of monarchy” but they decided otherwise and forsook Him. The morally deprived character of monarchy is caused by the blasphemous substitution of the rule of God as their first king with idolatrous bowing to flesh and blood. In this perspective, monarchy itself is a sin.

### **Christian Political Thought on I Samuel 8**

For centuries the biblical narrative of Saul’s coronation has occupied Christian political thinkers.<sup>9</sup> In his book *The Hebrew Republic*, Eric Nelson (2010: 28-31) argued that, up to the mid-seventeenth century republican thought, Christian exegetes might have disagreed regarding the reason for God’s anger over Israel’s demand for a king, but they never interpreted I Sam. 8 as an antimonarchical text. The first way to account for God’s displeasure was to point at the high criteria regarding kingship that were established in Deut. 17. In that passage, God describes a king that will rule in the promised land as a

<sup>9</sup> For a review of different appropriations of biblical history of Saul’s kingship during the Middle Ages, especially from the standpoint of the struggle between Church and State, see Funkenstein, 2007.

virtuous figure.<sup>10</sup> By demanding a king after the manner of all nations, Israel failed to live up to God's will and that caused his rage (*ibid.*: 28).

The second way was "to argue in a Pauline vein that, in asking for a change of government, the Israelites committed the sin of rebellion against God's established order". Since Samuel ruled as God's lieutenant, his rejection amounted to rebellion against God (*ibid.*).

In such an interpretative framework, the description of kingly rule in I Sam. 8 could have easily been read not as an enumeration of abuses of kingly power, but on the contrary as a list of royal prerogatives. A famous instance of such a reading is *The Trew Law of Free Monarchies* of the future king James I printed in 1598 (James VI and I, 1995: 62-84). For James the Kingdom of Jews and its law "ought to bee a patterne to all Christian and well founded Monarchies, as beeing founded by God himselfe" (*ibid.*: 70). In I Sam. 8 he found the grounds of "the duety and alleageance that the Lieges owe to their King" (*ibid.*: 66). According to James, Samuel's words declared "the obedience that the people owe to their King in all respects" and "thereby preparing them to patience, not to

<sup>10</sup> "But he shall not multiply horses to himself, nor cause the people to return to Egypt, to the end that he should multiply horses: forasmuch as the LORD hath said unto you, Ye shall henceforth return no more that way.

Neither shall he multiply wives to himself, that his heart turn not away: neither shall he greatly multiply to himself silver and gold.

And it shall be, when he sitteth upon the throne of his kingdom, that he shall write him a copy of this law in a book out of that which is before the priests the Levites:

And it shall be with him, and he shall read therein all the days of his life: that he may learn to fear the LORD his God, to keep all the words of this law and these statutes, to do them:

That his heart be not lifted up above his brethren, and that he turn not aside from the commandment, to the right hand, or to the left: to the end that he may prolong his days in his kingdom, he, and his children, in the midst of Israel" (Deut. 17:16-20).

resist to Gods ordinance” (*ibid.*: 67-68). Their duty of non-resistance followed not only from God’s ordinance but from their “willing consent” by which they renounced forever their right to claim back the power as well (*ibid.*: 69).<sup>11</sup>

However, the opposite strand in Christian political thought gained momentum with the passing of the first half of the seventeenth century.<sup>12</sup> In the wake of the English civil war, republican authors such as John Milton, Marchamont Nedham, James Harrington, Algernon Sidney and William Sprigge radicalized the reading of the relevant biblical passages according to which God neither permitted nor commanded but actually opposed Israel’s demand for a king. Quite to the contrary, it is the republic that is ordained by God and therefore it was a sin for the people of Israel to ask for a king. The destruction of the Hebrew republic, understood as a perfect constitution, and Saul’s accession to the throne amounted to a fall from God’s grace and marked the opening of the new and dark period in Hebrew history, the calamities of which were foretold in I Sam. 8 (see Austin, 1996: 414 f.; Oz-Salzberger, 2002: 103-105, 123 f.; Nelson, 2010: 37-50; McQueen, “Mosaic Leviathan”).

According to Nelson, it was due to the wide availability of rabbinic sources in early modern Europe that the discussion about I Sam. 8 in Christian circles became polarized. On the one hand, there were royalists who readily embraced the talmudic reading of Deut. 17 which legitimized Israel’s demand

<sup>11</sup> McQueen has shown that James was here taking part in a tradition of interpretation of I Sam. 8 stretching from Calvin, Grotius and Ferne to Filmer which grounded the duty of non-resistance in this biblical passage (McQueen, “Mosaic Leviathan”; see also Austin, 1996: 415 f.).

<sup>12</sup> When discussing the antimonarchical tradition of interpretation, Austin refers to a much earlier period citing the example of the gloss on I Sam. 8 in the Geneva edition of the Bible from 1560 which states that the passage does not describe a kingly government but its unlawful usurpation (Austin, 1996: 414).

for a king by showing that it was grounded in God's command (Nelson, 2010: 35). Thereby the theory of divine right of kings received a direct scriptural corroboration. On the other hand, radical thinkers sided with the opposite rabbinic tradition that saw monarchy as such as sinful and ushered in an era of modern republican exclusivism (*ibid.*: 31-53).

### **Hobbes on I Samuel 8**

When we turn to the English *Leviathan*, we find that Hobbes discusses I Sam. 8 within two different contexts. The first regards his theory of sovereign power laid out in the second part of *Leviathan, Of Commonwealth*. Probably the longest biblical citation in the entire *Leviathan*, reproducing Samuel's rendition of God's speech on monarchical rule, occurs in chapter XX, *Of Dominion Paternall, and Despotical* (L, 20.16).<sup>13</sup> Departing from the text of King James Bible, Hobbes takes Samuel's speech as God's statement not of the king's *manners* but of his *rights* confirming the sovereign's "absolute power": "This shall be the Right of the King you will have to reigne over you" (L, 20.16).

In that respect Hobbes follows Calvin who in *Institutes of Christian Religion* has Samuel warning Israel of "the right of the king that will reign" over them. However, Calvin interprets I Sam. 8 in connection with Deut. 17:16. For Calvin these rights cannot be legal rights, since "the law trained" kings "to all restraint". Nonetheless, they are rights in respect to the subjects who "had to obey" and "were not allowed to resist" (Calvin, 1960: 1514). In other words, I Sam. 8 is not to be read as a list of kingly prerogatives, but as a scriptural proof of the subject's duty of non-resistance.<sup>14</sup> Unlike Calvin,

<sup>13</sup> Quotations from *Leviathan* are from MacPherson's edition (1968). The quotation form is as follows: L, 20.16 means *Leviathan*, chapter 20, paragraph 16.

<sup>14</sup> Cf. McQueen, "Mosaic Leviathan"; Austin, 1996: 416.

Hobbes leaves Deut. 17:16 with its constitutional implications out of the discussion. His reading of I Sam. 8 is focused exclusively on identifying scriptural support for his conclusion “that the Sovereign Power, whether placed in One Man, as in Monarchy, or in one Assembly of men, as in Popular, and Aristocraticall Common-wealths, is as great, as possibly men can be imagined to make it” (L, 20.18). According to Hobbes, the text of I Sam. 8 proves that consent can create power that is as absolute “as one man can possibly transferre to another”, turning its creators into its servants (L, 20.16).<sup>15</sup> Although Hobbes’s reading of I Sam. 8 is clearly in line with the promonarchical talmudic teaching, he, in contrast to king James, does not embrace further rabbinic argument that the monarchy is divinely ordained.

Before he addresses the question of I Sam. 8, Hobbes concludes his discussion of “the Rights and Consequences of both Paternall and Despotical Dominion”, which he takes to be “the very same with those of a Sovereign by Institution” (L, 20.14), by saying that “thus much shall suffice; concerning what I find by speculation, and deduction, of Sovereign Rights, from the nature, need, and designs of men, in erecting of Common-wealths, and putting themselves under Monarchs,

<sup>15</sup> In the closing paragraph of the chapter Hobbes goes so far as to qualify the sovereign power as “unlimited power” (L, 20.18). This marks a sort of climax in his argumentation insisting on the non-existence of any kind of legal impediments on the sovereign power, thereby providing textual evidence to generations of interpreters in their efforts to denounce Hobbes as a theorist of tyranny. However, such a reading would be legitimate only under the condition that *Leviathan* ends with chapter XX. When one considers the status of chapter XX in the structure of the argumentation of the *Leviathan* as a whole, then it becomes clear that it serves as a counterpoint to the discussion of the liberty of subjects directly following in the next chapter. Read in conjunction with chapter XXX, *Of the OFFICE of the Sovereign Representative* which discusses the duties of the sovereign, Hobbes’s understanding of liberty sheds an altogether different light on his theory of state (see Ribarević, 2016: 202-215).

or Assemblies, entrusted with power enough for their protection” (L, 20.15). What he provides in the next two paragraphs, in which he discusses a number of biblical passages including I Sam. 8, is the consideration of “what the Scripture teaches in the same point” (L, 20.16). Furthermore, as we have already seen above, in the course of the last paragraph of the chapter Hobbes ranks I Sam. 8 among a number of scriptural confirmations of the absolute character of the sovereign power in all three forms of the state alike (L, 20.18).<sup>16</sup> That is why it can be concluded that in spite of the fact that Hobbes’s reading of I Sam. 8 appears in the chapter dealing with paternal and despotic dominions, it does not bear exclusively on the rights of sovereign power in the state by acquisition attained by natural force or by war. Neither are his conclusions of consequence solely for the monarchical form of the state. Hobbes’s interpretation of I Sam. 8 has normative repercussions for the state as such, whether it be by institution or by acquisition and regardless of its particular form.

We know that Hobbes was not a republican exclusivist, but his reading of I Sam. 8 clearly shows that he was not a monarchical exclusivist either. Rather, he employs this biblical passage as a scriptural proof of the absolute sovereign rights of monarchs and assemblies alike. It is not monarchy that is divinely ordained, but the sovereign state, regardless of its form. (Cf. Nelson, 2010: 53-56.)

The second context is framed by Hobbes’ discussion of Kingdom of God in the Scripture in the third part of *Leviathan, Of a Christian Commonwealth*. Although Hobbes refers to I

<sup>16</sup> There is a further proof that Hobbes was unwilling to use the Scriptures so that he may prove that only monarchy is of divine origin. In the course of chapter XLII, Hobbes comments on Deuteronomy 17:14. However, he does not use it in order to promote a royalist position. Hobbes does not imply that God commands the establishment of a monarchy, but only “forbiddeth the Jews, when they shall set a king over themselves, to choose a stranger” (L, 42.131).

Sam. 8 in a number of places scattered throughout the third part (33.20, 36.13, 38.4, 41.4, 41.7, 42.31, 42.88, 42.118), he discusses the passage in more detail in chapters XXXV, *Of the Signification in Scripture of KINGDOME of GOD, of HOLY, SACRED, and SACRAMENT*, and XL, *Of the RIGHTS of the Kingdome of God, in Abraham, Moses, the High Priests, and the Kings of Judah*. Hobbes's main aim in chapter XXXV is to show that the Kingdom of God was "a real, not a metaphorical Kingdom" (L, 35.11), consisting in God's "civil sovereignty over a peculiar people by pact" (L, 35.5). In chapter XL Hobbes argues that the sovereign power as described in the Bible comprises both civil and ecclesiastical authority (L, 40.14).

According to Hobbes's interpretation of the Old Testament, the Kingdom of God, as a real kingdom in which God was sovereign over the Jews, was established by a covenant between God and Abraham, although it was "expressely called a peculiar *Kingdom of God* over the Jews" only after the covenant was renewed at Sinai (L, 35.4-5). Among other biblical passages, Hobbes turns to I Sam. 8 to corroborate his peculiar understanding of the nature of the Kingdom of God in the Scriptures. Hobbes cites God's words to Samuel uttered when the elders demanded a king: "Hearken unto the voice of the people, for they have not rejected thee, but they have rejected me, that I should not reign over them". From whence he infers that God's prophet "Samuel did not command the people, but only delivered to them that which God from time to time appointed him". That is, "God himself was then their King" governing their commonwealth (L, 35.8; cf. 40.13).<sup>17</sup>

<sup>17</sup> In this respect, Hobbes follows the exegetical tradition that reaches back to the Jewish historian Josephus from the first century AD. Josephus' works were printed both in Greek and Latin throughout the 16th century, and the first of its many English editions appeared in 1602. Josephus, one of the handful of authors cited by name in Hobbes's writings, claimed that ancient Israel was a *theocracy* in which God was sovereign. It was God, and not

When stating the reasons for Israel's decision to overthrow God's kingship Hobbes is closely following the biblical narrative. On the one hand, Jews "despairing of the justice of the sons of Samuel, they would have a King to judge them in Civill actions" (L, 40.13) as well as lead them in battles (L, 40.11). On the other hand, Hobbes insists on the biblical description of the Israelites' predicament during the rulership of judges, repeated time and again in the Book of Judges: "*there was in those days no King in Israel*" and "*every man did that which was right in his own eyes*" (L, 40.10). Although the sovereign power passed from Moses to the line of high priests starting with Eleazar (L, 40.10), its exercise was taken from them. The obedience of Israelites was shifted towards the judges who were prophets "chosen by God extraordinarily, to save his rebellious subjects out of the hands of the enemy" (L, 40.10). Which means that sacerdotal kingdom established by the Sinai covenant descended into anarchy in the period after the death of Joshua. Although Hobbes himself does not pronounce the term, his description of the period as one in which "there was no Sovereign Power in Israel" in respect of its exercise clearly indicates that the Jews found themselves in the state of nature (L, 40.10). The cause of their predicament seems to be the predilection of Jews, people avid of miracles and signs, for prophecy. By acting through judges instead of high priests, God paradoxically thoroughly undermined the efficiency of their theocratic rule. Following true prophets like Samuel, as well as self-proclaimed false prophets, Jews were led to violate their duty of obedience, commanded by God's rational word i.e. natural laws, towards their lawful rulers whom they covenanted to obey (L, 40.10). When they decided to demand a king after the manner of all nations, Israelites rebelled against the chaos of dysfunctional priestly theocracy

Samuel, who ruled in Israel and who was deposed by Israelites. Their sin laid in the rejection of God's sovereignty (Nelson, 2010: 30-31, 89-91; cf. Oz-Salzberger, 2002: 103, 123).

that finally degenerated into civil war and brought them to the mercy of their neighbours.<sup>18</sup>

In *Leviathan* Hobbes used I Sam. 8 at the same time as evidence that the Kingdom of God was a real kingdom in which God ruled above high priests as His vicegerents and as proof that the same kingdom ceased to exist when Saul became king. Since God consented to the demands of the elders of Israel, His reign was “cast off, in the election of Saul” (L, 35.13). From that moment a new type of kingdom in which human kings ruled autonomously in respect to God as a sovereign by institution set in the place of the former Kingdom of God. In other words, I Sam. 8 marked a turning point in Hobbes’

<sup>18</sup> My interpretation here relies on the compatible contemporary interpretations of both Old Testament and *Leviathan*. On the one hand, Michael Walzer in his *In God's Shadow*, examining “the ideas about politics, the understanding of government and law, that are expressed in the Hebrew Bible” (Walzer, 2012: ix), argues that the Bible remembers the period of “radically decentralized and intermittent” political rule of judges not only as heroic, but also as “a dangerous, even chaotic time” (Walzer, 2012: 53). The freedom enjoyed by Israelites before the establishment of kingly rule was “too dangerous”, close to anarchy (*ibid.*: 55, 59). In *The Jewish Political Tradition*, the demand the elders present to Samuel is understood as a rejection of “anarchic individualism” which characterizes “the rule of God, who seems to favour both anarchy and intermittency”. Monarchy was sought in order to provide a stable institutional order (Walzer et al., 2000: 110 f.). Jewish “sacred anarchy” was nothing else but “the anarchic ‘state of nature’” resulting in enslavement of the less powerful and facing “threats from organized states with powerful standing armies” (*ibid.*: 130). On the other hand, Ronald Beiner in *Civil Religion. A Dialogue in the History of Political Philosophy* provides a detailed analysis of Hobbes’s evaluation of Jewish theocracy both in *De Cive* and in *Leviathan* (2011: 46-60). I am following his argument showing that Hobbes “attempts to draw from the Old Testament a critique of theocracy” (*ibid.*: 49). The Old Testament “theocracy does not work” (*ibid.*: 51) because it “spawns people who claim prophetic powers” (*ibid.*: 53) and continually challenge the monopoly of sovereign power laying in the hands of high priests. The ensuing anarchy forced Jews to demand a king and thereby put an end to theocracy (*ibid.*: 54). Cf. Schwartz, 1985: 19, 23; Sussmann, 2010: 589.

theocratic vision of history (see Martinich, 1992: 287-291). According to Hobbes, we presently live in an age in which God has renounced to the role of sovereign ruler over a particular people. The Kingdom of God will only be restored at Christ's second coming at an indeterminate point in the future (L, 42.88). Till then, each body politic is ruled by a sovereign who is submitted to God not by force of a covenant, but only insofar as God is omnipotent and the author of natural laws.

### **Conclusion**

For Hobbes there was no doubt that “the Bible is politics” (Parker, 2007: 447). The analysis of Hobbes's reading of I Sam. 8 strongly suggests that *Leviathan* should be considered as an important addition to the corpus of Hebraic political writing, defined by Neuman as “texts that convey readings of the Hebrew Bible (or postbiblical Jewish texts) in a political context, whether or not the author read those texts in the original Hebrew” (Neuman, 2008: 58). If we follow Oz-Salzberger in broadly construing political Hebraism as “the sustained effort to read the Bible politically during the seventeenth century” (Oz-Salzberger, 2002: 89), then it is clear that *Leviathan* is one of the greatest examples of such a reading. More than that, Hobbes engaged in a reconstruction of the history of the Hebrew commonwealth, which, in turn, served him against those who likewise relied on the Bible as the source of legitimation of their own ideological designs. That is what makes *Leviathan* an exemplary specimen of the *Respublica Hebraeorum* genre in which the ancient Jewish constitution was used as a model for critical assessment of current political bodies (Nelson, 2010: 16).

It is, however, a different question to determine the character of Hobbes's Old Testament interpretation. In conclusion, I will try to outline its nature on the basis of his reading of I Sam. 8.

First of all, Hobbes uses the Old Testament as a corroboration of his peculiar theory of state sovereignty. In chapter XX of *Leviathan* Hobbes reads I Sam. 8 as a direct scriptural confirmation of the absolute power of the sovereign. Famously trying to pass unwounded between “those that contend on one side for too great Liberty, and on the other side for too much Authority” (L, dedication letter) as well as to avoid being a man that “either by too much civill obedience, offends the Divine Majesty, or through feare of the offending God, transgresses the commandements of the Common-wealth” (L, 31.1), Hobbes evades the rocks of both republican and monarchic exclusivism. As much as he might fear republican interpretations of I Sam. 8 relying on the anti-monarchic strand of rabbinic teaching, Hobbes does not opt for a reading that would exalt monarchy as divinely ordained, in spite of the fact that in that respect there was an already well-established tradition to build upon, both Christian and Hebrew. Rather than following trodden paths, his innovative interpretation aims at establishing the absolute power of the sovereign state as founded in God’s command, regardless of its particular form.

Furthermore, Hobbes’s interpretation of I Sam. 8 in the third part of *Leviathan* strives to prove that God’s kingdom was a real kingdom that existed up to the time of Samuel. By doing that Hobbes tried to undermine any attempt of presently existing churches to identify themselves with the Kingdom of God and thereby to achieve autonomy or even supremacy over secular power. Moreover, Hobbes used I Sam. 8 to provide additional scriptural confirmation for his Erastian thesis on unity of secular and ecclesiastical power in the hands of the civil sovereign. In the Kingdom of God, the whole of the power was laid in the hands of God under whom Moses and high priests after him ruled over Israel (L, 40.14, 42.79, 42.118). When in the time of Samuel God was deposed, sovereign power was transferred to the kings. Priests therefore became submitted to the kings in the same manner as they were previously sub-

mitted to God, without any kind of autonomous jurisdiction (L, 40.11).

In Hobbes's writings the Old Testament became a formidable weapon. In the course of analysis of liberty in chapter XXI of *Leviathan*, Hobbes in one famous sentence summarily dismisses both Greek and Roman antiquity: "There was never any thing so dearly bought, as these Western parts have bought the learning of Greek and Latine tongues" (L, 21.9). The tradition of classical political thought is accused of being at the origin of an endless line of civil wars which have turned the face of Europe into a state of nature far worse than that which was recently encountered in the New World. The predicament was further aggravated by the corruption of original Christianity. According to Hobbes, common to different Christian churches was a deeply unchristian striving for secular power coupled with the aspiration to assert universally its particular understanding of the Scriptures. It painted European civil wars with the bloody colours of religious strife. An important part of Hobbes's answer to the fatal charm that classical antiquity and perverted Christianity exercised over the modern mind was formulated in Hebrew.

However, we should not overlook the other side of Hobbes's involvement with the Hebrew Bible. Hobbes is not simply using political Hebraism as a weapon of choice in his dealings with anarchic potentials of European politico-religious heritage. On the contrary, his advocacy of the Mosaic constitution is quite ambiguous, conditioned by his unfavourable evaluation of Jewish history in the period described in the Book of Judges. As we have seen, it was soon after the death of Moses that the Israelites have fallen back into the state of nature. Israelite theocracy was unable to suppress the destabilizing effects of true and false prophetic word. The sovereign power originally wielded by the armed sovereign prophet Moses splintered and high priests who governed Israel by right became incapable to provide for its protection. Eventually the

Jewish state crumbled into the chaos of civil war. The politics of Israelite theocracy, gloriously established at Sinai, reached its brutal end. It is against such a background that the advent of human kingship is set. Since it was introduced in response to grave deficiencies of God's kingship, it is obvious that Hobbes could not extract his model of state directly from the Old Testament Kingdom of God.

When Hobbes turns to political Hebraism he sides with one among the myriad of voices present in the Old Testament. It is the voice that speaks up in I Sam. 8, expressing a critique of the disastrous experience of God's sovereignty as well as readiness to submit to the absolute power of the human king required in order to escape the cruelty of the state of nature. From the standpoint of Hobbes's theory of state, the coronation of Saul represents the pivotal moment in the history of the Jewish state. The problem of the transformation of a warring multitude into political unity is not the problem that is addressed by the Abrahamic covenant. Abraham was already a sovereign over a patrimonial kingdom when he submitted to God. Even the Sinai covenant is not paradigmatic in that sense: although lacking political unity, Israelites following Moses were not stricken by calamities of a civil war. The crisis of early modernity afflicted with an incessant succession of civil wars resonates much more strongly with the biblical history laid out in the last part of the Book of Judges.

From the vantage point of I Sam. 8 Hobbes is able not only to bolster his theory of state sovereignty by scriptural confirmation and denounce the claims for secular supremacy of spiritual power as lacking such a foundation, but also to criticize the theocratic model of the Jewish state. What is more, the critical stance of the Israelites towards the destabilizing effects of the theocratic model expressed in their demand to be ruled by a king in the manner of all nations is contrasted with problems that lingered on even after Saul became king. Since "generally through the whole History of the Kings, as well of

Judah, as of Israel, there were prophets that always controlled the Kings, for transgressing the Religion; and sometimes also for Errors of State”, Israel’s kings lacked absolute power that was described in I Sam. 8 (L, 40.13).

With Saul’s coronation, Israel ushered in the era of human politics. However, the stability of their state continued to be endangered by the challenges coming from the evermore resurgent force of autonomous religious authority.<sup>19</sup> Since one had to rely on unique figures of extraordinary stature such as Moses or wait for the second coming of Christ to meet those challenges with success, the notion of the absolute power inaugurated in I Sam. 8 remained to be realized by reinventing the state in its juridico-political aspect in another era.

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<sup>19</sup> Similarly, Walzer sees kingship in Israel “as an entirely practical response to the dangers of theocratic (charismatic) rule” (Walzer, 2012: 71). However, “prophecy is born together with monarchy”. From “this double birth” ensued “the central conflict of the new regime” (*ibid.*: 67), fuelled by “the idea that God’s rule is better than the rule of kings” that survived “the highly problematic experience of divine governance” and reappearing “again and again, in Israel’s history” (*ibid.*: 60). In spite of that, Walzer understands the demand of the elders in I Sam. 8 as the unique and “critical moment” marking “the dawn of politics” in Israel (*ibid.*: 66). Likewise, Allan Silver reads the story of I Sam. 8 as “foundational in character”, bringing “into existence a specifically political regime” (Walzer et al., 2000: 122; cf. 111).

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Amelie Stuart  
HELPING THE NEEDY  
– DUTIES OF RIGHT AND DUTIES OF VIRTUE  
WITHIN THE MODERN STATE

**1. Introduction<sup>1</sup>**

Questions of how to ensure and maintain the stability of the state and in which ways the state should respond to socio-economic inequalities between citizens are typical for modern political philosophy. The first question entered the focus of philosophical debate with the rise of classical social contract theories and their analysis of legitimate state authority and responsibilities. The second question marks a paradigm shift with regard to the perception of misfortunes and injustices which occurred in the middle of the 18<sup>th</sup> century. One approach to this matter has been to attribute a number of rights and duties to the state/the sovereign and to the citizens. Theories vary with regard to the parties they consider relevant as duty bearers and rights holders and with regard to the specific rights and duties as well as their justification and legitimization.

<sup>1</sup> I am grateful to Luka Ribarević, Domagoj Vujeva and Davorin Žagar for organizing the conference “European Crisis and the Heritage of Modernity” and to Luka and Domagoj for their editorial work. Earlier versions of this paper were presented at conferences or colloquia in Bled, Bremen, Graz, and Zagreb. I would like to thank the participants of these events for their helpful remarks and questions, and Dirk Brantl for his comments on draft versions of this paper.

In this paper I will present one of these approaches, which is based on Kant's moral and political philosophy.<sup>2</sup> Here, the stability of the state and the rule of law are closely connected to the autonomy and happiness of the citizens, but refer to different spheres. One could say that the former belongs to the legal sphere that Kant explicates mainly in his Doctrine of Right, while the latter belongs to the moral sphere of the state, parts of which we find analyzed and discussed in his Doctrine of Virtue, the *Groundwork of the Metaphysics of Morals* and of course in his *Critique of Practical Reason*. It is important to note that in Kant's philosophy the legal and the moral sphere are both based on normative principles (Kant, 6: 216-217; 239; Kersting, 1993: 176). But, due to Kant's concept of the state and legitimate authority as well as due to his concept of moral agents, the rights and duties of the legal sphere are very different from the rights and duties of the moral sphere. In the legal sphere the responsibilities of the ruler and the citizens are clearly defined.<sup>3</sup> The government of the ruler is morally legitimate only if it complies with the lawful freedom of the citizens. This means that his rule always has to follow the moral law, consequently he is bound to "give his laws in such a way that they could have arisen from the united will of a whole people and to regard each subject, insofar as he wants to be a citizen, as if he has joined in voting for such a will. For this is

<sup>2</sup> Kant's works have been referenced by using the Akademie pagination.

<sup>3</sup> One should note here that Kant differentiates between three authorities within the state, i.e. the general united will: "the sovereign authority [*Herrschergewalt*] (sovereignty) in the person of the legislator; the executive authority in the person of the ruler (in conformity to law); and the judicial authority (to award to each what is his in accordance with the law) in the person of the judge [...]" (Kant, 6: 313). I will therefore use the term "ruler" when I refer to the head of the executive branch of the state, what is ordinarily expressed by the term "sovereign". I will not use the term "sovereign" as it refers in Kant's theory to the legislator, which means the people within the state: "The legislative authority can belong only to the united will of the people" (6: 313).

the touchstone of any public law's conformity with right" (8: 297). State rule is supposed to be guided by the aim of establishing and maintaining its stability and order. All members of the state have to be able to live their lives as autonomous and equal citizens (6: 314).<sup>4</sup> The existence of socio-economic inequalities among the citizens thus poses a problem for the ruler because, according to Kant, this leads to social unrest (6: 325; 327) and inhibits the members' realization of their life plans. In order to maintain both the stability of the state and the autonomy and equality of the citizens, the ruler has to create a structure within the state for those members who are in some way or another limited in their external autonomy. It is important to note here that a state modelled after Kant's social and political philosophy is not a welfare state (LeBar, 1999: 225). This means that the ruler has no right to assign welfare duties to his citizens, nor can citizens expect subsidies from the state or any other means of help in order to put them in a better (economic) position in society.

The aim of this paper is thus to show first the legal and the moral obligations within the modern state towards its needy members as Kant developed them in his moral and political philosophy. Second, I will argue that these obligations are based on two crucial aspects of modern political thought: the state's stability and the autonomy of its members. While the legal obligations of the state towards needy members are minimal, the moral obligations of the citizens as moral agents towards each other are rather demanding in their content. I will argue that these two sets of obligations complement each other

<sup>4</sup> Kant distinguishes between citizens and "mere associates in the state" (6: 315), the former being active members of the state, the latter being passive members of the state. Only male, property-owning persons can become active, i.e. voting, members of the state. While Kant assumes an inequality between the members of the state in this respect, he nonetheless emphasizes a principle equality of all persons as human beings (6: 315). My use of the notion "members" will refer to an inclusive understanding of both kinds.

and need to be regarded as a coherent system instead of two unconnected spheres.

