

Jan-Erik Lane

Essays in Political Theory

Vol.2



Political Economy Classics - 2



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Dedications

To the memory of

Gordon Smith

London School of Economics and Political Science

Jens Joackim Hesse

Free University Berlin

Foreword

It is possible to present a brief summary of the subjects that the chapters in this book focus on.

Ch 11. In political thought, Hobbes and Spinoza form an interesting and fascinating couple. They lived parallel lives and wrote much on similar topics: humans, contracts, the state and religion. Whereas Hobbes is considered one of the absolute top political philosophers, Spinoza has only been recognized as a great philosopher, due to his *Ethics*. But on close examination, I dare say that Spinoza outperforms Hobbes also on political theory and religion. The aim of this paper is to call for a re-evaluation of Spinoza's political and religious philosophy.

Ch 12. Spinoza has a formidable reputation as an abstract philosopher in the rationalist school of the 17th century. This standard image of him stems from his elegant *Ethics*, examining men and women with the Euclidean method of axioms, corollaries and implications. He launched a fascinating theory about moral naturalism and ethical determinism, much debated by other great philosophers. However, he also has two political texts, one on religion and another on political regime. They are much more reader friendly and the arguments are simple, following from the foundations in *Ethics*. At least, Spinoza so believed. This paper presents systematically the political theory in *Tractatus Politicus*, which has received too little attention.

Ch 13. The established theory of corruption needs to be re-examined, as it has a few flaws. It attributes a major role to corruption, pretending that it weighs extremely heavily upon social, economic and political outcomes. The lack of comparative data is troubling for vindicating such hypotheses, and it is barely compensated for by the resort to experts' views around the globe, which in the form of the well-known Transparency Index (CPI) gives a probably inflated picture of the occurrence of corruption, especially in Third World countries. In a new approach, one would make crucial distinctions between various concepts of illegal behavior, reserving "corruption" for bribery as well as separating between petty corruption and big corruption.

Ch 14. What comes below is merely a minor note on Nietzsche's great work, so original in thought and spectacular in style. The entry on him in the Stanford Encyclopedia of Philosophy shows that post-modernism has been conducive to a fundamental re-evaluation of his multifaceted messages. As the literature on Nietzsche grows every year, his anticipation of social science subjectivism, epistemological perspectivism and strong endorsement of secularism constitutes more and more a centre of comments and research in humanities and the social sciences.

Ch 15. The emergence of post-modernism in social theory changed Nietzsche's evaluation. Will now its demise lead to a new appreciation of the master in Engadin, Switzerland? His major theory of social stratification is completely out of date. Humanitarianism will replace its inhuman brutality, backed by flawed concepts from Oriental mysticism that Danish genius Kierkegaard made obsolete in his new choice theory.

Ch 16. In his book *Explanation and Understanding* (1973), von Wright, a well-known professor of philosophy, analyses two basic modes of explanation: nomothetic and teleological. The former employs Hempel's law like generalizing, while the latter points at motive and intention. This distinction between Galilean model and Aristotelian model is developed

by means of von Wright's insights into deontic logic—the logic of norms or what one OUGHT to do. How then, does von Wright's theory relate to theories of rational action in the social sciences?

Ch 17. Around 1900 German philosophy of science had a zenith with different schools. One topic that invited debate and publishing concerned the separation between the natural sciences and the humanities with the social sciences. Does this distinction about methodology or subject matter? Meaning was underlined in the analysis of human affairs.

Ch 18. It is now a commonplace to renounce rational action in the social sciences. It is claimed that rationality as the maximization of self-interest is impossible as well as that it is unethical. Yet rational choice remains a most important paradigm for understanding human behaviour. D. Kahneman has contributed to the analysis of human action criticising the two end points, namely perfect individual rationality on the one hand and group or collective decision making on the other hand. The first suffers from bias and the second from noise. Thus, there is somewhat of a contradiction here somewhere, as group rationality could not cancel out individual deficiencies.

Ch 19. The killings of George Floyd and Rayshard Brooks raise the highly pertinent question: What is law in these cases? The more one reflects on the nature of the legal order in a well-ordered society, the closer one arrives at Justice Holmes' statement: "The prophecies of what the courts will do in fact, and nothing more pretentious, are what I mean by the law". A similar approach to the question above was delivered by Dane Alf Ross (1899-1979), who expounded in a succinct form so called Scandinavian Law Realism.

Ch 20. Witnessing the actual Trump presidency, one searches for conceptual tools to document US decline. The World Justice Project (WJP) comes to mind, attempting to measure rule of law (RL) comparatively. The WJP presents interesting findings for 2017-2020. Canada ranks higher than

USA. Venezuela is bottom 128 country. Rationale of rule of law?

J.E. Lane

Switzerland

March 15, 2022

Contents

Dedication
Foreword

- | | | |
|-----------|--|----|
| 11 | A note on Hobbes' and Spinoza's politics | 1 |
| 12 | Spinoza's political theory: Naturalism, determinism and institutionalism | 19 |
| 13 | Corruption: A new analysis | 36 |
| 14 | Cruel morality? On Nietzsche and the Roman Empire | 57 |
| 15 | Nietzsche, post-modernism and humanitarianism | 73 |

16	The thing to do	92
17	Teleology in human life	100
18	Rationality and institutions	108
19	What does the law say?	118
20	Meaning of a political system	124

11

A note on Hobbes' and Spinoza's politics

Introduction

Thomas Hobbes (1588-1679) and Baruch Spinoza (1632-1687) lived parallel lives. They were both generally interested in the new science of the 17th century, but they devoted much effort to political philosophy, including religion. They shared several ideas, like naturalism, determinism and open or tacit secularism, rejecting the medieval synthesis of Aristotelianism, stoicism and Catholicism or Universal Christianity. Their main political texts display several stunning similarities, like the analysis of human egoism, brutal or self-enlightened. However, there are a few main differences, where I will argue that Spinoza got it right. Hobbes is generally regarded as the “greatest” of English political theorists, but I dare suggest that Spinoza outperforms him.

Today we have a few excellent biographies of both Hobbes' (Tuck, 2002; Skinner, 1996, 2008, 2009; Hoeffe, 2016) and Spinoza's life and intellectual development (Nadler, 1999;

Ch.11. A note on Hobbes' and Spinoza's politics

[Scruton 2002](#); [Popkin, 2004](#)). Here, I will point out the key differences between Hobbes and Spinoza by means of quotations from the following texts by first Hobbes' book and then two texts by Spinoza: 1) *Leviathan* [[Retrieved from](#)]; *Tractatus Theologico* [[Retrieved from](#)]; *Tractatus Politicus* [[Retrieved from](#)].

One method to structure the history of political thought is to isolate a universal theme and follow up on how it has been theorised over the centuries by various scholars. This approach makes sense out of many similarities and differences among the great political philosophers. The basic assumptions about humans in politics constitutes one such theme: on the one hand men and women as entrusted with natural law rights and duties, as against humans as driven by natural needs and egoistic power on the other hand. Hobbes and Spinoza belong to the latter tradition, or theme.

The state of nature: Ex ante government

In the current extensive literature on the political theory of the 16th 17th, and 18th centuries, one finds several neat and fruitful distinctions ([Skinner, 1979](#); [Tuck, 1993](#); [Plamenatz, 2012](#)). For my aim, the distinction between two concepts of Nature is critical in order to elucidate the political theory of Hobbes and Spinoza.

Several of the classics speak about "Nature," but they refer to one of two different entities: a) the physical environment or Universe, and b) humanity, or the human species. The classics from Lipsius to Kant debate the laws of "Nature," but the same distinction reappears with a vengeance, namely:

- a) Nature's regularities, or law-like generalizations – the mechanistic conception with e.g. Helvetius and Holbach;
- b) Norms: The fundamental legislation for human beings, as revealed by reason, divine revelation or human contract –Grotius' conception.

Not distinguishing between a) and b) is conducive to misunderstanding.

The idea of law-like regularities in the Universe, including living organisms and thus implicitly humans, emerges in the Renaissance period, alongside the birth of the modern sciences. Its apex is Newton's *Principia*, which contains many natural laws in mathematical form. Similar developments are to be found in other domains, like optics, medicine and, later on, in chemistry. I call this conception of a natural law "mechanistic" (or "Newtonian"). Applied to human beings, it is to be found with Hobbes and Spinoza as well as Mandeville, Helvetius and Holbach and in *The Federalist Papers*. The emphasis here is upon the IS.

According to the *Legal Information Institute* at Cornell University, I quote:

"Natural law: 1. The physical laws of nature. 2. A philosophical theory claiming to derive moral and legal principles from a set of universal truths about people and justice."

This is exactly the opposition I will try to retrieve from the political philosophy of the 16th, 17th and 18th centuries. I start with the approach that looks at natural law as a set of moral norms.

(A) The idea that Nature harbours moral or legal norms that universally bind human beings in all civilisations dates back to Stoicism, but it was reinvigorated during the Renaissance with Suarez and Grotius. Here, what is underlined is the *OUGHT*.

The locus classicus for the *OUGHT* interpretation of "Nature" is the introduction of Grotius' magnum opus, *On Law in War and Peace* (1623). Based on a vast enquiry into the Old Testament, the New Testament and Greek-Roman philosophy with almost endless quotes, Grotius arrived at pinning down the essence of Stoicist natural law thinking, namely about (i) the Sociability of humans; ii) not harming others or taking

their belongings; iii) how to compensate for damages inflicted upon others: iv) "pacta sunt servanda."

Grotius finds these 4 principles to be valid for individuals in domestic affairs and states in international affairs, because they constitute *Right Reason*. The philosophy of the "Right Reason" is to be found in the work of several political theorists over these three centuries in one version or another, with Lipsius, Locke, Rousseau and Paine (Finnis, 2011). The debate over natural law in meaning A) continues with Dworkin (1998) as its strongest adherent today. His chief critique (including Hobbes) R.A. Posner (1992) today argues that natural law according to (A) is merely a set of moral prescriptions, and not LAW at all.

(B) "Laws" in the sense of scientific law, or law-like regularities in Nature refers to the *IS* (existence), or the discovery of the laws of the Universe and the living organisms, with e.g. Newton and Darwin. The Renaissance period initiated the search for these natural regularities, bypassing Aristotelian teleology. A number of prominent political thinkers adopted B) and tried to formulate scientific laws politics without moral connotations, stemming from A), emphasizing not rights and altruism, but brutal power and self-enlightened egoism.

A, Hobbes

Hobbes's enormous fame in Anglo-Saxon political thought rests to a large extent on his model of a society without government. It is written with an elegance not repeated in the section on Commonwealth or Religion in his *Leviathan*. Some of his lines have been quoted time and again in his picture of the state of nature. Thus, we have:

(Q1)

"Whatsoever therefore is consequent to a time of war, where every man is enemy to every man, the same consequent to the time wherein men live without other

Ch.11. A note on Hobbes' and Spinoza's politics

security than what their own strength and their own invention shall furnish them withal. In such condition there is no place for industry, because the fruit thereof is uncertain: and consequently no culture of the earth; no navigation, nor use of the commodities that may be imported by sea; no commodious building; no instruments of moving and removing such things as require much force; no knowledge of the face of the earth; no account of time; no arts; no letters; no society; and which is worst of all, continual fear, and danger of violent death; and the life of man, solitary, poor, nasty, brutish, and short." (Hobbes, L: Chap 11).

Hobbes' model of anarchy and anomie may have shocked his contemporaries, despite the horrors of the English civil war, but his frankness and lack of hypocrisy about humans came in fact from a critique of Stoicism and Grotius' principles of natural law. Actually, Hobbes regards natural law as the essence of justice, which is often bypassed when Hobbes is said to be the father of legal positivism, i.e law as command by the sovereign. We read:

(Q2)

"For the laws of nature, as justice, equity, modesty, mercy, and, in sum, doing to others as we would be done to, of themselves, without the terror of some power to cause them to be observed, are contrary to our natural passions, that carry us to partiality, pride, revenge, and the like. And covenants, without the sword, are but words and of no strength to secure a man at all. Therefore, notwithstanding the laws of nature (which every one hath then kept, when he has the will to keep them, when he can do it safely), if there be no power erected, or not great enough for our security, every man will and may lawfully rely on his own strength and art for caution against all other men.
" (Hobbes, L: Chap 17).

Again we quote a most famous passage from *Leviathan*. But it has been misunderstood. It does not entail a full scale

rejection of natural law or Stoicism, because Hobbes still regards the norms of natural law to be valid, although not enforceable. When he mentions self-preservation as the first natural obligation, he does not endorse naturalism. In reality, Hobbes looks upon all natural laws as valid in the state of nature, yet unenforceable: a) "first law of nature":

"to seek peace and follow it"; "second law of nature": "that a man be willing, when others are so too, as far forth as for peace and defence of himself he shall think it necessary" (Hobbes, L: Chap 14). This is mutual self-preservation, guiding the state of nature; "third law of nature": "that men perform their covenants made" – i.e. *pacta sunt servanda* with Grotius; "fourth law of nature": "a man which receiveth benefit from another of mere grace endeavour that he which giveth it have no reasonable cause to repent him of his good will"; "fifth law of nature": "every man strive to accommodate himself to the rest"; "sixth law of nature": "a man ought to pardon the offences past of them that, repenting, desire it"; "seventh law of nature": "that in revenges (that is, retribution of evil for evil), men look not at the greatness of the evil past, but the greatness of the good to follow"; Hobbes continues his Chap 15 with mentioning other laws of nature: "at the entrance into conditions of peace, no man require to reserve to himself any right which he is not content should he reserved to every one of the rest"; "if a man he trusted to judge between man and man, it is a precept of the law of nature that he deal equally between them"; "But some things there be that can neither be divided nor enjoyed in common. Then, the law of nature which prescribeth equity requireth: that the entire right, or else (making the use alternate) the first possession, be determined by lot. For equal distribution is of the law of nature; and other means of equal distribution cannot be imagined."

One observes from these quotations that Hobbes is still stuck with the idea of mankind's laws of nature.

B. Spinoza

To Spinoza on the contrary, society is a condition of «natural rights», meaning power or lack of power.

(Q3)

“And so by natural right I understand the very laws or rules of nature, in accordance with which everything takes place, in other words, the power of nature itself. And so the natural right of universal nature, and consequently of every individual thing, extends as far as its power: and accordingly, whatever any man does after the laws of his nature, he does by the highest natural right, and he has as much right over nature as he has power.” (Spinoza, TP: Chap 2: 4)

People are bound by nothing in society, as any notion of «Pacta sunt servanda» is merely foolish:

(Q4)

“The pledging of faith to any man, where one has but verbally promised to do this or that, which one might rightfully leave undone, or *vice versa*, remains valid so long as the will of him that gave his word remains unchanged. For he that has authority to break faith has, in fact, bated nothing of his own right, but only made a present of words. If, then, he, being by natural right judge in his own case, comes to the conclusion, rightly or wrongly (for “to err is human”), that more harm than profit will come of his promise, by the judgement of his own mind he decides that the promise should be broken, and by natural right (Sec. 9) he will break the same.” (Spinoza, TP: Chap 2: 12).

In *Tractatus Politicus*, Spinoza sticks to his naturalism and determinism from *Ethics*, spelling out their implication for politics (Nadler, 2016). There is no covenant, and no choice of a regime, as all unfolds from the determinism of nature, or «God» as Spinoza says. Spinoza is not a contractarian

philosopher. The state is not based upon any contractual choice but upon natural necessity. Just as an individual is driven by the ambition to survive – principle of conatus, so groups of individuals do the same also when they constitute a dominion, or commonwealth. Just like human beings, they augment survival capacity by employing reason, informing the political authority to promote general well-being, or face competition from another commonwealth.

Social interaction among people in the state of nature, i.e. before government, is entirely based upon power. Some people join in groups for egoistic reasons, which Spinoza calls «dominion». One of these establishes itself as a commonwealth, i.e. a government or state. Thus, Spinoza solves the problem of social order, or how to escape Hobbesian anarchy, by calling in government. But there is no contract, because «dominion» or government form are also part of nature and necessity.

According to naturalism, the competition among dominions or groups (*ethnies*, clans) leads to one commonwealth or the state, which decides over its people because it has the power to do so and it takes the general interests into account, because it has reason to fear that it may face resistance otherwise. Thus, government as part of nature has authority or power and it is reasonable to promote general interests in order to avoid uproar and possibly anarchy. This follows logically from enlightened egoism, i.e. naturalism.

Thus, the emergence of the state or government belongs to a naturalist evolution, where the combat between several dominions or groups and tribes – *ethniēs*, clans - finally result in one single dominion, the commonwealth that is most powerful. Consider here the political history of England or Great Britain with its succession of invasions by various peoples.

On the contrary, Hobbes can only explain the emergence of the state, or Commonwealth as he calls it, by the contract mechanism – like *Deus ex makina*.

The commonwealth (Hobbes)

It is acknowledged by scholars who emphasize Hobbes great role in political philosophy that he favoured monarchy ahead of democracy. But he could conceive that the Commonwealth's powers were exercised by an assembly, elected like Parliament. Was he, then, advocating a constitutional monarchy? No. The list of competences of the Commonwealth is long indeed. And the Commonwealth or monarch is not bound by any of the laws of nature that Hobbes laid down (Chap 18).

1) Fidelity: “ they that are subjects to a monarch cannot without his leave cast off monarchy and return to the confusion of a disunited multitude”

2) Unchangeable: “there can happen no breach of covenant on the part of the sovereign; and consequently none of his subjects, by any pretence of forfeiture, can be freed from his subjection.”

3) No opposition: “because the major part hath by consenting voices declared a sovereign, he that dissented must now consent with the rest; that is, be contented to avow all the actions he shall do, or else justly be destroyed by the rest.”

4) Justifiable: “it follows that whatsoever he doth, can be no injury to any of his subjects; nor ought he to be by any of them accused of injustice.”

5) Impunity: “ no man that hath sovereign power can justly be put to death, or otherwise in any manner by his subjects punished.”

6) Arbiter: “it is annexed to the sovereignty to be judge of what opinions and doctrines are averse, and what conducing to peace;”

7) Control: “is annexed to the sovereignty the whole power of prescribing the rules whereby every

Ch.11. A note on Hobbes' and Spinoza's politics

man may know what goods he may enjoy, and what actions he may do, without being molested by any of his fellow subjects: and this is it men call propriety."

8) Judge: "is annexed to the sovereignty the right of judicature; that is to say, of hearing and deciding all controversies which may arise concerning law, either civil or natural, or concerning fact."

9) War: "is annexed to the sovereignty the right of making war and peace with other nations and Commonwealths;"

10) Collaborators: "is annexed to the sovereignty the choosing of all counsellors, ministers, magistrates, and officers, both in peace and war."

11) Honours: "to the sovereign is committed the power of rewarding with riches or honour; and of punishing with corporal or pecuniary punishment, or with ignominy, every subject according to the law he hath formerly made;" (Hobbes, L: Chap 18).

This is not an admirable list of state powers. It is simply authoritarianism or totalitarianism. Why monarchy? Hobbes replies:

(Q5)

"And to compare monarchy with the other two, we may observe: first, that whosoever beareth the person of the people, or is one of that assembly that bears it, beareth also his own natural person. And though he be careful in his politic person to procure the common interest, yet he is more, or no less, careful to procure the private good of himself, his family, kindred and friends; and for the most part, if the public interest chance to cross the private, he prefers the private: for the passions of men are commonly more potent than their reason. From whence it follows that where the public and private interest are most closely united, there is the public most advanced. Now in monarchy the private interest is the same with the public. The riches, power, and honour of a monarch arise only from the riches, strength, and reputation of his subjects.

Ch.11. A note on Hobbes' and Spinoza's politics

For no king can be rich, nor glorious, nor secure, whose subjects are either poor, or contemptible, or too weak through want, or dissension, to maintain a war against their enemies; whereas in a democracy, or aristocracy, the public prosperity confers not so much to the private fortune of one that is corrupt, or ambitious, as doth many times a perfidious advice, a treacherous action, or a civil war." (Hobbes, L: Chap. 19).

Wishful theorizing about interest identity! As a matter of fact, there is no reciprocity at all between monarch and the covenants. The abuses of a monarch or single ruler cannot be hindered at all. Compare Spinoza's balanced theory of rulership, with countervailing powers in each type.

