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2

CONTENT – SOMMAIRE – INHALT – CUPRINS

Radu SIMION, Eco-Frauds: The Ethics and Impact Of Corporate Greenwashing	7
Adèhè Essossimna POKORE, Qu'est-ce qu'avoir droit ? Considérations philosophiques et portée éthique du droit * <i>What does it Mean to be Entitled? Philosophical Considerations and Ethical Scope of Law</i>	27
Crina GRIGORESCU, Dreams and Time. A Phenomenological Analysis	53
Živilè PABIJUTAITĚ, Pranciškus GRICIUS, Aristotelian Roots of Contemporary Tense Logic.....	65
Florin CHERMAN, The Problem of Being in the Middle Ages: An Essay on Medieval History of Being.....	79

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Eco-Frauds: The Ethics and Impact of Corporate Greenwashing

Radu SIMION*

ABSTRACT. The evolving dynamics of the marketplace, coupled with concerns regarding the finite capacity to meet increasing demands, have led to the emergence of new phenomena and practices. These developments, while heralding significant changes in the perception and selection of products and services, also elicit substantial concerns. Greenwashing is defined as the strategic practice by which corporations create a misleading impression of their environmental initiatives. This paper examines the theoretical foundations and multifaceted nature of greenwashing, identifying key deceptive strategies such as hidden trade-offs, lack of verifiable evidence, vagueness, irrelevance, and false labels. It explores the motivations behind greenwashing, which often stem from the pressure to appear environmentally responsible without incurring the costs associated with genuine sustainability. The analysis underscores the broader implications of greenwashing, including its impact on consumer trust, corporate governance, and environmental policy. Additionally, the paper addresses the emerging issue of "machinewashing," wherein companies make exaggerated claims about the ethical aspects of their AI technologies. Furthermore, the concept of environmental vices is explored, illustrating how greenwashing perpetuates unethical behaviors and undermines authentic sustainability efforts. To address these practices, the study advocates for a comprehensive approach that includes stricter regulations, increased transparency, and greater engagement from civil society. By promoting genuine sustainability and holding corporations accountable, it is possible to restore consumer trust and support authentic environmental initiatives, thereby fostering a more sustainable and ethical commerce.

Keywords: greenwashing, environmental vices, ecology, machinewashing, business ethics, sustainability.

* Green School Romania, e-mail address: radu@green-school.ro.



Navigating Green Deception

Initially introduced by environmentalist Jay Westerveld in 1986, "greenwashing" denotes the strategic practice whereby corporations foster a misleading impression or disseminate inaccurate information concerning the environmental merits of their products (Delmas & Burbano, 2011). This phenomenon has emerged as a significant concern within both corporate and environmental spheres. It is characterized by the dissemination of deceptive narratives aimed at cultivating an image of environmental conscientiousness, thereby capitalizing on the escalating consumer demand for sustainable goods and practices (Lyon & Montgomery, 2015). Fundamentally, greenwashing encompasses actions designed to mislead consumers regarding a company's environmental performance, thereby engendering a disconnect between the company's actual practices and its public image, communicated claims and actual practices.

A pioneering framework for comprehending greenwashing is delineated by TerraChoice (2010), which elucidates the "seven sins of greenwashing." These transgressions encapsulate hidden trade-offs, absence of verifiable evidence, vagueness, irrelevance, selecting the lesser of two evils, fabrication, and adherence to false labels. Each of these categories illustrates distinct methods through which corporations may conceal the environmental attributes of their products. For instance, the hidden trade-off sin manifests when a product is marketed as environmentally benign based on a narrow subset of attributes, disregarding other significant environmental impacts. Conversely, the absence of verifiable evidence pertains to claims lacking substantiation by readily accessible information, while vagueness entails assertions characterized by broad definitions likely to misconstrue consumer interpretation (TerraChoice, 2010). Greenpeace has augmented these conceptualizations by introducing supplementary criteria for discerning greenwashing, including instances of dirty business, ad bluster, political spin, and the fallacy of legal compliance, encapsulated in the axiom "it's the law, stupid!" The notion of dirty business denotes the promotion of environmental initiatives or products while the core operational practices of the corporation remain inherently pollutive. Ad bluster involves the utilization of targeted advertising to embellish environmental achievements. Meanwhile, political spin encompasses the advertisement of purported green commitments while concurrently lobbying against environmental regulations. Finally, the misrepresentation of legal compliance as an environmental triumph underscores the fallacy of "it's the law, stupid!" (Seele & Schultz, 2022).

The motivations behind greenwashing are multifaceted. Companies often experience considerable pressure from consumers, investors, and regulators to

exhibit environmental responsibility. However, implementing genuine changes to business practices can be both costly and complex. Greenwashing provides a cost-effective method to meet these expectations without the expenses associated with actual sustainability efforts (Laufer, 2003). Furthermore, greenwashing can enhance a company's image, attract environmentally conscious consumers, and potentially increase market share. Nevertheless, this deceptive practice can backfire if exposed, resulting in reputational damage and a loss of consumer trust (Akturan, 2018). Greenwashing extends its impact beyond mere consumer deception, influencing environmental policy and corporate governance. Companies engaging in greenwashing can undermine the establishment of robust environmental standards and regulations. By making false environmental claims, these companies set misleading benchmarks that affect policy decisions and public expectations, potentially resulting in weaker regulations (Horiuchi et al., 2009). Furthermore, greenwashing can erode public trust in corporate environmental initiatives and reporting. Research indicates that consumers are increasingly skeptical of green claims, leading to a general distrust of corporate environmental reports and certifications (Du, 2015). This skepticism can negatively affect companies genuinely committed to sustainability, as their efforts may be viewed with suspicion. The credibility of environmental certifications and labels can also be compromised, reducing their effectiveness as tools for promoting sustainable practices.

A notable instance of greenwashing is the Clorox Green Works product line. Marketed as natural and environmentally friendly, this line of cleaning products emphasized natural ingredients and effectiveness in its advertising campaigns, creating a perception of environmental responsibility (Budinsky & Bryant, 2013). However, despite some genuine efforts towards sustainability, the products contained certain non-natural ingredients, and the overall impact of Clorox's broader chemical product line was not addressed. This selective presentation of information exemplifies the sin of vagueness and hidden trade-offs, where the company's marketing efforts obscure the full environmental impact of their products. Greenwashing also plays a significant role within the broader context of green capitalism, where market and profit motives are employed to address environmental issues. Critics argue that green capitalism often commodifies nature and shifts the responsibility for environmental problems from corporations and governments to individual consumers. This commodification under the guise of sustainability can obscure the fundamental issue of environmental degradation driven by capitalistic exploitation. By promoting the notion that purchasing environmentally friendly products can significantly contribute to solving environmental problems, greenwashing reinforces consumerist culture rather than encouraging the systemic changes necessary for genuine sustainability (Budinsky & Bryant, 2013).

The long-term effects of greenwashing are detrimental not only to the companies involved but also to the broader market and environmental efforts. Research has shown that companies exposed for greenwashing can suffer significant financial losses, including declines in stock prices and market value. For example, the BP oil spill in the Gulf of Mexico highlighted the disparity between BP's green marketing and its actual practices, leading to a massive drop in BP's stock price and a significant loss of market value (Matejek & Goessling, 2014). The media plays a crucial role in both perpetuating and exposing greenwashing. As primary sources of information about a company's environmental performance, media outlets bear the responsibility of critically evaluating and reporting on corporate environmental claims. Investigative journalism is crucial in uncovering instances of greenwashing, thereby informing the public about the true environmental impact of products and companies (Budinsky & Bryant, 2013). With the rise of digital technology, big data, and artificial intelligence (AI), a similar phenomenon known as machinewashing has emerged. Machinewashing involves making misleading claims about the ethical aspects of AI systems, wherein organizations propagate false or exaggerated assertions regarding the ethical benefits of their AI technologies. This practice is often employed to reduce public concerns or regulatory pressures. The disruptive nature of AI, along with its extensive scope, scalability, and the opacity and complexity of AI systems, makes machinewashing particularly difficult to detect and address. Unlike traditional environmental issues, AI-related concerns such as privacy, algorithmic biases, and automated decision-making are more abstract and challenging for stakeholders to comprehend (Seele & Schultz, 2022).

The motivations behind machinewashing are akin to those driving greenwashing. Companies seek to enhance their reputational gains, secure a competitive edge, and maintain business legitimacy. However, machinewashing also encompasses additional dimensions, such as controlling key resources like algorithms and data, and preventing stricter regulations through covert lobbying and symbolic actions. The absence of dedicated societal and governmental watchdogs for AI ethics exacerbates the issue, enabling companies to engage in machinewashing with minimal repercussions. To address machinewashing, it is imperative to establish clear standards for ethical AI practices and ensure rigorous third-party verification. This approach can help mitigate the risks of machinewashing and promote transparency and accountability in the development and deployment of AI technologies. Additionally, fostering interdisciplinary research and dialogue about the ethical implications of AI can enhance understanding of this phenomenon and inform effective policy measures (Seele & Schultz, 2022).

Greenwashing and its evolving forms, including machinewashing, represent significant challenges in the pursuit of genuine sustainability. While these practices can offer short-term benefits for companies, their long-term consequences undermine consumer trust, weaken regulatory standards, and distract from meaningful environmental and ethical efforts. To combat these deceptive practices, a multifaceted approach involving stricter regulations, increased transparency, and active engagement from civil society is essential. By promoting genuine sustainability and holding companies accountable for their claims, we can move towards a more trustworthy and sustainable market environment. The detrimental effects of greenwashing extend beyond the erosion of consumer trust and the weakening of regulatory standards. Greenwashing can also dilute the impact of authentic sustainability efforts. Companies that invest in genuine environmentally friendly practices may find their efforts overshadowed by competitors who merely project a green image without substantive actions. This creates an uneven playing field, where companies engaging in true sustainability efforts may face competitive disadvantages compared to those employing greenwashing tactics (Delmas & Burbano, 2011).

Moreover, the prevalence of greenwashing can lead to consumer apathy. As consumers become increasingly skeptical of environmental claims, they may become less inclined to seek out and support genuinely sustainable products. This apathy can hinder the growth of the market for environmentally friendly goods and diminish the overall impact of consumer-driven sustainability efforts. To address this, it is crucial to foster a market environment where authentic sustainability efforts are clearly distinguishable from greenwashing practices, thereby encouraging informed and conscientious consumer choices. In addition to regulatory and educational efforts, technological advancements can play a crucial role in identifying and mitigating greenwashing. For instance, blockchain technology offers a transparent and immutable method for tracking the environmental impact of products throughout their supply chains. By providing verifiable records of sustainability claims, blockchain can ensure the accuracy and substantiation of companies' environmental statements. This transparency can enhance consumer trust and promote corporate accountability (Huang, 2020). Collaboration across industries is also essential for effectively addressing greenwashing. Industry groups and trade associations can develop and enforce standards for environmental claims, ensuring that member companies adhere to stringent sustainability practices. These organizations can serve as platforms for sharing best practices and innovations in sustainability, fostering a collective effort towards genuine environmental responsibility (Roulet & Touboul, 2015).

Greenwashing is a concern not only for corporations but also for governments and public institutions. Public entities must lead by example, ensuring that their own environmental claims and practices are transparent and verifiable. Government agencies can adopt and promote green procurement policies, setting standards for environmental performance in public contracts and purchases. By doing so, they can create a significant market for sustainable products and services, encouraging broader adoption of genuine environmental practices (Horiuchi et al., 2009). Greenwashing and consumerism are intricately connected through their influence on corporate practices and consumer behaviors. The widespread occurrence of greenwashing capitalizes on the principles of consumerism by utilizing marketing strategies that target the increasing demand for environmentally friendly products. This deceptive practice not only manipulates consumer perceptions but also distorts the genuine concept of sustainability within the marketplace. As consumers become more environmentally aware, the discrepancy between their ethical intentions and actual purchasing behaviors—known as the attitude-behavior gap—becomes increasingly significant. Greenwashing exacerbates this gap by fostering confusion and skepticism among consumers, making it challenging to discern truly sustainable products from those merely advertised as such. Consequently, the interplay between greenwashing and consumerism underscores the need for greater transparency, accountability, and education to empower consumers to make informed decisions and drive market demand towards authentic sustainability. In the following section, this connection sets the stage for a deeper examination of the motivations behind consumer behaviors and the complex dynamics of ethical consumption and ecological rationality.

Ethics and Consumption Dynamics

As an essential activity within human society, consumption transcends the mere acquisition of goods and services. It is intricately linked with cultural, social, and ethical dimensions, influencing and reflecting the identities, values, and structures of societies. Understanding consumption necessitates a multidisciplinary approach, integrating perspectives from sociology, psychology, economics, and environmental studies. At its core, consumption involves the utilization of resources to fulfill needs or desires. Traditional perspectives on consumption often emphasize economic transactions, wherein goods and services are traded for money to meet the immediate requirements of individuals and households. However, contemporary consumption patterns have expanded to encompass a broader range of activities and motivations. These include not only the satisfaction of fundamental needs but also the expression of personal identity, social status, and ethical values (Cherrier, 2007).

The emergence of consumer culture, marked by the pervasive influence of marketing and advertising, has profoundly shaped contemporary consumption behaviors. This culture propagates the notion that personal happiness and social success are attainable through the acquisition of material goods. The concept of "conspicuous consumption," introduced by Thorstein Veblen in 1899, elucidates how individuals use consumption to exhibit wealth and status. Veblen's analysis underscores the symbolic and social functions of consumption, where goods are esteemed not merely for their utility but for their capacity to convey social prestige (Veblen, 1899). In recent decades, awareness of the ethical and environmental implications of consumption has grown. This awareness has spurred movements advocating for ethical consumption, wherein purchasing decisions are informed by considerations of sustainability, fairness, and social justice. Ethical consumption involves practices aimed at minimizing environmental harm, supporting fair labor practices, and promoting human rights. This movement signifies a shift towards perceiving consumption as a form of moral and political action, whereby individuals leverage their purchasing power to effect positive change (Adams & Raisborough, 2010).

Ethical consumption can be perceived as a response to critiques of traditional consumer culture. It challenges the premise that personal happiness and social success are solely linked to material wealth and instead advocates for values of sustainability, equity, and responsibility. However, the relationship between ethics and consumption is complex and multifaceted. Ethical consumption is often mediated by various campaigns, promotional materials, and labeling initiatives that aim to guide consumers towards making ethically sound choices. Yet, this mediation process is not always straightforward or predictable. Studies suggest that ethical consumption campaigns generate narrative frames where mundane activities like shopping are re-inscribed as forms of public-minded, citizenly engagement (Clarke et al., 2007). Despite this, individual responses to such campaigns can vary widely, reflecting a mix of doubt, skepticism, and positive regard for ethical practices (Adams & Raisborough, 2010).

One of the critical challenges in promoting ethical consumption is the so-called attitude-behavior gap. This refers to the discrepancy between consumers' expressed ethical intentions and their actual purchasing behaviors. While many consumers claim to value ethical products and practices, their buying decisions often prioritize convenience, price, and availability over ethical considerations. This gap highlights the limitations of relying solely on consumer choice to drive ethical and sustainable practices in the marketplace (Carrigan & Attalla, 2001). The concept of ecological rationality, introduced by Todd, Fiddick, and Krauss (2000), offers a framework for understanding how individuals make decisions in complex environments.

Ecological rationality emphasizes the use of simple heuristics—rules of thumb—that are effective in specific contexts. These heuristics exploit the structure of information in the environment, enabling individuals to make quick decisions with limited information and cognitive resources. This approach contrasts with classical rationality, which relies on constructing accurate representations of the world through theoretical reasoning (Todd et al., 2000).

Bounded rationality, developed by Herbert Simon, is central to ecological rationality. It acknowledges that individuals operate within constraints, such as limited memory and computational power. Bounded rationality focuses on making reasonable decisions given these constraints, rather than striving for optimal solutions requiring exhaustive information processing. Ecological rationality extends this concept by considering the role of the external environment in shaping decision-making processes. It argues that decision mechanisms can remain simple and effective by relying on structured information from the environment, rather than solely on internal cognitive models (Simon, 1983; Todd et al., 2000).

Ecological rationality also challenges the notion of massive modularity in the mind. It suggests that simple heuristics can be applied across multiple domains with minor adjustments, rather than requiring distinct heuristics for each new environment. This view emphasizes the adaptability of simple decision mechanisms, which can be used in various contexts by exploiting environmental structures (Czerlinski, Gigerenzer, & Goldstein, 1999; Todd et al., 2000). Ecological rationality shares similarities with evolutionary psychology but the two are not synonymous. Evolutionary psychology assumes cognitive mechanisms evolved to solve practical problems in ancestral environments. Ecological rationality includes this view but also considers decision-making in modern environments, without privileging problems with fitness consequences. This broader perspective allows ecological rationality to explore how simple heuristics can be effective in contemporary decision tasks, such as comparing city sizes or making consumer choices (Gigerenzer & Hoffrage, 1995; Todd et al., 2000). Moreover, ecological rationality provides a nuanced understanding of the relationship between consumption and decision-making. From this perspective, consumers use heuristics to navigate the complexities of the marketplace. For example, ethical consumers might employ heuristics like "buy local" or "choose fair trade" to make quick and effective decisions that align with their values. These heuristics simplify the decision-making process by reducing the amount of information that needs to be processed, allowing consumers to make choices they believe are ethically sound (Adams & Raisborough, 2010).

A critical aspect of ecological rationality is the relationship between environmental complexity and mechanism complexity. It posits that complex

environments do not necessarily require complex decision mechanisms. Simple heuristics can effectively solve complex problems by exploiting environmental structures. This perspective aligns with evolutionary opportunism, which favors simpler solutions that can be adapted for more complex problems if they yield reasonable behavior (Godfrey-Smith, 1996; Todd et al., 2000). Linking ethical consumption with ecological rationality involves recognizing the interplay between personal choices and broader environmental impacts. Ethical consumption, driven by concerns about fairness, justice, and sustainability, closely aligns with the principles of ecological rationality. For instance, choosing Fairtrade products not only supports fair labor practices but also promotes sustainable farming methods that are less harmful to the environment. This alignment reflects a holistic approach to consumption, where ethical considerations extend beyond immediate personal benefits to encompass global ecological consequences (Barnett et al., 2011).

The moralization of consumption is a critical aspect of this discourse. It frames everyday consumption patterns as both a source of harm and a potential means of addressing various global issues such as climate change, human rights, and social justice (Barnett et al., 2011). Consumers are increasingly challenged to exercise responsible choice, transforming consumption into a political act. This transformation is evident in the rise of ethical consumption campaigns, which mobilize consumers to make choices that reflect their ethical values and responsibilities.

Ethical consumption, therefore, emerges as a form of political mobilization and representation, aiming to globalize responsibility by encouraging individuals to acknowledge their roles in contributing to global issues through their consumption practices. This perspective shifts the emphasis from individual consumer actions to collective social responsibility, highlighting the interconnectedness of local actions and global impacts (Barnett et al., 2011). Campaigns for ethical consumption seek to integrate altruistic, humanitarian, solidaristic, and environmental commitments into everyday routines, from drinking coffee to buying clothes. Despite its positive aspects, ethical consumption faces challenges and criticisms. One significant issue is the potential for ethical consumption to create a sense of dissonance, guilt, or tension among consumers. The complexity of navigating ethical choices in everyday life can be overwhelming, leading to feelings of inadequacy or skepticism about the actual impact of these choices (Adams & Raisborough, 2010). Additionally, the commercialization of ethical products can result in higher prices, making them less accessible to a broader population. Moreover, the focus on individual consumer responsibility can overshadow the need for systemic changes in production and distribution practices. Critics argue that focusing solely on consumer choices may not suffice to address the root causes of unethical practices in the global market.