If one strictly follows Kant's political philosophy, there are no *legal* obligations of the ruler towards his citizens to improve their status in life or to support their individual concepts of a good life. I will explain Kant's reasons for this in section 2. Nonetheless, there are a number of *moral* obligations that the members have as moral agents towards each other, and they are in part derived from the formula of humanity. There are, for example, duties of beneficence towards poor persons, which are quite demanding in their content. I will introduce and discuss these so-called "duties of love" (Kant, 6: 448) in section 3 of this paper. My conclusion will then be that we are able to develop a complete set of obligations both of the state and the citizens only if we assume an interlink between the legal sphere and the moral sphere with regard to the questions of state stability and the autonomy of the citizens. Consequently, it would be adequate to say that while the state is concerned with poverty reduction for instrumental reasons, the members of the state as moral agents are concerned with helping the needy for reasons of the autonomy and happiness of their fellow human beings.

## **2. Rights of the Ruler**

In the following, I will illustrate the concept of the state according to Kant's later works. My focus will be on the rights of the state, especially with regard to the question of poverty reduction.

When we study the *Metaphysics of Morals* or Kant's short piece entitled *On the Common Saying*, we will find that his concept of a legitimate state does not justify a welfare state model. There are two main reasons for this. First, the stability of the state lies at the core of this account since among the reasons Kant gives for constituting a state are peace (6: 312), stable conditions for acquiring property ("something can be

acquired conclusively only in a civil constitution”, 6: 264), and living as free and equal persons (6: 315 f.). Consequently, policies referring to social welfare only stem from instrumental concerns, as social welfare is just a means to guarantee the stability of the state. Therefore, it seems that there is only a negative duty of the state to maintain order, in the fashion of a watchman state.

Second, based on Kant’s concept of morality, only an autonomous moral subject can set ends for herself. The ruler, on the other hand, can only create civil laws, which have to be obeyed by the members of the state. But the ruler cannot give his citizens ends. By regarding the members of the state as rational moral agents, it is presupposed that they themselves form maxims according to the moral law. The legitimate ruler rules in accordance with the freedom of the citizens whose united will is, according to Kant’s theory, the legislative authority (6: 313). The citizens as rational and needy beings have to obey the civil laws, while they set their own ends themselves and act according to their duties. Here we already see that the two spheres complement each other: a peaceful existence of autonomous moral agents in society is only possible if both kinds of laws are connected, the moral law and the civil laws.

Turning to the rights of the state in relation to the issue of poverty, it has to be noted first of all that the ruler is not the addressee of legal obligations. Instead, the ruler has a right to assign these duties to the citizens (6: 326). The fundamental right of the state is to maintain its existence (*ibid.*). One serious threat to a state’s stability is poverty since it can cause social unrest (6: 325; 327). This is why the fundamental right of the state can be connected to poverty reduction. As a consequence, the ruler is entitled to demand taxes from wealthy citizens for the livelihood of the needy, and in order to secure their external freedom: “For reasons of state the government is therefore authorized to constrain the wealthy to provide the

means of sustenance to those who are unable to provide for even their most necessary natural needs. The wealthy have acquired an obligation to the commonwealth, since they owe their existence to an act of submitting to its protection and care, which they need in order to live; on this obligation the state now bases its right to contribute what is theirs to maintaining their fellow citizens. This can be done either by imposing a tax on the property or commerce of citizens, or by establishing funds and using the interest from them, not for the needs of the state (for it is rich), but for the needs of the people” (6: 326).

Wealthy citizens can be obligated to these charges, but all other contributions, such as voluntary donations, belong to the moral sphere; Kant calls them “beneficence” (6: 402). In Kant’s *Handschriftlichem Nachlass*, this right of the ruler to collect and manage the funds is expanded to also determine the needs and justified claims of the poor (19: 578). This redistribution through taxation, however, does not seem to happen on the basis of solidarity or welfare concerns, but for reasons of reciprocity among the citizens.<sup>5</sup> This means that the concern of public actions against poverty is the formal equality of the members of the state rather than individual well-being. There are two reasons for this: first, the equality of all members of the state guides political actions and decisions as it is among the three principles of the civil condition. These principles are: “1. The *freedom* of every member of the society as a human being. 2. His *equality* with every other as a *subject*. 3. The *independence* of every member of a commonwealth as a *citizen*” (8: 290). Kant points out that these principles should not be taken as laws of an already existing state, but rather as “principles in accordance with which alone the establishment

<sup>5</sup> At least Kant never argues for redistribution by referring to the solidarity between the members of the state. His concern is always, at least implicitly, state stability and the independence of its members.

of a state is possible in conformity with pure rational principles of external human right” (*ibid.*). Following from this, any redistribution through taxation from welfare concerns or to support a particular conception of the good life seems to be at odds with these principles. Furthermore, the second and the third principles seem to support the redistribution through taxation if it happens for reasons of reciprocity among the subjects.

Second, as I mentioned earlier, any policy that supports particular conceptions of well-being or the good life must be ruled out as they would be against the *united* will of the people. According to Kant, this kind of policy would be “paternalistic” since it supports one conception of the good at the cost of the freedom of all people (6: 316 f.). And a paternalistic government is the most despotic government of all, as it treats its subjects as mere children (*ibid.*). Kant sharply criticizes such a government on various occasions, for example when he states in his text *On the Common Saying* that: “A government established on the principle of benevolence towards the people like that of a father towards his children – that is, a paternalistic government (*imperium paternale*), in which the subjects, like minor children who cannot distinguish between what is truly useful or harmful to them, are constrained to behave only passively, so as to wait only upon the judgment of the head of state as to how they *should be* happy and, as for his also willing their happiness, only upon his kindness – is the greatest despotism thinkable (a constitution that abrogates all the freedom of the subjects, who in that case have no rights at all)” (8: 290 f.). It follows from this that benevolence has no place in the sphere of legal obligations but belongs exclusively to the moral sphere. Political decisions and actions from beneficence would undermine the legitimacy of the ruler, since they would not be in accordance with the general will. Furthermore, these decisions and actions would violate the principles of the civil condition by treating the citizens as children and thus limiting

their external freedom and not treating them as autonomous, self-governing beings. To conclude: only those political decisions and actions with regard to poverty reduction that are in accordance with the general will and that respect the three principles of the civil condition are justifiable.

There is another important aspect with regard to the right of the ruler to redistribute the wealth of the citizens. What Kant writes about the taxation of wealthy citizens and the redistribution of funds to needy citizens can also be interpreted as redistributive measures for purely *instrumental* reasons.<sup>6</sup> From this perspective, the support and help of the needy can be read as a strategy to avoid the spread of poverty and social unrest. In fact, there are places where Kant formulates these responsibilities of the ruler. Peacekeeping within the state is a negative right of the state, next to criminal laws and the distribution of offices. “Public security” and “public safety” have to be preserved (6: 327). Kant assigns this task to the police, because he takes the directing of the citizens by the law to be of the highest importance. This seems plausible once we draw a connection between the duty of right to establish a state of law or preserve this state of law and public peace and stability: “To bring about circumstances that safeguard right is an unconditional legal obligation: we owe this to each other mutually due to the fundamental human right, by virtue of our rational nature” (Kersting, 1993: 69; my translation).

In the same vein, the structure and argumentation of Kant’s paper *General note: From the legal effects of the nature of civil society* seem to suggest that the ruler’s right to demand donations from wealthy citizens and to ensure through executive authorities public peace and stability is closely related to the legal duty of the citizens to preserve the state of law. Moreover, Kant explicitly mentions in his chapter “On the Effects

<sup>6</sup> This interpretation can also be found, among others, in: Gregor, 1963; Kersting, 1993.

with Regard to Rights that Follow from the Nature of the Civil Union” three rights of the government “to maintain the state” (Kant, 6: 324-326).

This interpretation of arguing for a minimalist “welfare”-state from instrumental motives is plausible for another reason; it is closely connected to the idea that policies concerning the redistribution of wealth cannot be grounded in welfare concerns. It is impossible for a legitimate ruler, who bears the general will in mind and doesn’t violate the three principles of the civil state, to demand of the citizens to act upon maxims of welfare. Further, it is also not possible to dictate to the citizens as rational agents particular maxims of welfare. Beneficence as active benevolence towards other human beings is not a *legal* claim on the citizens: “The concept of Right, insofar as it is related to an obligation corresponding to it, [...] does not signify the relation of one’s choice to the mere wish (hence also to the mere need) of the other, as in actions of beneficence or callousness, but only a relation to the other’s choice” (6: 230). It is not possible to demand from one’s co-citizens to act upon the duty of beneficence, since it is only a moral duty, not a legal obligation. In other words, beneficence isn’t something that *citizens* owe to each other; instead, it is a duty of virtue towards other human beings and thus meritorious (cf. e.g. 4: 430). Otfried Höffe comments on this difference between the spheres and their corresponding duties in the following way: “By extracting from the realm of law the concern for the welfare of others [...], Kant opposes those utilitarian legal theories that are not only dominant in the Anglo-Saxon area, but also in substance espoused by Samuel Pufendorf [...] and Christian Wolff [...]. By including the duties of humanity (*officia humanitatis*) they are blurring, according to Kant, the difference between the law and the duties of virtue of charity (6: 230). And a sovereign who wants to make the people happy according to his concept of happiness will treat his citizens as children and minors and makes himself a despot” (Höffe,

1999: 51; my translation). A conception with more demanding (legal) duties of benevolence towards citizens therefore seems untenable, not only because of how Kant understands benevolence, but also and rather more so because of his conception of the state, as I explicated above. A welfare policy, which refers to certain ideas of the good life and sanctions other legitimate ideas would be despotic, according to Kant (8: 290 f.; 6: 316 f.). Kant characterizes governments as “paternal governments” when they disenfranchise their people and deny them their right to strive for happiness in their own and freely chosen way. Hereby persons are denied the responsibility for their own happiness; they are made the object of someone else’s will, which is unacceptable. At state level, individual concepts of happiness should not have any influence. Instead, citizens have the right to be ruled only by generally binding laws.

This has the consequence that all laws, even those concerning the aid of the needy, have to be formulated according to the formal principle of the freedom of all citizens. This independence of individual conceptions of happiness is quite fundamental to Kant. Happiness, defined as the agreeableness of life when things go in accordance with one’s wishes and desires, although universally sought by human beings (4: 415 f.), is not specific enough to entail any particular universal desires in human beings. Further, even if there were any universal desires among human beings, those desires would, as empirical ones, be merely contingent and thus unworthy of providing the basis of any moral maxim (5: 25-26).

So, the requirements of *legal* obligations towards the poor are minimal. Apart from means for survival, shelter, and the protection of their goods in order to ensure external autonomy, poor members of the state are owed very little within the framework of Kant’s legal philosophy. One reason for this lies in Kant’s understanding of the state, which is not specifically a welfare-friendly state, and the legitimate ruler. Kant himself states about this relation: “By the well-being of a state must not

be understood the welfare of its citizens and their happiness; for happiness can perhaps come to them more easily and as they would like it to in a state of nature (as Rousseau asserts) or even under a despotic government. By the well-being of a state is understood, instead, that condition in which its constitution conforms most fully to principles of Right; it is that condition which reason, by a categorical imperative, makes it obligatory for us to strive after” (6: 318). As mentioned before, any ruler who acts from welfare concerns instead of concerns for state stability or out of respect for the three principles of the civil condition would not only become a paternalistic ruler and lose his legitimacy, but any policy with welfare motives would violate the freedom and equality of the citizens.<sup>7</sup>

### **3. Rights and Duties of all Members of the State**

Having seen what the rights of the ruler are concerning the poor members of the state, we will now turn to the rights and duties of the members of the state. It is crucial at this point that we differentiate between duties of right and duties of virtue (6: 220), since these two sets of duties are different in a number of ways. Although they are both grounded in the moral law, they are different with regard to their content, in what they require of the moral agent, and in their aim, which could be either the right or the end of men or the right or the end of humanity in our own person (6: 240).

As he promised in the *Groundwork*,<sup>8</sup> Kant presents a number of divisions of duties in the *Metaphysics of Morals* (cf. 6:

<sup>7</sup> There seem to be good reasons for following Wolfgang Kersting when he argues that no approach of the welfare state can be derived directly from the principle of legal equality in Kant’s constitutional law. According to Kersting, no principle of social justice and social equality can be derived from the legal concept of pure practical reason. Cf. Kersting, 1993: 63.

<sup>8</sup> He writes: “Here one must note well that I reserve the division of duties entirely for a future metaphysics of morals; the division here therefore stands only as a discretionary one (to order my examples)” (Kant, 4: 421).

240 f.; 242; 398; 413). It is also here that he divides for the first time duties into duties of right and duties of virtue. The duties of right are divided by Kant into “internal duties, external duties, and duties that involve the derivation of the latter from the principle of the former by subsumption” (6: 237). The internal duty of right says: “Do not make yourself a mere means for others but be at the same time an end for them” (6: 236). The external duty of right says that no one should be wronged (*ibid.*). The third duty of right is derived from it: “Enter a condition in which what belongs to each can be secured to him against everyone else” (6: 237). This third duty exists because only in the civil condition a stable and lasting coexistence is possible. This third duty is an unconditional legal duty: we owe it mutually to each other due to the fundamental human right by virtue of our rationality.

Both sets of duties are equally important. While the duties of right guide public action within civil society, the duties of virtue are for the most part concerned with the maxims of the individual in relation to other people (as opposed to fellow citizens only). The greatest difference between these two kinds of duties, apart from their respective context of application, lies in the type of law they derive from. Duties of right are derived from juridical laws, while duties of virtue are derived from moral laws. Kant uses this distinction to qualify the actions that result from following these duties: “In contrast to laws of nature, these laws of freedom are called *moral* laws. As directed merely to external actions and their conformity to law they are called *juridical* laws; but if they also require that they (the laws) themselves be the determining grounds of actions, they are *ethical* laws, and then one says that conformity with juridical laws is the *legality* of an action and conformity with ethical laws is its *morality*” (6: 214).

It follows from this that the duties of right and the duties of virtue are different in what they require of the moral agents’ actions and their underlying maxims. We will see in the fol-

lowing two sections the consequences of these differences between the two sets of duties. But while the contents, aims, and underlying laws are different for each of the two duties, both are equally binding for all rational beings through their qualification as universal laws (6: 417).

### *3.1 Duties of Right towards the Poor*

In this section, I will discuss those duties of right which are relevant in the context of the reduction and eradication of poverty. According to the *Doctrine of Right*, the demands of these duties of right focus on ensuring a minimum of subsistence (6: 326). Kant pleads in favor of a minimal redistribution of wealth through taxation when he states that this solution to helping the poor seems to be the best (compared to help by religious institutions), “for even if current contributions increase with the number of the poor, this arrangement does not make poverty a means of acquisition for the lazy (as is to be feared of religious institutions) and so does not become an unjust burdening of the people by government” (*ibid.*). This appears to be quite consistent in the context of Kant’s conception of the state and the legitimate ruler, who has to remain neutral and secure equal freedom of all members of the state.

Apart from the duty to pay taxes, which are meant to help the poor members of the state and thus contribute to the state’s stability and peace, one other duty of right seems to be relevant in this context. It is derived from the second duty of right, the so-called external duty of right to “not wrong anyone” (6: 236). This duty is directed at the external freedom of every other member of the state. Every member’s external freedom within the state needs to be guaranteed and the external exercise of freedom must be mutually possible.

Another possible interpretation should be mentioned here. Onora O’Neill seems to claim that the duties of right of the members of the state towards poor people can be derived from

the first duty of right, the so-called “internal duty of right” (6: 236). In relation to the formula of humanity as an end in itself, which says: “Do not make yourself a mere means for others but be at the same time an end for them” (4: 429; 4: 436; 6: 236), certain living conditions and situations, which are typical for a life in poverty, are prohibited. This idea has been further developed by O’Neill, who argues for duties towards the poor, which are also based on the formula of humanity. She writes: “Agents and agencies who are not self-sufficient (and those with limited rationality and powers are never self-sufficient) cannot will (let alone want) to find themselves part of a world in which respect, help and the development of skills and capacities are universally neglected. [...] Circumstances of justice are lacking so long as material and social needs are so great that coercion and deception are not merely easy but virtually unavoidable” (O’Neill, 1986: 146).

It doesn’t seem clear, though, that the first duty of right actually *is* a duty of right and not instead a duty of virtue. This for two reasons: first, as Robert Pippin points out, it is not clear why the *honeste-vive* duty necessarily has to be a duty of right: “The ‘honeste vive’ duty does not correspond in any clear way with the principle of natural or innate right. It is not even clear why such a duty to oneself should be listed as a *Rechtspflicht* at all; [...] Kant might now mean that it is *also* a kind of *Rechtspflicht* and if we follow his explanation of the difference in his Introduction, it must be distinguished here (as a *Rechtspflicht*) by the particular ‘giving of a positive law’ appropriate to the duty as a duty of justice, by its being a duty we can have and fulfill externally, regardless of motivation” (Pippin, 1999: 69). Still, this duty could count, according to its content, as a duty to oneself and would thus be internal and not external, as it wouldn’t be something a person could fulfill “regardless of motivation” (*ibid.*). But this would make it a duty of virtue, which also follows from the fact that “my duty to myself cannot oblige another and so just *cannot* be a

*juridical duty (Rechtspflicht)*” (*ibid.*). This ambivalence of the first duty of right is also discussed by Ulli Rühl, who offers another possible interpretation by pointing out that this first duty of right concerning a person’s judicial self-assertion could be understood as the basis for the following two duties, which would furthermore support the thesis that Kant’s legal philosophy is grounded in his moral philosophy (Rühl, 2010: 7 f.).

Second, the division of the duties, which Kant introduces in part II of the *Division of the Metaphysics of Morals as a Whole* (Kant, 6: 240), seems to suggest that if a duty is directed at an end (instead of at a right), it is a duty of virtue. Kant himself writes, before he divides the duties into duties of right and duties of virtue: “Accordingly right and end, related in turn to duty in this twofold property, yield the following division [between duties of right and duties of virtue]” (6: 239).

Following from this, the duties of right towards poor members of the state are set within the framework of external freedom, coercion, and state stability. This framework restricts and defines the content of duties of right to the poor, since what is owed to all members of the state is normatively based in their equality as members of the same state. The maintaining of this state, the civil condition, is every member’s task and a guarantee of every member’s freedom.

### 3.2 Duties of Virtue

In addition to the duties of right, Kant introduces in the doctrine of virtue more duties towards the poor (6: 450-454). These duties of virtue are not part of the ruler’s responsibilities for the citizens or part of the legal sphere at all. They can be viewed as an important addition to the minimal duties of right, since they also take into account the morally significant impact of poverty and its negative effects on the autonomy of persons. The duties of right as external duties to poor people are minimal with regard to their content, i.e. they relate to the survival of needy individuals and they ensure that external autonomy

and equality between citizens remain. The duties of virtue to poor people are similarly important on a different level. Their content is focused on human beings' aptitude for setting ends for themselves. Thus, the duties of virtue towards poor people make sure that internal autonomy can be maintained and that it remains unaffected by poverty.

As I said before, the duties of virtue towards the poor are much more demanding than the duties of right. First, they are negative *and* positive, which means that they forbid and command certain maxims of rational agents (6: 419). Second, they are imperfect duties, which means that there is a certain latitude in fulfilling one's duties towards other members of the state: "This duty [to promote the happiness of others, A. S.] is only a wide one; the duty has in it a latitude for doing more or less, and no specific limits can be assigned to what should be done. The law holds only for maxims, not for specific actions" (6: 393). Insofar as the law commands or forbids certain maxims, there are still a great number of ways how to apply them, according to the condition of the other person (6: 469).

There are several motives of assisting others that Kant introduces in the *Doctrine of Virtue*: beneficence in the sense of assisting others when they are in need (6: 453); benevolence, defined as "satisfaction in the happiness (well-being) of others" (6: 452); love of mankind in general (6: 450), and practical benevolence (6: 450 f.). They all belong to the category of duties of love. The aim of these duties of love to others is not love itself, neither falling in love nor desiring someone (cf. 6: 426). Morally relevant duties of love give maxims for actions, since "there can be no direct duty to love [as a feeling], but instead to do that by which man makes himself and others his end" (6: 410). Kant calls this "practical love of man" (6: 451), which means wishing others well in the sense of beneficence.

According to the duties of love, we have to act with respect for the happiness of others, "when it comes to my pro-

moting happiness of other men, whose (permitted) end I thus make my own end as well” (6: 388). This passage needs to be explained, since it could invite misunderstandings regarding the notion of happiness or the consequences of this duty.

First of all, even though “happiness” is frequently used in the *Groundwork* and in the *Doctrine of Virtue*, the concept remains vague. Kant states that its meaning and what contributes to it varies from person to person (4: 418), which would explain the vagueness of the notion. At the same time, this individual character of “happiness” makes it seem to be merely empirical and thus not relevant for morality at all. In order to escape this objection, Kant points out the difference between the “idea of happiness as a whole” and individual, i.e. empirical notions of happiness (*ibid.*).

In the *Groundwork*, Kant gives his readers some idea of what he means with the happiness of others by relating it to “gifts of fortune. Power, wealth, honor, even health and that entire well-being and contentment with one’s condition...” (4: 393). Still, Kant also admits that “it is a misfortune that the concept of happiness is such an indeterminate concept that although every human being wishes to attain it, he can never say, determinately and in a way that is harmonious with himself, what he really wishes and wills” (4: 417 f.).

So, not only is happiness an indeterminate concept, humans also lack the capacity to know the right means to their happiness. A person would have to be omniscient in order to choose the right means to her happiness.

Still, by looking at the three duties of love to others in the *Metaphysics of Morals*, we can get a good idea of the relation between duties of love and the happiness of others. They are: the duty of beneficence, the duty of gratitude, and the duty of sympathy (6: 448-458). For the present purpose I will limit myself to treating the first duty.

As all duties of virtue, the duty of beneficence is an imperfect duty. Thus, we cannot define precisely or universally

at which point exactly the duty is fulfilled. Also, we cannot derive concrete actions from it, since the duty is only concerned with the maxims of the agent. However, it is still possible to find clues in the *Doctrine of Virtue* as to what Kant means with beneficence and it being a duty to others. “To be beneficent”, he states, “is to promote according to one’s means the happiness of others in need, without hoping for something in return” (6: 453). Here, we also find a first limitation of this duty concerning the financial means of the helping person. The intensity of help and the amount of goods we have to spare for someone else’s happiness have to be in accordance with our own means. Therefore, we have to take into account our own duty to promote our perfection (6: 446 f.) and secure our own well-being while at the same time we need to act according to the duty of beneficence.

Concerning the happiness of others, not our own individual and thus empirical understanding of happiness should guide our actions from duty. “I cannot do good to anyone in accordance with my concepts of happiness... rather, I can benefit [her] only in accordance with [her] concepts of happiness” (6: 454). Here again, while we have to weigh our actions according to this duty against our own understanding of happiness, we cannot be forced to neglect the latter just to be in accordance with the duty: “It is for them to decide what they count as belonging to their happiness; but it is open to me to refuse them many things that they think will make them happy but that I do not, as long as they have no right to demand them from me as what is theirs” (6: 388).

As pointed out before, in attempting to define “happiness”, Kant mentions the possession of goods, health, and also the satisfaction of one’s needs and inclinations (4: 405). Therefore, I will now take a closer look at his notion of poverty, which is by definition a lack of or the total absence of important goods.

Duties of virtue and poverty interlink on at least two levels. First, on the more general level of others' happiness; second, on the more specific level of poverty posing a threat to someone's morality. Having already treated the former, I will now turn to the latter.

Property and morality are related in the following way: "Adversity, pain, and want are great temptations to violate one's duty. [...] To seek prosperity for its own sake is not directly a duty, but indirectly it can well be a duty, that of warding off poverty insofar as this is a great temptation to vice" (6: 388). Kant does not here regard poor people in general as less moral. He merely emphasizes the fact that everyone needs certain goods and opportunities to act upon his/her duties. When basic needs aren't met, it is possible that a person will not be able to act upon her duties.

Property and morality are related in other ways as well: being wealthy and owning property is closely connected for Kant with the power to coerce others (6: 256). When he advises us to be thrifty, he also has the issue of autonomy constraints in mind. He writes: "Be no man's lackey. Do not let others tread with impunity on your rights. Contract no debt for which you cannot give full security. Do not accept favors you could do without, and do not be a parasite or a flatterer or (what really differs from these only in degree) a beggar. Be thrifty, then, so that you will not become destitute" (6: 436).

So, fulfilling the duty of love to others by being beneficent means to not only help others pursue their happiness but also to help secure other people's morality. As Barbara Herman points out: "One might view the idea of taking another's ends as my own not in the sense that I should be prepared to act in his place (I act for him; I get for him what he wants when he cannot) but, rather, in the sense that I support his status as a pursuer of ends, so that I am prepared to do what is necessary to help him maintain that status. We might say 'I help him

pursue-his-ends' and not 'I help him in the pursuit of his ends'. [...] What I support is the other's active and successful pursuit of his self-defined goals. I promote another's well-being or happiness by supporting the *conditions* for his pursuit of ends" (Herman, 1996: 70; emphasis mine).

#### **4. Conclusion**

In this paper I have tried to show that the close connection between the seemingly separate legal and moral spheres has at least two advantages: first, the responsibilities and respective duties towards the poor can be attributed clearly to the different parties within the state, i.e. the ruler and his citizens as public entities on the one hand, and the members of the state as moral agents on the other. The legal sphere and the moral sphere need to be clearly separated in order to be able to complement each other. Second, the division of the spheres allows for a ruler who doesn't interfere with the individuals' plans or their concepts of happiness or a good life. Since the bearers of the duties of virtue are the individual moral agents and not the ruler, the responsibility for a person's happiness lies solely with her and the people around her. The ruler has no duties to protect or support the private happiness of the citizens, on the contrary: any legislation that is concerned with matters of individual or particular conceptions of the good life is prohibited by the rule that the ruler has to consider "the will of a whole people" (Kant, 6: 313 f.). This prohibits any state coercion that is not aimed at preventing the mutual interference of the citizens in each other's freedom. It follows from this that we can help the needy within the modern state by acting upon the duties of virtue within the broader framework of a rightful state, where the political equality of the citizens as well as their fundamental equality as moral agents is respected by a legitimate ruler who governs in accordance with the united will.

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Thomas Petersen  
PROPERTY AND POSSESSION.  
KANT, HEGEL AND THE CRITIQUE  
OF CAPITALIST ECONOMY

In 1989, as “statist socialism” (Desai, 2002) in the Soviet Union and other European countries was collapsing, the American intellectual Francis Fukuyama meditated in a famous article “the end of history”.<sup>1</sup> In this article, so Fukuyama says in his later book *The End of History and the Last Man* (1992), he had “argued that a remarkable consensus concerning the legitimacy of liberal democracy as a system of government had emerged throughout the world over the past few years, as it conquered rival ideologies like hereditary monarchy, fascism, and most recently communism. More than that, however, I argued that liberal democracy may constitute the ‘end point of mankind’s ideological evolution’ and the ‘final form of human government’, and as such constituted the ‘end of history’” (Fukuyama, 1992: xi). In this, history is “understood as a single, coherent, evolutionary process, when taking into account the experience of all peoples in all times. This understanding of History was most closely associated with the great German philosopher G. W. F. Hegel” (*ibid.*: xii).

<sup>1</sup> Francis Fukuyama, “The End of History?”, *The National Interest* (Summer 1989).

Liberal democracy, however, is typically associated with a capitalist economy characterized by free market exchange, private ownership of means of production as well as private acquisition of profits. More than 20 years after his famous article, Fukuyama is obviously concerned with the worldwide success of that economy which seems to endanger democracy itself. Instead of its end, he now thinks on the future of history, reflecting in particular the influence of political ideologies and doctrines. In 2012, Fukuyama notes in his article “The Future of History. Can Liberal Democracy Survive the Decline of the Middle Class?” the contemporary weakness or even the “absence” of the political left. Since “Marxism died many years ago”, “the academic left replaced it with postmodernism, multiculturalism, feminism, critical theory, and a host of other fragmented intellectual trends that are more cultural than economic in focus”. The left model of politics, centred “on the state provision of a variety of services” is, according to Fukuyama, exhausted and has lost its credibility, since “welfare states have become big, bureaucratic, and inflexible; they are often captured by the very organizations that administer them” (Fukuyama, 2012: 59-60). Thus, the left proved unable to provide an alternative to “the narrative of the past generation: that their interests will be best served by ever-freer markets and smaller states” (*ibid.*: 61), that is to resist the influence of neoliberalism which seems to provide the script of contemporary tendencies towards growing inequality in modern economies.

“This absence of a plausible progressive counter-narrative is unhealthy”, Fukuyama states, “because competition is good for intellectual debate just as it is for economic activity” (*ibid.*: 53). Fukuyama thus sketches an “Ideology of the Future” which would need to reassert the “supremacy of democratic politics over economics and legitimate a new government as an expression of the public interest”, and which at the same time “could not begin with a denunciation of capitalism

as such, as if old-fashioned socialism were still a viable alternative” (*ibid.*: 60).

In this article, I shall search for something Fukuyama calls an “Ideology of the Future”. I hope to find at least some key elements of such an “ideology” in going beyond Marxian socialism and neoliberalism – not into the future but into the past, to classical German Philosophy. For I would like to assert that Immanuel Kant’s and Georg Wilhelm Friedrich Hegel’s philosophy of right are opening a perspective in which we can think of regaining the “supremacy of democratic politics over economics” without the need of abolishing free market and capitalism altogether.

In the first part of this article I will briefly sketch the essence of liberalism and its Marxian critique. The second part derives arguments against an unrestricted labour market from Immanuel Kant’s differentiation of Property and Possession. Part III deals with Kant and capitalist exchange, and part IV considers Hegel’s idea of civil society. The concluding part will sketch a conception of economic policy which is neither neo-liberal nor Marxist.