The dominion (Spinoza)

It is true that Spinoza rejects any choice of opposition or rebellion against the political authority, claiming that people are «bound» to obey. Here, Spinoza agrees with Hobbes, but Spinoza brings two arguments for the obedience of citizens towards a government, or the risk of government oppressing its citizens or some of them. He argues that the commonwealth has reason and it directs them towards the goals of all human beings in nature, viz. peace and security.

- the benevolence of commonwealth: since reason guides government, it looks after general well-being;
- the calculation of individual benefits by obedience against the costs of opposition for an individual.

In fact, Spinoza imagines a most powerful dominion that is not limited. He even rejects «pacta sunt servanda», so underlined in Stoicism:

(Q6)

"Contracts or laws, whereby the multitude transfers its right to one council or man, should without doubt be broken, when it is expedient for the general welfare to do so. But to decide this point, whether, that is, it be expedient for the general welfare to break them or not,

Ch.11. A note on Hobbes' and Spinoza's politics

is within the right of no private person, but of him only who holds dominion (Sec. 3); therefore of these laws he who holds dominion remains sole interpreter. Moreover, no private person can by right vindicate these laws, and so they do not really bind him who holds dominion." (Spinoza, TP: Chap 4: 6).

We arrive at the classical question: *Sed Quis Custodiet Ipsos Custos?* ("Who will guard the guards themselves?") The argument in Spinoza's political theory is aimed at political realism and avoids moralism. It is mostly built up on his theory of human nature, or how people really behave. They are what they are, and can only be restrained by rules:

(Q8)

"A dominion then, whose well-being depends on any man's good faith, and whose affairs cannot be properly administered, unless those who are engaged in them will act honestly, will be very unstable. On the contrary, to insure its permanence, its public affairs should be so ordered, that those who administer them, whether guided by reason or passion, cannot be led to act treacherously or basely." (Spinoza, TP: Chap 1 : 6).

The, Spinoza enters a frantic search for the choice of political institutions that enhance the prospects for general welfare: i.e. checks and balances in contrast to Hobbes. Here, the emphasis upon institutions is key in Spinoza, but it enters the choice in a problematic way: how to choose the rules that are the best?

The risk with monarchy in Spinoza's words or dictatorship today is that the selfish drive of the ruler prevails over the general welfare. Only, institutions can correct for the imbalance between egoism and the common interest as the unity of mind of the commonwealth. Thus, we have the following institutions for the monarchic regime : a set of close councillors, a set of broad councillors, constant change and renewal of councillors who represent the citizens, or a set of « clans » that the population is divided into, no standing army

but a quick mobilisation effort to recruit soldiers from the citizenry if needed, a peculiar light taxation scheme based upon public property for the benefit of the monarch, complex system of jurists with oversight functions like public administration and courts, etc. Evidently, Spinoza thought unanimity was a proper decision rule for Parliament as well as the Courts of jurists, as if he did not anticipate transaction costs from such a complex monarchy, institutionally speaking.

Yet, however detailed he rendered these rules of a monarchy for general well-being including the family of the majesty, he knew all too well that his naturalism implies a constant temptation by a single ruler to seek more power:

(Q9)

“It is also certain, that a commonwealth is always in greater danger from its citizens than from its enemies; for the good are few. Whence it follows, that he, upon whom the whole right of the dominion has been conferred, will always be more afraid of citizens than of enemies, and therefore will look to his own safety, and not try to consult his subjects' interests, but to plot against them, especially against those who are renowned for learning, or have influence through wealth.” (Spinoza, TP: Chap 6: 6).

However, Spinoza assures that if his constitutional monarchy is put in place with all its safeguards, then a stable monarchy for the general well-being is feasible. Perhaps he had England or Sweden in mind. Perhaps one may translate the institutions above to modern terminology with the cabinet as the small set and Parliament as the big set of councillors, while the various sets of jurists would make up a system of courts.

The analysis of oligarchy or the rule of the noble proceed in the same way, i.e. adding up institutions to restrain egoism. Spinoza comes up again with a long and complicated institutionalisation of the rule of « Best » (*Aristos*). Thus we face; a primary council of 5000 persons, with so-called

syndics as the ministers, a secondary council of senators and courts with jurists. Spinoza delivers strict rules about the soldiers, the city garrisons, payments, etc. Especially, a set of complicated election rules for both councils and jurists is underlined as promoting stability. Moreover, Spinoza separates between patrician rule in a city and a republic of many cities, also run by the few.

Again, institutionalism inspired by historical city states in Italy and the Dutch Republic are called up to restrain patrician rule from degenerating into selfish promotion of narrow self-interests :

(Q10)

“But it may still be objected to us, that, although the constitution of dominion above set forth is defended by reason and common human passion, yet for all that it may at some time be overpowered. For there is no passion, that is not sometimes overpowered, by a stronger contrary one; for we frequently see the fear of death overpowered by the greed for another's property.” (Spinoza: TP: Chap 10: 10).

The section of the few's rulership is no doubt empirically inspired, although Spinoza is a rationalist, deducing principles from naturalism and determinism. If the few is a political party like the Communist Party or a Fascist Party, then Spinoza would have something to say why they degenerated in a few historical settings.

The section on democracy is sad to say not finished, but it would have had the same structure of opposition between naturalist motives and institutionalism. Spinoza states that he regards democracy as a « perfectly absolute dominion » and that he intends to lay down the institutional conditions for its viability. But early death stopped his writing with the curious exception of excluding women . He stated;

(Q11)

Ch.11. A note on Hobbes' and Spinoza's politics

"From what has been said in the last section, it is manifest that we can conceive of various kinds of democracy. But my intention is not to treat of every kind, but of that only, "wherein all, without exception, who owe allegiance to the laws of the country only, and are further independent and of respectable life, have the right of voting in the supreme council and of filling the offices of the dominion." (Spinoza, TP: Chap 11: 3).

Religion

Hobbes devotes such a big part of Leviathan to religion and church that it can be deemed proper to compare it with Spinoza's Tractatus Theologico-Politicus. Whereas Hobbes fails to clarify his position on the basic question of theism versus atheism, Spinoza's Tractatus had an enormous influence upon the secularization of the West, What Hobbes maintains is just that the Sovereign is also the master of the Church; otherwise he just states at the very end of Leviathan:

(Q12)

"And thus I have brought to an end my discourse of civil and ecclesiastical government, occasioned by the disorders of the present time, without partiality, without application, and without other design than to set before men's eyes the mutual relation between protection and obedience; of which the condition of human nature, and the laws divine, both natural and positive, require an inviolable observation."

Spinoza on the contrary launched an attack on all forms of revealed religion as mere superstition. Whereas Hobbes speculated about what miracles could be real, Spinoza stated that all miracles are fairy tales. While Hobbes held the door open for a personal God, Spinoza maintained that everything belongs to nature and its natural modes.

Conclusion

Can one compare political philosophers and come up with an ordinal ranking of excellence in argument? Well, at least it is often actually done, especially when textbooks are written and students given books to read in political theory and the philosophy of politics. Looking at the standard book-shelves, we always find Hobbes, but Spinoza very seldom. My argument is that the latter is seriously underestimated and the former somewhat overestimated.

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12

Spinoza's political theory: Naturalism, determinism and institutionalism

Introduction

Baruch Spinoza (1632-1687) dealt with general philosophy, the philosophy of religion and political philosophy. This is in no way an extraordinary set of preoccupations. But one may of course point to philosophers who concentrated upon one kind of philosophy to the exclusion of other sorts, like Rousseau, focusing upon political and social philosophy, and e.g. Frege, Austin and Wittgenstein concentrating upon general philosophy, or theoretical philosophy. What is somewhat paradoxical with Spinoza is that his great reputation stems from his Ethics, but his relevance today derives almost exclusively from the two treatises, of which the first on theology is more praised than the second on politics, maybe somewhat undeservedly as I will show.

There are today a few excellent biographies of Spinoza's life and intellectual development ([Nadler, 1999, 2016](#); [Scruton,](#)

Ch.12. Spinoza's political theory: Naturalism, determinism and institutionalism (2002; Popkin, 2004), which list his three main works in temporal order:

- Ethics published after his death (Spinoza a);
- Tractatus Theologico-Politicus from 1670 (Spinoza b);
- Tractatus Politicus, published after his death (Spinoza c).

These biographies also look upon the eminence of these three books as descending in the same order. I will try to argue for the originality of Tractatus Politicus.

Naturalism and determinism

It is interesting to analyse the argument about politics by Spinoza, because it is based upon his well-known Ethics that has fascinated scholars for its Euclidean form of presentation, aiming at deductive simplicity and logical coherence. Can politics be approached with the two basic ideas of Spinoza, namely naturalism and determinism? Spinoza very much tried, but was he successful, meaning coherent?

It is always stated that Spinoza adheres to rationalism with inspiration from Descartes. Yet, the influence from Hobbes is also obvious. One may ask whether naturalism and determinism could serve as pillars for a remarkable appreciation of the democratic regime, some hundred years before Rousseau.

Naturalism

There has been a debate about what Spinoza meant with "nature", especially when he equates the word with "God". Was he an atheist, as the Jewish community accused him, or a pantheist? He states in Ethics:

(Q1) And so by natural right I understand the very laws or rules of nature, in accordance with which everything at place, in other words, the power of nature itself. And so the natural right of universal nature, and consequently of every individual thing, extends as far as its power: and accordingly, whatever any man does after the laws of his nature, he does

Ch.12. Spinoza's political theory: Naturalism, determinism and institutionalism
by the highest natural right, and he has as much right over nature as he has power.

In this key passage, Spinoza reiterates his naturalism from Ethics, meaning that every one does whatever he or she wants. Society is a condition of "natural rights", meaning brutal power or the lack of it—Several commentators have interpreted this naturalism as a form of Stoicism, which is erroneous. Spinoza declines every theory of human rights as natural legal rights (natural law). Spinoza speaks of "natural rights" without any legal connotation, as simply natural capacities or power to safeguard in whatever manner whatever interests a human being may have. We are far from Stoicism and its natural law conception, as a matter of fact much closer to Epicurism of the two great ethical theories during the Ancient period (Long & Sedley, 1987, 2012).

Spinoza rejects completely Stoicist conceptions of natural sociability, altruism, inalienable human rights, social harmony and the universal soul of all human beings in God. Thus, we read in Ethics:

(Q2) From which it follows that the law and ordinance of nature, under which all men are born, and for the most part live, forbids nothing but what no one wishes or is able to do, and is not opposed to strifes, hatred, anger, treachery, or, in general, anything that appetite suggests. For the bounds of nature are not the laws of human reason, which do but pursue the true interest and preservation of mankind, but other infinite laws, which regard the eternal order of universal nature, whereof man is an atom; and according to the necessity of this order only are all individual beings determined in a fixed manner to exist and operate.

This amounts to some version of the message of Epicurus! Society without government is the Hobbesian jungle. Remember that Leviathan was published in 1651, before *Tractatus Politicus*.

People are bound by nothing in society, as any notion of Stoicist hallmark "Pacts sunt servanda" is foolishness merely:

(Q3) The pledging of faith to any man, where one has but verbally promised to do this or that, which one might rightfully leave undone, or vice versa, remains so long valid as the will of him that gave his word remains unchanged. For he that has authority to break faith has, in fact, bated nothing of his own right, but only made a present of words. If, then, he, being by natural right judge in his own case, comes to the conclusion, rightly or wrongly (for "to err is human"), that more harm than profit will come of his promise, by the judgement of his own mind he decides that the promise should be broken, and by natural right (Sec. 9) he will break the same.

We could not be further away from the Stoicists like Grotius, Locke and Kant. This is a 17th century version of Epicurism. He distinguishes between "natural rights" and "legal rights", where the former stands for individual capacity or power and the latter for the ordinances of the commonwealth-positive law (Tuck, 1982). Men and women are guided by emotions and reason in the pursuit of self-preservation-enlightened egoism or rational incentives.

Determinism

Spinoza is perhaps most famous for his determinism that he derives with his Euclidean method-more geometrico. Let us try to pin down this thesis and then inquire into whether it is in agreement with his political arguments, or whether there is a contradiction. His version of determinism reads as follows in a few quotations from Ethics:

(Q4): In nature there is nothing contingent, but all things have been determined from the necessity of the divine nature to exist and produce an effect in a certain way.

(Q5): Things could have been produced by God in no other way, and in no other order than they have been produced.

These propositions have been discussed a lot in the Spinoza literature. They raise questions about free will, indeterminism and voluntarism. Since Spinoza argues that God is part of this determinism, it also leads to a debate about his theology or pantheism.

There are excellent examinations of the theme of determinism-indeterminism, to which I will add nothing here. One may debate whether determinism or indeterminism is warranted from an ontological or epistemological point of view. When determinism appears wrong, then is Spinoza right in claiming a mere ignorance? Is free will incompatible with determinism, and thus a Spinoza illusion?

In *Tractatus Politicus*, Spinoza sticks to his naturalism and determinism from *Ethics*, spelling out their implication for politics. There is no covenant, and no regime contract, as all unfolds from the determinism of nature, or "God", as Spinoza says. Spinoza is not a contractarian philosopher. The state is not based upon any contractual choice but upon natural necessity. Just as an individual is driven by the ambition to survive-principle of *conatus*, so groups of individuals do the same also when they constitute a dominion, or commonwealth. Just like human beings, they augment survival capacity by employing reason, informing the political authority to promote general well-being, or face competition from another commonwealth or challenge from dominions. Spinoza rejects any choice of opposition or rebellion against the political authority, claiming that people are "bound" to obey. However, such a duty cannot be housed within naturalism. Here, Spinoza breaks with Hobbes.

Society and state

Social interaction among people in the state of nature, i.e. before government, is all based upon naked power. Some people join in groups for egoistic reasons, which Spinoza calls "dominion". One of these establishes itself as a

Ch.12. Spinoza's political theory: Naturalism, determinism and institutionalism

commonwealth, i.e. a government or state. Thus, Spinoza solves the problem of social order, or how to escape Hobbesian anarchy, by calling in government with sovereign powers. But there is no contract, because also "dominion" or government forms part of nature and necessity. Thus, we have in *Tractatus Politicus*:

(Q6) UNDER every dominion the state is said to be Civil; but the entire body subject to a dominion is called a Commonwealth, and the general business of the dominion, subject to the direction of him that holds it, has the name of Affairs of State. Next we call men Citizens, as far as they enjoy by the civil law all the advantages of the commonwealth, and Subjects, as far as they are bound to obey its ordinances or laws.

According to naturalism, the competition among dominions or groups leads to one commonwealth or the state, which decides over its people, because it has the power to do so and it takes the general interests into account, because it has reason to fear that it may face resistance otherwise. Thus, government as part of nature has authority or power and it is reasonable to promote general interests in order to avoid uproar and possibly anarchy. This follows logically from enlightened egoism, i.e. naturalism.

The emergence of the state or government belongs to naturalist evolution, where the combat between several dominions or groups finally result in one single dominion, the commonwealth that is most powerful. Consider here the political history of England or Great Britain!

Political authority

If society left to itself tends towards the Hobbesian juggle where we have "omnium bellum contra omnes", how is the problem of political obligation to be solved? Can a commonwealth be stable, controlling anarchy, secession and political violence?

Spinoza admits there is a difficulty with calling up the state and a duty to obey the authority. If a person has the power to disobey, then he or she has the right, as right is power in this approach, i.e. naturalism. It is not, as with Stoicism a justice claim.

Spinoza argues that the political authority, government or the state looks after the well-being of its citizens:

(Q7) For, first of all, it must be considered, that, as in the state of nature the man who is led by reason is most powerful and most independent, so too that commonwealth will be most powerful and most independent, which is founded and guided by reason. For the right of the commonwealth is determined by the power of the multitude, which is led, as it were, by one mind. But this unity of mind can in no wise be conceived, unless the commonwealth pursues chiefly the very end, which sound reason teaches is to the interest of all men.

Spinoza rejects any choice of opposition or rebellion against the political authority, claiming that people are "bound" to obey. However, such a duty is not based upon contract with a consideration. Instead, Spinoza adduces two arguments for the obeisance of citizens towards the government:

- The benevolence of commonwealth: since reason guide government, it looks after general well-being;
- The calculus of individual benefits with obeying against the costs of opposition for an individual.

As a matter of fact, Spinoza constructs a most powerful commonwealth that is not limited by the rule of law or the constitutional state.

The state

When there are several commonwealths besides each other, then each of them are sovereign. But there can only be one commonwealth for one area or country. Spinoza models the state as a Leviathan:

(Q8) THAT the right of the supreme authorities is limited by their power, we showed in the last chapter, and saw that the most important part of that right is, that they are, as it were, the mind of the dominion, whereby all ought to be guided; and accordingly, that such authorities alone have the right of deciding what is good, evil, equitable, or iniquitous, that is, what must be done or left undone by the subjects severally or collectively. And, accordingly, we saw that they have the sole right of laying down laws, and of interpreting the same, whenever their meaning is disputed, and of deciding whether a given case is in conformity with or violation of the law (Chap. III. Secs. 3-5); and, lastly, of waging war, and of drawing up and offering propositions for peace, or of accepting such when offered (Chap. III. Secs. 12, 13).

This amounts to an authoritarian state, where all policy choices are concentrated with government. A stunning implication of Spinoza's naturalism that power is the corner stone in nature, one would be inclined to say. He even rejects "pacta sunt servanda", so underlined in Stoicism:

(Q9) Contracts or laws, whereby the multitude transfers its right to one council or man, should without doubt be broken, when it is expedient for the general welfare to do so. But to decide this point, whether, that is, it be expedient for the general welfare to break them or not, is within the right of no private person, but of him only who holds dominion (Sec. 3); therefore of these laws he who holds dominion remains sole interpreter. Moreover, no private person can by right vindicate these laws, and so they do not really bind him who holds dominion.

We arrive at the classical question: Sed Quis Custodiet Ipsos Custos? Spinoza has two answers to the problem of government oppressing its citizens or some of them. He argues that the commonwealth has reason and it directs them towards the goals of all human beings in nature, viz. peace and security. Even when governments fail these goals, a

citizen has no choice but to obey the laws that do not bind government itself. Coherent or not?

This is a most weak argument against government abuse and the insolence of office, leaving the question of political obligation wide open. If government degenerates and bypasses general welfare, then what? It seems that only fear can make citizens obey flawed laws, according to ethical naturalism.

Institutionalism

Besides naturalism, Spinoza is a strong adherent of institutionalism. It is the framing of the institutions that keeps the commonwealth on its right track towards well-being, peace and security. He engages in a minute examination of the adequate institutions that reason devises. His model is that the dominion is ruled by either one person, a few persons or all the people. Every type of dominion can only achieve the natural goals of a commonwealth, namely general well-being.

The argument in Spinoza's political theory is aimed at political realism and avoids moralism. It is much built up upon his theory of human nature, or how people really behave. They are what they are, and their emotions can only be restrained by reason and rules:

(Q10) Institutionalism: A dominion then, whose well-being depends on any man's good faith, and whose affairs cannot be properly administered, unless those who are engaged in them will act honestly, will be very unstable. On the contrary, to insure its permanence, its public affairs should be so ordered, that those who administer them, whether guided by reason or passion, cannot be led to act treacherously or basely.

We have come to the middle of the booklet, where Spinoza makes a sharp turn from nature, power and fear to the search for political institutions that enhance the prospects for general welfare.

The emphasis upon rules is key in Spinoza, but it enters the choice problematic: How to choose the rules that are the best? If people act deterministically, then the choice of rules becomes essential for political outcomes. But choice implies indeterminism! A contradiction with Spinoza?

In a society without government, people feel unsafe and unprotected. Thus, they join in order to set up a commonwealth:

(Q11) INASMUCH as men are led, as we have said, more by passion than reason, it follows, that a multitude comes together, and wishes to be guided, as it were, by one mind, not at the suggestion of reason, but of some common passion—that is (Chap. III. Sec. 9), common hope, or fear, or the desire of avenging some common hurt. But since fear of solitude exists in all men, because no one in solitude is strong enough to defend himself, and procure the necessaries of life, it follows that men naturally aspire to the civil state; nor can it happen that men should ever utterly dissolve it.

But once a commonwealth is in place, the question of rulership arises. It can only be handled by means of institutionalism.