Instead, there is a need for stronger regulatory frameworks and corporate accountability to ensure that ethical standards are upheld throughout the supply chain (Barnett et al., 2011).

Adding to this discourse, Carrigan and Attalla (2001), in "The Myth of the Ethical Consumer," argue that while consumers express a desire to purchase ethically, their actual purchasing behaviors often do not align with these stated preferences. This discrepancy, known as the attitude-behavior gap, highlights the complexities and challenges inherent in ethical consumption. Factors such as price, convenience, and availability often override ethical considerations at the point of purchase, suggesting that the market for ethical products may not be as robust as it appears (Carrigan & Attalla, 2001). This gap underscores the need for a more nuanced understanding of consumer behavior and the barriers to ethical consumption. Additionally, the role of identity in consumption is profound. Craft consumption, as described by Campbell (2005), illustrates how individuals engage in creative and meaningful consumption practices that extend beyond mere utility. Craft consumers invest time and effort into creating or customizing products to reflect their personal identities and values. This form of consumption aligns with the project identity described by Cherrier (2007), where individuals resist the superficiality of mainstream consumer culture by expressing their identities through personalized consumption practices.

In this context, ecological rationality can be viewed as a guiding principle for craft consumers. By using simple heuristics that align with their values, craft consumers make decisions that are both meaningful and environmentally sustainable. For instance, a craft consumer might prioritize local and handmade products, supporting local artisans while reducing the environmental impact associated with mass production and long-distance transportation. This approach reflects a harmonious blend of ethical consumption and ecological rationality, where personal values and environmental considerations are seamlessly integrated into everyday decision-making (Campbell, 2005).

The integration of ethical consumption with ecological rationality signifies a significant shift in understanding consumer behavior. It underscores the importance of aligning personal values with broader ethical and environmental considerations. This perspective highlights the role of consumers as active participants in promoting sustainability and social justice through their everyday choices. However, it also emphasizes the need for systemic changes and collective action to create a more equitable and sustainable global market. The evolving discourse on ethical consumption and ecological rationality continues to shape how individuals and societies navigate the complexities of modern consumption practices.

The practical implications of this integrated framework are significant. By understanding how simple heuristics can guide ethical consumption, policymakers and educators can design interventions that promote sustainable behaviors. For example, public awareness campaigns could emphasize the simplicity and ease of adopting ethical consumption practices, appealing to consumers' desire for straightforward decision-making processes. Additionally, businesses could leverage insights from ecological rationality to develop products and marketing strategies that align with consumers' ethical values, thereby fostering a more sustainable and just marketplace. Thus far in this analysis, a comprehensive examination of greenwashing has been conducted, detailing how corporations frequently mislead consumers regarding the environmental benefits of their products. This investigation has uncovered the detrimental effects of greenwashing on consumer trust, market standards, and authentic sustainability initiatives. Additionally, the discussion has highlighted the broader ramifications for corporate governance and environmental policy, demonstrating how deceptive practices can impede the establishment of robust environmental standards and regulations.

In transitioning to the next section, the focus shifts from corporate deception to a broader analysis of consumerism, examining its dual nature. The forthcoming chapter will explore the virtues and vices of consumerism, investigating how the pursuit of material goods and services can yield both beneficial and adverse outcomes. On one hand, consumerism can stimulate economic growth, drive innovation, and enhance the quality of life. On the other hand, it can foster materialism, environmental degradation, and social inequalities. By examining these contrasting facets, the section aims to provide a nuanced understanding of consumerism's impact on society and the environment. This discussion will also consider how ethical consumerism, which involves making purchasing decisions based on sustainability and social justice, can mitigate some of the negative effects associated with traditional consumerism. Furthermore, it will examine the concept of greenwashing as a significant vice within consumerism, illustrating how deceptive practices can undermine ethical consumer efforts and perpetuate questionable behaviors.

The Duality of Consumerism: Virtues and Vices

Consumerism, driven by the pursuit of material goods and services, presents a dual nature: it can be both beneficial and detrimental. On the positive side, consumerism stimulates economic growth and innovation, enhancing the quality of life for many. This drive for new and improved products fuels research and

development, leading to technological advancements and improved living standards. For example, the competitive nature of consumer markets has led to significant improvements in technology, healthcare, and communication, making life more convenient and interconnected (Busch and Hoffmann, 2009). Moreover, ethical consumerism further enhances these benefits by encouraging consumers to make purchasing decisions grounded in environmental sustainability and social justice. This shift can prompt substantial positive changes in corporate behavior, as companies strive to adopt sustainable practices to meet consumer demands.

However, the vices associated with consumerism are equally significant. The relentless pursuit of material goods often cultivates a culture of disposability, where the intrinsic value of goods is overshadowed by their status as symbols of wealth and success (Busch and Hoffmann, 2009). This mentality contributes to environmental harm through increased waste and resource depletion and perpetuates social inequalities. The disparity between the wealthy and the impoverished becomes more pronounced as the former indulge in luxury goods while the latter struggle to meet basic needs. Such a consumer culture can lead to what Byerly (2015) describes as a "treadmill of consumption," where the incessant pursuit of new and better products results in a cycle of overconsumption and waste, exacerbating environmental and social issues.

The environmental impact of consumerism is profound. The production and disposal of consumer goods significantly contribute to pollution and climate change. Manufacturing processes often involve the extraction of natural resources, leading to habitat destruction and biodiversity loss. Additionally, the disposal of goods generates vast amounts of waste, much of which is non-biodegradable and ends up in landfills or oceans, causing further environmental harm (Cullity, 2021). This unsustainable cycle underscores the need for a transition towards more responsible and mindful consumption patterns. Companies frequently invest more in marketing their products as green than in implementing genuine sustainable practices, thereby misleading consumers and eroding trust in the marketplace (Busch and Hoffmann, 2009). This deceptive practice not only misleads consumers but also hampers the progress of genuinely sustainable businesses, making it challenging for them to distinguish themselves. Cullity (2021) discusses how greenwashing can dilute the impact of truly sustainable products, as consumers become skeptical of all environmental claims, leading to a general erosion of trust.

The vices inherent in greenwashing extend beyond mere deception; they signify a fundamental disregard for ethical integrity. Greenwashing represents a form of moral deception where companies prioritize profits over honesty and transparency. This practice can lead to a cynical public that is skeptical of all

environmental claims, thus impeding the progress of the green movement (Khalil, 2017). Moreover, greenwashing can have direct environmental consequences, as it permits companies to continue harmful practices under the guise of sustainability, thereby exacerbating the very problems that ethical consumerism seeks to address. Byerly (2015) elaborates on this by highlighting how greenwashing not only deceives consumers but also contributes to environmental degradation by masking the true impact of corporate practices.

Despite its vices, the pressure to avoid greenwashing has compelled some companies to adopt more robust sustainability practices. This can be viewed as a positive outcome, where scrutiny from consumers, watchdog organizations, and regulatory bodies forces businesses to become more transparent and accountable. The increasing demand for authenticity in sustainability efforts signifies that consumers are becoming more informed and critical, which can drive positive change in the marketplace. However, as Taneva (2021) points out, this shift towards genuine sustainability requires a concerted effort from all stakeholders, including policymakers who must enforce stricter regulations to prevent greenwashing and ensure corporate accountability.

Self-deception plays a crucial role in both consumerism and greenwashing. Consumers often deceive themselves to justify their purchasing decisions, convincing themselves that they are making ethical choices even when they are not (Khalil, 2017). This cognitive dissonance allows them to maintain a positive self-image while engaging in behaviors that contradict their stated values. Similarly, companies may engage in self-deception regarding the impact of their practices, believing that minor changes or symbolic actions are sufficient to meet their sustainability goals. Hawley (2012) discusses how trust and distrust are integral to consumer behavior, with self-deception potentially leading to misplaced trust in companies' green claims.

The interplay between self-deception and greenwashing underscores the need for greater education and awareness among consumers and companies alike. By fostering a more informed public, it is possible to reduce the prevalence of greenwashing and promote genuinely sustainable practices. Consumers must be equipped with the tools to critically evaluate environmental claims, and companies must be held accountable for their actions through rigorous standards and transparent reporting mechanisms (Busch and Hoffmann, 2009). Byerly (2015) emphasizes the role of media and education in shaping consumer awareness and promoting a culture of critical evaluation and skepticism towards corporate claims.

Enhancing the virtues of consumerism involves fostering a culture of responsibility and mindfulness. Ethical consumerism advocates for a shift in values, where the impact of purchasing decisions on the environment and society is given

as much importance as personal satisfaction and convenience. This shift requires a collective effort from consumers, businesses, and policymakers to create an economic system that values sustainability and ethical behavior. Cullity (2021) argues that such a cultural shift is essential for addressing the root causes of environmental degradation and promoting long-term sustainability. Moral ignorance, another critical aspect of consumerism and greenwashing, can be understood through the lens of vice and blameworthiness. Ignorance is often considered exculpatory, particularly in cases of widespread cultural ignorance, where individuals may not be aware that their actions are wrong (Mason and Wilson, 2017). However, ignorance can be culpable if it results from a flawed will, which can be understood in terms of a vice. Moral-epistemic vices, such as arrogance, laziness, and self-indulgence, can lead to ignorance that is blameworthy (Mason and Wilson, 2017). For example, Mason and Wilson (2017) discuss how cultural ignorance can be driven by a flawed will, where individuals and companies fail to engage critically with available information, leading to moral and ethical lapses.

In cases of greenwashing, companies may be guilty of moral ignorance if their deceptive practices stem from vices like greed or a desire for self-aggrandizement. For instance, a company's failure to genuinely engage in sustainable practices while promoting themselves as environmentally friendly can be seen as a manifestation of a flawed will motivated by profit (Mason and Wilson, 2017). Similarly, consumers who fail to scrutinize environmental claims due to laziness or a desire for convenience may also be culpable of moral ignorance. Byerly (2015) and Cullity (2021) both highlight the importance of moral and epistemic virtues in overcoming these vices and promoting a more ethical consumer culture. The concept of moral-epistemic vice extends to how individuals and companies interpret and respond to evidence. The resistance to acknowledging harmful practices or seeking out more information can be driven by a motivation to maintain comfort or conform to societal norms. This intellectual laziness can prevent individuals from engaging in critical thinking and making informed decisions, perpetuating the cycle of greenwashing and unethical consumerism. Hawley (2012) further explores the relationship between trust, ignorance, and moral responsibility, suggesting that a deeper understanding of these dynamics can help mitigate the impact of greenwashing.

Addressing the vices associated with consumerism and greenwashing requires a multifaceted approach that includes education, transparency, and accountability. Consumers must be educated about the importance of ethical consumption and how to critically evaluate environmental claims. Companies must be transparent about their practices and held accountable for deceptive marketing. Regulatory bodies play a crucial role in setting and enforcing standards to ensure that

sustainability claims are genuine and verifiable. Taneva (2021) argues for the implementation of stricter regulations and the promotion of corporate social responsibility to combat greenwashing effectively. Furthermore, Mason and Wilson (2017) argue that ignorance, even when widespread, can be morally culpable if it results from a moral-epistemic vice. This means that individuals and companies are not absolved of responsibility simply because they are part of a broader culture that ignores certain ethical standards. They suggest that moral responsibility entails actively seeking out and responding to evidence, even when it is uncomfortable or challenging. This perspective is crucial for understanding the ethical failures associated with greenwashing, where ignorance is often a result of willful blindness or deliberate avoidance of inconvenient truths.

The cultivation of virtues such as intellectual humility, critical thinking, and moral courage is essential for overcoming the vices of consumerism and greenwashing. Intellectual humility involves recognizing the limits of one's knowledge and being open to new information and perspectives. This virtue is particularly important for consumers and companies alike, as it fosters a willingness to question assumptions and seek out reliable evidence (Hawley, 2012). Critical thinking, on the other hand, involves the ability to analyze and evaluate information critically, distinguishing between credible claims and deceptive marketing. This skill is crucial for consumers who wish to make informed ethical choices and for companies that aim to implement genuine sustainability practices (Cullity, 2021). Moral courage, the willingness to act according to one's ethical beliefs despite potential risks or challenges, is another vital virtue. This trait is essential for individuals who choose to challenge the status quo and demand greater transparency and accountability from companies. It also applies to businesses that commit to genuine sustainability practices, even when these decisions may not be immediately profitable. The duality of consumerism, encompassing both its virtues and vices, reflects a profound existential struggle inherent in human nature. On one hand, consumerism fuels economic growth and technological advancements, thereby enhancing our quality of life and broadening our horizons. It demonstrates human ingenuity and the relentless pursuit of progress, granting access to goods and services that significantly improve well-being and convenience. This pursuit aligns with the innate human drive to innovate, improve, and achieve.

Conversely, the darker aspect of consumerism reveals a more concerning reality. It fosters a culture of materialism, where the relentless pursuit of goods diminishes the intrinsic value of life experiences and relationships. This preoccupation with acquisition often results in environmental degradation and social inequalities, as the demand for products leads to the overexploitation of natural resources and

the perpetuation of unjust labor practices. The environmental repercussions are severe, manifesting in pollution, habitat destruction, and climate change as direct outcomes of unchecked consumerism.

Greenwashing, the act of falsely promoting products as environmentally friendly, exemplifies the ethical decay within consumerism. This practice not only deceives consumers but also undermines genuine sustainability efforts. Companies engaging in greenwashing prioritize profit over ethical considerations, constructing a facade of responsibility while continuing harmful practices. Such deceitful behavior erodes public trust and impedes genuinely sustainable businesses from competing effectively. The pervasive nature of greenwashing underscores a critical issue: the disconnection between our actions and their long-term impacts. In the quest for convenience and status, we frequently overlook the broader consequences of our consumption patterns. This myopia reflects a deeper moral failing, where immediate gratification is prioritized over sustainable and equitable practices. It challenges our collective ability to balance progress with responsibility, revealing a fundamental tension between desire and duty. Addressing the inherent vices of consumerism necessitates a paradigm shift, from viewing consumption as an end in itself to recognizing it as a means to a greater good. This transformation involves cultivating a culture of mindfulness and intentionality, where the impact of our purchasing decisions is meticulously considered. It requires a move towards ethical consumerism, where products are selected not merely for their immediate benefits but for their broader implications on society and the environment. Moreover, combating greenwashing requires enhanced transparency and accountability from corporations. Strengthening regulatory frameworks to ensure that sustainability claims are verifiable and substantiated is essential. Consumers also play a pivotal role in this transformation. By demanding greater transparency and supporting businesses that demonstrate genuine commitment to sustainability, consumers can drive market changes towards more ethical practices. The long-term consequences of failing to address the vices of consumerism are severe. Continued environmental degradation threatens the very ecosystems upon which we depend, while social inequalities perpetuate cycles of poverty and injustice. The erosion of trust in corporate claims diminishes the effectiveness of environmental certifications and labels, making it increasingly difficult for consumers to make informed choices.

Thus, upon reflecting on the multifaceted components of contemporary social life, it becomes unequivocally clear that a significant transformation is occurring in our perception and understanding of the surrounding world. This crisis initially manifests as profound self-doubt and uncertainty regarding our ability to address ongoing challenges. It is imperative to confront these challenges constructively,

with curiosity and openness, recognizing that our moral evolution is not static but fluid, adaptable, and continuously capable of expanding to address the dilemmas that emerge within the dynamic spectrum of socio-cultural contexts. We must maintain clarity to effectively counter cynicism, social uniformity, and conformity, and to make decisions responsibly. This entails ensuring that we exercise our capacity to make autonomous decisions that align with the moral principles most pertinent to the contexts in which they are applied.

In examining the complex nature of contemporary social life, it becomes evident that our perception and understanding of the world are undergoing significant transformations. This crisis manifests initially as profound self-doubt and uncertainty regarding individuals' capacity to address ongoing challenges. Constructively addressing these challenges with curiosity and openness is imperative. It is essential to acknowledge that our moral evolution is dynamic, adaptable, and continuously expanding to address the dilemmas emerging within the socio-cultural landscape. Achieving clarity is crucial for effectively combating cynicism, social uniformity, and conformity, thereby ensuring that decisions are made responsibly and autonomously, in accordance with the most pertinent moral principles for each context.

Concluding Remarks

The observations of Fromm, *"Modern capitalism needs men who cooperate smoothly, and in large numbers; who want to consume more and more; and whose tastes are standardized and can be easily influenced and anticipated. It needs men who feel free and independent, not subject to any authority or principle or conscience—yet willing to be commanded, to do what is expected of them, to fit into the social machine without friction; who can be guided without force, led without leaders, prompted without aim—except the one to make good, to be on the move, to function, to go ahead"* (Fromm, 1956), may seem like a harsh and difficult reality to accept. The instinct of self-preservation compels us to reject anything that might damage our self-image, even in instances where this excessive politeness of discourse undermines discernment and encourages empty formalities and automatism. Humanity finds itself in a troubling situation where it must continually confront moral ambushes, and the possibility of avoiding these socio-political, ideological, and cultural disruptions is non-existent. Caught in a web where interconnection and holism are undeniable realities, there is a pressing need for a mindset educated in an investigative, lively spirit, oriented towards solutions that reject egocentrism and the vulgar aspects of a hyper-consumerist society, which is a hub of excess and greed.

The exhibitionism of vices must be countered through a will and motivational force that values the naturalness of thought processes, deep appreciation, and gratitude for life, and the intrinsic value of existence in a fragile world sensitive to sudden changes. The degrading typology of the aggressor, who, driven by hubris, views the forest as a collection of planks and the ocean as a potential supplier of marketable products, can be counteracted with education that promotes psychological, moral, and social health. This entails fostering a fertile analytical environment that respects all forms of life and promotes just decisions, thereby demonstrating the resilient and creative spirit inherent in individuals.

Greenwashing represents another facet that prompts reflection on how confusion and rudimentary forms of deception inevitably impact their creators, obscuring access to our inner selves, where we might find devastating forms of an austere and insipid morality. Awareness of this issue can be a compelling argument in favor of cultivating an ecological conscience that protects and sustains group identities and values that unite people. This approach discourages the senseless exploitation of resources and supports maintaining a close connection with the environment and increasingly endangered species. The petty forms of pretense and profit through exploitation can be diminished and exposed. This work, like all research and effort in this field, aims to fuel a force that promotes an optimistic morality. It upholds values that promote healing and improvement, advocating for empathy and sensitivity as powerful tools to counteract hyper-individualism and indifference.

REFERENCES

- Adams, M., & Raisborough, J. (2010). Making a difference: Ethical consumption and the everyday. *British Journal of Sociology*, *61*(2), 256-274.
- Akturan, U. (2018). Exploring the impact of greenwashing on consumer skepticism and purchase intentions. *Journal of Business Research*, *87*, 323-331.
- Barnett, C., Cloke, P., Clarke, N., & Malpass, A. (2011). *Globalizing Responsibility: The Political Rationalities of Ethical Consumption*. Wiley-Blackwell.
- Budinsky, J., & Bryant, S. (2013). "It's Not Easy Being Green": The greenwashing of environmental discourses in advertising. *Canadian Journal of Communication*, *38*(2), 207-226.
- Busch, T., & Hoffmann, V. H. (2009). Ecological economics and salience of ecology-induced issues. *Journal of Business Ethics*, *90*, 295-310.
- Byerly, R. T. (2015). Complexity and the common good: Tradition and innovation in complex systems. *Journal of Management Inquiry*, *24*(1), 96-101.

