Die Vereniging vir
Christelike Hoër Onderwys

Tydskrif vir Christelike Wetenskap

Journal for Christian Scholarship

Intekengeld per jaar/Subscription rates per annum:

Suid-Afrika/South Africa	Elektronies	Hardekopie/Hard copy	
Individue	R40	R80	
Biblioteke/Libraries	R50	R100	
Elders/Elsewhere	Electronic		Hard copy
Individuals	R50 (In SA currency only)		R100
Libraries/Institutions	R52 (In SA currency only)		R104
Biblioteke/Instellings	R52 (Slegs in SA geldeenheid)		R104

Bladgeld/Page fees:

Outeurs verbonde aan akademiese instellings in Suid-Afrika sal vir bladgeld verantwoordelik wees.
Authors connected to academic institutions in South Africa will be liable for page fees.

Inhoudsopgawe/ Table of contents

2de Kwartaal/2nd Quarter

– Mario Phillip

– Bennie van der Walt

2ᵈᵉ Kwartaal
2ⁿᵈ Quarter

Corporate annual reports: towards a non-reductionist approach

C.J. Cronjé
Research Focus Area: Interconnected Reporting
Department of Financial Governance
College of Accounting Sciences
University of South Africa
Cronjcj@unisa.ac.za

R. Coletto
School of Philosophy
North-West University
POTCHEFSTROOM
Renato.Coletto@nwu.ac.za

Abstract

During the 20th century, numerous philosophers of science highlighted several problems afflicting scientific communication. Communication in accounting is also problematic. In both cases (science and accounting) there seems to be a tension between objectivism and subjectivism. The former emphasizes the objects of knowledge, while the latter tends to rely on the human subject. In science one of these approaches seems to prevail in different periods. In accounting there seems to be an oscillation or ambiguity between the two tendencies (subjectivism and objectivism) which remain side by side. A polarity seems to emerge as statutory disclosures are mainly influenced by objectivism, while contextual disclosures are inclined towards subjectivism. With reference to the philosophy of Herman Dooyeweerd, subjectivism and objectivism are interpreted as emphasizing certain modal aspects to the detriment

of others. Although this problem can be regarded as the cause of many challenges in preparing annual reports, this article focuses on communication problems. It is suggested that a better (non-reductionist) approach can be adopted by paying attention to all the modal aspects, in particular to those which tend to be neglected under a certain approach (objectivism or subjectivism). The final sections of this article provide a few concrete examples to improve communication.

Keywords:

Communication; Statutory financial reporting practices; Contextual financial reporting practices; Objectivism; Subjectivism; Dooyeweerd's theory of modal aspects.

Opsomming

Korporatiewe jaarverslae: op weg na 'n nie-reduksionistiese benadering

Gedurende die 20ste eeu het talle wetenskapsfilosowe, verskillende probleme rakende wetenskapskommunikasie uitgewys. Kommunikasie in die rekeningkunde is ook problematies. In beide gevalle (wetenskap en rekeningkunde) blyk daar 'n spanning tussen objektivisme en subjektivisme te wees. Eersgenoemde lê die klem op die objekte van kennis, terwyl laasgenoemde verkies om op die menslike subjek te steun. In die rekeningkunde blyk dit dat 'n polariteit te voorskyn tree, aangesien statutêre openbaarmaking hoofsaaklik deur objektivisme beïnvloed word, terwyl kontekstuele openbaarmaking tot subjektivisme geneig is. Met verwysing na die filosofie van Herman Dooyeweerd word subjektivisme en objektivisme vertolk as die beklemtoning van sekere modaliteite of aspekte tot die nadeel van andere. Alhoewel hierdie probleem as die oorsaak van baie probleme in jaarverslae beskou kan word, fokus hierdie artikel op kommunikasieprobleme. Dit word voorgestel dat 'n beter benadering gevolg kan word, deur aandag te skenk aan al die modaliteite, veral daardie wat onder 'n sekere benadering (objektivisme of subjektivisme) afgeskeep word. Die finale gedeeltes van die artikel voorsien sommige konkrete voorbeelde van hoe kommunikasie in jaarverslae verbeter kan word, deur ook die afgeskeepte modaliteite of aspekte in ag te neem.

Sleutelwoorde:

Kommunikasie; Statutêre finansiële verslagdoeningspraktyke; Kontektuele finansiële verslagdoeningspraktyke; Objektivisme; Subjektivisme; Dooyeweerd se teorie van modaliteite.

1.   Introduction

1.1 Philosophy, accountancy and communication

During the 20th century, the initial optimism concerning the possibility of effective communication in science gradually diminished and the threat of incommunicability was seriously debated (Popper, 1970:56; Kuhn, 1970a:150; Feyerabend, 1975:269). Communication in accounting is also a problem and in the following pages we would like to argue that it is related to a tension between objectivism and subjectivism.

Objectivism emphasizes the objects of scientific investigation, while subjectivism anchors itself in the knowing subject (which can be individual or communal)[1]. The objectivist believes that there is a firm grounding for knowledge, something we can appeal to in determining the nature of reality, rationality and truth (Bernstein, 1985:8). The subjectivist, on the other hand, claims that what is taken to be foundational, true or right is at best only culturally stable, certainly not eternal, indubitable, ultimate or necessary. In other words, everything is *related* (hence relative) to people, time-periods and cultures. This is why Bernstein (1985) identifies subjectivism and relativism.

In accounting, there seems to be an oscillation or ambiguity between the two tendencies which remain side by side. As far as the most important information products of accounting, namely corporate annual reports are concerned, a polarization seems to emerge. In fact, the statutory financial reporting practices (that produce statutory disclosures) seem to be influenced mainly by objectivism, while the contextual financial reporting practices (that produce contextual disclosures) seem to be inclined towards subjectivism. This creates a dis-balance or tension with several negative consequences on different levels (for example, at the ethical, economic and social levels). For the purpose of this article, however, we will limit our focus to the content and manner of communication in corporate annualreports, addressed to heterogeneous users.

---

1   For this reason, subjectivism should not be confused with individualism.

With reference to the philosophy of Herman Dooyeweerd (1894-1977) subjectivism and objectivism can be interpreted as emphasizing certain "modal aspects" (also called "modalities" or simply "aspects" – to be discussed below) to the detriment of others (Coletto, 2007:59). This is the case, we will argue, also as far as communication is concerned. This article suggests that, in so far as corporate annual reports are concerned, a better approach can be adopted by paying attention to all the modalities, in particular to those which tend to be neglected under a certain approach (objectivism or subjectivism). The final sections of this article supply several concrete examples of how to improve the content and the manner of communication in corporate reports by taking into account several neglected modal aspects. This is important since shareholders and other stakeholders are increasingly demanding information on how companies manage environmental, social and corporate governance risks.

1.2 Research problem and hypothesis

The research problem of this article is formulated as follows: Can the communication potential of corporate annual reports be improved by following a non-reductionist philosophical approach?

The hypothesis is the following: Statutory financial reporting practices tend to be created by standard setters using an objectivist approach, while contextual financial reporting practices tend to be created using a more subjective paradigm. A non-reductionist approach could enhance both statutory and contextual financial reporting practices thereby improving the communication potential of corporate annual reports.

1.3 Research plan

A historical survey is undertaken focusing on the growing awareness of the difficulties challenging scientific communication in the most authoritative contemporary philosophies of science. This is compared with the situation of the accounting sciences, with regard to their information products, namely corporate annual reports. On the basis of Dooyeweerd's philosophy a "diagnosis" is proposed, identifying in objectivism and subjectivism the roots of the problems affecting communication in statutory and contextual disclosures. The "symptoms" of the disease are pointed out and a "therapy" is suggested by indicating concrete remedies to specific problems.

As this article moves between philosophy and accounting (and will hopefully be read by scholars from both fields) we will occasionally present information

which is quite "basic" for one group of academics, knowing that the other group may not necessarily be acquainted with the specific topics.

2. Difficulties associated with communication

2.1 Communication in science

In the 20th century, science was influenced by philosophical approaches such as positivism, logical positivism, Popper's philosophy, Kuhn's and Feyerabend's innovations. The following historical survey demonstrates how, during the 20th century, confidence concerning the possibility of sound scientific communication gradually vanished and a growing awareness of the difficulties replaced a somewhat initial and naive optimism. The purpose of this survey is to show that problems of communication, far from being the concern of a single discipline (in our case: accounting) have been a major theme in 20th century philosophy of science. It will also illustrate the growing impact of subjectivism on philosophy of science.

2.2 Positivism

Positivism was the dominant philosophy of science between 1860 and 1920. It was based on the view that in the social as well as the natural sciences, information derived from sensory experience, and logical and mathematical treatments of such data, are together the exclusive sources of all authoritative knowledge (Naicker, 2012:1). The "father" of the movement, Auguste Comte, argued that society develops by moving through pre-determined stages, much as the physical world is subjected to gravity and other causal laws (Naicker, 2012:1). Positivism is an objectivist movement based on empirical experience and concerned with methods such as verification and induction (Buys, 2010:13). The emphasis falls on measurement, sense-experience and empirical objects, while the person of the scientist (the subject of knowledge) is almost irrelevant. Induction is used here to access the law-like regularities of reality. With induction, facts and objects "come first" and determine theories. The positivists identified verifiability with meaningfulness: linguistic statements that are empirically non-verifiable are hence deemed devoid of meaning (Coletto, 2008:447).

The positivists pursued a purified scientific language, not concerned with the problems implicit in ordinary language as the latter accommodates non-scientific and "metaphysical" notions. In general, it can be said that optimism concerning the possibility of sound communication was still at high levels.

2.3 Popper and Kuhn

For Popper (1970:55) too, communication in science must be possible. Coletto (2008:447) explains Popper's point of view: "if science is characterised by the proposal and critical evaluation of theories, it must be possible to communicate even among scientists of different persuasions". In general, Popper recognizes (more than the positivists) that scientific communication is hampered by many difficulties. Nevertheless, he remains confident that those problems can always be solved. Even if we speak different languages, translation is always possible (Popper, 1970:56). He is confident that critical discussion, refutation, corroboration of theories and finally progress will not be prevented by simple communication problems.

Kuhn introduced the paradigm-concept. A paradigm is established when a scientific community accepts such paradigm. The movement away from positivism is evident, when he (Kuhn, 1970a:63) claims that the notion of truth, at any given moment, cannot be established solely by objective criteria, but is defined by the consensus of a scientific community. In addition, Kuhn asserts that competing paradigms are incommensurable, in that they are competing accounts of reality which cannot be coherently reconciled. As a consequence, science can never rely on full objectivity (as positivism would have it), because we must account for subjective (though communal) perspectives as well.

The term "paradigm change" was introduced by Kuhn (1963:360). He made several notable claims with regard to the progress of scientific knowledge (Kuhn, 1963:353) and asserted that scientific fields undergo paradigm changes or shifts (periodic revolutions), rather than solely progressing in a linear and cumulative way. The direction of scientific inquiry within a particular field is then abruptly transformed (Kuhn, 1963:358-360).

Firstly, there is the pre-paradigmatic phase, which lacks a common paradigm. Then follows "normal science", which puts an end to the uncertainty of the pre-paradigm phase concerning the "fundamentals", when scientists attempt to "articulate" the central paradigm by "puzzle-solving" (Kuhn, 1970c:7). In this phase a paradigm is accepted by all, and "reigns" undisputed for a period. During this specific period one is not supposed to find other paradigms within a disciplinary field. One paradigm dictates the rules, the acceptable answers and suggests the instruments to be used or produced. In other words, it determines (normal) scientific research in all respects. However, as anomalous results accumulate, a scientific discipline might reach a phase of crisis and subsequently might undergo a scientific revolution, at which point a new paradigm comes into existence. The old results are rejected and

paradigm substitution takes place.

As a consequence, Kuhn is of the opinion that while communication is always possible when one paradigm dominates a certain field of study in a certain period, in times of crises or scientific revolutions, communication becomes a serious problem. With Kuhn, the term incommensurability (Kuhn, 1970b) becomes an established concept, indicating (amongst others) incommunicability. The latter remains a problem affecting schools or individuals holding to different paradigms.

2.4 Feyerabend and other postmodern thinkers

Feyerabend wants science to be more like "life" itself and consequently follows a more relativistic approach. He is also in favour of pluralism (Feyerabend, 1975), but against rationalism. He uses rationality to undermine rationality (Feyerabend, 1975:33). Feyerabend became famous for his purportedly anarchistic view of science and his rejection of the existence of universal methodological rules. He rejects the dogmatic use of rules, a position at odds with the rationalistic trends still present in the philosophy of science of the day.

Feyerabend (1975) furthers the shift towards relativism and pluralism. Relativism holds that points of view have no absolute truth or validity, having only relative, subjective value according to differences in perception and consideration (Naicker, 2012:1). With Feyerabend, incommunicability becomes an established concept and a real threat, which is faced with different attitudes in postmodern times. Baudrillard (1984:129) asserts, rather pessimistically, that communication becomes mis-information as through its reproductions it creates the "hyper-real". Lyotard (1984:65), more optimistically, advocates that postmodern science should not seek to create mutual understanding at all costs: it is rather dissensus that keeps the "game" going and makes freedom and debate possible.

2.5 Evaluation and transition

The above survey might give the impression that, concerning philosophy of science, communication problems intensified especially during a period dominated by rather subjectivist philosophies. However, objectivism only ignored and evaded such problems, without really tackling them. Its optimism was mainly a result of naivety. In sections 5 and 6 we will see that objectivism too harbours its own problems.

Although philosophy of science deals especially with the natural sciences, it often reflects parallel trends, developments or problems in the social and

human sciences. Accounting is also regarded as a scientific discipline related to mathematics and economics, as well as linguistics, and experiences similar problems with communication. In the next section we will return to accounting by pointing out a few examples of communication problems specifically affecting this discipline. Before doing this, however, a basic explanation of the nature and role of statutory and contextual disclosures in annual corporate reports is provided. This might help philosophers and other scholars who might not necessarily be familiar with accounting practices.

3. Communication-vehicles in accounting

3.1 Historical background

Business reporting in the form of statutory disclosures over the centuries was typified by slow, random and reactive growth. Over the centuries, mainly external incidents, for example crashes of stock markets (Zeff, 2005:1) or recent corporate scandals such as Enron and Worldcom, occasionally stimulated its growth. The development focus entailed a top-down approach, with the introduction of accounting principles and standards by accounting regulators, and not a bottom-up approach, such as a consideration of the needs of stakeholders (Cronjé, 2008:24). Contextual disclosures emerged only during the 1990s The statutory and the contextual disclosures in corporate annual reports may be defined as the information an economic entity provides to help users of that information to make *inter alia* capital-allocation decisions relating to that entity (Cronjé, 2008:23; PRI, 2015).

3.2 Statutory and contextual disclosures

The traditional formal communication vehicle between a publicly listed economic entity and its interested constituencies is the corporate annual report (Cronjé, 2008:1). The corporate annual reports of companies consist of statutory disclosures, generated by statutory financial reporting practices, such as International Financial Reporting Standards (IFRSs) as well as contextual disclosures, such as forward looking information and information about risks and strategies of entities, generated by contextual financial reporting practices (Cronjé, 2008), as illustrated in Figure 1.

Figure 1: Statutory and contextual disclosures in corporate annual reports

Statutory disclosures	Contextual disclosures
Created by	Created by
• The Conceptual Framework (IASB, 2012) • International Financial Reporting Standards (IFRS) • Statutory regulations	• Contextual financial reporting practices
Examples:	Examples:
• Statement of financial position and notes • Statement of comprehensive income and notes • Statement of changes in equity and notes • Statement of cash flows • Directors' report	• Disclosure of economic, environmental and social aspects of economic entities • Disclosure of key risk areas • Disclosure of strategies • Management commentary (IASB, 2010) • Disclosure of forward-looking information

Source: Adapted from Gouws & Cronjé (2008:110)

Statutory disclosures are generated by statutory financial reporting practices. These practices are based on the rules of measurement of the elements of financial accounting that are embodied in the *Conceptual Framework* of the International Accounting Standards Board (IASB) as well as the IFRSs. The IASB uses the *Conceptual Framework* to develop IFRSs. The *Conceptual Framework* focuses on the following: reporting entity, elements of financial statements (including recognition and derecognition), measurement, presentation and disclosure. Statutory financial reporting practices are therefore based on the *Conceptual Framework* (borrowing Kuhn's terms, we might call the latter the "disciplinary matrix" of accounting).

Examples of contextual disclosures that appeared throughout history are the ones dealing with corporate governance matters including sustainable reporting; disclosure of economic, environmental and social aspects; disclosure of key risk areas; disclosure of strategies; management commentary and disclosure of forward-looking information.

3.3 Communication problems in accounting

Communication in accounting is also currently problematic. For example, the reporting standards of the United States of America, controlled by the Financial Accounting Standards Board (FASB), often differ from the "disciplinary matrix" of the IASB of the United Kingdom. This has an effect on the comparability of statutory disclosures of economic entities in different countries. Furthermore, the contextual disclosures in corporate annual reports differ from company to company. Of course this hinders comparability and therefore has negative effects on communication.

It would also seem that not all users understand the communication messages compiled by preparers of corporate annual reports in the form of statutory and contextual disclosures, due to their complexity (cf. Belkaoui, 1995:41). As the commonality of language between the preparer and the user of corporate annual reports is a prerequisite for conveying meaning through disclosures in corporate annual reports, there is still room for improving the statutory and contextual disclosures (Cronjé & Gouws, 2011:44). Belkaoui (1995:41) is concerned about the fact that the general level of readability of accounting messages is difficult, and the level of understandability of the meaning of accounting messages needs improvement. This will of course depend on who the readers of the annual reporsts are. However, a main constraint in achieving the commonality of language goal (to enhance the conveying of meaning) is evident in the lack of feedback by users and stakeholders (Cronjé & Gouws, 2011:56).

Currently, new developments regarding corporate reporting are taking place. The International Integrated Reporting Council (IIRC) consisting of a global coalition of regulators, investors, companies, standard setters and the accounting profession, is of the opinion that corporate reporting needs to evolve. The aim would be to provide a concise communication about how an organization's strategy, governance, performance and prospects, in the context of its external environment, lead to the creation of value over the short, medium and long term (IIRC, 2013).

Accounting too, therefore, is affected by problems of communication. In our opinion these problems can be related to a conflict between objectivism and subjectivism. In order to display our diagnosis properly, however, we need to briefly explain some traits of Dooyeweerd's philosophy, in particular his theory of modal aspects. It is on that basis that our diagnostic analysis (see section 5) will acquire particular depth and solidity.

4.   Dooyeweerd's theory of modal aspects

The Dutch Christian philosopher Herman Dooyeweerd (1894-1977) developed a non-reductionist[2] ontology of "modal aspects", concerning diverse kinds of meaning which are disclosed in the analysis of every existing thing. The modal aspects are the fundamental "sides" of (as well as the fundamental ways of observing and explaining) all existing entities (events, processes etcetera). He considers such modalities to be irreducible to each other and yet indissolubly linked. The following example (Figure 2) is used by Basden (2011:1) to list and explain the modal aspects (or modalities) of temporal reality.

Figure 2: Modal aspects related to scientific disciplines

Aspects:	Example: writing a letter
15. Certitudinal	Do I believe in what I am writing? Is it important?
14. Ethical	Do I write with goodwill and generosity?
13. Legal	Am I doing justice to the topic? To the readers?
12. Aesthetic	Is my writing interesting or boring?
11. Economic	Do I have to keep to a word limit?
10. Social	What phrasing suits the intended readers better?
9. Lingual/sign	How can I best express what I want to say?
8. Historical	Do I have a plan and structure?
7. Logical	Is it clear what I want to write about?
6. Sensory	How do I feel while writing? Is the light too dim to see what I am writing?

---

2   Non-reductionist means that the broad variety of modal aspects which is found in reality is not reduced to a few modalities, as it happens, according to Dooyeweerd, in most philosophical movements. In most cases, in fact, only a few aspects are recognized and some of them are "absolutized", i.e. regarded as the most important ones or even as the sources of other aspects. From this point of view, for example, it can be said that Marx absolutizes the economic and social aspects, Freud the sensory (psychic) modality and Hitler the biotic aspect (related to blood and race).

5. Biotic	Do I write badly when ill?
4. Physical	Might the writing (ink) fade over time?
3. Kinematic	Is the writing fast or slow?
2. Spatial	How large a sheet of paper is being written on?
1. Numeric	How many words, paragraphs, sections are written?

Source: adapted from Dooyeweerd (1984) and Basden (2011)

In Figure 2 each question points towards an aspect of the writing activity (Basden, 2011:1). The same 15 modalities are applicable in looking at any existing entity, activity or event.[3]

Aspects are closely tied to the very structure of temporal reality, as spheres of meaning and spheres of law, which makes both functioning and normativity possible (Basden, 2011:3). Aspects are spheres of meaning, providing different ways in which things in all temporal reality can be meaningful. This is often referred to as aspectual meaning. Aspects are also spheres of law, which are the foundation for functioning and normativity of and in all temporal reality (Basden, 2011:3). This is often referred to as aspectual law.

It is important to note that no aspect can be reduced to others in terms of its meaning and law, nor can any modality be satisfactorily explained in terms of others. Dooyeweerd conceptually distinguishes the aspects in order to discuss them, but he also stresses their coherence because all aspects work together (Basden, 2011:3). In fact, each aspect contains "echoes" of all the others, and each is involved in a mutual inter-dependency with others (Basden & Burke, 2004:357). In other words the different aspects are interconnected and woven together. Although the aspects are diverse, they show coherence with each other (Hart, 1984:164). The meaning of each one of the aspects only comes to expression in the coherence with the other aspects (Strauss, 2009:76). A few more notes on the relationships among modal aspects are displayed in the scheme (Figure 3) below.

---

3   It might be objected that while the activity of writing a letter "functions" in all the aspects, if we observe a cat or a flower they do not seem to function in the (e.g.) linguistic or juridical aspect. In other words cats and flowers do not speak to or sue anybody! It should be noted, however, that in these modal aspects they have a "passive function": for example they still have a name and might belong to someone. Human beings function actively in all modal aspects.

Figure 3: Inter-aspectual relationships

Type	Description
Order	The aspects form a sequence, not a hierarchy, because Dooyeweerd held that all aspects are equally important, but some must be present before others (for example there must be organic life to experience emotions). In this sequence, aspects refer both to earlier (foundational) aspects, and to later (ante-cipating) aspects.
Dependency	Here aspects 'need' each other, differently in the anticipatory and foundational directions. In the foundational direction the functioning in an aspect depends on good functioning in earlier ones. For example social functioning depends on good lingual functioning. In the anticipatory direction an aspect's meaning is not fully realised without reference to meaning of later aspects; for example the lingual aspect is rather, though not entirely, sterile if not used to enable social functioning.
Analogy	The meaning of each aspect is echoed in the others. For example, we say an economy 'grows' (biotic analogy in the economic aspect).
Reaching out	Functioning in one aspect always involves at least another aspect as target or object; for example we can have a feeling of space.

Source: Adapted from Basden (2011:4)

According to both Dooyeweerd and Basden (2011: 5), there is an order of succession amongst the modal aspects (cf. Hart, 1984:190-198). The suggested order does not amount to a hierarchy, but reflects an increasing complexity of functions.

> The first three – quantitative, spatial and kinematic – are what Dooyeweerd called mathematical aspects because they are based on the numerical. The next three – physical, biotic and psychic/sensitive – govern material, plants and animals, though they also apply to humans. The next three – analytical, formative and lingual - govern individual human cognition. The next three – social, economic and aesthetic – are aspects of our living together. The final three aspects – legal, ethical and pistic/faith – are especially important for the good functioning of society (Basden, 2011:5).

In the next section the theory of modal aspects is related to objectivism, subjectivism and to the problems that these two approaches create in accounting.

5. Objectivism and subjectivism in relation to accounting

Objectivism and subjectivism can be interpreted as emphasizing certain modal aspects to the detriment of others.[4] In particular, the objectivist seems to emphasize the modalities characterizing the (natural) objects of empirical experience. This is the case also as far as communication is concerned.

For the objectivist, the source of all regularity and order is located in the objects of experience (even though that source may not be directly experienced – Clouser, 2005:247). The objectivist relies on the "facts", which are supposed to lead to credible and certain statements. When science is considered, for example, the knowing subject must stay as far as possible out of the picture. In this case no personal or group "prejudices" (for example "metaphysical" convictions) are allowed to interfere with scholarship. The objectivist therefore is inclined to focus on the first five or six modal aspects (see Figure 2) which are supposed to support more reliable, credible or certain forms of knowledge.

The statutory disclosures of corporate annual reports are for example affected by the following consequences of objectivism. The information appears especially in *numerical* form and is structured and classified. Due to its reliance on the "external world", the development of standards often seems to be stimulated especially by external incidents, events or changes. The same emphasis on the *objects* (the "elements") of economic activity causes the focus of statutory reports to be mainly on resources, materials, assets (or liabilities) and so forth. Insistence on the first aspects of the modal order creates an over-estimation of the foundational direction (see Figure 3, about "order"). As a consequence, the emphasis is especially on the past. Finally, not much use is made of graphics, colour and other forms of representation (thus underplaying the signifying and aesthetic aspects). Some of these issues will be explored in the various concrete examples provided in section 6.

---

4   Objectivism and subjectivism can also be interpreted as focusing on what is subjected to the law/norms (either objects or subjects) while bypassing or overlooking the normative side of each aspect. Even from this point of view, however, a "return" to the modal aspects as sources of modal *laws* and norms (as this article proposes to do) will be regarded as beneficial.

With subjectivism, by contrast, scientific knowledge is anchored in the knowing subject (and not in the objects) of knowledge. The subject is regarded as the new *locus ordinis* (the foundation of order) for reality, leading (according to Feyerabend) to a more "humanitarian" type of science. Kant maintained that the mind of the knower or "subject" is the source of all the order of experience. Accordingly, the subjectivist locates the source of order in (the mind, in the language, or in the social constructs of) the knowing subject (Clouser, 2005:247). The subjectivist therefore focuses on the "higher" modal aspects (see Figure 2) which in his view are more rich and promising being especially related to the cultural activities of the human subject.

The contextual disclosures of corporate annual reports are for example affected by the following consequences of subjectivism. They are presented in narrative form, (not always in measurable or quantifiable terms) characterised by interpretive and hermeneutical skills. Information is also presented in a rather "spontaneous" form, not strictly subjected to rules of objectivity and precision. As the emphasis falls on the *subjects* of the economic activity contextual disclosures insist mainly on the strategies, future plans, expectations of the subjects of a particular economic entity. Emphasis on the "higher" aspects of the modal order creates an over-estimation of the anticipatory direction (see Figure 3, about "order"). As a consequence, emphasis is placed on the future, for example on predictions and anticipations. Some of these issues will be explored in the various concrete examples provided in section 7.

At this point one might even wonder which of the two types of (mutually exclusive) disclosures can be regarded as giving a true picture.

One could also ask whether the tension will not vanish if the two types of disclosures are simply unified in a single disclosure product, such as an integrated report. In our opinion the tension will not simply disappear as the statutory disclosures, for example, deal with topics like statement of financial position, statement of changes in equity, statement of comprehensive income and statement of cash flows. The contextual disclosures, by contrast, deal with topics that are not reflected by the statutory disclosures. They cater for information on the business environment and provide an operating and financial review, overview of strategy, forward-looking information, key performance indicators and information on corporate governance and strategy. In other words, the two types of disclosures deal with different subject matters.

Integrated reporting initiated by the IIRC is a step in the right direction, but needs to further evolve by taking all the aspects (see section 4) into account.

Currently, only certain information is communicated to providers of capital in the form of a concise communication about how an organization's strategy, governance, performance and prospects, in the context of its external environment, lead to the creation of value over the short, medium and long term (IIRC, 2013).

In the following section we still work with the hypothesis that separate disclosures (statutory and contextual) are provided. The picture would of course change if unified reports are presented. However, the examples provided below can be useful for all types of disclosures.

6.   Statutory disclosures

6.1 Counteracting objectivism

The following section tries to identify some of the present key-characteristics of statutory disclosures of corporate annual reports that are affected by objectivism (see section 5 above) and therefore create some communication problems. It also tries to identify some of the modalities that have been neglected in order to suggest specific "remedies". It is relevant to note that we find these neglected modalities especially in the middle-upper section of the modal sequence (see Figure 2).

6.2 The information appears in numerical form

The problem with information provided only in numerical form (therefore only providing outputs – Cronjé, 2008:42-43), is that only one aspect is referred to. More practically, property, plant and equipment are for example reflected at monetary values on the statement of financial position at the end of the current and the previous years, without an explanation of how the economic circumstances of an economic entity changed. The economic circumstances for the current and the previous years, relating to property, plant and equipment could be expressed in narrative form, so that users of information could make better informed comparisons from one year to the next. Comparisons could then be made not only of the outputs (numbers), but also of the inputs and processes.

In this case reference must be made to the lingual modal aspect as a remedy. The entire modal structure of this aspect may simply be designated as the sign mode (Strauss, 2009:95-96). We experience the lingual aspect intuitively in expressing, recording and interpreting (Basden, 2011:13). A possibility that the lingual aspect introduces into temporal reality is externalisation of our intended meaning (Basden, 2011:13).

Statutory financial reporting practices could therefore make use, for example, of narrative disclosures in order to enhance understandability. Disclosures should be such that stakeholders can make meaningful decisions with ease. Statutory numerical data could benefit if more use is made of descriptions and explanations in order to faithfully represent financial phenomena and to increase the understandability of numbers and ratios.

6.3 Information is only for investors, lenders and creditors

In this specific case (IASB, 2012), due to an objectivist approach, social norms are under-appreciated, or accepted in a limited form. Social interaction within human society gives expression to phenomena such as courtesy, tact and politeness (Strauss, 2009:97). We experience the social aspect intuitively as we, us and them: associating, agreeing and appointing (Basden, 2011:15).

The social aspect introduces the possibility of company, which is togetherness, respect and courtesy (Basden, 2011:15). The social functioning of business is qualified by the economic aspect. Nevertheless, economic entities have a "social contract" with different user groups.

As entities have social responsibilities (Buys, 2008:503; Roberts, 1992:599) towards stakeholders, financial reporting practices need to be developed to ensure that disclosures of relevant information are useful to heterogeneous users, for example by providing disclosure of environmental aspects. This includes the effects that an entity's products and/or services may have on the environment, which may be important to environmental pressure groups. The social aspect encompasses relationships with stakeholders other than just the shareholders, specifically employees, customers and local communities.

Statutory reporting therefore needs to be done in such a way as to ensure appropriate and sensitive engagement of stakeholders with the business environment, taking into account their special needs for meaningful information through proper feedback systems. Entities must know who their user groups are and this can be established through tactful, emotionally intelligent engagement with all the various role-players. Integrated reporting could also play a major role in achieving an interactive engagement with stakeholders, as the financial, environmental and social impact of economic entities are displayed to different stakeholders.

Furthermore, the juridical modality could be referred to. For Basden (2011:18), we experience the juridical aspect as pointing towards the "appropriate and due". The legal functioning depends on the earlier aspects, for example the aesthetic aspect in so far as there must be a "well-balanced harmony of a

multiplicity of interests" (Dooyeweerd, 1984, 2:135). Legal functioning is also related to responsibility (Basden, 2011:18).

Stakeholders (including disadvantaged stakeholders – Cronjé 2010), have a legal right to relevant and credible statutory information, faithfully represented and reported on time, taking into account factors such as the cost of providing such information.

6.4 The development of reporting standards is prompted mainly by external incidents

As from 2003/2004 there have been vast improvements in financial reporting practices (Cronjé, 2008:24). However over the years these improvements have been mainly influenced by external incidents (Cronjé, 2008:41-43) such as stock market crashes and, for example, the credit crunch in 2008/2009.

In this case reference could be made to the cultural-formative modality. Basden (2011:12) contends that we experience the formative aspect as pointing to the deliberate creative shaping of culture, usually with some end in mind. This includes the shaping of concepts into conceptual structures, words into sentences, as well as activities such as forming, designing, processing and innovating. A possibility that the formative aspect introduces is cultural achievement and innovation (Basden, 2011:12). This aspect refers to achievement, purpose, mastery and goal. According to Strauss (2009:95) the meaning-nucleus of the cultural-historical aspect is designated as "formative control" or simply as "power".

Deliberate creative shaping of financial reporting practices to enhance decision usefulness, is an on-going process. Much progress has been made with the growth of information in corporate annual reports, for example, concerning the section on management commentary (IASB, 2010). The introduction of integrated reporting is another achievement for making information available to heterogeneous users. Many of the financial reporting practices that are formed by the accounting profession have symbolic value, but this cannot be understood from the point of view of the formative aspect. For this purpose, the perspective of the lingual aspect is required (Basden, 2011:13).

6.5 Not much use is made of graphics or colours

In corporate annual reports not much use is made of graphic or colors (Cronjé, 2008:165, 205), but a colour presentation could play an important role in increasing the usefulness of graphical, tabular or columnar comparisons and displays (Cronjé, 2008:205). In this instance the aesthetic modality could be

referred to. According to Basden (2011:17), we experience life in its aesthetic aspect primarily in harmonising, balancing, enjoying, playing and beautifying. Seerveld (1979:284ff.) introduced words such as allusivity and imaginativity to explain the meaning-nucleus of the aesthetic modal aspect.

In order to make the aesthetic expression of statutory disclosures interesting, use can be made of the expertise of graphic designers to prepare the photographs, tables and graphs in corporate annual reports (Cronjé, 2008:205). The art of graphic design is to provide the best possible view of any subject matter – whether it is an annual report, a brochure or a brand concept (Cronjé, 2008:249). Care should be taken, of course, not to create smoke and mirrors to deflect some of the negative figures and also not to waste money un-necessarily. However, proper use can be made of colour, photos, graphics and graphs in order to portray various aspects of the company's business such as industrial plants or products. By means of imaginative ways, information can be provided succinctly, interestingly and meaningfully to ensure that all information flows harmoniously and is structurally sound.

Better use of graphs in the statutory section of corporate annual reports could play an important role in illustrating relationships between figures disclosed in the statement of financial position, the comprehensive income statement and so on (Cronjé, 2008:161). The use of graphs, pie charts, illustrations, visual representations, colour (an anticipation of the aesthetic aspect) and photos and so on will enhance the meaning of financial reporting practices, though it should not be overdone.

7.   Contextual disclosures

7.1 Counteracting subjectivism

The following section tries to identify some of the present key-characteristics of contextual disclosures of corporate annual reports that are affected by subjectivism (see section 5 above) and therefore create some problems related to the disclosure of information. It also tries to identify some of the modalities that have been neglected and to suggest several specific "remedies". It is interesting to note that we find these neglected modalities especially in the bottom section of the modal sequence (see Figure 2).

7.2 The information is not always provided constantly

The problem with this rather "spontaneous" approach is that contextual disclosures could become inconsistent (Cronjé, 2008:42) and unstable and

deflect negative sides by smoke and mirrors. Constancy of contextual financial reporting practices is necessary, so that contextual financial disclosures can be compared from year to year and also amongst different entities. Unstable and inconsistent financial disclosures should be avoided (Buys, 2008:504). Quite often, the meaning of these disclosures gets lost in the details. Constancy or consistency of contextual financial reporting practices makes comparability of financial disclosures possible. With this purpose in mind, the kinematic aspect could be examined, which is described by Basden (2011:7) as an intuitive experience of on-going, continuous flowing, implying constancy. Strauss (2009:88-89) asserts that constancy (uniform motion) is rooted in the kinematic aspect. Rubrics (reporting frameworks) of contextual disclosures could be developed in order to enhance comparability. There are some of these already, for example the framework of the Global Reporting Initiative (GRI:2015) and work done by the Social Return on Investment network (SROI:2005).

7.3 All information is not necessarily measured, quantified and audited

The problem with information that is not measured, quantified and audited (Cronjé, 2008:43) is that such information is often less reliable and credible. Disregarding precision and objectivity might lead to disclosures that appeal too much to emotional responses and too little to rational decision. In this case the quantitative modality can for example be referred to. Basden (2011:5) asserts that we experience the quantitative aspect (as a sphere of meaning) most intuitively and directly as "one, several and many" (cf. Strauss, 2009:82), and "comparisons of less and more". The quantitative aspect introduces a fundamental structure that enables temporal reality to exist (and mathematics to be foundational), namely reliable amount and order.

Users need to understand the disclosures being depicted in corporate annual reports. For this purpose use needs to be made of numerical contextual data, although numerical data need to be complemented with descriptions and explanations (related to the lingual mode in the anticipatory direction).

In the process, of course, the necessary precautions must be adopted. As Basden (2011:14) clarifies, a negative direction in the lingual aspect is caused by anything that prevents adequate expression and understanding of what was meant, which includes unintentional problems like the inability to express oneself and lying, obfuscation and equivocation. Misrepresentation of events, for example where "bad news" is reported using long sentences with

complex grammatical structures to mask and deflect the readers' attention (Cronjé, 2008:206) should therefore be avoided in corporate annual reports.

7.4 The information is often future oriented

Statutory disclosures insist on certainty and accountability, cater for concrete events, and occurrences and transactions that are matter–and-resource-flow oriented. Contextual disclosures on the other hand, possess features which are more uncertain. They cater for "artificial" (non-) events, simulated happenings, predictions and contingencies which are mind (i.e. *subject*) oriented. At the same time, the accent is placed on the *future* plans, strategies and expectations of the economic subjects. Yet, there are risks in reporting mainly future oriented and forward-looking information (Cronjé, 2008:79). For example, when users base their decisions on forecasts that reflected a brighter outcome than the actual outcome, companies may be held liable for those improper decisions (Cronjé, 2008:80).

In philosophy of science there has been an extended controversy on whether theories should have only the task of predicting or also of explaining phenomena. Interestingly, the "prediction-only" position is defended by subjectivist authors holding to an instrumentalist view of theories.[5] From a Dooyeweerdian perspective, Stafleu (1987:41 ff.) suggests that explanation should not be opposed to but should integrate prediction. This can be applied to contextual disclosures as well and would be excellent medicine for the problems mentioned above.

As it might be expected, explanation is also founded in one of the first modalities in the modal order: the physical aspect (analogically related to the rational or logical modality). In fact, explanation depends on the (logical) "force" and "weight" of its arguments (Stafleu, 1987:51). The *Explanans* (what explains a situation or phenomenon) and the *explanandum* (what is to be explained) are arranged in a sequence of irreversible cause and effect (typical of physical interactions) and this is what allows for the effectiveness of an explanation (Stafleu, 1987:41-42).

When explanation integrates prediction, contextual disclosures would not be exclusively oriented to the future and would acquire a more balanced scope. At the same time they would be more "grounded" on concrete reality without placing excessive emphasis on the subjects of economic activities.

---

5   Instrumentalism is an antirealist approach to philosophy of science that holds that theories are not true or false but are merely tools for deriving predictions from observational data.

8.   Conclusive remarks

In this article it was shown that in contemporary philosophy of science, pessimism concerning the possibility of sound communication in science increased during the gradual shift from positivism to the subsequent subjectivist philosophy of science. Likewise it was shown that communication in accounting is also problematic. In both cases (science and accounting) there is a tension that we have diagnosed as a conflict between objectivism and subjectivism. In science, the predominance of one of the two approaches takes place in different historical periods. In accounting there seems to be an oscillation or ambiguity between the two tendencies (subjectivism and objectivism) which remain side by side. As far as the information products of accounting, namely corporate annual reports, are concerned, a polarization seems to exist as statutory financial reporting practices are influenced by objectivism, while the contextual financial reporting practices are inclined towards subjectivism.