One person rule (monarchy)

The risk with monarchy in Spinoza's words or dictatorship today is that the selfish drive of the ruler prevails over the general welfare. Only, institutions can correct for the imbalance between egoism and the common interest as the unity of mind of the commonwealth. Thus, we have the following institutions for the monarchic regime : a set of close councillors, a set of broad councillors, constant change and renewal of councillors who represent the citizens, or a set of "clans" that the population is divided into, no standing army but a quick mobilisation effort to recruit soldiers from the citizenry if needed, a peculiar light taxation scheme based upon public property for the benefit of the monarch, complex

Ch.12. Spinoza's political theory: Naturalism, determinism and institutionalism
system of jurists with oversight functions like public administration and courts, etc. Evidently, Spinoza thought unanimity was a proper decision rule for Parliament as well as the Courts of jurists, as if he did not anticipate transaction costs from such a complex monarchy, institutionally speaking.

Yet, however detailed he rendered these rules of a monarchy for general well-being including the family of the majesty, he knew all too well that his naturalism implies a constant temptation by a single ruler to seek more power:

(Q12) It is also certain, that a commonwealth is always in greater danger from its citizens than from its enemies; for the good are few. Whence it follows, that he, upon whom the whole right of the dominion has been conferred, will always be more afraid of citizens than of enemies, and therefore will look to his own safety, and not try to consult his subjects' interests, but to plot against them, especially against those who are renowned for learning, or have influence through wealth.

However, Spinoza assures that if his constitutional monarchy is put in place with all its safeguards, then a stable monarchy for the general well-being is feasible. Perhaps he had England or Sweden in mind. Perhaps one may translate the institutions above to modern terminology with the cabinet as the small set and Parliament as the big set of councillors, while the various sets of jurists would make up a system of courts.

Rule by a few persons (Aristocracy)

The analysis of oligarchy or the rule of the noble proceeds in the same vein, adding up institutions to restrain egoism. Spinoza comes up again with a long and complicated institutionalisation of the rule of "Best" (Aristos). Thus we face; a primary council of 5000 persons, with so-called syndics as the ministers, a secondary council of senators and courts

Ch.12. Spinoza's political theory: Naturalism, determinism and institutionalism with jurists. Spinoza delivers strict rules about the soldiers, the city garrisons, payments, etc. Especially, a set of complicated election rules for both councils and jurists is underlined as promoting stability. Moreover, Spinoza separates between patrician rule in a city and a republic of many cities, also run by the few.

Again, institutionalism inspired by historical city states in Italy and the Dutch Republic are called up to restrain patrician rule from degenerating into selfish promotion of narrow self-interests.

(Q13) But it may still be objected to us, that, although the constitution of dominion above set forth is defended by reason and common human passion, yet for all that it may at some time be overpowered. For there is no passion, that is not sometimes overpowered, by a stronger contrary one; for we frequently see the fear of death overpowered by the greed for another's property.

The section of the few's rulership is no doubt empirically inspired, although Spinoza is a rationalist, deducing principles from naturalism and determinism. If the few is a political party like the Communist Party or a Fascist Party, then Spinoza would have something to say why they degenerated in a few historical settings.

Rule of the multitude (democracy)

The section on democracy is sad to say not finished, but it would have had the same structure of opposition between naturalist motives and institutionalism. Spinoza states that he regards democracy as a "perfectly absolute dominion" and that he intends to lay down the institutional conditions for its viability. But death stopped the writing with the curious exception of excluding women. He stated;

(Q14) From what has been said in the last section, it is manifest that we can conceive of various kinds of democracy. But my intention is not to treat of every kind, but of that only,

“wherein all, without exception, who owe allegiance to the laws of the country only, and are further independent and of respectable life, have the right of voting in the supreme council and of filling the offices of the dominion”.

I will suggest how the Spinoza approach could be continued today by analysing a few relevant institutions myself.

Plebiscitary and constitutional democracy

The rule of the multitude can be done under a minimum of rules or a maximum of institutions. Plebiscitary democracy typically takes the form of big meetings with maximum participation under some decision rule, usually simple majority. It is prone to manipulation and the volatility of mob rulership. When plebiscitary democracy is employed over a time period, it sometimes degenerates into totalitarian democracy, as analysed by (Talmon, 1970), due to the zest for power of individuals of small groups. Thus, we arrive at the Spinoza need for institutional build up.

The concept of constitutional democracy contains a number of restraints upon the will of the multitude. There are several institutions of democracy, and only a few will be examined below. It has even been suggested that constitutional democracy may become complex, it hides the so-called people' sovereign will, or “volente generale” (Elster & Slagstad, 1988).

Following for instance the Federalist Papers (Hamilton, Madison, & Jay, 1982), plebiscitary democracy in a big state faces the problems of “excesses” either from an aggressive majority or a set of shrewd minorities, like inter alia:

- “The superior force of an interested and overbearing majority.”, especially when manipulated by a strongman;
- Factions, or organised minority groups who may collude against the majority.

Thus, we have some institutional remedies like:

- Federalism: divide the state into several states in a Union, with political decentralization, i.e. "state rights";
- Referenda: some decisions may be handed over to direct participation of the demos, either nationally, regionally or locally.

One may mention more of "checks and balances", but here the purpose is to follow in the footsteps of Spinoza, underlining that incentives may sometimes overturn rules or institutions.

With regard to the federalist theory that political decentralisation enhances democratic viability, the evidence is only partial. Several federalist regimes are either authoritarian or unstable or even anarchic. Also unitary states may be stable, promoting general welfare with Spinoza. The danger of federalism is secession, which minorities may exploit to their own advantage.

On the referendum democracy, we the following from a country expert:

(QK) First it should be made clear that a direct democracy can well function as a political system only, if it is designed as a permanent process, rather than if merely individual questions are "picked out" to be presented to the citizens for decisions (Section 2.1). Then there is the question, important in particular for the realm of the European Union, of how direct democracy relates to the unanimity rule (Section 2.2). Section 2.3 discusses the role of quorums. Here, "direct democracy" is always to be understood as a "semi-direct system" in which the representative democracy is supplemented by direct popular rights (Kirschgaessner, 2016: 13).

This quotation states a peculiar view on the referendum institution from the perspective of Swiss public choice theory. As the referendum is employed successfully in completely different ways outside of Switzerland, the tenets here should

be rejected. The Swiss system is very transaction cost heavy and open to manipulation by minorities as the average level of participation is below 50%. In other countries, the referendum operates as a majoritarian device for deciding issues of high saliency at a few crucial points in time. The referendum is today always supplemented by the indirect system of participation we call political representation. Finally, Wicksell's decision rule-unanimity is not the golden measuring rod of political decision-making that the public choice schools claims. It is transaction cost impossible and invites manipulation-the liberum veto. And Swiss referenda are as far from Wicksell as you can come under a democratic dispensation.

Conclusion

Spinoza is not only one of 10 - 15 greatest philosophers in the West due to his Ethics (Garrett, 1996). He is also a major politician theoretician as a result of his two treatises, where *Tractatus Politicus* is much underestimated. Nadler emphasizes that Spinoza's books "lay the foundations for a strongly democratic political thought...". But one may wish to underline the originality of his political philosophy, where democracy is one of three feasible regimes enhancing welfare.

It offers an intriguing enquiry into incentives and institutions that reminds of the principal-agent modelling in the economics of asymmetric information. It is free from any metaphysical assumptions about natural rights in the Stoicist-Locke-Nozick tradition (Nozick, 1974). Naturalism is the basis, coupled with determinism.

Yet, Spinoza is forced to admit choice, especially with regard to the political regime that promotes general welfare, peace and security. Thus, the latter part of *Tractatus Politicus* breaks the coherence of the first part. The language of politics is hardly that of determinism but choice. In politics, necessity is replaced by the alternatives of action, calling for a decision.

Ch.12. Spinoza's political theory: Naturalism, determinism and institutionalism

The famous Kierkegaard distinction between ex ante determinism and ex post indeterminism is certainly very helpful in analysing the problem of consistency with Spinoza. Kierkegaard wrote in a translation today: Life can only be understood backwards; but it must be lived forwards (in the Journals of Søren [Kierkegaard, 1840s](#); 1.2.2).

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13

Corruption: A new analysis

Introduction

We hear daily about accusations of corruption in politics and economics. One may be led to believe that corruption is very widespread and impacts upon social outcomes in a broad manner. But what is corrupt behavior? And does it matter so much for outcomes everywhere?

The often cited index of transparency (CPI) is claimed to constitute the index of corruption. We cite: "Corruption takes many forms, but always involves the abuse of entrusted power for private gain." [\[Retrieved from\]](#). This definition of "corruption" is both too broad, including all forms of government or bureaucracy abuse, and too narrow, excluding the private market sector. It is not a very telling index. We need to go beyond the conventional framework of analysis, based upon the Transparency Index, which actually is heavily skewed against poor countries, or the Third World.

First we need a concept of corruption that is specific and does not denote any crime or abuse. Second, we must revise

the stylized and inherited picture that corruption is mainly a set of Third World phenomena. It is vital to distinguish between two types: petty corruption and big money corruption.

It should be acknowledged from the outset that data is sparse of obvious reasons. To find actual information about specific cases of corruption, one would need access to lots of legal rulings and processes comparatively. Thus, what follow below is mainly some theoretical notes and conceptual deliberations.

Semantics of “corruption”

One may use various sources for a small scale enquiry into the semantics of “corruption”. Here, we go to a few standard dictionaries, like first the Oxford Thesaurus:

“SYNONYMS: dishonesty, dishonest dealings, unscrupulousness, deceit, deception, duplicity, double-dealing, fraud, fraudulence, misconduct, lawbreaking, crime, criminality, delinquency, wrongdoing, villainy,

Bribery, bribing, subornation, venality, graft, extortion, jobbery, profiteering,

North American payola

informal crookedness, shadiness, sleaze, palm-greasing,

Malfeasance, misfeasance, archaic knavery, rare malversation.

ANTONYMS: Honesty” [[Retrieved from](#)]

Reading this long list, one immediately gets the impression of semantic chaos. “Corruption” has several and different meanings and the claim to synonymy is unclear if not unfounded. One may wish to separate between the following concepts:

- 1) Crime
- 2) Misconduct
- 3) Dishonesty
- 4) Fraud

Ch.13. Corruption: A new analysis

- 5) Bribery (illegal kickbacks)
- 6) Unscrupulousness
- 7) Extortion
- 8) Malfeasance.

These concepts are definitely not the same or identical, reducible to one common foundation, i.e. corruption. A crime like manslaughter does not entail corruption, misconduct does not imply corruption, dishonesty neither nor fraud. On the contrary, bribery entails corruption. For unscrupulousness, extortion and malfeasance holds the same, i.e. no necessary link, only contingency. No small wonder that people write that if corruption is stopped, then big wonders arrive.

Corruption is a sufficient condition for crime, misconduct, dishonesty, fraud and malfeasance, but it is definitely not a necessary condition. In a definition, we would like to cite both necessary and sufficient conditions. Approaching the definition of the concept of corruption, one may travel along the broad route above, but it makes the concept too broad or hollow. Only bribery is an essential property of corruption, in my view.

Public and private sector corruption

If the Oxford Thesaurus presents a too broad definition, the perhaps the Oxford Dictionary holds a too narrow definition. First, it presents the adjective “corrupt”:

Having or showing a willingness to act dishonestly in return for money or personal gain: “unscrupulous logging companies assisted by corrupt officials”;

Then the Oxford Dictionary goes on to present a definition of the work “to corrupt”:

Cause to act dishonestly in return for money or personal gain: “there is a continuing fear of firms corrupting politicians in the search for contracts”. Source: [[Retrieved from](#)].

Here, the concept of the bribe is essential, but there is no reason to limit its use to the public sector, i.e. politicians and bureaucrats. The bribe or kickback knows no borders, public or private. But the bribe is the essence of corruption, establishing a link between the person who somehow pays and the person who in some manner receives, making both legally and morally culpable a binary relationship.

Thus, corruption is a relationship, a binary word according to logic. One person supplies something valuable that the other person demands for a service or good. Thus, corruption binds two persons together in a quid pro quo, which is essential. Following this conceptual development, we must inquire into the definition of the term “bribe” to distinguish it from natural gift or ordinary payment, which actually is quite tricky.

The bribe

Google has the following two entries on bribe and bribing respectively:

“Bribing: persuade (someone) to act in one’s favor, typically illegally or dishonestly, by a gift of money or other inducement;”

“Bribe: a sum of money or other inducement offered or given in this way.” Source: [[Retrieved from](#)].

The bribe constitutes a dishonest or illegal quid pro quo between a favour and a payment or gift. To separate an honest or legal quid pro quo from a bribe as well as natural gift or ordinary payment from the bribe is at the heart of all accusations of corruption. Perhaps it can only be done inside the court—room, as outside of court it could be just an accusation. This emphasize upon:

- 1) Binary interaction
- 2) Dishonest favour
- 3) Illegal payment,

makes it possible to identify a specific concept of corruption. And, importantly, one can distinguish the term from other terms, like the following.

- 1) Embezzlement
- 2) Favouritism
- 3) "Concubinage"
- 4) Patronage
- 5) Cronyism
- 6) Money laundering
- 7) Tax evasion

All these phenomena may contingently involve the bribe, i.e. corruption, but it is not a necessity. Embezzlement falls under the concept of theft, whereas the other forms of may involve reciprocity between the favourite and the giver of favours, but it is not necessary. These relations may be one directional and involve no bribe. Having clarified the concepts of corruption and their differences, one faces the difficult task of measuring the occurrence of specific corruption as bribery, as contract "consideration" between two individuals or two organizations, represented by individuals.

Moral and legal condemnation of corruption

Instead of naming all kinds of bad economic behavior in the public sector "corruption", it is better to focus upon the specifics in each case. If it is corruption and not solitary embezzlement or group patronage, then what is the bribe in question? If it is a matter of a general relation of symbiosis, like in cronyism or favouritism, then it is more clarifying to speak of these phenomena directly than place them under "corruption."

Corruption has a strong illegal connotation, which is lacking in general favouritism. One may even argue that moral accusations of corruption can only be validated by court action. Yet, this would limit the application of the

concept too much, because court systems in various countries possess different qualities in terms of the rule of law. Failure to punish corruption does not prove innocence, but it may merely be a matter of lack of evidence or court competence.

Bribes: Payments or gifts?

Corruption as bribery is nothing but a tacit contract between two parties where the key element of consideration is kept or must be kept secret.

In contract law consideration is concerned with the bargain of the contract. A contract is based on an exchange of promises. Each party to a contract must be both a promisor and a promisee. They must each receive a benefit and each suffer a detriment. This benefit or detriment is referred to as consideration. We cite again:

“Consideration must be something of value in the eyes of the law-(Thomas v Thomas) (1842) 2 QB 851. This excludes promises of love and affection, gaming and betting etc. A one sided promise which is not supported by consideration is a gift. The law does not enforce gifts unless they are made by deed.” Source: [\[Retrieved from\]](#).

In a corrupt deal, the consideration is neither explicitly written down nor is it kept open to others. And following Kant’s publicity rule, that what is not capable of being revealed publicly is most probably illegal or reprehensible. A consideration binds both parties to deliver something agreed upon. Thus, there is a binary relation involving a quid pro quo. The promisee pays something of value and the promisor delivers a service.

Now, this is a narrow concept of corruption, but it is certainly not restricted in its application to the public sector. The crux of the matter is that the consideration involves the buying and selling of something that is not legally for sale. When proving corruption, it is vital to show that there was

consideration about something that cannot be sold, which is not always easy to find evidence for.

Now, how widespread is corruption according to this strictly defined and narrow concept? I would suggest that it is hardly as widespread as claimed, although culture and legal tradition matters. Of course, poverty would be a strong motivation to supply corruption. Poverty may also be a factor on the demand side, but corruption may be expensive. In an economic approach to the demand and supply of corruption, one must start from the benefits and costs of the individuals involved in this binary transaction, the bribe. In addition, the cost of being caught in the act has to be taken into account.

Interesting cases of corruption arises when the accused of supplying a service defends himself/herself that it was only a matter of a gift without consideration. Consider the examples of Giscard d'Estaing and Olmert.

Gifts as bribery is tricky, as the quid pro quo may be released a long time after the transaction. Payments as bribes may be negative, as when the consideration involves buying a good (e.g. property) as a much lower price than going market price.

Stylised heralded view of corrupt practices

In the literature on corruption (see [Holmes, 2015](#)), one finds the following standard tenets:

- 1) There is massive corruption over the whole world, causing lots of negatives;
- 2) The corruption in Third World countries is much higher than in the First World, counting the Second World to the Third World;
- 3) Public sector corruption is more wide-spread and dangerous than private sector corruption.

I suggest that we scrutinize these hypotheses and move to question these beliefs. There is not much data available on

corruption, but theoretical deliberations point to a different view compared with 1)-3) above, if we model corruption in a demand-supply framework.

The well-known Transparency Index targets perceived (!) corruption, which is a quite different entity compared with real corruption, according to the more specific concept above. CPI will include whatever the experts in the panel asked state. Thus, it is likely that these expert estimates cover most of the above listed abuses under the heading “perceived corruption”.

Perhaps this is the only research approach possible, when it comes to country comparisons? The CPI states the following definition of “corruption”:

“Corruption is the abuse of entrusted power for private gain. It can be classified as grand, petty and political, depending on the amounts of money lost and the sector where it occurs.” Source: [[Retrieved from](#)].

This amounts to a most wide concept of corruption, but focusing only upon government and its bureaucracy. Perhaps it is both too wide and too narrow as a definition? This is not the place to question the individual country rankings, but some scores are a little stunning, like for all countries in the Balkans, Latin America in general and Tunisia. Both the validity and the reliability of the transparency index may be criticized. How to know whether one African or Asian country is more corrupt than another?

This concept of corruption covers all forms of abuse of public power for private gains—see the above list. Thus, it would be more appropriate to speak of CPI as an index of “economic crimes in government”.

The perceptions of average economic crimes come from a panel of experts with some international organizations. We read in Wikipedia the following:

“Transparency International commissioned Johann Graf Lambsdorff of the University of Passau to produce

the Corruption Perceptions Index (CPI) . The 2012 CPI draws on 13 different surveys and assessments from 12 different institutions. The institutions are the African Development Bank, the Bertelsmann Foundation, the Economist Intelligence Unit, Freedom House, Global Insight, International Institute for Management Development, Political and Economic Risk Consultancy, Political Risk Services, the World Economic Forum, the World Bank and the World Justice Project.”

Perhaps the country rankings from 0 to 100 were averaged out for these expert groups? We do not know what materials they employed for the rankings, from much corruption to no corruption.

The CPI

Let us look at the average continent scores for 2015 (Table 1).

Actually, these average scores do not say much, as the group categories are extremely wide. The span within some of the groups is quite large, meaning that the category continent explains little. “Americas” comprise both North, Central and South America, although their scores vary much. Let us try affluence first and foremost. The same applies to “Asia Pacific”.

Figure 1 shows instead in a clear fashion that these CPI scores are linked with affluence as GDP per capita.

The finding in Figure 1 is an asymptotic curve, meaning that over a certain threshold of affluence, the lack of corruption is established and transparency not augment with more GDP. This magical threshold seems to take place at 4000 - 6000 US dollar per capita, which is maybe an income that makes a person less eager to supply corrupt services —see the demand—supply model below.

Examining Figure 1, one is inclined to argue that the CPI measures government abuse in general, and not merely

corruption. If one includes all kinds of personal abuses by politicians and bureaucrats, one arrives at the conventional view that public sector criminality is higher in the Third World countries than in the First World countries. But is this really specifically corruption as bribery, covering the entire society, also the market sector? Or is it merely the occurrence of general crime against the state in poor countries?

Table 1. Amount of transparency in the public sector = Average lack of corruption numbers.

The Global Picture:	43
EU & Western Europe:	67
Eastern Europe & Central Asia:	33
Asia Pacific:	43
Middle East & North Africa:	39
Americas:	40
Sub-Saharan Africa:	33

Source: [Retrieved from].