- Campbell, C. (2005). The craft consumer: Culture, craft and consumption in a postmodern society. *Journal of Consumer Culture*, 5(1), 23-42.
- Carrigan, M., & Attalla, A. (2001). The myth of the ethical consumer – Do ethics matter in purchase behaviour? *Journal of Consumer Marketing*, 18(7), 560-577.
- Cherrier, H. (2007). Anti-consumption discourses and consumer-resistant identities. *Journal of Business Research*, 61(2), 184-190.
- Cullity, G. (2021). *Thinking Green: Essays on Environmental Philosophy*. Oxford University Press.
- Czerlinski, J., Gigerenzer, G., & Goldstein, D. G. (1999). How good are simple heuristics? In G. Gigerenzer, P. M. Todd, & the ABC Research Group (Eds.), *Simple heuristics that make us smart* (pp. 97-118). Oxford University Press.
- Delmas, M. A., & Burbano, V. C. (2011). The drivers of greenwashing. *California Management Review*, 54(1), 64-87.
- Du, X. (2015). How the market values greenwashing? Evidence from China. *Journal of Business Ethics*, 128(3), 547-574.
- Elgin, D. (1981). *Voluntary Simplicity: Toward a Way of Life That Is Outwardly Simple, Inwardly Rich*. New York, NY: William Morrow.
- Fassin, Y., & Buelens, M. (2011). The hypocrisy-sincerity continuum in corporate communication and decision making: A model of corporate social responsibility and business ethics practices. *Management Decision*, 49(4), 586-600.
- Fairtrade Foundation. (2009). *Annual report 2008/09*. Retrieved from <https://www.fairtrade.org.uk/annual-report-2008-09>
- Fraj, E., & Martinez, E. (2007). Ecological consumer behaviour: An empirical analysis. *International Journal of Consumer Studies*, 31(1), 26-33.
- Fromm, E. (1956). *The Art of Loving*. New York, NY: Harper & Row.
- Gigerenzer, G., & Hoffrage, U. (1995). How to improve Bayesian reasoning without instruction: Frequency formats. *Psychological Review*, 102, 684-704.
- Godfrey-Smith, P. (1996). Complexity and the function of mind in nature. *Adaptive Behavior*, 4, 453-465.
- Hawley, K. (2012). *Trust: A Very Short Introduction*. Oxford, UK: Oxford University Press.
- Horiuchi, R., Schuchard, R., Shea, L., & Townsend, S. (2009). *Understanding and Preventing Greenwash: A Business Guide*. Futerra Sustainability Communications.
- Huang, R. (2020). Does 'Enterprises' greenwashing affect auditors' decision making? *Audit Research*, 3, 57-67.
- Khalil, E. L. (2017). *Making Sense of Self-Deception*. Cambridge, UK: Cambridge University Press.
- Laufer, W. S. (2003). Social accountability and corporate greenwashing. *Journal of Business Ethics*, 43(3), 253-261.
- Lyon, T. P., & Montgomery, A. W. (2015). The means and ends of greenwash. *Organization & Environment*, 28(2), 223-249.
- Matejek, S., & Goessling, T. (2014). A case study on BP's greenwashing after the Gulf of Mexico oil spill. *Business Ethics: A European Review*, 23(1), 9-22.

- Penaloza, L., & Price, L. (2003). Consumer resistance: A conceptual overview. *Journal of Business Research*, 56(9), 123-132.
- Roszkowska-Menkes, M. (2021). Greenwashing. In S. O. Idowu (Ed.), *Encyclopedia of Sustainable Management*. Springer.
- Roulet, T. J., & Touboul, S. (2015). The intentions with which the road is paved: Attitudes to liberalism as determinants of greenwashing. *Journal of Business Ethics*, 128(2), 305-320.
- Seele, P., & Schultz, M. D. (2022). From greenwashing to machinewashing: A model and future directions derived from reasoning by analogy. *Journal of Business Ethics*, 178(4), 1063-1089.
- Simon, H. A. (1983). *Reason in Human Affairs*. Stanford, CA: Stanford University Press.
- TerraChoice. (2010). The sins of greenwashing: Home and family edition. Retrieved from https://www.twosides.info/wp-content/uploads/2018/05/Terrachoice_The_Sins_of_Greenwashing_-_Home_and_Family_Edition_2010.pdf
- Todd, P. M., Fiddick, L., & Krauss, S. (2000). Ecological rationality and its contents. *Thinking and Reasoning*, 6(4), 375-384.
- Vasil, A. (2009). The Clorox Green Works dilemma. *E Magazine*. Retrieved from <https://emagazine.com/the-clorox-green-works-dilemma/>
- Veblen, T. (1899). *The Theory of the Leisure Class*. New York, NY: Macmillan.
- Walker, K., & Wan, F. (2012). The harm of symbolic actions and greenwashing: Corporate actions and communications on environmental performance and their financial implications. *Journal of Business Ethics*, 109(2), 227-242.
- Zanasi, C., Rota, C., Trerè, S., & Falciatori, S. (2017). An assessment of the food companies' sustainability policies through a greenwashing indicator. *International Journal on Food System Dynamics*, 6, 61-81.

Qu'est-ce qu'avoir droit ? Considérations philosophiques et portée éthique du droit

Adèhè Essossimna POKORE*

ABSTRACT. What does it Mean to be Entitled? Philosophical Considerations and Ethical Scope of Law. It seems justified to affirm, on the basis of the spirit of the first article of the universal declaration of human rights of 1789, that man is, by nature, a being of law, that is- that is to say that he naturally enjoys different rights apart from all racial, political, ethnic, religious considerations, and among others. These include, for example, the rights to life, health, security, expression, leisure, property, freedom of choice, debt, etc. They are called subjective rights. Therefore, the notion of “having rights” appears to be clear, clear and understandable without any ambiguity. It is obvious that man, thanks to his nature, has rights, which are inalienable, and capable of being easily mobilized by him.

However, in society, the mobilization of all rights by individuals, regardless of their legitimacy, is not automatic or de facto guaranteed. In practice, it happens that the individual is not able to easily mobilize and enjoy all the different rights. For example, of course, the right to smoke is recognized for all adults, but smoking is not permitted in all public spaces, except those designed for this purpose. In fact, smoking in all public spaces is not a de facto recognized right. The individual therefore does not have the possibility of enjoying it without limit. Hence the following legitimate question: what does “being entitled” mean? In other words, what does it mean that man, by living in society, has rights? What then can be the philosophical considerations of the notion “to have a right”? Can the law have an ethical impact on society? If yes, what is its meaning? To answer these different questions, let it be permitted to affirm that “having any rights” presupposes that individuals are able to mobilize, fully enjoy and be able to claim or even claim these

* Université Paris 1 Panthéon-Sorbonne, Adresse : 12 Place de Panthéon 75005 Paris (France).
Email : adehesspokore@yahoo.fr



rights without hindrance. However, they can, in reality, only enjoy, claim or claim rights that are effectively recognized by society. It amounts to considering, in fact, that they can only mobilize and really enjoy those defined by society, that is to say objective rights. These then, it seems to us, are the different philosophical considerations of the notion of “having the right”. Here, the task will be to further develop the thesis thus presented from a perspective of the contextual approach.

Keywords: Law, having rights, philosophical considerations, ethical significance.

RÉSUMÉ. Il paraît fondé d’affirmer, sur la base de l’esprit de l’article premier de la déclaration universelle des droits de l’homme de 1789, que l’homme est, par nature, un être de droit, c’est-à-dire qu’il jouit naturellement de différents droits en dehors de toutes considérations raciale, politique, ethnique, religieuse, et entre autres. Il s’agit par exemple des droits à la vie, à la santé, à la sécurité, à l’expression, aux loisirs, à la propriété, à la liberté de choix, à la créance, etc. Ils sont dits des droits subjectifs. Dès lors, la notion « avoir droits »¹ paraît être claire, nette et compréhensible sans aucune ambiguïté. Il est évident que l’homme, grâce à sa nature, possède des droits, qui sont inaliénables, et susceptibles d’être mobilisés aisément par celui-ci.

Pendant, en société, la mobilisation de tous les droits par les individus, légitimes qu’ils soient, n’est pas automatique ou *de facto* garantie. En pratique, il arrive que l’individu ne soit pas en mesure de mobiliser et de jouir aisément de tous les différents droits. Par exemple², certes, le droit de fumer est reconnu à tout individu majeur, mais il n’est pas permis de fumer dans tous les espaces publics, sauf ceux aménagés à cet effet. En fait, fumer dans tous les espaces publics n’est pas *de facto* un droit reconnu. L’individu n’a donc pas la possibilité de jouir sans limite de celui-ci. D’où l’interrogation légitime suivante : qu’est-ce qu’« avoir droit » ? En d’autres termes, que signifie que l’homme, en vivant en société, ait des droits ? Quelle peuvent-être alors les considérations philosophiques de la notion « avoir droit » ? Le droit peut-il avoir une portée éthique sur la société ? Si oui, quel est son sens ? Pour répondre à ces différentes questions, qu’il soit permis d’affirmer qu’« avoir droits » quelconques suppose que les individus soient en mesure de mobiliser, de jouir pleinement et de pouvoir réclamer voire revendiquer ces droits sans entrave. Or, ceux-ci ne peuvent, en réalité, jouir, réclamer ou revendiquer que des droits reconnus, de manière effective, par la société. Il revient à considérer, en

¹ Le choix arbitraire de mettre la notion « avoir droit » en guillemets se justifie par le fait que celle-ci constitue la base fondamentale sur laquelle sera bâtie la présente réflexion. Ainsi, sera-t-elle employée lorsque nous aurons recours à elle dans toutes les lignes qui vont suivre.

² Cet exemple peut présenter, à notre avis, deux intérêts : l’un est qu’il permet de savoir que la validité et la légitimité d’un droit dépendent de la vision de la société, et l’autre, la reconnaissance d’un droit par la société n’implique pas automatiquement la reconnaissance d’un autre droit ou d’autres droits. Le droit de fumer n’est pas, en fait, celui de fumer dans tous les espaces publics.

fait, qu'ils ne peuvent mobiliser et jouir réellement que ceux définis par la société, c'est-à-dire les droits objectifs. Telles sont alors, nous semble-t-il, les différentes considérations philosophiques de la notion « avoir droit ». Ici, la tâche consistera à développer davantage la thèse ainsi présentée dans une perspective de l'approche contextuelle.

Mots clés : Droit, avoir droit, considérations philosophiques, portée éthique.

Introduction

D'une part, l'homme, par nature, est un être de droits. Il naît en ayant la capacité de jouir et de pouvoir réclamer des différents droits. De fait, sa capacité de jouir et de réclamer des droits est innée. Pour illustration, un nouveau-né se nourrit, dès ses premiers jours, du lait de sa maman. Celle-ci a le devoir de le lui donner, car il constitue, à cette étape de sa vie, la principale substance de son souffle de vie. Lorsqu'il sent naturellement la faim et qu'il n'ait pas son lait à sa portée, il pleure afin de le réclamer. Il sait qu'il a droit et lorsqu'il se sent privé de celui-ci, il le réclame et l'exige en pleurant. Or, à ce stade, il n'a conscience de rien. Il s'agit, nous le suggérons, de la portée naturelle du droit, laquelle peut être qualifiée, à notre avis, de « capacité naturelle de droits ». Ainsi serait-il légitime d'avancer, sur cette base, l'idée que l'homme est, par nature, un être de droit.

D'autre part, il est aussi un être qui vit en société organisée. Aristote affirmait justement que : « [...] l'homme est par nature un être politique »³. Pour l'auteur, celui-ci est naturellement disposé à vivre en société, car il est pourvu de raison, il raisonne et s'exprime, il a donc le « logos ». En effet, en usant de la raison, les hommes organisent leur espace de vie sous des lois, lesquelles encadrent et orientent leurs différentes actions. Celles-ci ont vocation à leur permettre de créer des conditions favorables au vivre ensemble paisible. Ce qu'implique que chaque membre de la société ait le devoir d'agir conformément aux lois, lesquelles constituent des interdictions (des devoirs) et des permissions (des droits). Dans cette perspective, Karl Jaspers, psychiatre et philosophe germano-suisse, écrit : « Et l'homme s'organise en communauté pour limiter le combat sans fin de tous contre tous et pour y mettre un terme ; il essaie de trouver sa sécurité dans l'entraide »⁴.

³ Aristote, *La politique*, Nouvelle traduction, introduction note et index par J. Tricot, Paris, Librairie Philosophique J. Vrin, 2014, p. 28.

⁴ K. Jaspers, *Introduction à la philosophie*, Traduit de l'allemand par Jeanne Hersch, Paris, Librairie Plon, 1981, p. 19.

Toutefois, lorsque les droits sont considérés, d'un point de vue pratique, il en résulte des contradictions. En réalité, certains individus peuvent exercer leurs droits légitimes au même moment que d'autres se retrouvent dans une situation d'opposition. Emmanuel Picavet, philosophe français, affirme afin d'éclairer les esprits à ce sujet que « Les citoyens ont des droits, que leurs concitoyens peuvent contester »⁵. Par exemple, le droit au vote est un droit reconnu à tous les citoyens sans aucune considération ethnique, politique, et entre autres. Mais la condition principale, dans la plupart des pays, est que, pour qu'un citoyen puisse jouir pleinement de ce droit, il doit avoir au minimum dix-huit ans révolus. En fait, un individu, dont l'âge est compris entre zéro et dix-sept ans, ne peut pas voter, pourtant il est un citoyen qui doit jouir en principe des mêmes droits dont jouissent les autres qui ont dix-huit ans.

En considérant cette situation paradoxale, il peut être justifié de développer l'idée, sans se tromper, qu'avoir des droits pour les individus dans la société civile n'est pas toujours un fait évident, mais complexe. À ce propos, le philosophe américain, Ronald Dworkin indique justement que : « Ce que sont les droits particuliers des citoyens fait, bien sûr, l'objet d'une controverse très développée »⁶. Estimant, dans le même sens, que la notion « avoir droit » est susceptible de présenter une certaine complexité, Loria Israel affirme de sa part qu' :

En effet, « avoir le droit » désigne à la fois ce que l'on pense légitimement mériter, pouvoir faire, et ce qui est garanti et permis par le droit, au sens d'un fondement juridique. C'est l'écart possible entre les deux qui ouvre l'espace d'une revendication par ou pour le droit : en effet, s'il n'y a pas coïncidence entre ce que l'on pense avoir le droit de faire et ce que le droit permet de faire, trois types d'action sont possibles : le renoncement, la transgression du droit, ou une action visant à le faire changer, que ce soit par exemple par le biais d'une action judiciaire, ou d'une mobilisation visant à transformer la loi⁷.

À cet égard, la complexité de celle-ci mérite d'être clarifiée afin de dévoiler les différentes considérations philosophiques qu'elle est susceptible de renfermer. D'où l'interrogation principale suivante : qu'est-ce qu'« avoir droits » pour les

⁵ E. Picavet, *La revendication des droits, une étude de l'équilibre des raisons dans le libéralisme*, Paris, Classique Garnier, 2011, p. 13.

⁶ R. Dworkin, *Prendre les droits au sérieux*, traduit de l'anglais par Marie-Jeanne Rossignol et Frédéric Limare, traduction révisée et présentée par Françoise Michaut, Paris, Presses Universitaires de France, 1995, p. 280.

⁷ L. Israel, « Qu'est-ce qu'avoir le droit ? Des mobilisations du droit en perspective sociologique », in *Le sujet dans la cité*, vol. 2, n°3, Édition L'Harmattan, 2012, p. 34.

individus vivant en société organisée ? Considérant l'exemple présenté précédemment, même si les individus ont naturellement le droit de voter, la société a réglementé celui-ci afin que tout se fasse dans un contexte plus fiable et harmonieux. Un citoyen peut voter, mais il est nécessaire qu'il remplisse la condition liée à l'âge minimum exigé. Ainsi, revient-il à admettre l'hypothèse suivante : les droits ne peuvent être exercés effectivement, réclamés, voire revendiqués par les individus que s'ils sont reconnus par la société. Mais s'ils ne sont pas reconnus par la société, légitimes qu'ils pourraient être, ils ne peuvent pas être mobilisés par ceux-ci. En conséquence, en termes d'une portée éthique, le droit évolue en fonction de l'aspiration de la société, lequel a un impact significatif, en retour, sur l'organisation et le fonctionnement de celle-ci.

Dans le présent travail, nous tâcherons de développer, de manière détaillée, la thèse ainsi présentée. Réaliser le travail de clarification de la notion « avoir droits », dans un contexte où la société contemporaine est bâtie de plus en plus sur des principes démocratiques, revêt l'intérêt, nous semble-t-il, de mettre en lumière le poids de la société en matière de reconnaissance et de promotion de différents droits, quels qu'ils soient. Le faire, au besoin et efficacement, exige, d'une part, de faire une présentation du concept de droit et, d'autre part, de mettre en lumière les considérations philosophiques dudit concept ainsi que sa portée éthique qui n'est pas apparente, mais qui peut être relevée après une analyse approfondie. À cet effet, la méthode est analytique et critique, orientée dans une perspective de l'approche contextuelle⁸.

1. Présentation du concept de droit

Première partie : ici, l'ambition est de présenter le concept de droit ainsi que ses différentes variations afin que les esprits soient avertis. Il est utile de réaliser ce travail préalable, car ce concept, lequel constituera la fondation solide sur laquelle se bâtiront les analyses et explications qui vont suivre, est susceptible de faire l'objet de divers sens. Toutefois, la présentation n'a pas un caractère exhaustif, mais elle a vocation à nous permettre de proposer une définition dudit concept dans le cadre de la présente réflexion.

Avant toute chose, il convient de rappeler que le concept de droit tire ses origines de différentes étymologies. Du bas latin *directum*, le droit, nom masculin, désigne ce qui est juste⁹ ; du latin *directum*, nom masculin, il désigne ce qui est droit (« 1. Sport, pied droit, au football, au rugby. Tirer du droit. Frapper du droit. Point

⁸ M. Bessone (dir), *Méthodes en philosophie politique*, Rennes, Presses Universitaires de Rennes, 2018.

⁹ Voir à ce sujet le dictionnaire *Le petit Larousse. Grand format 2003*, Paris, Larousse/VUEF, 2002, p. 350, qui en présente huit sens.

droit, en boîte. Un crochet du droit. 2. *Numism.* Face »¹⁰). Le droit, adjectif, du latin *directum*, direct, désigne ce (« qui s'étend sans déviation d'une extrémité à l'autre ; aligné, rectiligne. La ligne droite est le plus court chemin d'un point à un autre. En droite ligne : directement, jupe droite, ni ample, ni cintrée, etc. »¹¹).

Le passage suivant, tiré du dictionnaire *Le Vocabulaire des institutions indo-européennes II : pouvoir, droit, religion*, peut constituer un atout pour mieux mettre en lumière ses origines :

Les différentes étymologies du mot « droit » dans les langues indo-européennes éclairent sa définition : de la notion de dharma en sanskrit védique au *thémis* grec. Ce dernier terme désigne à l'origine l'ordre de la maison ou de la famille, par opposition à *diké* qui renvoie à la justice des rapports entre les familles (*ius* étant son équivalent latin). *Diké* ou *ius* renvoient en outre au droit humain (formules appliquées par le juge chargé de dire la sentence : *ius dicere* ou *iudex*), tandis que le *thémis* grec ou le *fas* latin visaient le droit d'origine divine. Les notions de droit et de justice se sont ensuite progressivement rapprochées, et *directum* est venu, dans les langues romanes, remplacer le *ius* classique : le droit, comme la règle, indique ainsi explicitement la droite ligne et la rectitude¹².