It was argued that subjectivism and objectivism can be interpreted as emphasizing certain aspects to the detriment of others and that a better communicative approach can be reached by paying attention to all the modalities, in particular to those which tend to be neglected under a certain approach (objectivism or subjectivism).

The strategies proposed in this article constitute only one possibility among many others in which Herman Dooyeweerd's philosophy could be used to improve the problems discussed. We therefore recognise the tentative and introductory character of the attempts made in this article. They are also limited in so far as our focus was only on communication. The same holds for the concrete examples and strategies indicated in the final sections (6 and 7). Such examples are not proposed as exhaustive or conclusive, but as pointing the way towards a new approach. On this basis other scholars are invited to conduct further research on this topic.

It should be noticed, however, that our identification of lacunae and neglected needs in corporate reports is based on an ontological analysis. The use of proper ontological categories aims at avoiding arbitrariness and a fragmentary understanding of the needs and problems. In fact, the selection of problems and the proposed strategies are not based on individual or arbitrary preferences. On the contrary, a philosophical analysis in tune with the normative traits holding for reality was supplied.

Finally, one important question would be whether the strategies suggested in this article might deal mainly with the "symptoms" and not with the causes of

the problem. After all, in Dooyeweerdian terms, objectivism and subjectivism are themselves produced by the "ground motive" of modern culture. The latter is based on the antithesis between "nature and freedom" (or "nature and culture") which posits a conflict between the human subject (looking for autonomy and creative freedom) and an "outside world" imposing its laws, constraints and "objective facts". The ultimate liberation from objectivism and subjectivism might be possible only through the rejection of such polarized "paradigm" and its substitution with a radically new one.

Bibliography

BASDEN, A. & BURKE, M.E. 2004. Towards a philosophical understanding of documentation: a Dooyeweerdian framework. *Journal of Documentation*, 60(4):352-370.

BASDEN, A. 2011. A presentation of Herman Dooyeweerd's aspects of temporal reality. *International Journal of Multi Aspectual Practice*, 1(1):1-28.

BAUDRILLARD, J. 1984. The ecstacy of communication. (In: Foster, H., Ed. *Postmodern culture*. London: Pluto:126-134).

BELKAOUI, A. 1995. *The linguistic shaping of accounting*. Westport, CT: Quorum Books.

BERNSTEIN, R. 1985. *Beyond objectivism and relativism: science hermeneutics and praxis*. Philadelphia, Penn.: University of Pennsylvania Press.

BUYS, P.W. 2008. In pursuit of a foundational accounting philosophy. *Koers*, 73(3):489-508.

BUYS, P.W. 2010. The legitimacy predicament of current day accounting theory. Published PhD Thesis. University of the North West, Potchefstroom.

CLOUSER, R.A. 2005. *The myth of religious neutrality*. Notre Dame, Indiana. University of Notre Dame Press.

COLETTO, R. 2007. The legitimacy crisis of science in late-modern philosophy: towards a reformational response. PhD Thesis. University of the North-West, Potchefstroom.

COLETTO, R. 2008. When the 'paradigms' differ: scientific communications between scepticism and hope in recent philosophy of science. *Koers*, 73(3):445-467.

CRONJÉ, C.[J.] 2008. *Corporate Annual Reports (CARS): Accounting practices in transition*. Saarbrüken, Germany: VDM Verlag Dr Müller.

CRONJÉ, C.J. 2010. A more subtle set of information in corporate annual reports for disadvantaged stakeholders. *South African Journal of Economic and Management Sciences*, 13(2):222-235.

CRONJÉ, C.J. & GOUWS, D.G. 2011. Commonality between the preparer and the user of financial information as a prerequisite for conveying meaning. *Southern African Business Review*, 15(2):43-58.

DOOYEWEERD, H. 1984. *A new critique of theoretical thought*. 4 volumes. Jordan Station,   Ontario, Canada: Paideia Press. (Original work published 1953-1958).

FEYERABEND, P.K. 1975. *Against method: outline of an anarchistic theory of knowledge*. London: New Left Books.

GOUWS, D.G. & CRONJÉ, C.J. 2008. Corporate annual reports: accounting practices in transition. *Southern African Business Review*, 12(2):108-133.

GRI. 2015. *The global reporting initiative*. [Online] Available from: https://www.globalreporting.org.

HART, H. 1984. *Understanding our world: an integrated ontology*. Lanham, Md.: University Press of America.

IASB. 2010. *IFRS Practice Statement. Management Commentary. A Framework for Presentation*. International Accounting Standards Board (IASB). London. United Kingdom.

IASB. 2012. *International Financial Reporting Practices (IFRSs). 2012:* including International Accounting Standards (IASs) and Interpretations as at 30 September 2011. Vol. 1A London: IASB.

–   Conceptual Framework for Financial Reporting.

IIRC, 2013. *Consultation Draft of the International <IR> Framework*. International Integrated Reporting Council.

KUHN, T.S. 1963. The function of dogma in scientific research. (In: Crombie, A.C. Ed. *Scientific change: historical studies in the intellectual, social and technical conditions for scientific discovery and technical invention, from antiquity to present*. London: Heinemann:347-369).

KUHN, T.S. 1970a. *The structure of scientific revolutions*. Chicago: The University of Chicago Press.

KUHN, T.S. 1970b. Reflections on my critics. (In: Lakatos, I. & Musgrave, A., Eds. *Criticism and the growth of knowledge*. Cambridge: Cambridge University Press:231-277).

KUHN, T.S. 1970c. Logic of discovery or psychology of research? (In: Lakatos I. & Musgrave A., Eds. *Criticism and the growth of knowledge*. Cambridge: Cambridge University Press:1-12).

LYOTARD, J.F. 1984. *The postmodern condition: a report on knowledge*. Manchester: Manchester University Press.

NAICKER, K. 2012. Financial reporting from positivism to relativism. E-news. Pretoria. University of South Africa. [Online]. Available: http://staff. unisa.ac.za/e-connect/e-news/2012/12/21/financial-reporting-from-positiv, Accessed: 01/02/2013.

POPPER, K.R. 1970. Normal science and its dangers. (In: Lakatos I. & Musgrave A., Eds. *Criticism and the growth of knowledge*. Cambridge: Cambridge University Press:51-58).

PRI. 2015. *Introducing responsible investment*. [Online] Available from: http://www.unpri.org/introducing-responsible-investment/.

ROBERTS, R.W. 1992. Determinants of corporate social responsibility disclosure: an application of stakeholder theory. *Accounting, Organizations and Society*, 17(6):595-612.

SEERVELD, C.G. 1979 (Eds. John Kraay and Anthony Tol). Modal aesthetics: preliminary questions with and opening hypothesis. In: *Hearing and Doing*, Philosophical essays dedicated to H. Evan Runner, Toronto: Wedge Publishing Foundation:263-294).

SROI. 2005. Social return on investment framework [Online] Available from: http://www.Socialvalueuk.org.

STAFLEU, M.D. 1987. *Theories at work: on the structure and functioning of theories in science, in particular during the Copernican revolution*. Lanham, Md.: University Press of America.

STRAUSS, D.F.M. 2009. *Philosophy: discipline of the disciplines*. Grand Rapids: Paideia Press.

ZEFF, S.A. 2005. *Evolution of US generally accepted accounting principles (GAAP)*. Rice University. USA.

Samuel Rutherford and the Neo-Thomists:

Juristic corporation theory and natural law arguments in *Lex, Rex*

Andries Raath
Research Fellow
Department of Constitutional Law
and Philosophy of Law
University of the Free State
RaathA@ufs.ac.za

Shaun de Freitas
Associate Professor
Department of Constitutional Law
and Philosophy of Law
University of the Free State
DeFreitas@ufs.ac.za

Opsomming

Samuel Rutherford en die neo-Thomiste: Juridiese korporasie-teorie en natuurreg-argumente in Lex, Rex

Die Skotse teoloog en politieke teoretikus se politikologiese werk Lex, Rex*, is sterk deur die Christelike humanisme van die sestiende en sewentiende eeu beïnvloed. Verwysings na talle klasieke werke van Griekse en Romeinse filosowe asook Middeleeuse bronne kom in dié werk voor. Rutherford maak ook van talle Neo-Thomistiese bronne gebruik by die ontwikkeling van sy standpunte oor die soewereiniteit van die populus en sy benadering tot natuurreg en natuurlike regte. Alhoewel*

Rutherford in talle opsigte van die Neo-Thomistiese teologie verskil het, het dit hom nie verhoed om wel bepaalde politikologiese argument uit dié bronne oor te neem, binne die konteks van sy Reformatoriese teologie te herinterpreteer en toe te pas nie. Met dié benadering het Rutherford daarin geslaag om standpunte te ontwikkel wat vir sowel Reformatoriese Christene as andersdenkendes van belang is. Sy werk Lex, Rex*, (Die reg en die heerser) verkry daarmee 'n universaliseerbare betekenis.*

1.   Introduction

The sixteenth-century revival of Thomism in European ecclesiastical and legal theory carried in its wake a re-orientation of fundamental importance for the development of the modern natural law theory of the state. The tone for which was to become a most influential political theory was set by Francisco de Vitoria (c. 1485-1546), a prominent Dominican. Vitoria's ecclesiastical school of natural law theory included amongst others Diego de Covarrubias (1512-1577), a prominent jurist, and Dominican ecclesiastical authors like Fernando Vasquez (1509-1566) and Domingo de Soto (1494-1560). The Dominican views on ecclesiastical and political matters were re-interpreted and developed by Cardinal Robert Bellarmine (1542-1611), and Spanish Jesuits including Gregorio de Valencia (1549-1603), Gabriel Vasquez (1549-1604) and Francisco Suàrez (1548-1617). The turn brought about by the Neo-Thomist writers facilitated the development of a highly influential theory of general public law based on natural law precepts.[1]

The main political aim of the Dominicans and their Jesuit followers was the refutation of the political views of the evangelical Reformation in general and the Lutheran views on law and politics in particular. Three aspects of Reformational thought alarmed Jesuits and Dominicans alike: firstly, the mistaken view credited to Wycliffe and Hus that dominion is founded in grace; secondly, the erroneous belief that civil power cannot remain in the hands of the ruler, and thirdly, the Lutheran rejection of natural law as the basis of the political order.[2]

---

1   Cf. Gierke, *Natural Law and the Theory of Society*, I, p. 36. Cf. e.g. : Franciscus Victoria (Dominican), *Relectiones tredecim* (1580); Dominicus Soto (Dominican), *De justitia et jure* (1556); F. Vasquez, *Controversiarum illustrium aliarumque usu frequentium libri III* (1572); Gregorius de Valentia, *Commentarii theologici* (1592); Balthasar Ayala, *De jure et officiis belli* (1597); Ludovicus Molina, *De justitia et jure tomi VI* (1602 & 1614); Leonardus Lessius, *De justitia et jure libri IV* (1606); Cardinal Robert Bellarmine, *De potestate summi pontificis in rebus temporalibus* (1610); Johannes de Lugo, *De justitia et jure* (1670).

2   Cf. Q. Skinner, T*he Foundations of Modern Political Thought*, II, p. 138ff.

In their refutation of the evangelical views on political society, the Thomist authors of the sixteenth-century gathered elements of the Medieval interpreters of Roman law concepts related to legal personality, the power the people yield in opposing tyranny, and Marsilius of Padua's views on popular sovereignty, which they re-interpreted and applied to the political environment of sixteenth-century European political thought.

Dominican and Jesuit political works in many respects popularized the application of Roman law concepts and the idea of popular sovereignty, and served as standard sources of reference to students of European and English universities – influences the English and Scottish Puritans could not escape. After 1600 students in England and Scotland were increasingly being exposed to the writings of Jesuit and other Neo-scholastic theologians and ecclesiastical authors on natural law. Quotations from Bellarmine, Vasquez, Molina, Durandus, De Soto, Suàrez and other Neo-scholastics abound in the notebooks of students from Cambridge, Oxford and Puritan colleges.[3] Although the main purpose with reading these Neo-Thomistic works was to study the aims, arguments and views of the enemies of the Reformation, Neo-Scholastic works contained information appealing also to candidates of Reformed persuasion and receiving tertiary education heavily influenced by Christian humanism.[4]

Although the Puritan divine Samuel Rutherford (1600-1661), reacted negatively to many aspects of Neo-Thomistic thought in his political work *Lex, Rex*, he utilised a number of key-aspects associated with the rising natural law tide in political philosophy. In answering the question as to whether the Jesuit doctrine of lawful defence is the same as that of the Puritans, Rutherford takes pains to explain that the doctrine that sovereignty is originally and fundamentally located in the people, was taught by the "fathers, ancient doctors, sound divines, lawyers, before there was a Jesuit or a prelate whelped, *in rerum natura*".[5] In answer to the view that both Jesuits and Puritans say that it was a privilege of the Jews that God chose their king, Rutherford maintains that the Jesuits and Puritans are in opposing camps on this issue because in post-Biblical times kings are not appointed by extraordinary revelation from God.[6] Rutherford also explicitly rejects Jesuit teaching that man is not justified by faith only, but also by works.[7] Elsewhere

---

3   Cf. M. Todd, *Christian Humanism and the Puritan Social Order*, p. 72.

4   Todd, *Christian Humanism and the Puritan Social Order*, pp. 72-73, 76, 79.

5   *Lex, Rex*, Q 41, p. 206.

6   *Lex, Rex*, Q 5, p. 9 f.

7   *Lex, Rex*, Q 5, p. 9 f.

Rutherford accuses the Jesuits of siding with Armenians on matters of nature and grace.[8] Those who have the view that parliaments diminish the king's majesty, is described by Rutherford as "a faction of perjured Papists, Prelates, Jesuits, Irish cut-throats, Strafords and Apostates; subverters of all laws, divine, human, of God, of Church of state".[9] Rutherford is also explicitly opposed to the view that the clergy is exempted from the laws of the civil magistrate.[10] As for Maxwell's argument to Suàrez, who endeavoured to prove monarchy not to be natural, but of free consent, because it varies in different nations, Rutherford answers: "(I)t is the Jesuits' argument, not ours. ... Let Jesuits plead for Jesuits."[11] Rutherford also rejects the papists' and Jesuits' allegations that the early Protestants, Waldenses, Wycliffe, and Huss founded dominion upon grace as its essential pillar.[12]

Particularly in theological matters Rutherford rejects the Jesuit teachings that the Pope is no antichrist, that Christ locally descended to hell to free some out of their prison, that it was sin to separate from Babylonian Rome, that men are justified by works, that the merit of fasting is not to be condemned, that the mass is no idolatry, and that the Church is the judge of controversies.[13] However, regarding political principles Rutherford does not disagree with the Jesuit Neo-Thomists on a number of points. Rutherford for example does not disagree with the Jesuit doctrine that sovereignty is "originally and radically" in the people – a view held long before the Jesuits agreed to the same principle.[14]

2. The reception of juristic corporation theory and popular sovereignty in Medieval and early modern European political thought

2.1 Azo and the fourteenth century jurists

The twelfth century jurist Portius Azo (1150-1230) and his pupils in their commentaries on the Roman *Codex* recovered from Roman legal and moral philosophy cogent defences of civic freedom, self-government and popular

---

8   *Lex, Rex*, Q 8, p. 30 f.

9   *Lex, Rex*, Q 9, p. 36.

10 *Lex, Rex*, Q 13, pp. 50 f.

11 *Lex, Rex*, Q 13, p. 54.

12 *Lex, Rex*, Q 41, p. 205.

13 *Lex, Rex*, Q 41, p. 206.

14 *Lex, Rex*, Q 41, p. 206.

sovereignty. Azo and his followers made pioneering contributions to political thought by interpreting and amplifying general concepts from Roman law concerning the location, character, and limits of political power. Arguably the most renowned contribution to juristic-political theory was Azo's development of the Roman law texts concerning *iurisdictio* and *imperium* into a concept of sovereignty.[15]

In later medieval thought the juristic thought of Azo's followers were substantially strengthened by the ideas of republican self-government contained in the rediscovered Aristotelian corpus – particularly notions of civic autonomy relevant to the Italian city-republics. The juristic idiom of the legal commentators sought to adapt the Roman law theory of *imperium* to the conditions of the Italian city-republics.[16] The emerging republicanism was solidly grounded on the principle that any individual or group, once granted sovereignty over a community will tend to promote particular interest at the expense of the common good. Pursuing the classical republican ideas of liberty, representation and legal personality, juristic treatises intended to defend republican *libertas* against encroachments from pope and prince alike. By the fourteenth century the jurist Bartolus and his pupils sought to defend the refusal by Tuscany to allow external political interference by superiors in its temporal affairs. The school of Bartolus produced a legal theory according to which the ultimate bearer of sovereignty in any independent political entity must be the *universitas* or corporation of the people as a whole.[17]

Justinian's *Digest* was a particular fruitful source of principles which could be re-interpreted to suit the claims of the republicans in defence of their liberty.[18] Azo applied the term *universitas*, a central concept in the Roman law of corporations, to defend popular sovereignty.[19] To Azo and his followers the entire body of citizens forms a *universitas*; a political body possessing legal personality and capable of forming and expressing a single unified

---

15 Cf. Myron P. Gilmore, *Argument from Roman Law in Political Thought, 1200-1600*, Cambridge, Mass, 1941, pp. 15-36.

16 Skinner, *Visions of Politics*, II, p. 13: "The authority chiefly invoked by the city-republics in their earliest attempts to defend their way of life was the Codex of Roman Law. By the end of the twelfth century, a number of Glossators were beginning to reinterpret the passages on public law in Justinian's *Digest* in such a way as to support rather than to question the autonomy of the cities and their elective forms of government."

17 Cf. S. De Freitas, *Law and Federal-Republicanism: Samuel Rutherford's Quest for a Constitutional Model*, p. 87.

18 The culmination of Azo's work was his defence of the doctrine of popular sovereignty.

19 Skinner, *Visions of politics*, II, p. 13.

will in political matters.[20] To Azo, the consent of the body of the people (as a *universitas*) is always necessary if the highest powers of governance (*imperium*) and thus of jurisdiction over the realm (*jurisdictio*) are to be lawfully instituted.[21] From the interpretation of the *Lex Regia* (in Book I of the *Digest*), Azo concluded that the power of the emperor to make law is only lawful to the extent that it was assigned to him by the people in whose hands such power must originally have vested.[22] This interpretation basically amounted to denying legitimate political authority of the ruler from the consent by the body of the people.[23] Additionally Azo argued that after instituting a ruler with full *imperium* and *iurisdictio*, the people continued to possess it after the transfer of power.[24] Azo's bold interpretation flowed from the principle that the *populus* has the legal standing of a *universitas*.[25] A further implication of his juristic interpretation is that it is not the people who are excluded by the *Lex Regia* from the power to make laws, but merely the individuals composing the body of the people.[26] The emperor's power to pass legislation in thereby relegated to ceded authority by the *populous sive universitas* (the ultimate bearer of sovereignty) to pass legislation. A number of important political consequences emanated from Azo's juristic argumentation: 1. Rulers only wield the power transferred to them by the people; 2. The people retain the capacity to depose their rulers and resume the exercise of their sovereignty should the rulers fail to discharge their duties satisfactorily; 3. The people retain the power to establish their own forms of government.[27] In brief Azo's argument regarding the source of sovereignty proceed as follows: all rulers have *imperium* because they have *iurisdictio*; the right to establish law. The source of that lawmaking right is the *corpus*, the *universitas*, the *communitas*; therefore jurisdiction does not descend downward from the emperor but

---

20 Skinner, *Visions of politics*, II, p. 14.

21 Skinner, *Visions of Politics*, II, p. 15.

22 Digest, I.4.1: "quod principi placuit, legis habet vigorem: utpote cum lege regia, quae de imperio eius lata est, populous ei et in eum omne suum imperium et potestatem conferat." Cf. Johnston, "The General Influence of Roman Institutions of State and Public Law", p. 98.

23 Azo, *Lectura super codicem*, I, XIV, 11, 44: "potestus legis condendae ... in eum transtulit populus."

24 Azo, *Lectura super codicem*, I, XIV, 11, 44: "potestas legis condendae ... si populous ante habebat, et adhunc habebit."

25 Skinner, *Visions of Politics*, II, p. 15.

26 Azo, *Lectura super codicem*, I, XIV, 11, 44: "hic non excluditur populous, sed singuli de populo ... ideo singuli excluduntur, non universitas sive populous."

27 Azo, *Lectura super codicem*, I, XIV, 11 & VIII, LIII, 2, 67: "unde non est major potestatis imperator quam totus populous, sed quam quilibet de populo."

proceed upward from the corporate community.[28] The implications are that the ruler himself became a constitutional figure, "a legally defined officeholder, whose *imperium* was limited by his *iurisdictio* (his legitimate authority).[29] The constitutional limitations of the ruler's power also include the subject's right of resistance to the ruler's wrongful commands, extending to the right and the duty to kill a tyrant (*Rex Tyrannus*).

In the early stages of the fourteenth century Azo's views of the sovereignty of the people found support and extension in Bartolus of Sassoferato's formulation of the doctrine of *sibi princeps*; each independent *civitas* may be regarded as a *princeps* unto itself and hence the bearer of sovereignty.[30] In consequence Bartolus developed a legal theory rewarding sovereignty in any independent city to the *universitas* or corporation of the people as a whole.[31]

Due to metaphorical extensions of the term "persona", the people as a "person" acquired the legal status of corporation in the writings of the monarchomachs. From the Bartolist theory of corporation the monarchomachs drew much of their political inspiration.[32] Bartolus' bolstering of early fourteenth century republican theory necessarily included discussing the concept of tyranny and formulating the practical consequences of the abuse of power by rulers. Bartolus' views on tyranny became the standard points of reference in following centuries for distinguishing between tyrants by practice from tyrants without title.[33]

---

28 H.J. Berman, *Law and Revolution*, p. 292: "Jurisdiction did not descend down from the emperor but upward from the corporate community."

29 Henry of Bracton (early thirteenth-century English jurist) developed Azo's view into the principle that the law makes the king, therefore the king must make a return to the law by subjecting himself to its rules (De Freitas, *Federal-Republicanism*, p. 100).

30 *Skinner, Foundations*, I, pp. 53-65.

31 Canning, *The Political Thought of Baldus de Ubaldis*, pp. 93-131; Berman, Law and Revolution, p. 292.

32 Bartolus, *Digestum Novum Commentaria*, (1562), XLVII, XXII, p. 779: "civitates Tusciae, quae non recognuscunt de facto in temporalibus superionem." Skinner, *Foundations*, I, p. 394; F. Calasso, *I Glossatori*, pp. 83-123; J.A. Wahl, "Baldus de Ubaldis and the Foundations of the Nation-State", pp. 8-96; J.P. Canning, "Ideas of the State in Thirteenth- and Fourteenth-Century Commentators on the Roman Law", pp. 23-27; J. Najemy, "Stato, Commune e 'Universitas'"", pp. 245-263.

33 Cf. Canning, *The Political Thought of Baldus de Ubaldis*, pp. 93-131.

2.2 Marsilius of Padua and the philosophical basis of popular sovereignty

Marsilius of Padua (c. 1275-1342), a Christian Aristotelian, applied Aristotle's philosophy of causes, to describe the final, material, formal, and moving cause of the commonwealth. The final cause (the purpose of the commonwealth) is to ensure the good life, and the good life consists in being engaged in the activity of becoming a free man. This forms the ground for the other kinds of causes (material, formal, and moving) of the commonwealth and its parts. In an effort to address the political challenges to the independence and political freedom of the Italian city-republics, Marsilius proposed that the ruler should be the whole body of the people so that no factional rifts can undermine the libertarian aims of the city-republics.[34] He equates the figure of the legislature with the people or the whole body of citizens or the majority thereof.[35] Different to the views of Thomas Aquinas, Marsilius insists that the whole body of citizens remains the sovereign legislature at all times, regardless of whether it makes the laws directly by itself or entrusts the law-making function to a specific person or persons. Marsilius also emphasizes that even if the people agree to transfer the right to exercise their sovereignty, a supreme ruler or magistrate, such an official can never become the legislator in the absolute sense. The ultimate authority at all times remains in the hands of the people, who can always check or even depose rulers if they do not act in accordance with the limited powers entrusted to them. The consequences of Marsilius' position on popular sovereignty vesting in the whole body of the people had important implications for guarding civic liberty in the city-republics: 1. Jurisdiction must always be voluntarily transferred; 2. The ruler appointed by the people must not be allowed more than the minimum discretion in administering the law; 3. Constitutional checks should be imposed to ensure that rulers remain responsive to the citizens who elected them.[36] This implies that in every commonwealth, the fundamental political authority is not the government or the ruling part but the human legislator is the people, the whole body of the citizens; the only legitimate sovereign is the people and is to be distinguished from the government. The government ought to be elected by the whole citizen body and ought to be responsible to it; the government must rule in strict adherence to the laws and if it transgresses a law it is liable to punishment by the whole citizen body;[37] the legislative power must be entirely in the hands of the whole citizen body; the government ought to

---

34 Skinner, *Foundations*, I, p. 61.

35 Cf. Skinner, *Foundations*, I, p. 61; De Freitas, *Federal-Republicanism*, p. 120.

36 Skinner, *Foundations*, I, p. 64.

37 Strauss, "Marsilius of Padua", p. 256.

be elected by the whole citizen body and ought to be responsible to it; the government must rule in strict adherence to the laws and if it transgresses a law it is liable to be punished by the whole citizen body.

Marsilius' theory of popular sovereignty provided the philosophical structure for supporting Bartolus' views on the juristic underpinnings of corporation theory undergirding popular sovereignty. The consequences of the emerging popular sovereignty underpinning the republican claims of the Italian city-republics in the course of the fifteenth century grew into a systematic defence of republican liberty against tyranny and despotism.[38]

The pervading legacy of popular sovereignty expounded by Marsilius and the Bartolist School of jurists was the stronger and more active involvement of the people in the art of practical government and to prevent any individual or faction in the commonwealth from legislating in its own selfish interests.[39]

2.3 Catholic Monarchomachian theories of popular sovereignty

2.3.1 Salamasius and the origins of monarchomachian political thought

The religious wars of the sixteenth century and the ensuing political instability of European states demanded theories to preserve states from becoming a meaningless struggle for existence. The pioneering work *Patritii Romani de Principatu* (The Sovereignty of the Roman Patriciate (1544)), a book of an unknown author, probably a Spaniard Jesuit who wrote under the name of Marius Salamonius (c. 1450-1532) and designated himself as Patricius Romanus, was the first serious effort in the genre of monarchomachial publications to address issues related to civic freedom and faction conflicts in the state. In this work "an essentially Bartolist theory of inalienable popular sovereignty is presented as the most suitable form of government for the city of Rome".[40] The work reflects influences of Roman law, Aristotelian and Stoic political philosophy and Marsilius' views on popular sovereignty.[41] Salamonius' work is composed of a series of dialogues in which the participants are agreed on the validity

---

38 The idea of a covenant, compact or contract that bound together the people, rulers, and God was echoed by Marsilius of Padua and Nicholas of Cusa. Cf. J. Witte, *Reformation of Rights*, pp. 135-136.

39 Skinner, *Foundations*, I, p. 181.

40 Skinner, *Foundations*, I, p. 148.

41 Skinner, *Foundations*, I, p.149, states that Salamonio "was one of the leading jurists of his age, a famous commentator on the Digest, and a pioneer in seeking to incorporate the historical methods of the humanists into his own legal philosophy".

of divine and natural law as the ground on which the commonwealth must be established. A central theme of the work is that a ruler is a tyrant if he does not abide by the rules emanating from divine and natural law sources. Salamonius proceeds to address issues related to the ruler's authority to make laws and the limits to his lawmaking powers: How can the power of the ruler and the making of law be justified? Salamonius offers the Roman construction of the *Lex Regia* to answer this question.[42] The ruler is an agent of the people; his lawmaking power is delegated on certain conditions to him by the people.[43]

Salamonius also introduces the Ciceronian concept of the people as a *societas*, more specifically a *societas civilis*; the rules by which the people are ordered in the form of laws, are a *consensus in idem, pactum et stipulation* into which the members of society have entered. By such pacts (*pactiones*) the individual citizens have bound themselves to the welfare of the *utilitas populi*.[44] From this Ciceronian perspective, Salamonius constructs the function of rulership. The ruler is one of the *socii* like the other members of the community, bound by the same laws and obligations.[45] The ruler has to perform his functions of rulership *praepositus vel institutor societatis* – for the welfare of society. The ruler is the functioning member of the society similar to the functions and duties of a father as a functioning member of the family. Salamonius applies the fatherly metaphor to the lawmaking function of the prince and the coercive power he wields.

To Salamonius lawmaking is a function of society as a whole, and laws have the nature of agreements concluded by the whole of society in the form of *pactiones inter cives*. The actual making of law, however, is delegated to the ruler as a servant and perpetual magistrate of society.[46] The ruler, therefore, has no original lawmaking powers, nor can the authority delegated to him be used at his personal

42 Skinner, *Foundations*, II, pp.132-133.

43 Salamonius, *De Principatu*, (1544), fo 59; the ruler is the minister of the people who are said to have retained the ultimate sovereign authority over the city at all times (fos 55(a)-(b) & fo 59). This also reflects a covenantal perspective. Cf. Skinner, *Foundations*, II, p. 133. Furthermore no prince can be said to be legibus solutus.

44 Salamonius, *De Principatu*, (1544), fos 21(a), 28(b)-29(a).

45 Skinner, *Foundations*, II, p.133.

46 The people is greater than the ruler whom they create (*De Principatu*, (1544)), fos 12(b), 17(a), 21(a).

discretion.[47] Parallel to Marsilius' views on legislation as the product of the people as a whole, Salamonius states that the people are the real legislators in the commonwealth and the ruler must not use his delegated power beyond the limits of the delegation.[48] At the heart of the argument is the power of divine and human law from which the pacts between the people and the delegation of power to the ruler receive their enforcement.[49] In the background of Salamonius' argument lurks the Ciceronian conception of society as a legal order by agreement of its members; a covenantal community bound together by covenantal terms and agreements. The delegation of power to the ruler in terms of the *Lex Regia*, the Marsilian legislator in the form of the people and the corporational status of the *populus* form three cogent principles for securing the liberty of the *respublica* and limiting the powers of rulers. The implications of Salamonius' arguments opened vistas of republican freedom to states rocked by political power struggles between rulers and their subjects.

A most appealing idea was the notion that the members of society form a single entity whose common welfare is not identical with the separate welfare of its individual members and that this legal entity can delegate its authority, while retaining its original power. These ideas synthesised notions of the Aristotelian notion of the "good life" with the Ciceronian views of the *respublica* and the juristic and Marsilian notion of the legal sovereignty of the people and cast it into a cogent theory of the legal rights of the people to dispose of tyrannous rulers and to explain the original powers of the people as a historical entity to determine its own form of government. This implies that the ruler is the servant rather than the master of the laws, and that it must even be possible for a law propounded by a ruler to be abrogated in the name of justice by the sovereign people if they subsequently discover it not conducive to stability and common welfare.[50] The monarchomachs of the sixteenth and seventeenth centuries cast these ideas into a coherent system of thought which appealed to both Protestant and Catholic subjects in their battles against tyrannous rulers.

---

47 Cf. *De Principatu*, (1544), fo 15(b) & 11(b), 17(a), 21(a).

48 Although the ruler is above each individual citizen in authority (*maior singulis*) he is inferior to the populace as a whole (*inferior universe populo*) (fo 13(a). Whatever is done by the ruler is in fact done by the authority of the people (fos 13(a)-(b)).

49 Cf. A. Lloyd, "Constitutionalism", p. 260.

50 De *Principatu*, (1544), fo 27(b).

2.3.2 The Catholic monarchomachs on the corporational status of the populus and the delegation of power

2.3.2.1 The Catholic monarchomachs on the sovereignty of the people

The convergence of Ciceronian republicanism, juristic interpretations of the Roman *Lex Regia* and other Roman law sources, and Marsilian views of the sovereignty of the people contributed to monarchomachism as a trend in political philosophy, driven by the idea that states are autonomous polities in which the people wield the governing power. The Jesuit political authors in particular, contributed substantially towards this movement in explaining and analysing the new trends in monarchomachism as a comprehensive philosophy of law and politics towards establishing the *respublica Christiana* under the spiritual headship of the Pope.[51]

The Jesuit writings of Soto, Molina and Suarez sought to limit the sovereignty of the ruler by reverting to the writings of the jurists of the thirteenth and fourteenth centuries and the notion of popular sovereignty in the classical Marsilian applications of the body of the people as a corporate entity. The people as a juristic conception is not necessarily treated as a *universitas*, but sometimes regarded as a *societas* in the sense that it was applied by Salamonius. To Salamonius the *Civitas* is the *universus populus* which creates the ruler; the people itself is the *sicietas* and the ruler its *praepositus*.[52] The Persona Civitatis acts through the princeps when he issues laws or performs any other act of government.[53] In this regard the view taken of law by Salamonius appears to be precisely the same as that of Marsilius' *Defensor Pacis* of 1324.[54]

Soto distinguished between the people and the ruler as separate personalities. The people have a natural right against its ruler: the *respublica* by divine instruction transfers the right to rule but retains

---

51 Cf. Bellarmine, *De Summo Pontifice*, I: 449 & II, 5-167.

52 J. Marius Salamonius, *De Principatu libri VII*, (1578), I, pp. 16-18. At I, p. 36 Salamonius regards the unity of the people to be a fiction although it forms a unity: "vere populous non aliud est quam quaedam hominum multitude"). He also treats the people as a societas (De Principatu libri VII, (1578), I: 36). To Salamonius the people is a contractually unitedbody of persons. The civitas (as a civilis societas) presupposes binding contracts of mutual obligation between the individual members of the people and the ruler (as praepositus) in the societas. (Cf. Gierke, Natural Law and the Theory of Society, II, pp. 243, 256).

53 Cf. De Freitas, *Federal-Republicanism*, p. 77.

54 De Freitas, *Federal-Republicanism*, p. 77.

the right of deposing a monarch who has become tyrannical in the exercise of its power. The *respublica*, which is the sum of its subjects, is incapable by itself of exercising its sovereignty; only by transferring sovereignty does it become a body which has a head and is therefore capable of political action.[55]

Molina limits the very nature of the state by reserving the inalienable and natural rights of the original sovereign people, upon such sovereignty as had been alienated to the ruler – the collective body of the people confronting the ruler at a number of points as the true and proper state-personality.[56] Although the existence of civil society may be the work of individuals, the power of the associated community over its members proceeds from God.[57] Molina explains the divine and natural law origins of the political body in typical corporational terms. The *societas politica* arises from the union of originally independent individuals which composes the *reipublica*.[58] Sovereignty belongs to the community, whilst the community is driven by the nature of things to transfer its original authority to a ruler, because it cannot as a multitude exercise authority itself. Molina adopts the view that the sovereignty of the people is the authority of a body over its members, but the whole body is the sum of all, whilst the transference of authority to the ruler is a command of natural law. Molina distinguishes two persons in the state: the people and the ruler. The people is the *respublica* and possesses all the authority which it transfers *secundum arbitrium* and on such conditions as it thinks fit.[59] If the rulership is vacated or forfeited the *respublica* recovers the authority from the ruler.[60] The respublica also has a right of resistance to tyrants; it can depose or punish the tyrant by the express will of the whole body.[61] However, the ruler is superior to the *respublica* within the terms of the authority granted to the ruler.[62]

In his *De legibus* Suàrez argued that men unite by individual will and common consent to establish a single political body, with the

---

55 Soto, *De justitia et jure*, (1602), I, I, 3; I, 7, 2; IV, 4, 1-2.

56 Gierke, *Natural Law and the Theory of Society*, I, p. 59.

57 Gierke, *Natural Law and the Theory of Society*, I, p. 105.

58 Molina, *De justitia et jure*, (1614), II, 22, 8-9.

59 Molina, *De justitia et jure* (1614), II, 22, 9 & II, 23, 1.

60 *De justitia et jure*, (1614), V, 3.

61 *De justitia et jure*, (1614), II, 6; V, 3.

62 The ruler is limited by the contractual rights of the people (*De justitia et jure*, (1614), II, 23).

agreement to assist one another by establishing a human organisation for a specific political end under one political head.[63] To Suàrez the transfer of power is not a delegation but an alienation of power. The right of self-defence in Suàrez's theory proceeds from natural law and the contractual nature of society and although the power of the people is alienated, they still retain the right to self-defence as a natural right pertaining to all men.[64] To Suàrez Bellarmine's views that the people never transfers its powers to the prince without retaining it in a particular sense for use in certain circumstances, is not a contradiction, and it does not legitimise revolutionary claims to liberty by the people.[65] The circumstances under which people may retain power for use in certain circumstances, are to be understood as either being conditions pertaining to the prior contract or with the requirements of natural justice, because pacts and conventions exist for a specific purpose. If the people therefore transferred power to the king whilst reserving it to themselves in some grave causes and affairs, it is lawful for them to make use of it and to preserve their right.[66]

In Suàrez the theory of popular sovereignty reaches its apex in monarchomachian politican thought with his theory of legitimate resistance to tyranny. To Suàrez the commonwealth, similar to the individual, has the right to preserve its life as the supreme natural right. If a king actually attacks the commonwealth with the aim of destroying and killing the citizens, there is an analogous right of self-defence, which makes it lawful for the community to resist its ruler, and even to kill him, if there is no other means of preserving itself. Even though a community may have transferred its power to its king in the way James I of England alleges, it nevertheless reserves the right to preserve itself. If the king converts his power into tyranny, then it becomes lawful for the community to make use of its natural power to defend itself.[67] The power of deposing a king can only be wielded as a method of self-defence when it becomes vital for a commonwealth to preserve itself against immanent destruction.

---

63 Suàrez, *Tractatus de legibus ac Deo legislatore*, (1613), III, 2, 4.

64 Suàrez, *Defensio fidei Catholicae et Apostolicae*, (1613), III, 3, 3, 253.

65 Suàrez, *Defensio fidei Catholicae et Apostolicae*, (1613), III, 3, 3, 253.

66 Cf. Suàrez, *Defensio fidei*, (1613), IV, 4, 16, 819.

67 Cf. Suàrez, *Defensio fidei*, (1613), III, 3, 3, 253.

Suàrez applied the basic tenets of Neo-Thomist political theory in his objections to King James I's account of his own sovereignty. In his answer to the question as to whether the people of England are in fact bound by their oath of allegiance to their heretical king, Suàrez concludes that communities have rights similar to those of individuals: just as in the case of an individual person, the right to preserve one's life is also the supreme right possessed by commonwealths, because where a king attacks the commonwealth with the aim of unjustly destroying it and killing its citizens, there must be an analogous right of self-defence, which makes it lawful for the community to resist its ruler, and even to kill him, if it has no other means of preserving itself provided that self-defence is only justified if the community as a whole is in jeopardy. In his objections to James I's statements of his own sovereignty, Suàrez argues that although a community may have transferred its power to a king in the way James alleges, the people nevertheless maintains the right to preserve themselves. If, therefore, the king abuses his power by becoming a tyrant in such a way that his rule threatens the safety of the entire community, people have the right to use the power they naturally have, in order to defend themselves. More specifically, Suàrez answers as to whether the people of England are obliged to accept the new oaths of allegiance, that if the life of the community is genuinely at risk, it does become lawful for the people to resist the ruler in virtue of the natural right they have to protect themselves. This natural right of self-defence is exempted from the original contract by which the community transfers its power to its king.