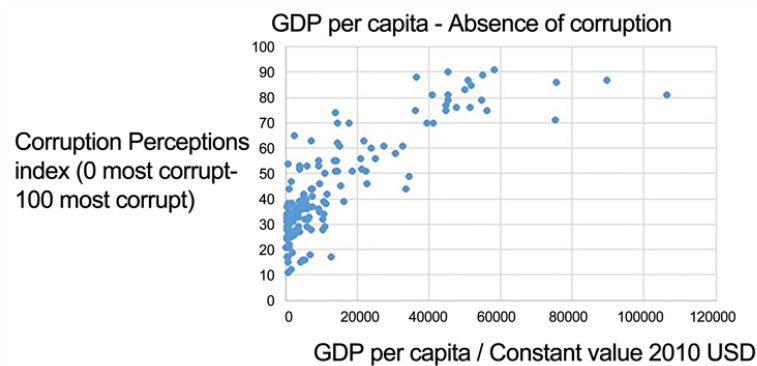


Figure 1. CPI and GDP globally: $y = 0.0008x$, $R^2 = 0.68$.

Rule of law

Is the standard inherited view on crime correct? One may consult other indices that tap the respect for the law and contract enforcement in general, like the rule of law index in the big World Bank Governance project. In the major WB Governance project, the authors make a distinction between

the rule of law on the one hand and control of corruption on the other hand. They state:

“Rule of Law (RL)—capturing perceptions of the extent to which agents have confidence in and abide by the rules of society, and in particular the quality of contract enforcement, property rights, the police, and the courts, as well as the likelihood of crime and violence.”

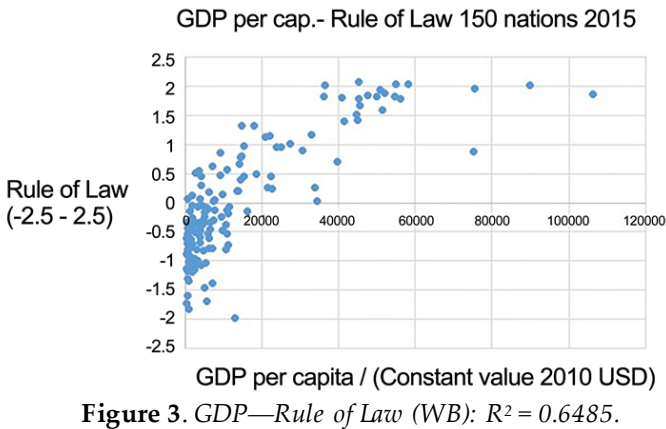
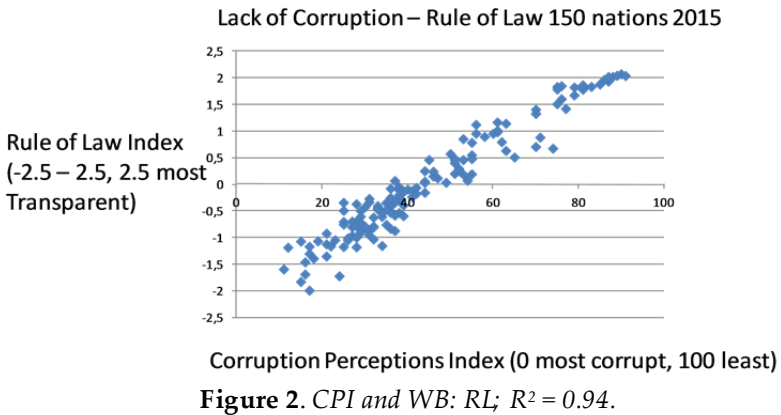
“Control of Corruption (CC)—capturing perceptions of the extent to which public power is exercised for private gain, including both petty and grand forms of corruption, as well as “capture” of the state by elites and private interests.” (Kaufmann, Kraay, & Mastruzzi, 2010).

The CC index is evidently very much the same as the CPI, i.e. extremely broad, covering all kinds of public abuse for private gain. The WB Governance project state that they made use of the Transparency Index when calculating the CC index.

However, what is troublesome is that the RL index in reality turns out to be much the same the CPI index, i.e. measuring the backwardness of the Third World. Figure 2 shows the link between WB’s rule of law index and Transparency International’s CPI. They measure the same phenomenon, namely the link between economic criminality and poverty.

Perhaps then, the RL index by the WB Governance project is also a Third World index? Look at Figure 3 for the same curvature, very low scores in poor nations and then an augmentation up to a certain level, an asymptotic curve. But the CC or CPI was measured independently of the RL index!

One may pursue this finding one step further, by looking at the link between the GDP scores and the so-called World Justice index. It is calculates thus: “The WJP Rule of Law Index relies on over 100,000 household and expert surveys to measure how the rule of law is experienced in everyday life around the world. Indicators are grouped around the following nine factor:...”



“Performance is measured using 44 indicators across eight primary rule of law factors, each of which is scored and ranked globally and against regional and income peers: Constraints on Government Powers, Absence of Corruption, Open Government, Fundamental Rights, Order and Security, Regulatory Enforcement, Civil Justice, and Criminal Justice.” Source: [Retrieved from].

The World Justice Project out of Washington DC covers not only corruption or rule of law but criminality at large at arrive at the picture as the CPI index, namely in Figure 4.

Towards a new approach

The image of global corruption typically rendered on the basis of the index of transparency is too blunt, placing most corruption with Third World countries under a most general definition of “corruption” as public sector abuse for private gain. Targeting the concept of corruption as bribery, one may construct a more nuanced picture where corruption in the First World is fully recognized on the one hand and corruption in the Third World is better understood as mostly petty corruption on the other hand.

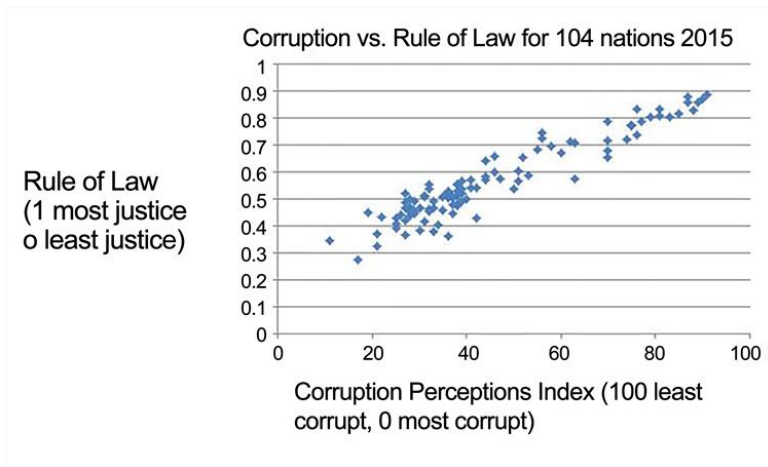


Figure 4. CPI and Rule of law (WJP): $y = 0.0069x$; $R^2 = 0.90$,
Source: Corruption Perceptions Index from Transparency International, [Retrieved from]; World Justice Project, world justice [Retrieved from].

Opaqueness of private sector corruption

The Transparency Index deals only with the abuse in the public sector. This is a major limitation, because in the private sector the opportunities for abuse are more numerous and much more difficult to spot and correct. Two reasons for this may be identified:

- The rules are less clear and enforceable;

- The spirit of collusion typical of private sector governance often hinders full scale revelations of abuse.

In the market sector with huge multinational enterprises and financial institutions, there is plethora of remuneration types that can be employed the grey-zone between legality and illegality. The amount of money for compensation is often staggering, with so-called bonuses reaching over 100 per cent of normal salary. Another opaque concept besides the ambiguous “bonus” (for what?) that may invite corruption is the “commission” in market dealings.

The CEO may often count upon support from the board of his firm for large salary increases, regular or ad hoc, because he/she may suggest at the same time huge augmentations of board members’ remuneration—perfect collusion against shareholders or stakeholders.

Principal-agent gaming

Some forms of corruption adhere to the principal-agent model, where an employee uses corrupt practices to go behind his/her principal to get extra revenue in an illegal manner, more or less tacitly. As public employee is bureaucracies in the Third World have a very low income in general, the supply of services or goods for bribes is huge. Similarly, as the quantity and quality of public services is low in poor countries, there is a large demand for improvements that may be the quid pro quo of a bribe.

Big versus petty corruption

Poverty feeds crime. That is the conclusion one draw from the above Figures. But one knows not much about corruption in its more strict meaning as bribery. Theorizing corruption in a more strict definition as a binary relationship concentrated upon the bribe, one cannot assume that it occurs much more often in poor than in rich countries. It is vital to separate petty corruption from big corruption.

Petty corruption is often occurring in Third World countries. Why? Poverty! Often salaries of public officials are low, or they may not have been paid full salaries for some time. One can analyse petty corruption as a market phenomenon, where the buyer and seller meets, given their ambition to maximize expected value. The bribe has an additional cost or benefit, namely the risk of disclosure and loss of work or punishment.

The occurrence of corruption in Third World countries reflects their poverty and it is mainly a matter of petty bribery of low paid officials. The difference between the Third World and the First World may be visualized in a demand and supply framework (Figure 5).

Some may question the ambition to subject corruption to a demand and supply type of analysis. It could smack of economic model imperialism, as with G. Becker's framework (2013) or like the ideas of an economic analysis of law with R.A. Posner (2004). Yet, the aim here is just conceptual, i.e. to pin down a more precise concept of corruption and offer a reasonable theory of the difference between First World and Third World corrupt practices.

It is of course possible to speak of demand and supply of corruption, since there is the typical element in a contract between two parties, viz. the consideration. On the one hand, the promisor offers something and the promisee receives something and on the other hand there is the contra exchange of something valuable. There may be defection, but it would have to be settled outside of court, by means of retaliation.

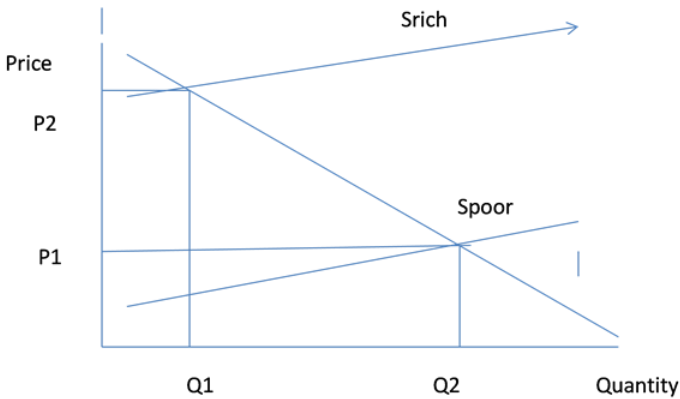


Figure 5. Demand for and supply of petty bribes in poor societies (Q2) and rich societies (Q1).

One has to add the potential legal costs to the calculation of benefits and costs in corruption. It is a probability assessment that lies at the core of offering and taking bribes, but it is a question of subjective probabilities that may be completely wrong. In petty corruption, the probability of an incarceration must be taken into account somehow, whereas in big corruption the reputational costs could be enormous for a business.

The supply of petty bribes will be highly restricted in rich societies, because officials are paid decent remuneration and fear much the legal consequences of revelation. The demand curve is the same.

Omnipresence of big corruption

When it comes to big corruption, then each society comprises a clientele who dares to engage in such activities, focussing upon millions or billions of dollars. Here it is the demand curve that differs between the poor and rich country.

Big corruption is not often of the principal-agent gaming kind, but involves organisations, buying for licences or contracts. Kickbacks often take this form, where an

organization promises to do some extra favours for the state, if awarded the deal. A firm may also pay an employee an astonishingly high bonus, if he/she can get hold of the contract in question. Sometimes firms operate a whole system of bonuses that far outweighs the normal salary in order to create inducements. Whether this is legal or not is a question for the grey-zone, but the temptation for the individual employee to fix the deal may become too tempting.

One has recorded several cases of firm corruption in defense procurement as well as in the competition for e.g. telecom contracts or defense procurement. Rose-Ackerman (2016) argues that corruption has increased, but are we talking about big or petty corruption, corruption as bribery or kickback or merely economic crimes against the state?

Rose-Ackerman presents an analysis along Chicago School Economics of corruption as resulting from the incentives of public officials. She suggests numerous reforms to “reduce the incentives for bribery and increase the costs of corruption”, reminding of Becker’s famous analysis of crime—“three strikes and you are out”.

Yet, why care about petty corruption? Big corruption is different, violating for instance the World Trade Organisation’s rules for public procurement. In petty corruption like in Nigeria, bureaucrats often simply try to stay alive, sometimes not paid or paid properly. Big corruption occurs in the summit of states and markets, but it is not the same as e.g. embezzlement, patronage or money laundering.

An accusation of big corruption must provide evidence of mutual consideration, involving some form of bribery or illegal kickback (Figure 6).

Comparing Figure 2 with Figure 1, we arrive at the conclusion that petty corruption would be expected to occur mainly in poor countries, whereas big corruption would be expected to take place predominantly in rich countries. Big corruption cases receive lots of attention, because they are

important for market ethics and state integrity. But accusations of big corruption are not always validated by a court—see for instance the many cases in Israel! Big corruption typically involves the market sector with private firms seeking illegal favours in some quid pro quo. The limitation in the CPI to the public sector is arbitrary!

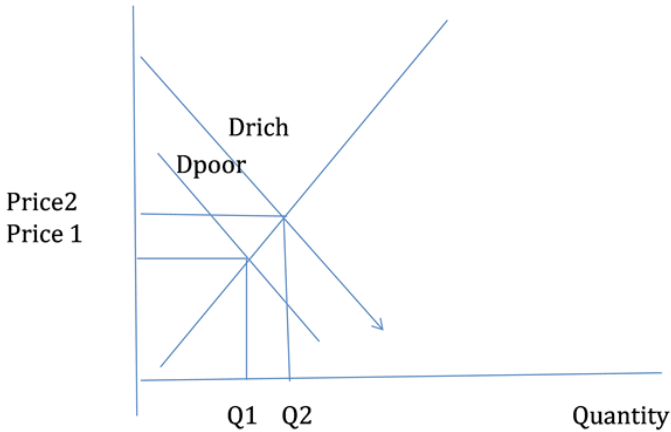


Figure 6. Demand for and Supply of Big Bribes.

If the concept of corruption has several connotations, then maybe it lacks a unique denotation

A few scholars regard corruption is the “cause” of all evil, almost as in a religious theory. They take the reliability and validity of the corruption rankings in Transparency Index for granted, and they correlate these numbers (low for Third World, high for First World) with all bad phenomena. They conclude, like religious believers: Eliminate corruption and the world is saved from evilness! They even go on to suggest a basic remedy, viz. social trust. The problem with the concept of social trust is the same as with corruption in the Transparency Index: too many different connotations and no validated unique denotation. It has even been proposed that

the R. Inglehart (1999) individual indicator: "Survey question: "Most People can be Trusted" (interpersonal trust or generalized trust) can measure the amount of resistance to corruption in a whole society. This is merely an ecological fallacy (Burnham *et al.*, 2008: p. 41), as it may be the people who answer YES who engage in corruption! A bizarre accusation of "corruption" in this "research" is the absurd claim that economics by studying how rational decisions can lead to irrational outcomes (Prisoners' dilemma) is in fact promoting "corruption", meaning that the Nobel Prize in economics may be entirely misguided (Rothstein, 2015). Economics should not teach Nash equilibria, but some moral theory (which?) linked with social trust. I believe that generalized trust may not be a rational strategy in an environment that terrorism infested. Science is not moralism. And how would social trust or social capital theory deliver a partial not to speak of a complete moral theory (liberal, socialist?)? The entire framework of social trust or social capital is a conceptual muddle (Guinnane, 2005; Durlauf, 1999; Stirrat, 2004; Franklin, 2004). Actually, there is a lot of normative economic theory that is relevant for moral philosophy. Distinguish positive and normative economics!

Conclusion

The heralded theory of corruption, based upon the Transparency Index, presents a few serious flaws:

-
- It targets economic crime against the state, which is much wider than corruption; it is highly moralistic in tone;
 - It presents a picture of corruption as mainly a Third World problematic, bypassing the occurrence of big corruption in advanced economies;
 - It neglects the typical features of corruption as a binary relationship involving the bribe and a quid pro quo.

Ch.13. Corruption: A new analysis

When the concept of corruption is theorized in a more precise manner and modelled according to demand and supply, then it is to be found in both poor and rich countries, but it is not the same dominating type of corruption. I hope this argument contains a more nuanced view of corruption.

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14

Cruel morality? On Nietzsche and the Roman Empire

Introduction

The literature on Friedrich Nietzsche keeps augmenting with new comments and fresh interpretations. His books are now all available on the WEB. Post-modernist philosophy has resulted in a fundamental re-evaluation of his ideas. Thus, the emphasis is now upon his insights into human personality and the links between psychology and dominant culture and moral ideology in society. Their key words are emancipation, self-realization and expressiveness.

Nietzsche's originality is no doubt his subjectivism in a period when the dominant philosophy was positivistic, underlining objectivity, making him a major forerunner to the post-modernist revolution in social thought after the Second World War. Together with Dane S. Kierkegaard, he is seen as a major source of inspiration for existentialism.

Nietzsche's social psychology

Nietzsche's major efforts went into practical philosophy, especially moral theory and its social functions, with his typical perspective of power as a dominant force in shaping culture, like e.g. religion. Leaving aside the talk about "Ueberschmensch" and the "will to power", Nietzsche is now seen as the philosopher of individualism, subjectivism and personal freedom. And he is regarded as the first philosopher of perspectivism: "There are no facts".

Yet, in his moral philosophy and his deep analyses of Ancient philosophy and early Christianity, Nietzsche launched an idea that is astonishing, even today when secularization has run its course. Did he actually endorse a morality of cruelty in some of his texts? His strong endorsement of the Roman civilization points at exactly that/

Given the well-known problem of authenticity of Nietzsche's statements due to the interference of his sister before and after his death in 1900, one must be extremely careful in interpretation of and selection of *basic tenets* with him. To my knowledge, his commentators have not pointed out his extremely positive evaluation of the Romans (Young, 2010; Magnus & Higgins, 1994; Tanner, 1994). However, Nietzsche was first and foremost a genial expert of Greece Antiquity – language and literature, discovering e.g. the originality of the so-called Pre-Socrates and Post-Socrates, whom he strongly preferred to the couple Socrates-Plato.

Below, I attempt to document how he evaluates the Roman civilization by a series of quotations from his books. I insert my comments in between these quotations. I wish to show that he upholds a few basic beliefs about the Romans in almost all his texts.

Nietzsche's tenets on Roman culture and christianity

In many of his texts, Nietzsche develops *three tenets* that come back time and again. They are:

a) Christianity turned Roman values upside down, making the non-honorable into honorable, rejecting the noble and favouring the non-noble.

b) Christianity is nothing but the uproar of the Jews against Roman excellence and valour.

c) St Paul is the key actor in this transformation of values, driven by hate against the strong and noble.

I simply want to ask here: True? And moreover I wish to reflect upon cruelty, and the admiration of the Roman Empire. Let us isolate what Nietzsche in fact says in various books and booklets about the Roman civilization, from its beginning to its Western fall, and its socio-psychological morality.

Nietzsche's texts

There was some 15 years of active output of texts, books and pamphlets, poems and aphorisms in Nietzsche's life before mental illness silenced him in 1889.. A critique of Christianity is to be found in almost all books, or booklets except his first book: *The Birth of Tragedy* (1872). This is hardly surprising, given the general spirit of secularization in the mid- 1850s and 1860s. But the particular tenets of Nietzsche about the Roman civilization, Christianity and St Paul deserve a closer examination as they are stunning. Are they really true?

In his *Anti-Christ* from 1888, Nietzsche sums up his rejection of the religion of Christianity in a succinct form, launching "a curse on Christianity". Here, we find not only a total rejection of the basic ideas of Christian theology and salvation, but also the tenets above a), b) and c).

Anti-Christ (1888)

a) Moral superiority of the Romans

We read in *The Anti-Christ*:

- (Q1). What stood as aere perennius, the imperium Romanum, the most magnificent form of organization ever to

be achieved under difficult conditions, compared to which everything before or after has just been patched together, botched and dilettantish, those holy anarchists made a 'piety' out of destroying 'the world', which is to say the imperium Romanum, until every stone was overturned, - until even the Germans and other thugs could rule over it . . . (Nietzsche, 2005: 60)

Comment 1: True, the Romans were master of social organization: Law was their great gift to humanity.