Les dictionnaires présentent également plusieurs définitions dudit concept. À ce titre, le dictionnaire *Hachettes Dictionnaire Du Français*¹³ énumère les définitions suivantes : un nom masculin, le droit peut désigner, soit la faculté de pouvoir accomplir une action, de jouir d'une chose ou de prétendre exiger celle-ci, soit la taxe (droit de péage, d'octroi, d'enregistrement. Payer un droit d'entrée) ; droit d'auteur : somme que l'auteur touche sur la vente ou la reproduction de ses œuvres. Le droit peut aussi désigner l'ensemble des règles qui régissent les rapports entre les hommes (Opposer le droit à la force), etc. Le droit, comme adjectif et adverbe, désigne ce qui n'est pas courbé, qui trace une ligne qui ne dévie pas (droit comme) ; qui va par le chemin le plus court d'un point à un autre (une ligne droite), et entre autres. Le dictionnaire philosophique¹⁴, de sa part, développe trois définitions.

¹⁰ Dictionnaire, *Le petit Larousse. Grand format 2003, op. cit.*

¹¹ *Ibidem*

¹² E. Benveniste, *Le Vocabulaire des institutions indo-européennes II : pouvoir, droit, religion*, Paris, Minuit, « Le Sens commun », 1969. Cité par Muriel Fabre-Magnan, « La notion de droit », in *Introduction au droit*, Paris, Presses Universitaires de France, « Que sais-je ? », 2008, p. 12.

¹³ *Hachette Dictionnaire Du Français*, préface de Claude Hagège, Paris, Hachette, 1987, p. 500.

¹⁴ M. Blaye (dir), *Grand Dictionnaire de la philosophie*, Paris, CNRS Éditions, 2012, p. 302. Le choix des dictionnaires, nous le soulignons, est arbitraire et se justifie par le fait que les définitions présentées sont susceptibles de nous permettre de proposer une définition dans le cadre de ce travail et d'avancer dans notre argumentation. Il peut y avoir d'autres définitions présentées par des dictionnaires différents.

La première, le droit est « ce qui est juste ou ce qui est conforme à la loi, qui a rapport avec la loi ». La deuxième, il est « ce qu'il est légitime d'exiger, en vertu des lois en vigueur ou du droit naturel ». La troisième, il désigne un « ensemble des rapports interhumains qui servent à établir ou à distinguer ce qui est juste et injuste, science du droit ainsi compris ». En considérant cette dernière définition, le droit peut être divisé en deux catégories : le droit naturel et le droit positif.

1.1. *Le droit naturel (le jusnaturalisme).*

La tâche à ce stade de notre réflexion est de déterminer le sens du concept de droit naturel¹⁵. L'intérêt est de pouvoir saisir son sens adéquat en vue de proposer une définition appropriée dans le cadre de ce présent travail. Toutefois, sans avoir la prétention de faire l'histoire complète dudit concept¹⁶, il convient, nous-semble-t-il, de s'intéresser particulièrement à son premier sens, car comme le souligne Jean Dabin¹⁷ :

L'expression « droit naturel », écrit Edmond Picard, est un de ces mots caoutchouc qui abondent dans la science juridique [mieux vaudrait dire, peut-être, dans la philosophie juridique] et qui y suscitent des quiproquos sans cesse renaissants ». Pour sortir d'embarras, il n'est, semble-t-il, qu'une méthode adéquate et sûre : c'est de rejoindre la notion à ses origines et d'interroger ceux qui, les premiers, l'ont introduite dans la circulation, car leurs successeurs peuvent l'avoir déformée et transformée. De fait, c'est l'aventure qui est arrivée au droit naturel : à la conception première qui est celle de l'Antiquité, du Moyen Age et de la grande école des moralistes catholiques, les philosophes des XVIIème et XVIIIème siècles en ont substitué une autre, celle de l'École du droit naturel (« Naturrecht »), qui n'est qu'une déviation de l'ancienne.

¹⁵ Ici, il n'est pas question d'ignorer le débat qui a lieu entre les tenants du droit naturel et ceux qui nient son existence. Il ne s'agit non plus de faire semblant de méconnaître le débat qui a lieu entre défenseurs de la primauté du droit naturel sur le droit positif et ceux qui contestent cette primauté. Du fait, à notre sens, qu'il ne peut y avoir un débat sur une entité qui ne soit préalablement définie, nous en faisons un choix arbitraire, dans le cadre de cette présente réflexion, d'en tenir compte uniquement du sens de chacune des deux conceptions du droit naturel (le droit naturel classique et le droit naturel moderne). La raison de ce choix est que partant de ces deux conceptions, nous en serons en mesure de proposer une définition adéquate et pouvoir développer notre thèse selon laquelle, le droit évolue suivant l'évolution de la société, et par conséquent, il est susceptible d'avoir une portée éthique sur la réalité sociale.

¹⁶ Au sujet des différentes conceptions du droit naturel et de leur évolution, voir M. Troper, *La philosophie du droit*, Paris, Presses Universitaires de France, 2003, p. 16-19 ; J. Dabin, « La notion du droit naturel et la pensée juridique contemporaine », in *Revue néo-scholastique de philosophie*, 30^e année, Deuxième série, n°20, 1928, p. 418-419.

¹⁷ J. Dabin, *ibidem.*, p. 418.

Aussi, convient-il de rappeler qu'il existe, de nos jours, deux conceptions du droit naturel : le droit naturel classique et le droit naturel moderne. Selon Michel Tropper¹⁸, la première, issue de la science juridique romaine qui serait inspirée par Aristote, le droit ne désigne pas un ensemble de règles mais plutôt une chose, c'est-à-dire « [...] les relations justes entre les hommes ». Bien que celles-ci ne soient pas une œuvre humaine, elles ont une existence réelle. Le droit consiste en fait dans une bonne proportion, il représente un ordre social harmonieux et spontané, lequel ne dépend pas d'une intervention volontaire des hommes. Le rôle de la science, c'est-à-dire la jurisprudence, est de découvrir ce « droit par induction et le formuler dans un code indicatif ». La seconde stipule que la seule réalité est l'individu. Chaque homme possède, sur la base de sa nature propre, des droits (les droits subjectifs) qui peuvent être découverts à l'aide de la raison par le seul examen de la nature de l'homme. Le pouvoir politique, qui n'a pas vocation à créer ceux-ci, a plutôt le devoir de les consacrer. Il est légitime que les hommes mobilisent les droits subjectifs pour dénoncer le pouvoir politique.

Considérant les deux conceptions¹⁹ du droit naturel présentées ci-dessus, l'idée principale commune qui peut être légitimement relevée, à notre sens, est qu'il n'est pas une œuvre humaine, c'est-à-dire qu'il n'est pas posé. Les hommes ne créent pas ce droit, mais ils le découvrent, c'est-à-dire qu'ils constatent son existence. Sur cette base, le droit naturel peut désigner, de manière générale, celui reconnu aux hommes en considération de leur nature humaine. De fait, il revient à considérer qu'il tire ses origines de la nature humaine, critère principal d'appartenance au genre humain. En effet, à la question suivante : « y a-t-il une nature humaine, commune à tous les hommes et particulière à l'homme ? »²⁰ ; « les Anciens répondaient que oui »²¹. Les arguments²² avancés afin de justifier l'existence d'une nature humaine spécifique peuvent être les suivants : premièrement, c'est à la munificence des dieux que les hommes doivent leurs moyens et dons ; deuxièmement, ils ont « un mode semblable et commun d'existence et de relations » : ensuite, ils éprouvent naturellement un sentiment de complaisance et de sympathie ; enfin, les hommes sentent la nécessité naturelle de nouer des alliances entre eux, d'où la raison d'être des regroupements humains.

¹⁸ J. Dabin, *op. cit.*, p. 16-17.

¹⁹ Il importe de noter aussi que les auteurs du jusnaturalisme ont en commun le dualisme. En ce sens qu'ils admettent l'existence du droit positif, au-dessus duquel se situe le droit naturel.

²⁰ M. Tropper, *op. cit.*, p. 422.

²¹ M. Tropper, *op. cit.*

²² Voir à ce sujet Cicéron, *Le traité des lois*, Texte établi et traduit par George de Plinval, Paris, Les Belles Lettres, 2022, p. 20., et J. Dabin, *ibidem*, p. 422-423.

Selon notre entendement, il serait correct d'admettre alors l'idée que les hommes ont les mêmes modes de vie, les mêmes sensations, les mêmes inclinations, etc. Ainsi, peut-il être admis que le droit naturel se déduit de leur genre humain, être doué de raison. En d'autres termes, la nature du droit se trouve dans la nature humaine, elle-même. C'est ce qu'exprime Michel Blaye lorsqu'il affirme en ses termes que : « Le droit naturel résulte des lois naturelles, éternelles, nécessaires qui peuvent se déduire rationnellement de la nature de l'homme et des rapports humains »²³. En réalité, ce sont les conditions d'existence humaine qui fondent le droit. Le droit naturel admet donc que les éléments qui fondent le genre humain doivent faire l'objet de considérations dans les mêmes conditions de vie dans le temps et l'espace indépendamment de toute considération particulière, quelle qu'elle soit. La seule condition, qui doit primer, est le genre humain²⁴. Aucun acte humain, quel qu'il soit, ne fonde le droit naturel. Max Weber rappelle à ce sujet que : « Le « droit naturel » est l'ensemble des normes indépendantes de tout droit positif et supérieures à ce dernier, elles ne tirent pas leur légitimité de dispositions discrétionnaires mais à l'inverse ce sont elles qui en légitiment la force obligatoire »²⁵. À cet égard, il reconnaît, à notre avis, que seul l'être humain soit digne de considération. Tout être humain, du fait de son appartenance à la communauté du genre humain, sans aucune condition supplémentaire, est un sujet de droits. L'homme, sur la base de son essence, est un porteur naturel de droit. En fait, l'essence de l'homme est qu'il possède la raison à la différence d'un animal. En réalité, le droit naturel est celui accordé à tous les éléments qui constituent le genre humain. Or, ces éléments ne sont que les hommes²⁶.

Qu'il nous soit permis d'illustrer nos propos par deux schémas. Considérons le cercle A, constitué uniquement des êtres humains et le cercle B, constitué des êtres humains, des autres animaux, des végétaux, etc. Selon les exigences du droit naturel, tous les éléments qui composent le cercle A sont des sujets de droit, par contre dans le cercle B, seuls les êtres humains sont des sujets de droit, car ils sont doués de raison et forment la communauté du genre humain. En clair, l'homme, par sa nature, aspire à la justice, à la sympathie, à la dignité, au bonheur, par conséquent tous les hommes doivent être traités en tenant compte de cette réalité

²³ *Ibidem*, p. 422.

²⁴ Certes, il peut être justifié de critiquer l'idée du droit naturel (surtout dans sa version première), mais ici nous nous contentons de relever uniquement cette idée. Nous opérons ce choix arbitraire, car celle-ci est susceptible de nous permettre de défendre l'hypothèse présentée précédemment. Au sujet des critiques contre l'idée première du droit naturel, voir J. Dabin, *op. cit.*

²⁵ M. Weber, *Sociologie du droit*, 2^{ème} édition, Préface de Philippe Raynaud, Introduction et traduction par Jacques Grosclaude, Paris, Presses Universitaires de France, 2013, p. 269-270.

²⁶ Nous préférons employer le pluriel pour signifier plusieurs cultures, ethnies, religions, races, etc.

naturelle. Le droit naturel peut être considérée comme une donnée constante et universelle de la nature humaine. En ce sens que de nature, l'homme a vocation à la liberté, au bonheur, à l'épanouissement de ses facultés, à la justice, à l'équité, etc. Telle est, nous semble-t-il, la signification du droit naturel.

1.2. Le droit positif (le positivisme)

Le droit positif²⁷, d'origine conventionnelle, à la différence du droit naturel, est celui posé par les hommes et qui a vocation à régir leurs différents rapports au profit d'un vivre ensemble paisible. Ce droit²⁸ est pensé, élaboré et mis à la disposition de tous les membres de la société. Il est l'ensemble des règles que les membres d'une société donnée adoptent afin d'orienter collectivement leurs différentes activités. Il est un ensemble des règles institutionnelles. C'est à la même constatation que parvient le philosophe et historien des sciences, le Français Michel Blaye, lorsqu'il souligne que, « Le droit positif est l'ensemble des lois établies par les hommes dans une société historiquement donnée »²⁹. Après une analyse de l'affirmation de Michel Blaye, il peut être admis, nous le suggérons, que le droit positif est le génie de l'organisation, quelle qu'elle soit, propre à chaque société. Il peut être alors constitué des règles, des coutumes, etc., ayant vocation à organiser non seulement le mode de vie, mais aussi les différentes activités des membres d'une société donnée. Le droit positif a pour but d'organiser la société en nouant des relations entre les hommes.

L'idée saillante, qu'il serait bénéfique de relever, est que ce droit est relatif, il n'est pas universel. Il est propre à chaque société selon ses réalités. Il s'agit de l'organisation interne de chaque société donnée. De fait, il est évolutif. En d'autres termes, il change selon les circonstances politiques, économiques, sociales, etc. Notre remarque peut être soutenue par l'affirmation de l'universitaire et juriste Michel Tropper.

L'approche positiviste, écrit-il, peut être caractérisée par la conviction qu'il est souhaitable et possible de construire une science du droit véritable sur le modèle des sciences de la nature, ce qui implique plusieurs idées. Il faut d'abord distinguer

²⁷ Ici, nous ne nous intéressons pas au débat qui a lieu à propos de la différence qui existe ou non entre le droit naturel et le droit positif, ni le débat qui concerne le monisme et la dualité dudit droit. La tâche consistera à déterminer uniquement le sens du concept de droit positif en vue de proposer une définition qui convient dans le cadre de notre réflexion et de pouvoir mettre en lumière notre thèse présentée précédemment.

²⁸ Il serait utile de souligner que « Le positivisme est lui aussi très divers. On peut, à la suite de Norberto Bobbio, distinguer très usages de ce mot. Par « positivisme », on désigne tantôt une certaine conception de la science du droit, tantôt une théorie du droit, tantôt une idéologie. Entre ces trois aspects du positivisme, il n'existe aucun rapport nécessaire », Michel Tropper, *op. cit.*, p. 19.

²⁹ M. Blaye (dir), *op. cit.*, p. 302.

la science de son objet, c'est-à-dire la science du droit et le droit lui-même. La science est comprise comme la connaissance d'un objet extérieur. Cet objet, il faudrait ensuite se borner à le décrire, sans porter sur lui des jugements de valeur (postulat de la *Wertfreiheit* ou neutralité axiologique). Enfin, cet objet ne peut être que le droit positif, c'est-à-dire le droit « posé » par les autorités politiques, à l'exclusion du droit naturel ou de la morale.

Sur la base des lignes précédentes, le droit positif, de notre part, peut être considéré comme un acte légitime de fondement et de fonctionnement d'une société organisée donnée. Il désigne l'ensemble des règles pensées et adoptées par les membres de chaque société civile, susceptibles d'orienter et de contrôler le fonctionnement de celle-ci à tous les niveaux. Il s'agit d'un acte de liberté et de souveraineté totales et véritables.

Avant de proposer une définition du concept de droit en se basant sur ses différentes variations présentées ci-dessus, qu'il soit permis d'avoir recours au juriste austro-américain Hans Kelsen³⁰. En fait, il a présenté une distinction entre les concepts de droit et de morale, laquelle est susceptible de permettre aux esprits de saisir aussi le sens du concept de droit afin de proposer une définition dans le cadre de la présente réflexion. Toutefois, le concept de morale ne sera pas présenté en détail, c'est-à-dire qu'il ne s'agit pas de proposer une définition qui s'appuierait sur son sens étymologique. Nous nous contenterons de notre compréhension de la définition que l'auteur a faite de ce concept.

Le droit et la morale, écrit-il, se distinguent par le fait que le droit commande un certain comportement (et cela signifie qu'il en fait une obligation juridique en posant comme obligation une sanction comme condition du comportement contraire, tandis que la morale commande un certain comportement et en fait aussi une obligation morale, et attache une sanction aussi bien au comportement conforme qu'au comportement contraire. Une autre différence, et une différence d'un point de vue de strict technique juridique, tient à ce que, dans un ordre juridique techniquement avancé, des organes fonctionnent sur le principe de la division du travail, les autorités judiciaires et administratives sont investies pour appliquer des sanctions tandis qu'un ordre morale positif habilite tout membre de la communauté qu'elle institue à exercer les sanctions prévues par cet ordre.

En analysant le passage ci-dessus, il ne serait pas maladroit de mentionner que les différences, que relève l'auteur entre le droit et la morale, sont les suivantes : le droit indique ce qu'il faut faire, c'est-à-dire ce qu'il est recommandé ou obligatoire de faire. De ce fait, lorsqu'un individu fait le contraire de ce qu'il faut

³⁰ H. Kelsen, *Théorie générale des normes*, traduit de l'Allemand par Olivier Braud et Fabrice Malkani, Paris, Presses Universitaires de France, 1996, p. 175-176.

faire ou ce qu'il est recommandé ou obligatoire de faire, il est sanctionné par les spécialistes du droit. Par exemple, tous les usagers de la route doivent impérativement respecter le code de la route. Si un usager se permet de mépriser ce code, il est sanctionné par les spécialistes du droit, c'est-à-dire les juristes.

Par contre, la morale indique ce qui doit être fait afin d'éviter ce qu'il ne faudrait pas faire. Autrement dit, il s'agit de faire ce qui est permis en évitant ce qui est interdit. Dans ce cas, que la consigne soit respectée ou non, dans les deux situations, l'acte de l'individu est sanctionné par tous les membres de la société. Il est soit félicité, soit blâmé. Par exemple, le mensonge est interdit dans la société. Si un membre de la société affiche un comportement basé sur le mensonge, il est blâmé et considéré comme une personne n'ayant pas de valeurs par d'autres. Cependant, si un autre s'abstient de mentir, il est félicité et considéré comme une personne de valeurs par tous les autres.

Pour résumer l'idée de Kelsen, le droit peut être considéré comme étant le cadre de la liberté individuelle tandis que la morale détermine les conditions de la sociabilité des individus.

De tout ce qui précède, le droit peut être défini, nous semble-t-il, comme un ensemble de règles établies par la société qui s'imposent à tout individu, membres de celle-ci, et contrôlées par un corps de juristes, et donc la société elle-même. Le point important, qui caractérise cette proposition de définition, est que le corps de juristes est garant et non producteur du droit. Il revient à admettre que c'est donc la société qui produit le droit qui, en retour, assure son fonctionnement. La société est le génie créateur du droit sous lequel s'organisent les différentes activités humaines. Le droit est en effet une invention d'une société donnée, comme l'affirme avec clarté Michel Topper, « Le contenu des règles exprime en effet les préférences politiques et morales de ceux qui les posent [...] »³¹. Le droit étant ainsi défini, il sera question, dans la suite de notre réflexion, de présenter les différentes considérations philosophiques qu'il est susceptible d'avoir ainsi que sa portée éthique.