Whereas the state was regarded to be human structure, created by contract in virtue of natural law, the Jesuits deemed the church to be the higher of the two sovereignties and having spiritual sovereignty superior to the political. Where the church touches the secular sphere the church acts with *potestas indirecta*. Suàrez maintained the superior jurisdiction of the spiritual power, having direct and indirect power over temporal rulers. The Pope has the right to call upon a Christian commonwealth to revolt against an oppressive ruler and he might authorise a foreign prince to invade the realm of a king who had been declared a heretic.[68] Suàrez also maintained that the Pope must be able to wield his indirect temporal power in such a way as to remove a prince and deprive him of his dominion in order to

---

68 Suàrez, *Defensio fidei*, (1613), VI, 4, 16, 819; Salmon, "Catholic resistance theory", p. 240.

prevent him from harming his subjects and absolve his subjects from their oaths of allegiance.

2.3.2.2 The Catholic monarchomachs on natural law and natural rights

Monarchomachian political thought reverted strongly to natural law theory to explain the origins of civil society and the power to make laws. Catholic thinkers like De Soto, Molina, Suàrez and others used the hypothesis of an original condition of perfect human freedom, equality and independence and governed by the law of nature inscribed in the hearts of human beings as a basis to argue for the formation of the civil state.[69] The law of nature is both a dictate of right reason and an expression of the will of God because all law participate in the *lex aeterna*.[70]

Because to Molina the state of nature does not provide a right of dominion and the law in the state of nature is available to all men in every condition in which it may exist.[71] To the Neo-Thomist natural law theorists every human law must derive from the law of nature in order to be enforceable because natural law expresses the will of God and the divine positive law in Scripture is contained in the law of nature.[72] Both the laws contained in the Decalogue and the New Testament is inscribed in the hearts of all human beings.[73]

Regarding the law of nations (*ius gentium*), most Neo-Thomist authors agreed that it differs from natural law and belongs to the category of human positive law.[74] The first implication of this view is that political society is not directly ordained by God but is set up by its own citizens to suit their particular needs.[75] The second implication is closely attached to the first: political society does not have a natural existence but it is the result of the choice of its citizens.[76] Thirdly, the power to make laws and the ability to establish a commonwealth, flow from the natural state of mankind – a condition of freedom,

---

69 De Soto, *Libri Decem de Iustitia et Jure*, (1569): 17b, 18a.

70 Skinner, *Foundations*, II, p. 157.

71 Luis de Molina, *de Iustitia et Iure Libri Sex*, (1659): 1689.

72 Skinner, *Foundations*, II, p. 150.

73 Suàrez, *Tractatus de legibus ac Deo Legislatore*, (1872), I: 109. Cf. Skinner, *Foundations*, II: 151.

74 Skinner, *Foundations*, II, p. 153.

75 Skinner, *Foundations*, II, p. 155

76 Skinner, *Foundations*, II, p. 155.

equality and independence – which implies that all human beings are born free by nature and that no person was the superior of the others. Fourthly, human beings in the pre-civil state act as social beings pursuing common political goals to ensure their well-being.[77]

Although political society has a distinct natural law origin, the needs of human beings in the natural state demand that everybody in the state submit to the law in order to ensure justice for all.[78] Suàrez for example states that peace and justice cannot be maintained without convenient laws.[79] Vitoria explains the transition from the natural to the civil state as a consequence of the fact that no society can maintain itself without laws to govern it because each person would pursue his own interests and promote his own views.[80] The power to formalize the natural commitments of mankind flows from the will of God. Suàrez maintains that the power to establish a commonwealth is not immediately provided by God. This, says Suàrez, is to treat God as both the material and the efficient cause of political society;[81] God merely provided human beings with the power to create a commonwealth for themselves, by creating the circumstances and providing them with the capacities to erect a particular political society. Suàrez regards political power to arise from the law of nature but the establishment of political society through human choice.[82]

The transition from man's natural state to the civil state is accomplished by the consent of the people to transfer their powers to a specific person for governing society for the good of the people.[83] Molina maintains that the power of the ruler must be according to the will and approbation of the people. The people transfer their powers to someone for the good of the commonwealth. According to De Soto the people should consent before a ruler can be instituted and the approbation of the people is constitutive for awarding power to the ruler.[84]

---

77 Cf. Francisco Vitoria, *Relecciones*, (1933-1936), p. 183; Skinner, *Foundations*, II, p. 155.

78 Skinner, *Foundations*, II, p. 159.

79 Skinner, *Foundations*, II, p. 160.

80 Skinner, *Foundations*, II, p. 161.

81 Skinner, *Foundations*, II, p. 161.

82 Skinner, *Foundations*, II, p. 161.

83 Skinner, *Foundations*, II, p. 162.

84 Skinner, *Foundations*, II, p. 162.

Only by consent of the people can political society be legitimately established.[85] The implication is also that if the act of consent is absent, the ruler cannot be said to have legitimate legislative power. The consent of the people is provided through the exercise of the general will of the people, unified by consent, bound by bond uniting them as a legal entity in the form of a *universitas*.[86] Because the rules of natural law are accessible by all human beings, all groups of people have the ability to establish political societies.[87] Therefore, the establishment of political society is an act of providence; it has as its basis natural law, flowing from the divine will and is accomplished through the free consent of the people. The natural law Thomists of the sixteenth-century could therefore be credited with providing a strong impetus to modern democratic theory, propagating the notion of the social contract and establishing natural law as the basis of political society.

3. Samuel Rutherford and the natural law theorists of the sixteenth-century

3.1 Samuel Rutherford and the impact of Christian humanism

The importance of social humanism for Rutherford's social theory lies in the fact that he proposed political reform, which he, together with contemporary Protestant and Catholic authors had derived from the Renaissance and its classical authors. Rutherford's political views were spawned no more from Calvin's *Institutes* (and other Reformation authors) than from Cicero's *De Officiis* (and other Stoic writers). The publication in the original vernacular and English translations provided scholars – like Rutherford – access to Greek and Roman authors like Plato, Aristotle, Xenophon, Plutarch, Seneca, the Church fathers and Medievalists. The availability of these works, under the inspiration of the activism of the Reformed faith, produced specific guidelines on how social and political reform should take place. The religious drive to criticize the *status quo*, to accomplish the reformation of the social and political order and the sources generated by the Christian humanists provided Rutherford in his social and political activism with specific instructions as to how such reform should be accomplished. The substrate of Christian humanism permeating social and political theory of the

---

85 Skinner, *Foundations*, II, p. 163.

86 Skinner, *Foundations*, II, p. 166.

87 Skinner, *Foundations*, II, p. 168.

sixteenth-century established a certain level of consensus between Puritans and Neo-Scholastics. The Aristotelian ontology of cosmic proportion and order provided Puritans like Rutherford with a view of the harmonious, hierarchical order of the universe, governed by divine Providence. However, the Bible to Rutherford was to be the "pre-eminent" guiding force behind the drive to transform society. According to Todd the Puritans' (like Rutherford) regard for the Scriptures guided their extra-biblical intellectual pursuits: their perception of a biblical concern for individual morality attracted them to the Roman Stoics; the need to understand the Bible contextually drew them to a study of ancient history; the need for a purified text of the Scriptures impelled them to pursue knowledge of Greek and Hebrew and of classical grammar and rhetoric; and the Church Fathers were revered given their proximity to the first century, for the light they shed on the Scriptures. The text of the Bible, however, remained of course, paramount among Christian humanist and Puritan concerns.[88]

The impact of Christian humanism on Rutherford's political thought is evident both from his reliance on Aristotelian methodology and his references to and quotes from a host of classical, Medieval and post-Medieval sources. Classical sources from Greek and Roman thought are cited frequently: Plato,[89] Aristotle[90] and Cicero[91] are among the most frequently cited classics. References to Beza,[92] Aquinas,[93] Rebuffus,[94] Montanus,[95] Abulens,[96] Jerome,[97] Athanasius,[98] Milevitanus,[99] Gregorius[100] and Lyra[101] are also

---

88 Todd, *Christian Humanism and the Puritan Social Order*, pp. 27-33.

89 *Lex, Rex*, Q 44, p. 228(1).

90 *Lex, Rex*, Q 8, p. 31(1); Q 9, pp. 37(2), 38(1); Q 10, pp. 40(1), 45(1); Q 13, pp. 50(2), 51(1); Q 15, p. 62(1); Q 19, p. 85(2); Q 24, p. 115(1); Q 25, p. 119(2); Q 29, p. 144(2); Q 36, p. 185(1); Q 40, pp. 198(1), 204(2).

91 *Lex, Rex*, Q 30, p. 178(1); Q 36, p. 193(2); Q 44, p. 233(2).

92 *Lex, Rex*, Q 29, pp. 148(2), 152(1); Q 30, p. 155(1); Q 33, p. 173(2); Q 39, p. 184(1); Q 41, p. 209(1).

93 *Lex, Rex*, Q 18, p. 73(2); Q 41, p. 207(2).

94 *Lex, Rex*, Q 16, p. 68(2); Q 18, p. 72(1).

95 *Lex, Rex*, Q 18, p. 73(1).

96 *Lex, Rex*, Q 3, p. 4(1).

97 *Lex, Rex*, Q 3, 4(2).

98 *Lex, Rex*, Q 3, 4(2).

99 *Lex, Rex*, Q 3, 4(2).

100 *Lex, Rex*, Q 26, 127(2).

101 *Lex, Rex*, Q 29, 152(1).

common in *Lex, Rex*. Also references to the works of the Dominicans occur frequently: Salamonius,[102] Soto,[103] Vasquez[104] and Vitoria,[105] together with citations of Neo-Thomists like Boucher[106] and Rossaeus.[107] Jesuit authors like Valentia,[108] Molina,[109] Bellarmine[110] and Suàrez[111] are also cited frequently by Rutherford. He treats these authors within the broader context of his Aristotelian methodology – either in support of his views or by rejecting these as being in conflict with the Puritan perspectives on specific points. He applies Aristotle's theory of the four causes in a Reformational context to state the foundational elements of political society. Rutherford states the *final cause* or purpose of civil government as being the well-being of the people by protecting them and the church so that they may attain the highest good in the knowledge of God in Christ; it explains *why* government exists. The *efficient cause* of government treats with the questions as to whom or what brings government into being. Rutherford answers that God is the *primary cause* who rules all things through His exalted Son and brings government into existence by using the consent of the people as a means (or *secondary cause*); God is the *principle* and the people the agent and it explains *how* government is established. The *formal cause* of government answers the question as to *what* is the essence of government: submission to and embodiment of the law discovered through study and application of his infallible Word, the Bible. The *material cause* of government is the substance out of which government is composed: it is made by ordinary sinful human beings, equal with all others by nature and each of whom is directly accountable to the true living God.

The issues on which Rutherford was generally in agreement with the Neo-Thomist natural law theorists, included a number of aspects flowing from their views on the corporate nature of the people and the natural law foundations of the commonwealth: political society is not directly ordained by God but is set up by its own citizens to suit their particular needs; political society

---

102 *Lex, Rex*, Q 16, 65(1); Q 26, p. 129(1); Q 31, p. 165(2).

103 *Lex, Rex*, Q 3, p. 3(2); Q 5, p. 13(1).

104 *Lex, Rex*, Q 2, p. 2(2); Q 13, p. 51(2).

105 *Lex, Rex*, Q 2, p. 3(1).

106 *Lex, Rex*, Q 41, p. 209(1).

107 *Lex, Rex*, Q 41, p. 209(1).

108 *Lex, Rex*, Q 26, p. 130(2).

109 *Lex, Rex*, Q 1, p. 1(2).

110 *Lex, Rex*, Q 3, 4(1); Q 5, p. 10(1).

111 *Lex, Rex*, Q 2, p. 2(1); Q 3, p. 3(2); Q 5, p. 13(1).

does not have a natural existence but is the result of the concerted action of its citizens; the power to make laws and establish a commonwealth flows from the nature of things; this state is a condition of freedom, equality and independence implying that naturally no person was the superior of others.

3.2 Rutherford's support of Neo-Scholastic natural law political theory

3.2.1 Rutherford on the corporational status of the populus and the delegation of power

3.2.1.1 Rutherford on the sovereignty of the people

To Rutherford the power of the state is from God, and particular powers of government proceed from God.[112] This power is mediated from God through the consent of the community. Although all powers are awarded by God it flows from the people.[113] The civil office and power are from God alone, but that one rather than another should obtain it is from the will and choice of the people and the people may set boundaries to the exercise of power. Human beings who are united in a community must have the power to fend off violence through the hands of one or more rulers. If all men are born equal regarding civil power, yet one among them is to rule, then the power must be the result of their united decision. By the authoritative voice of the people a private man becomes a public person and is crowned king.[114]

The consent of the people by appointing a ruler is of fundamental importance for establishing legitimate government. If a person does not have the approval of the people he is a usurper. Rutherford maintains that the primary foundation of all power is the community although the precise manifestation of power vary according to the needs, conditions and cultures of specific peoples. Although the community has given power into the hands of the ruler and the states of parliament, it keeps for itself a power to resist tyranny. Because civil power does not flow immediately from nature, subjection by the people is rather civil than natural. Rulers are therefore established by the free consent of the people and not by nature.[115]

---

112 *Lex, Rex*, Q 1, p. 1(1)-(2).

113 *Lex, Rex*, Q 4, pp. 6(1)-9(2).

114 *Lex, Rex*, Q 4, pp. 6(1)-9(2).

115 *Lex, Rex*, Q 9, pp. 33(1)-39(2).

The transfer of power from the people to the ruler takes place through a reciprocal oath between a people and the ruler they appoint. All contracts between men bind the responsible parties under law and claim before men and God. This contract contains specific conditions, and if the conditions are not fulfilled the injured party is released from the contract. When the people appoint any one to be a ruler, the law of nature confirms their act.[116]

The will of the people to appoint a ruler emanate from the people as a single body of persons and this collectivity has more of the image of God in a substantial sense, and they are greater than ruler because many are more estimable than one. The people as a collective body are also above and contain greater dignity than the ruler; therefore the power of the people is superior to the ruler, because every efficient and constituent cause is more consequential than the effect. When a people place a government above themselves this does not mean that they have relinquished all rights to the ruler. The basis of power remains within the people, because civil power has limitations and the foundation of all political power remains in the people as an immortal spring.[117]

Although the ruler is above his subjects as individuals, he is inferior to his subjects when observed collectively for the whole nation because powers of sovereignty reside primarily and entirely in the people. Rutherford cites many examples of the power that resides in the people. All the power that the ruler has in terms of his office derives from the people who made him ruler. In addition the people do not have, either officially or fundamentally, an "absolute" power to give to a ruler. All the power they have is legal and noted to guide themselves in peace and godliness, and to save themselves from unjust violence by the benefit of rulers.[118]

The ruler is not the only person with the power to make laws; the people have some power in making laws.[119] The people are not only the fountain from which the government springs, but also of the statutes enacted as laws. Historically, says Rutherford, the chief purpose of civil law, which has been the foundation of all others, has

---

116 *Lex, Rex*, Q 14, pp. 54(1)-62(1).

117 *Lex, Rex*, Q 19, pp. 77(2)-88(1).

118 *Lex, Rex*, Q 19, pp. 77(1)-88(1).

119 *Lex, Rex*, Q 24, pp. 113(2)-119(1).

been the safety of the people; since the people are the author and foundation, under God, of civil law and power, their own safety must be the principle end for this venture.[120] If a ruler becomes a tyrant, a master, and destroyer of the people, he is subject to the power of the laws of the land. Because law creates the office of the ruler, the holder of that office cannot be ruler of the law.[121] Rulers are, therefore, to be honoured, revered, and obeyed for the sake of their office. However, all subjection to higher powers is rooted in obedience to the office of magistrates. This subjection to the lawful use of civil power and the Scriptures give no indication that this includes abusive or tyrannical power.[122]

3.2.1.2 Rutherford on natural law and natural rights

Rutherford argues that historically, natural law presupposed that individuals would naturally join in civil society, and the manner of the union would be a type of political body. The power of making laws proceeds from God as an attribute flowing from nature; this power is not different from creation, nor is it something that results from the observation of nature. All people are naturally born equally free; all authority of human beings over others is artificial because it is not natural to be subject to government.[123]

When a community decides in the light of nature to form a government, with the goal of defending themselves from violence, they do not thereby agree to a specific form of government. It merely implies that the establishment of government is natural to humanity. God made man with a civic nature yet giving individual communities the freedom to establish a particular form of government.[124]

Man is created in the image of God; man is a sacred being and, by the law of nature, can be no more sold and bought than a religious and sacred vessel dedicated to God. Every person is by nature born free; this freedom is natural to all human beings with the exception of the required subjugation to parents. Rutherford stresses the fact that people are naturally born free because in nature no beast is born specifically to rule. Nations and empires were established, not

---

120 *Lex, Rex*, Q 25, pp. 119(1)-125(2).

121 *Lex, Rex*, Q 26, 125(2)-136(2).

122 *Lex, Rex*, Q 9, pp. 33(2)-39(1).

123 *Lex, Rex*, Q 2, pp. 1(2)-3(2).

124 *Lex, Rex*, Q 2, pp. 1(2)-3(2).

by the law of nature, but by the law of nations. Therefore, no ruler or potentate is born freer by nature than the other human beings are and a ruler is made by the free consent of the people and not by nature.[125]

The right to make and enforce laws is in the people. This right cannot by choice or by the law of nature be relinquished to a ruler because neither God nor natural law has given them such a power.[126] Because the right to defend one is a natural right, the people have the right to depose tyrants who jeopardise the safety of the people. According to Rutherford there are natural rights which no human being can dispose of.[127]

4. Conclusions

Rutherford associated himself closely with aspects of Neo-Thomistic political thought and aligned his views in *Lex, Rex* accordingly. Firstly, Rutherford noted the democratic ideals contained in the political views of the ecclesiastical jurists. The interest in the Neo-Thomist views of the Dominicans and Jesuits was not something peculiar to Rutherford's thoughts. The social activism espoused by the Christian humanists and the Neo-Thomist natural law theorists formed part of the ongoing discourse about social and political reform. Both classical humanist sources and the works of the Neo-Thomist natural law theorists were reinterpreted in the light of the Bible to accomplish the original ideals of the first and second generation Reformers like Luther, Calvin, Melanchthon, Zwingli, Bullinger and Bucer. To this end the methodological use of Aristotle's philosophy served as a catalyst/platform from which Puritan theorists formulated the basic principles for reforming state and society. Rutherford's *Lex, Rex* is a clear example of the impact of Christian humanism, Neo-Thomistic natural law theory and Aristotelian methodology on Puritan social and political views. In *Lex, Rex* Rutherford demonstrated the selective use and application of these sources and re-interpreted non-Biblical sources from a Scriptural perspective. The Christian basis the Puritans shared with the Neo-Thomist philosophers facilitated Rutherford's reliance upon both the Dominicans and the Jesuits. Rutherford aligned himself two aspects of the Neo-Thomist political theories in particular: the corporate underpinnings of Neo-Thomist democratic theory

---

125 *Lex, Rex*, Q 13, pp. 50(1)-54(1).

126 *Lex, Rex*, Q 14, pp. 54(1)-62(1).

127 Cf. e.g. *Lex, Rex*, Q 24, pp. 113(2)-119(1).

and the natural law basis of society. These aspects are of foundational importance for Rutherford's political and legal thought. It is most probable that through the works of the Dominicans and the Jesuits Rutherford gained access to the legal and corporation theories of the medieval jurists and political philosophers.

Although Rutherford had strong reservations about the theological underpinnings of the Neo-Thomist political views, he incorporated aspects of their political thought that could be re-interpreted from a Reformational Scriptural perspective without compromising the Reformed faith. Rutherford unhesitatingly criticized the Papist views of the Neo-Thomists but gave credit for insights which could fruitfully be assimilated into the Reformed perspectives on political and social reform.

Bibliography

AZO, P. 1966. *Summa super codicem*, Ed. M.E. Viora, Turin.

AZO, P. 1966. *Lectura super codicem*, Ed. M.E. Viora, Turin.

BARTOLUS OF SASSOFERRATO, 1562, *Digestum Novum Commentaria*, Basel.

BELLARMINE, R. 1586. *De Summo Pontifice capite militantis Ecclesia, in Disputationes ... de Controversis Christianae Fidei*, vols. I-III, Ingolstadt.

BERMAN, H.J. 1997. *Law and Revolution. The Formation of the Western Legal Tradition*, Harvard University Press, Cambridge, Mass.

CALASSO, F. 1957. *I Glossatori e la Teoria della Sovranità*: Studi di Diritto Comune Publico, 3rd edn., Milan.

CANNING, J.P. 1983. "Ideas of the State in Thirteenth- and Fourteenth-Century Commentators on the Roman Law", *Transactions of the Royal Historical Society* 33, 1-27.

CANNING, J.P. 1987. *The Political Thought of Baldus de Ubaldis*, Cambridge University Press, Cambridge.

DE FREITAS, S.A. 2014. *Law and Federal-Republicanism: Samuel Rutherford's Quest for a Constitutional Model*, unpublished LL.D.-thesis, University of the Free State, Bloemfontein.

DE SOTO, D. 1569. *Libri Decem de Iustitia et Iure*, Lyons.

GIERKE, O. 1934. *Natural Law and the Theory of Society, 1500-1800*, vols. I & II, transl. E. Barker, Cambridge University Press, Cambridge.

GILMORE, M.P. 1941. *Argument from Roman Law in Political Thought, 1200-1600*, Cambridge, Mass.

LLOYD, H.A. 1996. "Constitutionalism", J.H. Burns (Ed.), *The Cambridge History of Political Thought, 1450-1700*, Cambridge University Press, Cambridge, pp. 254-297.

MOLINA, L. 1602-1603. *De iustitia et jure libri sex*, vols. I & II, Mainz.

MOLINA, L. 1614. *De Iustitia et Iure Libri Sex*, vols. I & II, Cologne.

MOLINA, L. 1659. *De Iustitia et Iure Libri Sex*, vols. I & II, Mainz.

NAJEMY, J. 1994. "Stato, Commune e 'Universitas'", *Annali dell'Instituto Storico Italo-germanico in Trento* 20, pp. 245-263.

RUTHERFORD, S. 1982. *Lex, Rex, or The Law and the Prince ...*, Sprinkle Publications, Harrisonburg, Virginia.

SALAMONIUS, M. 1544. *Patritii Romani de Principatu libri VII*, Rome.

SALAMONIUS, M. 1578. *De Principatu libri VII*, Paris.

SALMON, J.H.M. 1996. Catholic resistance theory, Ultramontanism, and the royalist response, 1580-1620, Ed. J.H. Burns, *The Cambridge History of political Thought, 1450-1700*, Cambridge University Press, Cambridge, pp. 219-253.

SKINNER, Q. 1978. *The Foundations of Modern Political Thought*, vol. I: The Renaissance, Cambridge University Press, Cambridge.

SKINNER, Q. 1978, *The Foundations of Modern Political Thought*, vol. II: The Age of Reformation, Cambridge University Press, Cambridge.

SKINNER, Q. 2002. *Visions of Politics*, vol. II: Renaissance Virtues, Cambridge University Press, Cambridge.

SOTO, 1569. *Libri Decem de Iustitia et Jure*, Lyons.

SOTO, 1602. *Libri Decem de Iustitia et Jure*, Venice.

STRAUSS, L. 1972. "Marsilius of Padua", Ed. L. Strauss & J. Cropsey, *History of political Philosophy*, Rand Mcnally College Publishing Company, Chicago, 251-270.

SUAREZ, F. 1613. *Tractatus de legibus ac Deo legislatore*, Lyons.

SUAREZ, F. 1613. *Defensio fidei Catholocae et Apostolicae*, Coimbra.

SUAREZ, F. 1614. *Defensio fidei Catholoicae et Apostolicae*, Cologne.

SUAREZ, F. 1872. *Tractatus de legibus ac Deo Legislatore*, vols. I & II, Naples.

TODD, M. 2002. *Christian Humanism and the Puritan Social Order*, Cambridge Univeristy Press, Cambridge.

VITORIA, F. 1933-1936, *Relecciones Teológicas de Maestro Fray Francisco de Vitoria*, Luis G. Alonso Getino (Ed.), vols. I-III, Asociación Francisco de Vitoria, Madrid.

WAHL, J.A. 1977. "Baldus de Ubaldis and the Foundations of the Nation-State", *Manuscripta* 21, pp. 80-96.

WITTE, J.R. 2007. *The Reformation of Rights. Law, Religion, and Human Rights in early Modern Calvinism*, Cambridge University Press, Cambridge.

Assessing the historical-philosophical background of the German *Staatslehre* in the light of the type law of the state

Danie Strauss
School of Philosophy
Potchefstroom Campus
North-West University
dfms@cknet.co.za

Abstract

In this article the contribution of the German Staatslehre *towards an understanding of the type law of the state will be assessed in terms of various systematic distinctions and by taking into account significant historical connections. From its inception the German Staatslehre concerned itself with the state and its power. Since 1894 the discipline called* Allgemeine Staatslehre *comprised a systematic and a historical part. The phrase* Allgemeine Staatslehre *replaced its attachment to constitutional law (*Staatsrecht*) and natural law. After a brief reflection on the question if the Greek-Medieval era knew the state, the assessment of Jellinek is mentioned, namely that the discipline* Allgemeine Staatslehre *is dominated by two opposing world views, the one individualistic-atomistic and the other one collectivistic-universalistic. This calls for an account of the relationship between universality and what is individual against the background of the distinction between modal laws and type-laws. The distinction between what is just and unjust as well as that between right and might (*Recht und Macht*) opens the way to paying attention to additional features of the state as well, such as the relationship between* state sovereignty *and* legal sovereignty. *Characterizing the state in terms of one undifferentiated function evinces a lack of understanding for the multi-faceted nature of the state. This presupposes a non-reductionist*

*Christian ontology safeguarding theoretical thinking from one-sided distortions (absolutizations), such as atomistic and holistic views. Jellinek even refers to individualism and universalism as two opposing world views. As an alternative the relationship between universality and what is individual is employed on the way to distinguishing between modal laws and type laws. The connection between individualism and nominalism is highlighted and followed up by contemplating the dualism of is and ought. The views of Jellinek and Smend are treated in some more detail. Smend mutually separates state and law while at the same time attempting to hold on to their inseparable connectedness. Atomistic and organicistic theories of the state also reveal an inner conflict within political theory. The notion of the validity of values (*Werten*) illegitimately crosses the abyss between* Sein *and* Sollen*. The continued influence of nominalism eliminated universality outside the human mind and reduced factual reality to pure individuality. Jellinek struggled to reconcile his sociological and juridical state concept and in the final analysis did not succeed in avoiding the* Leviathan *of the total state. Ultimately this issue raises questions concerning the limits or boundaries of the competence (jural power) of the state and it prompted political scholars to face what they designated as the crisis of* Allgemeine Staatslehre *(Smend and Von Hippel). The legacy of an Allgemeine Staatslehre paved the way for the next generation to develop a more comprehensive and coherent understanding of the nature (and structural principle) of the state. Finally a brief indication is given of key elements required in our understanding of the type law of the state.*

During the 19th century and the first halve of the 20th century the term *Staatslehre* was established as the equivalent of *political science* or *political theory*. Yet, scholars working within the domains of political theory and the science of law attach different meanings to this term, depending upon their respective views on the nature of the state and the nature of law. The German legacy gave birth to the idea of the *Rechtsstaat* (just state) which is unknown in England where the idea of the "rule of law" developed under different circumstances (see Dicey,1927:179 ff. and Blaau, 1990:89 ff.).

The idea of a *Rechtsstaat* presupposes an insight into the *structural principle* of the state, which will also be designated as the *type law* of the state in this article. This study intends to investigate the historical-philosophical

underpinnings of those ideas which wrestle with the *structural principle* of the state even though there are diverging stances within the German *Staatslehre* legacy. The *Allgemeine Staatslehre* of Georg Jellinek provided the platform for opposing schools of thought, such as the Berlin school and the Vienna school. The former school includes scholars from Berlin (Rudolf Smend and Hermann Heller), as well as from Bonn (Carl Schmitt, Gerhard Leibholz and Leo Wittmayer), keeping in mind that they represent varying points of view. Jellinek was a legal positivist (he studied at the University of Vienna), reminding us of another well-known legal scholar from Vienna, Hans Kelsen, who is a representative of the neo-Kantian Marburg school and also known for his legal positivism.

We commence with an overview of the relevant literature and some historical considerations (subdivisions 1-6), followed by a theoretical reflection on the systematic issues at stake (subdivisions. 7-11), which will take us to a further application of systematic (structural) issues (subdivisions 12-16).

1.   The focus of *Staatslehre*

Long before the modern state emerged, political elements permeated human societies. The most obvious ones are displayed in relationships of super- and subordination. However, the mere presence of authority structures within human society does not ensure the existence of a genuine state. Relationships of super- and subordination are primarily a manifestation of various kinds of *power* and among them state-power is considered to be a core element of the state. In itself this characterization, inter alia, points at the need to explain the relationship between the *state*, *power* and *law* (in the *jural* sense of the term). When the idea of the state is explored it should be kept in mind that particularly within the German academia a discipline called *Staatslehre* (*Theory of the State*) dominated the scene. It is directed at the "essence or structure" of the state ("das Wesen oder die Struktur des Staates") (Vollrath, 1998:53). M. Zilnizki distinguishes between a transhistoric universal application of the state concept and a historic understanding where the concept of the state differentiates into a *structural-historical part* and a *word* and c*oncept-historical variant* ("*strukturgeschichtliche und eine wort- und begriffsgeschichtliche Variante*") (Zilnizki 1998:1).

A structural-historical perspective does not depend on the emergence of the meaning or the concept of a state, but rather on the development and combination of forms of government (*Herrschaftsformen*) which belong to an order designated as a "state". Understood in this way it does not matter that

the literature at the time does not mention the word *state*. Zilnizki considers expressions such as "civitas" (S. Pufendorf, G. W. Leibniz), "societas civilis" (H. Conring), "res publica" (V. Gentilis, J. Lipsius), "république" (J. Bodin, J.-J. Rousseau), "commonwealth" (Th. Hobbes), and "body politic" (J. Locke). He also remarks that viewing the state as a *transhistorical* phenomenon employs a universal category peculiar to Germany. During the transition from the 18th to the 19th century the concept *state*, which traditionally included the addition of peculiar meanings, now turned into an *encompassing general concept*.

2. The emergence of distinct designations of the state

Distinct political concepts of order eventually became terms used in German for the state, such as "polis," "politeia" and "res publica". This applies to Plato's "Politeia" as well as Cicero's "De re publica" and for Bodin's "Six livres de la république" (Zilnizki, 1998:2).[1] Such an encompassing term opened the way to speak of the state of ancient Greece, the Medieval state or the Modern state. In German the word "state" thus acquired the function of an encompassing concept for distinct forms of societal organization or political ordering. This development enabled prominent scholars from the previous century to publish works with the title, *Allgemeine Staatslehre* (*General Theory of the State*). The standard work of Georg Jellinek has this title – the 5th print of its third edition appeared in 1928. Another well-known legal scholar from Germany, Hans Kelsen, published the first edition of his *Allgemeine Staatslehre* in 1925. Herman Heller simply used one word: *Staatslehre* (1934). Of course it should not be forgotten that Fichte published his *Die Staatslehre* already in 1813.

During the late 19th and early 20th centuries the development of *Staatslehre* did not escape from the Kantian and neo-Kantian schools of thought. Immanuel Kant wrestled with the problem of causality and freedom. He assigned causality to the modern science ideal (restricted to the "appearances") and freedom to the personality ideal (the "Ding an sich" – the freedom of the human soul). Kant elevated human understanding to the level of the apriori formal law-giver of nature, where the categories of thought serve as ordering principles.

---

1   This process of incorporating words within the German language is designated in German as "*Eindeutschung*".

According to Hermann Cohen, the founder of the neo-Kantian Marburg school (oriented to the primacy of the science ideal), the first three categories of Kant's table of categories, namely *unity*, *multiplicity* and *totality*, specified under "quantity", should serve our understanding of society in such a way that the unity and multiplicity of societal relationships must be subsumed under the mathematical totality (all-ness) of the state (in the *Table of Categories quantity* embraces "Einheit, Vielheit, Allheit" – Kant, 1787:106). This inevitably leads to a totalitarian and absolutistic understanding of the state,[2] because within the mathematical "Allheit" no room is left for the original spheres of competence of non-state societal entities. Hans Kelsen, who also belongs to this Marburg school, explores this approach further in his attempt to derive all law from his hypothetical *Grundorm* as the underlying mathematical-logical unity.

3. *Staatsrecht* and *Staatslehre*

Against the background of conceptions of natural law the expression "Allgemeines Staatsrecht" [*General Constitutional Law*] already emerged during the late 18th century. In the fourth edition of his 1787 work on "Institutiones juris publici Germanici" (published in Göttingen), Pütter views the discipline called *Allgemeine Staatslehre* as partly belonging to *philosophy* and partly to *natural law*. According to Von Hippel the expression "Allgemeine Staatslehre" was first employed by W.J. Behr in 1804 in his work: "System der Allgemeinen Staatslehre" [*System of a General Theory of the State* – mentioned by Von Hippel, 1963:8)]. A century later, in 1899, Hermann Rehm interpreted this expression in a *naturalistic* way and at the same time defends the view that the term *Staatsrecht* should be replaced by the expression *Allgemeine Staatslehre* (see Von Hippel, 1963:7-8). The factual power of the state reveals something of the empirical side of the state while the discipline *Allgemeine Staatslehre* focuses on "the concept and the essence of the state" (see Von Hippel, 1963:9). The first edition of Jellinek's *Allgemeine Staatslehre* appeared in 1900.

Jellinek identifies three elements of the state: (i) the territory of the state (*das Staatsgebiet*); (ii) the nation of a state (*das Staatsvolk*); and (iii) state

---

2   When there are no political freedoms in a state (such as co-determination or co-responsibility), it is designated as *absolutistic*, and when civil and societal freedoms are absent, we encounter a *totalitarian* situation. What is designated in German as a *Machtstaat* is actually both totalitarian and absolutistic. The legal scholar Johan Van der Vyver defines the terms absolutism and totalitarianism in the same way (see Van der Vyver 1982:461).

power (*Staatsgewalt*) (Jellinek, 1928:394, 406, 427). Yet he distinguishes only two main points of view (zwei Gesichtspunkten) under which the state could be observed, respectively the state as societal structure and the state as a juridical institution. Accordingly *Staatslehre* divides into a social theory of the state (*soziale Staatslehre*) and the theory of constitutional law (*die Staatsrechtslehre*) (Jellinek, 1928:11).

4.   *Allgemeine Staatslehre*: Did the Greek-Medieval era know the state?

After Von Hippel's *Allgemeine Staatslehre* appeared 1963, Krüger used the same title, *Allgemeine Staatslehre* and published a book with the same title in 1966 (1028 pages).[3] Krüger points out that the history of the term "state" has not been sufficiently investigated. He mentions that although the term "Staat" is derived from the Latin word "status", it does not mean that the Romans employed the term "status" in the current sense of the term "Staat". They rather referred to their communal bond as the "populous romanus" or as the "res publica". One does find combinations such as "status republicae", "status imperii" or "status regni", but the upshot is that the term "status" was not used in the sense of a "state" during the middle ages (Krüger, 1966:9-11). He holds that neither Antiquity nor the Medieval era has known the state in the modern sense of the term (Krüger, 1966:9).

5.   From *Staatswissenschaft* and *Staatstheorie* to *Staatslehre*: two opposing world views

Sometimes the word "Staatslehre" replaces the term "Staatswissenschaft" (*Science of the State*) or "Staatstheorie" (*Theory of the State*). Yet the discipline of a *Allgemeine Staatslehre* did not leave constitutional law behind. When the field of constitutional law (*Staatsrecht*) is also incorporated, the total science of the state should be indicated, "*die gesammte Staatswissenschaft*". However, according to Jellinek, the discipline *Allgemeine Staatslehre* is dominated by two opposing *world views*, namely an *individualistic-atomistic* one and a *collectivistic-universalistic* world view (Jellinek, 1966:174). This claim covers both the Greek-Medieval legacy and the post-Renaissance developments.

---

3   The slow shift towards the current practice to refer to "Staatslehre" as "political science" is reflected in the title of a work of Zippelius in 1980: *Allgemeine Staatslehre* (Politikwissenschaft).

Since the Renaissance the atomistic world view dominated the scene, for example in the classical mechanistic world view where the universe is nothing but *particles in motion*. This inspired individualistic theories of human society and hypothetical explanations of the emergence of the modern state within *social contract theories*. The opposite view portrays the state as a spiritual-moral organism (see Krüger, 1966:147 ff.).[4] Zippelius discusses the question whether the state is an organism [*Der Staat als Organismus*]. The organic view appreciates the state as a living totality ["lebendiges Ganzheit"]. It is already found in the thought of Fichte who emphasized, in his 1796 work, *Grundlage des Naturrechts*, that in an organic body every part sustains the whole, and by doing this sustained itself – this also applies to how the citizen relates to the state (see Zippelius, 1980:31).[5]

Whereas the former "world view" restricts itself to the quantitative meaning of the *one and the many*, the latter chooses for the idea of an *organic whole and its parts* as mode of explanation for state (and society). Historically these two views respectively relate to the individualistic rationalism of the Enlightenment on the one hand and the universalistic irrationalism of post-Kantian freedom idealism on the other. A Christian, non-reductionist ontology will aim at avoiding the reification (absolutization) of any aspect of reality.

6.   *Being-a-state* and individual states

Intimately connected to reflection on the nature of the state – the search after its typical structure – is the question of the nature of *principles*. This question flows directly from the concern to gain an understanding of the *structural principle of the state*. Such a structural principle must have a *universal scope* since it encompasses whatever is known as a genuine state. Heller employs the expressions "Strukturbegriff" (*structure concept*) and "Gestaltbegriff" (*form concept*) as synonyms. Every Gestalt is general

---

4   Although Rousseau proceeds from an individualistic starting-point in his *Contrat Social* (1762), concluding the contract immediately produces a moral collective body transforming the former independent individuals into indivisible parts of a new whole. "Immediately the association produces, in the place of the particular person of every participant, a moral and collective body, composed out of just as many members as the voices of the gathering, which derives from this act its unity, communal self, life and will." And just before this we read: "Each of us puts his person and all his power in common under the supreme direction of the general will, and, in our corporate capacity, we receive each member as a indivisible part of the whole" (Rousseau, 1975:244). A discrete multiplicity is turned into a whole with its parts – the switch from individualism to universalism.

5   Fichte writes: "In dem organischen Körper erhält jeder Teil immerfort das Ganze, und wird, indem er es erhält, dadurch selbst erhalten."

and particular. Through its form-laws it serves as the yardstick for other forms, and through its individuality it is demarcated from other forms. One can therefore say that the modern European state has particular form-laws that are hall-marks of the (individually different) German, French and Italian states (Heller, 1934:63).

This issue relates to a basic distinction of a non-reductionist ontology, namely that between the law side and factual side of reality. The structural principle (*type law*) holding for individual states has a *universal scope* and in its *orderliness* (or even disorderliness) every individual state in an equally universal way displays its *subjectedness* to this structural principle by being orderly or relatively disorderly. Every state is therefore subject to the universal law for *being-a-state*. Knowledge of such a universal law does not automatically provide us with the unique forms particular states can assume. Landmann captures this situation in a striking way where he writes: "Imagine aristocracy according to all its predicates, and not even once will it be possible to come up with the faintest idea of Sparta" (Landmann, 1973:81).[6]

7. Modal laws and structural principles (type laws)

Is there a difference between (modal) *laws* and (structural) *principles*? The physical laws for material entities, such as the laws of energy-constancy, non-decreasing entropy and gravity, hold without any specification. That is to say, they hold for all possible classes of entities. Such laws represent instances of *unspecified universality* and are found within the various aspects of reality, the ways or modes in which concrete entities exist. When these modes of being are lifted out and distinguished from others, we encounter *modal abstraction* through which modal laws could be discerned – such as arithmetical laws, spatial laws, kinematic laws or physical laws. A *typological* classification, by contrast, is directed at different *kinds* of entities which presuppose kind-laws or type laws. Since the modal aspects also serve as gateways (points of entry) to an understanding of multi-aspectual entities, modal abstraction at once accounts for the theoretical analysis of type laws as well.