- (Q2) The Christian and the anarchist: both are decadents, neither one can do anything except dissolve, poison, lay waste, bleed dry, both have instincts of mortal hatred against everything that stands, that stands tall, that has endurance, that promises life a future . . . Christianity was the vampire of the imperium Romanum, - overnight, it obliterated the Romans' tremendous deed of laying the ground for a great culture that had time. - You still don't understand? (Nietzsche, 2005: 60-61)

Comment 2: Questionable: Are Christian culture decadent and Roman culture "tall"?

- (Q3) The imperium Romanum that we know, that we are coming to know better through the history of the Roman provinces, this most remarkable artwork in the great style was a beginning, its design was calculated to prove itself over the millennia, -, nothing like it has been built to this day, nobody has even dreamed of building on this scale, sub specie aeternity - This organization was stable enough to hold up under bad emperors: the accident of personalities cannot make any difference with things like this, -first principle of all great architecture. . (Nietzsche, 2005: 610).

Comment 3: Half true: The Romans developed great architecture, but its policy was not stable, especially after the fall of the Republic.

Christian reversal of values

- (Q4) This secretive worm that crept up to every individual under the cover of night, fog, and ambiguity and sucked the seriousness for true things, the instinct for reality in general right out of every individual, this cowardly, feminine, saccharine group gradually alienated the 'souls' from that tremendous structure, - those valuable, those masculine-noble natures that saw Rome's business as their own business, their own seriousness, their own pride. The priggish creeping around, the conventicle secrecy, dismal ideas like hell, like the sacrifice of the innocent, like the unio mystica in the drinking of blood... - that is what gained control over Rome.... (Nietzsche, 2005: 61).

Comment 4: Neglect: All religions have mystical ingredients, often of blood nature. The Roman state was founded upon a contract with its Gods, as shown by Swedish philosopher Haegerstroem, linking Roman Law with religious ideas about duty or the obligation to the state as devine.

Dire role of St. Paul

- (Q5) Paul's genius consists of this insight. His instinct in this was so certain that he took the ideas people found fascinating in Chandala religions and, with ruthless violence to the truth, put them into the mouth (and not just the mouth) of his invention, the 'saviour', - he made him into something that even a Mithras priest could understand . . . This was his Damascene moment: he understood that he needed the belief in immortality to devalue 'the world', that the idea of 'hell' could still gain control over Rome...(Nietzsche, 2005: 62)

Comment 5: "Chandala" is Sanskrit, which Nietzsche as linguistic genius was knowable of. It refers to the class of untouchables. He appreciated Buddhism more than Chistianity, because it was a religion of decadence of the noble classes.

What is maybe stunning is the thesis that Nietzsche maintains that:

i) Christianity is Judaism re-invented by St. Paul;

It is nothing by a giant reversal of god and bad;

ii) Judaism and Christian is the slave morals, enslaving civilizations, like the Ancient Roman and present European/

These theses have never been closely examined. I believe it expresses an admiration of cruelty. I will first enquire whether the above quotations are unique for Nietzsche over his productive period and then make a critique of them.

Since Anti-Christ belongs to his last books or booklets, it may not be considered authoritative, as the outburst of his mental illness was rather close in time. Let us go through the other texts by Nietzsche to find out whether he propagates the same tenets a), b) and c).

Genealogy of Morals (1887)

We make a few key quotations:

- (Q6) "Which of them has *prevailed* for the time being, Rome or Judea? But there is no trace of doubt: just consider to whom you bow down in Rome itself, today, as though to the embodiment of the highest values – and not just in Rome, but over nearly half the earth, everywhere where man has become tame or wants to become tame, to *three Jews*, as we know, and *one Jewess* (to Jesus of Nazareth, Peter the Fisherman, Paul the Carpet-Weaver ...)" (Nietzsche, 2006: 32).

Comment 6: Here we have again the tenet of Christianity defeating Rome, and moreover later on we find - typical for him - the idea of resentment:

- (Q7) This is very remarkable: without a doubt Rome has been defeated. However, in the Renaissance there was a brilliant, uncanny reawakening of the classical ideal, of the noble method of valuing everything Rome itself woke up, as though from suspended animation, under the pressure of the new, Judaic Rome built over it, which looked like an

ecumenical synagogues and was called 'Church': but Judea triumphed again at once, thanks to that basically proletarian (German and English) *ressentiment*-movement which people called the Reformation..." (Nietzsche, 2006: 33).

Comment 7: The *ressentiment* idea of Nietzsche may perhaps be interpreted as his hatred of ideas arguing against *moral superiority*.

- (Q8)... Judea once again triumphed over the classical ideal with the French Revolution: the last political nobility in Europe, that of the *French* seventeenth and eighteenth centuries, collapsed under the *ressentiment*-instincts of the rabble, – the world had never heard greater rejoicing and more uproarious enthusiasm! True, the most dreadful and unexpected thing happened in the middle: the ancient ideal itself appeared *bodily* and with unheard-of splendour before the eye and conscience of mankind, and once again, stronger, simpler and more penetrating than ever, in answer to the old, mendacious *ressentiment* slogan of *priority for the majority*, of man's will to baseness, abasement, levelling, decline and decay..." (Nietzsche, 2006: 32).

Comment 8: Modern democracy coming during Nietzsche's life time is interpreted as also *ressentiment*, stemming ultimately from Jewish Christianity.

Beyond Good and Bad (1886)

First, a few quotations:

- (Q9) The Jews—a people 'born for slavery,' as Tacitus and the whole ancient world say of them; 'the chosen people among the nations,' as they themselves say and believe—the Jews performed the miracle of the inversion of valuations, by means of which life on earth obtained a new and dangerous charm for a couple of millenniums. Their prophets fused into one the expressions 'rich,' 'godless,' 'wicked,' 'violent,' 'sensual,' and for the first time coined the word 'world' as a term of reproach. In this inversion of valuations (in which is

also included the use of the word ‘poor’ as synonymous with ‘saint’ and ‘friend’) the significance of the Jewish people is to be found; it is with them that the slave revolt commences. (Nietzsche, 2000: 84)

Comment 9: Nietzsche’s dire slave insurrection tenet comes here. But he mixes this debasement of the Jewish people with positive comments:

- Q10) What Europe owes to the Jews?—Many things, good and bad, and above all one thing of the nature both of the best and the worst: the grand style in morality, the fearfulness and majesty of infinite demands, of infinite significations, the whole Romanticism and sublimity of moral questionableness— and consequently just the most attractive, ensnaring, and exquisite element in those iridescences and allurements to life, in the after sheen of which the sky of our European culture, its evening sky, now glows—perhaps glows out. For this, we artists among the spectators and philosophers, are—grateful to the Jews. (Nietzsche, 2000:141).

Comment 10: Nietzsche is simply not coherent, but makes contradictory statements about Judaism and the Jewish nation. At the end of the day, one does not really understand who the villain is in the his civilization story; Christians, Jews, or merely St. Paul?

Daybreak (1881)

Two quotations may be referred to:

- (Q11) What actually took place, then, was this: his mind was suddenly enlightened, and he said to himself: “It is unreasonable to persecute this Jesus Christ! Here is my means of escape, here is my complete vengeance, here and nowhere else have I the destroyer of the Law in my hands!” The sufferer from anguished pride felt himself restored to health all at once, his moral despair disappeared in the air; for morality itself was blown away, annihilated—that is to say, *fulfilled*, there on the Cross! Up to that time that ignominious

death had seemed to him to be the principal argument against the “Messiahship” proclaimed by the followers of the new doctrine: but what if it were necessary for doing away with the Law? The enormous consequences of this thought, of this solution of the enigma, danced before his eyes, and he at once became the happiest of men. The destiny of the Jews, yea, of all mankind, seemed to him to be intertwined with this instantaneous flash of enlightenment: he held the thought of thoughts, the key of keys, the light of lights; history would henceforth revolve round him! For from that time forward he would be the apostle of the *annihilation of the Law*! To be dead to sin—that meant to be dead to the Law also; to be in the flesh—that meant to be under the Law! To be one with Christ—that meant to have become, like Him, the destroyer of the Law; to be dead with Him—that meant likewise to be dead to the Law. (Nietzsche, 1997:41).

Comment 11: Nietzsche’s argument is complex; St Paul destroys Judaism for Christianity’s sake or his own sake, but the morality of these two world religion is still decadence.

- (Q12) Then Paul's exaltation was at its height, and with it the importunity of his soul—the thought of union with Christ made him lose all shame, all submission, all constraint, and his ungovernable ambition was shown to be revelling in the expectation of divine glories. Such was the first Christian, the inventor of Christianity! before him there were only a few Jewish sectaries. . (Nietzsche, 1997: 41-42).

Comment 12: This is again Nietzsche’s hypothesis about St. Paul, plotting against mankind by subverting Christianity with Jewish values, in his opinion.

Humans, all too human (1878)

- (Q13a) As soon as it is no longer a question of the conserving of nations but of the production of the strongest possible European mixed race, the Jew will be just as usable

and desirable as an ingredient of it as any other national residue. Every nation, every man, possesses unpleasant, indeed dangerous qualities: it is cruel to demand that the Jew should constitute an exception. In him these qualities may even be dangerous and repellent to an exceptional degree; and perhaps the youthful stock-exchange Jew is the most repulsive invention of the entire human race. Nonetheless I should like to know how much must, in a total accounting, be forgiven a people who, not without us all being to blame, have had the most grief laden history of any people and whom we have to thank for the noblest human being (Christ), the purest sage (Spinoza), the mightiest book and the most efficacious moral code in the world. . (Nietzsche, 2005: 175).

- (Q13b) ... it is thanks not least to their efforts that a more natural, rational and in any event unmythical elucidation of the world could at last again obtain victory and the ring of culture that now unites us with the enlightenment of Graeco-Roman antiquity remain unbroken. If Christianity has done everything to orientalize the occident, Judaism has always played an essential part in occidentalizing it again: which in a certain sense means making of Europe's mission and history a continuation of the Greek (Nietzsche, 2005: 175).

Comment 13: In these remarkable quotations, Nietzsche rejects the anti-Semitic proposal that he made in other texts. Interesting! But he maintains his rejection of Christianity and admiration for Greek- Roman culture.

The tenets by Nietzsche

We have now documented extensively that the three tenets by Nietzsche are not accidental but often repeated as his fundamental civilization convictions. Are the true?

Christianity Destroying Roman Empire

This is of course the well-known argument by historian Edward Gibbons (1776-1789). But it is so contested and

challenged by other theories about the fall of the Roman Empire that one may safely say that Nietzsche contributes nothing. It is true that Nietzsche had studied Greek culture in much detail, but he was hardly a historian of Rome. Numerous hypotheses have been put forward: invasions by Barbarian tribes, economic troubles and overreliance on slave labour, the rise of the Eastern Empire, overexpansion and military overspending, government corruption and political instability, the arrival of the Huns and the migration of the Barbarian tribes, Christianity and the loss of traditional values and the weakening of the Roman legions. In addition, one may mention the theory of a basic shift in economic system, from commerce and trade to serf labour and self-sufficiency, anticipating the feudalisation of the economy and social relationships. The economic system hypothesis was anticipated by Max Weber (1909) and fully developed by Rostovtzeff (1926).

Who was St. Paul?

I have never seen an authoritative biography on the life of St. Paul. Actually, we know little about him. We suppose he died in Rome as a martyr, but the basic source is the Epistles, which may not always be accurate. Nietzsche's theory that he transformed Christianity in order to subvert the Roman Empire for the sake of the Jews is utterly non-sense. Christian theology owes much to St. Paul, but there are other great architects of the Church. Nietzsche's conspirator hypothesis about St. Paul, subverting Christianity to defeat the Empire appears ridiculous. We do not know for certain who wrote all the Epistles, attributed to St. Paul.

The great importance of the Epistles for Christian theology and social organization against persecutions was the message about salvation from sin through belief in the death of Jesus. This is a theme not found with the Apostles, but recurs time and again in the history of Christianity, with Augustin, in the

Reformation, with Dane Kierkegaard and modern Protestant theologians.

Superiorty of Roman Civilisation Values

Here, we have the crux of the matter, namely Nietzsche's admiration for the Roman civilization. At first, Nietzsche's endorsement of the Roman civilization as one of the truly greatest comes somewhat as a surprise, given his insights into the Greek civilization, where he admired philosophy, literature and fine arts. The Romans had little of that, with a few exceptions. Roman civilization is entirely based upon the instruments of force and power: the legions, law, institutions, grand scale infrastructure and architecture slavery, domination of other peoples and the massive employment of physical violence.

One may separate the history of the Roman civilization into two parts:

- i) The Republic from 567 – 27 before Christ
- ii) The Empire from 27 B.D. – 476 a.d.

During the Republic, government was highly institutionalized, whereas the Empire was characterized by increasing arbitrariness, ending in oriental despotism like government. The use and abuse of power occurred frequently the Republic, while it became legio under the Empire. During the Republic, the neighbouring peoples were subjugated in a long series of war, besides the occurrence of civil wars within Rome. The Empire brought about huge extension of empire territory, opening it up for constant incursions of so-called barbarians. Sometimes the Empire was governed by insane emperors, resulting in turmoil and civil war.

The larger the territory of Rome, the more violent conflicts. Defensive war or offensive ones, both were conducive to making Rome a garrison state. The army became the first priority of the state: how to feed it, how to control it, and how to pay the soldiers during and after combat? Mutiny was

legion, as the army always wanted more. It sometimes appointed the Emperor. As the wars become more frequent, getting more soldiers was so urgent that also barbarians could be enrolled. Enormous undertakings to construct fortresses to shield off the borders from outsiders were done at high costs but will no permanent positive results. In sum, Rome was a martial republic or empire, completely at odds with Greece (Erdkamp, 2013; Southern 2016; Mattingly, 2013).

The second pillar of Rome was Colosseum and its enormous undertakings in various gaming. Where ever the Romans settle down, they established the business of gladiators and beats killing humans. It was an enterprise of gigantic scale, especially when Christians were persecuted. "Panem et circences" were the main concern of Romans, who did not participate the war machine. Bread and circus, said Roman satirist Juvenal, were the preoccupations of the week. Lots of animals were imported monthly and then the persecution of Christians fleeing in the catacombs began (Auguet, 2012; Dowling, 2000).

Roman use of force and violence

Now, why would Nietzsche endorse the Roman culture of warfare and cruelty? He was after 1879 a sick man, weak and emotionally instable until his total collapse in 1889. His early admiration of Greek culture is obvious, based on entirely different values.

If St. Paul contributed in any small way to stop the "panem et circences", then is he not a friend of humanity, a spokesman for equality? The Roman Empire rested too much upon physical violence, slavery and pillage, despite the advancements in law and architecture. Why would its downfall be such a huge loss for mankind? Some 50% of its population was slaves, which was only possible through an enormous slave trade and looting. The people that Nietzsche calls inferior – the Jews – were numerous, i.e. millions in the

Empire, but refused slavery. Their uproar in 70 A.D. proved very difficult for the Roman Army to crush due to heroic resistance. The revenge was to start the forced exodus of the Jewish people from Jerusalem, turning them into ghettos of *pariah*, as Weber (1967) commented in his Nietzsche inspired realism – a trail of persecutions from Spain to Iran over Lithuania.

Conclusion

Nietzsche had a well of ideas that he returned to in his books and booklets, not always coherently. His reputation has been much enlarged with post-modernism, as a very early spokesman for subjectivity and human autonomy against prevailing dominant culture.

However, I think one must point out his preference for the Roman civilization with its incredible preoccupation with mechanisms of cruelty, ahead of the message from the man from Nazareth: Thou shalt love thy neighbour as thyself, states Matheus. Christian civilisation, it is true, involved also massive mental domination of people and persecutions as well as warfare. But St. Paul can hardly be blamed for the Papacy or the Lutheran state church, i.e. their oppression of individuality and personal autonomy.

Can one rank empire in terms of cruelty? The Mongols would come top, decimating the population of entire Central Asia. The Third Reich and Stalin's Soviet Union would be second, but perhaps the Roman civilization is up for Third place (Wallis, 2016)?

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Ch.14. Cruel morality? On Nietzsche and the Roman Empire

15 Nietzsche, post-modernism and humanitarianism

Introduction

The entry on Friedrich Nietzsche (1844-1900) in the Stanford Encyclopaedia of Philosophy (Anderson, 2017) indicates that post-modernism has been conducive to a fundamental re-evaluation of his philosophy. As the literature on Nietzsche increases, his anticipation of subjectivism, perspectivism and secularism is more and more the centre of the comments and research in humanities and social sciences. But his political philosophy falters badly, being completely out of date with humanitarianism, or the moral theory of humanity.

The secret behind Nietzsche's original style of writing was that he possessed a set of tenets that he repeated almost endlessly in book after booklet, with small variation and perhaps also covering a few contradictions. One of these theses is the complete acceptance of social stratification, especially in its moral implications. This is hardly the Nietzsche that post-modernists praise—epistemologically

and ontologically—for his individualism, subjectivism and perspectivism. Post-modernism is in its political entailment fundamentally egalitarian, but Nietzsche rejects this stance most forcefully. In this paper I will analyse his aristocratism—the rule of the “noble”, which goes against post-modernism.

Nietzsche and post-modernism

The reputation of Nietzsche during the twentieth century shifted from weekly negative to strongly positive with the subsequent rise of post-modernism. When he finished publishing, the so-called revolution in philosophy was under way, i.e. the rise of analytical philosophy along the Frege-Russell approach, underlying logic and semantics. Nietzsche did not at all fit into this movement or set of movements (Cambridge, Oxford, Vienna and Uppsala as well as Harvard) that came to dominate philosophy in the first half of the 20th century. It is his individualism, existentialism, perspectivism, nihilism and expressionism that have caught the attention of great post-modernists, like e.g. Heidegger, Foucault, Deleuze and Sartre as well as Rorty and Feyerabend.

Instead, the legacy of Nietzsche faced an upward struggle to disassociate itself from the emerging fascism. Nietzsche was said to be a forerunner of racism and anti-intellectualism in the inter-war Europe, a doctrine exploited by the German Nazis with help from his sister who had manipulated his late publications when he was mad. Analysing Nietzsche’s stance towards aristocracy and social stratification makes one realise that he would not have supported the German thugs, as his ideal was none other than Goethe and his contempt for “herds” limitless.

The emergence of post-modernism after the Second World War changed all of this, as post-modernists sought inspiration in inter alia Nietzsche for their credos:

- Language: the post-modern world is “Saussurian”: when language is seen as holistically a closed set of opposites, forming a complex web of inter-connected meanings, not disclosable by the methods of analytical philosophy; language is not only a set of Apollonian signs with Nietzsche but harbours a deeper Dionysian well of emotions and hidden assumptions as well as volitions;

- Complex reality: what is “real” may not be easily captured by abstract words or concepts, as a theory is a kind of discourse, comprising “stories” that are inter-connected in huge word webs that must be de-constructed into simpler forms, or more concrete visions;

- Contradictory narratives: the webs of hypotheses constituting our knowledge are not coherent, as different storytelling is always possible; one must allow for multiple presentations of facts, or so-called “meta-narratives”;

- Ambiguity of words: the set of words or terms is systematically ambiguous and opaque, so that any notion of truthful representation of the “outside” world is out of the question; facts and interpretations are inter-connected; all words are theory loaded and sometime value-loaded too;

- Diversity: absolute truth is a misnomer, as alternative storytelling is always feasible and the variety of interpretations sustains an intellectual chaos that can only be de-constructed into its basic components, or stories or projects; rigour may actually be an obstacle to scientific progress or intellectual insights;

- Power: real life and its power structures permeate all storytelling and words are not neutral in its social consequences; instead economic power is vested in the projects scholars engage in, which calls for an examination of the inter-connections between the representation of the world and theory construction; story telling serves social or practical purposes.

Nietzsche anticipated some of these theses in his voluntarist approach to philosophy, epistemology, ontology and morality.

With the now declining trend for postmodernists' philosophy, one may ask whether Nietzsche's star will also fade. The new global trend underlines the basic interests of mankind—humanity, peace, equality, feminism, rights, compassion—that Nietzsche rejected in favour of the values of aristocracy. Will he perhaps go out of data?