## **I. Liberalism and Marxian Critique**

The principle of liberalism is individual freedom. The individual is regarded to be guided by his or her self-interest, and collective activity by state and politics should aim only to the preservation of individual liberty. Free individuals will engage in mutual advantageous engagements with each other. These engagements are of economic nature and will take place in an exchange on a free market. From that market emerges, according to liberalism, a spontaneous order which is the basis of society. On a free market, however, individuals are exchanging their property. Property (*dominium*) is something the individual as the proprietor (*dominus*) can dispose of at will.

Neoliberalism emphasizes exactly this point. In neoliberalism, society is a society of owners, and property is the prin-

principle and the basis of an unrestricted free market exchange. And this free market exchange is what neoliberalism also wants to have on the labour market.

Karl Marx did, of course, not yet know the neoliberalism of the 21<sup>st</sup> century, but in his writings he always criticized a line of thinking represented by today's neoliberalism. So he gave a sarcastic comment on contemporary labour market in *Capital*, Vol. I:

The market, Marx says, has proved to be “a very Eden of human rights. There alone rule Freedom, Equality, Property and Bentham. Freedom, because both buyer and seller of a commodity, say of labour-power, are constrained only by their own free will. They contract as free agents, and the agreement they come to, is but the form in which they give legal expression to their common will. Equality, because each enters into relation with the other, as with a simple owner of commodities, and they exchange equivalent for equivalent. Property, because each disposes only of what is his own. And Bentham, because each looks only to himself. The only force that brings them together and puts them in relation with each other, is the selfishness, the gain and the private interests of each. Each looks to himself only, and no one troubles himself about the rest, and just because they do so, do they all, in accordance with the pre-established harmony of things, or under the auspices of an all-shrewd providence, work together to their mutual advantage, for the common wealth and in the interest of all.

On leaving this sphere [...] of exchange of commodities, [...] we think we can perceive a change in the physiognomy of our *dramatis personae*. He, who before was the money-owner, now strides in front as capitalist; the possessor of labour-power follows as his labourer. The one with an air of importance, smirking, intent on business; the other, timid and holding back, like one who is bringing his own hide to market and has nothing to expect but – a hiding” (Marx, 1887: 123; chap. 6).

We have here the very essence of Marx' critique of capitalist economy. According to it, individual freedom and private property are not a mask of exploitation and suppression but rather the specific form of capitalist exploitation and suppression. Therefore, Marx expected that individual freedom and private property had to be abolished in an eventual overcoming of capitalist exploitation. Not liberty of private property but "Liberation *from* private property" is what Marx pleaded for in his early writings. Later he expected such liberation as the necessary result of history which he thought to lead to an "expropriation" of the capitalists: "The expropriators are expropriated" (*ibid.*: 542; chap. 32).

Meanwhile, we experienced forms of society without private property which, however, proved to be neither preferable nor stable. But should we, therefore, conclude Marxian criticism to be disproved and neoliberalism to be justified? Let's see what classical European political philosophy has to offer us.

## **II. Kant: Property and Possession**

First, I will discuss the Marxian concept of capitalist exchange in greater detail. As Marx puts it, the contract between the capitalist and the worker is a contract on property. The capitalist, on the one hand, is proprietor of his money and of the means of production he provides. The worker, on the other hand, is also a proprietor, as his body and his labour power are his property. Hence in exchange the capitalist is able to acquire property on the worker's labour power and to use this labour power completely for his own purpose.

In this concept of capitalist exchange, Marx is following the political philosophy of John Locke which can be considered to be a philosophy of property. As Locke states in his *Second Treatise on Government*, "every man has a property in his own person: this is something that nobody else has any

right to. The labour of his body and the work of his hands, we may say, are strictly his” (Locke, 2008: 11; chap. 5, sect. 27).

To Locke, the fundamental fact in philosophy of right and political philosophy is that we are proprietors. We are proprietors of our own person, our body, our labour and of external things we are acquiring by the “work of our hands”. Our property is our “life, liberty and possessions” (*ibid.*: 28; chap. 7, sect. 87). The property we have of our body and labour is a natural relationship. And to Locke, the property of the “work of our hands” is natural likewise. By the work of our hands an external thing becomes our own – even if this work only consists in picking up an apple. If one acquires some objects this way, there is no need for “the consent of all mankind to make them his” (*ibid.*: 12; chap. 5, sect. 28).

Immanuel Kant, however, will make in some sense this very “consent of all mankind” a necessary condition not only of property, but of any possession of external things likewise. First, I shall give a brief sketch of Kant’s fundamental remarks on the philosophy of right. Kant states an “Innate Right, the Birthright of Freedom”. “Freedom is independence of the compulsory will of another; and in so far as it can coexist with the freedom of all according to a universal law, it is the one sole original, inborn right belonging to every man in virtue of his humanity” (Kant, 2003 (MoM), Science of Right, B. Universal Division of Rights). Kant also emphasizes an “innate equality belonging to every man which consists in his right to be independent of being bound by others to anything more than that to which he may also reciprocally bind them” (*ibid.*). And Kant is adopting a classical liberal principle, too: “Right, therefore, comprehends the whole of the conditions under which the voluntary actions of any one person can be harmonized in reality with the voluntary actions of every other person, according to a universal law of freedom” (MoM, § B (Introduction to the Science of Right)).

Instead of “life, liberty” on the one side and “possessions” on the other, Kant distinguishes “internal” (the “Innate Right, the Birthright of Freedom”; MoM, Science of Right, B. Universal Division of Rights) and “external Mine” (MoM, Science of Right § 1). Kant gives us the following definition of that “external Mine”: “Anything is ‘Mine’ by right, or is rightfully mine, when I am so connected with it, that if any other person should make use of it without my consent, he would do me a lesion or injury” (*ibid.*).

What is mine, that I have in possession. But possession, as it is in question here, is not “empirical possession”, a “physical holding or detention (detentio)”: “Thus, I am not entitled to call an apple mine merely because I hold it in my hand or possess it physically; but only when I am entitled to say, ‘I possess it, although I have laid it out of my hand, and wherever it may lie’” (MoM, Science of Right § 4). In this sense, I do not have a physical but an “intelligible possession”. “Intelligible possession” means the same as possession “in a purely juridical way” (§ 5).

At first sight, there seems to be no difference between “property” in Locke’s *Second Treatise on Government* and Kant’s “intelligible possession”. Both terms mean a relation between a person and things external to that person which relation does not depend on empirical possession of those things. But “intelligible possession” is not all the way property, and it is not, like Locke’s property, primarily a relation between an object and a person. According to Kant, “relations of a person to objects which have no obligation” are nothing other than a “rational relation of a person to persons” (§ 17). “Intelligible possession” of a certain object means, therefore, “an obligation [...] thereby imposed upon all others in respect of it, who would otherwise not have been obliged to abstain from the use of this object” (§ 7).

But how can such an obligation be imposed upon *all* others? It requires, indeed, “the consent of all mankind”, but not

in an empirical sense. For this obviously is impossible – you can't oblige every other person by single contracts, let alone by your single will. Therefore, Kant states, "it is only a will that binds every one, and as such a common, collective, and authoritative will, that can furnish a guarantee of security to all" (§ 8). That "common, collective, and authoritative will", however, only exists within "the civil state of society", and this will is nothing other than the *volonté générale* which Jean-Jacques Rousseau has in mind in his *Contrat Social*. From this Kant derives a so-called "postulate of public right" (§ 42) which is a command to everyone: "In the relation of unavoidable coexistence with others, thou shalt pass from the state of nature into a juridical union constituted under the condition of a distributive justice" (*ibid.*). In such "civil state of society", everybody is presumed to have indeed that "common, collective, and authoritative will, that can furnish a guarantee of security to all" (§ 8). But that also has some requirements concerning the subjects of this will, the citizens. They have to be free, equal and "politically independent" (§ 46), that means, a citizen may not be in his existence dependent on the arbitrariness of some other person or citizen.

"Intelligible possession" according to Kant is, in marked difference to property according to Locke, essentially dependent on some sort of universal consent; it is primarily founded in a "rational relation of a person to persons" (§ 17) and not in a relation of a person to an external (or internal) thing. Moreover, not every "intelligible possession" is property. Of 200 pages of Kant's philosophy of right, only half a page is dedicated to property. According to Kant, I can have possession of "three things external to me: 1) a (corporeal) thing external to me, 2) another's choice to perform a specific deed (*praestatio*), 3) another's status in relation to me" (§ 4). Only in respect to the first, a (corporeal) thing external to me, I can have property in the sense of dominium in Roman law, where "property" means a thing I can dispose of at will or I can do

with whatever I want. In cases 2) and 3) there is always voluntary action of another rational being involved. No one can own any other person's action or that person her- or himself. So, Kant conceives matrimonial law in terms of intellectual possession. Hence a man has possession of his wife and also a woman has possession of her husband (§ 26). "The man acquires a wife; the husband and wife acquire children, constituting a family; and the family acquire domestics" (§ 23). But, of course, a woman is not her husband's property, nor is a man property of his wife. And also children are not the property of their parents.

For Kant, property or the right to dispose at will cannot exist in respect to persons as rational beings and their unalienable actions and deeds, as this is forbidden by the "right of humanity". This implies that a man is not the owner of himself: "But from this it follows at once that such an object [of property] can only be a corporeal thing towards which there is no direct personal obligation. Hence a man may be his own master (*sui juris*) but not the proprietor of himself (*sui dominus*), so as to be able to dispose of himself at will, to say nothing of the possibility of such a relation to other men; because he is responsible to humanity in his own person" (§ 17).

### **III. Kant and Capitalist Exchange: Labour Power as a Commodity?**

I will now discuss the consequences emerging from Kant's *Philosophy of Right* in respect to contracting between capitalists and workers. According to Marx, who follows Locke's conception, worker and capitalist are both "simple owner[s] of commodities" (Marx, 1887: 111; chap. 5). The only commodity the worker calls his own is his labour power. He sells this labour power to the capitalist who can use it to his own purpose. This purpose is the acquisition of the labourer's whole product which is worthier than his labour power as a commodity itself. The capitalist is thereby acquiring the surplus product and the

surplus value, and in this he is acting rightfully (in accordance with the law of capitalist production mode).<sup>2</sup>

From a Kantian point of reasoning, however, two objections against Marx' view are to be made. First, the worker is not the owner of himself and so his labour power is no commodity he can dispose of at will. In particular, the worker cannot sell his labour power and the capitalist cannot buy it. The capitalist cannot, therefore, use the worker's labour power as "a corporeal thing towards which there is no direct personal obligation" (Kant, MoM, Science of Right §17). Since the labour contract cannot be thought of as a commodity exchange, there is also no rightful basis for an appropriation of the surplus product or the surplus value by the capitalist alone.

The second objection against Marx' view (which is likewise the view of neoliberalism) refers to the status of the means of production. These means of production are in a capitalist economy the possession – the "intelligible possession" of the capitalist. But are they the capitalist's property, too? One could ask: Why should they be not? Means of production like machines, factories, buildings and so on are without any doubt external "corporeal things towards which there is no direct personal obligation".

The question, however, may be settled easily only if the owner is himself also the producer. But things are different if the possessor of means of production is an employer, or a capitalist in Marx' sense. But to be an employer, the capitalist "must meet in the market with the free labourer, free in the double sense, that as a free man he can dispose of his labour-power as his own commodity, and that on the other hand he has no other commodity for sale, is short of everything necessary for the realisation of his labour-power" (Marx, 1887: 120; chap. 6). Thus the labourer is lacking any possession (in the

<sup>2</sup> Cf. Karl Marx, Randglossen zu Adolf Wagners "Lehrbuch der politischen Ökonomie", in: Marx, Engels, *Werke*, Vol. 19, Berlin, p. 359.

Kantian sense), and he is “obliged to offer for sale as a commodity that very labour-power, which exists only in his living self” (*ibid.*: 119). The worker or labourer may find himself in a situation in which, as Joan Robinson was saying, there is only one thing worse than being exploited by a capitalist, and that is: not to be exploited by a capitalist.

In this situation, and if the means of production are the capitalist’s property which he can dispose of at will, the worker is dependent on the capitalist’s voluntary decisions, since he needs to be employed in order to secure his own existence. The exchange relation between the employer and the employee is asymmetric.<sup>3</sup> And so one can argue that the worker’s one-sided dependence on the capitalist contradicts the principle of right since it excludes that “the voluntary actions of any one person can be harmonized in reality with the voluntary actions of every other person, according to a universal law of freedom” (Kant, MoM § B). For the employee is lacking “political independence, as the right to owe his existence and continuance in society not to the arbitrary will of another, but to his own rights and powers as a member of the commonwealth, and, consequently, the possession of a civil personality, which cannot be represented by any other than himself” (§ 46).

We can elucidate this point in another way as well. In MoM § 13 Kant is asserting the “Original Community of the Soil” which implies that “[a]ll men [...] have a right to be wherever nature or chance has placed them without their will” (*ibid.*). We can understand this statement in a broader,

<sup>3</sup> This asymmetry is also noticed in modern economic science. In contrast to ordinary commodity markets, the labour market is in some respect abnormal. According to the assumptions of economic science, decreasing demand for a commodity leads to decreasing prices. Low prices, however, induce shrinkage of supply, and eventually an equilibrium with an “equilibrium-price” of the respective commodity will emerge. But this will not be the case on labour markets since labourers are bound to get employed and so labour supply will increase rather than shrink with a decreasing demand.

metaphorical way. Thus it would mean that every man has a right to have a social position on which he can stand for himself. The worker, however, does not have this position if he is lacking the possession of the means of production which are actually the property of others. Therefore, one must conclude, the worker must have a right to get an employment enabling him to “earn a living”.

If this conclusion is valid, then the idea that there could be any *property* of means of production in its proper sense has to be rejected. Capitalists cannot be allowed to dispose of means of production at will since this would eventually entail a disposal of the social status of the workers. Would Kant, therefore, like Marx, plead for an “expropriation of the expropriators” (cf. Köhler 2017: 98-99) if he had been faced with modern capitalist economy? Presumably he would not. For in a Kantian line of thinking one would not deny the individual possession of these means, while Marx, who does not make any difference between property and possession, is envisaging the abolishment of both property and possession.

To sum up: In respect to capitalist exchange and production of wealth, the crucial point in Kant’s philosophy of right is its denial of the dominant role of property. Since the worker is not the owner of his body and his labour power, this labour power is not to be conceived as a commodity. The worker cannot sell it, and the capitalist cannot purchase it. This undermines the Marxian concept of capitalist exploitation of labour power and private appropriation of surplus value. Furthermore, in a Kantian line of thinking, the capitalist has possession but no property of means of production. He must not dispose of these means at will since he has to meet the right of the workers to get an employment. Possession of means of production is inseparably connected with an obligation against the workers, which is ultimately an obligation against the “right of humanity”.

My colleague Michael Köhler (2017), to whom the presented interpretation of Kant’s philosophy of right is deeply

indebted, stresses the Kantian difference between private and public law, the former referring to the relationship between private persons, the latter to “the civil state of society”. Köhler is arguing convincingly that the relationship between capitalist and worker, employer and employee, within the Kantian framing, has to be understood as a relation of private, not of public law. This means that measures against unemployment and unemployment insurance are not – at least not primarily – a duty of the state but of the collective of private persons. But how could this be thought of? A single employer cannot be obliged to satisfy the claim – although rightful – of one or more dispossessed for employment and sufficient income. Rather the collective of private persons is to be conceived as a society, which is not only a society of private subjects but also a community of solidarity. And this community has to be differentiated from the political community which is the state or “the civil state of society”. Such a notion of society has not been provided by Kant’s philosophy of right that constrains itself to fundamental remarks. But it is a key concept in Hegel’s *Philosophy of Right*.

#### **IV. Hegel and the Concept of Civil Society**

The idea that property of means of production is incompatible with fundamental principles of right (which are entailed by the idea of personal freedom) in a capitalist economy has led us to the idea of society which has at least traits of a community of solidarity. Kant’s philosophy does not provide such an idea for a systematic reason. The *Metaphysics of Morals* forms a part of practical philosophy. Practical philosophy is searching for answers to the questions “What should we do?” and “What are our rights and duties?” So, Kant may assert that we are obliged to enter a “civil state of society” or state, or “to strive after” “a condition of the state” in which “greatest harmony is attained between its constitution and the principles of right” (MoM § 49). But we cannot be obliged to form society as a com-

munity of solidarity because it is not clear how such a society could arise.

Hegel's approach, however, is different. Although his *Philosophy of Right* deals with the topics of practical philosophy, it is not practical philosophy but something Hegel calls "speculative cognition". In the field of practical philosophy, speculative knowledge seeks to discover structures in which reason can find itself, according to Hegel's famous saying "What is rational is real; and what is real is rational" (Hegel, 1896: 10). And one of these structures is society, or, as Hegel puts it, "civil society".

The chapter on Civil Society in Hegel's *Philosophy of Right* is a form of *Sittlichkeit* or *ethical life* to which the third part of this book is dedicated. Since, however, *Sittlichkeit* or ethical life is characterized in general by a subjective will aiming at a common or universal good, civil society seems to be at odds with that concept. For in civil society the individuals are totally focussed on particular or private goals: the member of civil society is "THE concrete person, who is himself the object of his particular aims, [...] as a totality and a mixture of caprice and physical necessity" (§ 182). The "concrete person" in civil society is interested only in his or her particular freedom and welfare, not in the common good. Morality in civil society, if there is one, is only private. But the goals of the "concrete person" can only be achieved in a relationship "to other particular persons that each establishes himself and finds satisfaction by means of the others" (*ibid.*). Therefore, civil society forms "a system of complete interdependence, wherein the livelihood, happiness, and legal status of one man is interwoven with the livelihood, happiness, and rights of all" (§ 183).

Civil society is thus a society of egoists without common moral constraints: "In civil society each member is his own end, everything else is nothing to him" (§ 182). In describing civil society, Hegel gives us the portrait of a market economy

à la Adam Smith. Indeed, the market is a mechanism securing the collective existence of the members of civil society by their pure self-interest (cf. e.g. Smith, 1981: 26 sq.).

At first sight, there seems to be no room for solidarity in civil society at all. But Hegel, as we shall see, will not only assert rightful claims to such solidarity which might be regarded to be “pure moral demands” in a Kantian sense of the term “morality”. In accordance with his program of “speculative cognition” Hegel is striving to identify tendencies in civil society by which such solidarity eventually will emerge.

These tendencies are primarily founded in the fact that in civil society particularity is not simply particularity. The concrete person solely pursuing particular aims can only find “satisfaction by means of the others, and at the same time purely and simply by means of the form of universality” (§ 182). The individuals, hence, are induced to “determine their knowing, willing, and acting in a universal way” (§ 187). In other words, individuals must adopt common forms of behaviour and even some universal forms of consumption (like in fashion, for example); moreover, one is forced to acquire general knowledge on central aspects of economics, politics, law and administration. And also one may be forced to acquire some commonly acknowledged professional qualification. Hegel is calling this acquaintance of habits and knowledge *education* (*Bildung*).

The member of civil society is thereby able to develop some general interests into the “protection of property through the administration of justice” (§ 208), and, furthermore, into public services provided by “public authorities” or the “police”, through which “the securing of every single person’s livelihood and welfare be treated and actualised as a right” (§ 230). By the activities of the police “the possibility of sharing in the general wealth is open to individuals and is assured to them by the public authority” (§ 237).

This all is in line with liberal principles and with the concept of social contract advocated by, e.g., Thomas Hobbes and

John Locke, and by contemporary economists like James Buchanan (1975), the founder of Constitutional Political Economy. But Hegel asserts that the “single person’s livelihood and welfare” “still [...] is subject to contingencies on the subjective side (quite apart from the fact that this assurance [given by the police] must remain incomplete)” (§ 237). The public authority, therefore, proves to be insufficient to secure livelihood and welfare as a right – and, as we can say additionally, the right of the concrete person as a whole. This right – which Hegel differentiates into a right of the private and of the “substantial” person (§ 265) – is addressed in the following paragraph.

I mentioned above Kant’s remarks on the “Original Community of the Soil” which implies that “[a]ll men [...] have a right to be wherever nature or chance has placed them without their will” (MoM § 13). I suggested to understand this right in a broader, metaphorical way, i.e. as a right to have a social position on which he can stand for himself. This very metaphorical or symbolic understanding of soil is employed by Hegel in § 238: “Originally the family is the substantive whole whose function it is to provide for the individual on his particular side by giving him either the means and the skill necessary to enable him to earn his living out of the resources of society, or else subsistence and maintenance in the event of his suffering a disability. But civil society tears the individual from his family ties, estranges the members of the family from one another, and recognises them as self-subsistent persons. Furthermore, for the paternal soil and the external inorganic resources of nature from which the individual formerly derived his livelihood, it substitutes its own soil and subjects the permanent existence of even the entire family to dependence on itself and to contingency. Thus the individual becomes a son of civil society which has as many claims upon him as he has rights against it.”

The individual, therefore, has a right to stand on the “soil” of civil society, and this does not only mean to have

his own choice and to find his subsistence. On the other hand, civil society has a claim on the individuals “that they work for it, owe everything to it, and do everything by its means” (§ 238 Addition). Civil society is, hence, not only characterized by pure privacy. It is, indeed, a public sphere, although not in a political sense of the term. In society we have, therefore, a “universal opinion” (§ 194) – which is, of course, no political “public opinion” – and elements of public recognition (§§ 192 f., 253 and Remark). The reflection of this public recognition in the existence of the member of civil society is *honour* – i.e. a man’s honour of “maintaining himself by his own work and effort” (§ 244) and the recognition and respect founded in the fact that he belongs “to a whole which is itself an organ of the entire society, and that he is actively concerned in promoting the comparatively disinterested end of this whole” (§ 253).

So the member of civil society has not only a claim that his “livelihood and welfare be treated and actualised as a right” (§ 230), but also a claim that he has the possibility to maintain himself by his own work and effort and to gain recognition and respect. Hegel, however, does not doubt that civil society in itself is unable to fulfil those claims and to actualise the respective rights. Nonetheless, there are tendencies in civil society working in the direction of such fulfilment, rooted in its economic basis, the “System of Needs” (§§ 189 sqq.).

There is a “*System of Needs*”, because the satisfaction of those needs is provided by stable estates or classes. According to Hegel, there are three such classes: “(a) the substantial or immediate [or agricultural] class; (b) the reflecting or formal [or business] class; and finally, (c) the universal class [the class of civil servants]” (§ 202). For us, the “reflecting or formal [or business] class” is of particular interest, for this class is located especially within the market economy and capitalist production. Hegel thinks that the “reflecting or formal [or business] class”, which is subdivided into craftsmanship,

manufacture and trade, is developing institutional structures,<sup>4</sup> and “hence it is to it that Corporations are specially appropriate” (§ 250). Corporations are uniting employers and employees of any branch of the economy. A Corporation is assuring the livelihood of its members and their recognition and reputation. Moreover, it has regulative and redistributive competences: “... a Corporation has the right, under the surveillance of the public authority, (a) to look after its own interests within its own sphere, (b) to co-opt members, qualified objectively by the requisite skill and rectitude, to a number fixed by the general structure of society, (c) to protect its members against particular contingencies, (d) to provide the education requisite to fit others to become members” (§ 252). The Corporation therein realizes the foresaid rights of personal welfare and political independence: “... the Corporation member needs no external marks beyond his own membership as evidence of his skill and his regular income and subsistence, i.e. as evidence that he is a somebody” (§ 253). “Within the Corporation the help which poverty receives loses its accidental character and the humiliation wrongfully associated with it. The wealthy perform their duties to their fellow associates and thus riches cease to inspire either pride or envy, pride in their owners, envy in others. In these conditions rectitude obtains its proper recognition and respect” (§ 253 Remark).

The idea of “Corporation”, as sketched by Hegel, may appear widely obsolete under the conditions of modern, global capitalism. But the perspective articulated in this idea is important due to two of its elements. First, civil society is conceived therein as having at least traits of a community of solidarity: the member of civil society has claims and obligations which are not claims and obligations against other private persons and also are not claims and obligations against the state, but claims and obligations against civil society. In turn, however,

<sup>4</sup> This is discussed in more detail in Petersen and Fulda, 1999.

civil society also has claims and duties against the individuals. In particular, civil society is entitled to regulate market activities, to redistribute wealth and eventually to restrict someone's disposal of his or her *property*: so, for example, "society has the right and duty of acting as trustee to those whose extravagance destroys the security of their own subsistence or their families. It must substitute for extravagance the pursuit of the ends of society and the individuals concerned" (§ 240). By this it turns out that "property" in civil society is, according to Hegel, not subject to unlimited disposal at will (cf. MoM § 17); in Kantian terms, this property is only *possession*.

But, to have any right or claim, civil society has to be a wilful actor, in other words, it has to form specific institutions. Such institutions in civil society will emerge, as Hegel wants to show. These institutions, corporations and communities are not sufficient to satisfy the rightful claims of the individual, since "the discord of this situation [in civil society] can be brought into a harmony only by the state which has powers over it" (§ 185 Addition). But thanks to these institutions, corporations and communities, the claims of the individual can be thought of as claims against civil society, and state policy has not to deal immediately with those claims.

## V. Conclusions

This article took its starting point from the Kantian differentiation between property and possession. Kant's and Hegel's philosophy of right provides arguments that a possessor of means of production must not have an unrestricted disposal of these means, if the legal status of others is depending on such disposal in respect to the fact that "the livelihood, happiness, and legal status of one man is interwoven with the livelihood, happiness, and rights of all" (Hegel, 1896: § 183). In the Kantian-Hegelian perspective Marx' critique of capitalist political economy proves to be true and legitimate in certain aspects. Liberal theory and liberal society based solely on property in

the simple sense of disposal at will both eventually annihilate freedom, equality and autonomy or independency. But in interpreting every type of possession as property in the Lockean sense, Marx and the advocates of an unrestricted, property-based market economy like Friedrich Hayek both deny that this economy could be criticised in the name of justice. In the eyes of Marx and Hayek, a pure shareholder value economy would be legitimate on liberal principles, for which reason Marx focused only on the revolutionary transformation of liberal economy and society.

From a Kantian point of view, however, there is no unrestricted disposal of capital and means of production since they are not property but possession. By the possession of capital and means of production the legal and social status of others (the non-possessors of these things) is involved, and therefore, such possession entails obligations of the possessor against the non-possessors, in particular, obligations of an employer against his employees. If this is interpreted, according to Kant, as a relation of private law, one might consider that obligation as an obligation of the individual employer to provide employments for individual workers or employees.

Under the conditions of a market economy, however, this obligation seems not to be feasible if it is conceived as an obligation of simple private law. This obligation demands the conception of society as a community of solidarity, responsible as a whole for employment of its members. Such a conception is provided by Hegel. Although Hegel's civil society is not sufficient to meet the duties emerging from such an obligation to overall employment, the claims of the potential employees are claims to society, not to the political state. And these claims can be met by society if it is supported and supervised by the state.

Finally, I will draw some consequences from that Kantian-Hegelian point of view. At the beginning, I mentioned Francis Fukuyama's complaints about the contemporary "absence

of a plausible progressive counter-narrative” to neoliberalism and to “the narrative of the past generation: that their interests will be best served by ever-freer markets and smaller states”. I would like to suggest that the sketched Kantian-Hegelian philosophy of rights is apt to provide such a “counter-narrative” – a counter-narrative based on liberal principles and even on a market economy. This counter-narrative, however, points out that a free market with an overall unrestricted property of capital and means of production contradicts with liberal principles themselves. Limiting property of capital and means of production to possession has the following implications:

- The welfare state has to shrink, since to take precautions against unemployment is an obligation of all economic actors *as* economic actors – an obligation the state has to enforce eventually.
- The disposal of capital and means of production has to be limited as interests of stakeholders (employees, communities) are involved. The economy cannot be regarded as a shareholder economy. Profit orientation must not have priority.
- It fits well with liberal principles if the state restricts capital movements.
- Profits should not be acquired by capitalists only.
- According to Hegel’s idea of “integration of civil society into the state” the government may well attempt to moderate inequality of income and wealth by taxation, like it has recently been suggested by Thomas Piketty (2014: 493-539).

In these implications free entrepreneurship is not denied and also private acquisition of profits is, in general, warranted. There will be no intervention or welfare state eventually overcharged with the compensation of disastrous social aftermath of capitalist economy. By this, the political would be strengthened and its scope of activity widened.

But there is another important aspect. Possession of capital and means of production, as sketched in this article, is resembling the “new forms of governance and ownership intermediate between public and private ownership” modern societies should develop according to Thomas Piketty (*ibid.*: 573). These forms and also limited possession of capital are at least partly at odds with what one may call “‘financialisation’ of the global economy” (*ibid.*: 193). By ‘financialisation’ is meant the tendency since the 1970s towards unrestricted global movement of profit-seeking capital – with profit-making by buying and selling whole enterprises, strong orientation on the development of share prices and with hybrid financial instruments. This ‘financialisation’ is commonly held at least partly responsible for the financial crisis in 2008 (cf. *ibid.*: 296-298, 472-474; Petersen and Faber, 2015: 241-255).

The ‘financialisation’ of the economy presupposes free disposal of capital and is hampered by an effective limitation of property to mere possession in the Kantian sense. There are examples for it in real politics. So Thomas Piketty refers to “the stakeholder model” of the so-called “Rhenish capitalism” “in which firms are owned not only by shareholders but also by certain other interested parties known as ‘stakeholders’, starting with representatives of the firms’ workers [...], as well as representatives of regional governments, consumers’ associations, environmental groups, and so on” (Piketty, 2014: 145-146). This form of limited possession of firms is mirrored, as Piketty points out, in a “low stock market valuation of German firms” (*ibid.*: 145). Another example Piketty gives is “the mystery of Chinese capital regulation” (*ibid.*: 535). Piketty is asking whether “China’s millionaires and billionaires” are “truly the owners of their wealth” since “a Chinese billionaire who acquired a 20 percent stake in Telecom China and who wished to move to Switzerland with his family while holding on to his shares and collecting millions of euros in dividends would very likely have a much harder time doing so than, say,

a Russian oligarch” (*ibid.*: 535-536). Obviously “the Chinese notion of property rights is different from the European and American notions” (*ibid.*: 535). Indeed, the Chinese billionaire is, in the Kantian sense of the term, not an owner but only a possessor of his wealth. And one may ask whether in this point the Chinese economic policy provides a hint also for the West.