2. « Avoir droit » : considérations philosophiques et portée éthique du droit

Deuxième partie : à ce dernier stade de notre réflexion, l'ambition est principalement de relever, dans une perspective philosophique, le sens de la notion « avoir droit ». Autrement dit, il s'agira de mettre en lumière celle-ci en termes philosophiques d'une part, et de mettre en lumière, sur cette base, la portée éthique que le droit est susceptible d'avoir dans la société, d'autre part.

³¹ M. Tropper, *op. cit.*, p. 5.

2.1. « Avoir droit » : considérations philosophiques

Ici, l'ambition est de présenter les différentes significations, en termes philosophiques, que la notion « avoir droit » est susceptible d'avoir. Mais avant tout développement, il importe de présenter l'idée selon laquelle l'homme est, par nature, un être de droit. Il s'agira de faire voir en quoi il constitue naturellement un être de droit en dehors de toutes autres considérations, quelles qu'elles soient. L'intérêt est que sur cette base, il serait possible de présenter les différentes significations de ladite notion d'un point de vue philosophique.

2.1.1. *L'homme, sujet de droits par nature*

Certes, depuis l'Antiquité jusqu'aujourd'hui, l'homme est toujours considéré comme un être possédant des droits, lesquels n'ont cessé de faire l'objet de promotion dans le temps et l'espace. Mais, il est aussi admissible d'avancer l'idée que l'homme, sujet de droits à l'époque antique, n'est pas le même à l'époque moderne ou à l'époque contemporaine. Le dire autrement serait qu'il ne jouit pas du même statut dans le temps et l'espace en matière de la promotion des différents droits, quels qu'ils soient.

En effet, dans l'Antiquité grecque, tous les individus n'étaient pas considérés comme sujet de droits³². Ils n'étaient pas tous *de facto* porteurs des droits. Pour avoir des droits à cette époque, il était nécessaire de faire partie d'un groupe social donné. L'appartenance à une classe sociale était un critère important dans la détermination des individus susceptibles d'être considérés comme des sujets porteurs des droits. Par exemple, dans la cité athénienne³³, le droit de vote n'était pas reconnu à tous les membres de la société. Les femmes, les enfants ainsi que les esclaves ne jouissaient pas de ce droit. Pour jouir de ce droit à cette époque, il était recommandé que l'individu soit un homme et citoyen d'Athènes. Et pour être un citoyen d'Athènes, il était aussi exigé que l'homme soit né d'un père et d'une mère Athéniens. De même, si nous considérons le droit à la liberté, nous pouvons affirmer qu'il n'était pas aussi reconnu à tous les individus. Car les femmes et les enfants étaient sous l'autorité des hommes, tandis que les esclaves sous celle de leurs maîtres.

³² Le choix arbitraire de commencer l'explication par ce cas concret, même s'il est loin de notre époque, présente deux intérêts. D'une part, il met en lumière l'idée qu'à cette époque, l'octroi des droits aux individus était basé sur la notion de nature mais la nature humaine masculine. L'individu était considéré comme sujet de droit parce qu'il est un homme, un masculin né d'un père et d'une mère Athéniens. D'autre part, certes, cette situation, qui met en lumière le traitement inégalitaire des individus à l'époque, est susceptible de contredire l'idée avancée précédemment, selon laquelle l'homme est, par nature, un être de droit. Puisque tous les individus ne sont pas *de facto* sujets de droit. Mais elle met plutôt en lumière, à notre sens, l'idée que c'est la société qui invente son propre droit. Chaque droit, qu'une société donnée invente, est à son image.

³³ Voir à ce sujet Aristote, *Constitution d'Athènes*, traduit par B. Haussoulier, Paris, Émile Bouillon, 1891.

Dès lors, il est évident qu'il y avait une conception de sujets de droits. Certes, les individus étaient sujets de droits, mais ce n'étaient pas tous les individus qui jouissaient de ce statut, car en matière de la promotion des droits, ils étaient traités sur la base des classes sociales auxquelles chacun appartenait. De ce fait, il peut être légitime de développer l'idée que, dans ces sociétés, il existait deux groupes différents d'individus : ceux qui étaient titulaires de différents droits grâce à leurs classes sociales et ceux qui n'en jouissaient pas des droits, quels qu'ils soient. Les critères d'attribution des droits aux individus étaient non seulement que l'individu soit un être humain, mais aussi qu'il appartienne à un groupe social donné. Par contre, à l'époque moderne, la conception de sujet de droit a évolué, car tous les individus, dès la naissance, sont automatiquement titulaires de droits, quels qu'ils soient.

En fait, de nos jours, tous les individus sont considérés *de facto* comme des êtres porteurs des droits indépendamment de leur race, de préférence religieuse, de toute considération politique, d'appartenance ethnique, et entre autres. À l'époque moderne, les individus partagent le sentiment que tous ont naturellement des droits spécifiques, les droits fondamentaux et inaliénables. C'est ainsi que des actes concrets ont été posés afin de légitimer ce sentiment, telle que la déclaration universelle des droits de l'homme et de citoyen de 1789.

Par exemple, le droit de vote (le suffrage universel), même si un âge minimum est exigé dans la plupart des pays (18 ans révolus), est reconnu à tous les citoyens qui remplissent les conditions d'âge sans considération de sexe. De fait, tous les citoyens jouissent des mêmes droits. Ils sont placés dans une « position originelle »³⁴, c'est-à-dire qu'ils sont *de facto* égaux et libres. Si nous considérons aussi le droit à la liberté, nous pouvons estimer qu'il n'a pas le même statut à l'époque moderne. Il est un droit absolu, reconnu à tout individu en considération de sa nature humaine et non de sa classe sociale, ni de sa race, encore moins de son sexe. C'est un droit qui est universellement reconnu aux individus sur la base du seul fait qu'ils soient des êtres humains. Jean-Jacques Rousseau affirme dans ce sens que : « Cette liberté commune est une conséquence de la nature humaine »³⁵.

Ainsi, peut-il être admis que la question de savoir qui a des droits, n'a pas la même réponse dans le temps et l'espace. En considérant le droit à la liberté, il est évident que dans l'Antiquité, jouissaient de ce droit, seuls les individus qui appartenaient à un groupe social donné. Par exemple, le maître de l'esclave jouissait de ce droit. Par contre à l'époque moderne, a droit à la liberté, tout individu, quel qu'il soit. Le seul critère d'attribution du droit à la liberté est l'appartenance à la communauté d'êtres humains. Ce droit fait partie des droits fondamentaux qui sont inaliénables, susceptibles d'être mobilisés par tous les individus.

³⁴ J. Rawls, *La justice comme équité*, traduit de l'anglais par Bertrand Guillaume, Paris, Édition La Découverte, 2003, p. 34.

³⁵ J.-J. Rousseau, *Du contrat social*, Paris, Aubier Édition Montaigne, 1943, p. 60.

À cet égard, il ne serait pas exagéré de considérer que même si l'idée selon laquelle l'homme, étant un être humain, est titulaire des droits de manière irrévocable a une histoire, c'est surtout à l'époque moderne (fin du XVIIIe siècle) que celle-ci se trouve vraiment mise en évidence. Que signifie alors que l'homme est un sujet porteur des droits ?

Nous tenterons de répondre à la question ainsi posée à ce niveau de notre développement qui met en lumière l'intérêt de la présente réflexion. La tâche consistera à expliquer la notion « avoir droits », d'un point de vue philosophique, dans le but de pouvoir déterminer les différents sens que celle-ci est susceptible de voiler.

D'emblée, l'idée principale, qui sera développée, est que le droit peut être considéré d'un point de vue moral et d'un point de vue philosophique. En réalité, afin qu'un droit moral soit valide, il doit être préalablement reconnu par la société ; c'est à cette seule condition qu'il est susceptible d'être mobilisé et exercé par les individus, voire revendiqué lorsqu'il est méprisé par une autorité politique.

En effet, apparemment lorsqu'un individu estime avoir des droits, la compréhension paraît être claire et évidente. En ce sens qu'il serait *a priori* en mesure de jouir de ces droits ou de les exercer. Mais ce n'est pas toujours le cas. Par exemple, quand un individu dit : j'ai droit à la liberté ; j'ai le droit de voter, j'ai le droit de choisir une religion, j'ai le droit de faire de la politique, etc., ces différentes affirmations donnent l'impression qu'il aurait la capacité réelle, sans aucune contrainte ou disposition préalable, d'exercer ces différents droits ou de réaliser ses désirs, quels qu'ils soient. Or, en réalité, que ce soit sur le plan théorique que sur le plan pratique, qu'un individu ait des droits et qu'il soit en mesure de les exercer effectivement nécessitent des garanties. Quelles peuvent-en-être ces garanties ? Une réponse sera proposée à cette question au cours de notre argumentation.

Aussi, quand un individu estime-t-il avoir des droits, ceci suppose qu'il soit toujours en mesure de les revendiquer. Or, en pratique, posséder des droits et pouvoir les revendiquer, sans entrave, sont deux réalités bien distinctes. À cet égard, il revient à penser que la notion « avoir droit » peut faire l'objet de différentes considérations philosophiques. Quelles peuvent-être ces considérations ? Nous y répondrons à la question ainsi posée dans les pages qui vont suivre.

En effet, un individu peut légitimement avoir des droits et ne pas être en mesure de les mobiliser et de les exercer pour plusieurs raisons : soit il ignore leur existence, soit il ne bénéficie pas des conditions nécessaires et favorables pour les exercer, etc. Pour le second cas, il paraît légitime de soutenir l'idée qu'elles déterminent la capacité des individus dans l'exercice de leurs différents droits dans le temps et l'espace donnés. En ce sens qu'avoir un droit moral, n'est pas encore un droit qu'un individu peut exercer *a priori*. En fait, il peut légitimement posséder un droit moral et ne pas pouvoir réellement l'exercer, pour la seule raison que les conditions ne sont pas favorables. Jean Morange indique à ce sujet que :

Si l'on relit attentivement la Déclaration de 1789, on peut noter que la garantie des droits de l'homme reposait sur la séparation des pouvoirs, explicitement mentionnée à l'article 16, sur la loi, expression de la volonté générale et maintes fois appelée à concilier et à fixer des bornes, mais également sur les membres du corps social et citoyens qui, éclairés par la Déclaration, sont censés, selon le Préambule, présenter leurs réclamations aux gouvernements³⁶.

Considérons un cas concret de la vie pratique. Un enfant dit à ses parents qu'il souhaiterait sortir et aller derrière la maison pour jouer au ballon avec d'autres enfants. Ceux-ci lui donnent une réponse négative. Il dit pourquoi ? J'ai le droit d'aller jouer avec mes camarades. Les parents avancent la raison suivante : le temps est mauvais au dehors, il ne fait pas beau temps. Celui-ci se met à pleurer. Pourquoi pleure-t-il ? C'est parce qu'il considère que son droit légitime de jouer avec d'autres enfants est méprisé. Dans ce cas précis, le droit de jouer est reconnu et l'enfant a bel et bien connaissance de ce droit. Il ne l'ignore pas. Mais il ne peut pas l'exercer parce que les conditions nécessaires ne sont pas acquises. Les parents constituent un obstacle à l'exercice de ce droit. Un exemple d'un autre cas concret mais d'une époque plus éloignée de la nôtre. Les femmes, dans l'Antiquité grecque, moralement étant des êtres humains, nés et vivants en Grèce, devraient légitimement jouir du droit à la citoyenneté. Mais dans les faits, elles ne jouissaient pas dudit droit. La raison, susceptible de justifier cet état de chose, est que le droit à la citoyenneté des femmes n'était pas reconnu par la société grecque. Le droit qui était reconnu, et qui pouvait être exercé sans contrainte, était celui des hommes. Ceux-ci jouissaient de leur droit à la citoyenneté et l'exerçaient effectivement sans entrave.

Sur cette base, il peut être permis de considérer que la condition pour l'exercice d'un droit, c'est sa reconnaissance par la société, c'est-à-dire que pour qu'un droit puisse être mobilisé par des individus, il doit être validé d'abord par la société. Jacques Mourgeon écrit à ce sujet que :

La reconnaissance des droits est la condition initiale de leur efficacité et de leur opposabilité puisque, sans elle, les droits ne sont ni invocables ni utilisables. Condition initiale et pas davantage : l'affirmation des droits les laisse dans la virtualité car les prérogatives formulées ne sont que des possibles, si bien que la personne se trouve dès le commencement dans une situation incertaine, dans un aléatoire dont la réduction dépend des suites apportées par le pouvoir à la reconnaissance³⁷.

³⁶ J. Morange, « Les garanties des libertés », in *Les libertés publiques*. Paris, Presses Universitaires de France, « Que sais-je ? », 2003, p. 93-94.

³⁷ J. Mourgeon, *op. cit.*, p. 67.

À cet égard, il est admissible que même si un droit est moralement légitime ou justifié, sa reconnaissance par la communauté politique constitue la condition première, et *sine qua non*, afin que les individus puissent l'exercer. Ce qui suppose donc la mise en place d'un dispositif juridique comme l'affirme le philosophe français Emmanuel Picavet, « Dans cette perspective, on est obligé de repenser la liberté du sujet sous les lois »³⁸. Un droit moral légitime doit être reconnu par la société afin d'être un droit au sens strict, c'est-à-dire un droit mobilisable, sinon il est impossible pour les individus de l'exercer. Ce droit, nous le nommons le droit effectif.

Certes, un droit moral, pour qu'il soit possible de l'exercer, doit être reconnu par la communauté politique, mais il doit être aussi valide (le droit effectif). Si nous considérons les démocraties fortes (les Etats-Unis et la France par exemple), la procédure d'accès au pouvoir, la seule légale reconnue par la constitution dans ces pays, est l'élection. Si un citoyen se permet d'accéder au pouvoir par le biais d'un coup d'Etat, par exemple, le pouvoir ne lui sera pas reconnu, car ce n'est pas la procédure légale. Il ne s'agit donc pas d'un droit légitime, même si le droit d'exercer toutes les fonctions est reconnu à tous les citoyens qui ne sont pas en conflit avec la loi. De même, lorsque des droits moraux légitimes sont revendiqués, ceux-ci ne constituent pas encore un droit valide. Car une revendication a pour finalité la satisfaction, tandis que le droit à vocation d'être reconnu et validé par la société. Lorsqu'un droit est reconnu, il peut être exigé s'il n'est pas respecté dans les faits.

Par exemple, le droit au vote des noirs au sud des États-Unis a fait l'objet de revendication le 07/03/1965. Les manifestants réclamaient le respect de ce droit qu'ils n'exerçaient pas pour des raisons d'insécurité. Ce fait peut permettre de comprendre que non seulement, les droits doivent être reconnus par la communauté politique pour qu'ils soient effectifs, mais aussi des conditions doivent être garanties pour assurer leur exercice et qu'ils soient respectés. Celles-ci peuvent être d'ordre politique, social, etc. Considérant que la constitution américaine assure effectivement et efficacement la protection des droits individuels, Ronald Dworkin, philosophe américain, affirme que « [...] La constitution américaine garantit un ensemble de droits juridiques individuels avec le premier amendement, avec la clause de procédure légale régulière, avec la clause d'égalité de protection et avec des clauses similaires »³⁹. En fait, l'auteur, veut signifier par ces mots, à notre avis, que le système démocratique est plus favorable à l'exercice des droits des individus que tous les autres systèmes politiques, quels qu'ils soient.

³⁸ E. Picavet, *op. cit.*, p. 63.

³⁹ R. Dworkin, *op. cit.*.

La démocratie, écrit-il, n'est pas uniquement un système de gouvernement. Dans la mesure où le respect des droits est un élément indispensable aux institutions politiques démocratiques, la démocratie est aussi un système de droits. Les droits font partie des fondements d'un mode démocratique de gouvernement⁴⁰.

En réalité, un régime démocratique est susceptible d'offrir aux citoyens la possibilité d'exercer leurs différents droits individuels valides et légitimes qui leur sont reconnus. En considérant les possibilités qu'offre un tel système politique aux citoyens en matière de promotion de leurs différents droits et libertés, Robert Dahl affirme que :

Prenons par exemple, la participation effective : satisfaire à ce critère ne suppose-t-il pas que tous les citoyens aient le droit de participer et le droit d'exprimer leurs vues sur les affaires politiques, d'entendre ce que les autres citoyens ont à dire et de débattre avec eux de ces sujets ? Ou considérons encore ce qu'exige le critère de l'égalité en matière électorale : tous les citoyens doivent avoir le droit de voter et que leur vote soit décompté de manière loyale. Et il en va de même des autres critères de la démocratie : il est clair que les citoyens doivent avoir le droit de s'informer des solutions alternatives, le droit de participer à la fixation de l'ordre du jour et d'autres droits encore. Aucun système non démocratique n'offre à ses citoyens (ou à ses sujets) un tel éventail de droits politiques⁴¹.

Une analyse du passage présenté ci-dessus peut conduire à estimer, sans risque de se tromper, qu'avoir des droits, en fait, suppose une possibilité de liberté à pouvoir les exercer, c'est-à-dire qu'il est indispensable que les conditions soient garanties afin de favoriser leur plein exercice sans aucune contrainte extérieure. L'exemple donné par Dworkin⁴², s'agissant d'un individu qui dépense son argent de manière mauvaise, mais que personne n'a le droit de l'interdire, illustre bien que le concept « avoir droits » signifie être libre d'opérer des choix. Un individu peut donc envisager des actions qui soient mauvaises pour lui-même et avoir la possibilité de les réaliser parce qu'elles sont inscrites dans le droit. Par contre, un autre peut envisager des actions qui soient bonnes pour ce dernier, mais ne pas avoir la possibilité de les réaliser parce qu'elles ne sont pas inscrites dans le droit. Qu'il nous soit permis d'avoir recours à l'exemple du prisonnier de guerre présenté par Ronald Dworkin⁴³.

⁴⁰ R. Dahl, *De la démocratie*, traduit de l'américain par Monique Berry, Paris, Nouveaux Horizons, 1998, p. 49.

⁴¹ R. Dworkin, *op. cit.*

⁴² *Ibidem*, p. 284.

⁴³ *Ibidem*, p. 285.

En fait, celui-ci tente de s'échapper mais les vainqueurs l'empêchent. En réalité, avoir des droits, signifie qu'un individu ait la possibilité d'exercer pleinement sa liberté individuelle. Or, les cadres, dans lesquels doit s'exercer celle-ci, ne peuvent être définis que par la société.

Ainsi, serait-il justifié d'admettre que l'exercice d'un droit individuel, en réalité, est lié à la liberté individuelle. Toutefois, il importe de rappeler aussi qu'avoir des droits, ne signifie pas qu'un individu doit jouir de sa liberté sans limite. Cela suppose aussi que celui-ci ait des obligations. Emmanuel Picavet éclaire dans ce sens qu'

« Une seconde raison s'énonce ainsi : les droits consacrés dans le droit offrent des ressources normatives aux individus et aux groupes. C'est ce qui entretient l'habitude de parler de « droit » simultanément au sens de prérogative que l'on a et au sens de prérogative que l'on doit avoir »⁴⁴.

Il est admissible, sur la base de l'analyse de la pensée du philosophe français, que les droits supposent aussi des devoirs, qui constituent normalement une limite à l'affirmation des droits et libertés individuels. C'est dans cette perspective que Sébastien Caré, commentant Berlin, a pu écrire que « Ce serait ici principalement dans sa capacité de citoyen qu'un individu éprouverait sa liberté dans sa capacité à exercer avec ses semblables en transcendant ses préférences individuelles »⁴⁵.