For example, a type law has its own *specified universality*. The law for "being-a-state" entails that there is still an element of universality at stake, for it applies to *all* states. Yet since not everything in the universe is a state it implies

---

6   "Denke dir die Aristokratie nach allen ihren Prädikaten, niemals könntest du Sparta ahnen."

that the universality of this type law is restricted (limited), that is to say, it is *specified* to apply to states only. Every societal entity within a differentiated society has a typical function within the various aspects of reality. However, these typical functions do not eliminate the modal universality of the aspects of reality, for they are merely specified. Interestingly, the well-known German sociologist, Max Weber, is of the opinion that from a sociological perspective the modern state could be viewed as a large business enterprise, for essentially there is no difference between business enterprises and the state (Weber, 1918:15). Insofar as both a business enterprise and a state function within the economic aspect of reality they share the norming obligation to avoid excesses by observing a frugal mode of behaviour. This remark merely refers to the modal universality of the economic aspect. But as soon as the typicality of state and firm is considered, the typical differences between a firm and the state are evident. While a business enterprise cannot impose taxes on its clients, the state can tax its citizens.

In this example a distinction is drawn between what is *economic* and *un-economic*, thus merely pointing out that the modal universality of the economic aspect entails that both a state and a business enterprise can waste their money by acting un-economically and that both have to observe the guidance of norming economic considerations of frugality.

But it is only possible to phrase these perspectives when the economic aspect is understood in its modal universality, i.e. when the respective *typical structures* of the business and the state are disregarded. Modal laws hold universally without any specification – universities, businesses, states, families and sport clubs all have to observe the general meaning of economic norms in order to act in non-excessive ways.

When Breuer discusses "theories about everything" he closely approximates what we have called *modal universality*. He relates universality to what holds for the "entire material 'world'" such that "no part of the material world is excluded from its domain of validity" (Breuer, 1997:2). The physicist Von Weizsäcker captures the idea of modal universality aptly where he explains that the laws of quantum physics hold for all possible "objects": "Quantum theory, formulated sufficiently abstract, is a universal theory for all *Gegenstandklassen* [classes of objects]" (Von Weizsäcker, 1993:128).

Whereas modal laws hold for all possible classes of (natural and societal) entities, type laws and typical principles solely hold for a limited class of entities, namely those belonging to that type. Note that the term "laws" may apply to norming laws (principles) or to non-norming laws (natural laws).

8.   What is just and unjust: enabling the existence of the state

An investigation of the structural principle of the state therefore may include a helpful distinction, namely between *modal jural norms* (specified or unspecified) and *type laws* (always manifest in the *typical functions* which a particular kind of entity displays within all aspects or reality). Heller categorically states: "Without separating what is just from what is unjust [*Recht und Unrecht*] no justification of the state is possible" (Heller, 1934:218). Implicit in this remark is the distinction between the jural aspect and the way in which the state functions within it. Heller here discusses the state function and jural function ["Staatsfunktion und Rechtsfunktion"] (Heller 1934:216 ff.). Yet he does not realize that the jural is but one of the many functions of the state.

9.   *Recht* and *Macht*

Throughout the history of reflection on the nature of the state (even when designated by other terms), the presence of authority structures within human society generated the idea of one or another form of *power*. Since Bodin introduced the term *sovereignty* it was not only intimately connected to the idea of power but also to the recognition of a delimited cultural area, known as the *territory* of the state. By and large Theodor Litt is correct in noticing that the history of political theories toggled between the absolute *power* claim of the state and the idea that it should only protect what is *right* – which underscores the importance of the simultaneous presence of *might* and *right* (*Macht und Recht* – see Litt, 1948:23). However, the question is how one should relate these various "components" of the state? Is there a difference between *state-power* and *jural power*, or between *state sovereignty* and *legal sovereignty*? To these one can add questions regarding government and citizens, state organs, the territory of a state, the legal order of a state, constitutional rights, personal freedom, and so on. Does one have to prioritize to any one of these "factors"?

Power within the state is easily identified with the military strength at its disposal. The earlier development of modern political theories contemplated two extremes of *popular sovereignty* and the *sovereignty of the monarch*. Early in the 20th century an alternative, the theory of state-sovereignty, surfaced – compare the views of Gerber, Laband, Jellinek and Otto Von Gierke. When the state is identified with its *power*, the demands of *right* are

excluded, thus turning the state into a pure power institution. Von Gierke, for example, considers *might* and *right* as two independent and specifically distinct sides of communal life (see Von Gierke, 1915:105). The jural is thus turned into something completely *external* to the state. This raises a question regarding the jural competence involved in the formation of law. Is it possible for an institution that is characterized by the non-juridical feature of cultural-historical power to play a role within the domain of law formation?

In his *Staatslehre* Heller holds that considering a social order within a certain domain is still insufficient, at least if it does not include the aim to strive for a *just order*: "The sanction of the state is only possible when the state function is related to the jural function."[7] This formulation is slightly awkward insofar as it suggests that the state only has one undifferentiated "function", instead of acknowledging its *multiple* functions within all aspects of reality. In this context it may be helpful to refer to the integration theory of Smend since Mols discussed the question regarding "*Allgemeine Staatslehre oder politische Theorie*?" by using Smend's integration theory as an example (see Mols, 1969). The first systematic work in which Smend explains his integration theory was published in 1928 (*Verfassung und Verfassungsrecht*). In the *Evangelisches Staatslexikon* (1966) Smend explains the word and concept of integration: "The word originally means the restoration, but then as such the regeneration or origination of a unity or totality from single elements, such that the recovered unity is more than the sum of the united parts."[8]

Badura explains that according to Smend the

> constitution is the legal ordering of the state, more precisely, of the life in which the state displays its vital reality, namely its processes of integration. The meaning of these processes is constantly found in the restructuring of the living totality of the state, and the constitution is the legislative norming of particular sides of this process (Badura, 1977:319).

Kelsen points out that Smend seriously intends to transform the traditional opposition of state and law into that between *integration and law* (Kelsen, 1930:62). Smend adds another step to this idea, by considering state and law (*Staat und Recht*) as indivisibly connected but nonetheless self-contained provinces of spiritual life, serving each other in the realization of particular

---

7 "Nur durch beziehung der Staatsfunktion auf the Rechtsfunktion ist die Sanktion des Staates möglich" (Heller, 1934:217).

8 "Das Wort meint ursprünglich die Wiederherstellung, dann aber überhaupt die Herstellung oder Entstehung einer Einheit oder Ganzheit aus einzelnen Elementen, so dass die gewonnene Einheit mehr als die Summe der vereinigten Teile ist" (Smend, 1956:482).

value-ideas.[9] On the same page Kelsen immediately highlights the fact that the concepts "enclosed within itself" (*in sich geschlossen*) and inseparably connected (*zwar untrennbar verbunden*) are contradictory. The *connection* eliminates after all the *mutual separation*.

Van Ooyen remarks that Smend, in accepting "a supra-individual state substance", which contradicts his own intentions, demonstrates that he did not liberate himself from the organic political theory of Von Gierke. Kelsen rejects these universalistic stances for according to him both the organic political theory and the integration theory fixate an understanding of the state as a collective body which solidifies existing power relationships (Van Ooyen, 2014).[10]

It is noteworthy that none of the above-mentioned authors realized that the term *integration* reflects the meaning of the *biotical* mode of experience. Every living entity is subject to the biotic time-order of birth, growth, maturation, ageing and dying. Growth manifests a process of differentiation and integration, for if a growing entity does not *integrate* its differentiating life processes the living entity will *disintegrate* and die. Therefore the original aspectual (modal) meaning of the term integration is found within the biotic aspect of organic life. In aspects other than the biotic one merely encounters *analogies* of this original biotic meaning of differentiation and integration. Consequently the transition from undifferentiated to differentiated societies *analogously* reflect the original biotical meaning of growth. In spite of this similarity, there are also important differences between life in a biotic sense and social life. To mention just one: biotic life is subject to biotic laws, whereas social life is guided by norming principles, presupposing an accountable free human will. When it is not realized that within the element of similarity the difference evinces itself, human society is appreciated as *an organism*, resulting in a reductionist view. This *organicistic* reduction is similar to the arithmeticistic reduction present in all *individualistic* or *atomistic* orientations – just recall the earlier mentioned way in which Jellinek opposed the two world views, namely an *individualistic-atomistic* one and a *collectivistic-universalistic* world view. An individualistic approach over-estimates the numerical meaning of the one and the many and ultimately advocates a

---

9   According to Smend state and law are two "zwar untrennbar verbundene, aber doch je in sich geschlossene, der Verwirklichung je einer besonderen Wertidee dienende Provinzen des geistigen Lebens" (quoted by Kelsen, 1930:62).

10   "Wie die organische Staatslehre ist für Kelsen damit die Integrationslehre Ausdruck autoritär fixierten, obrigkeitsstaatlichen Denkens, deren politischer Zweck es dabei sei, über die Vorstellung vom Staat als tatsächlichem, souveränem Kollektivgebilde die bestehenden Machtverhältnisse zu zementieren."

reductionist view in which everything in the universe is reduced to a multiplicity or to analogies of the one and the many within the non-numerical aspects of reality.

10. Individualism and nominalism

Moreover, individualist thinkers often pursue a naturalistic epistemic ideal with nominalistic and natural law underpinnings. Karl Bergbohm employs physicalist terms, such as *atoms* and *molecules*, for his search after the concept of law in a metaphoric sense applies a naturalistic concept of science, directed to "those atoms that have to be present in every jural molecule [*Rechtsmolekül*]" (Bergbohm, 1892:82). During this time the Baden school of neo-Kantianism expanded the Kantian distinction between *Sein* and *Sollen* (*is* and *ought*) by introducing the notion of *values* (*Werten*) within the realm of "Sollen" (*ought*). Initially Rickert assigned a supra-temporal, ideal being to these values, but historicism soon relativized this view by transforming them into varying personal choices of the individual. But operating with distinct "values" that apply like modal norms does not elucidate the type law of each of societal entities. For example, Eduard Spranger, a student of Dilthey, distinguishes the following values: the theoretical (truth); the economic (what is useful); the aesthetic (form and harmony); the social (love); the political (power); and the religious (unity) (see Spranger, 1914:5, 109-130). Rickert, in turn, holds that what belongs to the realm of values is *valid* (Geltung). This view shows that the validity of values disqualify them to be compared with pre-positive principles, for the latter are not valid yet. In fact, acknowledging modal laws and type laws presupposes the reality of *ontic normativity*. Ontic normativity (pre-positive principles), in turn, entails the distinction between pre-positive principles and the way in which a *positive form* is given to such pre-positive principles in unique historical circumstances.

11. The dualism of *Sein* and *Sollen*

Pre-positive principles are universal, constant points of departure for human action, but they are not in and of themselves *valid* or *in force*. In order to be *enforced* or *made valid*, pre-positive principles are in need of a competent organ, on the intervention of an accountable human subject. In his *Allgemeine Staatslehre* Hans Kelsen distinguishes between natural reality, which is *causally* determined (the domain of the *Sein*) and the state, as a spiritual entity (belonging to the domain of the *Sollen*). They are two

mutually independent systems characterized by Kelsen as constituting a dualism (Kelsen, 1925:14-15). Within the domain of the *Sollen* Kelsen denies the difference between private law and public law. Ultimately he resolves the concept of the state into a norm-complex of jural functions. This view conforms to the orientation of those who *separate* natural causality and normative accountability, a conception that is fairly widespread among the neo-Kantian scholars of the Baden and the Marburg schools of thought about one hundred years ago.

Instead of asking whether our actions are caused by our will Kelsen holds that the human will is causally determined, that is to say, that the human will is *objectively determined* by the *law of causality* (Kelsen, 1960:98-99).[11] On the basis of this (Kantian) dualism between *Sein* (*is*) and *Sollen* (*ought*), Kelsen does not realize that the characteristic feature of normativity introduced by him actually contradicts his restriction of the domain of *Sein* to (physical) causality. The feature he introduces is "being valid" (*Geltung*), which is synonymous to what is *in force* (*in Kraft*). This also applies to the *Grundnorm* (basic norm), which is not identical to the sum of all positive norms of a legal order, but the *presupposed*, *positing ground of their validity* ("ihren Geltungsgrund darstellende, vorausgesetzte, nicht gesetzte Norm" – Kelsen, 1960:201). The statement that a specific jural norm is *in force* is equivalent to saying that it is *valid*.[12] Consequently, the primary dualism between (physical) causality (*Sein*) and normative accountability (*Sollen*) is relativized by introducing within the *Sollen* domain the physical expressions *Geltung* and being *in Kraft*. The irony is therefore that the aim of keeping the domain of *ought* separate from the *Sein* is jeopardized by this employment of *physical* analogies. I pointed out that the term *Geltung* is the equivalent of the physical terms *Kraft* (German) and *force* (English).

12. Continuing the legacy of nominalism

The legacy of *Staatslehre* embraces diverging trends of thought regarding the nature of the state. The general spirit of the late 19th and early 20th century, its *Zeitgeist*, was strongly influenced by the post-Renaissance nominalism. Nominalism denies any universality outside the human mind

---

11 "Mitunter leugnet man zwar nicht, daß der Wille des Menschen, wie alles Geschehen, tatsächlich kausal bestimmt ist, …" (Kelsen, 1960:98). "Da die objective Bestimmtheit des Willens nach dem Gesetze der Kausalität nicht geleugnet werden kann, …" (Kelsen, 1960:99).

12 "daß die Aussage: eine bestimmte Rechtsnorm ist 'in Kraft' ('in force') dasselbe bedeuted wie: eine bestimmte Rechtsnorm steht in Geltung, …" (Kelsen, 1960:82).

and therefore eliminates any *order for* or *orderliness of* entities. Jellinek, for example, positions *law* (*das Recht*) within our human representations, such that providing a closer determination of what *law* is amounts to establishing which part of human consciousness should be designated as law (Jellinek, 1966:332).

This intellectual tradition strips the concrete societal reality of the state also of its universal side. Heller holds that owing to its universality the concept of law cannot capture natural reality or cultural reality in its *individuality*. A single leaf of a linden tree just like a specific human being or state, is strictly individual. Since concepts aim at universal features all individuality is "irrational". Regardless how many *Gattungsbegriffen* (*kind* or *type* concepts) through multiple concentric circles may approximate what is individual, they will never be able to arrive at genuine knowledge of the historical, socially individualized reality.[13]

13. The universal state concept, the historical state concept and the concrete state concept

Von Hippel embarks on a slightly different path by distinguishing between *idealistic* and *naturalistic* trends within the discipline of *Allgemeine Staatslehre* – the former concerns the *ought* and the latter what factually *is*. But the discipline itself is positioned between *natural law* and *naturalism* (Von Hippel, 1963:5-9). His own exposition attempts to mediate between the universal state concept, the historical state concept and the concrete state concept (Von Hippel, 1963:10-13).

14. The sociological and juridical state concept of Jellinek

Von Hippel opposes the approach of Jellinek in his *Allgemeine Staatslehre* because he is still a victim of the *positivist* concept of science. Nonetheless

---

13 "Mit Gesetzesbegriffen wird überhaupt keine, weder eine Kultur – noch eine Naturwirklichkeit erfasst. Denn ausnamslos ist alle Wirklichkeit Individualität, das einzelne Lindenblatt um nichts weniger als der einzelne Mensch. Alle Individualität ist irrational und kann durch noch so viele konzentrische Kreise von Gattungsbegriffen erfasst werden. Weil uns aber in den Kulturwissenschaften vornehmlich die historisch-sozial individualisierte Wirklichkeit interessiert, deshalb können Gesetze und allgemeine Gattungsbegriffe der Kultur zwar wesentliche Voraussetzungen für eine Wirklichkeitserkenntnis bieten, eine Wirklichkeitserkenntnis durch sie bleibt aber prinzipiell ausgeschlossen" (Heller, 1934:60-61).

they share the rejection of an individualistic or atomistic approach. Jellinek writes: "Whatever the original forms of human communal existence might have been, it is not possible to find a pre-historical or historical co-existence which is completely atomistic."[14] Yet, according to Von Hippel the positivistic state concept of Jellinek is dualistic. It falls apart in a sociological state concept and a juridical state concept. The former characterizes the state as the united communal bond of settled humans equipped with original governing power.[15] In spite of the scope of his encompassing work (*Allgemeine Staatslehre*) Jellinek dedicates merely a couple of pages to his definition of the state in a juridical sense. He speaks of the state as "Rechtssubjekt" (jural subject) and combines this designation with the idea of a "body" of people (*Körperschaft*). As a legal concept the state is then defined as a settled people equipped with an original power to rule, or simply as a territorial body equipped with original governing power.[16]

It is striking that the "power to rule" or "to govern" is central both to the sociological and the juridical definitions of the state. The connection with law – such as stating that the state is a legal subject – is merely introduced as an addendum.

15. Escaping from the *total state*?

Therefore, when it comes to the demarcation of state-power, Jellinek does not hesitate to employ well-known terms derived from Hobbes.

> The state becomes the big Leviathan, absorbing all public power within itself. … It is shown in that it claims the right to dispose, through its law, over all governing powers on its territory. The modern state grants every individual and every societal collectivity a legally delimited domain of freedom vis-à-vis this state-power, an independent right to rule, although by virtue of its essence the state cannot acknowledge any intransgressible border opposing it.[17]

---

14 "Wie immer die Urformendes menschlichen Gemeindaseins beschaffen gewesen sein mögen, jedenfalls ist ein völlig atomistisches Nebeneinander-bestehen der Menschen vorgeschichtlich und geschichtlich nich nachzuweisen" (Jellinek, 1966:365).

15 "Der Staat ist die mit ursprünglicher Herrschermacht ausgerüstete Verbandseinheit seßhafter Menschen" (Jellinek, 1966:180-181).

16 "Als Rechtsbegriff ist der Staat demnach die mit ursprünglicher Herrschermacht ausgerüstete Körperschaft eines seßhafter Volkes oder … die mit ursprünglicher Herrschermacht ausgerüstete Gebietskörperschaft" (Jellinek, 1966:183).

17 "Der Staat wird der große Leviathan, der alle öffentliche Macht in sich erschlingt. … Das zeigt sich darin, daß er sich das Recht zumischt, über alle Herrschaftsgewalt auf seinen Gebiete durch sein Gesetz zu disponieren. Der moderne Staat erkannt zwar

This implication flows from the fact that Jellinek identifies ruling force with state power:

> Ruling is the criterion which distinguishes state power from all other powers. Therefore when ruling power is found in collectives integrated within the state or an individual, it is derived from state power, even when these instances of ruling power turned into the internal law of these collectives, not original, but derived power.[18]

Von Hippel is fully justified when he recognizes in the thought of Jellinek the idea of the "total state" since the state is the "sole owner of freedom" ("Der Staat als alleiniger Inhaber der Freiheit") (Von Hippel, 1963:116). In relation to the Leviathan a person is a complete subject and called to fulfil many duties, among which the most basic one is the total call to duty flowing from being subjected to the sovereignty of the state, which does not have any legal boundaries (Von Hippel, 1963:117).

Since ancient Greece this view continues key elements of attempts to delimit the jural competency of the state and state-law (see Strauss, 2012). It also explains why various German scholars reflected on what appears to be the crisis of political theory (*Allgemeine Staatslehre*). When Rudolf Smend published his work "Verfassung und Verfassungsrecht" [*Constitution and Constitutional Law* (1928)] he immediately addresses the foundation of political theory with the heading: *Die Krisis der Staatslehre* [*The Crisis of Political Theory*]. With Jellinek in mind he refers to the first theoretical assumption of the largest and most successful school of political theory and constitutional law within the German lingual domain ("staatstheoretischen und staatsrechtlichen Schule des deutschen Sprachgebiets"), namely that the state cannot be viewed as a *part* of reality ["das der Staat nicht al sein Stück der Wirklichkeit betrachtet warden darf"]. According to him this situation indicates a crisis, not only for *Staatslehre*, but also for *Staatsrecht* (Smend, 1928:121). The diagnosis of a crisis is also connected to the above-mentioned problem of delimiting the (jural) competence of the state.

Where Van Ooyen discusses Kelsen's critique of Smend's idea of the "state as integration," he explains that the majority vote, as parliamentary

---

jedem Individuum und jedem Verbande ein gesetzlich begrenztes Gebiet der Freiheit von seiner Gewalt zu, ein selbständiges Herrscherrecht jedoch, das ihm als unübersteigliche Schranke gegenüberstände, vermag er zufolge seines Wesens nicht anzuerkennen" (Jellinek, 1966:431).

18 "Wo daher Herrschergewalt bei einem dem Staate eingegliederten Verbande oder einem Individuum zu finden ist, da stammt sie aus der Staatsgewalt, ist, selbst wenn sie zum eigenen Rechte des Verbandes geworden ist, nicht ursprüngliche, sondern abgeleitete Gewalt" (Jellinek, 1966:430).

procedure through which a decision is reached, is devalued by Smend who views it as something merely *formal*. Thus the majority principle is ultimately separated from the concept of democracy. Kelsen compares this argumentation of Smend with that of Bolsjevist Marxism on the basis of their shared appreciation of parliamentarianism and a dictatorship:[19]

> … to what an extent Smend intends democracy when he refers to parliamentarianism, shows how close he approximates the political theory of Bolsjevism. Democracy is namely also according to Smend reconcilable with a dictatorship (Van Ooyen, 2014:34).[20]

Von Hippel even wrote a book on the crisis contained in the idea of the state, which incorporates the problem of the limits of state-power: *Die Krise des Staatsgedankens und die Grenzen der Staatsgewalt* ("The Crisis of the Idea of the State and the Limits of State-power") (1950).

Acknowledging state-power is fine as long as it is not viewed as the *exclusive* characteristic of the state, for once this is done, law becomes something external (and different) from the state, generating the problem of "integrating" it with the state. Kelsen highlights the *vicious circle* entailed in Smend's argumentation. Smend commences from the conviction that state is not law because the state is integration. Also, law is not integration. Yet: law is integration, from which it follows that law is state. Moreover, since integration is not a value (Wert) it cannot be opposed to the jural value (*Rechtswert*). Nonetheless Smend simultaneously holds that "also the judiciary should integrate". On the one hand he therefore says that the judiciary should integrate and a few pages later he states that the judiciary does not serve the integration value (*Integrationswert*) and then continues by saying that the judiciary ought to integrate (see Kelsen, 1930:67)! What makes it even more problematic is that Smend holds that the judiciary has to integrate the *legal community* which in principle belongs to a sphere that differs from the state community, although in a practical sense it may at once serve state integration. According to Kelsen the upshot of all of this is that the state community does integrate, through which, though only in a practical sense

---

19 "Hierbei würde das – für seinen Begriff einer pluralistischen Demokratie wesentliche – Entscheidungsverfahren des (parlamentarischen) Mehrheitsbeschlusses durch Smend als bloß formalistisch abklassifiziert, das Mehrheitsprinzip schließlich überhaupt vom Begriff der Demokratie abgelöst. Kelsen setzt daher die in konservativen Traditionen stehende Smendsche Argumentation in Vergleich zum Marxismus bolschewistischer Prägung – und zwar hinsichtlich ihrer gemeinsamen Einstellung zu Parlamentarismus und Diktatur."

20 "… wie sehr SMEND die Demokratie meint, wenn er auf den Parlamentarismus schlägt, das zeigt, wie nahe er an die politische Theorie des Bolschewismus herankommt. Demokratie ist nämlich auch nach SMEND mit der Diktatur vereinbar."

and not in principle, the state community turns into the legal community or vice versa.[21]

Dooyeweerd is equally critical when he traces the roots of the integration theory:

> And so it turns out in the end that the entire integration concept rests on the ancient view of the state as an organized community of power. And we soon see the adherents of the Berlin School slipping onto absolutistic paths, leaving no room for sphere-sovereignty in non-state organized communities. The method of the humanities, too, backed by the humanist view of reality, renders impossible a genuine analysis of the individual meaning-structure of organized communities. On this point the integration theorists all agree: the sovereignty of the state is absolute as against all other organized communities" (Dooyeweerd, 2010:57-58).

The numerous works written within the tradition of an *Allgemeine Staatslehre* constantly wrestled with an account of key features of the modern state: power, law, juridical organs, constitutional law, territory, the relation of super- and sub-ordination, the state as system, the legal order of the state, the state as representation, state and civil society, the place of political parties, the state as an organized community (*Verband*), the body politic, public opinion, societal norms and many more.

In subdivision 7 the nature of modal universality was briefly explained. It implies that the various aspects of reality, in an ontic sense, lie at the foundation of the diverse concrete (natural and societal) entities. Therefore the jural function belongs to reality and cannot be restricted to any entity merely functioning in it in a typical way. It is therefore meaningless to hold that either the state precedes law or that law precedes the state. Modal laws and type laws are co-conditioning the existence of whatever is present within the universe.

The (universal) conditions for being this or that type of thing or entity has to be distinguished from the (universal) way in which particular entities evince their conformity with these conditions (laws). In being an atom or being a state, this or that atom or state shows that it meets the conditions (type law) for what it is. Sometimes the word "structure" is used both for the "law for" an entity and for the "actual (historically-situated) composition of" an entity. The structure (composition) of the latter reveals what is correlated with (and therefore distinct from) the *order for* entities. A *structure for* has

---

21 "Das heißt also: die Staatsgemeinschaft integrieren; wodurch the Staatsgemeinschaft – zwar nicht 'im Prinzip', aber 'praktisch' – zur Rechtsgemeinschaft wird, oder umgekehrt" (Kelsen, 1930:67).

the meaning of a *law for*, while a *structure of* represents the universal way in which individual entities reveal their conformity with the given law for their existence (also known as their law-conformity).

The type law for the state therefore incorporates both modal universality and typicality. Marck treats this issue in a work which continues the systematic contribution found in Cassirer's work from 1910 on the distinction between *function concept* and *substance concept*. The underlying issue therefore concerns first of all the distinction between functional aspects or reality (with their unspecified modal universality) and the diverse concrete (natural and societal) entities. The two above-mentioned dominating world views within the field of *Allgemeine Staatslehre* according to Jellinek, namely an *individualistic-atomistic* world view and a *collectivistic-universalistic* world view did not succeed in providing a sound account of the structural principle of the state.

The universalistic view is also still alive in modern system theory, particularly in the thought of Parsons and Luhmann. If the state is understood in non-jural terms, i.e., as an institute characterized by its *power*, then it cannot operate within the domain of the *formation* of law. Parsons juxtaposes the state (political organization) and the legal system and then has to "integrate" the former with the latter: "Because of the problems involved in the use and control of force, the political organization must always be integrated with the legal system" (Parsons, 1961:47).

Luhmann's understanding of the legal system is intimately related to his views on law as the *structure* of society (see Luhmann, 1985:103 ff.). He advocates the idea of "the institutionalization of the scheme of societal system differentiation" and emphasizes that "law must be seen as a structure that defines the boundaries and selection types of the societal system" (Luhmann, 1985:105). He holds the view that the insights pertaining to self-referential systems ought to be applicable to the legal system as one of the differentiated functional systems distinguishable in the evolution of a society. However, his system theoretical orientation results in a view of the *Ausdifferenzierung* (differentiating out) of the legal system, lacking insight into the original non-state spheres of law.

According to Parsons political control of power and the legal system must be integrated: "Because the problems involved in the use and control of force, the political organization must always be integrated with the legal system" (Parsons, 1961:47). Without an intrinsic connection between power and law the state lacks an original competence to form law.

16. The way ahead

The domain of theorizing left open to scholars within the field of political science therefore still needs innovative developments. One may think of explorations in the thought of thinkers such as John Rawls, Jurgen Habermas and Herman Dooyeweerd. They generated a more comprehensive and coherent understanding of the nature (and structural principle) of the state.

The coherence between modal aspects and multi-aspectual entities calls for acknowledging the cultural-historical and the jural aspects of reality. They are intrinsic to the structural principle or type law of the state. *Might* and *right* cannot be separated for they serve as the two characteristic functions of the structural principle of the state, of its type law. Habermas correctly emphasises this intrinsic coherence between law (*Recht*) and the democratic-constitutional origination, acquisition and application of political power.[22] Later, he mentions the mutually constitutive coherence between "Recht und politischer Macht" ("law and political power" (Habermas, 1998:208)).

The classification of social forms of life with the aid of compound basic concepts, such as specified in the distinction between *societal collectivities* (*Verbände*), communities and coordinational relationships, does not contain any criteria enabling the discernment of *typical* differences between them. A state and business firm both display the distinctive features of societal collectivities, namely the presence of a durable relation of super- and subordination and a solidary unitary character. However, these two features do not provide us with criteria to distinguish between societal collectivities as such. The only theoretical access we have to the typical differences exhibited by these forms of life is the point of entry provided by the meaning of distinct sphere-sovereign modal aspects. The decisive element in applying the idea of sphere-sovereign modal aspects to distinguish between different kinds (types) of societal collectivities, is to realize that the foundational function and the qualifying function of such social forms of life are mutually dependent and co-determinative. This becomes evident as soon as one realizes that most societal relationships have their foundational function within the cultural-historical aspect, since most are based upon some or other type of power formation. Without taking the qualifying function of these social forms of life into account, it will not be possible to differentiate the types of power formation exemplified by them. Of course this view assumes the (ontic) modal universality of all aspects, including the jural.

---

22 "... der interne Zusammenhang zwischen dem Recht und der demokratisch-rechtstaatlichen Organization der Entstehung, des Erwerbs und der Verwendung politischen Macht ..." (Habermas, 1998:70)

Whereas many thinkers within the tradition of *Staatslehre* struggled to account for the relationship between the *state* and *law* (the jural function of reality), the just mentioned distinctions transcend this shortcoming. The artificial synthesis of "state" and "law" turns out to be unnecessary when it is realized that the modal universality of the jural aspect, due to its ontic givenness, co-conditions the very existence of any state, making any "synthesis attempt" redundant. The type law for being a state merely specifies the modal universality of the jural aspect, while this aspect in turn serves as the guiding and qualifying function of the state.

The underlying distinction concerns the dimension of natural and societal entities and the universal modal aspects within which they function of a typical way. Interestingly ancient Greek and Medieval philosophy were by and large oriented to a *substance* perspective, whereas modern philosophy and in particular the modern natural sciences (since the Renaissance) increasingly switched to a *functionalistic* mode of thought (see the above-mentioned book discussing this problem (Cassirer, 1910). The upshot of this legacy is that either modal aspects (functions) were *reified* ("substantialized") or entities were *functionalized* (see Strauss, 2013).

Jellinek restricts the concept of substance to human beings, because according to him the ultimate objective elements of the state is given in the sum of particular actions in which social relationships comes to expression. The state "is therefore in no sense a substance, but exclusively a function. The substance laying at the foundation of this function is and remains the human being."[23]

Smend holds that insofar as the political theory of Kelsen directs itself against the mechanical spatializing presuppositions of the formal school in modern sociology (Simmel, Vierkandt, Von Wiese) and against every "substantializing organology" [*substanzialisierender Organology*], that it should be supported (Smend, 1928:131).

The problem of *substance* and *function* at once reintroduces the life and world view controversy setting apart individualistic and universalistic views of society as well as the opposition of natural-scientific and "geisteswissenschaftliche" orientations, reflecting the ultimate driving force behind the intellectual developments during the past five hundred years, the motive of nature and freedom (science ideal and personality ideal) alluded to in subdivision 2 discussing the emergence of distinct designations of the state.

---

23 "Er [the state] ist somit nach keiner Richtung hin Substanz, sondern ausschließlich Funktion. Die dieser Funktion zugrunde liegende Substanz sind und bleiben die Menschen" (Jellinek, 1966:174).

In principle a biblically informed non-reductionist ontology may guide us here towards a meaningful and integral understanding of the state as well as its place within human society. It may also open the way towards an alternative view in which the shortcomings and one-sidedness present in some of the dominant traditions within the German legacy of *Staatslehre* could be overcome.

A significant step in this direction is given by Jonathan Chaplin (2011) in a work discussing the conditions for being a state, while focusing on the distinction between "typical laws" and modal aspects as developed in this article, exploring further key distinctions found in the views of Dooyeweerd (see also Strauss, 2014). It will therefore be fitting to analyse this orientation elaborated by Chaplin in a different article.

Bibliography

BADURA, Von Peter 1977. Staat, Recht und Verfassung in der Integrationslehre, Zum Tode von Rudolf Smend (15. Januar 1882-5. Juli 1975). In: *Der Staat, Zeitschrift für Staatslehre, Offentliches Recht und Verfassungsgeschichte*, Herausgegeben von Ernst-Wolfgang Bockenforde, Gerhard Oestreich, Helmut Quaritsch, Roman Schnur, Werner Weber t, Hans J. Wolff, 16. Band 1977 (pp.305-325).

BERGBOHM, K. 1892. *Jurisprudenz und Rechtsphilosophie: kritische Abhandlungen*. Leipzig: Duncker & Humblot.

BLAAU, L.C. 1990. The Rechtsstaat idea compared with the rule of law as a paradigm for protecting rights. *The South African Law Journal*, Vol. 107, Part I (pp.76-96).

BREUER, T. 1997. Universell und unvollständig: Theorien über alles? In: *Philosophia Naturalis*, 34:1-20.

BRUNNER, O. (Hrsg), CONZE, W. (Hrsg), KOSELLECK, R. (Hrsgr). 2004. Staat und Souränität, In: *Geschichtliche Grundbegriffe*, Vols 1-8.

CASSIRER, E. 1910. *Substanzbegriff und Funktionsbegriff*. (Berlin), Darmstadt: Wissenschaftliche Buchgesellschaft, 1969.

CHAPLIN, J. 2011. *Herman Dooyeweerd, Christian Philosopher of State and Civil Society*. Notre Dame: University of Notre Dame Press.

DICEY, A.V. 1927. *Law of Constitution*, 8th edn. London: MacMillan Company.

DOOYEWEERD, H. 2010. *The Crisis in Humanist Political Theory*. Collected Works of Herman Dooyeweerd. General Editor D.F.M. Strauss, Series B, Volume Seven. Grand Rapids: Paideia Press.

FICHTE. 1976. *Grundlage des naturrechts*.

HABERMAS, J. 1998. *Faktizität und Geltung. Beiträge zur Diskurstheorie des Rechts und des demokratischen Rechtsstaats*. Frankfurt am Main: Suhrkamp edition (1st edn. 1992).

HELLER, H. 1934. *Staatslehre*. Leiden: A.W. Sijthoff's Uitgeversmaatschappij.

JELLINEK, G. 1928. *Allgemeine Staatslehre*. Berlin: Verlag Dr. Max Gehlen.

JELLINEK, G. 1966. *Allgemeine Staatslehre* (Dritte Auflage). Berlin: Verlag Dr. Max Gehlen.

KANT, I. 1787. *Kritik der reinen Vernunft*, 2nd edn. Hamburg: Felix Meiner edition (1956).

KELSEN, H. 1925. *Allgemeine Staatslehre*. Berlin: Springer Verlag.

KELSEN, H. 1930. *Der Staat als integration*. Wien: Verlag von Julius Springer.

KELSEN, H. 1960. *Reine Rechtslehre, Mit einem Anhang: Das Problem der Gerechtigkeit*. Vienna: Verlag Franz Deuticke.

KELSEN, Hans. 1930. *Der Staat als Integration: Eine prinzipielle Auseinandersetzung*. Vienna: Springer. Reprint, Aalen: Scientia Verlag, 1974.

KRÜGER, H. 1966. *Allgemeine Staatslehre*. Berlin: Kohlhammer.

LANDMANN, M. 1973. *Philosophie – ihr Auftrag und ihre Gebiete*. Darmstadt: Carl Habel Verlagsbuchhandlung.

LITT, Th. 1948. *Staatsgewalt und Sittlichkeit*. München: Erasmus Verlag.

LUHMANN, N. 1985. *A Sociological Theory of Law*. London: Routledge & Kegan Paul.

LUHMANN, N. 1986. *Die soziologische Beobachtung des Rechts*. Frankfurt am Main: Metzner.

MARCK, S. 1925. *Substanzbegriff und Funktionsbegriff in der Rechtsphilosophie*. Tübingen: J.C.B. Mohr.

MOLS, M. 1969. *Allgemeine Staatslehre oder politische Theorie? Interpretationen zu ihrem Verhältnis am Beispiel der Integrationslehre Rudolf Smends*. Berlin: Duncker & Humblot.

PARSONS, T. 1961. An Outline of The Social System. In: *Theories of Society*, Vol. I. Edited by Parsons, Shills, Naegele and Pitts New York.

PARSONS, T. 1961a. *Theories of Societies*. Edited in colaboration with Shills, Naegele and Pitts, New York 1961.

ROUSSEAU, J.J. 1975. *Du contrat social et autres oeuvres politiques*. Paris: Editions Garnier Fréres.

SCHMITT, C. 1928: *Verfassungslehre*. 9th Impression. Berlin: Duncker & Humblot (new edn. 1993 – *fehlerbereinigter Neusatz der Erstauflage von 1928*).

SMEND, R. 1928. Verfassung und Verfassungsrecht. In: Smend 1968:119-276.

SMEND, R. 1956. Integrationslehre. In: Smend 1968:475-481.

SMEND, R. 1956a. Integration. In: Smend 1968:482-486.

SMEND, R. 1968. *Staatsrechtliche Abhandlungen und andere Aufsätze*. Berlin: Duncker & Humblot.

SPRANGER, E. 1914. *Lebensformen, Geisteswissenschaftliche Psychologie und Ethk der Persönlichkeit*. Halle: Niemeyer.

STRAUSS, D.F.M. 2012. A history of attempts to delimit (state) law. *Journal for Juridical Science*, 37(2):35-64.

STRAUSS, D.F.M. 2013. Reifying things or relations: substantialism versus functionalism. *Acta Academica*, 45(2):262-287.

STRAUSS, D.F.M. 2014. The genesis of a new conception of the state in the political philosophy of Dooyeweerd. *Journal for Christian Scholarship*, 50(1&2):75-99.

VAN DER VYVER, J. 1982. *Inleiding tot die Regswetenskap*. 2nd edn., Co-Author, F.J. Van Zyl. Durban: Butterworth.

VAN OOYEN, R.C. 2014. *Integration*. Wiesbaden: Springer Fachmedien, DOI 10.1007/978-3-658-03662-1_2.

VOLLRATH, E. 1998. Staatslehre. In: *Historisches Wörterbuch der Philosophie: Staatslehre*. HWPh: Vol. 10:53-62.

VON GIERKE, OTTO. 1915. *Die Grundbegriffe des Staatsrechts und die neuesten Staatsrechtstheorien*. Tübingen: Mohr.

VON HIPPEL, E. 1955. *Geschichte der Staatsphilosophie in Hauptkapiteln*. I Band, Meisenheim am Glan: Verlag Anton Hain.

VON HIPPEL, E. 1963. *Allgemeine Staatslehre*. Berlin: Verlag Franz Vahlen.

VON WEIZSÄCKER, C.F. 1993. *Der Mensch in seiner Geschichte*. München: DTV.

WEBER, M. 1918. *Parlament und Regierung im neugeordneten Deutschland*. Munich and Leipzig: Dunkler & Humblot.

WEISSMANN, K. 2010. Smends *Integrationslehre*. http://www.sezession.de/wp-content/uploads/2011/04/Wei%C3%9Fmann_Smends-Integrationslehre.pdf (accessed on 18-02-2015).