Nietzsche's texts

Due to his illness, Nietzsche could only benefit from a short period of creativity, from his first book in 1872 (Nietzsche, 1999) to his final collapse in 1889. However, he was extremely productive with almost 10 books or booklets, including the large studies (Nietzsche, 1996b; 1997b; 2001). The last publications, edited by his sister, cannot be taken into consideration. His style of writing became more and more based upon the aphorism model, sometime very short and sometimes quite long. His manner of writing became more uncompromising, if not drastic, the more damage and suffering his illness caused him (Young, 2010; Tanner, 2011; Magnus & Higgins, 1996).

There is logic in the succession of books or booklets, namely a set of key themes with connected theses propagated by Nietzsche. To capture the themes and the corresponding tenets, one must take into consideration the whole set of books and booklets, following how he treats the themes and formulates his tenets. One should not include books where authenticity is problematic, published after his madness, or works that are more poetic in nature than discursive, like *Also Sprach Zarathustra* (1883). We know in reality nothing about this Persian man under this name, when he lived for instance or what he preached. He is said to propagate monotheism and eschatology in connection dualism, focusing upon the magic

of fire. But we have little evidence. It is all a display of Nietzsche's mastery of German language.

Here, we document first his endorsement of social stratification.

Social stratification and its morality

All known human societies have been stratified somehow with higher and lower strata identified in accordance with a set of criteria. Whatever the mechanisms of selection have been, social stratification results in a distribution of wealth and power.

The two basic explanations are:

a) Functionalism (Davis & Moore, 1945): From the perspective of the market economy, social stratification fulfils so-called "functional imperatives", allocating rewards according to merit, enhancing overall social and economic efficiency. Differential achievements must be rewarded to maintain incentives to performance.

b) Marxism: The class society of the bourgeoisie with its big classes and numerous strata according to income, wealth and prestige and power is based upon exploitation and will be abolished in time after the necessary revolution of the proletariat.

To these two alternative approaches, we now add Nietzsche's moral theory of stratification. In *Beyond Good and Evil* (1886), we read a full stamen of his theory of stratification of societies:

"Every enhancement so far in the type "man" has been the work of an aristocratic society—and that is how it will be, again and again, since this sort of society believes in a long ladder of rank order and value distinctions between men, and in some sense needs slavery." (Nietzsche, 2000: p.151).

Nietzsche is seen as the father of moral nihilism, but beyond Christian good and evil there is to him a set of

absolute values, which he calls “noble”. Noble values, or the valuation of the nobility must be upheld in every society, whatever the costs, because they substantiate the essence of men and women. We quote again:

“Without the pathos of distance as it grows out of the ingrained differences between stations, out of the way the ruling caste maintains an overview and keeps looking down on subservient types and tools, and out of this caste’s equally continuous exercise in obeying and commanding, in keeping away and below—without his pathos, that other, more mysterious pathos could not have grown at all, that demand for new expansions of distance within the soul itself, the development of states that are increasingly high, rare, distant, tautly drawn and comprehensive, and in short, the enhancement of the type “man”, the constant “self-overcoming of man” (to use a moral formula in a supra-moral sense). (Nietzsche, 2000: p.151).

The rationale of social stratification is not rewarding self-interests to achieve Pareto-optimality or exploit weaker strata for egoistic interests, but—says Nietzsche in the same section:

“Its fundamental belief must always be that society cannot exist for the sake of society, but only as the substructure and framework for raising an exceptional type of being up to its higher duty and to a higher state of being.” (Nietzsche, 2000: p.152).

Nietzsche endorses all forms of social stratification throughout history, even slavery and serfdom, because such rules institutionalise his moral values beyond good and evil. The lower strata have to support the higher strata due to a basic moral rationale, i.e. society is for the benefits of the noble type of person because they and only they create value:

“The noble type of person feels that he determines value, he does not need anyone’s approval, he judges that “what is harmful to me is harmful in itself,” he knows that he is the one who gives honour to things in

Ch.15. Nietzsche, post-modernism and humanitarianism

the first place, he creates values. He honours everything he sees in himself: this sort of morality is self-glorifying. In the foreground, there is the feeling of fullness, of power that wants to overflow, the happiness associated with a high state of tension, the consciousness of a wealth that wants to make gifts and give away.” (Nietzsche, 2000: p.154).

This section on the “aristocratic society” is the longest elaboration of his theory of social stratification as based on morality. Its essence is though repeated in every book or booklet Nietzsche published. In *Human, all too Human* (1880-86), we read:

Culture and caste.—A higher culture can come into existence only where there are two different castes in society: that of the workers and that of the idle, of those capable of true leisure; or, expressed more vigorously:

The caste compelled to work and the caste that works if it wants to. Differences in good fortune and happiness are not the essential element when it comes to the production of a higher culture; in any event, however, the caste of the idle is the more capable of suffering and suffers more, its enjoyment of existence is less, its task heavier. If an exchange between these two castes should take place, moreover, so that more obtuse, less spiritual families and individuals are demoted from the higher to the lower caste and the more liberated in the latter obtain entry into the higher, then a state is attained beyond which there can be seen only the open sea of indeterminate desires.—Thus speaks to us the fading voice of ages past; but where are there still ears to hear it? (Nietzsche, 1996: p.161).

This theory is completely unacceptable for post-modernists, as they would call for a de-construction of the central terms: “noble” values and “aristocracy”—the rule of *aristos* = the best: *Qui bono*?

Implications of Aristocratic values

We will spell out what is entailed in an “aristocratic society” by looking at the subsequent values that Nietzsche propagates throughout his scholarship.

a) Rejection of compassion

Globalisation fosters awareness of compassion. With many million poor and handicapped, compassion appears completely legitimate. There is a global conscience about the terrible fate of the new persons in slavery, the trafficking of children and the premature death from starvation of the children in Muslim countries. This ideal of compassion is to be found in the theory of liberal egalitarianism (Hirose, 2014), which is represented by several moral philosophers today: Rawls (1971), Dworkin (2000), Barry (1995) and Sen (2009), or Adam Smith long ago—sympathy (Smith, 2010):

1) Compassion for individual choice, endorsing the liberty of the person;

2) Compassion for impartiality between individuals whatever group they belong to.

E.g. Nietzsche endorsed the Indian caste system, now forbidden in the modern constitution of the county. Untouchables have been recruited for highest offices. The caste valuations may still plague India informally, but compassion has considerably reduced its relevance and acceptability. Yet, Nietzsche did not hesitate to write in the booklet *The Twilight of Idols* (1888):

Let us take the other case of so-called morality, the breeding of a particular race or type. The most magnificent example can be found in Indian morality, where it is given religious sanction as the “law of Manu”. This law sets the task of breeding no fewer than four races at once: a priestly race, a warrior race, a merchant and agricultural race, and finally a servant race, the Sudras. Clearly, we are not talking about taming animals any more: even to conceive of a breeding scheme like this presupposes a type of person who is a

hundred times gentler and more reasonable. You breathe freely again when you leave the Christian atmosphere of disease and dungeon and enter this healthier, higher, more expansive world. What a miserable book the New Testament is in comparison with Manu, how bad it smells! (Nietzsche, 2005: p.184)

Here, we encounter the so-called “Arian myth”, which evidently Nietzsche believed in, although now discarded entirely; and he brings out his theory of Judaism and Christianity as the moral revolt against the strong and noble, i.e. no compassion with the “chandalas” and their suffering due to the customs or institutions of Manu:

“...These decrees are instructive enough: they present us with Aryan humanity for once, in its pure and primordial form,—we learn that the concept of ‘pure blood’ is anything but harmless. On the other hand, it is clear which people represent the eternal hatred, the Chandala-hatred of this ‘humanity’, where this hatred has become a religion, where it has become genius” ... (Nietzsche, 2005: p.185).

b) Rebuttal of Socialism and Liberalism

Nietzsche deals with compassion when discussing socialism as well as liberalism and their moral foundations in *Human, all too Human* (1880-86)—one of his biggest books, examining lots of aspects of morality. I will make one quotation:

Genius incompatible with the ideal state.—The Socialists desire to create a comfortable life for as many as possible. If the enduring homeland of this comfortable life, the perfect state, were really to be attained, then this comfortable life would destroy the soil out of which great intellect and the powerful individual in general grows: by which I mean great energy. If this state is achieved mankind would have become too feeble still to be able to produce the genius. Ought one therefore not to desire that life should retain its violent

character and savage forces and energies continue to be called up again and again? (Nietzsche, 1996: p.112).

Nietzsche succeeds in this passage to reject both classical liberalism (Bentham's formula "Greatest happiness principle") and socialism that focuses upon the state. Both these ideologies are self-destructive. It is difficult to agree with this separation between intelligence and a warm heart. For Nietzsche, the state has other objectives than the overall welfare of its citizens. Perhaps "the greatest intellect" needs democratic control of the by the poor intellects!

Interestingly, Nietzsche rejects all forms of state dominance in society, which would include not only Communism but also National Socialism:

"Socialism can serve to teach, in a truly brutal and impressive fashion, what danger there lies in all accumulations of state power, and to that extent to implant mistrust of the state itself. When its harsh voice takes up the watchword 'as much state as possible' it thereby at first sounds noisier than ever: but soon the opposite cry comes through with all the greater force: 'as little state as possible'." (Nietzsche, 1996: p.174).

Modern social structure has broken down each and every caste society, completely delegitimized by modernisation as well as post-modernisation. Democracy calls all to the election boxes, and the market economy rewards who ever display the necessary skills, at least in general. However, also the unfortunate have rights, i.e. can legitimately claim support, assistance and sympathy.

c) Adoration of great men

The key words with Nietzsche are emancipation, self-realization and expressiveness. Nietzsche's originality is no doubt his subjectivism in a period when the dominant philosophy was positivistic, underlining objectivity; this makes him a major forerunner to the post-modernist revolution after the Second World War as well as with Dane Kierkegaard a source of inspiration for existentialism. But he

failed miserably with regard to the concept of equality and its increasing value for humanity.

One of his favourites was the Roman dictator G.J. Caesar:

“The means by which Julius Caesar defended himself against sickness and headaches: tremendous marches, the most frugal way of life, uninterrupted sojourn in the open air, continuous exertion—these are, in general, the universal rules of preservation and protection against the extreme vulnerability of that subtle machine, working under the highest pressure, which we call genius.” (Nietzsche, 2005: p.207).

And Nietzsche’s ideal society with a proper social stratification was the Roman Republic and its Empire:

What stood as aere perennius, the imperium Romanum, the most magnificent form of organization ever to be achieved under difficult conditions, compared to which everything before or after has just been patched together, botched and dilettantish, those holy anarchists made a “piety” out of destroying “the world”, which is to say the imperium Romanum, until every stone was overturned,—until even the Germans and other thugs could rule over it... The Christian and the anarchist: both are decadents, neither one can do anything except dissolve, poison, lay waste, bleed dry, both have instincts of mortal hatred against everything that stands, that stands tall, that has endurance, that promises life a future...

This organization was stable enough to hold up under bad emperors: the accident of personalities cannot make any difference with things like this,—first principle of all great architecture (Nietzsche, 2006: pp.60-62).

Nietzsche’s endorsement of the Roman civilization as one of the truly great ones stems from his admiration of Roman society and its social stratification, based upon the instruments of force and power such as: the legions, its law and institutions, grand scale infrastructure and architecture,

massive slavery, domination of other peoples and the relentless employment of physical violence.

During the Republic, government was highly institutionalized, whereas the Empire was characterized by increasing arbitrariness, ending in oriental despotism like government. The use and abuse of power occurred frequently the Republic, while it became daily concern under the Empire. During the Republic, the neighbouring peoples were subjugated or enslaved in a long series of war, besides the occurrence of civil wars within Rome. The Empire brought about huge extension of empire territory, opening it up for constant incursions of so-called barbarians. Sometimes the Empire was governed by insane emperors, resulting in turmoil and civil war.

The larger the territory of Rome, the more violent conflicts became. Defensive war or offensive ones were conducive to making Rome a garrison state. The army became the first priority of the state: how to feed it, how to control it, and how to pay the soldiers during and after combat? Mutiny was frequent, as the army always wanted extra money. It sometimes appointed the Emperor. As the wars become more frequent, getting more soldiers was so urgent that also barbarians could be enrolled. Enormous undertakings to construct fortresses to shield off the borders from outsiders were done at high costs but will no permanent positive results. In sum, Rome was a martial republic or empire with a dire social stratification, over 40 per cent of its population being slaves ([Southern, 2016](#); [Joshel, 2010](#); [Erdkamp, 2013](#)).

Rome was also Colosseum and its enormous undertakings in various gaming. Where ever the Romans settle down, they established the business of gladiators and beats killing humans. It was an enterprise of gigantic scale, especially when Christians were persecuted. "Panem et circences" constituted the chief concerns of Romans, who did not participate in the war machine. Bread and circus, said Roman

satirist Juvenal (1998), were the gifts to the weaker or poorer strata. Lots of animals were imported monthly from Africa (Wallis, 2016; Auguet, 2012; Dowling, 2000).

Nietzsche's hero, the "noble" Caesar represented this civilization to 100 per cent. His war against Gaul brought him numerous slaves from each tribe to sell to Rome, providing him with a huge fortune to use for bribery and his army. Gaul suffered a heavy decline in population as a result of Caesar's conquest. But the Roman Republic could not be saved from Caesar's march to Rome and he contributed to the creation of the Roman Emperor during the principate.

d) *Contradictio in adiecto*: amor fati, eternal recurrence and will to power

Based upon his theory of social stratification, Nietzsche taught that human beings have to put up with their position in society, be it high or low. He actually adhered to determinism, rejecting the notion of free will. Employing the strange Indian notion of eternal recurrence, the lower strata could only hope for an improvement in the next life, enduring their hardships magnanimously—*amor fati*. However, this social determinism cannot be congruent with his doctrine of the will to power as the fundamental drive of human beings. It presupposes choice and mistake, as voluntarism entails free will. Men and women can alter social structure by policy-making, enhancing social justice, e.g. in accordance with liberal egalitarianism.

Why would the lower strata accept or even endorse Nietzschean social stratification with all its negative features? He replies: a) *amor fati*; b) the Eternal recurrence, because Nietzsche has no concept of free will. Both a) and b) are merely Indian philosophical nonsense.

Kierkegaard against Nietzsche

Much has been written about Nietzsche's hypothesis about human motivation, namely the will to power. It is one-sided

for sure, but hardly very sensational. On the one hand, one encounters this motivation with several political philosophers. On the other hand, it seems relevant for understanding the life of many politicians or statesmen. What is highly debatable is the Nietzsche rejection of the idea of free will. How to square this renunciation with the motivation: a will to power?

For any motivation assumption, be it money, power, sex prestige, would hold the mean-end generalisation of Max Weber (1949: p. 52):

“Every thoughtful reflection on the ultimate elements of meaningful human action is bound primarily to the categories of ‘means’ and ‘ends’” (trans. Shils and Finch, *Methodology*).

People maximizing power would at every moment face choices about how to do that, meaning choices as well as freedom to choose. But Nietzsche has no place for the idea of free will in his philosophy. Let us make a few telling quotations:

Freedom of will and isolation of facts.—Our usual imprecise mode of observation takes a group of phenomena as one and calls it a fact: between this fact and another fact it imagines in addition an empty space, it isolates every fact. In reality, however, all our doing and knowing is not a succession of facts and empty spaces but a continuous flux. Now, belief in freedom of will is incompatible precisely with the idea of a continuous, homogeneous, undivided, indivisible flowing: it presupposes that every individual action is isolate and indivisible; it is an atomism in the domain of willing and knowing. (Nietzsche, 1996: p.306).

Nietzsche adduces his herakleitian heritage, referring to life as an endless flux of events—“panta rhei” said the great philosopher from Ephesus. No time for deliberations about ends and means of action, as life is like a powerful stream of water, carrying everyone along in its determined course. The only comfort is the “amor fati” and the eternal recurrence. Is

it really “comfort” for lower strata? Well, nothing else exists, as the freedom of will and choices after deliberation are illusions:

But what if the opposite were true: that he is always living in manifold dependence but regards himself as free when, out of long habituation, he no longer perceives the weight of the chains? It is only from new chains that he now suffers:—“freedom of will” really means nothing more than feeling no new chains. (Nietzsche, 1996: p.306).

Nietzsche even argues that the idea of a free will is an invention of the upper strata to fool the lower strata, hoping in vain for social change.

Here, we must bring forth Kierkegaard. Like Nietzsche, his time of success came after the Second World War. His great achievement is to hand down the first comprehensive analysis of human deliberation and choice, in opposition to German metaphysics, right-wing or left-wing or Schopenhauer’s grandiose pessimism.

The understanding of Kierkegaard’s philosophy of action has been severely hampered by associating him with a French Marxist like J.P. Sartre as well as the tendency to analyze his life as an entire Freudian neurosis towards one woman (Garff, 1994). This is just not pertinent to the case. His first book—*Either/Or* (1843)—is one of the absolute masterpieces in Western philosophy, to be followed up with stunning books or booklets on the dimensions of choice: anxiety, remorse, fear, trembling, subjectivity-objectivity, etc. We make a few quotations from *Either/Or*:

Now in case a man were able to maintain himself upon the pinnacle of the instant of choice, in case he could cease to be a man, in case he were in his inmost nature only an airy thought, in case personality meant nothing more than to be a kobold, which takes part, indeed, in the movements but nevertheless remains unchanged; in case such were the situation, it would be foolish to say that it might ever be too

late for a man to choose, for in a deeper sense there could be no question of a choice. The choice itself is decisive for the content of the personality, through the choice the personality immerses itself in the thing chosen, and when it does not choose it withers away in consumption. (Kierkegaard, 1944: p.138).

Here, Kierkegaard creates a solid foundation for the analysis of human behavior from the micro perspective, anticipating the perspective of 20th century game theory. He had visited Berlin several times, but there he found only macro metaphysics in the lectures of prominent Germans. His originality is high:

You will perceive also in what I have just been saying how essentially my view of choice differs from yours (if you can properly be said to have any view), for yours differs precisely in the fact that it prevents—cogitation involved in weighing the alternatives, not on account of the multiplicity of thoughts which attach themselves to every link in the chain, but rather because there is danger afoot, danger that the next instant it may not be equally in my power to choose, that something already has been lived which must be lived over again. For to think that for an instant one can keep one's personality a blank, or that strictly speaking one can break off and bring to a halt the course of the personal life, is a delusion. The personality is already interested in the choice before one chooses, and when the choice is postponed the personality chooses unconsciously... (Kierkegaard, 1944: p.138)

The emphasis upon choice has a tremendous theoretical force, with lots of implications that Kierkegaard studied in the next-coming books. In *Either/Or*, he already anticipates his well-known distinction: between the presence and the future from an action point of view:

As truly as there is a future, just so truly is there an either/or. (Kierkegaard, 1944: p.146).

With Kierkegaard's choice concept, one may reject Nietzsche's determinism, supported by his irrelevant Indian notions. Social stratification cannot be rationalized by "amor fati" and "eternal recurrence".

Conclusion

Nietzsche had a well of ideas that he returned to in his books and booklets, not always coherently. His reputation has been much enlarged with post-modernism, as a very early spokesman for subjectivity and human autonomy against prevailing dominant culture. Yet, his theory of social stratification is unacceptable and completely out of tune with both post-modernism and what comes after, namely humanitarianism. With neo-liberalism discarded and socialism in lack of a credible economic system theory, the morality of compassion takes centre stage. The unlucky are so numerous in the globalization era: asylum seekers, refugees, Syria's and Yemen's children, undernourishment in Africa, the Rohingyas, the homeless in the rich world, the eco-refugees, etc. Compassion will not threaten the ruling classes or the capitalist system. We can double UN money for achieving compassion for children, starving peasants and handicapped. Compassion implies liberal egalitarianism as social justice, but it also believes in the market economy as the most effective allocation mechanism.

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Ch.15. Nietzsche, post-modernism and humanitarianism

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16

The thing to do

Introduction

Von Wright rejects the Hempel's (1965) explanation model for the social sciences and history. In the latter the aim is all important, "the thing to do". Understanding the behaviour of humans one must take mind into account: the perception of the situation and the incentives.

Modern teleology deals with goals in human behavior, or intentions. The distinction between *ex ante* and *ex post* is crucial. Persons have goals in their minds, which they try to realize. The hoped for goal is oftentimes different from the actual outcome. Goals and outcomes are the fundamental units in teleology – mind and reality. In addition, we have the means that an actor believes helps to realize his hopes.

The thing to do could be either the end or the means. Let us take a concrete example from WW2.