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Domagoj Vujeva

MORAL AUTONOMY AND ETHICAL LIFE.  
HEGEL'S CRITIQUE OF KANT'S CONCEPTION  
OF PRACTICAL SUBJECTIVITY

In his book *The Era of the Individual. A Contribution to a History of Subjectivity* (1997), Alain Renault states that “the need for the subject to think of itself as *auto-nomous* is inseparable from a modernity in which ethical, juridical, and political values are not *received* from a natural order of things already containing them, but are *self-grounded* or *self-established* as norms that humanity gives itself, constitutive of intersubjectivity and based on the idea of its own dignity” (Renaut, 2000: 167). In this respect it is hard to overestimate the significance of Kant’s thought, especially of his practical philosophy and its central idea, that of moral autonomy, understood “as an activity of self-foundation”, as an idea of subject “positing for itself the law of its action” (*ibid.*: 172). It is therefore not surprising that Kant is a central figure in Renaut’s reconstruction of history of subjectivity and in his project of restoring the idea of the subject against all subsequent attacks on subjectivity and – on what he sees as – “antihumanist” attempts to demolish the possibility of conceiving man as a subject.<sup>1</sup>

<sup>1</sup> Some of the major authors who, according to Renaut, “had helped demolish the idea of the subject” (Renaut, 2000: xxix) are Nietzsche, Heidegger, Freud, Foucault, Lacan, Derrida, Bourdieu. Renaut’s approach to history of subjectivity cannot be discussed here. But it should be noted that it does not

In this article I would like to question the status of the principle of subjectivity<sup>2</sup> in Hegel's mature conception of ethical life. This is important for two reasons. Firstly, the idea of subjectivity (conceived in the Kantian sense, as indicated above) goes through its first crisis in Hegel's philosophy of right, the outcome of which is the reformulation of that idea. Hegel critically appropriates Kant's understanding of practical subjectivity, making it a fundament of his own considerations of "moral standpoint" on which the individual is established as subject. In §135 of the *Philosophy of Right* he thus makes it clear how important it is "to emphasize the pure and unconditional self-determination of the will as the root of duty" and that the "knowledge [*Erkenntnis*] of the will first gained a firm foundation and point of departure in the philosophy of Kant, through the thought of its infinite autonomy" (Hegel,

do justice to some thinkers, which are too easily declared responsible for annihilation of the subject. The complexity and ambiguity of their thought allows at least for more nuanced – and sometimes – different interpretation. Putting aside for the moment Hegel – who is also included in the list of the "enemies" of subjectivity – this is especially the case with Renault's treatment of contemporary French philosophy and those authors which he (together with Luc Ferry) considers as representatives of *la pensée 68* (see: Ferry, Renault, 1990).

<sup>2</sup> It is important to emphasize that "subjectivity" will be here taken to mean practical subjectivity and, as such, the quality of practical subject in the Kantian sense of the word. It is in other words a predicate of a being that acts under the principles of pure practical reason, i.e. the practical laws. This should be stressed also because Hegel is using the term "subjectivity" in the *Philosophy of Right* most of the time in a different sense, namely in the sense of the particularity of the will, as distinct from its rationality or universality (see for example §109R: "Subjectivity as such – i.e. opposition – particular will"). But he also makes clear that subjective will contains in itself the capacity for being universalized ("In itself are purely subjective will and in itself existing will identical", *ibid.*: §105R). Realization of the identity between subjective will and the rational will, or the universalization of the particular ends of the will is exactly what the moral standpoint demands (*ibid.*: §106). About this more will be said later.

PhR: §135).<sup>3</sup> But at the same time, for reasons that will be considered, he finds that “understanding”, if left in the form Kant gave it (i.e. if taken not only as a starting point but as the ending point as well), as unsatisfactory, one-sided and ultimately dangerous. To put it shortly, if we remain on Kant’s standpoint, no immanent and objective theory of duties is possible. This is possible only on the standpoint of ethical life, which represents the historically evolved and rationally articulated totality of different forms of mutual relations between individuals. The institutions and the norms of ethical life provide duties with necessary and objective content, which is thus not at the disposal of the arbitrary will of the individual.

Secondly, partly due to this precedence given to ethical life over morality, Hegel’s *Philosophy of Right* was often seen as justifying subordination of individual freedom (if not its complete obliteration) to established political order or historically prevalent ethical norms. In a more profound version of this accusation, it is impossible with Hegel to conceive man as a subject of his reality, because man is always already thought of in immanence with the whole – however rational that whole may be – as an “accidence” of super-individually understood spirit as a “substance”. Unfortunately, Renaut himself accepts this view. For him Hegel is not the thinker of subjectivity, but of *individuality* and these concepts are essentially opposed to each other, for “with the advent of the individual (...) the subject dies” (Renaut, 2000: xxxi). While subjectivity is defined through self-consciousness and autonomy, individuality is characterized by self-sufficiency and independence. In contrast to subjectivity, individuality constitutes human beings as “monades”, who are isolated from each other “(being without

<sup>3</sup> The *Philosophy of Right* will be cited after the English translation *Elements of the Philosophy of Right* (translated by H. B. Nisbet, Cambridge University Press, 1991), except for Hegel’s remarks which I have translated myself from German, as they are not included in Nisbet’s translation.

doors or windows)” (*ibid.*: 129), but at the same time capable of being part of a whole which directs their unconscious activity towards its purpose. So, although “It may appear paradoxical to see in Hegel the culmination of this process of individualization” (*ibid.*: 123), this is exactly the case according to Renaut, because the logic of individuality and the idea of collective Subject reinforce each other. By hypostatizing “spirit” or the “system” itself as a Subject and making human beings only the instruments of its “ruse”, Hegel thus marks one of the most important milestones on the path of transformation of subjectivity into individuality which has eventually led to the annihilation of the subject.

Although Renaut’s views raise many questions – especially regarding the place he ascribes to Hegel in the history of subjectivity in comparison to Kant – they cannot be discussed here. Nor is this article intended to be polemics with those views. Even less is it my goal to show that Hegel’s conception of subjectivity is superior to Kant’s. These conceptions, as I hope to demonstrate, are, although different, not opposed to each other. Even when he is criticizing or rejecting some of Kant’s propositions, Hegel is not discarding his moral philosophy completely. To put it differently, what I want to show is that Hegel’s conception of ethical life can be seen as an attempt to “externalize” the Kantian idea of moral autonomy, as a consequence of which the objectively existing institutions of community could be considered not only as a limitation of the individual’s free choice, but also as fulfilment and actualization of his genuine freedom. This attempt however demands, on the one side, that these institutions have a structure of a particular kind. On the other side, it is for Hegel necessary to *reformulate* Kant’s idea of moral autonomy, and to do that in such a manner that will preserve its fundamental traits.

## 1. Sources of Practical Subjectivity – Kant's Practical Philosophy

The notion of man as a practical subject is inseparable from Kant's idea of moral autonomy. According to this idea, man is conceived and constituted as a being which can be not only independent from the natural necessitation, but also subjected to the laws given by his own will, that is prescribed by practical reason. In this sense Kant states that "freedom is ratio essendi of the moral law while moral law is ratio cognoscendi of freedom" (Kant, 5: 4),<sup>4</sup> or it is acting upon the law of practical reason that gives freedom objective reality.

The idea of moral autonomy presupposes the notion of spontaneity but it does not exhaust itself in it. The latter designates the distinctive capacity of human choice<sup>5</sup> not to be determined by sensuous impulses or the object of desire. If man was necessarily conditioned to act by his strongest desire, he would have only *arbitrium brutum*, which is characteristic of animals. In contrast to that, man is able to evaluate different objects of desire and to choose among them as well as among means of realizing them, which already implies some use of reason. "Human choice, however, is a capacity for choice that can indeed be *affected* but not *determined* by impulses"

<sup>4</sup> All of Kant's works will be cited according to *Kants gesammelte Schriften*, edited by the Royal Prussian Academy of Sciences (volume: page number).

<sup>5</sup> The term *Willkür* with which Kant designates the appetitive power of volition will here be translated as *choice*, and *freie Willkür*, for which man is capable in contrast to animals, as *free choice*. The term *will* shall be reserved, as much as it is possible, for the *Wille* in the strict sense, which is identical with pure practical reason. This will does not act, but gives laws for the *Willkür* which can make them maxims of its action and if it does, it is free not only in the negative sense (as free choice) but in the positive as well, as being determined by nothing else than the principles of pure practical reason (on this see Beck, 1960: 180). This terminological distinction however holds only for Kant, for Hegel does not distinguish that strictly between the two aspects of will, although he uses both terms.

(6: 214). That is, the freedom of human choice consists in setting the object of desire as the end of action, or in its incorporation in the maxim of action. This is freedom in the negative sense or *arbitrium liberum*, which already assumes independence from the mechanism of nature and the ability of beginning new casual series in the world.

However, genuine practical freedom is not acting on just any kind of reasons. The choice which is, in the sense of negative freedom, independent of necessitation by pathological impulses is not yet determined by reason. The “autonomy involves not simply the capacity of the will to determine itself to act on the basis of self-imposed principles (which would include heteronomous principles), but the capacity to do so in a particular way – namely, ‘independently of every property belonging to the objects of volition’” (Allison, 1995: 18). As long as the incentive to action lies in the object of desire, the choice, although not determined by sensuous impulse, is still affected by it. In other words, “*Willkür* is fully spontaneous only when its action is governed by a rule given by pure practical reason, which is its legislative office” (Beck, 1960: 180). For the same reason, volition which is motivated by realization of some particular object of desire cannot be the source of those rules, because “rule is objectively and universally valid only if it holds without any contingent subjective conditions, which distinguish one rational being from another” (Kant, 5: 38).

In other words and strictly speaking, the freedom in the positive sense, or the idea of moral autonomy, includes two demands: first, the maxim of an action must qualify for universal legislation (*ibid.*: 49), i.e. it must not contradict itself if all rational beings would act upon it. Second, the determining ground of an action must be the practical law itself, or the knowledge that a maxim can hold as a universal law, i.e. its universal form and not its content. In other words: “We must not merely act on maxims that do pass the test, but our su-

preme maxim must be to act upon them because they do pass it” (Beck, 1960: 121).

What is important for our discussion is Kant’s insistence that the determining ground of a moral action must be the form of a law and not the content of the maxim. This strict distinction or “dualism” with respect to a motive of an action is one of the main targets of Hegel’s critique of Kant’s ethical philosophy. The “dualism” should of course not be taken to mean absolute separation, in the sense that the (moral) action must be void of any material, or that it should not produce some state of affairs or object that is desirable to the agent. As Lewis White Beck warns: “It is of the utmost importance not to fall into the common misapprehension (...) and to conclude that Kant means that the presence of a desire and hence of a material disqualifies a maxim from being a law” (*ibid.*: 96). And Kant himself makes it clear that “it is indeed undeniable that any volition must also have an object, and therefore a material” (Kant, 5: 60). However, Beck adds: “The theorem disqualifies only those maxims which are chosen to guide conduct *because* of their content, i.e., because of their reference to an object of desire (material) as the determining factor” (Beck, 1960: 96). In other words, distinction in the nature of the motive and hence the “dualism” remains constitutive for Kant’s ethics. That is, if the action is to be moral, given that the maxim can be universalized and thus become practical law, the motive for action must be the knowledge of the law itself and not the content of the maxim (i.e. object of desire).

Similar is the situation with the second “dualism” that Hegel is trying to overcome and that is discussed here, the one between “morality” and “legality”. *Doctrine of Law* and *Doctrine of Virtue* share, as Kant makes clear in the *Metaphysics of Morals*, the concept of freedom as their common basis (Kant, 6: 407) and “The doctrine of Right and the doctrine of virtue are therefore distinguished not so much by their different duties” – although there are duties that are only ethical – “as by

the difference in their lawgiving, which connects one incentive or the other with the law” (6: 220). The freedom which is the direct purpose of juridical laws is of course freedom of choice as “independence from being constrained by another’s choice” (6: 237) and not freedom as moral autonomy (freedom in the positive sense). The freedom in the former meaning is the “only original right belonging to every man by virtue of his humanity” (*ibid.*). But, although moral autonomy cannot be the direct aim of juridical laws, “it is equally important to stress the ground of juridical concepts in the notion of moral autonomy” (Gregor, 1963: 46). Our “humanity” or “personality” is grounded in our possession of pure practical reason, that is in the capacity to know its laws and make them maxims of our actions, or in our consciousness of the categorical imperative. This capacity is at the same time the reason why every man as a finite rational being should be rationally considered as an end in itself. Now, juridical legislation cannot compel men to act morally and hence to have as their purpose to treat others as ends in themselves, for it has no concern for motives of an action or for the content of the volition. But its laws can prevent agents from treating each other only as mere means to their respective ends (whatever the ends may be) in their mutual relations and in this way to protect freedom as a right of man to independently determine the purposes of his actions. Juridical legislation thus contains morally necessary, though only externally binding laws, which objectively protect and ensure everyone’s “personality” or the status of a man as an end in itself, irrespective of his own purposes or the purposes of others. Both types of legislations, ethical and juridical, proceed from the categorical imperative as the supreme principle of morality and there is also ethical obligation to fulfil juridical duties. However, their distinctively juridical character comes from the fact that juridical laws exercise only outer coercion, i.e. that it must remain irrelevant from which motives are juridical duties being fulfilled.

There is however another sort of “interdependence” between legality and morality in Kant’s philosophy. As Patrick Riley argues, legality can be seen as instrumental, or “purposively related to morality” in two different ways. In a weaker sense, legal justice removes impediments that prevent men from acting morally (e.g. threat to their lives or possessions) and thus creates conditions in which exercise of genuinely good will would be more likely. In a stronger sense, it realizes some moral ends, though only through legal incentives. “If in the weak sense Kantian public legal justice simply facilitates morality, in the strong sense it produces good conduct (though this conduct is only qualifiedly good because it depends on legal motives)” (Riley, 1983: 4).

However, notwithstanding different ways in which morality and legality mutually support each other, it is equally important to have in mind differences between them. Juridical laws do not take into account the content (matter) of the choice (*Willkür*) or the ends which an agent aims to realize through her actions, but only the form of her choice in relation to the choice of others (Kant, 6: 230). The Law ensures, in other words, only that the action of one person is in agreement with the freedom of choice of others, according to a universal law (*ibid.*). A state which would attempt to promote some material ends for the sake of its citizens – like their welfare, or wellbeing – through its laws, or make some ends obligatory for its citizens, would be despotic and *vice versa*, despotism would be the most suitable form of government for the realization of those ends (strictly speaking, the state cannot, even if it wanted, impose an end to its citizen, because an end is always the result of free choice,<sup>6</sup> but it can compel citizens to perform actions which are derived from some end prescribed by the

<sup>6</sup> “Another can indeed coerce me to do something that is not my end (but only a means to another’s end), but not to make this my end” (Kant, 6: 381, see also: 382, 385).

laws, or which are instrumental to it. In this case, however, the state is treating its members as means to its ends and not as citizens, i.e. according to laws of their own independence). In any case, through juridical laws only legality of action can be achieved. Even if an action proceeds from a maxim which is objectively valid, i.e. conforms to the law of practical reason, it has to be taken up freely, i.e. it has to be a result of free choice.

## **2. Concept of Morality in the *Philosophy of Right***

If we now turn our attention to the structure of the *Philosophy of Right*, we will encounter the main points of Hegel's critical confrontation with Kant's moral philosophy in the second part ("Morality"). The part on "abstract right" was concerned with the outer dimension of freedom, i.e. with the existence the will gives itself in some object and with its external relation to the other will. The whole sphere of "abstract right" was dealing only with external relations, in the sense that it did not take into account the content of volition or the purposes which agents were trying to realize through their actions. But through "wrong" and "punishment" the will acquires a new dimension, namely that of "particularity" and "interiority". By doing "wrong" the will has set itself in opposition to the "universality" of abstract right and, though "punishment" restores its external identity with abstract right, what remains is the awareness of their difference and the possibility for the will to withdraw itself into its interiority in order to determine its ends and purposes.

The "particularity" of the will or will in its interiority is the proper topic of "Morality" in the *Philosophy of Right*. It discusses all the actions which are, in the widest sense, the result of free choice of an individual agent. And it considers the extent to which an agent can be held accountable for her actions and its consequences, as well as her "right" to find satisfaction in the action, that is to independently determine the ends or the purposes of an action. Or, the standpoint of morality establishes

the “right” of the will to “*recognize something or be something only in so far as that thing is its own*” (PhR: §107).

It would be however incorrect to say that “Morality” contains some kind of value- and norm-free theory of action (Schnädelbach, 2000: 223-224). Because already here, at the standpoint of morality, it is demanded that the particular ends or the content of the will should be determined in a universal way. “The process within this sphere is such that the will which at first has being only for itself, and which is immediately identical only *in itself* with the will which has being *in itself* (i.e. with the universal will) is superseded; and leaving behind it this difference in which it has immersed itself in itself, it is posited for itself as *identical* with the will which has being in itself” (PhR: §106). Or, simply said, the process of this standpoint is “that whereby the subjective will achieves its identity with its concept” (*ibid.*: §108Ad.). In this context it should be emphasized that the “right of subjectivity” entails not only the possibility for an agent to independently determine the content of his welfare<sup>7</sup> and to set it as a purpose of his action. It includes the promotion of welfare of others as well. “This [universal] moment, initially posited within this particularity itself, includes *the welfare of others* – or in its complete, but wholly empty determination, the welfare of *all*. The welfare of *many other* particular beings in general is thus also an essential end and right of subjectivity” (*ibid.*: §125). But the

<sup>7</sup> Similarly to Kant, Hegel sees welfare or happiness as more than satisfaction that comes from the fulfillment of desire. It assumes a process of comparison and evaluation of different drives and inclinations, the means of their satisfaction and their consequences, which leads to establishing some principle of ordering of ends and purposes. Because it includes “reflection” on those ends and means of attaining them, welfare brings within itself elevation upon the naturally given material of drives and inclinations, or purification of its “crudity and barbarity” (PhR: §20). But it is still bound with nature and contingent in its content, because the ground of ordering different ends and means of attaining them is pleasure (*ibid.*: §§20, 20Ad., 123, 123R).

welfare of others cannot here be determined as an absolute end for an agent (*ibid.*: §126R), because, first, he cannot know what the welfare of others consists of, for the content of welfare differs from one individual to the other and it can change even in one and the same individual in the course of time and under different circumstances. And second, even if an agent knew what the welfare of others is, he would not know if it is rational, that is, if it is *universalizable* (*ibid.*) and as such deserving to be promoted. This last problem the agent has with the content of his own welfare as well at the standpoint of morality. But we should only note here that the welfare of others can be an end in the “state, in the ethical condition”, because there it is “grounded in that what is objective and *not* in the subjective opinion” (*ibid.*).

One’s own welfare and welfare of others together with the universality of right (i.e. respect for one’s own legal subjectivity and that of others in pursuit and promotion of welfare) is what makes the idea of good (*ibid.*: §130). It thus represents “the unity of the *concept* of the will and the *particular* will” (*ibid.*: §129). However, good is here only an abstract idea, for the unity is only postulated, without concrete determinations which would give us knowledge of the way how it could be achieved and realized. But what we already know is that, for the particular will, the good represents *duty*. And Hegel even tells us that this duty “should be done for the sake of duty” (*ibid.*: §133). This however does not mean that the good will is only the one that acts from the motive of duty, but that the good is valid independently of the convictions of the individual. The rational individual would recognize that fulfillment of duty represents realization and not limitation on his freedom, as idea of good contains both the form of universality and the possibility for individuals to realize their self-determined particular interests. But it is not necessary that the rationality of good in this sense is accepted by every empirical individual. For particular will, idea of good represents absolute obliga-

tion, whether it is aware that by this it promotes its own freedom or not.

This brings us to the question of motive which is one of the main points of Hegel's polemics with Kant's conception of moral autonomy. Hegel rejects the view that the morality of action depends on the purity of the motive or on the moral attitude of the will. This view, according to him, produces a "break" between subjective ends of an individual and objective principles of reason and alienates man from himself, i.e., from the empirical side of his being (*ibid.*: §§121Ad., 124). It is, in the last instance, "a view of morality as a perennial and hostile struggle against one's own satisfaction" (*ibid.*: §124). In other words, if the will is "good" only when it acts solely from duty, the rationality of an action will always be something external to self-determined particular ends of an individual. And conversely, although not all particular ends are rational, it is "the right of the *subject* to find its *satisfaction* in the action" (*ibid.*: §121). What is crucial for evaluation of an action is its objective validity or rational character. "What the subject *is*, is the *series of its actions*. If these are a series of worthless productions, then the subjectivity of volition is likewise worthless; and conversely, if the series of the individual's deeds are of a substantial nature, then so also is his inner will" (*ibid.*: §124).

But how is this "objective validity" or "substantial nature" of deeds to be determined from the perspective of the individual, i.e. on the standpoint of morality? At this point Hegel gives his critique of the "formalism" of the categorical imperative. It cannot give us any specific and particular duties, he contends, because it is void of every content, i.e. provides only form for our maxims. This is, according to Hegel, "*empty formalism*" and "it is possible to justify any wrong or immoral mode of action by this means" (*ibid.*: §135). The mere universality of the law – and it is the formula of "universal law" of the categorical imperative that is the target of Hegel's criticism – thus cannot serve us as a criterion of objectively valid

action. It is first necessary to establish some substantial ends (e.g. life, private property), with respect to which some maxims would show themselves to be self-contradictory or impossible for universalization.

Here I do not want to question the extent to which Hegel's charge on "emptiness" of the categorical imperative is valid and tenable (on this charge see: Wood, 1993). Whatever the case might be with that charge, despite his strong criticism of the categorical imperative, Hegel does not oppose the demand for universalization of the maxim of action. As we have seen, the fundamental requirement of the sphere of morality is that the particular ends of the individual should be defined in a universal way, or it is the establishment of the identity between subjective will and the concept of the will that Hegel designates as the "process" of this sphere. But what he doubts is the ability of the individual agent to evaluate which of her maxims are capable of being universalized, even if the agent wants to choose only that kind of maxims. This, I believe, is one way in which Hegel's attack on the "emptiness" of the moral will should be understood and the real point of his insistence that any content can be introduced into the law from the outside. Besides, an equal problem is that the individual can deliberately decide himself for the maxim of which he knows that it is not in accordance with the law. We must always have in mind that the standpoint of morality is "abstract", in the sense that it is the standpoint of an isolated individual, who bears in himself pure potentiality for ethical conduct. But there is no certainty on this standpoint that the individual is able (or even willing) to bring his particular will in identity with the universal will. In this respect too, morality remains the sphere of *Sollen* and requirement (*ibid.*: §108) and the determination of the content of the duty falls on the *conscience*, which only reproduces all the contradictions of the moral will. Having only the "form of universality" as a criterion of good action, it is not only that "no immanent theory of duties is

possible” (*ibid.*: §135) on this standpoint, but moral will is, in the last instance, self-destructive. The part on morality thus ends with the consideration of different forms of moral evil, which is the capability of self-consciousness for “making into its own principle (...) the *arbitrariness* of its *own particularity*, giving the latter precedence over universal and realizing it through its actions” (*ibid.*: §139). The *subjectivity*, as a quality of the moral subject, which man ought to be in the sphere of morality, thus necessarily degenerates into *subjectivism*, if we remain on the moral standpoint; “For both morality and evil have their common root in that self-certainty which has being for itself and knows and resolves for itself” (*ibid.*).

### 3. Practical Subjectivity and Ethical Life

The morality thus remains the standpoint of relation and requirement and the moral will is in the state of despair (“torment of vacuity and negativity”, §141Ad.) because its ends and actions do not attain objective reality. The contradictions of morality are resolved in the ethical life, which encompasses objective and historically evolved forms of life of an individual in community with others. The content of duty is now determined and known: it consists of living and acting in accordance with the rules and institutions of those forms. And they are not just any kind of forms, but specific structures of modernity: sentimental family, civil society based on market economy and political state. To each of these forms is immanent one sort of universality which the will was in vain searching for in the morality: sentimentally-unmediated universality to the family, reflexive and formal to civil society and substantial and self-conscious to political state.

However, already here we are faced with a problem. We have namely seen that Kant’s treatment of the moral law as *ratio cognoscendi* of freedom is considered by Hegel as a problem of actual conduct of the individual in the absence of a wider institutional framework which would provide duties

with particular content. From that perspective and under these circumstances, the categorical imperative has shown to be no criterion of moral conduct and moral will has ended in arbitrariness. But Hegel knows that part of Kant's moral philosophy is the *Doctrine of Right* which establishes principles of juridical constraint on arbitrariness of others which would represent hindrance to my use of freedom (Kant, 6: 232). In other words, irrespective of the content of my choice, juridical laws make sure that the action "can be united with the freedom of the other in accordance with a universal law" (*ibid.*: 131). Or, to formulate the problem differently: does Hegel's account of ethical life achieve anything more than "legality" in the Kantian sense? On what grounds can Hegel claim that ethical life is a full actualization of the individual freedom and not only a limitation of an arbitrariness which would not be in accordance with universal law?

In order to get closer to answering these questions, we must first briefly consider Hegel's arguments against Kantian understanding of "morality" and "legality", i.e. his views on their mutual relation in Kant's moral philosophy. We are already acquainted with Hegel's objection to Kant's ethics: because it must be done from respect for the law of practical reason, genuinely moral action always remains external to particular ends of an agent. Even if a maxim can hold as a universal law, the action must be done because its maxim can hold as a universal law, if the action is to be moral, and not because of the particular ends contained in the maxim. The satisfaction in action is always, so to speak, incidental. When it comes to Kant's *Doctrine of Right*, the main problem with it is, according to Hegel, that Right is not conceived as actualization of freedom, but as limitation of free choice. "In the Kantian definition [*Bestimmung*] of right (see the introduction to Kant's *Theory of Right* [*Metaphysische Anfangsgründe der Rechtslehre*, 1797]), which is also more widely accepted, the essential element [*Moment*] is 'the *limitation* of my freedom or *arbi-*

*trary will* in such a way that it may coexist with the arbitrary will of everyone else in accordance with a universal law'. On the one hand, this definition contains only a *negative* determination – that of limitation; and on the other hand, the positive [element] – the universal law or so-called 'law of reason', – the consonance of the arbitrary will of one individual with that of the other – amounts simply to the familiar [principle of] formal identity and the law of contradiction" (Hegel, PhR: §29). Right in Kant's conception cannot be considered "ethical" because it abstracts from the content of volition and sets only negative restrictions on mutual actions between individuals.

But why does Hegel think that he overcomes this externality of morality and legality to each other in his conception of ethical life, i.e. that objectively existing laws and institutions of that sphere can be considered "ethical"? First of all, we should bear in mind that each of the moments of ethical life (family, civil society, political state) embodies one form of universality with which particular will ought to have been brought in identity on the moral standpoint. This universality is nothing else than the law of the reason itself or the expression of an individual's pure rational will. By conforming to it the individual thus stays "at himself", that is it restricts only his arbitrariness, but through it he attains his substantial freedom (*ibid.*: §149). Ethical determinations "are not something *alien* to the subject. On the contrary, the subject bears *spiritual witness* to them as to *its own essence*, in which it has its *self-awareness* [*Selbstgefühl*] and lives as in its element which is not distinct from itself" (*ibid.*: §147). At the same time, the universality of ethical life provides structures through which particular ends of the individuals can be achieved. As the universality is now objectively established, i.e., secured from being endangered by arbitrariness, the agents can have their particular ends as the motive of their actions. This will, according to Hegel, only contribute to their conscious self-identification with the determinations of ethical life.

But we should go one step further. The clue for more adequate understanding of ethical life as reconciliation of morality and legality can be found in Kant's *Doctrine of Virtue*, that is in the ends that are also duties and these are one's own perfection and happiness of others. As Allen Speight points out: "The central claim that unites both the Kantian and Hegelian attempts to derive a comprehensive ethics is that there are certain ends inherent in rational agency and that such ends are not restricted, as some standard views of Hegel's criticism of Kant would have it, to negative conditions on action. For Kant, positive ends of virtue – ends that are also duties – can be discerned in other's happiness and one's own perfection; for Hegel, there are rational ends inherent in the institutions of ethical life (family, civil society and the state)" (Speight, 1997: 392). To put it differently, Hegel's "rational ends" can be seen as encompassing Kantian "positive ends of duty". The ethical life contains structures and procedures which ensure realization of those ends, without infringing on the agent's right to independently determine particular purposes of her actions. In addition to that, both ends of virtue that are for Hegel universal rational ends are considered in the ethical life as interdependent and mutually supportive. The "ethical" character of the third part of the *Philosophy of Right* is the result of the fact that its structures *direct* the particular will of the agent to the other and objectively condition the realization of her particular interest on the welfare of the other. This in turn does not mean elimination or suppression of the particular will, but its (in Kantian terms) *cultivation*, or the development of all physical and spiritual capacities needed for attaining of any possible purpose (Kant, 6: 387, 392). Each moment of ethical life represents one stage in the process of formation and development of the will to its universality so that the sphere as a whole actualizes (mediated) unity of the particular and universal will.