ZILNIZKI, M. 1998. Staat. In: *Historisches Wörterbuch der Philosophie: Staatslehre*. HWPh Volume 10:1-53.

ZIPPELIUS, R. 1980: *Allgemeine Staatslehre (Politikwissenschaft)*. München: C.H. Beck'sche Verlagsbuchhandlung.

Educating on the basis of thin and thick value orientations

Prof. J.L. van der Walt
Edu-HRight Research Unit
Faculty of Education Sciences
North-West University
Potchefstroom Campus
hannesv290@gmail.com

Abstract

Some theorists about education in a multicultural society such as that of South Africa have been propounding the notion that public (state) education should be based on a minimum-universalistic human rights value system, or at most a system in which such values have been contextualized by local conditions and demands. This, they contend, is necessary for establishing a modus vivendi. This article expounds the view that education should rather rest on "thick" values, i.e. values filled with life view content. The difference between a pedagogical approach based on "thin" values (devoid of life view content) and one based on "thick" values is highlighted with reference to respectively life view and pedagogy related demands. Since an approach based on "thick" values could indeed lead to conflict, there should also be a place in education for the "thin" values that all can share.

Key concepts:

education, pedagogy, values, contextualized values, life view

1. Background and problem statement

Du Preez and Roux (2010:12) argue "that positive discipline in multicultural school environments partly relies on the infusion of human rights values that are neither solely universally nor particularistically interpreted", and took issue with the particularistic stance assumed by Steyn and Wolhuter, and De Klerk and Rens "who argue that acceptance of certain Christian values could promote discipline in schools". Du Preez and Roux base their objection to this stance among others on "arguments about the relativity of truths, not only between different religious beliefs, but also the varying interpretations and truths found in one religious denomination". (…) "A value system that is based on only one particular religious or cultural view means that only one narrative is taken into account. That could jeopardise the realisation of the multicultural ideals of the democratic education system in South Africa" (Du Preez & Roux, 2010:14-15).

The question is, does a value system based on, for instance, only a bill of human rights not amount to the same stance as that to which Roux and Du Preez object, namely that "it is based on only one particular religious or cultural view", meaning that "that only one narrative is taken into account"? A human rights narrative may also be prone to "varying interpretations and truths". Attempts at avoiding controversial interpretations often result in "arid legalistic human rights scholasticism" (Blackburn, 2009:186). Du Preez and Roux (2010:23 *et seq.*) therefore rightly come to the conclusion that "It would … be precarious to accept human rights values as univocal and not subjected to diverse interpretation", and hope to find a way out of this dilemma by reverting to the views of Parekh (1999) because "his position may assist in pursuing values … that are both contextually recognised and justified on a universal level" (Du Preez & Roux, 2010:24). Their hope draws attention to the matter of thick and thin pedagogical and/or value language.

Another issue complicates the matter further. As Du Preez and Roux (2010:19-22) discovered, the teacher-participants in their study tended to revert to their private and personal life and world view perspectives despite the exposure that they had had to a human rights culture in the schools. The participants showed an "intuitive preference from a particularist perspective". In Du Preez and Roux's (2010:22) opinion, "this position … might lead to the selection of *a value system* (italics in original) that is based on one grand narrative to underpin disciplinary measures intended to be applied in a multicultural school environment". Apart from the fact, as mentioned, that a value system based exclusively on (a particular version of) human rights theory is itself based on only one grand narrative, the implied view that learners and their educators should be discouraged from reverting to a grand

narrative rooted in their respective personal and social life and world views can be problematic.

Will a value orientation based on a human rights grand narrative indeed lead to better citizenship, greater social justice, greater tolerance and a better multicultural society than a value system based on (for instance) a particularistic Christian grand narrative, or will Parekh's stance of contextually recognising values that can be universally justified lead to the more successful achievement of these ideals? We may never find the final answer to this question, but we do know from the research of Du Preez and Roux (2010:19-22) and others (Scheepers & Van der Silk, 1998:679-691; Roux, 2003:131-132; Ferguson & Roux, 2004:15-16; Roux & Du Preez, 2005:279-280; Roux, 2006:1299-1300; Roux, 2006b:160) that educators on the ground tend to spontaneously revert to the convictions and assumptions imbedded in their personal life and world views (which does not mean that they are averse to interacting with adherents of different other faiths [Gilmour, 2000:231-232; Matsaung, 2003:81-82]). When actually engaging with younger people (including learners in public "secular" schools) for the purpose of guiding them to greater maturity, (Christian) educators tend to revert to the thick value language of their personal religions and life and world views. The question remains: could "thick pedagogical and value language" when actually engaging in pedagogical work with young(er) people lead to more effective education than education based on, for instance, a "thin" human rights value base?

2.   Aim of this article

The rest of this article is devoted to a discussion of the problem of "thick versus thin values language" in education in an attempt to determine, by evaluating the views of various educators about "thick and thin" language in education, which approach is more likely to be more effective when actually educating, also in circumstances (schools) where different cultural and religious narratives interact.

3.   Thick and thin values and pedagogical language

Parekh (2000:158) concludes that values formulated in universal terms are relatively thin, and that the embodiment or contextualising of such values in particular societies can be relatively thick. This view is consistent with Van den Beek's (2010:40 *et seq.*) that, while generally formulated metaphors at

first may seem the best because of their unspecific nature and their ability to provide grounds for consensus among individuals with widely different views and convictions, they prove to be too "thin", i.e. devoid of life view content. Because of this, ethicists and philosophers have begun agitating for the use of "thick" language, language that can express the deeper content and sentiments imbedded in, and flowing from some or other philosophical, religious or life view tradition. In the case of moral or value education, at the 'thin-public-minimal-narrow' end of the continuum are those values which may be described as 'legal', while at the 'thick-private-maximal-broad' end of the spectrum are those values considered to be 'personal' standards left to the conscience of the individual (and can be narrowly religious or even pietistic in nature). In between these two poles are various configurations that vary from socially acceptable values to highly contested ones (Swartz, 2006:565-566).

Van den Beek (2010:41) furthermore explains why participants such as those in Du Preez and Roux's study (2010) tend to revert to thick value language: it is only natural for people to do so; it is the way people are and talk; people do not live according to abstractions but according to the concrete contents of their religious faith and life conceptual convictions. "Thick" language usage is therefore truer to real life than "thin" language. It is an expression of ethical relativity which, as Naudé (2010:11) points out, embodies the notion that people hold different values that stem from their different cultures, religions, life and world views, adult examples, formal education and the media.

4. Two issues regarding thick and thin value language

The "thin and thick" value language tension brings two issues to the fore: the question of life orientation, and the demands of education.

4.1 Life and world view orientation

People in general, and educators (teachers and parents) in particular, can be broadly distinguished into two groups: those that are religiously orientated in a traditional sense, i.e. belonging to some or other (mainstream) religion or philosophical system such as Christianity, Islam or Judaism, and those who are more secularly inclined, in the sense of not recognising any attachment to a (mainstream) religion, church, synagogue, temple, shrine, dogma or faith (Mohler, 2008:29). The latter will arguably favour "thin language" with respect to life and world view and pedagogical values, or at most values that have been justified on a universal level as well as contextually recognised (i.e. the

intermediate position between particularism and universalism that Parekh (1999:130-131) propounded). Educators who prefer to pertinently base their pedagogical involvement with children on a religious grand narrative or a set of personal life view values tend to favour "thick" pedagogical value language. This can be demonstrated in the work of Christian educationists such as Van Brummelen (1994:26-45).

To take a practical example: for an educator with a secular orientation, the value "human dignity" would be important in the pedagogical situation because it is mentioned as one of the key values in, for instance, the South African Constitution (RSA: 1996: Section 10) as well as in the *Manifesto on Values, Education and Democracy* (MoE, 2001). According to the "thin" wording of Section 10 of the Constitution, "everyone has inherent dignity and the right to have their dignity respected and protected". The dictionary explanation of "dignity" is also "thin": it is derived from the Old French word *dignite* and from the Latin word *dignitas* derived from *dignus* meaning "worthy" (Stevenson & Waite, 2011:401). Legal explanations are somewhat "thicker", in the sense that they give more meaning and depth to the concept, and contrive to explain why it has significance in human existence. According to Smit and Oosthuizen (2011:155), for instance, since the right to human dignity is inborn, it does not have to be earned. A synonym for human dignity is respect; in a democracy, even the lowliest criminal or beggar is worthy of respectful treatment. According to Currie and De Waal (2010:273), "… it is clear that the constitutional protection of dignity requires us to acknowledge the value and worth of all individuals as members of society. Human dignity is the source of a person's innate rights to freedom and to physical integrity, from which a number of other rights flow."

We find a detailed though still relatively "value thin" description of human dignity in Parekh (2000:146-148):

> We … rightly recognise the fact of human uniqueness and superiority and embody it in the practice of 'human dignity'. … Dignity is an aristocratic or hierarchical concept in the sense that it describes a status that only makes sense in relation to what is judged inferior. This is why every discussion of human dignity in one way or the other compares human beings with non-humans, and implies that they may not be treated as if they were animals or inanimate objects. … Dignity is not an individual but a collective status, for the individual acquires it by virtue of possessing certain species-specific capacities and belonging to the human species. Human beings do not have dignity the way they have eyes and ears. It is a human *practice*, something they choose to confer on themselves and each other because of their mutual acknowledgement of their uniquely shared capacities.

We find yet another, slightly "thicker", explanation of what human dignity entails in the aforementioned *Manifesto on Values, Education and Democracy* (MoE, 2001:13-14) because of the South African Ministry of Education's efforts to couch it in the African *Ubuntu* value system:

> … there was a need in South Africa "for understanding but not for vengeance, a need for reparation but not for retaliation, a need for ubuntu but not for victimisation". In the final Constitution [of the Republic of South Africa], the drafters applied the notion of ubuntu by asserting that the South African state was founded, before anything else, upon the value of "Human Dignity". Ubuntu has a particularly important place in our value system for it derives specifically from African mores: "I am human because you are human." Out of the values of ubuntu and human dignity flow the practices of compassion, kindness, altruism and respect which are at the very core of making schools places where the culture of teaching and the culture of learning thrive …

Thin values such as respect for the dignity of the human being are universally sanctioned (refer *United Nations Universal Declaration of Human Rights*, 1948) and, as Parekh (2000:150 *et seq.*) indicates, often contextually recognised in the school or classroom in which an educator in question teaches. However, as will be seen from a "thick" language description of this same value (human dignity) below, a thin value approach lacks at least two deeper perspectives, namely a transcendental view (i.e. a view about underlying principles, assumptions and presuppositions (refer Strauss, 2009: 46 *et seq.*; Coletto, 2009:294 *et seq.*) and a transcendent perspective (i.e. a "beyonding" view about what constitutes the religious authority on which a person bases his or her notion of human dignity (refer Ackerley, 2008:21). Even Parekh's (2000:150 *et seq.*) five measures aimed at contextualising the value of human dignity leaves human dignity as a value relatively thin because he fails to assign rich content to it from a religious or life and world view perspective; he fails to explain from a religious or life view perspective precisely *on what transcendent ("beyonding") grounds (i.e. why)* human beings possess dignity and why it should be respected by others.

An intentionally "thick language" (particularistic) view of the same value possesses both these attributes. This can be illustrated with a discussion of human dignity from a Biblical (Christian) point of view. (The same point can of course be made with reference to any other spiritual or life view orientation.)

According to the Christian view, human dignity is derived from the human being having been created in the image of God (Gen 1:26). Human beings are reflections of God's glory (Life Application Study Bible (LASB), 1996:6). Some feel that reason, creativity, speech, or self-determination is the image of God. More likely, says the LASB, it is the human being's entire self that

reflects the image of God. The human being will never be totally like God because He is the supreme Creator, but human beings do have the ability to reflect his character in their love, forgiveness, kindness and faithfulness. The LASB (1996:6) continues:

> Knowing that we are made in God's image and thus share many of his characteristics provides a solid basis for self-worth. Human worth is not based on possessions, achievements, physical attractiveness, or public acclaim. Instead, it is based on being made in God's image.

The LASB echoes most of the ideas earlier expressed in Earle (1967:18), except for the fact that Earle also mentioned that having been created refers to the detail that God "formed the [human being] after the perfections of his own nature". God is the Fountain whence the human being issued, hence "the stream must resemble the spring which produced it". According to Earle, this means:

> God is holy, just, wise, good and perfect; so must the soul be that sprang from Him: there could be in it nothing impure, unjust, ignorant, evil, low, base, mean, or vile. It was created in the image of God; and that image, St Paul tells us, consisted in "righteousness," "true holiness," and "knowledge" (Eph 4:24; Col 3:10).

It is clear, according to the Wycliffe Bible Commentary (Pfeiffer & Harrison, 1990:4), that the human being, as God made him was made distinctly different from the animals. He stood on a much higher plateau, for God created them to be immortal, and made them a special image of His own eternity. The human being was a creature with whom their Maker could visit and have fellowship and communion. The Lord could expect the human being to answer him and be responsible to him. Mankind was constituted to have the privilege of choice, even to the point of disobeying their Creator. They were to be God's responsible representatives on the earth, to work out their Creator's will and fulfil the divine purpose. The *New Bible Commentary* (Carson, France, Motyer & Wenham, 1994:60) expands on this last point with reference to Psalm 8: "rule" implies lordship, not exploitation. The human being, as God's representative, must rule his "subjects", as God does, for his own good.

The true worth of the human being, Boice (2006:91) contends, is that he is made in the image of God and therefore valuable to God and others. Moreover, he says, God feels for them, identifies with them in Christ, grieves for them, and even intervenes in history to make individual men and women into all that He has determined they should be. They are God's unique and valued companions.

It is clear from the exposition above that this Biblical "thick"/particularistic view of the concept and value of human dignity seems to be richer in content and meaning than the thin approach. Whereas the "thin" views of human dignity struggle to provide deep grounds for *why* human beings possess dignity, the thick Christian approach provides a transcendent rationale, namely that humans possess dignity because their having been created in the image of their Creator. This finding chimes with Ramcharan's (2008:13-15) that mainstream religions and/or philosophical systems tend to assign deeper meaning to each human rights value.

4.2 The demands of education

It follows from the foregoing that if education (pedagogy) is the leading, guiding, equipping and enabling of a less mature person by a more mature person, such leading et cetera will be less meaningful and hence more superficial if based on a "thin" value orientation. Despite this, some educators and educationists prefer the "thin" approach (refer, for instance, Claassen, 2012:40-41), or at the very least Parekh's approach of values that are contextually recognised as well as justified on a universal level, for the sake of avoiding conflict in multicultural schools and for promoting a *modus vivendi*. These authors seem to argue that conflict can erupt when "thick" values are applied; the more profound the religious and life conceptual content in value language, the more specific and exclusive it becomes, the greater the possibility of alienation of others holding different convictions. Because there is no final arbitrator or objective body that can say what is right and true, most educators prefer a thin value language approach (Van den Beek, 2010:42). In contrast, it seems that educators opting for the "thick" approach are less concerned about the avoidance of conflict in schools, about a *modus vivendi* or the ideals of a multicultural society than with the thick-value-based leading and guiding of the children entrusted to them towards the love for, and service of a greater Force or divine Power, who in the case of Christian educators is the triune God of the Bible.

This point can be illustrated with reference to the "thick" Christian approach to education. Tripp and Tripp (2008:11) refer to the stewardship approach to education as "shepherding the heart of the child". Education should persuade the heart of the child of the wisdom and truth of the ways of the God of the Bible. The heart of the child should be guided towards delighting in God and the goodness of his ways. God's Word, they say (Tripp & Tripp, 2008:19), teaches both educator and child to understand all human knowledge and experience in the light of his existence and his involvement in this world. The Christian educator's objective when he or she teaches the child is not

simply to ensure that the child does not become a criminal, or "does well" in life. Rather, they say, "our desire is that (the child) should love the Lord with all his or her heart, soul and mind". As parents, they insist, it is their "divinely appointed task" to commend God's works to the next generation (Ps 145:4). The Christian educator sees the following words of God in Deuteronomy 32:46-47 in a serious light: "Take to heart all the words that I have solemnly declared to you this day, so that you may command your children to obey carefully all the words of this law … They are not just idle words – *they are your life*" (emphasis Tripp & Tripp, 2008:19-20). To this they add: "The goal of formative instruction is so that we and our children and our grandchildren may fear the Lord and walk in his ways, enjoying a good life".

According to the Christian approach, people have been given stewardship by God over their time, energy, talents, values, feelings, behaviour, money and all other things (Cloud & Townsend, 1992:73). Children and their upbringing are also deemed to have been entrusted to them by a personal God. Educators have to take loving care of what God has entrusted to them (in this case, the child and its education); they should feel themselves driven by inner motives such as religious considerations, and not out of a sense of duty. A steward in the service of God feels committed to the task and therefore experiences a deep sense of responsibility towards God as charge-giver. In a play on words, Lategan (2011:87) contends that "response-ability" embodies the notion that someone or something will not be used for personal gain, that the creation and maintenance of relations will be to the benefit of others and for the purpose of protecting them from harm. In the case of the nurturing or "shepherding" (Jones, 2006:145) of the heart of a child towards God, the purpose of the pedagogical interaction with the child is to guide the child to self-stewardship, to learn to lovingly care for a developing self, to have a sense of "mine" and "self" (Cloud & Townsend, 1992:73). Self-stewardship is synonymous with taking self-control. To educate is to help the educand to discover and reach his or her innate, God-given potential, in other words, to actualize the self. Alongside this is the ideal of self-driven development to become a servant of God, prepared to take up his or her calling in the kingdom of God, redeemed by his or her Saviour Jesus Christ and sustained in his or her efforts by the Holy Spirit of God. In this stewardship scenario, the educator is a facilitator assisting the educand to develop according to his or her own needs and vision of a future self in the service of God and his kingdom.

Stewardship in the context of education also consists of caring, loving, developing, nurturing, maintaining and protecting the child in all aspects of his or her personhood. Stewardship is aimed at improving the wellbeing

of the educand. Education also entails the enabling, guiding, equipping and discipling/disciplining of the educand (Van Dyk, 2003:155-158). The educand must be enabled to meet the requirements of her calling or tasks as future adult labouring in the kingdom of God. She must also be equipped with the necessary skills for that calling or task. As the etymology of the term "pedagogy" (derived from the Greek *agein*) suggests, education also entails the leading or guiding of the educand in a desired direction, in terms of a certain value system, a particular life view and even religious or spiritual commitment – in this case, the Christian value system, life view and religious/ spiritual commitment. Discipling (i.e. helping the child become a follower of Jesus Christ)/disciplining, in turn, suggests that the educator should take the responsibility for guiding or leading the young person in a direction that the educator herself would find appropriate for her own life and future, namely as a steward fully committed to the service of the God of the Bible.

Spiritual, emotional and other forms of growth in the Christian religion are the results of good stewardship. We cannot value or treasure ourselves and what belongs to us if we had not been valued and treasured (Cloud & Townsend, 1992:281). Without such care, a person cannot shake a deep sense of being worthless (Cloud & Townsend, 1992:282, 291).

5.   Synthesis

The value language used by the above authors in connection with the Biblical stewardship approach to education is clearly much "thicker", richer in content and meaning than that used by educators and educationists concerned about education in multicultural schools for the purpose of promoting a *modus vivendi* and of pursuing the ideals of multiculturalism (refer Editorial *Christian Science Monitor*, 2005:8). Since this "thicker" value orientation is "deeper," more meaningful than the "thin" or even than Parekh's combined approach, the dangers of conflict, division, fundamentalism and even fanaticism may be lurking in their application, as Parekh (2000:154 *et seq.*) rightly warns. Educationists opting for thick pedagogical value language should therefore guard against these threats. It is helpful to know, as Ramcharan (2008:15) observed, that "the great religions and philosophical systems all emphasize the common humanity of every person"; they explain what "the common humanity of every person" means in the religious, philosophical or life conceptual language of educators actually engaging in the education of less mature people (students, learners, children).

As mentioned, educators seem to revert to the use of "thick" moral language for pedagogical reasons. They do this for an obvious reason, as Zecha (2007:57) contends:

> The [names of values formulated in thin language] are all wonderful words which may certainly designate important attitudes or activities; however, they do not give a useful account of what a pupil is expected to do when he/she has acquired clarity, communication, loyalty, empathy, respect, etc. … It is certainly important to explore with the students what these key words (value words) entail. … A second task in values education is focusing on how the pupils should apply this knowledge in daily life, practice it continually, and thus acquire the ability to actualize values. …

Nieuwenhuis (2010:15) concurs with Zecha: a value remains an empty ideal, unless we can infuse it with meaning by basing it on certain moral principles and empower people to take personal responsibility for doing it and applying it in their lives, for instance when dealing with other people.

Of course, the foregoing line of thinking does not deny a place for "thin" human rights value language in school classes (education) as well. People, and their values, are not so different that they cannot share enough ground to live peacefully together (Naudé, 2010:11). If any human being (in this case, learner) were asked whether he or she would like to enjoy respect for his or her dignity (or any other fundamental human right (i.e. thin value) such as to be free from arbitrary and summary execution, torture, arbitrary arrest and detention, enforced or involuntary disappearance, and persecution on grounds of religion or belief), there can be no doubt that s/he would answer in the affirmative. From this we may conclude that there is a basic ("thin") set of fundamental human rights that all human beings would claim, affirm and defend (Ramcharan, 2008:61; refer Strietman, 2005). This is not sufficient, however; as indicated, truly meaningful education can only be based on content-rich ("thick") values and pedagogical language (Van den Beek, 2010:42).

6.   Conclusion

All educators and educationists tend to operate with a grand narrative, i.e. a communal and/or personally construed account of what education in essence is supposed to be and what it ideally should attain. This can be said not only of the pedagogies of adherents of recognised religions or systems of thought (hence operating with "thick" i.e. particularistic value-laden language) but

also those of secular orientation, such as those wishing to promote certain universal human rights values for the sake of the well-being of humankind and for the sake of *modus vivendi* in a multicultural society (hence preferring to operate with particularistic "thin" value language).

In the end, an educator's choice is determined by his or her personal life view orientation. For one educator, the ideal of a *modus vivendi* in a multicultural society may be more compelling than any argument centring on the idea that a child has to be guided towards love and respect for a transcendent Deity or Force such as the God of the Bible. For his or her (mainstream) religious or philosophical system counterpart, such as a Christian, on the other hand, the command to be obedient to the calling and injunctions of God overrides all secular arguments.

In the final analysis, it seems that educators should, on the one hand, concentrate on helping learners understand the nature of human rights as a universal values system but, on the other, should go further than what Parekh suggested: they should teach values that are not only locally contextualised but that have intentionally been couched in the "thick" value language typical of a religious or life and world view stance. This is the only way to assign depth of significance to human rights values, and hence to education based on such values. This approach will not necessarily lead to conflict in classrooms but rather to a deeper understanding among learners of what makes each one of them different from all the others and thereby to respect for the human rights of all others.

Bibliography

ACKERLEY, B.A. 2008. *Universal human rights in a world of difference*. Cambridge: Cambridge University Press.

BLACKBURN, S. 2009. *The big questions / Philosophy*. London: Quercus.

BOICE, J.M. 2006. *Genesis: An expositional commentary*. Volume 1. Grand Rapids: Baker Books.

CARSON, D.A., FRANCE, R.T., MOTYER, J.A. & WENHAM, G.J. (Eds.) 1994. *New Bible Commentary*. 21st Century edn. Leicester: Inter-Varsity Press.

CLAASSEN, G. 2012. *As die klippe van die wetenskap begin uitroep… (When the stones of science begin calling out…)* In: Gaum, F. & Claassen, G. (Reds.) *God: Gesprekke oor die oorsprong en die uiteinde van alles. (God: Conversations about the origins and the end of everything.)* Cape Town: Tafelberg. (p. 17-44).

CLOUD, H. & TOWNSEND, J. 1992. *Boundaries*. Grand Rapids: Sondervan.

COLETTO, R. 2009. Strateties towards a reformation of the theology-based approach to Christian scholarship. *In die Skriflig*, 43(2): 291-313.

CURRIE, I. & DE WAAL, J. 2010. *The Bill of Rights Handbook*. Claremont: Juta & Company.

DU PREEZ, P. & ROUX, C.D. 2010. Human rights values or cultural values. Pursuing values to maintain positive discipline in multicultural schools. *South African Journal of Education*, 30(13-26).

EARLE, R. 1967. *Adam Clarke's Commentary on the Bible*. Grand Rapids: World Publishing.

EDITORIAL 2005. The *Monitor's* view. Limits of religion in public life. *Christian Science Monitor* 97(150): 8. 28 June.

FERGUSON, R. & ROUX, C.D. 2004. Teaching and learning about religions in schools: responses from a participation action research project. *Journal for the Study of Religion*, 17(2):5-23.

GILMOUR, P. 2000. Educating for particularity and pluralism. *Religious Education* 95(3):231-232. Summer.

JONES, T. 2006. *Nurturing Your Child's Soul: 10 Keys to Helping Your Child Grow in Faith*. Washington: W Publishing Group.

LATEGAN, L.O.K. 2011. Research ethics and integrity: What should be on the agenda? *Journal for Christian Scholarship* 47(2):72-89.

LIFE APPLICATION STUDY BIBLE 1996. Wheaton: Tyndale House Publishers.

MATSAUNG, L. 2003. The teaching of religious education in multi-religious classes: is it a problem to students? *Educational Research* 45(1):79-82. Spring.

MINISTRY OF EDUCATION 2001. *Manifesto on Values, Education and Democracy*. Pretoria. July.

MOHLER, R.A. 2008. *Atheism Remix*. Wheaton: Crossway Books.

MoE – see Ministry of Education

NAUDÉ, P. 2010. Not all cultural beliefs are universally right. *Business Herald* April 12. (p. 11).

NIEUWENHUIS, J. 2010. S*ocial justice in education revisited*. Paper presented at Őrebro-Unisa International Conference 2010. 1-3 February.

PAREKH, B. 1999. *Non-ethnocentric universalism*. In: Dunne, T & Wheeler, N.J. (Eds.) *Human rights in global politics*. Cambridge: Cambridge University Press.

PAREKH, B. 2000. *Non-ethnocentric universalism*. In: Dunne, T & Wheeler, N.J. (Eds.) *Human rights in global politics*. Cambridge: Cambridge University Press.

PFEIFFER, C.F. & HARRISON, E.F. 1990. *The Wycliffe Bible Commentary*. Chicago: Moody Press.

RAMCHARAN, B.G. 2008. *Contemporary human rights ideas*. London & New York: Routledge.

REPUBLIC OF SOUTH AFRICA. 1996. *Constitution*. Act 108.

ROUX, C.D. 2003. Playing games with religion in education. *South African journal of education*, 23(2):130-134.

ROUX, C.D. & DU PREEZ, P. 2005. Religion in Education: An Emotive Research Domain. *Scriptura*, 89(2):273-282.

ROUX, C.D. 2006. I*nnovative facilitation strategies for religion education*. In: De Souza, M Engebretson, K, Durka, G, Jackson, R & McGrady, A 2006. *International Handbook of the Religious, Moral and Spiritual Dimensions of Education*. Dordrecht: Springer. (p. 1293-1306).

ROUX, C.D. 2006b. Children's spirituality in social context: a South African example. *The International Journal of Children's Spirituality*, 11(1):151-163.

RSA – see Republic of South Africa

SCHEEPERS, P. & VAN DER SILK, F. 1998. Religion and attitudes on moral issues: Effects of individual, spouse and parental characteristics. *Journal for the Scientific Study of Religion* 37(4):678-691. Dec.

SMIT, M.H. & OOSTHUIZEN, I.J. 2011. *Fundamentals of human rights and democracy in Education*. Potchefstroom: Colmar.

STEVENSON, A. & WAITE, M. 2011. *Concise Oxford English Dictionary*. Oxford: Oxford University Press.

STRIETMAN, H 2005. *Uitsluiting uitsluiten. (Avoiding isolation)* Paper read at the Christelijk Sociaal Congres Rotterdam. 18 November.

STRAUSS, D.F.M. 2009. *Philosophy: Discipline of the Disciplines*. Grand Rapids: Paideia Press.

SWARTZ, C. 2006. A long walk to citizenship: morality, justice and faith in the aftermath of apartheid. *Journal of Moral Education* 35(4): 551-570. December.

TRIPP, T. & TRIPP, M. 2008. *Instructing a child's heart*. Wapwallopen, PA: Shepherd Press.

UNITED NATIONS 1948. *Universal Declaration of Human Rights*.

VAN BRUMMELEN, H. 1994. *Steppingstones to curriculum. A Biblical Path*. Seattle: Alta Vista College Press.

VAN DEN BEEK, A. 2010. *Is God terug? (Has God returned?)* Zoetermeer: Meidema.

VAN DYK, J. (2003). *The Practice of Teaching Christianly* (sic). In: Fowler, S., Van Brummelen, H.W. & Van Dyk, J. (Eds.). *Education for Freedom*. Potchefstroom: IRS. (p. 155-168).

ZECHA, G. 2007. *Opening the road to values education*. In: Aspin, D.N. & Chapman, J.D. 2007. *Values education and lifelong learning. Principles, policies, programmes.* Lifelong Learning Book Series 10. Dordrecht: Springer. (p. 48-60).

Heavenly Sanctuary Motifs in the Pauline Corpus:

Explicating their Intertexuality and Inter-relatedness

Mario N. Phillip, PhD
Assistant Professor of New Testament Greek and Missiology
University of the Southern Carribbean
Maracas Royal Road, St. Joseph
Trinidad & Tobago

Abstract

The heavenly sanctuary motif in the Pauline epistle is not a theme that has received rapt attention. Apart from the cursory references to the sanctuary metaphors in Corinthians and Ephesians, much is hardly said, if ever at all, of the development of the sanctuary motif in the Epistles. This study endeavours to show the presence and avid awareness of the author of the Epistles of the heavenly sanctuary motif. The reader will be shown the depth and coherence with which the sanctuary motif is dealt with, and the importance it played in the development of the theology and eschatological thrust of the writings under consideration.

Key words:

heavenly sanctuary, type, prototype, metaphor, dynamic correspondence

1.   Introduction

Most of the work done on the heavenly sanctuary motif/theme in scripture has either focused primarily on the Pentateuch (Gen 11:1-9; 28:10-22; Exo 15:1-18; 24:9-11; 25:8-9, 40; 32-34, 37; Deut 26:15),[1] book of Hebrews (6:19; 7:1-10:18; 8-9),[2] and Revelation (3:12; 7:15; 11:1-2, 19; 14:15, 17; 15:5, 6, 8; 16:1, 17; 21:22).[3] The epistles of The Epistles though heralded as the bastion of theological insights in the New Testament (NT), a mere cursory glance through their pages, apart from Hebrews, reveals an apparent taciturnity on the doctrine of the sanctuary/temple (except for Hebrews, which some dispute).[4] It seems almost surprising that one whose writings constitutes nearly half of the NT would supposedly have little to say on the heavenly temple.

This paper therefore attempts to find motifs of the heavenly sanctuary outside of Hebrews (and Revelation) with a view of establishing the ubiquitous usage of the temple motif. Secondly, it endeavours to investigate the degree of intertextuality between Paul's theological schema, ideas or language and the broader Judeo-christian theological assumptions.[5] In other words, it seeks

---

1   Richard M. Davidson, "The Heavenly Sanctuary in the Old Testament," TMs,1981, Adventist Heritage Center, Berrien Springs, 1-29; Frank Holbrook, "The Israelite

2   Felix H. Cortez, "From the Holy to the Most Holy Place: The Period of Hebrews 9:6-10 and the Day of Atonement as a Metaphor of Transition," *JBL* 125/3 (2006): 527-547. Also George W. MacRae, "Heavenly Temple and Eschatology in the Letter to theHebrews," *Semeia* 12 (1978): 179-199; Walter E. Brook, "The Perpetuity of Christ's Sacrifice in the Epistle to the Hebrews," JBL 89.2 (June 1970): 205-214; William Johnson, "The Heavenly Sanctuary-Figurative or Real?" in *Issues in the Book of Hebrews*, ed. Frank B. Holbrook (Silver Springs, MD: Biblical Research Institute, 1989), 36-51,113-19; Alwyn P. Salom, "Sanctuary Theology," in *Issues in the Book of Hebrews*, ed.Frank B. Holbrook (Silver Springs, MD: Biblical Research Institute, 1989), 205-17; see also M.L. Andreasen, *The Book of Hebrews* (Washington, D.C.: Review and Herald, 1948), 317-416; G. J Steyn, "On Earth as it is in Heaven…The heavenly sanctuary motif in Hebrews 8:5 and its textual connection with the 'shadowy copy' of LXX Exodus 25:40," *HTS Teologiese Studies/ Theological Studies* 67/1 (2011):1-6; Richard M. Davidson, "Christ Entry 'Within the Veil' in Hebrews 6:19-20: The Old Testament Background," *AUSS* 39/2 (2001): 175-190.

3   Richard M. Davidson, "Sancturay Typology," in Symposium on the Revelation I, ed. Frank B. Holbrook (Silver Springs, MD: Biblical Research Institute, 1992), 99-130; Samuele Bacchiocchi "The Heavenly Sanctuary: Real Or Symbolic?" *Endtime Issues* 103 (September 2003): 4-5; Shirley J. Case, "The Book of Revelation II," *The Biblical World* 50/4 (Oct. 1917): 257-263.

4   James Sweeney, "Jesus Paul and the Temple: An Exploration of Some Patterns of Continuity," *Journal of the Evangelical Theological Society* 46/4 (2003): 608. Also, James D. Dunn, *The Theology of the Apostle Paul* (Grand Rapids: Eerdmans, 1998), 721.

5   Richard Hays's *Echoes of Scripture in the Letters of Paul* New Haven: Yale University Press, 1989. By intertextuality it is meant: [that] discourses depends upon, builds upon,

to find the pervading nuances by which the sanctuary motifs in the Pauline corpus should be understood. The article will be limited to the passages where explicit or implicit sanctuary motifs exist, namely in the Corinthian correspondences and Ephesians.

Paul's theological reckoning of the sanctuary was not restrictive or exclusive. Rather, it involves an inclusive interrelatedness between the church, the believer, and the heavenly temple. Apart from Hebrews, there are eleven grammatical allusions of the sanctuary/temple in the writings of Paul (2 Thess 2:4; Eph 2:19, 21; 1 Cor 3:16,17; 6:19; 9:13; 2 Cor 5:1,2,4, 10). Although current scholarship rather take an exclusive either/or position to these text, I will seek to embrace an inclusive approach that is contextually viable, while at the same time taking into consideration the multivalent picture held of the sanctuary within Judaism.

In the Judeo-Christian reckoning, especially in second temple Judaism, the temple was seen through a multi-dimensional framework, all of which was though not mutually exclusive to the other. These include: the temple as a heavenly/earthly reality (1 En. 6-36 [14:1-24; 24:1-25:4]; 71:5-6; 83-90; Jub. 1:24-29; T. Levi 5; Tob. 14:5, 6; 12:12,15; 3 En. 45; T. Levi 5:1, 2; 4QDibHam[a] 1-2 iv 2-1-12; 4Q403 1 ii 10-16; 11QT[a] xxix 3-8; xlv 12-14; xlvii 4; liii 9-10; lvi 5; 11QT[a], 11QT[b], 11QTc;1Q14 (1QpMic), 1-5; 4Q381 4QNon-Canonical Psalms B 24 7-9; 4Q403 1 i 41-44; 4Q403 1 ii 18-29; 4Q405 19-22; 1Q14 (1QpMic), 1-5; 4Q381 4QNon-Canonical Psalms B 24 7-9; 4Q403 1 i 41-44; 4Q403 1 ii 18-29; 4Q405 19-22),[6] the sanctuary as a metaphorical reality (Jubilee 33:20; 4 Eza 13:36; 9:38-10:4; 10: 8, 25-27, 44-45; 1 Macc. 2:17; CD-A VI, 11-14; CD-A XI, 17-21; VII, 3-4; V, 11; 1 QS viii 4; 1 QS v 5; CD iii 19; CD ii 10-13), an eschatological reality (2 Bar. 4:2-7; 59:1; 68:1; 32:2-4; 4:1-7; 6:1-9; 7:1; 80:1-7; Jub. 23:21; 1 En.89: 72-73; 90:28-29; 91:13; 89:50, 72-73; 4 Ezra 7:26; 8:52-54; Tob. 13: 1-10; 14:5-7; T. Mos. 1:5,9; 2:1,4,8-9;

---

modifies, and reacts to prior discourses and the prior use of words, concepts, and ideas ... every text finds its place within the context of an ongoing discourse about whatever issues it discusses or any ideas that it is building on, responding to, or reacting against." For a basic introduction to issues of intertextuality and influence, see the introduction to Udo J. Hebel, ed., *Intertextuality, Allusion, and Quotation: An International Bibliography of Critical Studies* (Bibliographies and Indexes in World Literature 18; New York: Greenwood, 1989); Thais E. Morgan, "Is There an Intertext in this Text? Literary and Interdisciplinary Approaches to Intertextuality," *American Journal of Semiotics* 3/4 (1985): 1–40; Jay Clayton and Eric Rothstein, "Figures in the Corpus: Theories of Influence and Intertextuality," in *Influence and Intertextuality in Literary History*, ed. Jay Clayton and Eric Rothstein (Madison: University of Wisconsin Press, 1991), 3–36.

6   Cf. 3 Bar. 11-16; T. Job 17:4; T. Benj. 9:2; T. Sol. 1:3-5; 21:4; Tob. 13:1-18; 4Q271 (4QD[f]) 5 I 15-17 (= CD-A xi 3-xii 7); 11QT[a] xxix 7-10; 11QT[a] ii –xxix; xxx-li 10; li 11-lvi 17.

4 Ezra 9:26-10:59; 4Q174 (4QFlor) I i 1-13; cf. 1QM ii 1-9; 1QH vi 15; 4QFlorilegium I, 1-13. 11QTem xxix. 7-10),[7] a sphere of divine functions (1 En. 10:2-22; 90:16-38; 14:19; 25:3, 7; 47:3; 102:3; 4QpPs^a iii 13-27; CD-A i 11; 4QD^a xx 29-34; 4Q400 1 i 13; 4Q403 1 ii; 4Q405 8-9),[8] and a place under attack (T. Jos 20:2; Test. Sim. 5:3; Test. Naphtali 2:6; T. Iss. 6:1; 7:7; T. Reu. 2:1; T. Levi 18:12; CD-A v (= 4Q266 3 ii; 4Q267 2; 6Q15 2, 3) 6-7; CD-A vi (= 4Q266 3 ii; 4Q267 2; 4Q269 4 ii; 6Q15 3, 4) 8-20; CD-A vi (= 4Q266 3 ii; 4Q267 2; 4Q269 4 ii; 6Q15 3, 4) 1-21; CD-A xii (= 4Q266 9 ii; 4Q271 5 i) 1-23).[9] Paul's temple rhetoric should not be understood in a vacuum, but rather, must be taken into consideration vis-à-vis the varied trends in which the temple was perceived within Judaism.

2.   Exegetical and syntactical analysis

The usage of temple rhetoric is replete throughout scripture. The explicit language used to denote the temple, tabernacle or sanctuary in the scripture

---

7   Cf. Jub 16:18; 1QS ix 4-6; 1QS xi 7-9; CD-A iv 2-4; 4Q511 xxxv 2-4; 1QH ix 12-19; IQH xiv 1-36; 4Q174 (4QFlor) 1 i 21, 2; 4Q212 (4QEng ar) iv 1-10; 11Q19 (11QTa) iii-xlvii; 1Q32; 2Q24; 4Q554; 4Q554a, Q555; 5Q15; 11Q18.