Hitler 1940

After the victory over France, Hitler faced the question: Was Jetze? The major books on WW2 differ on this problem:

- (1) Peace with the UK;
- (2) Attack on the USSR;
- (3) Invasion of the UK;

Failing with (1), he resorted to (3); but failing again, he ordered the planning of (2). Meeting Mussolini in the fall, he did not object to the Italian dictator's crazy plans for a new Roman empire. Thus, he was forced to open a southern war when Mussolini failed. Attacking the Balkans and Egypt made goal (1) unachievable. Moreover, sending Rommel to the desert war crippled operation Barbarossa. Finally, after Pearl Harbour, he added a new goal:

- (4) War against the US.

Now, he had destroyed his excellent position in 1940 and defeat was all but certain. This strange goal confusion indicates not only hubris but also lack of focus: Was Germany without oil to take on every enemy—three fronts? Adding the war on internal groups, it is no wonder that such a goal function resulted in the most frightening outcomes.

Own goals: What are they?

What goals do humans pursue? In the conduct of behavior, persons display a variety of ends and means. Is there a common core?

In political philosophy, one encounters two major schools or traditions about human motivation. The first approach claims that people are basically egoistic—the *Epicurean* position. The notion of egoism has been much debated; the broader the definition, the more difficult to falsify the Epicurean model. On the other hand, we have altruism as with *Stoicism*. It interprets the social nature of people as a set of rights as with Roman lawyers. We can follow these two views on human nature from the post Socratic times up till

Ch.16. The thing to do today.

Epicureans: interests and needs, society as mutuality, government protection of order.

Stoicism: rights, society as part of cosmos, government safeguard of natural law.

The two approaches differ fundamentally: Epicureans are focused upon utility and the pleasant life; Stoicists speculate about the world order, natural law and virtue.

The problem for Epicureans is introducing communities from pure egoism. For Stoicists, the key question is to clarify where rights come from.

Hobbes took the problem of *sociability* to its extreme: Homo hominem lupus est. This was too extreme for Spinoza who propagated rational egoism. Bentham and utilitarianism solved the question by suggesting adding all persons' utility.

The problem that stoicism faced was to anoint for the origin of rights whatever they are. Early on, one spoke of a world soul. Later, it fused with Christianity. To Cicero, rights were part of natural law. Locke regarded them as innate.

Institutionalism

The new institutional theme was launched by March and Olsen in 1989, after they had propagated their "Garbage Can" model in 1976. It stated that decision-making in organizations could at most fulfill bounded rationality and sometimes performed even worse. The concept of bounded rationality entailed a rejection of rational choice as it was developed in game theory. Rationality as the maximization of expected value would not often be found empirically in the social sciences and history. The limited decision-making capacity in organizations derives from *bias, noise, and complexity* — see Simon (1991) and Kahneman *et al.* (2000; 2021). Yet, one may still be interested in improving rationality somehow. Thaler & Sunstein (2021) present nudging as a tool for rationality, i.e., a person is informed or directed to a better alternative. One could

mention the death warnings on cigarette packs. Consumer sovereignty is a foundation for markets—how is it related to nudging?

In warfare and policy-making, one often finds actors with means-end relations that drive them to commit mistakes. Optimism turns out to be sanguine. People may believe in means-end relationships that lack any foundation in causality like, e.g., redemption in a world religion. To quote Muhammad Atta, checking in on 9/11: “tomorrow Paradise”.

Bounded rationality theory is widely accepted, but Simon faces one great difficulty, namely the lack of uniqueness. Bounded or incomplete or incomprehensible rationality may combine any level of performance. The concept explains too much or, i.e., too little.

Rational choice or game theory delivers uniqueness to the problem of the thing to do. Von Neumann’s utility experiments and probability assessments give unique max expected value and every 2-person game has at least one Nash equilibrium.

New institutionalism argues that rules and norms make up for the explanation deficit of bounded rationality. Society is replete with norms of various kinds from laws to customs and behavior maxims. March & Olsen (1976) claimed that norms that are somehow enforced—institutions—dominate social life to such an extent that the relevant question is: the *logic of appropriateness*. True? No.

Take the Djokovic case in Australia. The institutional aspect is clear but the problem concerns why he made this mistake. Surely, he calculates: $b_i > c_i$, but not this time.

How to work the system

In a bureaucracy like, e.g., the university, the actors, or players attempt to further their interests primarily by knowledge of the relevant rules. The winner knows best how to work the system with its written or unwritten rules.

The question of norm appropriate behavior is certainly very central for understanding humans. But they do not explain behavior. The decision to obey or not a rule is a rational choice, based upon the consequences of the decision: $bi > ci$.

Development of rational choice

One may emphasize not only rationality but opportunism with guile. This leads to rational behavior such as cheating, bluffing, and deceiving. Opportunism plays a major role just as lying. It has only been theorized by Machiavelli and Madison.

In egoism with opportunism, everything is up for grabs, including the institutions. The Trump presidency is excellent example. Putin lies at home and abroad. Competitors are extremists. The threat to invade the Ukraine is just bluffing since it would be too costly for weak Russia. China engages in lying about the South China Sea, making neighbours pressured. Even climate change or epidemics invite opportunism with guile.

Norms restrain

The function of norms in politics is to constrain the exercise of power. The most important political theorist in Western civilisation is Cicero because he formulated the rule of law as the foundation of the Roman republic. The rule of law is so basic because of what it excludes, namely *caesarism*. Today, less than half of mankind enjoy rule of law, as communism—old or contemporary—never acknowledged its utmost importance nor did the political theory of Islam.

In moral discourse, reason is given a major role. Its function is opposite to the role of reason in rational choice. Here rationality is the voice of justice, deriving what “nobody can reasonably deny” as just in society (Barry, 1995)—the right thing to do.

Impartiality is often a necessary condition for justice although not a sufficient one. Rationality sometimes demands deviation from impartiality (Jollimore, 2021).

Rational egalitarianism puts the focus upon impartiality. It works well in banishing racism and many forms of favouring. But what about income and wealth? Impartiality implies what differences in rewards, if any at all? If life is to some extent a series of competitive games, then impartiality works only *ex ante*. Gifts and friends fall outside of impartiality like rewards *ex post*. Yet one would not brand them unjust.

Moreover: which taxation is impartial—progressive, proportionate or regressive.

Wright’s error: Thing to do and thing done

Von Wright argues that teleological explanations are logical and not casual in the empirical meaning of “causality”. This amounts to very strange claim about human actions.

Consider the following syllogism:

X Intends To Bring About P

X Considers That He Cannot Bring About P Unless

He Does A

Therefore X sets himself to do A

This typical Wright explanation model is incorrect as it does not explain the action A but the intention of P. The relationship between the intention to do A and actually doing A is probabilistic.

Conclusion

If institutions replace rational choice, as institutionalism suggests which ones are the appropriate ones—the thing to do? An actor would like to follow the *just* institutions. They could only be RULE OF LAW. Rule of law in combination with TRIAS POLITICA and universal suffrage go a long way

to result in justice. Legal justice requires impartiality whereas social justice demands welfare state programs of the Swedish type.

One can approach justice as a dynamic concept to given material content from the operating rule of law polity. Ulpian suggests that the precepts of law are:

- (1) Live honorable
- (2) Hurt nobody
- (3) Give each and everyone his/her due.

One would certainly wish to extend the Ulpian notion of justice to the whole mankind so as to exclude all forms of slavery. It is up to policymaking in an open society to decide what is due to various groups as well as the environment. Actually, this was how the Swedish welfare state was built up since 1920 with each group of deprived introducing their own legislation to remove bonds of alienation.

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17

Teleology in human life

Introduction

The German scholars interested in philosophy of human sciences and the natural sciences speculated about how to make this distinction. On the hand, they suggested a methodology separation between nomothetic and ideographic sciences—a questionable distinction. On the other, they argued that Reality was not the same. The humanities and social sciences included besides physical behaviour also meaning, which they called *Sinn*. What is meaning in this context? Let us turn to Max Weber.

Weber and meta science

Interested in philosophy of science, Weber's *Collected Papers in the Philosophy of Science* is a book published after his death in 1920, making him one of the most influential philosophers of science besides Popper, Hempel, and Kuhn.

Weber identified the basic micro unit in social science analysis as intentional behaviour. The emphasis for Weber

was upon intention—Sinn or meaning—the inner side of behaviour: thought, belief, will, etc. When outer behaviour was directed by complex Sinn, there was “Sinnzusammenhang”.

The humanities and social sciences understand outer behaviour by advancing intention or motive. Weber called it “deutend verstehen”. There is nothing similar in the natural sciences after the naturalistic revolution from Newton to Darwin.

Meaning

This emphasis on the basic subjective nature of human activity opens up for the analysis of ideas, plans, hopes, expectations, etc. Since the relationship between inner and outer behaviour is many-one, finding the correct intention requires Popper’s conjectures.

Intention or reason is simple or complicated, or when I walk the street a la J. Searle in order to buy ice cream or when I travel to Dubai a la Mossad to hunt terrorists. Action = intention + behaviour, stated Weber as well as Anscombe (1957) and Searle (2004).

A teleological perspective focuses on the goals of actors as individuals or as participants in organisational settings. For instance, to understand Alexander the great goals or ends like beliefs and thoughts are highly relevant, perhaps means-end chains.

Intention is what?

If the world only consists of words and objects (Quine, 1960), where to place objectives or beliefs? The philosophy of mind has no definite reply (Jacob, 2019). Consider the importance of intention as goals and means as well means-end chains:

Example 1: On midsummer 1941, lots of people and objects started to move on the Ostfront into the USSR. What was the

idea or meaning? The war had been planned for one year, but what were the basic end and means? Amongst the German generals there were different goal conceptions, but they all adhered to *Blitzkrieg* as means. Yet, in August the supreme commander declared Minsk and Kiev (*cauldrons*) to be the priority, not Moscow. Hitler's decision changed *Barbarossa* into attrition war, with one likely ending. Capturing more than half a million Soviet soldiers in three months, Hitler declared victory.

Goals drive behaviour and means may be just mistake. Where are they located: in brain synapses (Searle) or "not in the head" (Putnam, 1975).

Actually, the prominent generals favoured Moscow—Guederian was a few days away. Rommel had been sent to fight Mussolini's war in northern Africa as young Italians did not die for the Duce. Hitler also took over Italy's goals in the Balkans. Why?

Teleology

Weber declared that the means-end framework is suitable for the understanding of the action's inner aspect. This is weak rationality with few restrictions on how means and ends are related. Is intention merely *teleological* relation, i.e. beliefs? Or perhaps we also have causality with true beliefs about means and end?

Example 2: Why e.g. did Gustavus Adolfus intervene in the 30 years war? The motives and plans? Can sayings or written documents be trusted? His innermost intention: Lutheran, warmonger, European power politics or money chaser—French support, custom duties, trade in arms, etc.?

Example 3: Napoleon stated that he marched on Moscow to force Russia to make peace. This is mere Teleology, because causality is missing. It was a "meaningless" effort or project.

Subjective meaning

Objective meaning is for religion to speculate about, whereas subjective meaning is for the human sciences to study. Searle and Putnam live in a so-called external world. Weber did not advocate Cartesianism or phenomenology, though underlining subjective meaning in action and social relations.

Means-end is the starting point for individual action as well as for organisations like *Wehrmacht*. None other than Paulus warned already in fall 1940 that Germany did not have enough resources, even for Blitzkrieg in the East. False means-end beliefs spell often disaster, as Paulus experienced himself at Stalingrad. There is a large literature on why Germany lost. One hypothesis claims that Hitler's mind was too focused on his party ideas. But the simple answer is military incompetence.

How large is subjective meaning?

Intention is mind phenomenon. So what is the mind? It is all mental. So what is mental? The classic 3-division may be employed:

- Cognition,
- Volition,
- Emotion.

Yet, intention draws upon all three. Subjective meaning occurs in society says Putnam and Kripke about *intension*. Yet, intention is personal. The Sinn behind all the 1941 behaviours and objects in *Barbarossa* vary from soldiers to intention generals to the supreme commander.

Searle writing key books and articles on consciousness stated that it is "subjective ontology". How about others' minds: objective ontology or subjective reality? Now Searle talks about One Reality.

Subjective meaning occurs in all humanities and social sciences as well as economics. It implies consciousness but it

is more. When intention is mentioned or motive or Sinnzusammenhänge, then intentional objects are underlined. Do they exist? If so where: goals or figments of the imagination? Hitler intended to subjugate the Slaves, but it never became Reality. Certainly, Himmler shared this intention—same brain functions?

Intentional objects

Intentional “objects” are often referred to such goals as defeat of USSR with the Wehrmacht—that was a goal but really an object like things? Intentional objects are spoken of in phenomenology, although it is not always a matter of goals or means and ends. It is important to make a clear distinction between reality and belief in the concept of intentional objects.

The subjective aspects of action did not pose a hindrance to causality for Weber. It was not the mind-body problem that interested Weber, but cause and effect in social life. He argued incessantly that beliefs and goals mattered, although as a stark realist he underlined power and material benefits. Thus, he was to penetrate into the cores of religious beliefs in civilizations, explaining the emergence of modern capitalism with the Reformation, especially Calvinism, leading to an endless scholarly debate about *Sinn*, *causation*, and *modernity or rationality*.

Weber argued 1904 that the parallel between the meaning of reformation and the meaning of modern capitalism were meaningful.

Importantly, the question of meaning invited meaningful interpretation, whereas causation called for behavioral evidence. The debate over the so-called Weber thesis goes on, now as the origins of modernism, secularism and the market economy. For example Swedish economic historian K. Samuelson denied any connection, neither on the level of meaning (*Sinn*) nor in causation.

Meaning in religion

Weber's comparative inquiry into the business ethics of world religions brings out the importance of subjective meaning with the *virtuosi*.

Instead of generalizing about all religions as "opium" or "functions", as with Marx and Durkheim, Weber discussed the *Sinn* of each one of them.

He mastered the variety of Indo religions as well as Chinese ones. On Islam he only stated briefly that its social consequences were nefarious—a religion of warriors, and (Orientalism?). Buddhist Sinnzusammenhänge was rational in terms of business, supported by merchants and their ethics, but it denied this world here and now.

Conclusion

Meta-science was studied around 1900 mainly in German philosophy on the boundaries of the natural sciences. Weber's concept of the inner aspect of actions—Sinn, subjective meaning—is today highly relevant. The subjective meaning cannot be neglected but what is it?

Meaning or intention is not in the external world except in the sense that actor y's Sinnzusammenhänge is outside of actor x's Sinnzusammenhänge. Other people's minds are outside of me, but not merely brain or neurological interactions nor in society merely.

Aristotle's philosophy of science—*teleology*—dominated meta science until the arrival of the mechanistic world view with Hobbes and Spinoza. Now TELEOLOGY only applies to humans.

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Ch.17. Teleology in human life

18

Rationality and institutions

Introduction

Individual rationality is a model of personal choice behaviour, whoever he or she may be starts from a perspective of life as a decision between action or no action, i.e. Kierkegaard's rejection of social q due to his model of life as *Either-Or*. We find this approach most clearly with Weber:

"Any conscious reflection on the most fundamental elements of meaningful human action is from the beginning tied to the categories 'ends' and 'means'" (Weber 2014: 102)

One arrives at the model of rational choice or the neoclassical model by inserting heavy restrictions upon the ends and the means taking causation into account, allowing for the calculation of the maximum best choice (Neumann & Morgenstern 1944).

Micro or group rationality

A person makes individual choices or he or she participates in a group with other people. The group could be small like 2 or 3 persons or large more like in an organisation. Since organisations can be huge or even of ocean size, we concentrate upon top level decision making like a government with several choice participants.

Now, the dominant theory claims that *full* rationality is impossible. This theory in modal form is supported in various branches of the social sciences. Only economics hesitates, defending full rationality as a convenient theoretical premise (Simon 2013).

Bias or noise

It may be remarked that Kahneman contributed much to the widespread rejection of:

S1. Full rationality in action is possible.

A number of empirical inquiries supported the rejection of S1:

 Policymaking-Allison 2001;

 Public administration-Lindblom 1959;

 Policy implementation-Wildavsky,1984

 and Hjern; 1981; Budgeting-Wildavsky 1964.

The key theoretical framework of *bounded rationality* was handed down by Simon. Denying maximising behaviour, he explained the failure of S1 with cognitive limitations and organisational complexity. A few scholars went a step further resigning rationality to chaos and organisation failures, hidden by storytelling - Olsen, & Brunsson (1998).

Collective rationality

The concept of rationality may be given a purely macro interpretation as social *equilibrium*. In standard economic theory, the assumption of full rationality leads to optimal

social equilibrium - *first best* solutions to problems of resource allocation - a most powerful theorem of combined individual and collective rationality.

How about bounded rationality theory? What about collective rationality there? Simon argued that individuals satisfied but not maximized and that satisfying outcomes were just good enough! Simon never quantified satisfying.

Interestingly, Hayek launched a theory based upon bounded rationality leading up to his book *Road to Serfdom* in 1944. If people decided under bounded rationality, then large scale public budgeting and consequential planning were bound to fail. Men's cognitive limitations excluded a planned economy as well as a welfare state.

Market calculations were the best one could hope for, because the market fulfills another kind of rationality, namely a *spontaneous order*. A spontaneous order consists of a set of rules that people follow often unintentionally and sometimes unrecognizably.

A spontaneous order comprises rules, norms and principles for the coordination of human efforts, - social coordination to mutual advantage. The spontaneous order of global academic community automatically polices research and evidence to promote the growth of knowledge. Spontaneous orders emerge slowly and cannot be constructed. Individual rationality and collective rationality has no link with Hayek (2014).

Hayek and Popper

Popper (1994) suggested that society could be improved by policies - piecemeal social engineering. Popper had no model of collective rationality except his rejection of totalitarian models. Piecemeal social engineering allows for welfare state spending and taxation like the slow construction of the Swedish welfare state with its comprehensive health and social care system. The Swedish model was NOT the road to

Collective Rationality and Institutions

When arguing against S1, one adds that social order is guaranteed not by rationality but by institutions. But where do they come from? Why drive on the Right side? Because I maximise my utility. No, say *institutionalists*, due to the *logic of appropriateness* towards a traffic rule.

In his later publications, Hayek suggested a different foundation for his spontaneous order in an awkward theory of law. He separates sharply between legislation by a legislature on the one hand, and customs and case law principles on the other hand. Hayek suggests that only customary law is really law, whereas legislation stumbles on the fallacy of S1. Law making in Parliament falls under deficient individual rationality and is not conducive to collective rationality. Public law is worse than private law in protecting individual freedom. Too much public law leads to serfdom.

There is no support in jurisprudence for Hayek's political theory in his later books. On the contrary, legislation may improve society.

According to Hayek, S1 is false. Peoples' cognitive limitations prevent full rationality. Thus:

S2. All decision making is incompletely or imperfectly rational (March & Olsen 1976).

This entails what? One may wish to distinguish S2 from the much stronger S3: All decision making is irrational.

Micro Rationality

Is one to accept S2? If one adheres to S1, then maybe one would instead suggest:

S4. Decision making must constantly be updated.

It appears that bounded rationality is a static concept. When a decision has left out alternatives, why not go ahead

and check them? When March's *standard operating procedures* result in lackluster performance, updating may reveal better prospects. Updating seems to solve the difficulties with S1 and S2. Can March's organisation be innovative?

The sudden Afghanistan withdrawal by of all foreign forces seems like a rational decision, although shockingly sad. But the abandonment of the Afghans has revealed a set of policies carrying huge costs - corruption? There seems to be a bias for quick results coming in as well as going out.

Bias and Noise

Kahneman (2000; 2021) points out two reasons for rejecting S1, namely bias with the individual actor and noise in the transfer of judgement by individuals. A typical example of noise is the variability in assessments of the same students, patients or merits. The difference between bias and noise is not crystal clear, noise may result from assessments with contradictory bias.

Noise has implications also for collective rationality. Too much variation hinders the evolution of a spontaneous order.

Means-end framework

The means-end framework is the paradigm for rationality in human action. When individuals pursue the wrong ends or employ the incorrect means, failure is bound to occur. Mistakes abound in human history and goals must be realistic

A goal is an idea in the mind about a change that an actor wishes to see done. If the change can be effectuated with some probability, it is realistic.