The *cultivating* and intersubjective character of ethical life initially manifests itself in the moment of family<sup>8</sup>. “The ethical *aspect* of marriage”, on which family is based, “consists in the consciousness of this union as a substantial end, and hence in love, trust, and the sharing of the whole of individual existence” (Hegel, PhR: §163). Hegel thus criticizes Kant’s view of marriage as a “merely civil contract”, because in this way marriage is seen as giving “contractual form to the arbitrary relations between individuals, and is thus debased to a contract entitling the parties concerned to use one another” (*ibid.*: §162Ad.). Although marriage cannot be reduced to mere sentiment either, the essence and fundament of marriage and of the family as an ethical community is love as a permanent relationship. Love is, according to Hegel, ethical because in it the individual freely renounces his independency in order to find himself in another. For individuals that constitute this reciprocal relationship, marital union implies giving up “their natural and individual personalities”. It is thus “a self-limitation, but since they attain their substantial self-consciousness within it, it is in fact their liberation” (*ibid.*: §162). In marriage and family we encounter the first form of ethical universality which elevates the will above its natural immediacy and transforms the particularity with regard to welfare of the other individual and the family as a whole. Because of that, “To enter the state of marriage is an objective determination, and hence an ethical duty” (*ibid.*). But the universality of family is still closely bound up with nature – as its source is sentiment – and the subject attains its self-consciousness only in unmediated unity with other members of the family. The family thus represents the “immediate or *natural* ethical spirit” (*ibid.*: §157).

Hegel’s project of reconciliation of “morality” and “legality” and of reason and sensibility decisively depends on the

<sup>8</sup> For Hegel’s account of family see: Blasche, 1974.

possibility to conceive civil society as ethical. That possibility is grounded in the fact that Hegel understands civil society not as a space of mutually isolated individuals, but as a sphere which establishes *sociality* through division of labour and market exchange (Prpić, 1976: 201-201; Vujeva, 2015: 115-116). Or, to put it differently, civil society does not amount to prescribing of rules which restrict action so that it can co-exist with everyone's freedom in accordance with universal law – although it does this as well through the *Administration of justice*. But since the particular interest of an individual cannot be realized without at the same time realizing the particular interests of others, there arises “a system of all-round interdependence, so that the subsistence [*Subsistenz*] and welfare of the individual [*des Einzelnen*] and his rightful existence [*Dasein*] are interwoven with, and grounded on, the subsistence, welfare, and rights of all, and have actuality and security only in this context” (Hegel, PhR: §183). The interdependence which occurs in civil society makes it necessary for the individuals to “determine their knowledge, volition, and action in a universal way” (*ibid.*: §187). This universality manifests itself in several different ways which can be seen as contributing to fulfillment of ethical duties. First, in contrast to animal, that has only a restricted scope of naturally given needs, human existence is characterized by development of new needs and means of satisfying them. What takes place in civil society is multiplication of needs, division and differentiation of one and the same need into individual parts and aspects, which then become different needs, and emergence of new means of satisfying needs (*ibid.*: §§190, 191). The consequence is that already here, on the soil where man is most dependent on nature, he is able to transcend it. The diversity of needs in civil society “has a restraining influence on desire”, for man learns to postpone fulfillment of a desire, to compare between different desires and means of their satisfaction and to choose among them. “In the end, it is no longer need but opinion that has to be satis-

fied” and here “taste and utility become criteria of judgement” (*ibid.*: §190Ad.). Because of all of its effects, Hegel calls this process of multiplication and particularization of needs and means of satisfying them “[a process of] *refinement*” (*ibid.*: §191). Secondly, this liberation from nature and development of man’s different capacities continues with division of labour. Performing of some work, that is determined with regard to prevailing social needs, assumes *education*, both in the theoretical aspect (extension and deepening of knowledge, ability to “grasp complex and general relations”) and the practical as well (habit of being occupied, limitation of one’s activity with respect to material of work and needs of others, self-discipline, acquirement and development of skills). And limitation to one sort of work in the social division of labour is in civil society condition of the possibility for an individual to secure his material existence and to realize his particular ends, which brings him “*recognition* in his own eyes [*Vorstellung*] and in the eyes of others” (*ibid.*: §207).

Both aspects of universality briefly sketched here proceed from the intersubjective character of civil society, i.e. from the fact that the individual cannot realize her interests without at the same time taking into account the interests of others. This elevation of particular will to universality which results from intersubjectivity we have already encountered in the case of family and it is present in the political state as well. But in the family the particular interest of the individual was subordinated to and determined by the welfare of the family as an unmediated whole. And in the political state life of the individual is directed to general interest as such (which however does not annihilate particular interest, but preserves it and allows for its realization). Only in civil society does individual have himself and his particular interest as an immediate purpose of his actions. But at the same time he finds himself to be compelled to pursue his interests through processes that bring him into positive relation to others, making satisfaction of their needs

the condition of realization of his particular interest. In turn, this demands and leads to development and perfection of his different physical and spiritual capacities. It is this intersubjectivity and its consequences for the individual which make civil society “ethical” in Hegel’s view, despite of all of its severe deficiencies, which make it appear as “the loss of ethical life” (*ibid.*: §181).<sup>9</sup> And it is this insight in the ethical nature of civil society that allows Hegel to expect that the idea of the state, as expounded in the *Philosophy of Right*, can rehabilitate the ancient ethico-political idea of community and reconcile it with specific features of Modernity.<sup>10</sup>

### Concluding Remarks

The fact that Hegel understands the Idea of Right as “realm of actualized freedom” does not mean an abandonment of Kant’s idea of moral autonomy but its complementation with institutions through which it gains objective existence. Or, it is an

<sup>9</sup> Although essentially “ethical”, civil society thus exhibits opposite tendencies (competition of private interests that reminds of state of nature as a state of war of everyone against everyone [*FP*, §289], mechanization and repetitive character of labour, unequal distribution of wealth and class differentiation as its consequence, etc.), which make understanding of ethical life as actualization of individual freedom highly problematical. Some of these tendencies, that are particularly important for the topic discussed here, shall be outlined in “Concluding remarks”. However, here it should be noted that, because of contradictions immanent to civil society, it cannot be reduced to “system of needs” as its economic “moment”. Hence, civil society already contains administrative and regulatory state institutions (Administration of justice, Police and Corporations) that have a task of securing prevalence of general interest in civil society against its disintegrating processes. Apart from that, above civil society stands the *political* state as genuine community and “higher power” for preceding “unpolitical” spheres “to whose nature their laws and interests are subordinate and on which they depend” (*ibid.*: §261).

<sup>10</sup> On Hegel’s ambition to conceive his *Philosophy of Right* as reconciliation of classical political philosophy and modern natural right, see: Riedel, 1970, Ritter, 1974, Bourgeois, 2005.

attempt to find structures of modernity that meet fundamental demands of the idea of moral autonomy. The reason why Hegel thinks that this idea is preserved and further developed in his account of ethical life is, as we have seen, that different sorts of universality of that sphere represent manifestations of universality of reason. By acting in accordance with the demands of ethical life, the individual is subjecting himself to the “self-positing” rules, i.e. to his own rational will. As the content of ethical duty is defined and thus secured from being endangered by the subjectivity of conviction, the question of the motive of action can be put aside. As Robert Pippin points out: “To say that rational is actual is just to say that some reasons *could not be but motivating*, that no person could be presumed to be ‘actually’ indifferent to what they require” (Pippin, 1995: 160). Insistence on the purity of the motive, according to Hegel, results in the subject’s perception of duty as something alien to him and produces an unbridgeable gap between demands of reason and man’s sensuous nature: “in the process of fulfilling his duty, the individual must somehow attain his own interest and satisfaction or settle his own account” (PhR: §261R). The institutions of ethical life should thus not only enable, but also further (if not even secure) the realization of (permitted) particular ends of the individuals and at the same time transform these ends and means of attaining them by elevating them to universality.

However, we can still ask: does not this conception of ethical life mean thinking of an individual completely in immanence with the historically emerged and objectively existing institutions, even if these institutions represent specific structures of modernity? The question is more justified if we have in mind that some of these structures cannot accomplish tasks that are assigned to them. This is especially obvious in the case of civil society. We can restrict ourselves to two points previously discussed. We have seen that multiplication and particularization of needs and means of attaining them refines man

and liberates him from dependence on nature and that the division of labour and its specialization have various educational effects. But the backside of these processes is a tendency to oversimplify work which makes it dull and the worker limited to one or few skills. This tendency leads to the point where work becomes “increasingly *mechanical*, so that the human being is eventually able to step aside and let a *machine* take his place” (*ibid.*: §198). On the other side, civil society, based on market economy, not only distributes wealth unequally, but *necessarily* produces poverty: “despite an excess of wealth, civil society is not wealthy enough – i.e. its own distinct resources are not sufficient – to prevent an excess of poverty” (*ibid.*: §245). It is not only that its processes cannot ensure the welfare of all, but they push a great number of its members below the existential minimum. The result is that the “feeling of right, integrity [*Rechtlichkeit*], and honour which comes from supporting oneself by one’s own activity and work is lost” (*ibid.*: §244). To be more precise, members of the class of the poor are not moral subjects, as they cannot realize their welfare, what is one of the main requirements of the sphere of morality. They are not economic subjects either, although they formally belong to civil society, since their legal personality is protected. But they cannot secure their material existence through their work, what is the principle of civil society, and they do not participate in any of its advantages.<sup>11</sup> In both cases the liberating and cultivating effects of civil society are annulled. Civil society thus reproduces nature on its own soil.

The question we have posited can be answered with the help of David James’ distinction between the two senses in

<sup>11</sup> This double sense of simultaneous belonging and non-belonging of the poor to civil society, recognizes young Marx when he speaks of [a need to form] “a class with radical chains, a class of civil society which is not a class of civil society, an estate which is the dissolution of all estates” (Marx, MEGA, II; 181, my translation).

which the idea of right can be understood as self-realization of a subject. In the stronger sense, “the determinations of modern ethical life are the conditions of subjectivity itself, that is to say, the conditions of being able to understand oneself as an independent, reflective, self-conscious agent” so that “subjectivity would not be possible in the absence of the laws and institutions of modern ethical life” (James, 2007: 116). However, this interpretation does not take into account “the capacity to conceive of oneself in abstraction from all given determinations, including the norms and social relations that characterize the social world to which one just happens to belong” (*ibid.*). Because of this James proposes the “weaker” interpretation, according to which the ethical determinations should be considered as necessary conditions of full development and actualization of a subject’s capacities, but not as conditions of subjectivity itself. This is “the idea that it is possible to be an independent, reflective, self-conscious agent even in a society which lacked the laws and institutions that make up modern ethical life; yet, in the absence of these laws and institutions, the agent in question must experience his social world as something alien to himself since it does not provide the conditions for the proper exercise and development of the capacities associated with his understanding of himself as a free and reflective agent” (*ibid.*: 117).

The possibility for a man to understand himself as a subject independently of ethical determinations as well as to evaluate the rationality of the latter is given on the moral standpoint. We should namely not forget that morality, despite all of its deficiencies, retains its independence and even has logical priority to ethical life in the structure of the philosophy of right. Morality is not only the sphere where a subject independently determines its particular ends and forms its convictions. It is the standpoint on which the subjective will is already *in itself* in identity with the universal will. The role of ethical life is to actualize that identity, by giving it determinate content and

objective validity. In other words, ethical life is rational only as long as its determinations embody universality of reason which at the same time enables subjects to realize their particular interests, what was a requirement of the moral sphere. And Hegel warns that “in the ages when the actual world is hollow, spiritless and unsettled existence” (*ibid.*: §138), the better will shall retreat again in the solitude of its moral interiority in order to find there the criteria of the truly ethical life. This diremption between moral will and the actual world can have several different consequences. But at least one of them includes the possibility of transformation of existing institutions, which would bring them closer to what they – as ethical – are supposed to be: actualization of the freedom of individual in the intersubjective autonomy with others.

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Michael Frey  
RELATIONAL SUBJECTIVITY.  
PRIVATE LANGUAGE  
AND THE PARADOX OF RECOGNITION

**Introduction**

*What is the source of social relations, of relations among persons?* Contractualists provide an answer to this according to which interpersonal relations are established by a social contract. These relations are what they are – namely, social relations – in virtue of a set of norms invoked by an act of mutual recognition, i.e. the contract. For contractualists, recognition is the source of a set of norms and interpersonal relations. Recognition is the means by which a plurality of subjects can transform their mode of being in a state of nature, in which they have not yet recognized a set of norms, into a state that is characterized essentially by social relations. In this paper, I want to discuss this thought.

There appears to be a fundamental problem for contractualist approaches. Mutual recognition cannot originate in the state of nature from subjects that are completely atomistic and self-related. Recognition is only possible if it is always already actual, and thereby only if subjects are mutually recognized subjects that partake from the beginning in social relations. This gives rise to the paradox of recognition: *The step out of the state of nature is logically impossible.* The reason for this paradox lies in a specific incoherent conception of a norm.

In the first part of this paper, I will discuss the contractualist concept of a norm and then derive from it this paradox. In the second part, I will explain why the contractualist conception of a norm is incoherent. It is incoherent because it is based on an atomistic view of subjectivity. This will then give rise to the question concerning what a coherent conception of norms would look like, which will form the final part of the paper. The answer lies in a certain concept of subjectivity, namely, *relational subjectivity*.

I will begin by discussing the relation between the concepts of freedom and recognition, which should make clear in what way norms are the source of social relations.

## **I. The Paradox of Recognition: Social Relations Are Constituted by Norms**

### *Recognition and Freedom: Norms as the Source of Social Relations*

Freedom, or, more precisely, freedom of the individual subject, is a core concept of modernity. *But freedom from what, and freedom to what?* Is it freedom from the state, from traditional structures of power? Is it freedom from the society in which one lives? Is it freedom to do what one desires, to decide arbitrarily what to do? Freedom is a highly contested concept in modern thought.

Put abstractly, freedom is a certain way of being a subject, a subject of determinations. Here are some examples: subject S does X, subject S is governed by the norm N, or subject S has a right to do X – where “does X”, “is governed by the norm N”, and “has a right to do X” are determinations of subject S. Now, a subject is free in a certain respect if the relevant determination does not come from outside, that is, if its determination is established by and through the subject itself. I am free if I do something because of myself and not because of an external force or a given principle that forces me to do

it. Subject S is free only if it itself is the source of its determination. That is the reason why freedom is self-determination. *Freedom is a certain mode of being a subject, namely, of being the source of one's own determinations, of being a self-determined subject.* In its abstract form, freedom is the freedom from external determinations, determination from outside, and thereby at the same time freedom to determine oneself, to be self-determined. With this we have specified the *from what* and the *to what* of freedom.

Now, it may seem – at least under a certain view – that other subjects, the state, or norms more generally are the most forceful threats to our individual freedom, to our self-determined mode of being a subject. Another subject, or most dramatically the state, can summon me to do things against my will, and norms do often force me to act and be in certain ways which conflict with my own will. This gives rise to what I take to be the central questions facing contractualism: *What defines the sphere of our freedom? How far does it reach? And most importantly, how is individual freedom compatible with the fact that we live in a state or in a society governed by a system of norms?*<sup>1</sup>

Contractualists try to offer a solution to this problem. Their thought is that we are governed solely by norms that we recognize as norms that govern us. Norms are valid and legitimate only because we agree to them. This specific kind of validity – I shall call it “*self-conscious validity*” – is essential to the idea of norms that do not conflict with individual freedom. Freedom is realized through an autonomous act of recognizing a set of norms. We give ourselves the law or

<sup>1</sup> Cf. for example Rousseau (1968: Book 1, Ch. 6): “‘The problem is to find a form of association which will defend and protect with the whole common force the person and goods of each associate, and in which each, while uniting himself with all, may still obey himself alone, and remain as free as before.’ This is the fundamental problem of which the Social Contract provides the solution.”

the norm by means of our recognition of it. Freedom is thus primarily autonomy. Of course, the specific character of this recognition is spelled out differently by each contractualist.<sup>2</sup> But all are united by the view that a plurality of individual subjects is the final source of this recognition, and together they are the source of the relevant norms. According to contractualism, there are two possible modes of being a subject: on the one hand, the mode of being prior to having recognized a certain system of norms – let us call this “the subject’s state of nature”; and on the other hand, the mode of being in which a system of norms is binding the subject because it has recognized these norms – let us call this “the state in and through which the subject is situated in social relations”. (The internal dependence of social relations on norms will be explained below.) Now, through the autonomous act of recognition, the norms determine the subject as an internal force, as something the subject is responsible for. And thus these norms are not in conflict with our freedom.

But contractualists do not believe there are first external principles – external to the subject insofar as they are given by its nature – which then subsequently become *the subject’s own* principles once the subject recognizes them. The social contract is not the recognition of something external which was there all along and which is *valid on its own in advance*.

<sup>2</sup> By the term “contractualism” I mean a certain explanation of self-determined norms and social relations. I will not discuss here whether specific contractualist accounts found in the literature do fit this concept, even though I am convinced that what I say applies to them on a very abstract level. It is not my aim to interpret certain papers or books by specific authors. Therefore, I will not elucidate what, for example, Hobbes or Rousseau would have to say with respect to self-determined normativity. Instead I want to elaborate a systematic critique of an account that conceives of norms as the result of a social contract, i.e. of an act of mutual recognition, by means of which a plurality of atomistic individual subjects can step out of their state of nature in which they have not yet recognized a norm. I will develop what I mean by “contractualism” in what follows.

Recognition cannot be the internalization of anything external that is given in advance. This would contradict the aim of understanding how norms can be the product of our autonomy, of our freedom. Recognition is precisely the *bringing forth* of norms by an act which involves a plurality of individual subjects. This means that, without the act of recognition, there wouldn't be the specific set of norms governing the relevant subjects. These norms are the product of an act of recognition, which may be abstractly characterized as the externalization of something internal, and something internal not in an individual but in a plurality of subjects, since an individual subject alone cannot establish this act of recognition. (I will elaborate below why recognition necessarily involves a plurality of subjects.) These norms possess self-conscious validity; they are valid through recognition. Now, such an act of recognition, which can only be performed by a plurality of subjects, essentially transforms the relations that bind the relevant subjects together.

Strictly speaking, there are no social relations among subjects in the state of nature, for this is the state in which individual subjects have not yet recognized a set of norms. In the state of nature, subjects relate to each other in a purely physical and external way. *They are atomistic subjects*. This means that they encounter each other without the mutual consciousness of how their encounter should be (cf. Rousseau, 1968: book 1, ch. 8). The relation between them is not yet affected by the contrast between "right" and "wrong", which determines at once both sides of the relation. Their relation emulates the relation between two animals: *homo homini lupus*. Both parts of the relation determine the relation unilaterally, each from its own position, but they do not determine it together (i.e. in *one* act). Their relation is determined by two separate acts that are external to one another, rather than by one single act. That is because there is no general consciousness of how one should encounter another subject that equally possesses the

exact same consciousness. This general consciousness of the right mutual relation among subjects is traditionally called “recognition”; and at the same time this consciousness is the consciousness of a norm since a norm specifies what the right mutual relation is. Thus recognition is both: recognition of a norm, and recognition of another subject, and this recognition has to be mutual. It follows that, in the state of nature where this recognition is missing, the other subject has the external power to determine the first subject without the first one’s consent, and that means it also has the power to determine what the first one does without its consent. *They are related in such a way that one subject can be the passive object of the other’s determination.* In the state of nature, the relation between them is not completely determined through themselves as individual subjects, since the other subject is always also the source of external determinations (with respect to the relation between them). Without the consciousness that *we both together* determine the relation between us, the determination of our relation is beyond our control. We both determine it unilaterally, which means it is not a true mutual, social relation. Hence, in the state of nature there is no actual freedom with respect to other subjects. And this is precisely the reason why recognition belongs essentially to being a subject that is free, whereby “free” means that the subject determines itself with respect to another subject that equally determines itself.<sup>3</sup>

Social relations are first established in a state governed by norms. A relation only counts as social if both subjects know that the other plays an essential role in determining what it means to stand in the right relation to each other. A relation is not social if each part unilaterally determines it according to its own consciousness of how it should be. And it is precisely the consciousness of a mutually recognized norm, which con-

<sup>3</sup> An analogous concept of the state of nature is presented in Hobbes, 2010: Ch. XIII.

tains the relevant shared conception of the right relation, that makes it a social relation – namely, in that it is determined by both sides equally. The consciousness of the norm is therefore essentially general with respect to the subject that is conscious of it. It is a consciousness for both subjects or rather performed by both; with respect to this consciousness, the one subject is not distinguishable from the other. Or, put abstractly, they are one, a plural subject that is differentiated into two distinguishable but internally related parts.<sup>4</sup> This implies that in a state in which a plurality of subjects has established a system of norms, these subjects determine each other from within. The act of recognition makes their relation into a specifically *social* relation in that both subjects mutually determine each other.

In summary, individual subjects can only be free, i.e. self-determined, with respect to other subjects in a state in which there are social relations and therefore norms. Only then do they all equally determine their relation to each other – not any longer *unilaterally on their own* but rather *together through a shared consciousness of norms*. And this means, in turn, that no individual freedom can be actualized among two or more subjects in the state of nature. Or, put differently, in the state of nature other subjects are always a fundamental threat to my freedom (cf. Hobbes, 2010: Ch. XIII). Thus the social contract model, which offers an account of norms based on a plural act of recognition, seems to provide an answer to the question concerning the compatibility of individual freedom and the fact that we live in a system of social relations governed by norms. But this solution is not without problems, since a paradoxical circularity lurks at its core. This is what I want to show now.

<sup>4</sup> Here it would be fruitful to discuss Rousseau's concept of the *volonté générale*. The general will is one and the same in every particular subject, and it is precisely this general will that unites all particular subjects as members into a unity that is the unity of the state (cf. especially Rousseau, 1968: Book 1, ch. 7).

*The Paradox of Recognition: There Can Be No Norms  
without Social Relations*

The contractualist account shows that norms are constitutive of social relations. *Without norms, no social relations.* Let me summarize this account briefly. First there is a situation in which individual subjects are standing in merely external relations to each other; then they enter a social contract and together recognize a specific set of norms; this mutual recognition constitutes a social relation, for the consciousness of the recognized norms is the consciousness of how the relation between the subjects ought to be if it is determined by both subjects equally. According to contractualism, social relations are accounted for by the concept of a norm – or, more precisely, by a plural act of recognizing a set of norms. The recognition of a norm transforms the merely external, let us say natural, relations between subjects into internal, or social, relations. Thus we may summarize this account as follows: there can be no social relations without norms. But – and this is the crucial point – there can be no norms without social relations either. Social relations and norms are two aspects of one and the same reality. This is crucial because contractualists try to give a *reductive account* that reduces social relations to an atomistic consciousness of a norm, which must be available already in the state of nature plus an act of mutual recognition, i.e. a social contract. For this reason there is a circularity at the heart of every contractualist account: contractualism tries to elucidate social relations through the concept of a norm; yet the concept of a norm is essentially the concept of a social relation. This circularity leads to a paradoxical situation that I will now elaborate. Let us call it the *paradox of recognition*.

In the contractualist view, subjects do not already stand in social relations; rather, they constitute them by recognizing a set of norms. But how is that possible? How can two subjects recognize a norm without already standing in a social relation

to each other? For this to be possible, each contracting subject had to be conscious of a norm before actually closing the contract. According to contractualism, the individual atomistic subjects must be able to conceive of a norm on their own already in the state of nature. Otherwise a subject could never form a contract with another subject with respect to norms that should be valid for both. To enter a contract, one has to be conscious of what is at stake in advance. But if – as the contractualist correctly claims – the consciousness of a norm *is* the consciousness of the relation to another subject as determined by both subjects equally, then it is impossible for an atomistic subject on its own to be conscious of a norm and subsequently agree with another atomistic subject that exactly this norm should be the norm that from now on determines their relation.

Contractualism argues that the recognition of norms constitutes a system of social relations. And since the conception of a norm is the conception of a relation mutually determined by two or more subjects, the act of recognition can be performed only by a plurality of subjects. This is the reason the act of recognition is also called a “social contract”. It is a deep insight into the constitution of social relations, allowing us to reconcile individual freedom with the fact that we live in a system of social relations governed by norms. But contractualists attempt at the same time to give a reductive account of social relations: the contract unites a plurality of atomistic subjects who must be able to conceive of the relevant norm on their own in advance. That is the reason why contractualists call the act of recognition “contract”, for a contract is only possible if both contracting subjects know what is at stake in advance. Yet this makes the contractualist concept of a norm incoherent. On the one hand, contractualists claim that the consciousness of a norm (recognition) can only be actualized by a plurality of subjects who are internally related in virtue of this recognition. On the other hand, they argue that this act of recognition can be described as a contract, and this contract is only possible

if a manifold of atomistic subjects can also be conscious of a norm completely on their own. But the latter is impossible. The consciousness of a norm *is* the social relation between two or more subjects, namely, the consciousness of their relation as self-determined, of a relation that is determined by and through themselves together. Thus there is no step out of the state of nature, since we always already have to be involved in social relations if norms are to be possible at all. There can be no reductive explanation of social relations as ultimately founded in the conscious of a norm performed by several atomistic subjects alone. The whole logical framework with which contractualists attempt to account for norms as the expression of our individual freedom is ultimately incoherent. This incoherence manifests itself in the paradox of recognition.

The paradox of recognition arises once one tries to understand how a plurality of individual atomistic subjects could perform an act of recognition and thereby exit the state of nature. Why should they agree on the norm that will govern them? According to the first side of the dilemma, the norm is given as a principle that is external to the activity of the subject. For example, it could be given by the nature of the subject or by a divine entity. In this case, the validity of the relevant norm would be given in advance. Every subject would be *forced* to recognize the validity of the relevant norm. On this assumption, the relevant norm would be valid completely irrespective of any subject acknowledging it. The plural act of recognition would then just be the agreement that every subject should act in accordance with this norm. But in this case the relevant norm cannot count as the expression of individual freedom, since it would be a determination coming from outside. The subjects would not determine their relation together. Their relation would be determined by something external and thus would not be a social relation.

The second side of the dilemma states that the atomistic subjects are not bound by anything in the state of nature and

thus are *free* to hold any possible norm to be valid. But then the agreement of two or more subjects with respect to which norm should be governing them would be an entirely arbitrary matter. They would form a contract simply because they were already implicitly in agreement about a specific set of norms in advance. Then their agreement would be external to the social contract, i.e. to the mutual recognition of this set of norms. But in this case they do not determine their relation together; they just happen to agree with respect to how they determine their relation unilaterally. The recognition would not constitute a social relation. This is the paradox of recognition. It raises the question about the origin of norms: *What is the source of a norm and what constitutes its validity?*

## **II. Private Language: The Incoherence of an Atomistic Account of Self-Determination**

*What is the source of a norm, of a rule that governs human reality?* The answer I want to discuss here is the following: We ourselves are able to determine which norms are valid for us, such that we ourselves, through an act of self-determination, are the origin of the rules that structure our lives, our reality. This is completely in line with contractualist approaches that attempt to demonstrate that we ourselves are the source of norms – namely, through a plural act of recognition. But as I tried to show above, the contractualist concept of a norm is incoherent: on the one hand, contractualists conceive of the consciousness of a norm as something essentially social that can only be actualized by a plurality of subjects. On the other hand, they argue that norms have to be conceivable by atomistic subjects already in the state of nature, because only on this basis can they form a contract. This is the residual atomism presupposed by contractualism. It results from the desire to make sense, in a reductive manner, of the fact that we live in a system of social relations. Yet it is simply not possible to understand self-determined normativity if one proposes an

atomism with respect to human subjectivity. At least this is what I will attempt to demonstrate in the following section. In order to do this, I will discuss Wittgenstein's argument against private language.<sup>5</sup>

*Private Language: Atomism and Self-Determination  
Are Incompatible*

Language – or, more generally, the meaningful use of signs – is the paradigm case for something that only exists on the basis of self-determined normativity. Norms that govern linguistic acts are not *given by (our) nature*; they are not *valid in advance*. Rather, they only exist because we recognize them as valid, because we ourselves determine ourselves with respect to them. For example, it is not settled by nature that we refer to a table with words like “table”, “desk” or “Tisch”. Of course, there may be some norms that are given by nature. But here I will focus on the possibility of norms that result from self-determination, i.e. norms that are structurally similar to linguistic norms, norms that govern the constitution of meaning. As has been said above, their essential character lies in a certain kind of validity, self-conscious validity: *they are only valid because we recognize them as valid*. That is what makes them an expression of our freedom, our autonomy. Wittgenstein's argument against private language concerns precisely such norms. It shows that such norms cannot be understood from within an atomistic framework.

Now, it is appealing to explain self-determination, autonomy, or freedom in atomistic terms, for it is widely believed that “self” must mean something that bears a strictly singular form. According to this opinion, “self-determination” has to

<sup>5</sup> I am aware that the private language argument is an intensely debated matter. The literature on it is vast and there are many different interpretations, which I cannot discuss here. All I shall provide is a rough sketch of how I understand it.

concern a single subject completely isolated from other subjects. But “self” is primarily a reflexive expression which can have both a plural and a singular function.