Par exemple, le droit à la liberté est reconnu à tous, logiquement tout le monde a le devoir de respecter la liberté de tous. À ce propos, Sébastien Caré estime que « La liberté s'entend comme le lieu d'une indépendance de l'individu vis-à-vis de la volonté coercitive de ses semblables »⁴⁶. L'article 4 de la Déclaration des droits de l'homme et de citoyen de 1789 stipule que : « La liberté consiste à pouvoir faire tout ce qui ne nuit pas à autrui : ainsi, l'exercice des droits naturels de chaque homme n'a de bornes que celle qui assurent aux autres membres de la société la jouissance de ces mêmes droits ». John Stuart Mill, prônant la même idée, indique que ce droit est absolu, il ne doit être limité que pour éviter le tort causé à autrui. En fait, pour l'auteur, la société et l'individu ont chacun une part spécifique ou sphère de la vie.

⁴⁴ E Picavet, *op. cit.*, p. 59.

⁴⁵ Sébastien Caré, *op. cit.*, p. 27.

⁴⁶ *Ibidem*, p. 19.

Quelle part de la vie humaine, écrit-il, revient-elle à l'individu, quelle part à la société ? Chacune des deux recevra ce qui lui revient si chacune se préoccupe de ce qui la concerne plus particulièrement. A l'individu devrait appartenir cette partie de la vie qui l'intéresse d'abord d'individu ; à la société, celle qui intéresse d'abord la société⁴⁷.

Dans cette perspective, il préconise que si un individu, qui jouit de sa liberté, porte atteinte à sa propre vie ou à sa propre personne, la société n'ait pas de raison valable d'interpeller celui-ci, car ce dernier ne fait qu'exercer son droit à la liberté. Mais par contre, si ses actes sont susceptibles de porter atteinte à autrui, dès lors elle a la légitimité d'intervenir afin de limiter son droit à la liberté, car nul ne doit empêcher les autres d'exercer le même droit dans l'espace public.

Dès que, affirme-t-il, la conduite d'une personne devient préjudiciable aux intérêts d'autrui, la société a le droit de la juger, et la question de savoir si cette intervention favorise ou non le bien-être général est alors ouvert à la discussion. Mais cette question n'a pas lieu d'être tant que la conduite de quelqu'un n'affecte que ses propres intérêts⁴⁸.

À cet égard, la remarque peut être la suivante : la reconnaissance ou la validation des différents droits moraux par la société constitue une autorisation pour qu'ils puissent être exercés par les individus. Cependant, la question évidente qui peut être posée est de savoir : les droits moraux n'ont-ils que le statut d'être reconnus juridiquement afin qu'ils soient exercés ?

Certes, les droits moraux, pour qu'il soit possible pour les individus de les exercer comme nous l'avons expliqué précédemment, il est nécessaire qu'ils soient reconnus juridiquement. En réalité, ils sont dans ces conditions des droits juridiques en devenir. Mais il est légitime de mentionner aussi que les droits juridiques ont besoin d'un consentement moral pour être valides. En fait, quand un droit moral est reconnu juridiquement, il revient à chercher à savoir, s'il est véritablement garanti pour tous les individus dans les mêmes conditions. Un droit moral ne peut pas être reconnu juridiquement et que dans les mêmes conditions, certains individus aient plus de possibilités de l'exercer que d'autres. Moralement, c'est inadmissible, car ceux-ci sont naturellement des êtres égaux et ils doivent faire l'objet d'un traitement équitable en matière de la promotion des droits.

⁴⁷ J. S. Mill, *De la liberté*, Traduction de Laurence Lenglet à partir de la trad. de Dupond White, Paris, Gallimard, 1990, p. 176.

⁴⁸ J. S. Mill, *op. cit.*, p. 177.

Par exemple, le droit de vote des femmes est reconnu de nos jours. Ce qui signifie qu'en pratique, il est reconnu à toutes les femmes sans considération des conditions sociales particulières en dehors de l'âge minimum exigé. Pour Ronald Dworkin : « La constitution amalgame les questions morales et juridiques en faisant dépendre la validité d'une loi de la réponse à des problèmes moraux complexes, tels que celui de savoir si une loi particulière respecte l'égalité inhérente de tous les hommes »⁴⁹. Dès lors, il peut être admis que les droits moraux constituent un moyen permettant de vérifier la validité des droits juridiques. Ces derniers ne peuvent pas être valides en dehors des premiers. Il revient donc à avancer l'idée que, c'est ce qui donne aux individus, sujets de droit, la légitimité de ne pas respecter un droit juridique qui violerait leur droit moral absolu, notamment le droit des individus à avoir des droits, surtout leur droit d'avoir les mêmes droits.

Après l'analyse explicative ainsi faite de la notion « avoir droit » d'un point de vue philosophique, quelle peut être la portée éthique du droit ?

2.2. La portée éthique du droit dans la société

Avant toute chose, que les esprits soient avertis sur le point suivant : le droit a une portée éthique dans la société, en ce sens qu'il évolue en fonction des circonstances sociétales, et par conséquent, en retour, il a des impacts significatifs sur cette dernière. En réalité, le droit est susceptible de s'adapter aux circonstances sociales d'une part et de faire évoluer toute la société entière d'autre part. De fait, il constitue une entité dynamique et non figée. Le droit, à notre avis, évolue dans le temps et l'espace. Il n'existe pas un droit unique et universel, il est local, relatif. En ce sens qu'il est propre à chaque société. Il est le fruit de chaque société donnée dans le temps. Dans la même perspective, Essodina Bamaze N'guani⁵⁰, dans le cadre de la lutte contre l'excision pratiquée dans certains pays en Afrique, préconise que le droit international soit concilié avec le droit national de chaque pays afin de pouvoir combattre efficacement cette pratique qui relève d'une autre époque. En effet, l'auteur développe une approche basée essentiellement sur la prise en compte à la fois de l'universalisme juridique et du particularisme culturel. En clair, pour que le phénomène de l'excision puisse être combattu efficacement et éradiqué en Afrique, le droit international doit se marier au celui national, c'est-à-dire les réalités sociales locales de chaque pays où se pratique l'excision. Autrement dit, le droit international ne peut être accepté que s'il correspond aux réalités locales

⁴⁹ Ronald Dworkin, *op. cit.*

⁵⁰ E. Bamaze N'guani, « Les droits humains au prisme des particularismes culturels : Quelle alternative ? », in *Studia Universitatis Babeş-Bolyai Philosophia*, vol. 67, n° 2, 2022, p. 159-187.

profondes. C'est donc ce qui est susceptible d'expliquer, selon l'auteur, l'échec de multiples politiques de la lutte contre l'excision initiées sur le plan international pour être appliquées dans certains pays en Afrique⁵¹. Il est donc de nécessité absolue de pouvoir déterminer l'équivalent du droit international dans le droit national de chaque pays où se pratique l'excision.

En outre, le droit qui constitue le produit de la société, impacte également de manière significative sur celle-ci. Mais comment ? En réalité, lorsqu'un droit est reconnu, il impacte sur toute la vie sociale. Les pratiques changent, l'idée qui était admise avant la validation de ce droit change également. Illustration de notre idée par un fait de l'organisme humain. Lorsqu'un individu est malade, il se fait diagnostiquer. Une fois le diagnostic fait, les causes du malaise peuvent être détectées. Sur cette base, un traitement peut être proposé à l'individu. Une fois que celui-ci commence le traitement, tout l'organisme réagit et son état de santé s'améliore. En fait, l'impact du droit sur la vie sociale est comparable à l'impact d'un traitement approprié et efficace sur tout l'organisme humain.

Par ailleurs, un traitement médical, qu'il se révèle efficace ou non, a toujours un impact sur le système médical. S'il est efficace sur un individu, il renforce les méthodes médicales. Par contre, s'il est inefficace, il remet en cause les méthodes médicales existantes. Ce qui exige que des recherches soient davantage faites afin d'améliorer celles-ci. Il en va de même pour le droit. Lorsqu'il est validé par la société, il entraîne des comportements sociaux nouveaux. Mais ce droit n'est pas acquis pour toujours. Il peut être dénoncé avec le temps par la même société qui évolue également. De ce fait, même si un droit quelconque n'est pas reconnu aujourd'hui par une société donnée, rien n'est en mesure de prouver qu'il ne sera jamais reconnu par celle-ci dans le temps. C'est en ce sens que nous défendons la thèse selon laquelle, le droit évolue selon les circonstances sociales et qu'en retour, la société constitue le cadre propice de l'évolution de celui-ci. Considérant que les droits n'ont jamais été assez ou ne peuvent jamais être assez garantis, Judith Shklar exhorte le citoyen à mener une lutte perpétuelle afin de favoriser leur promotion dynamique. Ainsi écrit-elle, dans son article « Liberté positive, liberté négative en Amérique », que « C'est la marque d'un bon citoyen libéral de lutter pour ses droits qui ne peuvent jamais être assez étendus et assez respectés. Dans cette idéologie et dans cette pratique politique, la liberté négative et la liberté positive ne sont pas en

⁵¹ Nous avons recours à l'auteur dans l'intérêt de se baser sur son approche afin de rendre compréhensible notre idée selon laquelle, le droit est propre à chaque société. Ici, l'enseignement est que même pour que des actions, au plan international, connaissent un succès, il est impératif qu'elles soient compatibles avec le droit local.

conflit, mais elles se soutiennent mutuellement »⁵². Elle explique en fait que tous les droits, quels qu'ils soient, ne peuvent pas être garantis une seule fois. Ils doivent faire l'objet d'une amélioration constante.

En effet, le principe, susceptible de garantir le droit des individus à avoir les mêmes droits, c'est le devoir de respecter le droit à la liberté de tous. Certes, pour qu'un droit soit valide, il doit être reconnu par la société. Mais il ne doit pas aussi être en conflit avec le droit à la liberté de tous. Il ne doit non plus constituer un obstacle pour la société dans sa mission de garantir ce dernier. C'est à ce titre que l'idée de l'évolution des droits dans la société peut être justifiée. En conséquence, leur validation peut exiger des temps d'attente. Et donc, des individus peuvent contester des droits parce qu'ils estiment qu'ils méprisent leur droit à la liberté.

Par exemple, avant 1900, les femmes ne votaient pas lors des différentes élections en France. Ce droit, ayant été reconnu aux femmes en 1944, il s'ensuit un impact significatif et continue d'en avoir sur la société entière. D'une part, l'adoption de ce droit constitue une manifestation de l'évolution du droit et, d'autre part, a des répercussions significatives sur la société en termes d'une égalité politique. Les femmes et les hommes jouissent désormais des mêmes droits et libertés. La reconnaissance de ce droit signifie que tous les citoyens sont égaux devant la loi. Or, avant son adoption, ils n'étaient pas considérés comme étant égaux et ayant les mêmes droits. Dès lors qu'il a été adopté, la pensée et pratiques sociales ont changé.

Un autre exemple, l'esclavage, caractérisé par la domination du maître sur son sujet, dès qu'il a été aboli, les pratiques sociales ont changé. De fait, tous les individus sont égaux, aucun individu ne peut plus être le sujet d'un maître et vice versa. Depuis le décret du 22 avril 1988, la pratique de l'esclavage est considérée comme un crime. Si de nos jours, les relations entre les individus ne sont plus caractérisées par le statut du maître et de l'esclave, ce n'est pas parce qu'il n'existe plus les moyens pour pouvoir entretenir toujours ces relations. Mais c'est parce que le droit actuel ne reconnaît plus l'esclavage comme étant une pratique légale.

De tout ce qui précède, il est légitime de défendre l'idée que l'adoption du droit de vote des femmes et l'abolition de l'esclavage constituent des avancées significatives du droit, mais au même moment, la validation de ces différents droits a des impacts significatifs sur la société entière, elle-même, en termes d'égalité de tous les citoyens, quels qu'ils soient. Il revient à considérer que la société et le droit sont complémentaires. En principe, le droit évolue selon les mutations de la société et en même temps, il transforme celle-ci. C'est en ce sens que nous saisissons la portée éthique du droit dans la société.

⁵² J. Shklar, « Liberté positive, liberté négative en Amérique », cité par Sébastien Caré, *La théorie politique contemporaine. Courant, auteurs, débats*, Paris, Armand Colin, 2021, p. 31.

Conclusion

En somme, ce travail a consisté à défendre la thèse selon laquelle la notion « avoir droit » fait l'objet de différentes considérations philosophiques, en conséquence le droit évolue en fonction des circonstances sociales, au même moment qu'il impacte significativement sur la société. Pour ce faire, il a été organisé en deux parties.

En effet, en premier lieu, un travail de présentation du concept de droit a été réalisé en vue de relever les différentes variations dont ce concept est susceptible de faire l'objet. L'intérêt est de pouvoir proposer une définition adéquate dans le cadre présente réflexion partant de ces différentes variations.

En deuxième lieu, il a été question de mettre en lumière la thèse selon laquelle la notion « avoir droit » fait l'objet de différentes considérations philosophiques. À cet effet, il a semblé nécessaire de développer d'abord l'idée qu'il est admissible que depuis l'Antiquité jusqu'à l'époque moderne, l'homme soit considéré comme étant un être ayant des droits de par sa nature, mais c'est surtout à l'époque moderne que tout être humain est considéré comme étant réellement un sujet de droit en dehors de toute considération des conditions sociales. Tous les êtres humains sont donc reconnus *a priori* comme des sujets porteurs de droits. Ils sont tous égaux devant le droit, quel qu'il soit.

Cependant, afin que ces êtres humains puissent jouir effectivement de leurs différents droits, il est nécessaire qu'ils soient préalablement reconnus par la société. En réalité, les droits moraux doivent être impérativement reconnus par la communauté politique afin d'être valides et effectifs. Ronald Dworkin fait savoir à ce sujet que : « Certains philosophes, bien sûr, rejettent l'idée que les citoyens ont des droits à part ceux que la loi leur reconnaît. Bentham pensait que l'idée de droits moraux était une « pompeuse absurdité » »⁵³.

Aussi, les droits juridiques doivent-ils être d'abord moralement valides pour être effectifs. Herbert Hart explique justement qu'« Il est bien sûr impossible d'identifier simplement les droits moraux et légaux, mais il y a lien intime entre eux, et ce lien même est un trait qui distingue le droit moral des autres concepts moraux fondamentaux »⁵⁴. À cet égard, il est évident de considérer que les droits juridiques doivent être impérativement évalués par la morale pour qu'ils soient légitimes. Or, la morale, nous l'estimons, est en réalité sociale. Dès lors, il peut être admis qu'il

⁵³ R. Dworkin, *op. cit.*, p. 280.

⁵⁴ H. L. A. Hart, « Existe-t-il des droits naturels ? », n°21, *Klesis*, Traduit de l'anglais par Charles Girard, 2011, p. 241.

existe une forme de complémentarité entre la société et le droit. La société fait évoluer le droit au même moment que le droit transforme significativement les pratiques sociales. C'est sur ces bases que nous avons pu mettre en lumière aussi la thèse selon laquelle le droit a, en fait, une portée éthique sur la société.

Ainsi, est-il admissible que la notion « avoir droits » est susceptible de faire l'objet de plusieurs significations. En pratique, avoir des droits pour les individus signifie qu'ils aient la possibilité réelle de les exercer, voire les revendiquer. Or, pour qu'ils puissent exercer leurs différents droits, il est indéniable que ces derniers soient préalablement reconnus par la société, c'est-à-dire que des conditions, quelles qu'elles soient, aient vocation à garantir réellement le libre exercice de ces droits.

BIBLIOGRAPHIE

- Alfred Boehm et Renard Georges, « Le Droit, l'Ordre et la Raison, Conférences d'Introduction philosophique à l'étude du droit, troisième série », in *Revue des Sciences Religieuses*, tome et fascicule 1, 1927, p. 144-146.
- Aristote, *La politique*, Nouvelle traduction, introduction, notes et index par J. Tricot, Paris, Librairie Philosophique J. Vrin, 1982.
- Bamaze N'guani Essodina, « Les droits humains au prisme des particularismes culturels : Quelle alternative ? », in *Studia Universitatis Babeş-Bolyai Philosophia* vol. 67, n° 2, 2022, p. 159-187.
- Blaye Michel (dir), *Grand Dictionnaire de la philosophie*, Paris, CNRS Éditions, 2012. Bourdieu Pierre. « La force du droit », in *Actes de la recherche en sciences sociales. De quel droit ?*, Vol. 64, 1986, p. 3-19.
- Caré Sébastien, *La théorie politique contemporaine. Courant, auteurs, débats*, Paris, Armand Colin, 2021.
- Colliot-Thélène Catherine, « Pour une politique des droits subjectifs : la lutte pour les droits comme lutte politique », in *L'Année sociologique*, vol. 59, n°1, 2009, p. 231-258.
- Dahl Robert, *De la démocratie*, traduit de l'américain par Monique Berry, Paris, Nouveaux Horizons, 1998.
- Dabin Jean. « La notion du droit naturel et la pensée juridique contemporaine », in *Revue Néoscholastique de philosophie*, 30^e année, Deuxième série, n°20, 1928, p. 418-461.
- D'Auvergne Sainte-Marcelle, « De la matière du droit naturel », in *théologique et philosophique* vol. 23, n° 1, Laval, 2010, p. 116-145.
- Dworkin Ronald, *Prendre les droits au sérieux*, traduit de l'anglais par Marie-Jeanne Rossignol et Frédéric Limare, traduction révisée et présentée par Françoise Michaut, Paris, P.U.F, 1995.
- Fabre-Magnan Muriel, « La notion de droit », in *Introduction au droit*. Paris, Presses Universitaires de France, « Que sais-je ? », 2018, p. 12-21.

- Hart Herbert Lionel Adolphus, « Existe-t-il des droits naturels ? », n° 21, *Klesis*, Traduit de l'anglais par Charles Girard, 2011, p. 239-254.
- Hart Herbert Lionel Adolphus, *Le concept de droit*, traduit de l'anglais par Michel Van De Kerchove, Bruxelles, Facultés universitaires Saint-Louis, 1976.
- Hunyadi Mark, « Le paralogisme identitaire : identité et droit dans la pensée communautarienne », in *Revue de métaphysique et de morale*, n° 33, 2002, p. 43-59.
- Israël Liora, « Qu'est-ce qu'avoir le droit ? Des mobilisations du droit en perspective sociologique », in *Le sujet dans la cité*, Édition L'Harmattan, vol. 2, n° 3, 2012, p. 34-47.
- Jaspers Karl, *Introduction à la philosophie*, Traduit de l'allemand par Jeanne Hersch, Paris, Librairie Plon, 1981.
- Kelsen Hans, *Théorie générale des normes*, traduit de l'Allemand par Olivier Braud et Fabrice Malkani, Paris, Presses Universitaires de France, 1996.
- Lucas Philippe, « Les droits de la vie : Biologie, éthique et droit », n° 85-86, in *L'Homme et la société*, « Les droits de l'homme et le nouvel occidentalisme », 1987, p. 164-173.
- Mill John Stuart, *De la liberté*, trad. de Laurence Lenglet à partir de la trad. De Dupond White, Paris, Gallimard, 1990.
- Morange Jean, « Les garanties des libertés », in *Les libertés publiques*. Paris, Presses Universitaires de France, « Que sais-je ? », 2007, p. 93-109.
- Mourgeon Jacques, « La reconnaissance des droits », in *Les droits de l'homme*. Paris, Presses Universitaires de France, « Que sais-je ? », 2003, p. 65-84.
- Pélisse Jérôme, « A-t-on conscience du droit ? Autour des Legal Consciousness Studies », in *Genèses*, vol. 2, n° 59, Éditions Belin, 2005, p. 114-130.
- Picavet Emmanuel, *La revendication des droits, une étude de l'équilibre des raisons dans le libéralisme*, Paris, Classique Garnier, 2011.
- Pinson Jean-Claude (dir), « Droit naturel, droit positif et contingence », in *Hegel : le droit et le libéralisme*, Paris, Presses Universitaires de France, « Philosophie d'aujourd'hui », 1989, p. 85-102.
- Rawls John, *La justice comme équité*, traduit de l'anglais par Bertrand Guillaume, Paris, Édition La Découverte, 2003.
- Rousseau Jean-Jacques., *Du contrat social*, Paris, Aubier Édition Montaigne, 1943.
- Tusseau Guillaume, « Jeremy Bentham et les droits de l'homme : un réexamen », in *Revue trimestrielle des droits de l'homme*, vol. 13, 2002, p.407-431.