To be at all realistically relevant, the goal must be non-religious. Worldly goals can be achievable, but it depends upon the situation. Thus, it has been much debated whether Hitler could defeat Stalin in 1941. There was noise as some in the *Wehrmacht* believed in a quick victory, whereas others (Paulus) advised against such a big operation. However, to

Hitler the war in the East had the fanatical trust in his mission to eradicate Jewish bolshevism.

The goal function may be simple or complex. Why invade Afghanistan? The primary goal was to get Ben Laden, but the secondary was to fight the Taliban's, and enhance democratisation. When Ben Laden was killed in Pakistan, the goal for the Afghan mission would be *nation building*; given that the Taliban's come from the largest ethnic group, i.e. the Pashtuns with some 40 percent of the population. Yet, the Afghan government was dominated by Tadjik's.

The Tadjik's constitute about 30 percent of the population. Taliban's are a religious group, inspired by Islam in an Indian version. Not all Pashtuns are Taliban's or vice versa.

A Taliban is a student from the *Deobandi* school of Islam, whose teachings emerge from the *Sepoy* uprising against British rule in greater India. Indian Moslems added a sixth duty - *Jihad* against infidels, and indiscriminate violence against the unbelievers took centre stage. Some students within *Deobandi* formed terror groups, which moderate Muslims did not endorse. On the contrary, Muslim governments have tried to restrain them.

During the 20 century the Deobandi theory was developed by scholars like Maududi, Qutb and AZ-Zawahiri. Terror attacks could be launched even against

Moslems. With the war in Iraq and Syria more terror groups became active. Finally, Afghanistan had long experiments of *Deobandi* Islam due to the occupations and closeness to Pakistan.

Improve rationality by nudging

If one believes in S2, then one would still be interested in improving rationality somehow whereas S3 denies this possibility. Thaler & Sunstein (2021) present nudging as a tool for rationality, i.e. a person is informed or directed to a better alternative. One could mention the death warnings on

cigarette packs. Consumer sovereignty is a foundation for markets—how is it related to nudging? If government engages in nudging, then it collides with libertarianism.

In a dynamic perspective on rationality upgrading as well as nudging would be useful. People and organisations act under a rationality assumption or efficiency norm. They would be interested in finding new alternatives of action as well as new ways to estimate risk, even when it comes to protect vested interests. Perhaps much of updating and nudging lead to the vindication of S1? The opposite to nudge is sludge but this distinction need ethical confirmation.

Heuristics of rationality

Even if bounded rationality is true of much human behaviour, it is difficult to deny its usefulness in finding out why something went wrong: the many mistakes in human life. People often engage in long-term activity on the of intentions and causality beliefs. Let us call it “means-end chains.

Suppose we have two persons or groups, environmentalists against cornucopians They have different values, i.e. means-end chains. Thus, we have:

E) Reducing CO₂ emissions is a means to the goal of climate stability; on the contrary the conucopian would claim that

C1) global warning is not real and thus CO₂ reduction is not a policy means.

For the environmentalist (E) there is a means-end relationship but not for the cornucopian. Cornucopian Bjorn Lomborg would likely reject the means-end relationship as well as the policy primacy of global warming. The crucial argument of the cornucopian is that:

C2) there is no causal connection between CO₂ emissions and global warming.

Thus, the policy difference is different probability assessments about the causal link between emissions and

temperature rise. Means-end relations involve values and beliefs about causation but they may be wrong leading to mistakes.

In warfare politics and policymaking one often finds actors with means-end relations that drive them to commit mistakes. Optimism turns out to be sanguine. People may believe in means-end relationships that lack any foundation in causality like e.g redemption in a world religion. To quote Muhammad Atta checking in on 9/11 “tomorrow Paradise”.

Conclusion

The concept of human rationality has been over-criticized. It cannot be bypassed as in postmodernism. It functions like *natural selection* in the understanding of animal world. It is illuminating in the understanding of failures and mistake, like e.g. bias in individual decisions and noise in group decisions. Perhaps imperfect or incomplete rationality is as far as we can come, but the concept of rationality is still very useful for disclosing mistakes.

The concept of rationality is best seen as an ideal type with which to analyse actual behaviour. Formally, one may use expected value maximization with game theory or in ordinary parlance Weber's *action frame of reference*. Besides *intentionality* there must be a *causal* connection between the means actually employed and the real realization of the end.

Conflicts of Interest

The authors declare no conflicts of interest regarding the publication of this paper.

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19

What does the law say?

Introduction

Reflecting over the nature of law (Posner (1939-), 1993; Posner, 2002), one arrives at the conclusion that it is not a pure objective set of phenomena, like, e.g., the Universe of suns and planets. Law is inherently judgmental and includes several subjective elements such as the definition of crime, the attribution of motive, as well as the weight of evidence. The belief that the judge plays a major role in defining what is law is called legal realism, and it was developed both in the United States and in Scandinavia. This article will cover Scandinavian realism.

The belief that law gives unambiguous and crystal clear answers to every crime and situation can not be upheld (Dworkin (1931-2013), 1986). As law is to some extent subjective, much depends on interpretation of both law texts and law cases. This comes with differences of opinion and conflict in court (Posner, 1995). Scandinavian legal realism discussed the “legal machinery” and rejected all notions of

law as a set of abstract principles, or as a set of written texts. Arguably the most well known legal scholar of this school was Dane Alf Ross, although he did not invent the approach to law as facts.

The problematics of legal philosophy

The classic problematic on legal philosophy is to explain what is law. Obviously, law offers norms for the conduct of behaviour, but what is the difference between legal norms and moral norms? Certainly, law can be written down and systematised into code books. Yet, how to know what the says before the judge decides? Obviously, law should benefit society. However, is jurisprudence utilitarian, maximizing “the greatest happiness of the greatest number”? If we start from Kirkegaard’s insight into human behaviour, “EITHER-OR”, one must ask on what grounds humans make their choices? At the centre of legal philosophy is the fundamental relationship between IS and OUGHT. This distinction is also crucial in the Social Sciences. Famous Danish Law Professor Ross devoted his life to upholding this separation throughout his life 1899-1979, an ambition that he shared with several of the great legal scholars like Hägerström (1868-1939), Kelsen (1881-1973), Weber (1864-1920), and Hart (1907-1992). Ross emphasised the division between valid law and justice. However, as of now, the separation between is and ought has once more become contested by Harvard philosophers, and legal philosophy has turned into nothing but moral philosophy with Rawles and Dworkinn (1931-2013). Alf Ross denied justice considerations in jurisprudence as “pointless”, and this was an early influence from the Vienna school during his first major visit abroad. Professor Evald manages to analyse Ross’ life against the background of international legal Philosophy, and a peculiar academic career characterised by many hindrances, not in the least from Danish colleagues.

The second major problematic in legal philosophy is to elucidate the distinction between on the one hand legal norms and moral rules on the other. Life is full of normativity, but which norms constitute valid law? Ross first came across Kelsen's emphasis on the validity and subsequently he endorsed Hägerström's focus on efficiency. He mixed ideas from Vienna and Uppsala seemingly without scruples, but he managed to be considered as a leading representative of the one of the major schools of legal philosophy: Scandinavian realism.

Validity

Kelsen made the concept of legal validity his most famous construction in jurisprudence. In 1934 he published *Reine Rechtslehre* where he offered his typical "stufenaufbau" of law as a system of norms. This is normativity writ large. The lowest level of norms were orders issued by superiors sanctioned by administrative law. In turn, administrative law was sanctioned by legislation which was sanctioned by the basic norm, the constitution. This systematic and logical legal expose became very controversial, but Kelsen's exclusion of Natural Law was shared by Ross. It can be mentioned that the English translation *A Pure Theory of Law* is flawed and does not translate the 1934 book properly. In fact, it includes numerous rather superficial sociological essays by Kelsen. Kelsen's books in staatswissenschaft still holds high quality, though.

Efficiency

Hägerström completely rejected the notion of law as legal validity, for him validity was a moral concept. He founded the school of legal realism in Scandinavia by equating law with the legal machinery, i.e., police, courts and prisons. Jurisprudence could only be a science if it abstained from all forms of morals, and it could only be an empirical science if it

studied the behaviour of judges in particular. Law was a fact and not a norm.

Ross' metaphor: Head and tail

Ross continued the school of Scandinavian legal realism and upheld their teachings to his very end. At first, he met fierce resistance from the University of Copenhagen, but he overcame this animosity and went on to serve as human rights judge in Strasbourg. Ross suggested the following solution of validity and efficiency: "law in action and the norms of law are" not two independent spheres of existence, but different sides of one and the same reality". He is consequently convinced that they can be described as "two viewpoints, each mutually presupposing the other". In addition, he considers that "doctrinal study of law can never be detached from the sociology of law. Although doctrinal study is interested in ideology, the latter is always an abstraction from social reality" (Dalberg-Larsen).

Ross says that legal validity is the same as legal efficiency, but this is highly questionable. Law is conflictual, exhibiting contrary principles, and is often altered in response to social development, expressing new ideas of validity. Ross emphasized the reality of Law more than its normativity in his later writings, which opened him up for criticism from the rejuvenation of Natural Law.

Alf Ross' life

Alf Ross made contributions to constitutional, administrative and international law, but his main focus was legal philosophy (Evald, 2014). His most important book *Law and Justice* (Ross, 1959) is full of erudition, but it rejects all notions of justice, even rule of law, as "meaningless". This is the legacy from his Vienna period, the logical empiricist arguing about "meaning" and "verification" in a manner that is now abandoned. He wrote a large number of books and

articles. He also ventured into “staatswissenschaft”, publishing the best-seller *Why Democracy?* (Ross, 1952, 1959). Like Kelsen and Hägerström, he was fascinated by the role of the state in law.

Having been rejected by the University of Copenhagen, Ross was invited to Uppsala by none other than Hägerström. Alf Ross received his doctorate in Philosophy there, and wrote a book about the Kantian distinction: theoretical reason vs. practical reason. His results echoed Hägerström even if he did not point this out. Ross was always too eager to present new ideas first, writing all the time, but sometimes he “forgot” to cite and quote the relevant authors for his sources.

Conclusion

The split between validity and efficiency is still a topic of much debate. Is law merely the decisions of the judges and thus jurisprudence an empirical science studying the behaviour of the legal machinery? Ross suggests the following solution for how law and legal realities are related: In reality, the Ross solution amounts to confusion between is (efficiency) and ought (validity). Is and ought can never be different sides of the same thing. Validity is always normativity, subjective or objective, whereas efficiency implies existence.

It may be emphasized that Kelsen had the same disdain for justice deliberations as the Vienna school. He argued that law freed from justice deliberations will be a strictly logical system of norms objectively valid. Hägerström argued that Kelsen was wrong, as law had no validity at all. The efforts of Ross to unite Hägerström and Kelsen into one legal philosophy was an interesting endeavor, but hardly successful.

The deaths of Floyd and Brooks will be tried in court under world scrutiny. It is impossible to predict in advance what the outcome will be with absolute certainty.

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20

Notes on chaos: Draft political treatises

Introduction

Screening planet Earth ahead of 2021, one is forced to admit that we have dictatorship on all continents. Do people really want to live under such a political dispensation?

Dictatorship Includes old monarchy, the authoritarian rule as well as the totalitarian regime. The opposite is rule of law. How to theorize this notion?

A majority of people live under dictatorship. The dictatorial regime comes in a bewildering variety that has not been compared systematically. Dictatorships are to be found in religious regimes as well as military ones. But here we find also semi democracy where government tends towards specific authoritarian measures (Russia). One party states often combine with plebiscites. However,

the common core is the absence of rule of law. What does it mean?

Measures of rules of law

There is no neat and tidy definition of the expression “rule of law”. The Oxford English Dictionary offers the following entry:

“[t]he authority and influence of law in society, especially when viewed as a constraint on individual and institutional behavior; (hence) the principle whereby all members of a society (including those in government) are considered equally subject to publicly disclosed legal codes and processes.”

Now, this sounds rather complicated as well as somewhat legalistic: how to measure it in order to compare states?

One may deconstruct this concept with other concepts or criteria like:

- 1) Strong legal formalism promoting equality under the laws;
- 2) Individual rights covering contract, free labour and property;
- 3) Checks and balances, i.e. institutionalized mixed government with countervailing competences between executive, legislature and judiciary.

As a matter of fact, a dictatorship may satisfy the criteria 1) and 2) – at least partly. Thus, the criterion 3) is most essential, namely countervailing competences or powers.

A political regime characterized by limited government and countervailing competences may have a variety of institutions. Let us look at a recent attempt to measure the dimensions of rule of law or countervailing rule.

The World Justice Project (WJP) has offered a measure of rule of states ranging from 0 to 1. It takes into account the determinate criteria. We look at the most recent attempt to measure the dimensions of countervailing rule. The World Justice Project defines a Rule of Law index as “a quantitative assessment tool designed by the to offer a detailed and comprehensive picture of the extent to which countries

adhere to the rule of law in practice.” RL comprises eight factors:

- a) Constraints on Government Powers
- b) Absence of Corruption
- c) Open Government
- d) Fundamental Rights
- e) Order and Security
- f) Regulatory Enforcement
- g) Civil Justice
- h) Criminal Justice.

One notes that the WJP emphasizes accountability, judicial independence, legal formalism and balance of power between executive and legislature.

It is worth pointing out that democracy is not here mentioned. Rule of law was conceptualized before the advent of democracy after the Great War. Rule of law as legality, rights and countervailing rule may be combined with democracy as popular rule, but it has not always been so.

Mapping rule of law

Table 1 presents the results of the most recent survey of the RL Index for 128 countries around the world, presenting the mean value by region.

Table 1. *Average RL index by world region by 2020.111*

Region	Min	Average	Max	Number of countries
East Asia & Pacific	0.33	0.60	0.83	15
Eastern Europe & Central Asia	0.43	0.51	0.60	14
EU + EFTA + North America	0.53	0.74	0.90	24
Latin America & Caribbean	0.27	0.53	0.71	30
Middle East & North Africa	0.36	0.50	0.65	8
South Asia	0.36	0.45	0.53	6
Sub-Saharan Africa	0.34	0.47	0.63	31

Source: (WJP 2020, p.16)

Only so-called Western countries score above 0.6 on this scale with a few exceptions. Exceptions include: Japan, South Korea, Singapore, Chile, Costa Rica, Uruguay, United Arab Emirates, Mauritius and Namibia as well as Rwanda. Hong Kong is also given a high grade by the WJP, but that must be in the past now. As a matter of fact, it was never a democracy, much like the UAE and Singapore.

Western civilisation?

The civilisation argument is overtly or covertly used by several scholars in the wake of globalization. Thus, one scholar on YouTube claims in an online course that western civilisation honours rule of law due to its 3 pillars: Greek, Roman and Christian cultural legacies besides Judaism. (Flaten 2020).

This is historically fallacious. Greek philosophy lacks major constitutionalism besides Aristotle (*mixed rule*).

Roman heritage?

Roman law never codified constitutional or administrative law. *Corpus juris* is mainly private law from the point of view of justice. The Roman empire after Caesar amounted to "Occidental" Despotism.

Christian heritage?

Christianity before the Reformation was based upon extreme hierarchy. It recognized only the Old and New Testaments as valid sources of law. Calvinism started to speak of a *constitution* (T. Beze) in Geneva) in the modern sense including individual rights such as religious belief. The master theoretical expose was done by John Locke in Second Treatise of Government from 1689.

Yet, rule of law does not figure prominently in any of the world religions. Locke went to natural law theory (Suarez, Grotius) for his inspiration about foundations. Revealed law

does not comprise rule of law, neither with Jesus or Mohammed nor Buddha – whether they were historical persons or not.

The negative impact of religion appears in the numbers in Table 1 for Latin America, the Koranic civilisation as well as the Buddhist countries. For the post Soviet states it is not so much Christian Orthodoxy driving down numbers as the Communist legacy in combination with corruption. It has happened that a country can overcome the negative consequences of religion for rule of law, like in Japan and South Korea. Shintoism supported authoritarian rule, which also applies to the religions of South Asia and South East Asia.

Revealed law could only bolster limited and countervailing rule when united with the theory of natural law. Grotius declared in 1625 that natural law trumps revealed law, if different at all. If natural law implies rule of law, then we arrive at a secular approach to limited and countervailing rule. Yet, Grotius still supported monarchy. However, Locke managed the transition: God must respect RL, because entailed by natural law.

Law like versus Moral laws

The clear-cut distinction between Grotius' moral laws and Newton's mechanical regularities or lawlike phenomena is often not observed in the history of political philosophy. Thus, Leo Strauss e.g. argued that Locke was basically similar to Hobbes. Completely erroneous!

To Hobbes, the state of Nature is the Darwinian *homo hominem lupus* – the survival of the fittest or the war of all against all. Humans like animals have one right only, namely to fight for survival by whatever means – see also Spinoza. Law is the command of the sovereign and revealed law merely useful for political goals.

Locke on the contrary retakes Grotius' idea of a binding moral law for both individuals and states, obligating everyone to keep their promises and respect others. To this he adds his own *trust* theory of government.

Locke' principal-agent framework

The second treatise of government from 1689 is basically stoicism (Hobbes belongs to the epicurean tradition), but he makes the new claim that humans make 2 contracts in order to validate the laws of nature: life, liberty and property.

The laws of nature hold all the time, from the state of nature to the political stage of civil society and government:

- I) Do not harm someone
- II) Tell the truth
- III) Keep your contacts.

If somebody or government violates these natural norms reprisals including uproar is legitimate. A trust forfeited can not be respected or constitute an obligation.

Government thus is a *trust* for securely providing the laws of nature, especially property, to its principal. To minimise the likelihood of mistrust the principal in the second contract binds government to restraints – limited government - and countervailing competences.

Hobbes astonishingly failed on the principal-agent nature of politics, as he argued that sovereignty of Parliament would simply introduce a new form of *bellum omnibus contra omnes*, this time not in society but in Parliament. Since monarchy is wielded by ONE man or woman, there will be no infighting! Hobbes suggested all competences be given to the sovereign – in fact an authoritarian government. Perhaps the sovereign person could be at war with him/herself? Hobbes bypassed the relevance of institutions to constraining politics.

Outcomes of rule of law

The WJP states that limited and countervailing government is not only intrinsically good but also extrinsically. The WJP claims that rule of law is conducive to for instance economic development.

Take a quote from WJP: “Effective rule of law reduces corruption, combats poverty and disease, and protects people from injustices large and small. It is the foundation for communities of justice, opportunity, and peace - underpinning development, accountable government, and respect for fundamental rights. Traditionally, the rule of law has been viewed as the domain of lawyers and judges. But everyday issues of safety, rights, justice, and governance affect us all; everyone is a stakeholder in the rule of law.” (WJP 2020, p. 9)

This is exaggerating – *confer* China. Lots of research needs to be done to establish these claims. Maybe the limited and countervailing regime is valuable, because it promotes justice?

Locke and the protestant ethics/spirit of capitalism

The most debated book in social science is *The Protestant Ethics and the Spirit of Capitalism* (Weber, 1904). A rational market economy – capitalism – arose around 1600 in Western Europe with its typical institutional set-up and personal zest – constituting for Weber its *SINN*. He searched for a similar MEANING in religious beliefs. He should have focused on Locke – a Presbyterian and Socinian putting private property equal to life and freedom. Locke even masterminded the labour theory of value, i.e. an argument for puritanism until Marx destroyed its relevance with his pauperization hypothesis. Maybe Calvinism was one vital source of not so

much capitalism but instead RL? Yet, limited government implied a recognition of the benefits of vibrant markets.

Conclusion

China ranks low and *Norden* ranks very high. The present regime in China seems to return to old fashioned Communism that will not make the country more popular globally with civil society.

Rule of law as a political regime is path dependent. Its occurring has little to do with civilisations. “Western Civilisation” (Huntington, 1996) is a myth, hiding incredible numbers of wars and atrocities. Adding Judaism makes no difference, as anti-semitism was rampant in Christianity and Europe.

Civilisations are not homogeneous, not even the world religions. If Islam is a religion of warriors (Weber, 1978), then how to fit the Christian knights together with peace philosophy as with Kant or Kierkegaard?

One notes the rather low numbers for Poland, Hungary and the US. The WJP states that rule of law is declining globally – a great concern for mankind.

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