By “atomism” I mean the attempt to explain the consciousness of a self-determined norm as something that is in principle possible for a single subject completely isolated from other subjects. It may be that any simplified atomistic account of norms is so blatantly absurd that nobody would ever propose it. But there are more sophisticated versions of atomism which try to account for the fact that actual norms have to be social phenomena in the end, even if they have to also be conceivable by atomistic subjects. One such sophisticated version of atomism is contractualism that claims that a certain norm can govern certain subjects only if they together recognize it. On the surface, contractualism seems to adopt a non-atomistic approach. But, as I have discussed above, all contractualist approaches of self-determined normativity ultimately retain a residual of atomism. The social contract is just the intersubjective agreement on which norms are valid, whereas the norm has to be accessible in advance *as a norm* to all contracting subjects.<sup>6</sup>

In his *Philosophical Investigations*, Wittgenstein asks whether it is possible for a single subject to define the meaning of a certain sign. He asks whether one subject alone is able to relate a certain linguistic behavior, i.e. the use of a sign, to

<sup>6</sup> I argued above that such a concept of a norm is incoherent and its incoherence becomes manifest in the paradox of recognition. But now contractualists may respond with the following claim: in the state of nature, the *proto-social*, atomistic consciousness of a norm might be such that it conceives the relevant norm only as *potentially* valid, whereas the norm first becomes *actually* valid through a plural act of recognition. Yet contractualism is residually atomistic even if it conceives of *actually valid* norms as something social in the end. I believe that a transition from an atomistic consciousness of potentially valid norms to a relational consciousness of actually valid norms is impossible, for the thought of an atomistic consciousness of a norm is incoherent as such.

a specific criterion that qualifies this behavior as either right or wrong, correct or incorrect (cf. Wittgenstein, 2001: §§243, 256, 258 and more broadly §§243-271). This is clearly a normative issue, since the criterion has to be a measure that distinguishes between correct and incorrect use of the sign. To do this, the criterion has to establish the specific contrast of right and wrong such that it is valid *in general*. The criterion has to be general: it has to be applicable to more than one instance of the relevant behavior, for it has to be applicable at least to an instance that fulfills the criterion and to one that does not fulfill it. Otherwise it could not distinguish correct linguistic behavior from incorrect linguistic behavior. Now, on an atomistic account, this generality cannot be a generality with respect to the subject, since there is no other subject conceivable in an atomistic framework. This means that it is impossible for one atomistic subject to conceive the generality of the criterion such that two different subjects use the sign differently *at the same time* – one using it correctly, the other incorrectly, but both using it *now*. This is not possible due to the atomistic framework. Therefore the necessary generality has to be conceived of as a generality with respect to time. In an atomistic view, the normative criterion has to be temporally general, which means valid over a certain period of time. Only then is it applicable to both correct and incorrect behavior, namely, successively in time to two different uses of the sign by one and the same subject. For what would “correct” or “incorrect” mean to the subject if its meaning evaporated from moment to moment? Defining what a certain sign means has to have consequences for what the sign will mean in the future. And this is exactly where the private language argument comes into play.

Wittgenstein’s point is that it is impossible to establish a private norm governing linguistic acts, i.e. meaningful acts, because such a norm could never possess the necessary temporal generality. He explains this impossibility in terms of recollection: a private norm could not establish that “I remember

the connection [between sign and meaning] *right* in the future” (Wittgenstein, 2001: §258). For Wittgenstein, the crucial point is the impossibility of remembering the connection between sign and meaning correctly. This is impossible since an atomistic subject cannot establish the normative criterion at a specific time. In order to do this, the subject has to experience at least two instances of the relevant behavior successively in time by comparing two instances of linguistic behavior. But if it experiences one instance now and the other instance later, it cannot judge at a specific point in time whether the relevant behavior is correct *now*. Because of the necessity of experiencing two instances of the use of a sign successively, the criterion can only be established retrospectively: the subject has to relate the two instances and decide whether they are correct or incorrect. But it is not possible to establish a single correct use of the sign to which the subject could refer back as a measure of correctness. As Wittgenstein explains, in that case “I have no criterion of correctness. One would like to say: whatever is going to seem right to me is right. And that only means that there we can’t talk about ‘right’” (*ibid.*). The problem is that if I myself, in complete isolation from other subjects, try to determine my behavior with respect to a norm, then everything I judge to be right at a certain time appears to be right. But in that case it is not possible to speak of “recognizing the validity of a norm”. The private subject does not recognize a norm as valid; it merely voluntarily decides that it is valid, and can, a moment later, decide that it is invalid. The contrast between right and wrong thereby dissolves because correctness becomes a purely arbitrary matter. Wittgenstein’s private language argument helps us to see that atomistic self-determination is impossible. This explains on a deeper level why there cannot be a step out of the state of nature, since the subject in its state of nature cannot conceive of a criterion of correctness independently of others. Contractualism tries to explain why the recognition of norms has to be a social phenomenon.

But it spoils this attempt by proposing a residually atomistic account. Therefore we have to look elsewhere for an account of norms. In conclusion, I will touch upon an alternative approach by briefly elaborating Hegel's concept of subjectivity and suggesting how we can understand self-determination on the basis of it.

### **III. Relational Subjectivity: Persons as the Source of Norms**

I think the paradox of recognition which results from contractualism's residual atomism is a problem that disappears when we conceive of the self-determined subject as a person in the way Hegel understands it in his *Elements of the Philosophy of Right* (Hegel, 1991). According to him, the person is a subject which necessarily stands in social relations in order to actualize freedom by means of a certain consciousness of self-determined norms. It is a subject that is constituted at all through mutual recognition, i.e. through the consciousness of norms. *Without mutual recognition there would be no subject.* I want to elaborate on this now.

#### *Relational Subjectivity as the Source of Norms*

As we have seen, an atomistic approach cannot explain how a subject can be the source of self-determined norms. Atomistic conceptions of subjectivity fail to provide an account of how a subject's acts can be the expression of autonomy, i.e. freedom. Hegel develops a convincing alternative to atomistic accounts, which I want to outline now.

For Hegel, a subject that is capable of being the source of self-determined norms has to be characterized by an essentially relational subjectivity. He calls such a subject a "person". As self-determined subjects, we are, strictly speaking, never completely individual subjects. Hegel believes we are never completely private since the subject has its birth place

in social relations. This means it is constituted as subject only if it stands in relations to other such subjects. In abstraction from these relations, the self-determined subject is no subject at all. This has important consequences for the structure of the subject's subjectivity. Its subjectivity is not strictly set apart from other subjects: it is not constituted as something that has a rigid form of identity distinguishing it from what is other than itself. A subject that is equipped with a relational subjectivity in Hegel's sense always already *incorporates* the difference to other subjects. It constitutes itself *in* difference to them. Strictly speaking, it itself is always already other to itself. This means the subject is not merely one single subject but also a plurality of subjects to which it stands in a relation of recognition. From an atomistic point of view, this seems very strange. How is it possible for an individual subject to be in some way at the same time a plurality of subjects? I cannot develop this structure further here – Hegel develops it in the complex conceptual dialectics found in his *Phenomenology of Spirit* (Hegel, 1977) and his *Elements of the Philosophy of Right* (Hegel, 1991).<sup>7</sup> But I will at least allude to how this account of relational subjectivity is a better way of showing how self-determination is possible.

If the subject is always already relational, such that it relates to itself not only as itself but also as another, then it already has what is required to be the source of the specific kind of generality that defines the consciousness of a norm. If it necessarily divides itself into a plurality of subjects, then it is no longer a problem to account for the generality that is essential to norms. A subject that relates to itself by setting a difference within itself necessarily knows that it is more than one single subject; it necessarily relates to other subjects internally to itself. It can thereby conceive of two different subjects each

<sup>7</sup> Another utterly helpful reference for a more differentiated presentation of this structure is Pippin, 2011.

performing different acts at the same time, and this allows the subject to conceive of the difference between a correct and an incorrect act – namely, in that one performs a *possibly* correct act and the other a *possibly* incorrect act. And the means by which a decision can be made concerning which of the two acts is *actually* correct is a “struggle for recognition” rather than a social contract (cf. Hegel, 1977: ch. IV; Pippin, 2011: ch. 2).

The logical constitution of the subject is twofold: it establishes a general consciousness of a norm, of what is correct, and at the same time internally relates two separate particular acts that are both governed by this norm. Hegel captures this thought with a concise slogan: the subject is an “I that is a We, and a We that is an I” (Hegel, 1977: §177). It establishes its generality as well as its particularity at one and the same time. And it thereby fulfills what is necessary to establish a normative criterion according to Wittgenstein. It intrinsically performs the consciousness of something general that holds the plurality of the subject within itself together. If I am a self-differentiating subject, then I am conscious of something general within me that unifies my present I with my future I, or that, equally importantly, unifies me with another I, namely you, at the present time. The subjective and the temporal generality of the consciousness of a norm are two sides of one coin. Hegel calls this moment of generality the “We”. But we can also call it the “norm”. It is that which holds us together, not only me and you, but also myself as structured into a relational subjectivity. This moment of generality within us is nothing private. It always already concerns me and you, a plurality of subjects. *It is within us.* We have immediate access to it and can identify with it; in this way we are the source of norms ourselves. By means of this relational structure that is essential to our subjectivity, we can issue norms, and we can change or criticize existing norms. But issuing and changing norms is never a private, arbitrary matter – as it would be from an atomistic

perspective. It is done by means of a struggle for recognition. This necessarily entails the mutual recognition of a plurality of subjects because we, by doing this, always speak for a plurality of subjects, and these other subjects play an essential part in answering the question whether a self-determined norm is valid or not. On this account, we can claim that the prefix “self” in “self-determination” has necessarily both a singular and a plural function. *Self-determination is the mode of being a subject whose subjectivity is relational.*

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MARX'S CRITIQUE OF POLITICAL ECONOMY:  
HIS VIEWS ON PRODUCTIVE LABOUR,  
COMPETITIVENESS AND COMPETITION

**Introduction**

Marx has done so much theoretically to overcome the classical school of economic thought and *eo ipso* made a grounded theoretical critique of the capitalist mode of production. His theories are both disputed and upgraded or popularized. In this paper, the focus is on his views on productive labour, competitiveness and competition.

These categories are not popular for critics of Marx, but neither are they popular for his followers. They usually investigate exploitation of labor, origin of profits, capital accumulation, enlargement of the gap between poverty and wealth and so on. In writing this paper, in some places it is assumed that the reader is familiar with Marx's terms, and in some places they are further clarified.

Interpretation of these three categories from Marx's perspective stems from the fact that they are extremely important for understanding the capitalist mode of production, which after all Marx knew. The form of labour that occurs as wage labour in capitalism acquires the meaning of productive or unproductive labour completely in accordance with the needs and characteristics of capital. In other words, as well as other economic categories (as Marx had already indicated in the

work *Poverty of Philosophy*), productive labour is seen as a historical form and not as an eternal or natural form.

In some way competitiveness is related to the process of productive labour because a capitalist aims for qualitatively and quantitatively improving productive labour. In capitalism, competitiveness means the reduction of labour costs and intensification of the labour process in any way.

Finally, the process of competition is a condition without which capitalism cannot function. Many economists might consider it the most natural and eternal category. This is because they identify it with the competitive relationship between people. Namely, if competition were abolished, they are convinced, there would be no social progress anymore because people would lack motivation or intention to produce and to produce with better quality. Marx makes it clear that competition is a mode of distribution of the total social surplus value among capitals and that is exactly the mode which causes (and is a consequence of) economic chaos, i.e. the market. In a word, competition is an expression of lack of control over the economic processes by the society (i.e. the minority which governs it). It does not act in accordance with the needs of society, but with the needs of capital.

## 1. Productive Labour

Marx's concept of productive and unproductive labour is related to the main determinant of the society, to capital.<sup>1</sup>

The dynamics of relation between productive and unproductive labour to capital really comes down to the relation-

<sup>1</sup> "In the exchange of capital for labour *value* is not a measure for the exchange of two use-values, but is rather the *content of exchange itself*" (Marx, 1993: 469).

"The value originally advanced, therefore, not only remains intact while in circulation, but increases its magnitude, adds to itself a surplus-value, or is valorized. And this movement converts it into capital" (Marx, 1976: 252).

ship of labour to labour, because capital is nothing but relation, originated in a specific historical period under specific circumstances. Its content is value, and the creator of this value<sup>2</sup> is – human labour.

So, Marx is not focused on the social benefits of labour or on its material products, not even on how the worker understands his own work, but on the *objective* productivity of the worker's labour. Famous Marxist Isaak Rubin (d. 1937) expressed it concisely: "Labour is not considered productive or unproductive from the standpoint of its *content*, character of specific work activity, but from the standpoint of *social forms of its organization*, its correspondence with the social relations that characterize a given socio-economic structure" (Rubin, 1978: 264). We read in Marx: "As all capitalist production rests on the direct purchase of labour in order to appropriate a part of it without purchase in the process of production; which part however is sold in the product – since this is the basis of existence of capital, its very essence – is not the distinction between labour which produces capital and that which does not produce it the basis for an understanding of the process of capitalist production?" (Marx, 1969: 213).

Of many Marx's definitions of productive labour we feel it is most suitable to start with this one: "Productive labour is therefore – in the system of capitalist production – labour which produces surplus-value for its employer, or which transforms the objective conditions of labour into capital and their

<sup>2</sup> The starting point of capital is money. The process of transformation of money into capital is a result of capital in money-form buying labour power and subjecting living work under itself, i.e. under objectified labour. The essence of making capital is that the worker works for the capitalist part of labour time for "free", i.e. he creates more value than that which is paid for his work. If this process takes place in the production of some specific commodity (cigar, suit, etc.), it only conceals the real relationship. Therefore the capitalist is looking to sell this commodity as soon as possible, i.e. to transform it back into money, in the form in which the trace of concrete labour completely disappears (Marx, 1969: 308).

owner into a capitalist: that is to say, labour which produces its own product as capital. So when we speak of productive labour, we speak of socially determined labour, labour which implies a quite specific relation between the buyer and the seller of the labour” (*ibid.*: 302).

Marx considers it necessary to state that the analysis of productive labour is taking place within capitalism and that he talks about “socially specific *determined* labour”. The next thing that is important, and can be seen from this definition, is that only productive labour transforms working conditions into capital, but this is possible only if they are separated from the direct producers, thus being a *potential* capital.

Besides reproducing the part of capital which was paid in advance for it (variable capital), productive labour also creates surplus value. It is the production of surplus value that distinguishes productive from unproductive labour and which, after all, makes labour productive from the standpoint of capital. Surplus value is quantitative size because it results from the fact that the value of labour power is smaller than the value that this labour power creates. It is not concrete labour of production of shoes or cigars that gives value to the commodities. Production of shoes or a cigar is just one of the ways to get surplus value, because for a commodity to be sold, it must have a use value.<sup>3</sup>

<sup>3</sup> “Productive is only wage-labour which produces capital. (And that means this labour reproduces more value than the sum of value spent on it, or that it gives more labour than it receives in the form of wage. Productive is, therefore, only a labour power that creates more value than its own value)” (Marx, 1969: 98).

“For the use-value of labour-power to the capitalist as a capitalist does not consist in its actual use-value, in the usefulness of this particular concrete labour – that it is spinning labour, weaving labour, and so on. He is as little concerned with this as with the use-value of the product of this labour as such, since for the capitalist the product is a commodity (even before its first metamorphosis), not an article of consumption. What interests him in the commodity is that it has more exchange-value than he paid for it; and there-

Therefore, it does not matter if labour produces something useful from the standpoint of society or something completely useless, such as luxury goods for the rich, for example. What counts is only that this work transforms money into capital by *creating surplus value*, i.e. productive labour is not measured in terms of content (what kind of labour work, or what level of its social utility), but in social determination, and determination of capital.<sup>4</sup>

Accordingly, it is necessary to mention a vulgar understanding of Marx's theory, according to which productive labour is the only one that produces material or tangible things. It is very important to follow Marx's quote which, along with the aforementioned claims that productive labour is the one that produces surplus value, regardless of the subject matter, proves that he did not think of the material expression of the commodity in the usual sense: "When we speak of the commodity as a materialisation of labour – in the sense of its exchange-value – this itself is only an imaginary, that is to say, a purely social mode of existence of the commodity which has nothing to do with its corporeal reality; it is conceived as a definite quantity of social labour or of money. It may be that the concrete labour whose result it is leaves no trace in it" (*ibid.*: 113).

Thus, for Marx, what is important is the material form of commodity that represents social relation as the basis of capitalism. This relationship is presented as a thing. Marx, apparently, does not distinguish between the labour and services in terms of today's economic science, which qualifies labour in the context of performing services. Service is for him another word for unproductive labour, i.e. labour that cannot be

fore the use-value of the labour is, for him, that he gets back a greater quantity of labour-time than he has paid out in the form of wages" (*ibid.*: 101).

<sup>4</sup> "Labour becomes productive only by producing its own opposite" (Marx, 1993: 305).

exchanged for money as capital, but as a means of payment in order to get the use value.<sup>5</sup>

Of course, the labour of scientists, who work in the production process, is also labour that is not directly materialized in commodity. For capitalism as a developed form of commodity production in general is inherent division of labour – from the division of labour between the villages and towns to the division of physical and mental labour. The latter is not to be taken in the vulgar materialistic sense as if only physical labour were productive. A physical product is a product of both physical and mental labour, so, for example, an engineer who is not directly involved in the production process is also a wage laborer to capital, and in this sense, a productive worker (*ibid.*: 314).

One could ask about the teachers, professors whose work influences the later labour ability of their students – future workers. This question, however, is not quite correct. A person taught by a professor will receive new knowledge on the basis of which he will find better-paid jobs and in this way costs of learning will enter in the total cost of production of his labour power. But these costs have nothing to do with the capital-labour relation; what is paid here (service performed by a teacher) is doing a service as such. In other words: “But the particular utility of this service alters nothing in the economic relation; it is not a relation in which I transform money into capital, or by which the supplier of this service, the teacher, transforms me into his capitalist, his master. Consequently it also does not affect the economic character of this relation

<sup>5</sup> “Where the direct exchange of money for labour takes place without the latter producing capital, where it is therefore not productive labour, it is bought as service, which in general is nothing but a term for the particular use-value which the labour provides, like any other commodity; it is however a specific term for the particular use-value of labour in so far as it does not render service in the form of a thing, but in the form of an activity, which however in no way distinguishes it for example from a machine, for instance a clock” (Marx, 1969: 308).

whether the physician cures me, the teacher is successful in teaching me, or the lawyer wins my lawsuit” (*ibid.*: 309). The economic relationship is a relationship between a professor and his employer only when this is paid to teach others, and thus the labour of the professor becomes productive labour for the employer (capitalist).

Here is one example.

An actor or even a clown, writes Marx, is a productive worker indeed if he works for a capitalist, i.e., when he gives more labour than he receives from capital in the form of wage. This labour creates a surplus value and only from that point of view this is productive labour. In the same way is a singer<sup>6</sup> who is hired by some capitalist for singing in concerts productive, “because she produces capital”. Then, a bookwriter is also a productive worker, but not if he produces ideas as an artist, but because he “enriches the bookstore owner who issues his works” (*ibid.*: 102, 306). Therefore, we can see a confirmation of Marx’s words that productive labour is not the one that produces material or the one that is socially useful, but only the one that is hired by capital.

### *1.1. Unproductive Labour*

We have already noted a key feature of unproductive labour; it does not create surplus value. This then entails that the money paid in advance is not fertilized, i.e. not transformed into capital. Moreover, this money, instead of being paid in advance – is classified as spent money. So, money issued on unproductive labour – is spent money; money spent unproductively. The owner of the money who buys unproductive labour may

<sup>6</sup> “A singer who sings like a bird is an unproductive worker. If she sells her singing for money, she is to that extent a wage labourer or a commodity dealer. But the same singer, when engaged by an entrepreneur who has her sing in order to make money, is a productive worker, for she directly produces capital” (Marx, 2010b: 448).

or certainly will get needed services, but he will impoverish in monetary terms. His smaller sum of money occurs in the form of ordinary means of exchange (which is transformed to use value) in order to buy one's labour. In other words, money is spent in the form of income. There is no great difference whether labour is expressed in the form of commodity, so that this commodity can be bought, or it is living labour whose product is then *consumed*, not hired for making money.<sup>7</sup>

Until now we have seen how the process works from the perspective of capital and its personification – the capitalist. Let us now look at how the process goes from the perspective of the worker. The unproductive worker does not produce commodity, but only use value. When a worker is hired to produce for us a suit that we will wear, then he produced a use value, rather than commodity. In addition to use value, commodity is also constituted by exchange value that is realized only on the market, i.e. in relation to another commodity. A suit *per se* and intended for consumption and not for sale – is not a commodity.

The productive worker spends his money on other commodities, but for consumption. With the capitalist it is different – he buys special commodity (labour power) which then produces new commodities with surplus values embedded in it and makes more money by selling it on the market. In other words, the tendency of the worker is that he can never become rich because he spends his money in an unproductive way.<sup>8</sup>

<sup>7</sup> “In one case the purchaser of tailoring labour and the jobbing tailor confront each other as mere buyers and sellers. One pays money and the other supplies the commodity into whose use-value my money is transformed. That would be quite the same as if I bought a coat in a shop” (Marx, 1969: 216).

<sup>8</sup> “It can only cook meat for itself when it has produced a wage with which to pay for the meat; and it can only keep its furniture and dwellings clean, it can only polish its boots, when it has produced the value of furniture, house rent and boots. To this class of productive labourers itself, therefore, the labour which they perform for themselves appears as ‘unproductive labour’.

He decreases his amount of money on a daily basis for buying commodities that have not this peculiar ability to produce surplus value. On the other hand, the capitalist enlarges his money and to him this activity of labour power is just a means for producing surplus value, for producing capital.

Therefore, Marx concludes that being a productive worker – is trouble. He produces other people's wealth and "his existence makes sense only as such a tool for the production of someone else's wealth" (Marx, 1969: 158).

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If we look at the productive and unproductive labour together, then one and the same labour appears as productive and as unproductive. Here are some examples: cooks and waiters in a hotel are productive workers if they produce (directly or indirectly) surplus value or transform money of the hotel owner into capital. But the same workers are unproductive in relation to the consumer because he spends his income on their services; they practically can play the role of "servants" (*ibid.*: 103). So, the cook produces commodity for the owner of the hotel and thus (for methodological reasons, Marx here makes an abstraction from the profits, and so shall we) compensates the fund from which the owner continues to pay him. But if a consumer buys labour of the same cook to prepare him the same meal as in the first example, then he is an unproductive worker and does not produce the commodity. In this case the buyer spends (uses) labour not as abstract labour, but as very concrete labour. For those who still do not see a major difference between the exchange of cook's labour for money of the owner and money from the consumer, it consists in the following: his work does not compensate consumer's money nor increases it. That is why Marx says that to him "the dinner he

This unproductive labour never enables them to repeat the same unproductive labour a second time unless they have previously laboured productively" (*ibid.*: 109).

eats in the hotel in itself enables him to buy and eat the same dinner again a second time” (*ibid.*: 108). But the owner of the hotel replaces both constant and variable capital and appropriates surplus value. This occurs whether labour power is hired as an element that creates value, or only as an element that creates use-value, i.e. as a specific, concrete labour.

Because of the limitation of space we can only consider few thoughts about productive labour in the commerce.

In the circulation process, there is a transformation of the form of value, but Marx stresses that, although commercial capital does not create value (or surplus value), it is still *indirectly* responsible for the creation of surplus value. In other words, commercial capital, having the function that capital usually has in this phase of circulation, “contributes towards shortening circulation time” (Marx, 1981: 392). In this way, the entire process of reproduction of industrial capital accelerates, thus allowing creation of more sum of surplus value.

Unproductivity of commerce workers is the result of the fact that they are employed by capital during the circulation phase and that they are reducing it in relation to the surplus value. On the other hand, without the commercial capital, realization of surplus value would be much more limited and slower. But again, for labour productivity Marx is not taking the criterion of social needs. Marx is focused on industrial capital that has the form of productive capital in the production process. However, from the viewpoint of the commercial capital, these claims are not correct. Therefore Marx states that to “industrial capital, the costs of circulation appear as expenses, which they are. To the merchant, they appear as the source of his profit, which – on the assumption of a general rate of profit – stands in proportion to the size of these costs. The outlay that has to be made on these circulation costs is therefore a productive investment as far as commercial capital is concerned. For it, therefore, the commercial labour that it buys is also directly productive” (*ibid.*: 416).

## 2. Marx's View on Competitiveness

The above shows two important trends: first, the capitalist mode of production constantly tends to reduce exchange values of produced commodities (and thus to expand the circle of consumers) and, second, reduction of the exchange value of commodity is the result of a more organized production process, i.e. of more organized use of hired labour.

We will focus on the second trend and state that in the production process (the whole time we are talking about the production of surplus value of which the commodity is only a “carrier”) Marx distinguishes between the production of *absolute* surplus value and the production of *relative* surplus value. The principal difference between the two forms of surplus value indicates also a difference between two types of organization of the production process and the use of labour power. Absolute surplus value is created by extending the working day with constant necessary labour time.<sup>9</sup> Relative surplus value is created by reducing necessary labour time. In order to reduce necessary labour time, i.e. the value of the labour force, it is important to reduce the value of all commodities that constitute it as a value, which means that it is necessary to increase production by higher labour productivity. Consequently, the production of relative surplus value, in the last instance, is the result of the growth in labour productivity.

The basic method of increase of labour productivity is revolutionizing the means of production, and this being the immanent feature of capitalism (which is realised through competition), it is not surprising that Marx devoted much space in his main work precisely to the production of relative

<sup>9</sup> It must be noted that Marx divided labour time in necessary labour time and surplus labour time. In the first part the worker only reproduces the value of its own labour power, and in the second part he produces excess above this value or surplus value (see Marx 1976: 432). Accordingly, surplus value can grow as a result of growth of total labour time and the decline of necessary labour time.

surplus value. In another place he notes: “The increase of the productive force of labour and the greatest possible negation of necessary labour is the necessary tendency of capital, as we have seen. The transformation of the means of labour into machinery is the realization of this tendency” (Marx, 1993: 693).

The essence is in constant progress of labour productivity. However, capitalism as such, by further development of the organization of labour, will become a hindrance to social development.<sup>10</sup>

In capitalist circumstances the progress of labour productivity is impossible without competitiveness. Competitiveness is the modus in capitalist society by which capitalists tend to rationalize their business, tend to make it more profitable, and they do it at the expense of wage labour.

Individual capitalist can have an opinion about what is happening with the increase of competitiveness, perhaps even a correct opinion when he analyzes his economic process, but he cannot have precise understanding of the whole process. The reason for this is the very organization of this society. Many independent, unrelated producers of commodities are entering into a social relationship only through the market. The growth of competitiveness, and productive force of labour is equivalent to: “The growth of the productive power of labour is identical in meaning with (a) the growth of relative surplus value or of the relative surplus labour time which the worker gives to capital; (b) the decline of the labour time necessary for the reproduction of labour capacity; (c) the decline of the part of capital which exchanges at all for living la-

<sup>10</sup> “In the second form of surplus value, however, as relative surplus value, which appears as the development of the workers’ productive power, as the reduction of necessary labour time relative to the working day, and as the reduction of necessary labouring population relative to the population (this is the antithetical form), in this form there directly appears the industrial and the distinguishing historic character of the mode of production founded on capital” (Marx, 1993: 769).

bour relative to the parts of it which participate in the production process as objectified labour and as presupposed value” (*ibid.*: 763).

This whole process has advantages mostly for the capitalist class, i.e. for the minority of the society and at the expense of the working class.

Marx was aware that, “because one individual has satisfied his need he then proceeds to create a superfluity for himself; but rather because one individual or class of individuals is forced to work more than required for the satisfaction of its need – because surplus labour is on one side, therefore not labour and surplus wealth are posited on the other”. Or better yet, wealth occurs because “an individual can satisfy his own need only by simultaneously satisfying the need of and providing a surplus above that for another individual” (*ibid.*: 401, 402).

For Marx it was clear what a large part of economists today still do not want to understand – that the rich are essentially richer because the poor are getting poorer.

In this context, the increase of competitiveness actually means a further expansion of the mentioned process of stratification. Competitiveness is the *modus operandi* of capitalism and everything that is subject to capital simply perpetuates its inherent contradictions. Let us take for example machines. It is always necessary to distinguish machines as means of production from machines as capital, i.e. from capitalist application (or use) of machines. In the first case, they are means to facilitate labour and to reduce labour time. In the second case, they are means to subject workers, for extension of labour time and for obtaining profits. Instead of workers getting benefit from the machines via a short labour time and more (paid) leisure, they are poorer in absolute terms, but even more in relative terms.

By abolishing capitalism, the capitalist application of machines would also be abolished, but not the machines

themselves,<sup>11</sup> because “any more than gold would cease to have use value, once it is no longer money”, so “machinery does not lose its use value as soon it ceases to be a capital” (*ibid.*: 699).

### 3. Competition as Market Mechanism

For Marx, competition is not possible without the market, just as the market is impossible without competition. In fact, competition ‘exposes’ the market mechanism, and, through it, the law of value.

In society there is a division of labour that is constituted by a multitude of independent commodity producers. Their relationship is not directly social in the sense that their product must first be transformed into a form of exchange value (money) and that only in that form it acquires and proves social power (Marx, 1993). Thus, the producer achieves social connection with another producer only by facing a product (which therefore becomes a commodity), i.e. through the market mechanism. This process is governed by the law of value that “ultimately determines how much of its disposable labour-time society can expend on each kind of commodity” (Marx, 1976: 476).

When there is independence of producers and only indirect social relationship between them as well as the law of value or the market mechanism, we can conclude that economic chaos is the natural condition. In this state individuals are subordinated to social production, instead of the opposite, where individuals (as a collective) would use it as their collective force (Marx, 1993). However, an important feature of the chaotic social production (and their members) is that it constantly tends to achieve balance (we might say dynamic

<sup>11</sup> Many would be suspect about the fate of the machine since they do not distinguish the machine as a means of production and the machine as capital (as a social relationship).

equilibrium). But because the producers are independent from each other, unrelated, and because they do not work on the basis of a given plan, their tendency towards balance is only short-term and really inefficient – it is only “a reaction against the constant upsetting of this equilibrium” (Marx, 1976: 476). One of the fundamental contradictions of capitalism is already present here – while the single producer perceives plan and organization for his own enterprise as a condition of survival on the market, the existential condition of capitalist society is precisely non-existence of plan and organization.<sup>12</sup>

Competition here comes to the fore because of its role. As already shown, the law of value is the basis for the organization of capitalist society in the sense that it “operates here and that the social balance of production is asserted in the midst of accidental fluctuations” (Marx, 1981: 1020). Competition is a phenomenon which realizes this inner law. Thus, capitalism cannot be without competition just as competition cannot do without capitalism.