Dreams and Time. A Phenomenological Analysis

Crina GRIGORESCU*

ABSTRACT. Dreams are a complex phenomenon which the philosophical field knows very little about. However, scientists like Freud or Jung, were able to prove that dream interpretation brings different advantages to our lives. For that reason, the purpose of this paper is to demonstrate that dreams, when understood, can offer us a new life perspective, especially in difficult times.

Therefore, with the help of an innovative phenomenological approach introduced by Maria Zambrano, which focuses on the form of the dream and its relation with time perception, rather than the dream content, we are going to observe that people have many types of consciousness, as well as different forms of access to time which relate to multiple perception modes and emotional states. Applying this theory, Maria J. Neves, is able to demonstrate that a phenomenological dream analysis can produce significant changes in peoples' lives.

Keywords: phenomenology, dream phenomenology, dream interpretation, dream consciousness, time perception

Introduction

Among the philosophers that offer us a phenomenological dream theory we can find Husserl, Fink, Sartre and Conrad; but they've only dedicated a few fragments of research to this phenomenon. Nicola Zippel (2016, 194), tells us that the reason we lack a philosophy of dreaming is due to the fact that no philosopher made dreaming the core of his/her reflection. Researching a totally unconscious

* Dept. of Philosophy, Babeş-Bolyai University Cluj-Napoca Str. M. Kogalniceanu, 1, 400064 Cluj-Napoca, Romania. Email: crina.podina@ubbcluj.ro



mental state is extremely difficult, and it is also hard to avoid the preeminence approach of psychoanalysis and neuroscience to the dreaming state. However, Maria Zambrano introduces an innovative, and much more complex, phenomenological approach, that allows us to see how essential dreams are. We find this new perspective in Maria J. Neves' work: *Phenomenology of Dreams in Philosophical Practice*, through which she is able to prove that dreams can help us know ourselves better; and their interpretation offers us solutions we most likely would not be able to see when awake.

The RVP method: a philosophical dream interpretation

Even though, most people think that sleeping is time-wasting¹ and dreams are without sense and inexplicable, Maria Zambrano builds a theory based on dream phenomenology focused on the form of the dreams and their relation with time perception, rather than the content of the dream. Starting from this perspective and with elaborate research, Maria J. Neves (2014, 1475) develops the *RVP method (Poetical-Ratiovitalism)*, with which she can help people significantly change their lives. She tells us that: "When we think or talk about our life, we mainly have in mind our waking life. The eight hours most of us spend sleeping do not count. We only remember them after a bad sleep or a surprising dream of which we keep thinking during the day". For that reason, most people think sleeping is a waste of time and it should be reduced as much as possible; but we would be surprised to find out how much dreams can improve our way of living when they're accurately interpreted and understood.

Opposing these thoughts, we have Zambrano (1986, 14-15) stating that sleeping comes first and awakening only afterwards: "The dream state is the initial state of our life, from the dream we awake; wakefulness comes after, not sleep. We abandon dreaming for the vigil, not the reverse". A very interesting and innovative statement that could lead dream research in a whole new direction. Even if other phenomenologists had different approaches, Hobson (2012, 25) agrees with Zambrano and explains that: "Instead of being the follower of waking, dreaming is in fact the progenitor of waking. Sleep comes first and awakening comes second. This is a very radical shift in emphasis. (...) We have been almost exclusively interested in the way the night follows the day and we have ignored that night

¹ Even if this is the case, it has been proven, as Jha (2023, 119) explains, that even congenitally blind people are able to dream. And when compared to the dreams of people with normal vision, their dream experiences contain more auditory, haptic, olfactory, and gustatory sensations.

might anticipate the day. (...) Waking consciousness actually depends on dream consciousness rather than the other way around". Ponty (1999, 350) shares a similar attitude towards dreams and believes that without the waking moment, dreams would be nothing more than instantaneous modulations that wouldn't even exist for us. According to him, we do not leave the world while dreaming, even though the space frame in which the dream takes place is different from that in which we are lucid, although it uses all of its articulations.

Why hasn't anyone considered this before? Although it might be really difficult to prove, I believe it's essential we take these opinions into consideration, because it could lead the understanding of the dreaming process to a level we haven't known before. Especially if we also consider the fact that dreams are very helpful in solving problems. Even though, the majority of dreams do not offer a clear solution, Rahman et. al. (2023, 1067) explains that if the vivid fantasies that happen during night are properly deciphered, they are able to provide great breakthroughs.

Furthermore, Zambrano considers dreams as being our more spontaneous reality: „They are subjective and immediate, an unfolding of images and events without thought intervention –but at the same time dreams are our faraway reality because the person becomes an object to herself, she can only watch the dream action without any means to intervene (exception made for lucid dreaming), her one-self is, in dreams, independent and impossible to modify.”² While most of us think we don't dream at all, even when we do, we tend to forget what happened during this unconscious mental state; but as Neves states (2014; 1475), once we're able to remember them, they can show us the important details they contain, which are a great source of help for Philosophical Counseling. With a lot of practice and patience, we can be able to dream and remember what we dreamt; which is a very beneficial process, especially when we're dealing with life difficulties. That's why, inspired by Zambrano's *Phenomenology of Dreams*, Neves dedicates her research to dreams and builds a new interpretation technique that helps many people solve the issues in their lives, whether they're neurotic problems, or simple thoughts they can't seem to move on from.

Through an innovative way, but in complete contradiction with Freud (2017a), Jung (2018), and Adler, to Zambrano (1986, 71): “What is real in dreams are not the stories and the configurations but the intimate subject's movement under atemporality.” A point of view that no phenomenologist or philosopher has considered before. Although, we have Hobson (2012, 26) again with a similar opinion, because he also thinks that we should: “Emphasize the formal properties of dreams rather than the content”. This also represents the main difference between the phenomenological

² Cited in Neves (2014, 1475).

and psychoanalytic approaches. What Zambrano takes into account is the time-frame in which the action takes place. As Kant would've said: "Time is an *a priori* form of the sensibility into which the sensible data will be inserted"³; but Neves (2014, 1476), tells us in this regard, that Kant only referred to "time" without clarifying the concept. On the other hand, there's Zambrano, which points out that we can experience different types of time: "Our experience of time is not always the same. Evidently, this *a priori* time-frame shapes the subject's perception accordingly. The kind of time-frame experienced is what phenomenology of dreams aims at bringing to light", Neves (2014, 1476).

The great discovery that Zambrano makes, is the fact that we have many types of consciousness and different ways in which we can access time; these are all in relation to our numerous perceptions and emotional states. Plus, it is also possible that during the vigil state we could enter certain stages that are similar to dreaming; from here the expression "dreaming awake". Therefore, Zambrano (1986, 27), is able to distinguish three main stages in her Phenomenology of Dreams:

- *Atemporality*: subdivided into Obstacle Dreams and Inverted Dreams (which can be Desire Dreams and Direct Dreams, that are also subdivided in Monoeidetic and Obsessions, in which they can transform).
- *Consecutive Time*: represents the awareness of time, or successive time, which we know as past, present and future.
- *Spiral Time*: is a spiral experience in which time has been transcendent and "the beginning is informed by the end".

1. *Atemporality*

Zambrano (1992, 6), explains that atemporality represents "the suspension of successive time". Therefore, the individual can't act on his free will. Questioning is also suspended in this time-frame, which leads to the impossibility of thinking. As a result, we could say that atemporality is more like a receptive state; the dreamer has no thoughts or questions. In fact, this stage could also be beneficial, because it helps us relax and free our minds; which is an essential condition, required for certain phases of the *RVP method* where we can connect with our inner truth.

a) Obstacle Dreams

These are the dreams in which we have to overcome an obstacle, but we always fail to do so, because of the impossibility to access a conscious time and the lack of free will. Taking into consideration that we can't get surprised, we don't ask

³ Neves (2014, 1476).

any questions and therefore, we don't complain or revolt against the situation we are in.⁴ It is a state in which we're passively watching what is happening to us.⁵ Let's see an example introduced by Neves (2014, 1478), to be able to understand it better:

Obstacle Dream (female, 20, 12 grade high school, waitress)

I was in the Fishermen's Beach in Quarteira, walking close to the sea, the weather was good and the sea was calm. Suddenly a huge wave came out of the sea and pulled me inside the water. The sea was strong, I tried to swim, but without success. The reason why I could not swim out of the water was because my hands were covered with pink plastic gloves, the same I use for washing dishes. The dream did not continue, I woke up before finding a way out of the water. In the dream I did not find it odd that I could not swim because of the gloves, I just knew they were the ones that were preventing me from leaving the water. I have this dream repetitively, with little changes, but in the end, I can never go out of the water and in the dream, I know it is because of the pink plastic gloves.

This young woman requested philosophical counseling at the age of twenty. At eighteen, after finishing high school, she wanted to continue her studies at the university. When she came to see me, two years had passed and she continued living with her parents, helping in the family business: a restaurant. Frequently she had to wash dishes using that kind of pink plastic gloves. It was clear that staying in the family business was the obstacle impeding her to pursue her goals.

b) Inverted Dreams

As Neves (2014, 1479), explains: "Inverted dreams present an object that is a mask or a symbol of something else". They can be of two types:

⁴ "According to Zambrano, we can recognize this state of endless suffering in Kafka's *The Castle* or the Greek tragedies where the hero lives in a tragic inevitability", Neves (2014, 1478).

⁵ "No matter the form in which this threshold is set: the object that we want to grab is millimeters beyond reach, we need to pass a door but cannot make it, we want to talk but have no voice etc. These are dreams in which, strictly speaking, we do not think, because thinking would first demand being surprised with a situation, secondly ask a question, and finally reflect on what is going on. However, this first crucial moment of astonishment never happens. For this reason, in this class of dreams, there is no thought in the true sense of the word. It may happen that we find the answer to a problem that arose during the daytime, however, this is not to be considered thinking because what happens is a finding: the solution presents itself in the dream, without the process that allowed to get there. The subject had been passive. However, at certain stages of the RVP Method this state of active passivity (Zambrano, 1989, 55) is precisely what is needed", Neves (2014, 1478).

- *Desire Dreams*: which manifest in the present, but have a previous origin. These types of dreams refer to past events that haven't been mentally resolved ("like some muffled anxiety or unfulfilled but repressed needs")⁶. Because while dreaming we can travel far back in time, *Desire Dreams* allow the individual to address conflicts that remained behind because of the inability to solve them at that specific time.
- *Monoeidetic Dream*: here we can find a symbol helpful for the individual's development. This type of dream requires an action towards a purpose that is not completely revealed, because it is in fact an inexhaustible process. Their purpose is of an ethical nature; they can set us free and direct us to a personal development which was already achieved or about to be achieved. Neves (2014, 1480), tells us that: "They are a picture of a total unity that show the dreamer's destiny in an instant. This causes a strain towards the finality-destination, so that raises a transcendent action. Every action, whatever form it takes – thought, contemplation or action itself – in which the subject ripens his mask is a transcendent action. The impulse towards the transcendent action undoes the dream and with it the atemporality. The person awakes, which provokes the appropriation of the consecutive time, being ready to take action".

2. Consecutive Time

This represents the second stage and it is defined as our conventional understanding of past, present and future. We are aware of this time-frame, because we can experience free will and make decisions. It allows us to see the logical sequence of events or the lack of it. Neves (2014, 1482), tells us that: "This is the vigil time, the wakefulness time by definition which, according to Zambrano, is only possible due to the existence of a void, a pore in the time line". It is the contrary of the Atemporality stage, where we encounter appearing and disappearing images. It is the void we find here what helps us see that something is happening or has happened to us. There are two types of experiences here: *External Sensorial Event* and *Lucid Dreaming*.

a) *External Sensorial Event*

These are the dreams that transform an exterior sensation into a dream, as we can see in the example below, introduced by Neves (2014, 1482):

⁶ Although we mentioned at the beginning that Zambrano's theory opposes that of Freud, the definition of *Desire Dreams* is similar to that of Freud; what differs here is that Freud strongly believed that all dreams are *desire dreams*.

It was summer, it was very hot and I was on the beach having a bath in the sea. But only my feet got cold while the rest of the body was still hot. I woke up. I was confused for a moment without realizing what had happened to me. I had fallen asleep in the sun, though the tide had risen and a wave soaked my feet.

These types of experiences have been often reported by researchers. We can find a complete list of examples in Freud's work: *The Interpretation of Dreams*.

b) Lucid Dreams

When we experience lucid dreams (also known as LD), we know that we are dreaming and we also have the possibility to change the course of action; although they are difficult to achieve. Nevertheless, these types of dreams are mentioned by several contemporary scientists that explain their healing powers. Johnson (2020, 66), for example, states that lucid dreaming can help us practice our reaction towards scary events in a very realistic space-frame. The outcomes can be beneficial and able to help us overcome frequent nightmares. Plus, they also represent an efficient therapy method that could aid us in optimizing our present while creating a better future. Ball (2018, 47), shares a similar opinion because she thinks that lucid dreaming is already considered to be a great way to bring changes into our daily existence. She supports the fact that when we find ourselves in a lucid dreaming state, we are fully aware that we are dreaming and that we can change the dream's outcome. By learning to control our dream world, we could also increase our life quality.

It is also important to mention that dreams represent an interest for researchers from different domains, because of their benefits and direct connection with mental well-being, creativity, restoration and skill improvement. As Stumbrys et. al. (2015, 27-34) explains:

With anecdotal evidence and practices, a possible role from problem solving ability to healing has been propounded by incorporating LD practices. Since it has been very well established how LD holds powers to influence mental health and overall temperament by mood upliftment of the person, myriad number of researchers studied and devised possible techniques to induce LD⁷ and constructed mechanisms to voluntarily control our lucid and vivid dreams.

Krishnan (2021, 211), also states that:

Some studies showed that the LD could be controlled partially or fully which in turn has ascendancy over meditative and inner healing capabilities. We learned that

⁷ Baird et. al. (2019, 305-23); Tholey (1983, 79-90).

REM dreams could be more helpful in this regard, as LD being its distinctive feature, is instrumental in the improvement of wake life and can be induced via various means and practices. Dream contents have been shown to influence judgments and its interpretation tends to affect day to day lives of individuals. Thus it is suggested here to draw its impact in “our favor” and building a more productive and skilled temperaments.

Which once again, proves the amount of help dreams can bring into our lives.

3. *Spiral Time*

The Spiral Time is defined by Zambrano (1986, 27) as “indefinitely open but centered and integrated”. This spiral movement “allows the person to realize herself as being in constant transcendence and simultaneous integration. Time, without disappearing, has been transcendent by this unity in which the beginning is informed by the end”. Only in privileged moments where we’re in sink with our life we can experience this time-frame: “The person acts unisonous with herself and produces a true action. The person shows her true face and all the masks from different characters fall”. Here, we can find three forms of experience.

a) Vocation

In the case of experiencing vocation, Neves (2014, 1483) explains that: “It is as if the person has been informed of her fulfillment, if she were to take a certain course of action. It is a call that comes with an assurance. The person breathes calmly, resting in the confidence of working towards her realization. It is an experience of unity, wholeness, as if she already closed the circle of life; the person feels complete in her being”. Zambrano (1986, 72), uses the “Present Perfect” expression to define this stage: “The person communicates fully with herself and the world and intuitively receives confirmation that her course of action is correct”. Jacobi (2018, 219), shares some similar thoughts, because she believes that some dreams are capable of giving us the certainty of a concrete experience, as if the dreamer has already experienced that same event while being awake.

Although we need to keep in mind that this time frame is usually experienced while awake; that’s why we must keep in mind that Zambrano is interested in the time-frame of the experience, and not if we’re awake or asleep.

b) Creativity

When this state of knowledge is transferred to the artistic sphere of creation, the creator already knows how the work that is yet to be created, is going to turn out; it inspires the artist. It might be for this reason why Freud (2017b, 111),

calls writers people that dream with their eyes wide open. Furthermore, Neves (2014, 1483) tells us that: “This insight of the work of art dictates from the future its own unfolding as an art object. This paradox is exactly how we can understand the phenomenon of inspiration in Zambrano’s aesthetics. The access to a future time is the mediator between the author and his creation”. The channel that he just opened represents the inspiration that allows the “birth” of the work of art. The artist and his creation are in perfect harmony. Although it is difficult to prove this theory, Zambrano sustains that: “Time perception suffers a modification during the creative art”. Even though, many artists believe that their time perception is changed when inspired; but none of this has been tested yet.

c) Predictive Dreams

Between their many characteristics, dreams can also be predictive, “in the sense that a dream may correctly anticipate future events or actions”, Neves (2014, 1483). According to Zambrano, all of this is possible because of the spiral time in which the individual “travels”; believed to be a future time from where he returns with information. Let’s see an example that will help us understand this phenomenon.

Predictive Dream (female, 54 years, basic education)

My son got married four years ago ... I felt no animosity towards my daughter in law. On the contrary, I loved that girl! Two weeks before the wedding I had a conversation with my son: ‘Son, you thought it well? Can you not wait a little bit longer before getting married?’ My son answered ‘Oh mother, for God’s sake! I want to marry! I love her, she loves me, what is there to wait?!’ I insisted that he should not get married yet, because I had a dream in which he first got married and separated shortly after. And so it did happen two weeks after the wedding!

At first sight, the separation might seem like it happened because the mom told the son it could and that might have influenced an argument or something with the bride. We can’t know for sure, but these types of predictions have been reported for a long time. What’s more, science is not able to offer an explanation yet.⁸ Freud (2010, 168) calls these type of dreams “warning dreams” and Colucci (2020, 19) calls them “premonition dreams”.

⁸ “Although science does not provide a final explanation of this kind of phenomena, they have been reported since Homeric times. Several psychotherapists refer to patients with predictive capacities and/or telepathic skills (Carpenter 2002). Also striking allusions in the dreams of patients to events in the life of the therapist, which they had no way of knowing, have been registered (Eherenwald 1942 & 1955). Frequently people with this kind of capacity have a hard time dealing with it. In my

Conclusions

From her philosophical therapeutic experience, Neves (2014, 1484), concludes that: “Dreams – being beyond our conscious mind control – may function as a shortcut to elucidating where the problem really lies. This can save a lot of time, both for the consultant and the client”.⁹ Moreover, dreams are able to show us our mental state in regard with a problem we might be dealing with. Neves agrees with the fact that “dreams are a fascinating area of study that we still know too little about” and proudly admits that Phenomenological Dream Analysis has been a very useful tool for her philosophical practice.