8   Cf. See 4Q176a,b (= 4Q176 frags. 19-21) 16, 17, 18, 22, 23, 33, 51, 53 i 1-9; 4Q405 20 ii 7-8, 21-22; 4Q403 1 ii 10-16.

9   Cf. Sib. Or. 3:63-68; Test. Dan 5:10; Sib. Or. 3:73; 4 Ezra 10:21-23; Jub. 23:17-18, 20-21;1 En. 7:1; 9:8; 10:11; 12:4; 15: 2, 4; Pss. of Sol. 1:18; 2:1-28:1-13

are ναός[10] σκῆνος, οἰκητήριον and ἱερόν.[11] Conversely, the implicit allusions include: οἰκία, οἰκεῖοι and βῆμα (although there are times when both οἰκία and οἰκεῖοι can be understood as referring to explicit temple motifs).

1 Cor 3:16, 17

[16]Do you not know that you are a temple of God and that the Spirit of God dwells in you?
[17]If any man destroys the temple of God, God will destroy him, for the temple of God is holy, and that is what you are" (NASB).

1 Corinthians 3 falls within the response of Paul to the alledged factions among the believers (1 Cor 1:10-4:21). Paul outlines first the facticity of division (1:10-17), then the causes of division (1:18-4:13), finally the solution

---

10 H. Preisker, "ναός" *Theological Dictionary of the New Testament*, ed. Gerhard Kittel (Grand Rapids: Eerdmans, 1967), 4:882-83. The LXX uses the phrases ναὸν θεου (1 sam 1:9; 2 Kgs 18:16;23:4) τῷ ναῷ κυρίου (2Kgs 24:13; Hag 2:15; Wis 3:14); τὸν ναὸν κυριου (2 Chron 26:16;27:2;29:17; 1 Es 5:57,64; 6:18; ὁ ναὸς του κυριου (1 Es 5:52; 5:18); ὁ ναος κυριου (Hag 2:18); ὁ ναὸς τον θεου (Jdt 5:18); ναος κυριου (Jer 7:4) του ναου κυριου (Eze 8:16); and ναου κυρίου (Jdt 4:22). These refer primarily to the physical structure of the earthly temple, in some instances to the sphere within the temple where God's presence is manifested. According to BADG ναός in general can be understood to mean a place or structure specifically associated with or set apart for deity. However there are several strains of meaning that has been accrued to the word ναος over time. Firstly, it can denote temples in the general sense (Acts 17:24), used in Acts 19:24 to refer to the replicas of the temples of Artemis at Ephesus. The phrase ἱερὰ καὶ Ναός was used by Josephus, Philo, and in 3 Maccabees 1:10 referring to the temple and the altar. It is used by Diodorus Siculus and Herodotus to mean a shrine where the images of the goddess stood. Secondly, it can denote the temple at Jerusalem as attested by Justin Martyr, sibylline Oracles. Sometimes it denoted Herod's temple. In some instances it referred to the entire temple precincts, in other places it is associated with Jesus and his relation to the temple. In Matt 27:51; Mk 15:38; Lk 23:45 it is used in reference to the curtain separating the most holy place from the holy place; other times for the paneled ceiling of the temple. Thirdly, it is used in reference to the heavenly sanctuary. Extrabiblical wittings such as Phil Spec Leg., Testament of Levi attest to the same. Fourthly, it can denote the human body or part thereof (a usage popularized by the apostle Paul. Finally, it can mean the body of Christ. As to what the meaning of Paul was in 2 Thess 2:4 it is important to bear in mind how he generally uses the term. However, due to the genre of writing being uncharacteristic of the author, the context will have to be made the final determiner.

11 The second most dominant word used for temple is ἱερόν which is used 148 times in the Bible, of which Paul uses it twice in 1 Cor 9:13. In practically all of the usages including that of Paul the temple in view is in its entirety, and not any specific area as in the case of ναός. It can thus be concluded that although both ναός and ἱερόν refer to the temple, the former conveys the idea of the innermost precinct of the sanctuary, while the latter denotes the temple as a whole.

to the division (4:14-21). The text under consideration is placed btween Paul's responses in rectifying a faulty view of the christan message (1:18-3:4) and the christian lifestyle (4:6-13). In 1 Cor 3:16, 17 Paul attempts to correct an apparent distorted view of the christian ministry and its ministers (3:5-4:5).[12]

Paul uses an agrarian and architectural metaphorical analogy to dispel the distorted view held of the christian ministry. According to Aristotle, a "metaphor is the application of strange term either transferred from the genus and applied to the species or from the species and applied to the genus, or from one species to another."[13] Aristotle further adds, that metaphors are not "far-fetched" but akin to its referent, derived from things are "beautiful" both in "sound" and "sense."[14] On the use of Pauline temple metaphors Stephen Fai in his dissertation, *Body/Temple Metaphor* has noted that a metaphor "substitutes and intersects." It is a mere instrumentality, which conveys from a broader field of referent. In the case of Paul, the use of the body/temple metaphor elucidates the dynamic tension that exists between small narratives and grand metanarratives.[15] Therefore, since most of the temple motifs discussed beneath are analogical it is important to have a broad spectrum approach to their ultimate referent.

1 Cor 3:16 begins with the perfect οἴδατε "you know," which he again repeats in 1 Cor 6:19; 9:13. This use of the perfect tense has an aoristic or dramatic nuance where the focus is on the event which occurred without any concern for the present consequences.[16] The emphasis here appears to be on the certainty of previous knowledge, without necessarily affirming the present resultative condition.[17] Hunn purports further that the perfect tense emphasizes the completed act an concomitant existent results.[18]

Whatever the sense in which οἴδατε is understood, one thing is evident, that is, Paul is not introducing an elusive idea to the believers, but rather, something they would have been acquainted with (cf. 2 Thess 2:5).

---

12 A. F. Johnson, *1 Corinthians*, The IVP New Testament Commentary Series 7 (Downers Grove, Ill: InterVarsity, 2004), 72-78.

13 Aristotle *Poetics* (trans. W. Hamilton Fyce, Loeb Classical Library 23.21.6-14)

14 Aristotle *Art of Rhetoric* III. 11.12-13 (trans. J. H. Freese, Loeb Classical Library 22. 359).

15 Stephen Fai, "Body/Temple Metaphor: Early Christian Reconciliation with Roman Architecture," PhD diss., (Ottawa: University of Ottawa, 2006), 23-24.

16 Daniel Wallace, *Greek Grammar Beyond the Basics: An Exegetical Syntax of the New Testament* (Grand Rapids: Zondervan, 1996), 578.

17 Ernest De Witt Burton, *Syntax of the Mood and Tenses in the New Testament Greek*, 3d (Edinburgh: T&T Clark, 1987), 80,81.

18 H.P.V. Hunn, *A Short Syntax of the New Testament* (Cambridge University Press, 1951), 70.

The use of ναός "temple" in 1 Cor 3:16 points back to οἰκοδομή "God's building" in 1 Cor 3:9. While a casual reading of the text suggest the metaphorical connotation of the sanctuary (the church), a closer reading of the text can point to a broader outlook. The use of οἰκοδομή in the NT either speaks of edification (Rom 14:19; 1 Cor 14:3, 5; 2 Cor 10:8; 12:19; Eph 4:12, 16, 29), or something existing in actuality (1 Cor 5:1; Eph 2:21). The reference in 1 Cor 3:9 attest to the latter—the church as constituting the community of beleivers. The context also allows for οἰκοδομή to be understood as denoting the purpose of the church—edification. The subsequent use of ναός, while it cannot be divorced from οἰκοδομή, I believe that it is meant to emphasize the temple as a place of habitation wherein God dwells.[19] This is corroborated by the phrase τὸ πνεῦμα τοῦ θεοῦ οἰκεῖ ἐν ὑμῖν "the Spirit of God dwells in you" (1 Thess 3:16b). In its metaphorical dimensions it points not only to God dwelling within the church, it also affirms the reality of His permanent dwelling—in the heavenly realms.

The phrases ναὸς θεοῦ, "temple of God," (1 Cor 3:16a), τὸν ναὸν τοῦ θεοῦ, "the temple of God" (1 Cor 3: 17), and ναὸς τοῦ ἐν ὑμῖν ἁγίου πνεύματός ἐστιν οὗ ἔχετε ἀπὸ θεοῦ, "your [body] is the temple of the Holy Spirit who is in you, whom you have from God" (1Cor 6:19) are all genitival constructions which employ both the articular and anarthrous usages of the word ναός. These syntactical elements can give multiple interpretive nuances to the construction. For the time being, the question of immediate concern is, how should the phrase ναὸς θεοῦ be understood (1 Cor 3:16)?

Firstly, it can be understood as a possessive genitive—temple possessed/ created by God.[20] In that sense, the temple can be seen as something belonging to God as it's creator,[21] or the place associated with His worship or salvific functions.[22] As possessor of the sanctuary God has exclusive prerogative over its rights and functions. Secondly, the genitival constructions can be seen attributively—the godly/divine temple. Here an innate quality is ascribed to the head substantive (ναὸς).[23] In this way, the temple is qualified

---

19 F. F. Bruce, *1 and 2 Corinthians*, New Century Bible Commentary, ed. M. Black (Grand Rapids: Eerdmans, 1971). Conzelmann agrees that the focus of Paul is on God's dwelling (cf. Hans Conzelmann, *1 Corinthians*, Hermeneia -A Critical and Historical Commentary on the Bible, trans. James W. Leitch (Philadelphia: Fortress Press, 1975).

20 Wallace, *Greek Grammar Beyond the Basics*, 81, 82.

21 Paul Ellingworth and Howard Hatton, *A Translator's Handbook on Paul's First Letter to the Corinthians* (London: United Bible Societies, 1985).

22 Robert G. Bratcher, *A Translator's Guide to Paul's First Letter to the Corinthians* (London: United Bible Societies, 1982).

23 Ibid., 86.

---

by stating whose it is—it belongs to God. The phrase "temple of God" therefore makes the efficacy of the temple inseparable from its creator. Thirdly, the construction can be regarded as a genitive of source—temple which came from God as its source. This carries the same semantic force as a possessive genitive.[24] Fourthly, it can be understood as a qualitative genitive—temples of holiness. This implies that the Corinthians believers as God's temples possessed attributes that were germane to God's archetypal temple.[25] Godet emphasizes that the qualitative genitive does not mean that the Corinthians are the "singular" temple of God, but rather, only a mere representation.[26] This further implies that there exists a prototypical temple to which all others correspond.

Fifthly, the construction can be interpreted as a definite-monadic construction— temple unique in its own way. This can infer a peculiar "one of a kind temple" that exists as a blueprint.[27] Monadic realities denote things that exist in a class by themselves.[28] Therefore, the believers being God's temple are peculiar. The instinctive question that emerges, does God have one temple that is reflected through its many emblematic copies, or many temples? Finally, the construction can be understood as a qualitative-definite phrase, based on Colwell's rule[29] and Apollonius Corollary.[30] According to Colwell's rule in the phrase ναὸς θεοῦ the absence of the definite article does not preclude definiteness or a real entity. Although it has now been found that most preverbal anarthrous predicate nominatives are often qualitative and sometimes definite,[31] it is most congruent to accept it as referring to both a particular trait possess, as well as to a particular existential reality.

While all of the above syntactical relationships can in some ways be applicable to the context, the qualitative-definite relationship appears to be the most apt contextually. There is a three-fold reason for this assumption.

---

24 Ibid., 109.

25 Ibid., 244.

26 F. L. Godet, *The First Epistle to the Corinthians*, trans. by A. Cusin (Grand Rapids: Zondervan, 1886; reprint, 1971).

27 Wallace, *Greek Grammar Beyond the Basics*, 248ff. Whereas monodic contructions are often articular, as Lenski noted since there is only one temple, even without the article it will still be definitive; cf. R. C. H. Lenski, *The Interpretation of St. Paul's First and Second Epistles to the Corinthians* (Minneapolis: Augsburg, 1963), 146.

28 Ibid., 223.

29 Wallace, *Greek Grammar Beyond the Basics*, 257.

30 Ibid., 250.

31 Ibid., 262-263.

First, the arthrous use of the article (1 Cor 3:17; 6:19) often particularized a substantive, or it can also categorize a substantive, making it a mere representative within its broader domain.[32] This means Paul, in referring to the temple, can either be referring to the believers as the temple of God, or, likewise to a higher eternal reality to which the believers correspond. These views can be seen in tandem, and not necessarily exclusive to the other.[33] Scholars agree that Paul is here focusing on the eschatological ramifications of irresponsible actions relative to God's temple.[34]

According to the Apollonius Corollary when two anarthrous nouns are juxtaposed, they both often carry the same semantic force, that is, they are either both definite, indefinite or qualitative.[35] This means that in the case of 1 Cor 3:16 if θεοῦ is taken to be someone definite, then likewise should ναός. In other words, the same degree of definiteness attributed to God should likewise be accrued to the temple. Secondly, the anarthrous usage of the article (1 Cor 3:16; 2 Cor 6:16) has both non-particularizing (qualitative) and individualizing (particularizing) functions.[36] It thus becomes evident, that both the arthrous and anarthrous usages of the article denote a two-pronged interpretation, which although distinct, is by no means contradictory. Thirdly, in Jewish reckoning, especially in second temple Judaism, the concept of the temple as a heavenly or earthly reality, or even in its metaphorical dimensions were all held as concomitantly integrated, though distinctly unique.

As to what is meant by the appellative "temple of God" in the Pauline corpus, especially in the Corinthian Correspondence, scholars are divided. Plummer and Robertson see this temple as the entire church, or the individual Christian (they believe though it speaks more of the local church).[37] Meyer on the

---

32 Stanley E. Porter, *Idioms of the New Testament Greek*, 2d. (Sheffield, England: Sheffield Academic Press, 1999), 104; for example, on the particularizing use of the article, see Jn 1:17; 1 Cor 13:13; Rom 13:7. On the categorical usage of the article, see Matt 12:35; Lk 10:7; Jn 10:11; Rom 7:1,2; 1 Tim 3:2

33 The temple in the Jewish mindset was seen as a united and integrated whole; their understanding of the past, present and future was seen through the prism of the temple (cf. Ezek 40–48; *1 Enoch* 90:28–29; 5Q15; 11QTemple)

34 Ronald Trail, *An Exegetical Summary of 1 Corinthians 1-9* (Dallas, TX: SIL International, 2008), 133.

35 Wallace, *Greek Grammar Beyond the Basics*, 250.

36 Ibid., 104. For examples of the qualitative function are John 1:14; 1 Cor 5:1; Rom 8:3; for examples on the individualizing function see Jn 4:27; Col 2:20

37 Archibald Robertson and Alford Plummer. *A Critical and Exegetical Commentary on the First Epistle of St Paul to the Corinthian*, 2d, The International Critical Commentary, ed. S. R. Driver, A. Plummer, and C. A. Briggs (Edinburgh: T. & T. Clark, 1914; reprint, 1971).

other hand, believes that each Christian community is a spiritual temple.[38] Gupta argues that the temple of God refers primarily to the individual, with implications for the community.[39] This study proposes that all of the above can be held as viable, and not in contradiction to the others. However, it further suggests that the primary referent from which all the above must be understood is that of the heavenly sanctuary.

Lenski has rightly enunciated that God has only "one temple."[40] This assertion if taken to its logical conclusion, would infer that if God has one temple, that temple should be where He permanently resides (heavenly abode). By implication, this can be broadened within its metaphoric domains to include believers (both individually and corporately). Paul in his usage of the temple language would have most probably regarded the temple (which in all probability could have either been the declining Jerusalem temple, the Christian church, or even the heavenly sanctuary) as a particular and categorical reality, which simultaneously has qualitative dimensions as reflected in the believing community.

Another point that beckons clarification pertains to whether ναὸς θεοῦ in 1 Cor 3:16 should be understood as definite or qualitative. According to Colwell's rule definite predicate nouns that precede the verb are usually anarthrous.[41] The rule therefore begins on the assumption that the semantic category of definiteness is determined. The question that must be asked at this point is, does the noun ναός always refer to something definite in its usage? While the predominant usage of ναός is no doubt definitive, it is also true that there are qualitative connotations of ναός especially in the NT.

In a study done by Philip Harner[42] and Paul Dixon[43] on anarthrous predicate

---

38 Heinrich August Wilhelm Meyer, *Critical and Exegetical Handbook to the Epistles to the Corinthians*. Trans. from the 5th ed. by D. Douglas Bannerman, rev. and edited by William P. Dickson, Meyer's Commentary on the New Testament (New York: Funk & Wagnalls, 1890), 100f.

39 Nijay K. Gupta, "Which Body is a Temple (1 Corinthians 6:19)? Paul beyond the Individual/Communal Divide," *The Catholic Biblical Quarterly* 72 (2010): 520-536.

40 Lenski, *The Interpretation of St. Paul's First and Second Epistles to the Corinthians*, 146.

41 For more on the rule itself see the seminal article in which the rule was espoused, E.C. Colwell, "A Definite Rule for the Use of the Article in the Greek New Testament," *Journal of Biblical Literature* 52 (1933): 12-21.

42 Philip B. Harner, "Qualitative Anarthrous Predicate Nouns," *JBL* 92 (1973): 76ff. Harner's assertion was further validated by C. Kuehne, "A Postscript to Colwell's Rule and John 1:1," Journal of Theology 15 (1975): 22.

43 Paul S. Dixon, "The Significance of the Anarthrous Predicate Nominative in John" (Th.M. thesis, Dallas Theological Seminary, 1975).

nominatives, they found that most verbs in this structural relationship are primarily definite, and some sometimes qualitative. Colwell's rule only takes into account definite nouns, omitting relative clauses, as well as proper and qualitative nouns. Moreover, nouns such as θεός, πνεῦμα and κύριος (inclusive of ναός), are of themselves regarded as definite, whether used in an arthrous or anarthrous structure.[44] Moreover, although the article is absent in 1 Cor 3:16 (ναὸς θεοῦ), it is used in 1 Cor 3:17 (τὸν ναὸν τοῦ θεοῦ), which presupposes that both phrases should be understood semantically as referring to the same reality. Furthermore, the articular usage τὸν ναὸν in 1 Cor 3:17 confirms the definitiveness of the temple in view. Notwithstanding the above, it is evident that there is a qualitative sense to the construction ναὸς θεοῦ, therefore, it is best to consider the construction as a qualitative-definite construction. This implies that it can refer both to the heavenly archetypical reality, which resonates in the believing community through the indwelling of the Holy Spirit.

In 1 Cor 3:17 the present φθείρει is juxtaposed to the future φθερεῖ in a rare apparent play on words by the author. This involves a first class conditional clause where the condition is presumed a reality.[45] According to Burton in first class conditional clauses the protasis often refers to a general truth/principle (not so much with events), which the apodosis merely asserts or validates.[46] Paul is assuming here that God's action is predicated on the individual actions. Whereas the verb was relegated to the end of the previous clauses (1 Cor 3:16,17a), in 1 Cor 3:17b the clause begins with the verb probably to add emphasis to the assertion of the apodosis. The implications of the grammatical structure of 1 Cor 3:17b can imply that: First, corrupting God's temple is an affront to God that warrants a divine response. Second, the use of the present and future tenses together can denote the eschatological nature of present actions. Third, defamation of the temple is contiguous with profanation of a cult object, through either violation of sacred trust or space. An apt example can be seen in 2 Sam 6:6 where Uzzah profaned the ark by touching it –violating of sacred space thereby costing his life (see also Num 3:4).

---

44 Nigel Turner, *Syntax*, vol.3 of *A Grammar of the New Testament Greek*, by J. H. Moulton, (Edinburg: T&T Clark, 1908-76), 174,175,184; see also H.P.V. Nunn, *A Short Syntax of New Testament Greek*,56.

45 Cleon Rogers, Jr and Cleon Rogers III, *The New Linguistic and Exegetical Keys to the New Testament* (Grand Rapids: Zondervan, 1998), 353; see also, Wallace, *Greek Grammar Beyond the Basics*, 690.

46 Burton, *Syntax of the Mood and Tenses in the New Testament Greek*, 241.

Another important feature to note in the above passage is the use of the plural copulative verb ἐστε (3:16,17b) when referring to the church. This implies that the author has a community in mind as he writes. However, the third person singular φθείρει (3:17a) shows that he is not only appealing to the whole, but also to specific individuals in general. The use of ναός in the singular denotes the particularity, and oneness of the temple in view. The believers though collective are not the "temples of God" but rather "God's temple." It cannot be denied that the use of ναός and its derivatives in 1 Cor 3:16,17 alluded to the church collectively, as well as to the individual.[47] According to Lenski, it's an anomaly that although God has one temple, every believer is simultaneously a temple.[48]

The antecedent of the pronoun οἵτινές (1 Cor 3:17) also elucidate the central message of the passage.[49] According to A.T. Robertson, in most instances the relative pronoun οἵτινές (derivative of ὅστις) often refer to a definite person or thing, or even, to the class to which the object in question belongs.[50] Furthermore, whenever this pronoun is used it is always related to its antecedent in gender, and its predicate in number.[51] This implies that the singular ναός is the most likely antecedent, and the plural ὑμεῖς, the predicate. The pronoun therefore serves as a bridge between the substantives ναός and ὑμεῖς, dispelling any doubt that one relates to the other.

Alternatively, οἵτινές can also be understood as either generic or qualitative, although neither of these fully captures the complete picture of the pronoun in the given context. However, since οἵτινές falls within the same semantic range of ὅς and ὅστις (denotes a degree of definiteness) its meaning can be broadened so as to include a concept that is categorical, yet qualitative.[52] This of course is in line with the precedent of the qualitative-definite constructions

---

47 Most scholars ascribe the primary usage of ναός as referring to the church body in isolation to its individual parts.

48 A. T. Robertson and A. Plummer, *A Critical and Exegetical Commentary on the First Epistle of St. Paul to the Corinthians* (New York: C. Scribners's Sons, 1911), 66. A similar idea can also be found in Plato, *Crat*. 405. According to Robertson since believers are God's temples then they must guard against their consecration.

49 There are three prevalent views surrounding the interpretation of the pronoun οἵτινές: The first sees it as referring back to ναός and ναόν (1 Cor 3:16,17). The second sees it as referring to ἅγιός (3:17). Finally, as related to both (cf. Trail, An Exegetical Summary of 1 Corinthians 1-9, 136.

50 Archibald. T. Robertson, *A Greek Grammar of the New Testament in Light of Historical Research* (Nashville, TN: Broadman Press, 1934), 727.

51 Ibid., 730-31,737.

52 See Wallace, *Greek Grammar Beyond the Basics*, 336; Robertson, *A Greek Grammar of the New Testament in Light of Historical Research*, 730-31.

used in 1 Cor 3:16,17a.[53] It is therefore reasonable to purport that Paul not only had the church in mind in his usage of ναός, but in every respect, the individual member as well.[54]

1 Cor 3:16 served as a metacomment[55] where the author asserts in an indirect way the reality of the heavenly temple through his direct allusion to the metaphorical temple. The subsequent enumeration on the destruction of the temple therefore serves as an enumeration of the sanctuary motif earlier elucidated. The believers are God's temple in as much as they reflect and correspond to the heavenly reality that exist. In 1 Cor 3:17 the judgment motif that is constitutive of the heavenly sanctuary is transferred to the metaphorical temple thus corroborating their synonymity at least from the perspective of the author.

It is evident that God regarded with utmost care the sanctity of the physical temple and likewise of the body of believers.[56] In the temple cultus of Israel,

---

53 There are over 500 references to the temple motif in the writings of the Ante and Post-Nicene Fathers which provide some interesting insights into 1 Cor 3:16,17, cf. Epistles of Cyprian, *An Exhortation to Theodore After his Fall*, Letter 1, ANF 5:452, trans. Alexander Roberts and James Donaldson; Epistle to the Ephesians (ANF, 1:83,84); Athanasius Against Arians 4.47, PNF, 4:333, trans. Alexander Roberts and James Donaldson.

54 Most scholars see Paul's usage of ναός as either referring to the church or qualitative traits or neither, but never are both seen as been equally viable. Thrall sees Paul as using the analogy of the temple so as to establish a corollary between desecrating the temple and intentional harm to the well-being of the church, see Magaret E. Thrall, *1 and 2 Corinthians*, The Cambridge Bible Commentary (Cambridge: Cambridge University Press, 1965), 33; Morris sees the focus as emphasizing the character of those who are believers as well as on the presence of God, see Leon Morris, *1 Corinthians*, Tyndale NT Commentary (Grand Rapids: Eerdmans, 1979), 69 and also Frederick L. Godet, *Commentary on First Corinthians* (Grand Rapids: Kregel, 1977), 190-93; Bruce sees Paul as using Qumran rhetoric in referring to the believers as God's temple, see F. F. Bruce, ed. 1 and 2 Corinthians, New Century Bible (Greenwood, S.C: Attic Press, 1971), 45; O'Rourke believes it relates to the holies of holies, see J. I O'Rourke, "1 Corinthians," in *New Catholic Commentary on Scripture*, ed. Reginald C. Fuller (London: Thomas Nelson & Sons, 1975), 1117; Calvin Commentary posits that the temple represented the believers at Corinth, see David W. Torrance and Thomas F. Torrance, eds., *The First Epistle of Paul to the Corinthians*, trans. by John W. Fraser (Grand Rapids: Eerdmans, 1960), 78-80; this position is also taken by C.K. Barrett, A Commentary on the First Epistle to the Corinthians (San Francisco: Harper & Row, 1968), 90-92; and W. Larry Richards, *1 Corinthians*, The Abundant Life Bible Amplifier, ed. George Knight (Nampa, Idaho: Pacific Press, 1997), 72.

55 Steven E. Runge, *The Lexham High Definition New Testament: Introduction* (Bellingham, WA: Logos Bible Software, 2008), s.v. "metacomment." See also Steven E. Runge, *The Lexham Discourse Greek New Testament* (Bellingham, WA: Logos Bible Software, 2008), s.v. "1 Cor 3:16."

56 The idea of danger and its concomitant relationship with holiness are replete throughout the OT, see Num. 4:5,15,19, 20; 1 Sam. 6:20; 2 Sam. 6:7; Lev.10:6; 16:2,13.

---

defilement of the sanctuary was tantamount to death (cf. Lev 16; 21:12, 21-23). In like manner, God will ultimately destroy those who defile His temple through their actions. In 1 Cor 3 there is a consecutive movement of an agrarian (vv.6-9), to an architectural (vv.10-15), and finally to temple imageries. The Christian ministers are first characterized as διάκονοι (servants) and God's co-workers (θεοῦ συνεργοι), while the Corinthian believers are God's field (θεοῦ γεώργιον), God's building (θεοῦ οἰκοδομη) and finally God's temple (ναὸς θεοῦ).[57] The placement of ναὸς θεου in the semantic construct of the sentence adduces to its importance. This can be best illustrated by applying the discourse principle of ordering restraint, and the cline of specificity, where elements that are emphasized are ordered from the least to the most important (ordering restraint), or where ideas that are most pertinent are stated more prominently (cline of specificity).[58] Believers as God's temple are thus to be understood as not merely incidental to the pericope, but as constituting its core thrust. The fact that the temple referred to is as definite as God Himself presupposes a temple that is as enduring as God Himself. The reference to the believers as God's temple therefore is meant to establish the relationship that exists between God's temple and His people (emblematic temples).

The two architectural metaphors used to refer to the Corinthian church, namely that of "God's building" and "God's temple" are indicative of the continuity and interrelatedness that Paul sees between the church and the sanctuary. Considering that at that time of writing the Jerusalem temple was in all likelihood not yet destroyed, Paul is here seemingly transferring the sanctity of the sanctuary to the people of God. The interrelatedness that exists with the Corinthian church as a body of believers and the earthly temple stands paradigmatic of inseparable corollary existing between the various dimensions of the sanctuary. In this case, the church stands both as representation of the earthly and metaphorical representation of the sanctuary, which stands in relations to the heavenly sanctuary. In each case it is the presence of the spirit of God that makes both the church and the heavenly sanctuary holy.

---

57 Sweeney, "Jesus, Paul, and the Temple," 609-13. Sweeney drew an interesting observation with respect to Paul's metaphoric language in 1 Cor 3:9-17. He sees a direct parallel and continuity between Jesus' attitude to the temple and that of Paul's, thus for him Jesus' act of choosing twelve disciples corresponds to the ministers at Corinth, whereas the Corinthian church is reflective of the new community inaugurated by Jesus (Matt 16:13-18; Gal 2:7-8), Ibid., 614-619.

58 Bruce E. Hollenbach, "Two Constraints on Subordination in New Testament Greek," in *Selected Technical Articles Related to Translation*, ed. Bruce Moore (Dallas, TX: Summer Institute of Linguistics, 1985), 1-2.

1 Cor 6:19

> Or do you not know that your body is a temple of the Holy Spirit who is in you, whom you have from God, and that you are not your own? (NASB)

In 1 Cor 6:19 Paul posits the indwelling of the Holy Spirit as a substantial basis for moral living,[59] a theme that is prevalent throughout scripture.[60] The phrase ναὸς τοῦ...ἁγίυ πνεύματός can be understood as monadic much like ναὸς θεοῦ in 3:16. The designation can also be taken to mean the temple that the Holy Spirit possesses,[61] where He lives,[62] or a temple for the Holy Spirit.[63] While the context of 6:19 points to the believer's life being made holy by the Spirit, the bigger picture revolves around the role of the Holy Spirit as the agent of holiness, enabling the presence of God to be imbided in a place, a thing or a person.[64] The presence of the Holy Spirit thus delineates a place or person, as holy in the very same way it does for the sanctuary.

The use of the negative particle οὐκ with the indicative connotes the idea of a forceful halt to something. Also, whenever it is used interrogatively it always anticipates an affirmative response.[65] Moreover, the context further lends to an emphatic or contrasting usage.[66] This implies two things, namely that Paul may have anticipated that the believers respond, "yes, we know that our bodies are the temple." Or, he might have sought to highlight the disparity that exists between God's temple as it should be, and as it currently exist.

Again the plural ὑμῶν is used in consort with ὑμῖν ἔχετε and ἐστε (3:17). This is indicative of the continued emphasis of the church as a collective

---

59 Paul is not alone in this realm, extra-biblical writings reveal that other authors also share a similar focus, see *Epistle of Barnabas* 4:11; 6:15; 10:7; 19:4; *Hermas Mandate* 4 1:1,5; *Hermas Mandate* 8 1:3; *Hermas Similitude* 6 5:5; *Didache* 2:2; 3:3; *Sirach* 23:17, 23.

60 Some of the references outside of Corinthians include Gal 5:19; Eph 3:5; 1 Thess 4:3; Rev 2:21; 9:21.

61 Lenski, *The Interpretation of St. Paul's First and Second Epistles to the Corinthians*, 146f.

62 W. Harold. Mare, *1 Corinthians*, The Expositor's Bible Commentary, ed. Frank E. Gaebelein, vol. 10 (Grand Rapids: Zondervan, 1976)

63 Bratcher, *A Translator's Guide to Paul's First Letter to the Corinthians*, cited in Trail, An Exegetical Summary of 1 Corinthians 1-9, 246.

64 The fact that Paul had no reservation in ascribing to the Holy Spirit that which he earlier attributed to God is a clear indication of the strong Trinitarian motif that inheres his theological framework.

65 Gordon Fee, *The First Epistle to the Corinthians, NICNT* (Grand Rapids: Eerdmans, 1987), 146.

66 Robertson, *A Greek Grammar of the New Testament in Light of Historical Research*, 1158-60.

representation of the temple of Christ. The preceding verse (6:18) recapitulates the dual focus of both the individual, and church being the temple of God. He begins with the use of the plural second person plural present imperative φεύγετε which suggest that he has the church body in mind. The apostle then went on to use a string of singular substantives (ποιήσῃ, ἄνθρωπος, σώματός, πορνεύων, and ἁμαρτάνει) all of which convey the idea of individuality. The chapter then concludes with another string of plural substantives (ἠγοράσθητε, δοξάσατε, and ὑμῶν) reverting back to the collective identity in view.

Paul, in challenging the Corinthians to moral conduct is recapitulating and applying within the Christian framework the Mishna's behavioral dictums for temple worshippers. In Berakoth 9.5.5-6 it states:

> A man should not behave himself unseemly while opposite the Eastern Gate [of the Temple] since it faces toward the Holy of Holies. He may not enter into the Temple Mount with his staff or his sandal or his wallet, or with the dust upon his feet, nor may he make of it a short by-path; still less may he spit there.[67]

In the reckoning of Paul the same reverence that one ascribed to the earthly temple, such is due to their bodies, which becomes the embodiment of the new temple of God. While most commentators see in 6:19 an explicit reference to the individual member as a temple of God, in exclusion to the church[68] this writer is of the view that Paul inseparably intertwines both since one has a concomitant effect on the other.

Another explicit terminology used profusely in scripture although only once by Paul (1 Cor 9:13) is that of ἱερόν. The clarity in its usage means that the text does not warrant an exegesis, sufficing to say, that the virtual absence of its usage by the apostle can imply the spiritual insignificance attributed to the then Jerusalem temple and its cults. On the converse, the predominant use of ναός especially in reference to God is a clear indication of the importance attached to both its spiritual and material significance.

---

67 *The Mishnah, Translated From the Hebrew with Introduction and Brief Explanatory Notes* (Oxford: Oxford University Press, 1993), 9,10.

68 Some of the authors who accede to interpreting 1 Cor 6:19 as referring only to the physical body are: C. K. Barrett, *The First Epistle to the Corinthians*, Black's New Testament Commentary (Peabody, MA: Hendrickson, 1968), 151-52; Richards, 111-12; Lenski, 269; Fee, 263-64; R. C. Steadman, Expository Studies in 1 Corinthians (Waco, TX: Word Books, 1981), 67; Richard Horsley, *1 Corinthians* (Nashville, TN: Abingdon, 1998), 93; Raymond F. Collins, *First Corinthians*, Sacra Pagina, vol.7 (Collegeville, MN: Liturgical Press, 1999), 249; Hans Conzelmann, *1 Corinthians*, trans. by James W. Leitch (Philadelphia: Fortress, 1975), 112; Anthony Thiselton, *The First Epistle of Corinthians: A Commentary on the Greek Text* (Grand Rapids: Eerdmans, 2000).

2 Cor 6:16

> Or what agreement has the temple of God with idols? For we are the temple of the living God; just as God said, "I will dwell in them and walk among them; And I will be their God, and they shall be My people. (NASB)

2 Cor 6:16 stands as a reverberation of Exod 25:8 where God promises to dwell with His people. The LXX translates the Hebrew וְשָׁכַנְתִּי "I would dwell" as ὀφθήσομαι "I will be made visible" (Exod 25:8) inferring that the wilderness sanctuary symbolized God's visible presence in the midst of His people. In the same way the Corinthians as God's spiritual temples were to be His visible presence within the believing community. In 2 Cor 6:16 Paul utilizes another string plural substantives (ἡμεῖς, ἐσμέν, ζῶντος, αὐτοῖς, αὐτῶν, and αὐτοι) implying that the whole community is in focus.[69] If the phrase ναὸς θεοῦ ἐσμεν is seen through the lens of Apollonius corollary it can be understood as qualitatively definite (corresponding to 1 Cor 3:16; 6:19). This implies that the temple of God can be understood both as a specific entity that exists, as well as a particular quality shared by His people. This dynamic oscillation in ideations of the temple is characteristic of fluidity and interrelatedness that exist between the temple as a heavenly reality and its other temporal aspects.

The subordinating conjunction καθὼς establishes the basis of God's action—because believers are His temple then He inhabits their dwelling as His did the heavenly and earthly sanctuaries. According to NA[27] 2 Cor 6:16 points back to Lev 26:11 and Eze 37:27, where God promises to dwell with His people. The substantive ζῶντος while it often asserts an attribute to God (Matt 16:16; 26:63; Rom 9:26; 2 Cor 3:3; 1 Tim 3:15; Heb 3:12; 10:31; 12:22; Rom 7:2; 15:7),[70] here it applied to the believers. The author is seemingly ascribing to both a commensurate degree of sacrosanctity—believers should be holy in the same way God is holy. The believers as God's temples thus point not only to their resemblance to the temple itself, but also to the presence inhabiting the temple.

---

69 Cf. David Abernathy, *An Exegetical Summary of 2 Corinthians*, 2d (Dallas, TX: SIL International, 2008), 241. The concept of believers or the body of believers constituting the temple is not only prevalent in extra-biblical writings, the concept is also well supported by the biblical text, see Lev 2:11; 2 Sam 7:8; Isa 43:6; 52:11; Jer 31:9; Eze 20:34; Amos 3:13; Jn 14:23; Acts 18:4; 19:9.

70 James A. Brooks and Carlton L. Winbery, *Syntax of the New Testament Greek* (Lanham, MD: University Press of America, 1979), 144-45.

Exegetical synthesis

The use of ναός in 1 Cor 3:16,17; 6:19; and 2 Cor 6:16 all share a syntactical relationship. The above exegesis has shown that Paul's usage of ναός is multi-faceted, he sees it both as a particularized entity and also as a categorical (qualitative) reality. The fact that Paul chose to use the article both in an arthrous and anarthrous sense is a clear indication of how closely related he perceived the particular/definite and qualitative dimensions of the temple. As a particular reality the temple language points to the prototypical reality in heaven from which the earthly stands as a mere representation. Qualitatively, it denotes the attributes possessed by the believing community.

Furthermore, as the Apollonius corollary stated with reference to anarthrous substantives that are related to the other (1 Cor 3:16; 6:19; 2 Cor 6:16), both should be given the same semantic force. This means, that either they are both regarded as definite, indefinite, or qualitative. Therefore, in the case of ναὸς θεοῦ (1 Cor 3:16), if θεοῦ is understood as definite, then likewise should ναός. While this does not negate the metaphorical or qualitative nuance of the phrase, it does allow for the phrase to be understood inclusively without being exclusive to other dimensions—particularly the heavenly dimension of the sanctuary.

The anarthrous usage of ναός by itself, and in the general context of 1 Cor 3:16; 6:19; and 2 Cor 6:16, while they point to the qualitative aspects of the temple, they also concomitantly adduce to a definite reality. This seeming tension can be held in a meaningful balance because the concept of the temple in Jewish reckoning can be held as both literal and symbolic with equal profundity. Having said that, the believers are God's symbolic temples in the sense that they correspond to a literal entity that exist.

The use of the temple imagery in 1 and 2 Corinthians is meant to establish in the minds of the Corinthians the unity and oneness of God which He (God) wants to be replicated among His people through the Holy Spirit. The Corinthians must see themselves as a spiritual habitation of Christ, wherein His holiness, and unity preside. Moreover, they are entrusted with the sacred responsibility of safeguarding such unity.[71]

---

71 P. W. Comfort, "Temple," in *Dictionary of Paul and His Letters*, ed. Gerald F. Hawthorne Ralph P. Martin, Daniel.G. Reid (Downers Grove, IL: InterVarsity, 1993), 923-924.

2 Cor 5:1-4

¹ For we know that if the earthly tent which is our house is torn down, we have a building from God, a house not made with hands, eternal in the heavens.
² For indeed in this *house* we groan, longing to be clothed with our dwelling from heaven; ³ inasmuch as we, having put it on, shall not be found naked.
⁴ For indeed while we are in this tent, we groan, being burdened, because we do not want to be unclothed, but to be clothed, in order that what is mortal may be swallowed up by life (NASB)

2 Cor 5:1-4 depicts the multi-dimensional view of the temple germane to the Judeo-Christian worldview, where the temple in its earthly and heavenly dimensions were often held in tandem. An awareness and appreciation of this fact can aid the reader in grasping the inclusivenss of the temple motif in the Pauline corpus.