Marx wisely noticed the fact that the historical appearance of competition is a process of removal of borders and limits of previous modes of production. That is the reason why economists theoretically did not consider it in this negative (correct) sense. Therefore, the first thing that should be in our thoughts when analyzing competition is that “things which were a barrier to it were the inherent limits of earlier modes of production, within which they spontaneously developed and moved” (Marx, 1993: 649, 650).

At the same time when it abolished obstacles – but only those that were obstacles for it, not obstacles generally – free competition laid down the foundations of its own borders. And inside these borders capital actually feels free and does not

<sup>12</sup> “While inside the modern workshop the division of labour is meticulously regulated by the authority of the employer, modern society has no other rule, no other authority for the distribution of labour than free competition” (Marx, 2010a: 184).

want to destroy them, because its borders are in fact borders “of its own living conditions” (*ibid.*).

Competition not only realizes the law of value, but it is the ratio of capital to itself as another capital. Therefore, when Marx deals with competition in the third volume of *Capital*, he analyzes “many capitals”.

The definition of competition as a realization of the relationship of many capitals is fundamental for the analysis of capitalism. It concurs with an earlier analysis of competition – as a realization of the laws governing the organization of society. Namely, capital and its movement are result of the qualitatively higher stage of development of aforesaid law and therefore the only complete description of Marx’s analysis of competition is the one which is based on the social division of labour and all the major contradictions of the developed commodity production as well as the effects of capital on each other.

Crucial is Marx’s statement that “competition subordinates every individual capitalist to the immanent laws of capitalist production, as external and coercive laws” (Marx, 1976: 739).

In *The Poverty of Philosophy* (1847) Marx described the dialectics of relationship between competition and monopoly.<sup>13</sup> He claimed that competition and monopoly are two sides of the same coin and that their interrelationship is pushing the whole thing forward. According to Marx, competition is derived from the feudal monopoly by destroying all the setbacks and obstacles. In this sense, “competition was originally the opposite of monopoly and not monopoly the opposite of competition” (Marx, 2010a: 195). Modern monopoly therefore, says Marx, is not just a simple antithesis, it is not the negation of competition or simply its abolition, but “the true synthesis”. It is “the negation of the negation” because it is the negation

<sup>13</sup> In Marx’s time, the term monopoly also meant duopoly and oligopoly.

of competition that itself is a negation of feudal monopoly. In other words, the bourgeois monopoly is a “unity of opposites” (*ibid.*).

A little further in his book Marx develops his arguments and finds the essence of this natural process of capitalism. The elaboration of the thesis that monopoly generates competition, which then generates monopoly, is worth quoting in its entirety: “Monopoly produces competition, competition produces monopoly. Monopolists compete among themselves; competitors become monopolists. If the monopolists restrict their mutual competition by means of partial associations, competition increases among the workers; and the more the mass of the proletarians grows as against the monopolists of one nation, the more desperate competition becomes between the monopolists of different nations. The synthesis is such that monopoly can only maintain itself by continually entering into the struggle of competition” (*ibid.*).

### *3.1. Competition among Capitalists and Its Function in Capitalism*

Marx first analyzes competition between capitalists on the basis of the relationship of many capitals and their interactions. It was known by many economists at the time that competition between capitalists means struggle among capitalists for better production conditions, cheaper commodities prices and higher profits.

Consequently, competition has a tendency of concentration of more capital in fewer hands. However, competition is possible only if “capital multiplies, and in many hands”. Thus, in capitalism, there is a tendency to competition, to conflicts of many capitals with the aim of greater accumulation. On the other side, because accumulation is “under the rule of private property concentration of capital in a few hands”, this tendency is constantly limited by an increase of monopoly (Marx, 1972: 217). Thus from this results an internal law of capitalism

and competition, but an external law to a single capital. The capitalist who ignores competition soon goes bankrupt and ceases to be a capitalist. In this sense, one can understand why Marx, when analyzing capital, had in mind just capital and the capitalist as its personification, and not just a particular capitalist. An individual capitalist can be a great altruist, but competition always forces him to lower the cost of production (workers wage). He cannot change or abolish that law, because then he would have to abolish the dominant mode of production.

We can say that this aspect of competition among capitalists was more visible, and we mentioned that economists agreed also. However, as he advanced with his studying of political economy, Marx was discovering another aspect of competition, until then unknown to economic science. It is the role of competition in capitalism and the way in which it distributes to the capitalist class the total surplus value produced by the working class.

First we have to say that, for Marx, the exchange of commodities on the basis of their values is valid for simple commodity production only, i.e. where there is no capital.

However, under capitalism, the exchange of commodities takes place at “prices of production” (Marx, 1981: 277). This means that the “cost of production is a center around which daily market prices revolve and around which at certain times are evened out” (*ibid.*: 147). So, here the cost of production is what “Smith actually called natural price” (*ibid.*: 165). As far as Marx is concerned, the law of value remains applied in a way that enlargement or reduction of the labour time required for the production “raises and lowers the production costs” (*ibid.*: 147). Here, Marx’s labour theory of value and the law of value are complementary.

So far, it is said that in capitalism commodities are exchanged at production prices around which market prices gravitate, but we still do not know how the prices of produc-

tion are created and what is the role of competition in all of that.

Here is what Marx says about it: "... the competition of capitals in different branches creates production price, which then equates profit rates among different branches" (*ibid.*: 148). This thought will be clearer to us later in this chapter. Thus, competition creates the production price in a way that it equalizes the rate of profit. Thus it is logical that the inequality of the profit rate is the term and basic condition of equalization of competition (Marx, 1993).

Two things must be clear for understanding Marx's views on competition among capitals. First, while in the initial analysis of capital Marx had in mind capital in general or capital in the abstract sense, in the analysis of competition or analysis "of many capitals" he has in mind concrete, social capital. Capital does not exist for itself, but only as a part of the total capital of a society. In this sense, when a capitalist appears before a worker, then he is a capitalist as an inseparable part of the capitalist class, just as the worker is as an inseparable part of the working class. Second, the background is the social labour fund, or total labour that a certain society has at its disposal. In general, according to Marx's theory, this labour is divided into embodied and living labour, and living labour is further divided into paid and unpaid labour. The latter creates surplus value.

Therefore, when considering competition, it is necessary to bear in mind that the individual capital is only a part of social capital and that the rate of profit is a share of unpaid labour (surplus value) in relation to total capital.

It is precisely the diversity of profit rate, as previously said, the basis for competition which then from these profit rates makes average or general rate of profit. This is actually "a share the dividend on which will be paid in proportion to its size out of the total amount of the surplus value (or unpaid labour) produced by the total variable (laid out in wages) capital of the class" (Marx, 2010c: 396).

The basic role of competition is that it “equalizes profit rates between the different spheres of production to produce an average rate of profit, and that this is precisely the way in which the values of products from these various spheres are transformed into prices of production” (Marx, 1981: 310). This average profit rate is the share of social surplus value in social capital and therefore “the sum of the profits for all the different spheres of production must accordingly be equal to the sum of surplus-values, and the sum of prices of production for the total social product must be equal to the sum of its values” (*ibid.*: 273). This is so, among other things, because the price of production of a commodity is not determined only by the value of that commodity,<sup>14</sup> but by the overall value of all commodities, i.e. by the share of *average* unpaid labour, or surplus value.

Thus, capital participates in the appropriation of total surplus value in proportion to its size, and not to its individual process of exploitation. In other words, competition separates the average profit in the various branches of production “from the actual exploitation of labour by the particular capitals involved” (*ibid.*: 967).

Knowing that in competition each individual capital acts as a part of total, social capital in relation to total, social labour, Marx further noticed that the total product of social labour (surplus value) specifically divides capitals in proportion to the share in the total capital in proportion to the “extent to which total capital itself produces surplus labour” (Marx, 1972: 20). Consequently, several implications occur. First, Marx has thus shown that the problem is not in the individual capital and its

<sup>14</sup> In connection to these issues it is important to note that Marx distinguishes the “cost price” from the production price. The first indicates smaller value than the value of the commodity, i.e. it indicates costs for the *capitalist*. Since this unpaid work costs him nothing, it is not included in the cost price, and therefore it seems (hence the illusion) that profit comes from the difference between the sales price and cost price.

exploitation. The problem is in the system, in the social class of capitalists as personification of capital *in toto*, i.e. in the dominance of alienated and objectified social labour that took the form of means of production, over living labour. Second, he showed that there is a conflict among capitalists, that can be seen during each crisis. During the period of prosperity, so long as the capitalist class commonly shares originated surplus value by exploitation, competition “becomes a struggle of enemy brothers” (Marx, 1981: 362). However, as soon as things go down, it is no longer a division of gain but loss, and then each capital seeks to reduce its stake in it as much as it can and to transfer it to another. In this case, competition then arises as “a question of power and deceit (...) as a battle of warring brothers” (*ibid.*: 217).

### 3.2. *Competition between Workers and Capitalists*

If we accept Marx's statement that capital confirms itself as a capital only in competition, only in relation to other capitals, we can say that capital also becomes capital only in relation to a free labour power, free worker. The whole process of attaching workers to capital, this alienated mean of production from those same workers and as such upcoming social force against workers, and finally, the process of exploitation and transformation of surplus value into capital, Marx treated as the main subjects of analysis in *Capital*. The main thesis of his *magnum opus*, the origin of surplus value as a result of unpaid labour of the worker that the capitalist appropriates, is not in our focus here because this is happening in the production process.<sup>15</sup>

Competition between worker and capitalist presupposes two equal owners of commodities who get in contact through

<sup>15</sup> *Nota bene* – Marx's effort was directed towards proving that profit is generated in production, and not in circulation. Therefore, he has proved that profit is only realized in production, while most other economists argued that profit is generated in circulation, from the price difference (*profit upon alienation*).

the market, i.e. in the phase of circulation. Circulation is a very important part of the overall capital movement, which allows capital to lease labour power and thereby initiates the process of production of surplus value, which in turn creates the mentioned conditions for further circulation. In other words, Marx understands the circulation process as big and small circulation. The first indicates the exchange of objectified labour for living labour in the production phase, and the second indicates capital movement out of the phase of production (Marx, 1993). Thus, capital movement through various phases should be understood as a dialectical process.

The essence of the relation between capitalist and worker in the circulation phase, i.e. in competition, is that capital is a social power, alienated product of the labour itself, and thus is shown to be superior to labour. Capital has become a power force at that moment when the means of production were seized from the direct producer and turned against him. This social force subordinated everything, and its power is in the production process.

But in competition things look differently. Here rules equality of worker and capitalist. The worker sells his commodity labour power and the capitalist owns commodity money. Exchange occurs according to the law of value – only commodities of equal value exchange. Thus, neither of the two are in a worse position.

However, because capital or its personification – the capitalist, is in possession of the means of production, he is, so to speak, one step ahead of the worker in certain social position. In other words, “the capitalist can live longer without the worker than can the worker without the capitalist” (Marx, 2010a: 235). Marx describes this typical inequality in this way: “The worker need not necessarily gain when the capitalist does, but he necessarily loses when the latter loses. Thus, the worker does not gain if the capitalist keeps the market price above the natural price by virtue of some manufacturing

or trading secret, or by virtue of monopoly or the favourable situation of his land (...) In general we should observe that in those cases where worker and capitalist equally suffer, the worker suffers in his very existence, the capitalist in the profit on his dead mammon” (*ibid.*: 236, 237).

If workers could set up their own associations, then they would effect labour supply and thus would answer to capitalists in the class struggle. A qualitative shift towards greater control of labour supply means endangering the position of capital which disciplines the working mass over the unemployed population. Therefore, the competition of worker and capitalist always goes in the direction of the restriction or prohibition of the consolidation of labour movement. Terms of competition were and are “conditions of exploitation of labour” (Marx, 1976: 621).

By analysis of the relationship between workers and capitalists, Marx always considers a process of class struggle. What will be the social position of workers depends on the class struggle that goes through different shapes and different intensities as capitalism develops.

Marx gives an example of the class struggle concerning duration of the working day. On the one hand, the capitalist tries to make the working day as long as possible. He has this right as a purchaser of commodity labour power. On the other hand, the worker insists on his right as a salesman and wants to limit his working day to a certain normal size. So here is a struggle of two rights that are “both equally bearing the seal of the law of exchange. Between equal rights, force decides”, says Marx and generalizes, “hence, in the history of capitalist production, the establishment of a norm for the working day presents itself as a struggle over the limits of that day, a struggle between (...) the class of capitalists and (...) the working class” (*ibid.*: 344).

### 3.3. *Competition among Workers*

The essence of competition between workers is that it is just another form of competition of capital (Marx, 1993). Capital is the one whose laws determine the life of modern society and all of its subjects. Earlier we mentioned that capital becomes capital only in a collision with other capitals, i.e. through competition. Thus, competition of capitals and their accumulation determine labour power requirements. The entire working population of one society is subject to these laws. During the crisis, if a portion of the working population is rejected, i.e. is not required by capital, (so far) this portion practically does not exist. That is why in some parts of the first volume of *Capital* Marx writes that this is needless (surplus) working population.

Supply of labour power to capital has a salutary role because in times of crisis, when many workers lose their jobs, the price of the labour power reduces and this enables capital to start a new business cycle. On the other hand, during prosperity or business upswing of capital, when the demand for workers is high and labour power price increases, supply of labour power (i.e. “army of unemployed”) still keeps within certain limits the price growth of labour power.

Bearing in mind the power and essence of capital, Marx saw competition between workers as a situation in which all workers are losers. Namely, as owner of the commodity, the worker also has to sell his commodity (labour power) in the market cheaper or, if it is of high quality, then he can sell it less cheap. But what does this mean? In the first case, when the worker sells his commodity as cheap as possible, this means that he agrees to work for a lesser wage than other workers. The consequence is that the wage often does not reproduce even its own value. So besides the fact that the worker receives wage on which he can barely survive, at the same time he continuously generates bigger profit to capital.

In the second case, the worker's wage is higher indeed because his work is better, of more quality. But where capital needs work of more quality, means of production are more developed and, therefore, more productive. This means that the necessary labour time is reduced in favor of surplus labour time. The result is an even higher surplus value than in the first case. The first worker was receiving wage below the value of his labour force and thus was largely producing the mentioned surplus value. The second worker received bigger wage, but because of higher labour productivity he produced even more surplus value.

Thus, for both workers who compete in the labour market, competition means only subjection to capital and to its laws.

The reader may notice that no matter how competition subjects the worker, the worker's living standard is still better in times of boom than in times of crisis. However, in this process the worker creates only more wealth, thus creating more capital and thus creating conditions for new employment. In this way, capital is enabled to hire new workers, i.e. to subject a new labour power. This increases competition between workers so that more and more of them are becoming dependent on capital. In this sense, the material position of the worker will indeed get better (for a short period), but at the cost of his social position (Marx, 1978).

To avoid any misinterpretation, Marx believes that for wage labour, i.e. the form of labour it takes under capitalism, the best solution is the economic boom. Therein lies the paradox – for the worker in the existing system, the best solution is the growth of capital, i.e. accumulation of capital, but at the same time, to him as a member of the working class, that is the worst solution. The exit from this contradiction is the abolition of wage labour as the current form of labour, i.e. the abolition of capital as a relationship, which can only mean the abolition of capitalism as a system.

#### **4. Instead of a Conclusion – Scientific and Use Value of Marx's Views**

Marx anticipated limitation of competition because of the increasing accumulation of capital by the powerful minority, on the one hand, and the intensification of competition among the monopolies, on the other hand. Thus he warned on the dialectic of relationship between competition and monopoly. His economic thought shows that interaction of many capitals is subjected to certain laws and that these laws cannot be abolished by change of national origin of a certain capital. In other words, what American capital is doing today, English or Dutch capital was doing yesterday, and Chinese capital will do it tomorrow. In this way Marx helped us to look at the development of capital as a phase of social and global process and progress, but also to realize that this process has its end.

Its end can be realised when the actual preconditions for capital-relation itself are abolished, i.e. private property as well as human labour as a commodity. Proponents of capital and big business usually promote the idea that we need more globalization because in that way people would be liberated from poverty and unemployment. This would only be true if globalization did not run on the capital-relation basis. Otherwise, societies are frequently subordinated to profit and investments of capital and thus must work in accordance with capital needs. In other words, if a country refuses to do as capital wishes, investment will decrease, production will decrease, and unemployment and poverty will increase. In the capitalist globalization there is no true freedom.

As Marx said, “it is not individuals who are set free by free competition; it is, rather, capital which is set free” (Marx, 1993: 650). Thus, freedom in this case only means the freedom of capital, as in ancient times this freedom was valid only for slaveholders, and in the Middle Ages for landowners. In this sense, concepts such as freedom, democracy, justice, etc.,

have a deep class character and do not apply as absolute concepts.

For those economists who fervently defend free competition because they consider it to be the highest development of human freedom, and therefore see its negation as a negation of individual freedom, it is worth quoting one of Marx's statements: "It (competition, D. B.) is nothing more than free development on a limited basis – the basis of the rule of capital. This kind of individual freedom is therefore at the same time the most complete suspension of all individual freedom, and the most complete subjugation of individuality under social conditions which assume the form of objective powers, even of overpowering objects – of things independent of the relations among individuals themselves" (*ibid.*: 652).

Furthermore, with the help of Marx's analyses we can understand better why European governments are today trying to increase retirement age despite all those unemployed. Marx's statement is significant: "It is a law of capital, as we saw, to create surplus labour, disposable time; it can do this only by setting necessary labour in motion – i.e. entering into exchange with the worker. It is its tendency, therefore, to create as much labour as possible; just as it is equally its tendency to reduce necessary labour to a minimum. It is therefore equally a tendency of capital to increase the labouring population, as well as constantly to posit a part of it as surplus population – population which is useless until such time as capital can utilize it" (Marx, 1993: 399).

Thanks to Marx and his thought, we know that capital measures for the reduction of workers' rights, destruction of societies and devastation of nature are merely its *modus operandi* for developing capitalist globalization. In this process the gap of inequality is getting bigger and bigger.

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Petar Popović  
THE POLITICAL THEORY  
OF THE BALANCE OF POWER:  
FROM EDMUND BURKE  
TO HANS MORGENTHAU

**Introduction**

The balance of power is the most famous and widely used concept in International Relations (IR) theory. It is considered by some IR scholars to be of central theoretical importance and the only “genuine political theory in the IR field” (Waltz, 1979: 11). Eighteenth-century Swiss jurist Emmerich de Vattel gave a universally acclaimed definition of the concept; as “a state of affairs such that no single power is in a position where it is preponderant and can lay down the law to others” (Vattel, 1844: 311). Despite its conceptual simplicity, the balance of power is by no means theoretically coherent, and has been for the past century the subject of various theoretical interpretations and definitions.<sup>1</sup> These theories on

<sup>1</sup> Hans J. Morgenthau, in his seminal work *Politics among Nations* (published in 1948), included the balance of power in the first of his “six principles of political realism”, claiming that this concept, like the political theory in general, is based on the “objective laws of politics” that govern human relations. He, nevertheless, uses the term in at least four different contexts and meanings. Morton A. Kaplan (1957) defined the term according to his “six rules”. Martin Wight (1973) presented nine distinguished characteristics of the balance of power (later adding an additional six). Hedley Bull (2002) would present three functions of the balance of power. Ernst B. Haas

the balance of power are generally divided into two epistemologically opposed camps. The first group of theories is *systemic* and sees the balance of power as a self-regulating and deterministic mechanism that equalizes the states' forces in international affairs. The second group is *pragmatic*, and sees the balance of power as a practical foreign policy doctrine of statesmen and diplomats, whose free will determines the successes or failures of balancing policy.

Contemporary IR theories (the great majority of which belong to the Anglo-Saxon academic milieu) by and large perceive the balance of power as a systemic concept. Because the intellectual culture of IR discipline is deeply influenced by materialism and positivism, the balance of power is mainly understood in structural terms, as an objective and universal law that governs international relations from times immemorial. Only a slight number of pre-modern references presumably support the systemic understanding of the concept. The most famous reference is to be found in Thucydides, who observed in the *History of the Peloponnesian War* that the growth of the power of Athens, and the fears which this inspired in Lacedaemon, made war between them inevitable (Thucydides, 1993: 15-16).<sup>2</sup> Another is Machiavelli, who in his *Il Principe* (chapter XX), maintains that prior to the invasion of foreigners, the Italian fifteenth-century city-states were in a state of a "certain balance" (Machi-

(1953) was the first to attempt to bring conceptual order into the confusion of "verbal differences" (philological, semantic, theoretical etc.) that caused the chronic incapability of IR scholars to come up with the universal definition of the term. Thus, he characterized the balance of power as a process, or universal law of history that can be interpreted as a system (a method for distribution of power); and a doctrinal guide for foreign policy makers.

<sup>2</sup> Robert Gilpin goes as far as to claim that "the classic history of Thucydides is as meaningful a guide to the behaviour of states today as when it was written in the fifth century BC (...) we contend that fundamentals have not altered" (Gilpin, 1981: 7).

avelli, 1998: 155).<sup>3</sup> Relying on these canonical texts, the systemic perspective came to prominence in the 1960s and 1970s American IR scholarship, namely in the writings of the most influential proponent of structuralism, Kenneth Waltz. Emphasizing structure above all other social factors, the fundamentals of Waltz's systemic approach were most explicitly expressed in his *Theory of International Politics*: "over the centuries, states have changed in many ways, but the quality of international life has remained much the same" (Waltz, 1979: 110). This timeless "quality" of the international system is characterized by a single perennial component: the mechanic distribution of power capabilities among independent political unities that are, thus, being systemically equalized. Deeply reflexive of the tradition of liberal economics, Waltz's understanding of the "power distribution" exhibits the features of macroeconomics; this deterministic process equalizes the states-system in the same way as the "hidden hand" of Adam Smith equalizes the market, resulting in the balance of power (see *ibid.*: 177-123).

However, the systemic approach is problematic in more than one way. The balance of power, understood as the manifestation of the mechanical distribution of power capabilities, has no relevance for political theory whatsoever, and its materialism tells us nothing about the nature of world politics. Furthermore, structuralism is without a doubt an important and useful contribution to theoretical thinking about international relations, but as many of IR scholars critical of Waltz point out, structuralism of this sort is reductionist. It favors structure over agents.<sup>4</sup> Thus, the systemic approach deprives the theory

<sup>3</sup> In his *Discourses* (1883), Machiavelli does, however, portray something that resembles a sort of blueprint for modern conception of the balance of power. He states that for each state it is important to be powerful enough to defend itself from the invading forces, but not so strong as to provoke a preventive war by another state.

<sup>4</sup> For the first systematic critique of Waltz, see: Buzan et al., 1993. So far, the most comprehensive critique of Waltz can be found in Alexander Wendt's *So-*

of the factors at unit based level; the perceived reality by actors, the ideas and meanings they attribute to it, and how these ideas shape and determine their identities, interests and political conduct. Largely drawing from the post-positivist perspective of Alexander Wendt, this article aims to revisit the original theoretical principles of the balance of power as a political doctrine. To do so, in the first part I will briefly point to the historically contingent international conditions of eighteenth-century Europe, from which the political theory of the balance of power derived. The second and third part will specifically look at the writings of Edmund Burke, British eighteenth-century conservative politician and political thinker, and Hans J. Morgenthau, twentieth-century German-American IR scholar. Although Burke did not write as much on the balance of power as did Morgenthau, their political thought is substantial for understanding the political principles and ethic of the balance of power concept. The article will show that the balance of power was a political maxim generic to the specific system of the international culture, based on the principle of self-restraint.

### **Historical Context and the Doctrine of the Balance of Power**

In its original modern form, the systemic perspective on the balance of power was inaugurated by David Hume in 1752 in his short essay *On the Balance of Power*. In the opening state-

*cial Theory of International Politics* (2009). First, Wendt challenges Waltz's materialism by arguing that the structure is determined by the ideas of actors as the main motivational force in international politics. Second, Wendt challenges Waltz's reductionism in the context of the agent-structure debate. If ideas are the moving and motivational force of agents, than agents/states and their internal social arrangements, cultures and identities have a much more significant role on the level of the system than is usually acknowledged. In other words, both states and the international system are mutually co-constitutive. The states and their interests shape the international system forming a certain type of international culture, which in turn constrains the agents.

ment Hume is asking whether “the *idea* of the balance of power be owing entirely to modern policy, or whether the *phrase* only has been invented in these later ages” (Hume, 1987: 1)? The answer Hume offered is that it does not – the balance of power is a mechanical pattern in inter-state relations, which can be traced back to ancient times. The fact that most of the ancient history was dominated by “world empires” does not understate the apodictic notion of the trans-historical presence of the balance of power. According to Hume, “if it was not so generally known and acknowledged as at present”, the balance of power had an influence on all the wiser statesmen, for its maxim “is founded so much on common sense and obvious reasoning” that it simply could “not have escaped antiquity” (*ibid.*: 12).<sup>5</sup> It is legitimate for an empiricist, like Hume, to observe relational causality and reach certain conclusions about the existence of specific social patterns. But, once these patterns are rationalized as theoretical concepts, they become norms that shape present realities, and the empiricist cannot retrospectively cast them onto history. In other words, the political principle of the balance of power never did exist before the eighteenth century. This “well known” principle became an internationally shared doctrine after it was officially acknowledged at the Peace treaty of Utrecht in 1713, which ended the Spanish War of Succession.<sup>6</sup> What were the specific structural reasons in eighteenth-century Europe that made this universal law for the first time in history subject to political rationalization?

Since the inception of sovereign states after the Peace of Westphalia in 1648, the transforming structural realities came

<sup>5</sup> For a complete analysis of Hume’s essay, and its influence on the twentieth-century IR theories on the balance of power, see: Aron, 2003.

<sup>6</sup> It should be noted, in a kind of digression, that there is no mention of the balance of power in the draft of the Utrecht peace treaty, despite the claims that it was widely discussed by negotiators and promoted to the positive international law. It is only in the Treaty of Quadruple Alliance of 1718 that we find the codification of the balance of power in Article II.

to the attention of various European intellectuals, philosophers and jurists, who thought to theoretically explain and normatively arrange the emerging system. However, at that early stage there was no common theoretical ground and the perspectives differed, depending on particular intellectual developments. For example, Hedley Bull notes that Hugo Grotius in his writings on the laws of nations was “notoriously silent” on the balance of power (Bull, 1990: 76); the concept was as yet either unknown or not fully observed. It would be only in the eighteenth century, when the international system was solidified through the definitive institutionalization of diplomacy, international law, and codified war, that European jurists and treaty-historians began examining and comparing the interstate treaties. What they discovered was the existence of some recurring principles that are universally applicable; one of them being the balance of power (Keene, 2006: 246-247). The principle reflected the specific type of international behavior, namely the states’ self-restraint from crusade-type of wars.

The term “balance of power” entered the political discourse in Britain during the early stages of the Spanish War of Succession. The concept is to be found in the essay *The Balance of Power*, written by political economist and conservative Tory Member of Parliament, Charles Davenant (1701). Similar to Hume, Davenant pointed to the historical pattern of permanent British power-balancing policy among continental monarchies. However, Davenant’s concept underwent a certain rationalization in order to appropriately correspond to the given political demands and interests of the modern British state. Two points from Davenant’s reflections should be singled out. First, Davenant was not concerned with the international state of affairs *per se*, but with the state of parliamentary democracy in England. Targeting the government of Whig liberals, who “care not about peace or war” but only about their narrow selfish interests, the main objective of his critique was to address the need for restoring the sense of honor in the Par-

liament. The state should not serve the private interests of the ruling class, big banks and businesses like the *East India Company*, but the wellbeing of the whole society (Davenant, 1701: 3-5; 29-33). Second, and in relation to the first aspect, Davenant condemned the Whigs' war adventurism as a profitable venture that serves their interests through government crediting and contracts with the military.<sup>7</sup> Thus, Davenant openly advocated for a limited war with the French.

The scheme of Davenant's critical argument is foundational to the political theory of the balance of power. It can be summed up as: a) the need for moderate politics within the state (or internal balance); and b) the external resort to limited warfare (meaning the self-restraint of states from waging wars beyond the scope of their immediate national interests). These micro- and macro-levels are co-constitutive, and form the bases for the balance of power on the level of the system. Limited war, thus, becomes a focal point for politics of equilibrium. There are two perspectives, materialist and ideational, that explain how limited war prompted the balance of power concept. The materialist explanation is that limited war became a norm due to the structural effects of equal distribution of material capabilities, which resulted in the wider continental balance. As Henry Kissinger notes, the balance of power concept did not emerge as a result of philosophical contemplation or theoretical efforts by jurists or diplomats to construct a stable international order, but as a "historical incident"; there simply was no European state strong enough "to impose its will on all others and thus form an empire" (Kissinger, 1994: 70).<sup>8</sup> The ideational explanation is that in war stronger states

<sup>7</sup> Especially in the wider context of the Tory-Whig controversy, see: Finkelstein, 2009: 219-223.

<sup>8</sup> Kissinger points to two main reasons why European monarchs adapted their political aspirations to the logic of limited war: "Paradoxically, the absolute rulers of the eighteenth century were in a less strong position to mobilize resources for war than was the case when religion or ideology or

would rationally spare the weaker states from total destruction, in order to preserve the “legal” space of the international system, which guarantees their own individual life and liberty.