The apostle here engages three additional terminologies that are laden with sanctuary imagery. The first is σκῆνος used in 2 Cor 5:1, 4 and also in Wisdom 9:15. It carries a similar semantic domain like its cognate σκηνή,[72] generally understood to mean tent or temporary abode.[73] The second is οἰκια which the author uses eight times, six of which refers to a physical place of abode. The third is οἰκοδομην, used six times by Paul primarily in the context of edification. Many conclude that 2 Cor 5:1-4 exemplifies the theme of the believers' bestowal of glorified bodies in 1 Cor 15. Thus they understand σκῆνος, οἰκία, and οἰκοδομην as all referring to the human body. Can it be further pointing to a reality that exist, in addition to the corporeal or glorified bodies?

In the genitive construction οἰκία τοῦ σκήνους "house of our tent" (2 Cor 5:1), οἰκία is qualified by σκήνους. This genitive of reference,[74] or apposition,[75] can best be understood when viewed from its relation to οἰκοδομην ἐκ θεοῦ ἔχομεν "we have a building from God" (2 Cor 5:1).[76] The earthly house stands in a

---

72 The book of Hebrews has extensively used σκηνή to refer to the heavenly sanctuary. It would suggest that by using σκῆνος metaphorically in reference to the believer that the author is no doubt using a spiritual reality to explicate his theological dogma in relation to the qualitative aspects of the believer's life. Σκῆνος though has the added Hellenistic metaphoric nuance of the body as a habitation of the soul (cf. Walter Bauer, *A Greek-English Lexicon of the New Testament and Other Early Christian Literature*, trans. and adapted by William F. Arndt and F. Wilbur Gingrich, 2d ed., rev. and augmented by F. Wilbur Gingrich and Frederick W. Danker (2000), s.v. "σκηνή," and "σκῆνος."

73 Johan Lust, Erik Eynikel, and Katrin Hauspie , A Greek-English Lexicon of the Septuagint, rev. ed., (Stuttgart: Deutsche Bibelgesellschaft, 2003), "σκῆνος"

74 Wallace, *Greek Grammar Beyond the Basics*, 127

75 Ibid., 94-99.

76 Lenski, *Epistles to the Corinthians*, 996.

---

parallel relationship to the heavenly building as an ephemeral pattern. While the context alludes to the postresurrectional state, there is also at work here the interplay of dual realities that are meant to be complimentary, and not necessarily mutually exclusive to the other.

The true picture of 2 Cor 5:1-4 must be gained by understanding how the nouns σκῆνος, οἰκοδομην, and οἰκία relate to each other and the broader framework of the author's theology. As was earlier elucidated οἰκοδομην can refer either to a finish edifice (Matt 24:1; 1 Cor 3:9), edification (Rom 14:19; 15:2; 1 Cor 14:3,5,12,26), or the individual member or community of believers (Eph 2:21).[77] Οἰκία often denotes a physical house or household,[78] while σκῆνος likewise implies a habitation of some sort. While the thrust of these nouns points to an anthropological rendering, there is also an evident architectural imagery implied. The author in using these terminologies sets up a mutual correspondence between temporal and eternal entities, which is built upon the parallelism existing between the earthly tabernacle construct and its heavenly eternal counterpart. For instance, in 2 Cor 5:1 the phrases οἰκία τοῦ σκήνους "house of our tent" and οἰκίαν ἀχειροποίητον αἰώνιον ἐν τοῖς οὐρανοῖς "house not made with hand eternal in the heavens," are used where the temporal-corporeal body is juxtaposed to the eternal heavenly body.

The definite articles in the contruction τοῦ σκήνους (2 Cor 5:1) and ἐν τῷ σκήνει (2 Cor 5:4) can possibly be serving a generic function of categorizing σκῆνος as a representative within a larger domain of temple imagery.[79] Or, they can also be serving an individualizing function; distinguishing the human tent from other temple/s.[80] It is clear from the context that a parallel is drawn between the corporeality of the human body and the eternal nature of the heavenly body/building. Moreover, the phrase οἰκοδομὴν ἐκ θεοῦ ἔχομεν (2 Cor 5:1) points back to the architectural imagery θεοῦ οἰκοδομή ἐστε (1 Cor 3:9). While there exist many views as to how the expression οἰκοδομὴν ἐκ θεοῦ ἔχομεν should be uderstood,[81] that it can refer to a physical heavenly abode

---

77 Bauer, BAGD, s.v. "οἰκοδομη"

78 Bauer, BAGD, s.v. "οἰκια."

79 See Porter, Porter, *Idioms of the New Testament Greek*, 104; Wallace, *Greek Grammar Beyond the Basics*, 227.

80 Wallace, *Greek Grammar Beyond the Basics*, 217.

81 Some of the views held include:
    1. It is the spiritual or resurrection body
    2. It is the new body which is received at the parousia
    3. It is a new body received immediately upon death
    4. It is God's presence which covers the believer with eternal glory immediately upon death

is by no means incongruent with the context.[82] Hodge enunciates that the comparison in 2 Cor 5:1 is not between the earthly body and the heavenly, but rather, the earthly house and the heavenly [house].[83] The interrelation that the author saw between the earthly and heavenly spheres does not negate, but allows for the expression οἰκοδομὴν ἐκ θεοῦ ἔχομεν to be understood as referring to a heavenly reality.

The phrase οἰκία τοῦ σκήνους (5:1) parallels οἴκω τῆς σκηνῆς in 1 Chron 9:23, which is used in reference to the tabernacle. Also, in Job 4:19 οἰκία is used in an anthrological setting (κατοικοῦντας οἰκιας πηλινας) describing those living in habitation of clay. Furthermore, in Jewish apocalyptic the heavenly dwellings of both angels and the saints were described within an architectural framework.[84] Even Christ spoke of rebuilding the temple without hands (cf. Mk 14:58). The point here is to recognize the interplay and substitution of earthly realities with their heavenly correspondents as used in the Epistles is not unique to the Epistles, but rather a mere continuance of a precedent establish by other writers.

The expression οἰκοδομὴν ἐκ θεοῦ ἔχομεν οἰκιαν ἀχειροποίητον can highlight the interrelation that the author saw between the earthly and heavenly bodies / spheres, albeit the heavenly and earthly tabernacle. In Heb 9:11 the phrase λειοτέρας σκηνῆς οὐ χειροποιήτου "perfect tabernacle not made with hands" is used in reference to the heavenly tabernacle. Also in Heb 9:24 it is said οὐ γὰρ εἰς χειροποίητα εἰσῆλθεν ἄγια Χριστός "for Christ did not enter a holy place made with hands", another obvious reference to the heavenly sanctuary. In the LXX χειροποιήτος is often correlated primarily to idolatry (Lev 26:1, 30; Isa 2:18; 10:11; 19:1; 21:9; 31:7; 46:6; Dan 5:4, 23), and once to a sanctuary (Isa 16:12). In the NT χειροποιήτος primarily refers to heavenly habitation of God (Acts 7:48; 17:24), the heavenly sanctuary (Heb 9:11, 24), body of Christ (Mark 14:58), human efforts (Eph 2:11), or without human effort (Col 2:11

---

5. It is an image for the new age to which believers belong, the new eschatologicalJerusalem

6. It is our heavenly existence, and which corresponds to what he has already referred to as an eternal weight of glory (cf. Abernathy, *An Exegetical Summary of 2 Corinthians*, 179).

7. Paul's desire to be clothed with immortality without having to experience the intermediate state (cf. Ralph Martin, 2 Corinthians, Word Biblical Commentary, vol. 40 (Waco, TX: Word Books, 1986), 106,107.

82 Charles Hodge, *An Exposition of the Second Epistle to the Corinthians* (New York: A. C. Armstrong and Sons, 1891), 112f.

83 Ibid., 113.

84 Cf. *I Enoch* 39:2-6.

[ἀχειροποίητον]). In 2 Cor 5:1 given the congruence shared with the context and the evidence posited thus far the οἰκίαν ἀχειροποίητον αἰώνιον ἐν τοῖς οὐρανοῖς can point either to physical bodies not made with hands, as well as to the heavenly habitations not made with hands. These two can be held as equally viable without being mutually exclusive. The earthly temporal bodies are made by human hands in the same way like the earthy tabernacle, in contrast the heavenly glorified bodies are made without human hands in the same manner like the heavenly sanctuary.

2 Cor 5:1-4 therefore establishes two realities, namely, the earthly corporeal body of man, and God's building "not made with hands." Most scholars agree that the context of the pericope pertains to the frailty of the earthly body. Paul seems to be seeking to establish the disparity between the ideal to be attained, and the reality that exists. The underlying metaphoric usages in 2 Cor 5:1-4 pertains to the strong interrelation that exists between the earthly temporal body and the heavenly postresurrectional body, as predicated on the relationship existing between the heavenly and earthly sanctuaries. 2 Cor 5:1-4 thus compares the temporality of the earthly metaphorical body to the permanence of the heavenly sanctuary, and the accompanying glorified bodies that will be adorned upon the believer. In the same way that Christ's body was at times equated with the earthly temple (Mark 14:58; John 2:19), the apostle compares the believers at Corinth to the physical heavenly construct of the sanctuary. This comparison is meant to create certitude, and more importantly to show that the nature of the heavenly sanctuary defines the nature of the glorified bodies of the believer, just as the nature of the earthly sanctuary characterized the nature of temporal bodies.

2 Cor 5:10

> For we must all appear before the judgment seat of Christ, that each one may be recompensed for his deeds in the body, according to what he has done, whether good or bad (2 Cor 5:10 NASB)

This verse brings an end to the pericope which began in 2 Cor 4 5:1-9. The preceding context spoke of the coporeality of the present body as compared to the immortality of the heavenly body (vv 1-4). In 2 Cor 5:10 a judgment motif is introduced with its attendant verdict. While the historical framework might have possibly been that of a sanhendrin or civil judgment setting, the fact that the author coins it within an eschatological narrative suggests that the judgment spoken of should be understood within similar context.

The language of the text points invariably to an eschatological context. The noun βῆμα (secular origins) derived from the verb βαίνω means to "step or

stride as in walking."[85] In the LXX Deut 2:5 it used in reference to a footlength of land (Deut 2:5); the platform upon which the priest stands to declare the word of God (1 Esd 9:42; Neh 8:4); to defend a cause (2 Macc 13:26); mode of walking (Sir 19:30; 45:9). In the NT βῆμα accrues primarily a judicail connotation,[86] except in Acts 7:5 where the original meaning "a foot-length" is intended. Paul uses the word within an eschatological framework to describe the ultimate judgment before God (cf. Rom 14:10, 2 Cor 5:10).[87]

A cursory analysis of the the grammatical functions of βῆμα can reveal that it is often used to denote a personal being appearing before a specific place and time. For instance the word βῆμα occurs in an adjunct relationship with nine predicate verbs,[88] which either convey the idea of either one assuming a judicial position (Matt 27:19; Acts 12:21; 25:6; 25:17; Jn 19:13), appearing or being led before a tribunal (Acts 18:12-13; 25:10; Rom 14:10; 2 Cor 5:10), being chastized before or driven away from a judicial tribunal (Acts 18:16,17). Each of the above can be understood primaily in a spatial, temporal or locative sense, that is, relating either to a specific place or point in time. Additionally βῆμα occurs ten times in a prepositional phrase, namely with ἐπὶ ἔμπροσθεν and ἀπὸ referring either to a spatial or temporal functions. Even more, of the four instances in which βῆμα is qualified by a word or phrase three times it involves a personal being of authority.[89] The context of 2 Cor 5:1-10 can allow for a reasonable conclusion that the judgment envisioned occurs within the framework of a particular time and place before God.[90]

The context of the passage points to an ultimate judicial act where destinies are sealed, a theme which resonates throughout Paul's epistles.[91] In 2 Thess 1:6 Paul spoke of God repaying those who persecute His

---

85 T. McComiskey, "βῆμα," *The New International Dictionary of New Testament Theology*, ed. Colin Brown (Grand Rapids: Zondervan, 1971), 2:369,370.

86 Cf. Acts 18:21; 18:12,16,17; 25:6,10,17

87 cf. Sib.Or. 2.218; 7.222, 224; Pol.Phil.6.2; 1 Enoch 45:3;47:3; Matt 16:27; 19:28; 25:31-46)

88 The following are the predicate verbs: καθίσας (3) "having sat," καθημένου (1)"Sitting," ἐκάθισεν (1) "he sat," ἤγαγον (1) "led," ἀπήλασεν (1) "he drove off," ἔτυπτον (1) "beating," ἐιμι (1) "I am…," παραστησόμεθα (1) "we are standing," φανερωθῆναι (1) "to appear"

89 Cf. "καίσαρός" (Acts 25:10), τοῦ θεοῦ (Rom 14:10), τοῦ χριστοῦ (2 Cor 5:10)

90 In t both Christ and the Father are described within a judicial framework as one who executes judgment. For instance in Rom 14:10 he used the phrases 'judgment seat of God' whereas in 2 Cor 5:10 'judgment seat of Christ' (For more on God's judicial role, cf. Matt 25:31,32; Rom 2:6; Gal 6:7; Eph 6:8; Eph 3:24,25; Rev 22:12)

91 Martin, *2 Corinthians*, 114,115.

people,[92] in Rom 2:5 the phrase "day of wrath" is juxtaposed with "judgment of God" as synonymous expressions. Also in Rom 2:16 it is said that God will bring all secret things into account.[93] Several elements in the text beckons a final judgment. First Paul uses the inclusive plural[94] ἡμας suggesting that he expected this judgment to include his audience (both primary and secondary). This is preceded by the use of πάντα which according to Porter denotes the concept of "completeness," "conglomeration of individual parts," or "undifferenciated whole." When used in a predicate relationship such as in 2 Cor 5:10 when it is used in an arthrous first predicate structure) it denotes extensiveness and should be translated "all".[95] Furthermore, the usage of the present indicative δεῖ which by all indication serves the function of a futuristic present adds certainty and immediacy to the judgment.[96]

Also, there is the further use of the epexegetical infinitve φανερωθῆναι, used after the verb of obligation, thus clarifying what the obligation entails.[97] Although using the plurals ἡμᾶς πάντα in the first instance, the author now uses the singular ἕαστος which conveys the idea that he has an ultmative climatic "en masse" judgment in view, which will at the same time be personal.[98]

---

92 Cf. Wallace, *Greek Grammar Beyond the Basics*, 557, 558.. The motif of final judgment is made clear by the use of ἵνα κομίσηται with the infinitive which denotes ultimate purpose and the constative aorist ἔπραξεν which denotes the idea of comprehensiveness.

93 Even Polycarp understood 2 Cor 5:10 within the framework of an ultimate judgment based on deeds. In his letter to the Philippians he says, "The presbyters, for their part, must be compassionate, merciful to all, turning back those who have gone astray, visiting all the sick, not neglecting a widow, orphan, or poor person, but "always aiming at what is honorable in the sight of God and of men," avoiding all anger, partiality, unjust judgment, staying far away from all love of money, not quick to believe things spoken against anyone, nor harsh in judgment, knowing that we are all in debt with respect to sin. Therefore if we ask the Lord to forgive us, then we ourselves ought to forgive, for we are in full view of the eyes of the Lord and God, and we must "all stand before the judgment seat of Christ," and "each one must give an account of himself. So, then, let us serve him with fear and all reverence, just as he himself has commanded, as did the apostles, who preached the gospel to us, and the prophets, who announced in advance the coming of our Lord." (cf. M. W. Holmes, The Apostolic Fathers: Greek Text and English Translation [Polycarp to the Philippians 6.1-3] (Grand Rapids: Michigan, 1999).

94 Wallace, *Greek Grammar Beyond the Basics*, 397.

95 Stanley Porter, *Idioms of Greek New Testament*, 119; cf. J. H. Moulton, *A Grammer of New Testament Greek* Vol 3, 199, 201-205; F. Blass, A Debrunner and R. Funk, *A Greek Grammar of the New Testament and Other Early Christian Literature* (Chicago: University of Chicago, 1961), 275.

96 Wallace, *Greek Grammar Beyond the Basics*, 535.

97 Ibid., 607

98 M. J. Harris, *The Second Epistle to the Corinthians: A Commentary on the Greek Text* (Grand Rapids: Eerdmans, 2005), 405.

Another important feature is the use of the neuter singular adverb φαῦλον as oppose to κακόν,[99] the former is used six times in the NT, often within the context of ultimate judgment (cf Jn 3:20;5:29; 2 Cor 5:10).

In order to aid the reader to better place the judgment within its proper eschatological parameters the choice of the verb πράσσω over ποιέω can be insightful. The former is used over 80 times in scripture, and generally denotes the sum of habitual actions,[100] whereas, the latter refers to mere performances.[101] It seems reasonable to infer that the judgment in question does not simply take into account individual acts, but rather a settled consistent conduct that has been inculcated and nurtured throughout one's life. While some believe that the judgment mentioned here speaks more of character, moral chastisement, than mere deeds, it might be better to see both as not necessarily mutually exclusive.[102]

The logical question that ensues is which judgment according to Scripture calls into account the character of those to be judged? All indications point to an actual appearance before a heavenly tribunal, a scene typical of Dan 7:9-14, 26-28. Although the scene described in 2 Cor 5:10 resembles that of an investigative judgment, since the context does not explicitly point to that fact, it is best to characterize this judgment as the totality of God's eschatological judicial initiative in vindicating professsed believers, and by implication confirming those who are lost. This judgment involves first all acts of judgment where the deeds and character of men will be under scrutiny. Second, it is an event taking place at a specific time and place (though not limited by time or place). Thirdly, it is God's comprehensive response and annihilation of the problem of sin and its perpetrators.

The idea of judgment within the construct of the heavenly sanctuary appears to be in view here is 2 Cor 5:10. In Scripture the heavenly sanctuary is

---

99 Some manuscripts such as P[46] B D F G Y favored κακόν, while others such as C, 048, 0243, 33, 81, 326 among others favored φῦλον, eventually the later was decided upon by the critical scholars.

100 For instances where πράσσω is used to denote doing what is morally evil 2 Cor 12:21; 1 Cor. 5:2; Rom. 2:1, 2, 7:15, 19, 13:4; morally good, cf. 1 Cor. 9:17; Phil. 4:9; of doing both morally good and evil cf. Rom. 9:11; cf. Abernathy, *An Exegetical Summary of 2 Corinthians*, 192.

101 Alfred Plummer, *A Critical and Exegetical Commentary on the Second Epistle of St. Paul to the Corinthians* (New York: C. Scribner's Sons, 1915), 158.

102 William H. Shea, *The Abundant Life Bible Amplifier: A Practical Guide to Abundant Christian Living in Daniel 7-12* (Nampa,ID: Pacific Press, 1996), 146,147; See also E.G. White, *Great Controversy Between Christ and Satan* (Mountain View, CA: Pacific Press, 1888), 483.

depicted as the place where judgment initiates (see Dan 7:9, 13; Rev 19:1-11; 20:4). True to his paradigm of using an earthly reality to symbolize or point to its heavenly prototype, it is not surprising that here the author can also be using an earthly judicial setting to highlight a heavenly reality with the intent of conveying a profound biblical truth, that of the imminent judgment of God.

Although the author did not mention explicitly the timing of the judgment, other biblical authors have filled the gaps. The idea of the judgment taking place within the context of the heavenly sanctuary is not a foreign concept to Scripture (Dan 7, 8; Rev 14:6, 7; 2 Thess 2:6-12), neither is the idea of the certitude of the judgment (Matt 11:27; John 5:22-27; Acts 17:31; 1 Pet 4:5), and of that judgment involving the reckoning of deeds done in this life (Eccl 12:13, 14; Rom 2:12, 13; 1 Cor 4:5; Jude 15; Rom 14:12; Jas 2:12, 13; 1:25; 2:10-12, Gal 6:7; Rev 22:12). It is very likely that the judgment of 2 Cor 5:10 pertains to the great white throne judgment in the heavenly sanctuary, where the fate of humanity will be revealed (Rev 20:10, 11; cf. Heb 12:23, 24).[103] Others further believe that although it involves believers the time of its occurrence is indeterminate.[104] The important thing here is to see the judgment alluded to as occurring within the construct of the heavenly sanctuary, and thus it corroborates the author's usage of the sanctuary motif to inform his eschatology.

Ephesians 2:6,19-22

[6] And raised us up with Him, and seated us with Him in the heavenly *places*, in Christ Jesus,

[19] So then you are no longer strangers and aliens, but you are fellow citizens with the saints, and are of God's household, [20] having been built upon the foundation of the apostles and prophets, Christ Jesus Himself being the corner *stone*, [21] in whom the whole building, being fitted together is growing into a holy temple in the Lord; [22] in whom you also are being built together into a dwelling of God in the Spirit. (NASB)

---

103 "Judgment seat," [2 Cor 5:10], *The Seventh-day Adventist Bible Commentary (SDABC)*, rev. ed. Francis D. Nichol (Washington, DC: Review & Herald, 1978), 6:864.

104 Daniel R. Mitchel, "I-II Corinthians," in *KJV Bible Commentary*, ed Edward E. Hindson, and Woodrow Michael (Nashville, TN: Thomas Nelson, 1997), 2347-2348. John G. Butler, *Analytical Bible Expositor: I & II Corinthians* (Clinton, IA: LBC, 2009), 201-202. Murray J. Harris "2 Corinthians," in *Expositor's Bible Commentary* (Abridged), ed. Kenneth L. Barker and John R. Kohlenberger II (Grand Rapids, MI: Zondervan, 1994), 677; Colin G. Kruse, *2 Corinthians: An Introduction and Commentary*, Tyndale New Testament Commentaries 8 (Downers Grove, IL: InterVarsity, 1987), 117.

Outside of Corinthians one of the more explicit motifs of the temple can be found in Ephesians 2:6,19-22. The theme of the epistle centers aroud the organic unity that believers experience in Christ despite their ethinic or geographic orientations. The author uses the motifs ἐν χριστῷ or ἐν κυρίῳ as the nexus around which this unity is sustained. Although the 'in Christ' motif resonates throughout the Pauline corpus, it receives its most replete expression here in Ephesians.[105]

In Eph 2:6 the verbs συνήγειρεν καὶ συνεκάθισεν are used to describe the believer's status. These two compound aorist verbs are seen to express "intimate union" and "incorporation" through a "relationship of solidarity" with Christ as substitute for humanity.[106] In Rom 6:5, 8 the believer's resurrection is regarded as futuristic,[107] however in Eph 2:6 it is portrayed as something that already happened. This "already but not yet" tension is pervasive throughout the Pauline epistles (cf. Col 2:12; 3:1). The believers are seated in heaven, but yet as the same time not there. In the same way, the temple can exist as a heavenly reality and still be as efficious in all its varied dimensions without compromising either aspect.

The author of the Epistles often oscillates between real events and subjective experiences. For instance in Eph 1:20 and Col 3:1 Jesus was raised from the dead, and is now seated in heavenly realms (literal event); the believer on the other hand is united with Christ (experientially [cf. Rom 6:5; Eph 1:3; 2:6; Phil 3:10]).[108] The aorist form of the verb συγκαθίζω occurs twice as a predicate verb (Lk 22:55; Eph 2:6), from which both a literal[109] and figurative interpretation can be deduced.[110] Some adduce that the language of Eph 2:6 speaks of the resurrection, enthronement [as high priest] and exaltation of

---

105 Nichol, *SDABC*, 6:995

106 Andrew T. Lincoln, *Ephesians*, Word Biblical Commentary (Waco, TX: Word Books, 1990), 105.

107 Some argue that although Paul uses the future tense in Rom 6:5,8, it must be understood as futuristic present, that is, although not yet a reality its certainty makes it a present reality [cf G.R.Beasley-Murray, B*aptism in the New Testament* (London: Macmillan, 1962), 126f; C.E.B. Cranfield, Romans (Edingburg: T &T Clark, 1975, 1:299f].

108 Francis Foulkers, *Ephesians*, Tyndale New Testament Commenataries (Leicester, England: Intervasity, 1978), 73.

109 Leroy Bartel, *Prison Epistles: Colossians, Philemon, Ephesians and Philippians* (Springfield, MO: Global University, 2006), 77.

110 Of the six usages of συγκαθίζω in the LXX (cf. Gen 15:11; Ex 18:13, Nu 22:27; Jer 16:18; 1 Esd 9:7,16) and the 2 in Philo (Her 243,247) there is a strong element of literality attached to the act of seating.

Christ.[111] The fact that the motif of enthronement of Christ as high priest is stated points evidently to the heavenly sanctuary motif as work (see Rev 4, 5). In the same way the earthly temple served as a pattern of its heavenly prototype, the church on earth becomes paradigmatic of its heavenly origin and the ultimate destiny.

The expression ἐν δεξιᾷ αὐτοῦ ἐν τοῖς ἐπουρανίοις "at his right hand in the heavenly places" (Eph 1:20) can further elucidate the sanctuary motif.[112] The preposition ἐν generally denotes several nuances such as place, time, instrumentation, accompaniment,[113] standard, manner, cause, association, or sometimes as a substitute for the preposition εἰς "into."[114] The context of Eph 2 lends to a spatial or temporal rendering, which means that a particular place, sphere or time is in view. The phrase ἐν δεξιᾷ αὐτοῦ can point both to a real action at a real place, that is, a particular function being undertaken by Christ. Clarity can be sought by looking at the usage of ἐν δεξιᾷ αὐτου in Scripture.

Generally in Scripture the phrase ἐν δεξια αὐτοῦ denotes assuming a position of honor and privilege (1 Kgs 2:19), guidance (Isa 45:1), power (Exod 15:6; Ps. 89:13; Isa 48:13), victory (Pss 20:6; 44:3; Isa 41:10), sharing God's throne (Rev 3:21),[115] as well as His infinite glory, and majesty in heavenly sphere.[116] In Eph 1:20 it is best to see the expression ἐν δεξιᾷ αὐτου as denoting a sphere of function, and not necessarily a literal action of sitting at God's side. For example, in the book of Acts Peter exclaimed of Jesus, "therefore having been exalted to the right hand of God, and having received from the Father the promise of the Holy Spirit, He has poured forth this which you both see and hear" (Acts 2:33). Here the function of Jesus at the right hand of God is portrayed as the one responsible for pouring upon the disciples the power of the Holy Spirit. Therefore to infer a particular function to the expression is scripturally congruent.

---

111 Thomas R. Y. Neufeld, *Ephesians*, Believers Church Bible Commentary (Scottdale, PA: Herald Press, 2001), 95.

112 For more on Christ sitting at the right hand of God, see Acts 2:33, 34; 5:31; 7:55; Rom 8:34; Col 3:1; Heb 1:3; 8:1; 10:12; 12:2; 1 Pet 3:22.

113 Robertson, *A Greek New Testament*., 586-589.

114 Wallace, *Greek Grammar Beyond the Basics*, 372.

115 Peter T. O'Brien, *The Letter to the Ephesians*, The Pillar New Testament Commentary (Grand Rapids, MI: Eerdmans, 1999), 140-143. Robert G. Bratcher and Eugene Albert Nida, *A Handbook on Paul's Letter to the Ephesians* (New York, NY: United Bible Societies, 1993), 34-35.

116 R. C. H. Lenski, *The Interpretation of St. Paul's Epistles to the Galatians, to the Ephesians and to the Philippians* (Columbus, OH: Lutheran, 1937), 400-401.

Some see the phrase ἐν τοῖς ἐπουρανίοις (Eph 2:6) as denoting the church as the true representative temple of God.[117] Thus, the believer who is a part of God's church is in actuality a member in God's heavenly kingdom. How can a believer on earth sit with Christ in the heavenly sanctuary? The answer to this questions can be found in examining the earthly pattern. According to the instruction given to Moses the priest was to carry into the sanctuary names of the children of Israel upon his breastplate. In Exod 28 it is said,

> [28] And they shall bind the breastplate by the rings thereof unto the rings of the ephod with a lace of blue, that *it* may be above the curious girdle of the ephod, and that the breastplate be not loosed from the ephod. [29] And Aaron shall bear the names of the children of Israel in the breastplate of judgment upon his heart, when he goeth in unto the holy *place*, for a memorial before the LORD continually. [30] And thou shalt put in the breastplate of judgment the Urim and the Thummim; and they shall be upon Aaron's heart, when he goeth in before the LORD: and Aaron shall bear the judgment of the children of Israel upon his heart before the LORD continually. (Exo 28:28-30 KJV)

Thus in a very real way the children of Israel shared in the mediatorial work of the priesthood (cf. Exod 19:5, 6; 1 Pet 2:9). In the same way those who are incorporated into Christ sit with Him in the heavenly sanctuary and "share with Him" in His mediatorial function at the right hand of God. According to Scripture Christ is presently interceding on our behalf in the heavenly sanctuary as high priest , and those who are incorporated in Him become recipients of His merits (Rom 8:34; Heb 7:25). The fact that those being interceded for can at the same time become "joint" intercessors with Christ attest to their appropriation of His righteousness in their lives, thus enabling them to partner with God in intercession. According to 1 Pet 2:9 believers are now a "royal priesthood" thus enabling them to function within the framework of the sanctuary. Believers function as intercessors not in the sense of being able to forgive sins, but rather in the same way the earthly priest served as mediator.

In Rev 4:4; 5:11 the twenty-four elders are seen around the throne worshipping God; scholars believe that these elders are symbolic representation of the fullness of all the redeemed on earth.[118] Interestingly, although still on earth they are depicted as already in heaven praising God. A similar paradigm is in effect in Ephesians 2, the believer by being apart God's earthly temple— His church, instinctively participates in the heavenly corresponding reality.

---

117 T.K. Abbott, *A Critical and Exegetical Commentary on the Epistles to the Ephesians and to the Colossians* (New York: C. Scribner's sons, 1909), 50.

118 David E. Aune, *Revelation 1-5* WBC 52A (Dallas, TX: Word, , 2002), 288-292.

Additionally, the believer serves as God's sanctuary in their lives through the indwelling of the Holy Spirit (see 1 Cor 3:16, 17; 6:19).

Whenever the adjective ἐπουρανίοις qualifies or is qualified by another substantive it often denotes a reality beyond that which is qualified. For example the adjective ἐπουρανίοις qualifies the following nouns: δόξα (1 Cor 15:40), εἰκόνα (1 Co 15:49), σκιᾷ (Heb 8:5). In each case an archetypal reality is implied. In the context of Eph 2:6 the phrase "seating in heavenly places" may refer both to an archetypical reality as well as to its effigy. Interestingly, of the six occurrences of ἐπουράνιοις with predicate verbs, twice it pertains to seating, and once to paying homage. and to the heavenly abode (Eph 1:20-21; 2:6; Phil 2:10; 2 Tim 4:18). It is reasonable to suppose that the adjective envisions an activity/function often in a specific place.

A striking parallel is drawn in Eph 2:12 and 2:19-22. The phrases τῆς πολιτείας τοῦ Ἰσραὴλ "citizenship of Israel" (v. 12), συμπολῖται τῶν ἁγίων καὶ οἰκεῖοι τοῦ θεοῦ "but fellow-citizens of the saints, and of the household of God" (v.19).[119] Here is established a parallel between the temporal and spiritual realms. The believers "citizens of Israel" and "fellow citizens of God's household have both literal and spiritual application, both of which are interconnected.[120] Furthermore in Gal 6:10 the phrase the noun πίστεως is used to qualify οἰκεῖοι whereas θεοῦ is used in Eph 2:19. Here again the church [God's earthly house] is paralleled to a heavenly reality.

The author utilized a series of architectural and organic metaphors of growth and building to denote the people of God, which eventually culminate with an explicit reference to the temple in Eph 2:21 (this is similar to the pattern followed in 1 Cor 3:9-16).[121] First he uses οἰκεῖοι [household], which expresses familial relationship (Eph 2:19). Second, ἐποικοδομηθέντες [built], θεμελίῳ [foundation] and ἀκρογωνιαίου [cornerstone] (Eph 2:20). Third, ὀκοδομὴ συναρμολουμένη [building joined together] (Eph 2:21). Finally, συνοικοδομεῖσθε [builded] εἰς κατοικητήριον [dwelling place] (Eph 2:22). All these metaphors points to the centrality of the architectural motifs in the author's mind, which finds its most replete expression in ναὸν ἅγιον (Eph 2:21; cf. 1 Cor 3:16).

---

119 The metaphor of citizenship implies membership of a city (cf. Gal. 4:26) or commonwealth (cf. Phil. 3:20).

120 Cf. P. H. Towner, "Households and Household Codes" in G. F. Hawthorne, R. P. Martin and D. G. Reid (eds), *Dictionary of Paul and his Letters* (Downers Grove/Leicester: IVP, 1993), 418. According to Towner "membership of a household in Roman culture meant identity, refuge and protection, giving the security that comes with a sense of belonging."

121 T.R.Y. Neufeld, *Ephesians*, Believer's Commentary (Scottdale, PA: Herld Press, 2001), 132f.

There is growing acceptance in scholarship that the ἀκρογωνιαίου "corner-stone" (vs 20) is ideally sanctuary imagery. Some identify the cornerstone as the top stone at the pinnacle of the temple.[122] Others see it as the foundation stone in the temple.[123] Lincoln believes that the former meaning garners more support[124] [the latter however may have better contextual support]. Bruce however believes that the ἀκρογωνιαίου refers to Christ.[125] Whichever rendering that is accepted can be equally viable and does not necessarily destroy the thrust of the passage. Moreover, most of the proponents of above views agree of the overwhelming temple imagery found in Eph 2:21.

3.   Theological implications

Paul through his sanctuary motifs is by no means advocating a replacement temple theology, rather, he is using temple imagery in a "multivalent" context.[126] In order words, Paul is not endeavouring to substitute one idea of the temple for another, rather, he is broadening its dimensions.

His usage of temple motifs and imagery was deliberate, theological, and concomitant to the then Judeo-christian temple worldview, which essentially saw the earthly and heavenly temples as complimentary aspects of one reality. Therefore, one was often seen not in contrast, but in realtion to the other. As was illustrated, the usage of the temple even included the individual member within the body of believers, as well as the corporate believing community. In the writings of Paul there is a constant interplay between these various aspects of the temple.

This study concurs with Bonnington that the temple motifs in the Corinthian Correspondence encapsulates three dominant theological and ethical themes: (i) the temple as a place of God's presence and ownership; (ii)

---

122 Cf. Lincoln, *Ephesians*, 154; Joachim Jeremias, ἀκρογωνιαίος *TDNT,* ed. Gerhard Kittel, trans. Gepffrey Bromiley (Grand Rapids: Eerdmans, 1978), 1:791-93; idem, *TDNT*, 4:268f; F. F. Bruce, "New Wine in Old Wineskins: The Corner Stone," *Expository Times* 84 (1972–73), 232; 1QS 5.6; 8.4, 5)

123 R. J. McKelvey, "Christ the Cornerstone," *NTS* 8 (1961–62), 352–59; idem, *The New Temple*, London: Oxford University Press, 1969), 195–204.

124 Cf. Psa 118:22; 2 Kgs 25:17; Isa 28:16; *Testament of Solomon* 22.7–23.3; Tertullian, *Adv. Marc*. 3.7

125 F. F. Bruce, "New Wine in Old Wineskins: The Cornerstone," *Expository Times* 84/8 (1973): 231-235.

126 J.R. Lanci, *A New Temple for Corinth: Rhetorical and Archaeological Approaches to Pauline Imagery* (New York: Peter Lang, 1997), 99f.

the temple as a place of God's [holiness] and separateness; (iii) the temple as a central, focused and bounded sacred space with spatial and sacral integrity.[127] While the ethical dimension of Paul's temple imagery cannot be ignored, it should be understood within the broader Jewish temple tradition.

The Old Testament posits God's abode as being not only in heaven (cf. 1 Kgs. 8:39, 43, 49), but also in the earthly temple (cf. 1 Kgs. 8:13). Therefore, when Eph 2:6 refers to believers as already raised up and seated with Christ in the heavenly places, here earthly metaphorical temples are accrued with the same sacrality as the heavenly sphere to the extent that through Christ they can sit in heaven.[128] In fact, in Qumran both the elect on earth and the inhabitants of heaven are regarded as constituting God's eschatological temple;[129] thus to see the believers on earth as encapsulating the heavenly abode finds consonance in extrabiblical Jewish writings.

O'Brien enunciates Eph 2:20 as referring to a heavenly entity where God dwells. However this temple is also His people within whom He dwells through the Holy Spirit. The believers have risen and are seated with Christ (2:4-6), and are now citizens along with the saints of the holy city (2:19). He notes that believers have access to heaven "through Christ mediatorial work" and the "indwelling of the Holy Spirit."[130] Hence, for Paul it can be said that the temple becomes anywhere or anyone in which the Spirit of God dwells.

The sanctuary motif is indicative of God's jurisdiction (divine space) where His presence and sacred trust abounds. As shown, the temporal sanctuary becomes an extension of the heavenly sanctuary through the indwelling of the Holy Spirit. The individual member becomes a sacred vessel of no less a caliber than the heavenly archetype. In the same way defiling the earthly wilderness sanctuary evoked the staunchest judgment , the believer as God's temple must abstain from defiling his body lest judgemnt befall its fate. It is therefore no wonder that God wants His people to inculcate the virtues that are characteristic of abiding in His presence.

127 Mark Bonnington, "New Temples in Corinth: Paul's Use of Temple Imagery in the Ethics of the Corinthian Correspondence," in *Heaven on Earth*, ed. T.D. Alexander & S. J. Gathercole (Carlisle, England: Paternoster Press, 2004), 152.

128 David Peterson, "The New Temple: Christology and Ecclesiology in Ephesians and 1 Peter," in *Heaven on Earth*, ed. T.D. Alexander & S. J. Gathercole (Carlisle, England: Paternoster Press, 2004), 170.

129 Cf. 1QS 11:7-8

130 P. T. O'Brien, *The letter to the Ephesians*, The Pillar New Testament Commentary (Grand Rapids: Eerdmans, 1999), 219f.

4.   Conclusion

This study concludes that, first the sanctuary motifs employed by Paul shows the interconnectedness between the heavenly and earthly realms. Second, the church as God's temple is emblematic of the higher reality of the prototypical temple to which believers must pattern their lives. Third, believers who constitute the temple through their lives can bring honor or defamation to it, either of which has eternal consequences. Fourth, the language used to convey the sanctuary imagery sugges that the author envisioned the temple both as a collective and yet particularized entity. Thus the individual person is just as much the temple, as is the church. This dual focus addresses the division and moral laxity which beseiged the Corinthian church. Disunity and immorality poses an affront to the holiness and sanctity of the sanctuary.

Finally, there is a pervading thread which runs through all the explicit sanctuary motifs in the Epistles where the sancutary is seen as a single arentity replicated through its many dimensions. The heavenly reality of the sanctuary enables the verisimilitude of the metaphorical dimension as is evidently seen prima facie in the Epistles. While it is true that the texts used were not written so as to construct an apriori doctrine of the sanctuary, it does establish a aposteriori clear existence of an overarching sanctuary awareness in the author's worldview—one which was congruent with his Jewish heritage. More than that, it shows that the synergy existing between the sanctuary, the church and the individual believer played a key factor in the author's use of the sanctuary motifs. The oscillation between heavenly realities and their metaphorical counterparts attest to the fact that the sanctary was made holy by the presence of the Holy Spirit, which also the same can be said of the church and believer.

Johan H. Bavinck in gesprek met Westerse en Oosterse mistiek

'n Boodskap vir vandag?

Bennie J. van der Walt
Skool vir Filosofie
Potchefstroomkampus
Noordwes-Universiteit
Potchefstroom
benniejvanderwalt@gmail.com

Abstract

Johan H. Bavinck's dialogue with Western and Eastern mysticism. A message for today?

For a variety of reasons all kinds of mystical writings and experiences have again become a common phenomenon. Mysticism seems to be like a creeper or climbing plant or even a parasite which may easily attach itself to existing religions and worldviews, the Christian included. Superficially viewed it may seem very attractive, in this way hiding its deceptive nature, full of inner contradictions. Therefore, the main question in this contribution is how one can escape from this labyrinth. The answer to the question is given in this article by a man who personally experienced the strong attraction of both Western and Eastern mysticism. The Dutch theologian, Johan Herman Bavinck (1895-1964), however, finally overcame its appeal by judging it's tempting voice in the light of God's voice in the Bible about genuine godliness, piety or spirituality. Apart from an introduction this essay firstly provides an overview of Bavink's description of mysticism in his different publications. In the next, main section, it is followed by his assessment in the light of his Christian convictions. The conclusion indicates what he regarded as the correct substitute for mysticism.

1.   Inleidende opmerkings

Ter aanvang iets kortliks oor (1) die woord "mistiek" en die geskiedenis daarvan; (2) die huidige aktualiteit; (3) die plek van hierdie (eerste) artikel in 'n breër navorsingsprojek (4) 'n kort motivering waarom van J.H. Bavinck se gedagtes in dié verband nog steeds kennis geneem behoort te word.

1.1 Woord en geskiedenis

Meestal word in die literatuur daarop gewys dat die Griekse selfstandige naamwoord *mysitkos* en die werkwoord *myein* wys op iemand wat sy oë, ore en mond sluit. Bloot hierdie woorde dui reeds daarop dat 'n mens in mistiek met die misterieuse, dit wil sê met iets byna onverstaanbaar en onuitspreekbaar, te make het. Soos nog duidelik sal blyk, impliseer 'n mistieke lewensvisie primêr diep belewing, warm ervaring, 'n gevoel wat nie logies geanaliseer of gesistematiseer kan word nie.

Oor die geskiedenis van dié verskynsel, is daar al ten oorvloede geskryf. 'n Mens sou die belangstelling in die onderwerp die afgelope eeu kan terugvoer na 1911 toe Evelyn Underhill (1875-1941) se baanbrekerswerk *Mysticism; a study in the nature and development of man's spiritual consciousness* die lig gesien het. Van Underhill (1967) se boek het in 1930 reeds 'n twaalfde uitgawe verskyn en dit is tot 1967 nie minder nie as nege maal herdruk!

Hierna verskyn daar 'n stroom van publikasies waarvan sommige positief en ander negatief is teenoor die mistieke verskynsel. (Vgl. bv. Wainwright, 1981, wat 'n oorsig van die belangrikste diskussies gee tot ongeveer 1980.) Intussen het werke oor dié saak eerder toe- as afgeneem. In die derde artikel in hierdie reeks (vgl. subafd.1.3 hieronder) sal aan enkele van die meer resente publikasies aandag gegee word.

Die saad van 'n mistieke lewensvisie en -gevoel lê ver in die antieke verlede en dit was reeds 'n volgroeide plant op heidense bodem toe die Christendom in die Weste daarmee kennis gemaak het – en dikwels daardeur verlei is.

Bavinck (bv. 1991:113) self gebruik graag die beeld dat mistiek soos 'n klimplant is wat soos 'n soort parasiet sigself aan bestaande godsdienste en lewensbeskouings vasheg en hulle identiteit verander. Ons vind dus ook mistieke trekke in die belangrike Oosterse religieë, soos die Boeddhisme, Hindoeïsme en by sekere groepe Moslems.

1.2 Huidige aktualiteit

Die stroom van populêre en akademiese publikasies (veral vanaf ongeveer die sestigerjare van die vorige eeu) getuig daarvan dat mistiek in een of ander vorm vandag weer die "in-ding" geword het en in die toekoms heelwaarskynlik nog groter populariteit gaan geniet. Ook onder Christene heers daar tans weer groot belangstelling hiervoor. Enkele meer resente voorbeelde is die werke van McGinn & McGinn (2003), King (2004), Van Schaik (2005), De Conick (2006) en Nelstrop, Magill & Onishi (2009).

Reeds vanaf die vorige eeu het verskillende vorme van Oosterse mistiek in die Weste populêr geword. Vandag word ook weer, soos duidelik blyk uit die herpublikasies en nuwe vertalings van hulle werke, na verskillende Westerse mistici teruggegryp (vgl. bv. Ruh, 1990 en McGinn, 1991).

'n Voorbeeld ter illustrasie is die geskrifte van die bekende Middeleeuse mistikus, Thomas à Kempis, veral sy werk *De imitatione Christi* (Die navolging van Christus). Naas die Bybel is dit seker een van die mees gelese boeke, waarvan daar letterlik duisende uitgawes in talle wêreldtale die afgelope eeue die lig gesien het. (Vir 'n vertaling in Afrikaans, vgl. Thomas à Kempis, 1952). Tans geniet hierdie boek, asook ander aan hom toegeskryf, weer groot populariteit (vgl. bv. Thomas à Kempis, 2013a, 2013b en 2013c).

Die vraag waarom 'n mistieke lewensgevoel juis in hierdie tyd weereens 'n grootskaalse herlewing belewe is belangrik. Hier kan egter slegs enkele moontlike redes genoem word.

Groenewoud (1994:101; vgl. ook 1975) wys byvoorbeeld op die feit dat die huidige verwetenskapliking en vertegnisering van die mens van ons tyd se leefwêreld tot versaakliking en verarming lei, waarteenoor mistiek gevoelvolle, warme ervaring aanbied. Ook die teenswoordige gejaag na materiële welvaart kan nie die diepere behoeftes van menswees bevredig nie. Verder leef ons tans in die irrasionalistiese klimaat van die postmodernisme met groot klem op "spiritualiteit" (vgl. bv. Tacey, 2004 en die standaardwerk van Waaijman, 2002). Ander skrywers vestig die aandag daarop dat mistiek verwelkom word wanneer geloofsgemeenskappe in dooie formalisme verval het (vgl. bv. Duquoc & Gutiérrez, 1994).

1.3 Die eerste van 'n reeks

Hierdie bydrae bevat die eerste gedeelte van 'n verslag oor 'n breër navorsingsprojek in verband met mistieke spiritualiteit. Dit en die volgende artikel handel oor hoe twee gereformeerde denkers uit die vorige eeu daaroor besin het. Hulle was duidelik baie meer krities daarteenoor ingestel as die meeste huidige Christene. In die derde artikel word na die semi-mistieke oriëntasie van Johannes Calvyn (1509-1564) en Abraham Kuyper (1837-1920) gekyk. Die vierde artikel sal 'n steekproef bevat uit ouere en resente filosofiese navorsing oor sowel sekulêre as godsdienstige mistiek. In die vyfde (slot) artikel sal, in die lig van voorafgaande vier bydraes, weer teruggekeer word na die semi-mistieke denke in die huidige Christelike en gereformeerde denkwêreld om tot finale beoordeling te bereik.

1.4 Die probleem beantwoord in die lig van 'n persoonlike worsteling

Die twee belangrike, samehangende vrae wat hierdie reeks artikels wil beantwoord is, eerstens, wat mistiek (ten spyte van sy talle vorme) basies inhou en, tweedens, wat 'n Bybel-getroue Christen se standpunt daaroor behoort te wees.

Soos hierbo genoem, sien sommige – selfs evangeliese – Christene dit in 'n positiewe lig. Reeds in die vorige eeu beskou byvoorbeeld Corduan (1991) mistiek as 'n integrale deel van egte, Bybelse spiritualiteit. Hierdie visie het tans feitlik 'n algemene tendens geword (vgl. bv. Fick, 2009).

So 'n (soms byna kritieklose) aanvaarding van 'n mistieke geloof staan egter in kontras met sekere gereformeerde denkers uit die vorige eeu. Twee van hulle word in die eerste twee artikels in hierdie reeks aan die woord gestel. Volgens hulle behels 'n mistieke geloof nie egte vroomheid nie, maar beteken dit eerder die dood van ware Christelike geloof. Wat hulle ook (semi-)mistiek geskryf het, kan dus help om (in die slotartikel van hierdie reeks) 'n meer gebalanseerde antwoord op bogenoemde twee vrae te bied.

Hier volg 'n kort motivering waarom die keuse vir hierdie eerste bydrae geval het op die Nederlandse teoloog, Johan Herman Bavinck (1895-1964). Vooraf net eers enkele bakens uit sy lewensgeskiedenis as agtergrond.

1.4.1 'n Kort lewensketse

Bavinck studeer teologie aan die Vrije Universiteit in Amsterdam en behaal in 1919 sy doktorsgraad in Duitsland oor die mistieke psigologie van Heinrich von Suso. Na 'n jaar as predikant in

Nederland (1920), word hy ook dominee vir die Nederlandse burgers in Medan en Bandoeng (Indonesië). In 1927 is hy terug as pastor in sy vaderland, maar vertrek in 1930 weer terug na Indonesië, nou as sendeling onder die Javane in Surakarta en ook as lektor by die Javaanse Teologiese Skool in Yogyakarta. Terug in Holland was hy (vanaf 1939 tot 1954) eers professor in Missiologie aan die Teologiese Skool van Kampen en later in Praktiese Teologie aan die Vrije Universiteit. (Vir 'n volledige oorsig oor sy lewe, vgl. Visser, 1997:22-85 en Holtrop 2006.)

1.4.2 Bavinck se natuurlike aangetrokkenheid tot die mistiek

Bavinck het self erken (ek vertaal): "Ek is met 'n sterk neiging tot identiteitsmistiek as't ware gebore, daarom kan ek daaroor praat, want ek moet elke dag daarteen stry". (Vgl. Visser, 1997:37, voetnoot 86.)

'n Rede vir sy natuurlike belangstelling in mistiek lê heelwaarskynlik daarin dat hy opgegroei het in 'n gesin waarin die bevindelike vroomheid van die Nadere Reformasie nog geleef het. (Sowel sy oupa as sy pa was predikante en sy oom, die bekende Herman Bavinck, professor in Dogmatiek.) Self was hy ook iemand wat uit 'n innige, persoonlike omgang met God geleef het (vgl. Okkema, 1984 en Visser, 1997:83).

Bavinck is (soos duidelik blyk uit sy boek van 1934 oor die Oosterse mistiek) verder sterk beïnvloed deur die vroeëre, semi-mistieke kerkvader, Augustinus.

Ook die destydse heersende Gereformeerde teologie het (soos onder andere uit hulle spekulasies oor 'n trigotomistiese antropologie blyk) hul invloed laat geld. Bavinck self het in sy vroeëre publikasies oor die sielkunde dan ook nog probeer om die "argitektuur" van die menslike siel na te vors.

1.4.3 Ervaring van Oosterse en Westerse mistiek

'n Volgende faktor is dat hy nie net besondere belangstelling in die Oosterse mistiek gehad het nie (vgl. weer Bavinck, 1934), maar (soos hierbo vermeld) alreeds vroeër op 'n diepgaande wyse met 'n Westerse, laat-Middeleeuse denker in gesprek getree het. Dit het gebeur met sy proefskrif (Bavinck, 1919) oor die Christelike mistikus, Heinrich von Suso.

Vollenhoven noem (reeds in 1933:225-6) die volgende drie verwante mistieke denkers: Eckehardt (1260-1328), Tauler (1300-1361) en Suso (1295-1366) en plaas toe reeds terselfdertyd vraagtekens by hulle Christelike mistiek.

Later vind ons by Vollenhoven (2000:94, voetnoot 4; p. 162, voetnoot 8, en p. 157, voetnoot 7) meer besonderhede oor Meister Eckehardt en sy twee leerlinge, Johannes Tauler en Heinrich van Suzo (Suso of Seuse). By eersgenoemde kry ons 'n mistieke eenwording met die hoogste godheid. Tauler leer dat die individuele menslike bestaan uitgaan en weer in 'n unio mystica terugkeer na die universele syn, wat dieselfde as God sou wees. Ook Seuse skryf van 'n uitvloeiing uit God en dat die "Seele" vrygemaak moet word tot 'n "van hart tot hart" mistieke eenwording met God. By al drie wys Vollenhoven ook op die duidelike Platoniese invloed – 'n tipiese kenmerk van die Westerse (semi-)mistieke denke. (Vir verdere verhelderende opmerkings oor die mistiek vgl. Vollenhoven, 2000:25, 336-340, 341-342 en Vollenhoven 2005:272-273.)

Bavinck se leef- en denkwêreld word dus tipeer deur sy voortdurende bemoeienis met die mistiek, want (op 05/10/1956) handel sy afskeidsrede as professor in Missiologie ten slotte weer oor "Het evangelie en het mystisch levensgevoel" (vgl. Bavinck, 1991:145 e.v.).

Tot sover enkele verduidelikings vir hierdie gereformeerde teoloog se persoonlike – nie net akademiese nie – belangstelling in mistiek. Op grond hiervan is die motivering vir die keuse om hom aan die woord te stel die volgende: Johan Bavinck)(nie te verwar met die bekende teoloog *Herman* Bavinck (1854-1921), Johan se oom nie)) was die eerste gereformeerde teoloog wat nie net (in sy proefskrif) akademies met die Christelik georiënteerde Middeleeuse, Westerse mistiek geworstel het nie. Op konkrete wyse is hy as sendeling in Indonesië (onder die mense van Java) ook met die Oosters-heidense, mistieke lewensgevoel gekonfronteer. Bowendien het hy sy ervaring daarvan en kritiek daarop ook op skrif gestel – om vandag nog koers aan te dui.

1.4.4 'n Helder, pakkende styl

'n Laaste, minder belangrike rede, maar een wat by die skrywer hiervan 'n rol gespeel het, was die besonder helder en tog boeiende, meevoerende wyse waarop Bavinck kon skryf.

1.4.5 Bavinck nou ook in Engels beskikbaar

Selfs afgesien van sy nadenke oor die mistiek van Wes en Oos is Bavinck 'n skrywer om van kennis te neem. Gelukkig word sy werk stadigaan weer herontdek. Van Woudenberg tree byvoorbeeld as redakteur op vir 'n bundeltjie met 'n keuse uit sy nalatenskap (vgl. Bavinck, 1991). Te min van sy werke (bv. Bavinck, 1981) het in Engels verskyn. Daarom is die *Bavinck Reader* (vgl. Bavinck, 2013) wat onlangs in die VSA gepubliseer is 'n belangrike gebeurtenis. (Dit bevat vertalings van sy gedagtes oor God se algemene openbaring aan alle mense, religieuse besef en – gelukkig – ook 'n Engelse weergawe van *Christus en de mystiek van het Oosten* van 1934).

Hiermee is voldoende agtergrond gebied om na Bavinck se beskrywing van die mees kenmerkende trekke van die mistieke denke en lewenswyse oor te gaan.

2. Bavinck oor die hoofkontoere van mistiek in die algemeen

In die volgende opsigte is hierdie samevatting onvolledig. Eerstens is nie alle geskrifte van Bavinck geraadpleeg nie. Sy proefskrif van 1919 kon ek nie bekom nie, hoewel ek heelwat oor Suso kon nalees (o.a. in King, 2004:110 e.v.). Daar is gekonsentreer op Bavinck 1934, 1991 en 2013.

In die tweede plek is ook nie aandag gegee aan die soms groot verskille tussen die Westerse en Oosterse mistieke denke nie. (Soms doen Bavinck self dit ook nie, tensy hy eksplisiet op een van hulle fokus.) Die gemeenskaplike trekke geniet ook weens die beperkte lengte van 'n artikel hier die voorkeur.

In die derde plek word die groot hoeveelheid gegewens in Bavinck deur die huidige skrywer verkort en gesistematiseer – wat natuurlik ook iets van 'n mens se eie standpunt kan verraai.

Vervolgens word dus gelet op (1) Bavinck se definisie van mistiek, (2) die mistieke beeld van mens en God, (3) die mistieke verlossingsidee en (4) verlossingsweg, (5) mistiek as selfveragting.

2.1 'n Kort omskrywing

Bavinck erken dat mistiek moeilik ontleed- en definieerbaar is. Hy is nogtans van mening dat enige mistiek ten diepste die soeke van die mens na verlossing is. Die bevryding moet bereik word deur 'n verborge plek in die

mens, wat 'n regstreekse, dit wil sê onbemiddelde, toegang tot aanraking met die god/godheid/God sal bied (vgl. bv. Bavinck, 1991:112).

2.2 Die menslike en goddelike in die mistiek

Volgens Bavinck is daar by alle mense 'n inherente religieuse besef, 'n strewe na verlossing uit aardse ellende (vgl. Bavinck, 1949 en 2013:145-302 vir die Engelse weergawe). Mistiek weerspieël ook hierdie algemeen-menslike trek – dit soek na ware verlossing, bevryding uit die ondermaanse.

Om enige vorm van mistiek te probeer verstaan, moet 'n mens volgens Bavinck egter in gedagte hou dat daar vir die mistikus nie 'n wesentlike, grondige verskil – soos dwarsdeur die Bybel duidelik blyk – tussen die aardse, menslike en bonatuurlike, goddelike werklikhede bestaan nie. Alles wat bestaan, vorm ten diepste 'n eenheid.

Maar tegelyk word ook erken dat die individuele mens die mikrokosmos is, wat staan teenoor die universele makrokosmos. Die mens is, in beelde gestel, 'n druppel of golfie in die oseaan, 'n vonkie van/in die goddelike vuur. Daar is volgens die mistiek dus, hoewel nie radikale nie, tog 'n graduele verskil tussen iets transendent en die nie-transendente, aardse werklikheid.

2.3 Die sleutel tot mistieke verlossing

In die mistiek is die vraag nogtans nie wat die *grens* tussen die goddelike en menslike is nie, maar presies waar in hierdie werklikheid onder die son die verborge *poort of skakel* tussen die absolute en die mens geleë is. Waar is die *naat* te vinde waar hierdie tydelike, verganklike bestaan *naatloos* oorgaan in die ewige, onverganklike?

Volgens die mistiek is hierdie poort na die goddelike in die mens self te vinde. Dit word met verskillende name aangedui, maar kom basies daarop neer dat in die mens 'n siel of hoëre, goddelike siel (of gees) teenwoordig is, wat die mens aan die goddelike verwant maak. Daarin (in sy siel) ontmoet mens en god mekaar – selfbewussyn lei tot godsbewussyn.

Wanneer op hierdie wyse die menslike, met die goddelike saamval, vind mistieke verlossing plaas. Mistiek is basies 'n menslike versinking in die allesomvattende oer-ene.

2.4 Die mistieke verlossingsweg

So 'n eenwording tussen God en mens is egter nie 'n eenvoudige, maklike pad nie, want om goddelik te kan word moet die mens eers van sy menswees ontslae raak. Daarom beskryf mistici gewoonlik 'n lang, moeisame weg met

allerlei tegnieke wat gevolg moet word om uiteindelik die hoogtepunt van 'n ekstatiese eenheid met die godheid te kan beleef. Ek laat die detail hier en wys slegs waarop die proses in essensie neerkom.

2.5 Mistieke selfveragting

Volgens die mistiek is die mens se siel of gees van goddelike afkoms en tog is hy/sy liggaamlik nie goddelik nie. Daarom moet die mens self eers (veral liggaamlik) sterf om goddelike eenheid te kan bereik. Bavinck beskryf meermale hierdie asketiese proses waarin die mens sy sinnelike, wêreldse begeertes moet afsterf om by sy (semi-goddelike) innerlike sielelewe en vandaar by die finale goddelike eenheid te kan uitkom. Hy haal byvoorbeeld graag (vgl. bv. Bavinck, 1934:211) 'n Moslem-mistikus aan, wat gesê het: "Hell is where thou art, and paradise where thou art not".

Daar bestaan dus twee rigtings: Eers moet die mistikus diep in sy eie siel *afdaal* om vandaar te kan *opgaan* en verdrink in die godheid. Dan smelt mens en god as't ware saam. Die gevolg is (vgl. Bavinck, 1991:102) dat ek nie meer ek is nie en God nie meer God nie. Ek is god en God is ek. Volgens Bavinck is hierdie die kern-evangelie van die mistiek.

Die leser sal egter besef dat die mistieke evangelie 'n ongelooflike teenstrydigheid bevat: Wat is die sin daarvan vir die mens om na God te soek as die voorwaarde is dat hy (die mens) moet verdwyn?

Na hierdie weergawe van Bavinck se eie weergawe van die basiese kenmerke van die mistiek, kan sy kritiese, Christelike respons daarop nou gegee word.

3. Die mistiek krities beskou

Bavinck sê herhaaldelik in sy geskrifte dat die mistiek op die oog af na iets mooi, edel, warm, innig en vroom lyk en daarom so 'n besondere aantrekkingskrag besit. Maar uiteindelik loop dit nie uit op die verlossing wat dit beloof nie, maar is dit 'n illusie, 'n wensdroom – selfbedrog (vgl. bv. Bavinck, 1991:99). Wat is sy redes vir so 'n gevolgtrekking?

Bavinck se afwysing van die mistiek kan onder die volgende punte saamgevat word: (1) 'n onbybelse godsidee, (2) mensidee, (3) verlossingsidee, (4) wêreldbeskouing, (5) idee van geskiedenis en (6) normatiewe onduidelikheid.

3.1 'n Onbybelse godsidee

Volgens die mistiek is, soos al genoem, god/die godheid/goddelike 'n deel van die omvattende synde of bestaande en nie, soos die Skrif leer, 'n eie selfstandige werklikheid verhewe bo die geskape, aardse werklikheid nie. (Daarom is dié soort god ook immanent in die menslike siel teenwoordig.) Tussen die goddelike en menslike sou hoogstens 'n *graduele* verskil bestaan, terwyl die Bybel telkens die aandag op hulle *radikale* onderskeid lê.

Volgens Bavinck kan die mistiek dus nooit die ware God ontdek nie. Die sogenaamde god wat ontdek word, is slegs 'n projeksie van die mens – mistiek begin en eindig by die mens self.

Wanneer 'n mistikus dus praat van goddelike fluisteringe, openbaringe en visioene in sy siel, is hy/sy eintlik net besig om na sy eie stem en verbeelding te luister. Ook mistieke gebede behels niks meer as 'n alleenspraak met jouself nie.

Bavinck (1991:199) se finale gevolgtrekking is dat mistiek 'n oortreding van en dus sonde teen die heel eerste van die tien gebooie is, naamlik om nie ander gode in die plek van die ware God te vereer nie. Meer nog: in die mistiek het 'n mens met die oersonde van Adam en Eva te kampe, naamlik die hoogmoedige begeerte om soos God, self god, te wil wees.

Bavinck (1991:189) verwys na Karl Barth wat gesê het dat mistiek 'n soort esoteriese ateïsme is. Eintlik het mistiek nie (soos bv. in die Boeddhisme) 'n god nodig nie. Baie voorbeelde van sekulêre mistiek bestaan. (Kontemporêre literatuur, waarin daar 'n onderskeid tussen "godsdienstige" en "ongodsdienstige" mistiek gemaak word, staaf hierdie bewering.)

3.2 'n Onskriftuurlike mensbeskouing

Soos hierbo beskryf, ontdek die mistikus in sy eie siel of gees die geheime naat tussen homself en die goddelike, dié poort na die absolute syn. Omdat selfs Christene nog van mening is dat die mens uit twee afsonderlike komponente (liggaam en siel/gees) sou bestaan, kon die mistiek maklik by hierdie mensvisie aansluit. Die Bybel ken egter nie so 'n tweedelige (digotomistiese) mens nie.

Indien die mens nie 'n afsonderlike, onsterflike, halfgoddelike siel besit nie, waaroor gaan dit dan in die mistieke klem op die innerlike van die mens? Dit gaan volgens Bavinck basies oor 'n mens se gevoelslewe. Die mens se emosionele lewe moet dus as "springplank" na die goddelike dien. Soos reeds genoem, word egter in 'n uitsiglose kringloop verval: Die mistieke weg

begin nie net by die mens se eie emosionele ervaringe nie, maar eindig ook daar.

3.3 Geen werklike verlossing

Op die keper beskou, beteken mistiek dus niks anders as 'n wanhopige poging tot *self*verlossing nie. Bowendien is die weg na eie bevryding besaai met innerlike teenstrydighede. Een daarvan het reeds hierbo na vore gekom: die feit dat die mens, om homself te kan *verlos*, homself moet *vernietig*.

Volgens Bavinck (1934:218) beteken die mistieke uitgaan uit jouself dus nie selfverlossing nie, maar selfuitblussing. Die sonde teen God se eerste gebod dra ook hier 'n boemerang-karakter, 'n element van selfmoord, dit bevat in sigself al 'n straf.

Terwyl mistiek leer dat die mens, om tot sigself te kom, *een* moet word met God, merk Bavinck skerp op dat 'n mens eers werklik tot homself kom wanneer jy besef dat jy van die Vader *geskei* is (vgl. Luk. 15:17). Anders gestel: Ware verlossing beteken nie dat 'n mens na God moet probeer *opklim* nie, maar dat Hy in Jesus Christus na ons *afgekom* het. Selfverlossing is 'n sondige droom ...

Hierbo (onder 2.1) is genoem dat Bavinck die mistiek onder meer as 'n *regstreekse*, *onbemiddelde* toegang tot die goddelike tipeer. Hierteenoor is sy kritiek as Christen dat so 'n onbemiddelde weg nie bestaan nie. Daar bestaan geen regstreekse toegang tot die onsienlike God wat in 'n ontoeganklike lig woon nie, behalwe deur sy eie Middelaar, Jesus Christus. Op die keper beskou, bring geen mistieke geloof die mens dus nader aan die ware God nie, maar verwyder dit hom/haar eerder verder van Hom af.

Daar is egter nog meer implikasies. As die mens, in sy poging tot vergoddeliking, homself moet vernietig, wat word dan van menslike verantwoordelikheid?

Verder bots die mistieke poging tot selfvernietiging met die hart van die ware Evangelie. Dit leer duidelik dat God geen begeerte het om sy skepping en die mens te *vernietig* nie, maar dit wel te *vernuut*.

3.4 'n Quiëtistiese wêreldbeskouing

Omdat dit na 'n volkome, passiewe opgaan in die goddelike strewe, is mistiek volgens Bavinck inherent quiëtisties van aard (vgl. hiervoor ook Vollenhoven, 2005:345-346). Omdat dit net in God en die eie siel geïnteresseerd is, het dit geen behoefte om iets aan die konkrete omstandighede daarbuite

te verander nie. (Bavinck noem die voorbeeld van 'n Oosterse, mistieke priester wat die hele dag in die tempel sit en mediteer terwyl sy kinders hongerly.) Soos hierbo reeds genoem, vernietig die mistiek dikwels menslike verantwoordelikheid teenoor die medemens en omgewing. In die lig van die Skrif beteken dit die dood van ware Bybelse Godsdiens: die mens se omvattende roeping om alles wat vervorm en verval het, te hervorm en te herstel.

3.5 'n Onhistoriese instelling

Bavinck wys meermale daarop (bv. in 1991:113) dat tyd en dus geskiedenis deur mistieke denkers as iets onbelangriks beskou word en dus nie ernstig bejeën word nie. Die wêreld waarin die mistikus leef, is 'n soort tydlose, innerlike wêreld waarbuite feitlik niks van enige belang gebeur nie.

Die rede hiervoor is voor die hand liggend. Die mistikus is slegs geïnteresseerd in sy eie sielservaringe. Verder streef hy na eenwording met die ewige, tydlose Een. Bereik sy/hy wel so 'n ekstatiese eenheid, duur dit ook slegs 'n enkele, tydlose oomblik.

Hierteenoor stel Bavinck die Bybelse boodskap wat op historiese feite gegrond is. God roep gelowiges ook in 'n spesifieke tyd en binne bepaalde historiese omstandighede om Hom te dien.

3.6 Normatiewe vaagheid

Omdat die mens tot die goddelike verhef sou word, kom hy (die mens) net soos die godheid as't ware bo enige wet te staan en hoef eintlik nie aan enige norme (behalwe natuurlik sy selfopgelegde mistieke riglyne) gehoorsaam te wees nie. Ten spyte van mistici se gejammer oor hulle eie armsalige geestestoestand, kan hulle gevolglik as heel besondere mense baie hoogmoedig teenoor hulle naaste optree – 'n duidelike voorbeeld dat hulle selfs bokant God se sentrale liefdesgebod verhewe sou wees.

3.7 Gevolgtrekking

Saamgevat is Bavinck se konklusie dat die mistiek 'n soort paradoksale narkose is, wat 'n mens aan die slaap maak en in 'n droomwêreld laat beland. Volgens Bavinck staan daarteenoor die ware Evangelie, wat mense werklik uit hulle slaap wakker kan skud en laat lewe.

Wat dit beloof – 'n lewende, vroom, innige geloofslewe in die geval van Christelike mistiek – is in werklikheid 'n dooie geloof. Dit is dus 'n pypdroom dat 'n mistieke ingesteldheid sterwende kerke sal kan laat herleef.

'n Herinnering aan Bavinck se beeld (hierbo) dat die mistiek soos 'n klim- of parasietplant is, wat sig aan enige godsdiens vasheg, is hier ter sake. Die bekende Suid-Afrikaanse voëlent ('n parasietplant wat op ander plante groei) bevorder nie die lewenskrag daarvan nie. Dit onttrek eerder die gasheerplant se lewensmoontlikhede, sodat dit uiteindelik heeltemal doodgaan.

Uit die voorafgaande is dit baie duidelik dat Bavinck as Christen nie – soos vandag baie algemeen die geval is – mistiek in sy Christelike geloof wou akkommodeer nie. Hy het dit as 'n uiters gevaarlike, onbybelse verleiding beskou. Uit sy persoonlike betrokkenheid by die mistiek van die Weste en die Ooste het hy egter ook geleer.

4. Wat Christene uit die mistieke lewensgevoel kan leer

Bavinck stel (vgl. 1991:134) ten slotte dus die vraag of 'n blote "nee" teenoor Westerse en Oosterse mistiek voldoende reaksie vir 'n Christen is. Is daaruit nie ook iets positiefs te leer nie?

4.1 'n Groot leemte

Omdat hy nog steeds die begrip *unio mystica* gebruik, wonder 'n mens eers of hy nie tog maar – al is dit net gedeeltelik – voor die groot verleiding van die mistiek geswig het nie. Hy bied egter 'n *alternatief* wat nie by die mistieke denke *aanknoop* nie. Want sy jarelange ervaring en kennis van die mistiek het hom tog van 'n leemte by die Christendom van sy tyd bewus gemaak.

Tydens Bavinck se lewe was die geweldige afmetings wat die hedendaagse sekularisme intussen – ook in sy eie vaderland – aangeneem het nog nie so duidelik nie. (Sekularisme beteken basies om sonder God en sy verordeninge te lewe.) Miskien het sy sensitiewe gees egter wel reeds die trillinge van hierdie toekomstige geestelike tsunami opgetel, want reeds in sy eie tyd vind hy nie meer 'n waaragtige roep, 'n skreeu na die ware God nie (Bavinck, 1991:143). Die gejaag na materiële welvaart het ernstige geestelike bloedarmoede tot gevolg. Hy wys byvoorbeeld op die gebrek aan persoonlike meditasie, die rustige bepeinsing van die ontsaglike ryk geskenk wat gelowiges in Christus ontvang het. Ook in die kerklike lewe merk hy op dat daar nie genoeg dankbare blydskap meer teenoor God is nie (1 Tes 5:16) en dat oppervlakkigheid toeneem.

4.2 Die alternatief

Die mistieke denke herinner Bavinck aan al hierdie leemtes en spoor die Christendom aan om dieper na God se Skrifwaarhede te luister. Op dié wyse word mistiek egter omskep in iets heeltemal anders, naamlik waaragtige gemeenskap met God drie-enig.

Bavinck noem dit ook 'n vroom praktyk (*praxis pietatis*), praktyk van Godsaligheid of Godsvrug. Hy plaas ook besondere nadruk daarop dat so 'n gemeenskap met God nie moontlik is buite Jesus Christus nie. 'n Hele aantal Skrifgedeeltes waarin van "in Christus" sprake is, word behandel (vgl. Bavinck, 1991;135).

Hy verstaan hierdie tekste egter nie soos Heinrich van Suso nie. Hierdie mistikus het met Christus probeer een word deur, soos Christus, te probeer ly, byvoorbeeld deur homself te gesel. Nee, sê Bavinck, verlossing is nie iets wat 'n mens self kan *skep* nie, maar reeds "in Christus" *ontvang* het. Christus is nie in die eerste plek ons Voorbeeld nie, maar ons Verlosser.

Christus se lyde is bowendien 'n historiese feit (nie iets tydloos nie). Die in-Christus-wees raak die mens op die diepste, innigste vlak van sy bestaan (Bavinck, 1991:137). Dit vernuwe terselfdertyd die hele mens in alles wat hy/sy doen, sodat hy/sy, soos Henog van ouds, elke oomblik met God kan wandel (Gen 5.24).

4.3 Ware spiritualiteit

Moontlik kan Christene van die 21ste eeu nog steeds iets leer uit Bavinck se persoonlike worstelinge met mistiek. Soos wat Bavinck die aantrekkingskrag van die mistiek aan eie hart ervaar het, beleef ons vandag weer die geestelike suigkrag van allerlei soorte spiritualiteit. Soos wat Bavinck in die vorige eeu die verleiding van die mistiek in die lig van God se Woord oorwin het, moet ons ook vandag weer die gees beproef (1 Joh 4:1) van die talle vroom spiritualiteite wat op die geestelike wêreldmark aangebied word.

Die gevaar aan die meeste van hulle verbonde, is soortgelyk aan dié van die mistiek. Die "spirituele" word beperk tot slegs een dimensie (die sg. geestelike) van die lewe. Ongelukkig is dit presies wat die hedendaagse sekularisme beoog en verkondig: Jou geloof is iets persoonliks, privaat, dit het niks vir die res van jou alledaagse bestaan te sê nie.

Spiritualiteit, reg verstaan, dui op die sentrale, diepste en omvattende religieuse dryfkrag van enige mens se hele lewe. Daar moet egter duidelik tussen twee verskillende rigtings onderskei word. Enersyds mense wat hulle

eie spiritualiteit ontwerp en daarin hulle verlossing soek. Andersyds diegene wat na God se Woord wil luister.

Volgens Gods Woord is 'n spirituele mens nie iemand wat in 'n geestelik-mistieke wêreld lewe nie. Dit is die gelowige wat in *alle* dinge deur die Heilige Gees gelei word om *al* God se verordeninge vir die lewe te gehoorsaam (Gal 5:25). Radikaler gestel: Dit is die mens wat nie op homself gerig is nie, maar *homself* – geheel en al – as 'n lewende en heilige dankoffer aan God wy (Rom 12:1-3).

Bibliografie

BAVINCK, J.H. 1919. *Der Einfluss des Gefühls auf das Assoziationsleben bei Heinrich von Suso*. Erlangen: Universität Buchdrukerei von E.Th. Jacob.

BAVINCK, J.H. 1934. *Christus en de mystiek van het Oosten*. Kampen: Kok.

BAVINCK, J.H. 1949. *Religieus besef en Christelijk geloof*. Kampen: Kok.

BAVINCK, J.H. 1981. *The church between temple and mosque*. Grand Rapids, Michigan: Eerdmans.

BAVINCK, J.H. 1991. Mystiek & Het Evangelie en het mystisch levensgevoel. In: Van Woudenberg, R. (Red.), *J.H. Bavinck (1895-1964); een keuze uit zijn werk*. Kampen: Kok. 110-144, 145-153.

BAVINCK, J.H. 2013. *The J.H. Bavinck Reader*. (Bolt, J., Bratt, J.D. & Visser, P., Eds.) Grand Rapids, Michigan: Eerdmans.

CORDUAN, W. 1991. *Mysticism: an Evangelical option?* Grand Rapids, Michigan: Zondervan Pub. House.

DE CONICK, A.D. (Ed.). 2006. *Paradise lost; essays on early Jewish and Christain mystics*. Atlanta: Society of Biblical Literature.

DUQUOC, C. & GUTIERREZ, G. 1994. *Mysticism and the institutional crisis*. London: SCM Press.

FICK, P.H. 2009. *Julianus Pomerius as mistikus; 'n dogma-historiese studie*. Potchefstoom: Noordwes-Universiteit. (D.Phil.-proefskrif.)

GROENEWOUD, G. 1975. Middeleeuwse mystiek en hedendaagse filosofie. *Radix*, I:177-186.

GROENEWOUD, G. 1994. Geloof en mystiek. In: Zijlstra, A. & Doornebal, R.J.A. *Christelike filosofie in beweging*. Amsterdam: Buijten & Schipperhijn. 101-110.

HOLTROP, P.N. 2006. Bavinck, Johan Herman. In: *Biografisch Lexicon voor de Geschiedenis van het Nederlandse Protestantisme*, Deel 6. Kampen: Kok. 27-29.

KING, U. 2004. *Christian mystics; their lives and legacies throughout the ages*. London: Routledge.

MCGINN, B. 1991. *The presence of God; a history of Western mysticism*. (5 volumes). New York: Crossroad Pub.

MCGINN, B. & MCGINN, P.F. (Eds.). 2003. *Early Christian mystics*. New York: Crossroad Pub. Co.

NELSTROP, L., MAGILL, K. & ONISHI, B.B. (Eds.). 2009. *Christian mysticism; an introduction to contemporary theoretical approaches*. Farnham, Surrey: Ashgate.

OKKEMA, J.C. 1984. Bavinck. In: *De Afgescheidenen van 1834 en hun nageslacht*. Kampen: Kok. 154-170.

RUH, K. 1990. *Geschichte der abenlandische Mystik*. (4 bande). München: Verlag C.H. Beck.

TACEY, D. 2004. *The spirituality revolution; the emergence of contemporary spirituality*. New York: Brunner-Routledge.

THOMAS á KEMPIS. 1952. *Die navolging van Christus*. (Vert. deur A.S. Geyser). Kaapstad/Pretoria: HAUM J.H. de Bussy.

THOMAS á KEMPIS. 2013a. *Het leven van Jezus Christus, gebeden en overdenkingen*. (Koekoek, J., Red.) Kampen: Kok.

THOMAS á KEMPIS. 2013b. *Thomas á Kempis: liefde, mystiek, levenskunst.* (Van Beusichem, M., Red.) Zoetemeer: Boekencentrum & Stichting Thomas á Kempis.

THOMAS á KEMPIS. 2013c. *The imitation of Christ*. (Transl. by A. Craf, & H. Bolton). New York: Dover Publications.

UNDERHILL, E. 1967. *Mysticism; a study in the nature and development of man's spiritual consciousness*. London: Methuen & Co.

VAN SCHAIK, J. 2005. *In het hart is Hij te vinden; een geschiedenis van de Christelijke mystiek*. Zeist: Uitgeverij Christofoor.

VISSER, P.J. 1997. *Bemoeienis en getuigenis: het leven en de missionaire theologie van Johan H. Bavinck*. Zoetemeer: Uitgeverij Boekencentrum.

VOLLENHOVEN, D.H.Th. 1933. *Het Calvinisme en de reformatie van de wijsbegeerte*. Amsterdam: H.J. Paris.

VOLLENHOVEN, D.H.Th. 2000. *Schematische Kaarten; filosofische concepties in probleemhistorisch verband*. (Bril, K.A. & Boonstra, P.J., Reds.) Amstelveen: De Zaak Haes.

VOLLENHOVEN, D.H.Th. 2005. *Wijsgerig woordenboek*. Amsterdam: De Zaak Haes.

WAAIJMAN, K. 2002. *Spirituality: forms, foundations, methods*. Leuven: Peeters.

WAINWRIGHT, W.J. 1981. *Mysticism; a study of its nature, cognitive value and moral implications*. Brighton, Sussex: The Harvester Press.