Now, the question is does the character of limited war reduce the balance of power concept strictly to terms of military equalization of powers among states? Closely looking at Vattel’s original definition, the concept does unequivocally refer to the equalization of military strength. However, if taken at face value, this assessment might be misleading; one could easily slide into the trap of reducing the concept strictly to systemic effects of the distribution of military capabilities in a self-help system. Interestingly, Friedrich von Gentz, Prussian diplomat of the early nineteenth century, claimed that not only was the perfect equilibrium in terms of military power impossible, but even if it were it would have led the states into a general war (Gentz in Wright, 1975: 95-98). On the contrary, because there is a natural state of permanent imbalances in qualities of sovereign states: whether militarily and economically, or in the sense of geographical size or the size of their populations, war and the balance of power had to have a more complex function. According to Wendt, the European society of states was simultaneously both accepting and constraining warfare with one purpose only: to uphold a state’s “membership” in the society of states. Thus, it was the “membership”, not the military balancing *per se*, which was the key to the state’s own survival. Or, as Wendt puts it: “wars tend to be limited not in the sense of not killing a lot of people, but of not killing the *states* (...) (it is) precisely because balancing is *not* essential for survival (of the states) that it becomes a basis for order in the first place” (Wendt, 2009: 283, 285).

popular government could stir the emotions. They were restrained by tradition and perhaps by their own insecurity from imposing income taxes and many other modern exactions, limiting the amount of national wealth potentially devoted to war” (Kissinger, 1994: 70).

At this particular instance, the balance of power becomes the principal feature of international law that stipulates the recognition of the institution of sovereignty as its highest value; an egalitarian international society that accepts and respects its weaker members. In such a system, war and the balance of power are not the absolute principles that rule international affairs, but two branches of the institutionalized international order. War became a political instrument of *raison d'état* for settling inter-state disputes, famously expressed by Karl von Clausewitz as *politics by different means*. The culture of respect towards sovereignty assures that war as a result of certain imbalances (even over sometimes ephemeral political issues) will always be subjugated to the narrowed down and strictly defined goals of the state. The motives of actors for waging wars vary, but they never threaten to overthrow the overall legal structure of the international order based on the balance of power.<sup>9</sup> While there is no central government on the international level, war becomes the customary expression of “law-enforcement” and the balance of power a symbol of “constitutional order”, exhibiting the elements of Natural Law.<sup>10</sup> This led Martin Wight to

<sup>9</sup> A good example is the Seven Years' War (1756-1763), according to Winston Churchill the real “First World War”, which never once brought the international legal system into question by the warring parties, but was fought in the name of restoring the balance of power.

<sup>10</sup> In the political theories of modernity, the international system was dominantly discussed in the context of customary practices and common laws that reflect the Natural Law. If the social contract assumes the overcoming of the state of nature by transferring individual powers to the sovereign, it necessarily has to lead to an anarchical society among states. But from Hugo Grotius to Thomas Hobbes, the view was that this anarchical society does not suggest pure lawlessness and a self-help system. Interpreting Hobbes's theory, Michael Williams notes that the “radical equality which defines the state of nature composed of individuals is not present in the relations between states; they are qualitatively different orders. And since states are not subject to the same condition as individuals (within the state), they can transcend some of the more anarchic qualities of the state of nature and create, via the Laws of Nature, more stable forms of co-existence among themselves” (Williams, 2006: 268).

famously proclaim that the balance of power principle “aspired towards the condition of law (...) as a first article of unwritten constitution of the states-system” (Wight, 1973: 102). But because the balance of power can never be projected into the law of nations, the “aspiration” towards its legality is what makes it essentially a true political doctrine, which permanently evolves depending on historical conditions, while resting on the maxim of self-restraint.

### **Edmund Burke and the Principle of Self-restraint**

As was noted in the introductory section, Burke did not devote much attention to the balance of power concept in his writings. Among the few references on the balance of power as a “common law of European nations”, worth mentioning is Burke’s public statement that the strengthening of Britain was as dangerous as the strengthening of France; it is in the interest of both to have approximately equal power. Burke also advocated British self-restraint towards Spain in the Caribbean, by saying that “we do little less than declare that we are to take the whole West Indies into our hands, leaving the vast (...) body of the Spanish dominions in that part of the world absolutely at our mercy (...)” (Burke, 1834: 600). That the balance of power strictly applied to the commonwealth of Christian states of Europe, can be seen from Burke’s speech in the Parliament in 1791, in which he favored Russia as a natural ally against the “savage” Ottoman Empire that takes no part in the international balancing scheme (*Parliamentary History*, 1817: 75-76). Burke takes the balance of power system for granted and never discusses it theoretically. However, the meaning of the concept stems from Burke’s overall political thought, and can be understood as an integral part of his notion of *universal equilibrium*, based on the principle of self-restraint.

The elaboration of the meaning of self-restraint can be found in Burke’s writings on political economy. Although his views on commerce were complementary to Adam Smith’s,

Burke had much stronger social awareness, and warned of “radical individualism” with un-restrained appetites that poses a danger to communal life and its liberties.<sup>11</sup> Burke wrote that “men are qualified for civil liberty in exact proportion to their disposition to put moral chains upon their own appetites (...) society cannot exist, unless a controlling power upon will and appetite be placed somewhere; and the less of it there is within, the more there must be without” (Burke, 1792: 69). Thus, there is a link; a kind of mutual reciprocity between the process of socialization and the principle of self-restraint. In order to understand the importance of socialization, and how society in structural terms fosters both constraining and self-restraining effects, one has to take into consideration the concept of *culture*.

Often overlooked in contemporary IR theories, culture plays an important structural role in the international system as its “ordering principle”; much more so than the distribution of material capabilities in a self-help system. Culture is a “social structure”, or as Wendt calls it “socially shared knowledge” about certain customary practices (Wendt, 2009: 140-144).<sup>12</sup> Customs, based on the socially shared knowledge, become socially shared values, and in that sense they take precedence over laws, which are artificial contracts and codes. In other words, socially shared knowledge is a fundamental principle from which all forms of constituent culture derive: norms, rules, institutions, ideologies, organizations, etc. (*ibid.*: 141).<sup>13</sup>

<sup>11</sup> Especially see: Levine, 2014: 114-115; 2016: 87.

<sup>12</sup> For example, the conventional knowledge on the balance of power is a shared understanding on equalization of forces, what it involves (i.e. Hume’s notion of “common sense”) and how it is strategically done. This understanding leads to the convention on how to politically and legally introduce the balance of power as an ordering principle and the conventionally shared value in the system.

<sup>13</sup> Especially see the writings of Martin Wight (1991; 1995) and Hedley Bull (2002). Also see the more recent writing on the subject by Richard Ned Lebow (2008).

The deeper socially shared knowledge is, the stronger the cultural bonds are, and necessarily more effective the legal system is. Structural effects of culture occur as the dominant theme in Burke's political thought. Burke viewed culture as a condition necessary for any type of social, political or legal system. In the *First Letter to Regicide Peace* from 1796, Burke wrote that "manners are of more importance than laws", for laws only prescribe rules but have no morally constraining power over the actors. Unlike laws, culture and manners do have that kind of power: "Statesmen ought to know the different department of things; what belongs to laws, and what manners alone can regulate" (Burke, 1999: 75).<sup>14</sup> Furthermore, Burke writes that manners "according to their quality" aid morals and "supply them, or they totally destroy them" (*ibid.*).<sup>15</sup>

If we consider Burke as a structural thinker, it should be noted that his understanding of structure was spiritual; he saw the universal order of things as divine, ordained by God. As a Natural Law thinker in the footsteps of St. Thomas Aquinas, Burke's view was that the rule of law is the expression and reflection of God's will. The content that reflects God's will, and thus emanating in the just social order, are the properties of Natural Law: social customs and manners.<sup>16</sup> The earthly reflection of the divine hierarchy is maintained through virtuous and prudent conduct of mannered society. Burke states in

<sup>14</sup> Specifically see: Mansfield, 1987: 698-701; also see: Crowe, 2012.

<sup>15</sup> One reads from this statement that manners are dual in character; they can legally either build or destroy the social fabric. This duality reflects the dual character of human nature. Though human nature is intrinsically rooted in passions, urges and greed, Burke insisted on man's "second nature" which distinguishes humans from animals: the fear of shameful acts and the natural human aspiration towards virtue. On the subject of "second nature", especially see: Strauss, 1965.

<sup>16</sup> On Burke and his view of Natural Law especially see: Strauss, 1965: 294-324. Also see: Stanlis, 1958, and in the context of IR, see: Fidler and Welsh, 1999.

his *Reflections on the Revolution in France* that for ages Europe's system solely depended upon two principles: the spirit of a gentleman, and the spirit of religion. For an actor to be balanced in order to fit the harmonious hierarchy, being mannered meant being self-restraining.

Thus, the individual (a diplomat or a statesman), should be, according to Burke, aware of the "principles" (meaning: virtuous in his actions through the ability to discern good from evil and right from wrong), and prudent depending on "circumstances" (meaning: self-restraining in the timely dynamics of politics).<sup>17</sup> As it is the case with every individual society within the political culture of the eighteenth-century European states-system, so it is with the whole system that is taking part in the universal hierarchy of moral order. The mechanism of the balance of power as an international political doctrine of self-restraint was the political expression of keeping the universal balance intact. After the Utrecht peace treaty, the balance of power was by itself only a customary code that came close to the condition of law, but its viability as a "common law of nations" would rest solely on human will, structurally constrained by cultural norms and manners. Timeless universal principles conditioning the timely dynamics of political chances reflect the overall territorial structure of the European society of states. Within this universal hierarchy, the constellation of powers was divided into four regional sub-areas of balances, which were prone to changes depending on chances.<sup>18</sup>

<sup>17</sup> Burke's view on "principles" and "circumstances" is to be found in his *On a motion for leave to bring in a Bill to repeal and alter certain Acts respecting Religious Opinion*, where he states: "A statesmen never losing sight of principles is to be guided by circumstances" (1907a: III, 317).

<sup>18</sup> The so-called "Great Middle Balance", which included Britain, France and Spain; "The Balance of the North" of Scandinavian states, "Germany's Balance" which is specific for its internal balance (among numerous principalities and duchies) and its external balance with France; and finally "Italian balance" (see: Burke, 1999: 142).

But together, these balancing sub-systems comprise the total order; a harmonious and balanced European system regulated by the balance of power as a universal law of international politics.<sup>19</sup>

What made the systemic effects in Europe functional was a specific type of culture; Europe's aristocracy and its deeply internalized shared values. As a specific mannered class, the aristocracy inevitably had to emerge on the social scale between the monarch (prone to despotism) and the multitude of people (prone to democracy; a system dangerous for the lack of sense of the restricting power from above). In opposition to these two extremes, the emergence of aristocracy was a natural inevitability. It is, therefore, a "natural aristocracy", a class of individuals that possess "the virtues of diligence, order, constancy, regularity", and which has "cultivated a habitual regard to commutative justice" without which "there is no nation" (Burke, 1807: 399). As natural aristocracy plays a crucial balancing role in every particular society, so it contributes to the international socialization at the system-level. The international socialization became possible on the common ground of inter-marriages, university education, shared language (French) and the overall shared knowledge of Christian ethical principles. This process was co-constitutive, in the sense that aristocracy was not only restraining nationally or internationally, but was itself systemically constrained by that very same culture. For Burke, this meant a privileged and yet highly responsible aristocrat's position of "reconciler" between his fellow-citizens and God; a position "in a state of things in which no fault is committed with impunity, and the slightest mistakes draw on the most ruinous consequence" (*ibid.*). The reason why modernity cannot fully understand nor

<sup>19</sup> For Burke's description of the constellations of European balances in the context of the tradition of "historical reason", see: Boucher, 1998: 319-326; in the context of English School's "rationalist" or "Grotian" tradition, see: Raunić, 2013: 186-190.

appreciate the deep structural effects of aristocratic constraint is because of its misconception of aristocracy as a class. Aristocracy should first and foremost be understood as a spiritual category, and not observed as a class in the material sense.<sup>20</sup>

There is, however, a permanent threat of “radical individualism” transforming aristocracy into oligarchy. Burke warned of this threat in his public attack on Warren Hastings and the *East India Company* in the early 1780s, for corruption and usurpation of power in the British dominion of India. By itself, Hastings’s mission was not legally questionable, for it was authorized by the British government. However, the law of the state loses its moral ground if not applied prudently; that is, through self-restraint. Burke feared that the British policy towards India would lead to the accumulation of wealth, which might turn the social order into oligarchy: “schoolboys without tutors, minors without guardian, the world is let loose upon them, with all its temptations, and they are let loose upon the world with all the power that despotism involves” (2000: 375). In other words, the internal “despotism” of the eventual oligarchy would change the behavior towards other states and inevitably disturb the international balanced order.

The French Revolution was an *éclatant* example of an attempt by one actor (France) to destroy Europe’s international culture. The down side of culture is that manners are unwritten, and unlike the written laws, they are more vulnerable to

<sup>20</sup> The sense of honour and virtue among aristocrats was closely tied to their religious beliefs. The fear of breaking the rules or agreements signed in the inter-state treaties was not only based on the possible loss of status, but also on the divine punishment for not honouring the given word. Praising its cosmopolitan spirit, Morgenthau would in the twentieth century write: “the individual members of this society felt themselves to be personally responsible for compliance with those moral rules of conduct; for it was to them as rational human beings, as individuals, that this moral code was addressed” (Morgenthau, 2005: 254). The religious sense made the policies of self-restraint all the more effective (see: Lebow, 2008: 263-269; 291-292).

an attack.<sup>21</sup> At the core, the French Revolution was an attempt to impose speculative theory on customary practice. If the morality of artificially devised laws and culture (derived from, as Burke says, “cold hearts and muddy understandings”) is to be imposed upon customs in order to reshape them, then the state’s legal enforcements are turning on human nature itself. The consequence of revolutionary inversion of values inevitably has to turn into social chaos, for the laws, national or international, are intrinsically dependable on the already existing socially shared knowledge. Burke was wary that the effects of the revolutionary chaos would inevitably result in the spill-over effect within the larger scheme of the balanced universal order.<sup>22</sup> Thus, Burke saw the war against Revolutionary France as a necessity, for it was in his view an internal matter to the security of the international legal order of Europe.

Although the French Revolution did threaten the European balance of power, there was a legal issue of justifying the intervention against France. As was explained in the previous section, the balance of power is the first “unwritten article” of international law, which stipulates the “non-intervention principle” in order to protect and respect the states’ sovereignty. However, the intervention against France was for Burke not an issue of legality but of necessity. France has, by destroying its internal institutions, shackled the universal harmony through

<sup>21</sup> Burke noted that the Jacobins recognized the essential importance of manners, and that the success of their Revolution was to be achieved by waging “a relentless war on manners, preferring to substitute (what they indeed have thought were *new* manners) officially sanctioned codes of behavior by which government might smooth the implementation of law” (Crowe, 2012).

<sup>22</sup> Burke’s gloomy views in his *Thoughts on the Revolution in France* (1907b) turned out to be correct predictions: the consequence of the Revolution was the rise of Napoleon, whose imperial conquest on the continent brought the old order down. Although the international order was restored after the Vienna Congress in 1815, the balance of power lost the strength of its moral character as a common law among nations of Europe.

abandonment of “the ancient conventions of (Europe’s) several states, or the ancient opinions which assign to them superiority or preeminence of any sort” (Burke, 1999: 156). War, commonly perceived as the last resort in inter-state disputes, should here be understood as a function of the political maxim of the balance of power *par excellence*. Its prime purpose is *to preserve not the legal order, but the culture of the legal order, on which the order as such rests*. During the heated debates with the British Jacobins, who equated the English Glorious Revolution of 1688 with the French Revolution of 1789, Burke convincingly argued that the two had nothing in common, because the tyrannical rule of James II that led to the Glorious Revolution was exactly the same condition in which French society found itself after 1789. Thus, quite on the contrary, the Glorious Revolution as a political act to limit social chaos and restore internal social balance could only be equated with the intervention against Revolutionary France, which threatened Europe’s Christian commonwealth with unlimited chaos.<sup>23</sup>

But even if we take the view of international law from the perspective of legal positivists who would argue that this institution of law should be independent and autonomous from historically contingent conditions, power relations or culture, Burke had a strictly legal argument. France was the state torn by civil strife in which the revolutionaries represented only one party in the conflict. Thus, it was the legal status of France, not of the intervention, that was essentially in question. All the more reason for justifying intervention is the siding with the French reaction (the true representatives of the French state), which might restore France’s position in the international society (Hampsher-Monk, 1984: 75-77). Otherwise, the Revolution could make France lose its “membership” within the society of states, necessary for its own existential survival.

<sup>23</sup> For a comprehensive analysis of Burke’s debate with the British Jacobins, see: Armitage, 2000.

The intervention against France was not to be perceived as an intervention in the internal affairs of a sovereign state, but as necessary war against a particular group that threatens with the destruction of Europe's common culture, and consequently its institutional setting, including international law and the balance of power.

### **Hans J. Morgenthau and the Principle of Limited Politics**

Writing in the twentieth century, Morgenthau's view of the balance of power is to a large degree complementary to Burke's political thought.<sup>24</sup> Unlike Burke, however, Morgenthau devoted much attention to the theoretical conception of the balance of power principle. In his canonical *Politics among Nations*, Morgenthau observes the balance of power in four different ways: as a foreign policy principle; as an objective law of politics; as an approximately equal distribution of power capabilities; and as a general distribution of power (see: Morgenthau, 2005: 213-231). However, despite this conceptual rationalization, more interesting in Morgenthau's case, as in the case of Burke, is the general theoretical thought on international politics, from which the concept of the balance of power was deduced. Morgenthau was well aware of the systemic effects of international culture, stating that "the essence of international politics is identical with its domestic counterpart (...) both are a struggle for power, modified only by different conditions under which this struggle takes place" (*ibid.*: 37). His emphasis on the "struggle for power" or what is the synonym for power politics (*Realpolitik*) begs the question of what kind of international culture was Morgenthau advocating? The answer is difficult to find. On the one hand, in his article *The Twilight*

<sup>24</sup> For a systematized overview of Morgenthau's exposition of historical development of the balance of power in Europe, see: Little, 2007: 137-166. On Morgenthau's depictions of Burke's theory as a 'fellow' realist, see: Welsh, 2007: 137-160.

*of International Morality*, as well as in his *Politics among Nations*, he almost nostalgically overemphasized the importance of the long lost aristocratic culture of Europe, as the only true culture that gave sense and meaning to the balance of power politics. On the other hand, his admiration for the American Republic and its Founding Fathers points to a preference for a certain type of “republican international order”.<sup>25</sup>

When it comes to the co-constituting effects of the agent-structure, Morgenthau’s political thought was very close to Burke’s. Although Burke praised the social bondage of aristocratic culture and Morgenthau was a republican thinker advocating a crude form of *Realpolitik*, there are three points where these two thinkers find common ground: first, theory should reflect practice, and not *vice versa*; second, agents need to be internally balanced in order to have universally balanced order; and third, international culture that promotes the balance of power principle creates an international culture that is systematically constraining the international political sphere.

In the same way in which Burke saw the dangers of metaphysics and philosophical speculation that inspired the French Revolution (i.e. Rousseau’s philosophy), Morgenthau was wary of the dangers of liberal internationalism. The issue with liberalism was that it merged politics (and even ethics), with rationalism and scientism. The so-called science of

<sup>25</sup> But this republican states-system should not even slightly be confused with Immanuel Kant’s “World Federation of Republics”, for Morgenthau’s vision was, after all, based on the balance of power (a principle that IR scholars in the Kantian tradition reject with indignation). However, there is one passage in *Politics among Nations*, in reference to John Quincy Adams, that sheds light on what kind of system Morgenthau had in mind: “Adams argued that it was not for the United States to impose its own principles of government upon the rest of the mankind but rather to attract the rest of the mankind through the example of the United States (...) American policy has been that those universal principles the United States has put into practice were not to be exported by fire and sword but presented to the rest of the world through successful example” (Morgenthau, 2005: 266).

peace (today known as the Liberal peace theory) upholds the view that the struggles for power on the international scene coincided with the domination of monarchic despotism. Once these forms of government are removed, the despised maxim of the balance of power will become obsolete – states will be bound together by the same forms of democratic government, commercial interests and international law that will settle interstate disputes without resorting to war. This was the first scientific fallacy of liberalism; that liberal societies are peaceful and monarchic warlike. Depending on the degree of socialization, local cultural norms and socially shared knowledge differ from one society to another, and thus reflect different types of government. In his *Scientific Man vs. Power Politics*, Morgenthau writes: “Nations are ‘peace loving’ under certain historic conditions and are war like under others and it is not the form of government or domestic policies which make them so” (Morgenthau, 1947: 62). The liberal tendency to deduce absolute truths from universal and metaphysical principles (i.e. that international trade promotes peace) posed a danger, for if these “truths” were to be imposed internationally, they would inevitably clash with the realities of the real world politics.

What Morgenthau was witnessing from Europe to America in the twentieth century was the completion of the process of aristocratic fragmentation into particular nationalistic exclusiveness, which went together with popular democracies transforming the social structure and international culture. The problem Morgenthau observed is precisely what Wendt explained as “self-interested” degree of the sovereignty internalization. Basically, it means that the norm of sovereignty became conventionally complied and accepted, but actors saw it as the rule of the game within which they can further their own self-interests. Regardless whether it was nationalism or popular democracy, the state would instrumentalize or even violate the norm of sovereignty if the cost-benefit calculation

showed that its actions will fulfill its interest without major consequences (see: Wendt, 2009: 287-289). If sovereignty was gradually shrinking as the highest common value by becoming just one of the state's options for self-interested politics, then the principle of the balance of power upon which it rests loses its cardinal function. In such a self-oriented rationalistic culture, the balance of power becomes an instrument of calculation without any shared value, save the self-interested value of strategic calculation. This process was specific in the West with the liberal middle-class takeover of the state, and whose interests, Morgenthau notes, resided not in politics but in commerce and industry. To them, the balance of power was not a political matter, but a technical problem that needed scientific solutions (Morgenthau, 1947: 92-93).

The evident process of structural transformation by the gradual strengthening of liberalism was seen from the spontaneous substitution of limited war with the ideological "just war". To Morgenthau this was the end of what he termed as "humanized war" (Morgenthau, 1948: 83).<sup>26</sup> Far worse, it was the end of the specific type of eighteenth-century collective consciousness among political elites, which attested to "the attempts at bringing practice of states into harmony with ethical principles through international agreements" (*ibid.*: 85). In the context of the rise of mass politics in the twentieth century, the ethical dilemma concerning war was that of "responsibility". The effectiveness of ethical codes in the shared culture of smaller groups of aristocratic elites was losing its constrain-

<sup>26</sup> On the reasons for limitation of war, there is a certain similarity between Morgenthau's *Twilight of International Morality* and Carl Schmitt's *Nomos der Erde*. Chris Brown (2007) points to these similarities, but also to the differences. While Schmitt saw the limitation of war as a result of the breakdown of religious Christian order – in a way that monarchs could now only call upon their own reason, and not a supranational divine principle – Morgenthau believed that Christian ethics survived the structural changes and obliged actors to act in certain restraining ways.

ing impact when endlessly distributed among large masses of people, “who have different conceptions as to what is morally required in international affairs, or with no such conception at all” (*ibid.*: 93). With decaying ethic of self-restraint, the rising culture of scientific rationalism transformed the war from the “last resort” of settling disputes to the instrument of popular self-interest. While liberals have rationally deduced that despotic regimes provoke unprofitable wars, waging justifiable wars against them became a self-interest exceeding the international norm of respecting sovereignty. With no regard to the principle of the balance of power, Morgenthau noted that the liberal “use of arms is intended to bring blessings of liberalism to peoples not yet enjoying them or to protect them against despotic aggression” and eventually the “just end may justify the means otherwise condemned” (Morgenthau, 1947: 50).

What Morgenthau was seeking, therefore, is the concept of balance of power in a much broader and complex sense of the *political*. Like Burke, Morgenthau saw the internal balance within the states as crucial for the harmoniously balanced international order. Morgenthau’s idea of “limited politics” is basically a reflection of Burke’s notion of self-restraint. Under the influence of Max Weber and especially Carl Schmitt, Morgenthau saw the state as a sphere whose main objective is to preserve the autonomy of politics.<sup>27</sup> Domestically, the balance of power takes the form of the “balance of interests” among various spheres of human activities (legal, commercial, financial, religious, etc.).<sup>28</sup> Non-political spheres should be pre-

<sup>27</sup> Morgenthau’s sixth principle of political realism states: “the political realist maintains the autonomy of the political sphere, as the economist, the lawyer, the moralist maintain theirs” (Morgenthau, 2005: 13). On Weber’s influence on Morgenthau’s thought, see: Turner, 2009: 63-83. On Schmitt’s influences, see: Scheurman, 2007: 62-93.

<sup>28</sup> Interest is here not conceptually opposed to power, but actually complementary with it. Morgenthau writes in the second principle of political realism that “the concept of interest is defined as power (...) interest sets

vented by the state to prevail over the political sphere, for it would mean the end of the state as a *political* entity. Thus, Morgenthau praises the *Federalist Papers* and the American checks-and-balances system as the best possible mechanism of social limitation (see: Morgenthau, 2005: 181-184). In the same way in which Burke interpreted the role of the aristocracy, Morgenthau saw the importance of the prudent statesman, checked-and-balanced domestically and realistic (meaning self-restraining) in foreign policy conduct. Michael Williams makes a point by connecting Weber's famous formulation of "state's monopoly on legitimate use of violence" with Morgenthau's notion of the balance of power, claiming that the internal violence (law and order) and external violence (war) are in this context characteristically of defensive nature. Both intervene in the sphere of politics (domestic or international) with one purpose only: "the state's capacity for violence balances all attempts to bring violence into the political sphere, but this violence is limited to the defense of that order, it is not the principle of its operation" (Williams, 2004: 648).

The history of Jacobin's Directory, or twentieth-century National-Socialism and Stalinism, is the history of regimes that operated on the principle of violence, paving the way for certain social groups determined by their ideology (whether race or class) to violently prevail over the sphere of the political. Morgenthau's maxim was to keep the political sphere autonomous in order to protect limited from unlimited politics and the state from turning into an empire.<sup>29</sup> Although liberal ideology is less violently intensive, its logic is much the same. The appeal of liberal commercialism to free trade and government

politics as an autonomous sphere of action and understanding apart from other spheres, such as economics, ethics, aesthetics or religion" (Morgenthau, 2005: 5).

<sup>29</sup> In that sense, Morgenthau's argument is in accordance with Hannah Arendt's notion that these totalitarian states (namely, the Third Reich and USSR) were not states at all, but violent *Behemoths*.

non-interference into the market economy would, according to Morgenthau, result in the destruction of the autonomy of the political sphere and the prevalence of the trading class, which would transform the interests of the state into commercial interests. Commercial, religious or legal spheres have their own deeply rooted ethic, perceiving the world in terms of their absolute values: profitability, goodness, justice. If each manages to overcome the political sphere, their politics naturally have to become unlimited or non-restraining towards the “other”, seen as non-profitable, evil or unjust. Because the ethic of *Realpolitik* is relative and the ethic of revolutionary ideologies is absolute, Morgenthau was advocating power politics as basis for a kind of “republican” international system. And because power politics are all about acquiring more power, the balance of power is the only principle viable enough to preserve the system.

## Conclusion

Burke and Morgenthau were two thinkers separated by nearly two centuries. In their views of the balance of power, both were reflexive of their historically contingent cultures; the former saw aristocracy and the latter the republican form of government as the best possible solution to national and international political stability. And yet their notions of the balance of power theory essentially exhibit the same ethic and political principle; both were aware of the universal principle of self-restraint, or limited politics, as the doctrinal substance of the balance of power doctrine. Thus, the political theory of the balance of power has a unique edifice: balanced domestic order and limited external conduct. In the context of the agent-structure debate, the state’s internal order based on balancing different interests reflects the balance in the international system, forming a certain type of culture. If the state expands its power potentials, the structural effects of the culture constrain it.

Revisiting classical thinkers like Burke and Morgenthau raises an important question about the present-day interna-

tional culture. While it is still debated whether the status of the sovereign state has been marginalized in the contemporary age of Globalization, it is indisputable that its functions have changed. Consequently, the international culture of “free movement of people, goods and services”, “global governance” and “global distribution of justice”, rearticulated the content of the state-system’s institutions (international law, diplomacy and war). When it comes to the balance of power, it is still a widely and often used term in today’s IR publications and policy papers. But these uses of the concept are systemic, reduced to calculating either military or economic capabilities. The inability to recognize the nature of international politics and depriving the concept of its political theory – the only true legacy of Kenneth Waltz – poses a serious dilemma; what are these relatively new grand or middle-range theories of the balance of power all about and what is their purpose?

The culture of Globalization, in which the autonomy of the political sphere is overtaken either by corporations in the West or autocratic governments in the East, is the culture of unlimited politics. On the level of units, almost all of the contemporary sovereign states recognized under international law proclaim the first order of their national interest to be the growth of GDP. The politics of growth are by their very nature unlimited, and regardless of the intentions and motives, they inevitably lead to constant imbalances in the system (whether it is within or between the major blocs of the West’s liberal democracies and rising powers (BRICS)). On the level of the international system, since the early twentieth century the new international culture was prompting as legally justifiable the right to “kill” a state by stripping it of its sovereignty. Increasingly through military interventions, the regime-change has gradually become an international norm. All these elements: imposed international legal universalities (i.e. universal human rights), reduced sovereignty, unlimited war, unbalanced social interests, and the global economic culture of non-re-

straint, point to the concluding remark that contemporary systemic theories of the balance of power are not doctrinally embedded in the political theory of what used to be the balance of power, but are strategic cost-benefit calculations in the service of the ruling ideologies.

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