Another therapist that speaks volumes about the benefits of dreams is Johnson (2020, 21). For her, dream therapy means sleeping consciously and dreaming consciously, in order to have a healthy and happy life. If we are able to consciously connect with our dreams during night time, we could open the gates towards the unconscious mind. Johnson states that everything is attracted into our lives through the thoughts and images that appear in our minds; while dreaming we are somehow forced to face our deepest and most unconscious images or experiences. That’s why, if we take the time to work with dreams, we can change the inner story that unfolds while sleeping; even if “studying and understanding dreams presents numerous challenges due to its subjective nature and the inherent difficulty in directly observing conscious experiences”, as Gallo et. al. (2023, 1) explains. What’s more, Gallo et. al. (2023, 8) adds that: “Dream reports can be influenced by interpretation and biases in memory recall, as well as the introduction of new elements upon recollection.¹⁰ However, we sought to mitigate these limitations by collecting reports immediately upon awakening”, in order to avoid too much time passing between the dreaming experience and wakefulness. Krishnan (2021, 207), also agrees with the benefits dreams can bring into our lives and states that: “Realising dreams as an effective tool for its contribution in daily activities might help organising our mood and overall *mental well-being*”, which is more than necessary to properly function and thrive in our contemporary world.

All of this being said, we can observe that philosophical traditions can continue to advance, as long as we agree on the fact that what we call profound

practice I make them see that they are not that strange by showing them reports of other people with the same capacities. This seems to give them some comfort”, Neves (2014, 1484).

⁹ It’s important to mention that dreams are beneficial for non-clinical people too, as we can see in the research made by Samson et. al. (2023, 1): “Dreams in non-clinical populations can effectively regulate emotions by linking potential threats with non-fearful contexts, reducing anxiety and negative emotions through emotional release or catharsis”.

¹⁰ Rosen (2013, 514).

must be researched and tested continuously, in order to enhance our future. From my point of view, dreams are a complex and complicated phenomenon that deserves meticulous examination. We still know little about them, but the benefits they bring into our lives cannot be denied. Even if most people do not consider dreams important, or sleeping in general; there still are many people fascinated by them. Therefore, I strongly consider that dreams are a great path to discover the mysterious and complex parts of our being; as proved above, not only they send us “messages” when something does not go well, they are also able to signal certain diseases that we could go through without us knowing; as Freud and Jung were able to prove in their works. The more we learn and work with dreams, the easier things can get in our lives. Plus, the fast-evolving technologies represent an even greater support that we can benefit from when researching dreams; as long as we keep an open mind to new ideas that continue to develop.

REFERENCES

- Baird B., Mota-Rolim SA, Dresler M., *The cognitive neuroscience of lucid dreaming*, *Neurosci. Biobehav. Rev.*, 2019;100:305-23.
- C. G. Jung, *Analiza viselor. Note ale seminarului susținut între 1928-1930*, Editura Trei, București, volum editat de William McGuire, trad. din engleză de Sofia-Manuela Nicolae, 2018.
- Clare Johnson, *Terapia prin vise*, Editura Litera, București, trad. Andreea Rosemarie Lutic, 2020.
- David R. Samson, Alice Clerget, Noor Abbas, Jeffrey Senese, Mallika S. Sarma, Sheina Lew-Levy, Ibrahim A. Mabulla, Audax Z. P. Mabulla, Valchy Miegakanda, Francesca Borghese, Pauline Henckarts, Sophie Schwartz, Virginie Sterpenich, Lee T. Getler, Adam Boyette, Alyssa N. Crittenden & Lampros Perogramvros, *Evidence for an emotional adaptive function of dreams: a cross-cultural study*, *Scientific Reports, Nature Portofolio*, 2023 [www.nature.com/scientificreports].
- Dolly Krishnan, *Orchestration of dreams: a possible tool for enhancement of mental productivity and efficiency*, *Sleep and Biological Rhythms*, Japanese Society of Sleep Research, Springer, 2021.
- Elena Colucci, *Visele. Înțelegerea și interpretarea viselor*, Editura Prestige, București, trad. din italiană, Sorin Sava, 2020.
- Francisco T. Gallo, Ignacio Spiouss, Nerea L. Herrero, Daniela Godoy, Antonela Tommasel, Miguel Gasca-Rolin, Rodrigo Ramele, Pablo M. Gleiser & Ceicilia Forcato, *Structural differences between non-lucid dreams, lucid dreams and out-of-body experience reports assessed by graph analysis*, *Scientific Reports, Nature Portofolio*, 2023 [www.nature.com/scientificreports].
- Hobson A., *Dream Consciousness*, *Behind and Beyond the Brain* 9, 25-33, 2012.

- Jolande Jacobi, *Complex, arhetip, simbol în psihologia lui C. G. Jung*, Editura Trei, București, trad. Din germane: Daniela Ștefănescu, 2018.
- Maria J. Neves, *Phenomenology of Dreams in Philosophical Practice*, Journal of the Appa, V. 9, No. 3, 2014, Philosophical Practice, [www.appa.edu].
- Maria Zambrano, *El Sueño Creador*, Turner, Madrid, 1986.
- Maria Zambrano, *Los Sueños y el Tiempo*, Siruela, Madrid, 1992.
- Maurice Ponty, *Fenomenologia percepției*, Editura Aion, trad. Ilieș Câmpeanu și Georgiana Vătăjelu, 1999.
- M. G. Rosen, *What I make up when I wake up: Anti-experience views and narrative fabrication of dreams*, Front. Psychol. 4, 514, 2013 [https://doi.org/10.3389/fpsyg.2013.00514].
- Nicola Zippel, *Dreaming Consciousness: A Contribution from Phenomenology*, Rivista Internazionale di Filosofia e Psicologia, Vol. 7, n. 2, 2016, Ricerche, Roma, pp. 180-201, 2016.
- Pamela Ball, *10.000 de vise interpretate*, Editura Litera, București, trad. Graal Soft, 2018.
- Prof. Dr. Fazlur Rahman, Farid Ullah Khan, Zuha Rahman, Dr. Waqar Ahmad, *Phenomenon Of Dreams: An Analysis of Historical, Religious, Scientific and Psychological Perspectives*, Journal of Positive School Psychology, vol. 7, No. 1, 1060-1071, 2023 [http:journalppw.com].
- Sigmund Freud, *Opere Esențiale. Eseuri de psihanaliză aplicată*, vol. 10, Editura Trei, București, trad. din germană și coord.: Vasile Dem. Zamfirescu, 2017b.
- Sigmund Freud, *Opere Esențiale. Inhibiție, simptom, angoasă*, vol. 6, Editura Trei, București, trad. din germană: Roxana Melnicu și Georgeta Mitrea, coord. Ed: Vasile Dem. Zamfirescu, 2010.
- Sigmund Freud, *Opere Esențiale. Interpretarea Viselor*, vol. 2, Editura Trei, București, coord.: Vasile Dem. Zamfirescu, trad.: Vasile Dem. Zamfirescu, 2017a.
- Sushil K. Jha & Vibha M. Jha, *Unraveling the Science of Dreams*, Sleep and Vigilance, Springer Nature Singapore, 2023.
- Tholey P., *Techniques for introducing and manipulating lucid dreams*, Percept. Mot. Skills, 1983;57(1):79-90.

Aristotelian Roots of Contemporary Tense Logic

Živilė PABIJUTAITE*, Pranciškus GRICIUS**

ABSTRACT. Tense logic is a branch of contemporary logic which includes formal devices that allow us to deal with the temporal relations between propositions. The aim of our paper is threefold: 1) to reveal how Aristotelian philosophical ideas about time, truth, possibility and necessity were reinterpreted by the founder of contemporary tense logic Arthur Prior; 2) to discuss what novel solutions to the classical problem of future contingents are available using Priorean invention; 3) to describe how the tools of tense logic have transcended their original theoretical purposes.

Keywords: Tense Logic, Sea-Battle Paradox, Future Contingents, Arthur Prior, Aristotle

Introduction

The 20th century is renowned as a period of flourishing for various non-classical logics. In the early 1920s the Polish logician Jan Łukasiewicz introduced one of the first systems of many-valued logic that includes more than two traditional truth-values (Łukasiewicz 1970 [1920]). It was followed by quantum logics created by Garrett Birkhoff and John von Neumann in 1936, who supplemented classical logic with tools necessary for describing quantum phenomena. The branch of non-classical logics central to this paper is modal logic, the development of which has gained significant momentum in the mid-20th century with the works of Saul Kripke (1959, 1963). This group of logics extends classical logic by introducing various non-truth-functional operators in order to express concepts of necessity, possibility,

* Faculty of Philosophy, Universiteto St. 9/1, Vilnius University, Vilnius, LT-01513, Lithuania. e-mail: zivile.pabijutaite@fsf.vu.lt

** University of Oxford, Vilnius University St Hilda's College, Cowley Pl., Oxford OX4 1DY, United Kingdom. e-mail: pranciskus.gricius@st-hildas.ox.ac.uk



knowledge, belief, moral obligation and right, and more. The need for such an extension arises from the observation that everyday language includes a great variety of simple inferences and arguments which are intuitively valid, but may not be adequately captured by classical logic alone. Here we provide a concise example of such argument:

(1) Today it is the case that p .

(2) Tomorrow it will be the case that p happened yesterday (a day before tomorrow).

This argument, consisting of only one premise (1) and a conclusion (2), is clearly valid since both the premise and the conclusion obviously state the same information, with the difference between them being only that of tense. However, classical propositional logic does not provide us the tools necessary to capture this temporal difference – here (1) and (2) would be formalized as two logically unrelated propositions, A and B . Tense logic is a branch of modal logic which includes formal devices that allow us to deal with such temporal relations between propositions and enable us to prove the conclusions in the arguments which consist of tensed propositions.¹ It was developed by a New-Zealand born logician and philosopher Arthur Prior (1914–1969) in his seminal works *Time and Modality* (1957) and *Past, Present and Future* (1967). Seeking to adequately formalize propositions that express temporal information, Prior introduced tense-logical operators P (*at some time in the past*), F (*at some time in the future*), H (*always in the past*) and G (*always in the future*) which supplement the syntax of classical propositional and predicate logic. These operators, which function in a similar way alethic modal operators \diamond (*possibly*) and \square (*necessarily*) do, and their combinations allow us to properly express all grammatical tenses used in everyday natural languages. Using these tools, the aforementioned argument should be formalized as:

¹ It is important to note that today in the English-speaking world there exist two different ways of naming this branch of logic – *tense* and *temporal* logic. Although these terms are often used synonymously, the choice between them can also be motivated by different ontological commitments: *tense*, which in everyday language is often understood as a grammatical category pertaining to sentences, is a choice more common between the proponents of the A-theory of time where the categories of *past*, *present* and *future* are deemed to be objective and irreducible to other categories (Bigelow 1996, Bourne 2006, Forrest 2004, Markosian 2004, 2010, Tooley 1997 and others), while *temporal* logic is the name usually preferred by the B-theorists who think that grammatical tense does not have any metaphysical grounding in reality and that the temporal relations between the propositions should be defined using the concepts of *earlier than/ simultaneously with/ later than*, avoiding the talk about past, present and future (amongst others, Dyke 2002, Mellor 1991, 1998, Russell 2015, Smart 2008). Prior himself prioritized the term *tense logic* and was an avid supporter of the A-theory of time without using the term *A-theory* which was first coined by Gale (1966). However, in this paper we use the words *tense* and *temporal* synonymously.

(1) p (2) Fp

– where the relation between the two statements now can be formally demonstrated.²

1. *Time, truth, and necessity in Aristotle's On interpretation IX*

Prior was noted not only for his contributions to the field of logic, but also as a prominent historian of ancient and medieval philosophy. The two interests he had were not orthogonal to one another as Prior was inspired by some classical logical and philosophical paradoxes that vexed both ancient and medieval thinkers. One such puzzle is The Sea-Battle Paradox formulated by Aristotle in his *On interpretation IX*.³ The essence of this paradox lies in the tension between the two common intuitions. On the one hand, it is widely believed that the future is not yet determined, that there is nothing at the present moment which would compel us towards one future path rather than the other, and that we are free agents with objective ability to choose. On the other hand, the principle of bivalence, one of the most fundamental principles in classical logic, requires that every proposition be either true or false at a given time. Assuming all propositions are either true or false, and that the future is not yet determined, what is the status of propositions such as *There will be a sea-battle tomorrow*?

Although today the question about the truth-value of future-tense propositions is considered an independent major problem in contemporary analytic philosophy⁴, Aristotle discussed this issue merely as a digression from a more general topic⁵ – the square of opposition, a scheme which depicts the logical relations between the different forms of propositions. In Aristotelian logic, the most basic element is a term – a unit of language which represents an object or a concept and is itself neither true nor false. By substituting different terms in the places of a subject and a predicate and connecting them with a copula *is (not) / are (not)*, we get a proposition (ἀπόφανσις) which expresses a certain state of affairs and has a

² The notion of a proposition which is the most common in contemporary tense logic and which is also embraced in this paper, diverges significantly from the default notion prevalent in the other branches of contemporary logic. The classical tradition of A. N. Prior traces its roots in the ancient and medieval logical systems where it was common to use the propositions which, although being tensed, either did not provide any direct temporal references, or relied on indexical references tied to the circumstances of their utterance. Such propositions were not seen as incomplete or in need of further specification. In the classical-Priorean framework, the example of a standard proposition is not *P is happening at the moment T* with a stable truth-value, but rather *P is happening [now]* with a changing truth-value.

³ Most extensively discussed by Prior in chapter 7 of his 1967.

⁴ Belnap and Green 1994, 2001, Borghini & Torrenco 2013, Greenough 2008, MacFarlane 2003, Malpass and Waver 2012, Thomason 1970.

⁵ For a more detailed discussion of the historical and philosophical context see Gaskin 1995.

truth-value *true* or *false* (DI 4 16b 29-30).⁶ The Aristotelian classification of propositions is based on three criteria: (1) the type of a subject term (singular terms such as *Socrates* refer to some particular individual, while general terms such as *human* can refer to more than one object); (2) the quantity of a subject term (propositions with a subject such as *all men* assert something about all members of a class, while a proposition with a subject like *some men* expresses information about some part of that class); (3) the quality of the copula (propositions with the copula *is/ are* are called affirmative (κατάφασις) and those that deny the relationship between the subject and predicate with a copula *is not/ are not* are called negative (ἀπόφασις)). Focusing his attention on propositions consisting of general terms, Aristotle distinguishes four basic types of propositions (general affirmative and general negative, particular affirmative and particular negative) and provides a scheme that depicts logical relations between them (DI 17a37-18a12)⁷:

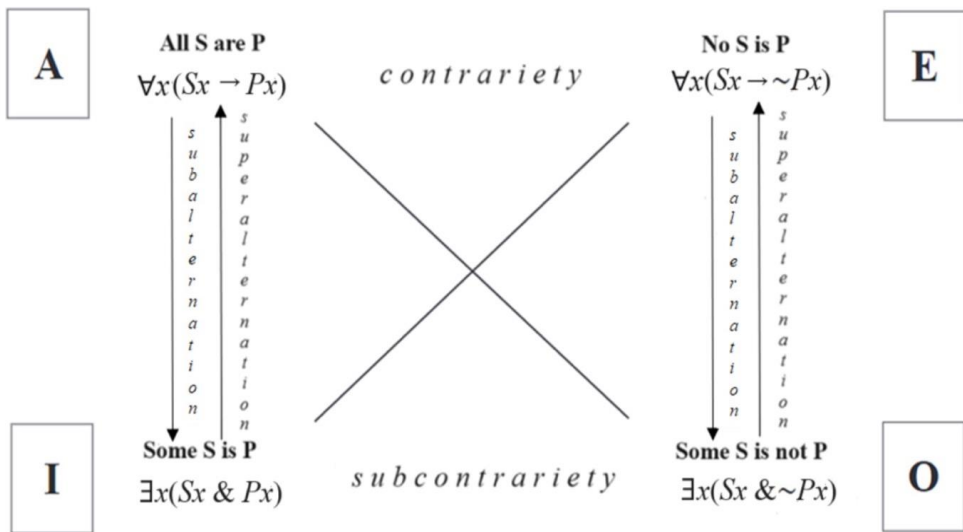


FIGURE 1. Square of opposition

⁶ It should be noted that Aristotle is constructing his categorical propositions not only with the verb *to be* but also with the verb *ὑπάρχειν*, which translates as *to belong/ to pertain*.

⁷ It is important to note that the graphical scheme of the square of opposition was not provided by Aristotle himself who merely described the relations. The graphical representation is dated back to the 2nd century AD. The square of opposition with formalization in modern logical notation is discussed extensively in Parsons 2014. Here and elsewhere the schemes were created by the authors of this paper.

Relations of contrariety, subcontrariety, contradictoriness, subalternation and superalternation define a specific distribution of the truth-values between the opposing propositions: contrary propositions cannot be both true, subcontrary ones cannot both be false⁸, subalternation allows us to infer the truth of a particular proposition if a corresponding universal proposition of the same quality is true, in the case of superalternation the falsity of a universal proposition is implied by the falsity of a corresponding particular proposition of the same quality, and contradictory statements must always have different truth-values.

The square of opposition, together with syllogistic theory, constitutes the essence of Aristotelian logic and was later severely criticised by the proponents of modern logic who deemed that most of the relations of the square become invalid when considering the propositions with empty subject terms.⁹ In fact, in his *On interpretation* Aristotle himself discussed several group of statements which he considered to be potential exceptions to the relations depicted by the square. One such class is contingent propositions about the future, expressing some future state of affairs which is neither impossible nor necessary. Considering a pair of contradictory propositions such as *Tomorrow there will be a sea battle* and *It is not the case that tomorrow there will be a sea-battle*¹⁰ (and assuming that neither of the corresponding state of affairs is determined to happen), is it still possible to claim that at the present moment the truth-values are distributed in such way that one of the propositions is true and the other false? Aristotle presents The Sea-Battle paradox as an argument with a fatalistic conclusion and provides two slightly different versions of it (the conclusion of both of these arguments can be generalized to all contingent state of affairs) (*DI* 19a23-19a39):

⁸ In *On interpretation*, the relation of subcontrariety is not explicitly discussed and is only hinted but not named.

⁹ From the viewpoint of modern predicate logic, universal affirmative and negative propositions with empty terms are vacuously true, while particular affirmative and negative propositions are considered to have existential import and, when their subject term is empty, are ascribed a truth-value *false*. This results in the invalidation of the relations of contrariety, subcontrariety, subalternation and superalternation, leaving only the relation of contradictoriness intact.

¹⁰ Although neither of these statements include the quantifier-words such as *all* or *some* (as in more typical examples that Aristotle provides) the relation between them is clearly that of contradictoriness as it is not possible for them both to be true or false at the same time.

- | | |
|---|---|
| <p>1) Every proposition is either true or false;
 2) today it is possible for someone to claim that tomorrow there will be a sea-battle and for someone else to deny it;
 3) (only) one of the two contradictory propositions must be true;
 4) today one (and one only) of the propositions mentioned in (2) must be true;
 5) if some proposition is true, a corresponding state of affairs which makes it true must obtain.
 ∴ Today it is necessary that tomorrow there will be a sea-battle.</p> | <p>1) Every proposition is either true or false;
 2) if today there is a sea-battle, yesterday it was true to say that it would happen tomorrow;
 3) everything in the past is unchangeable and therefore necessary;
 4) the proposition <i>There will be a sea-battle tomorrow</i> asserted yesterday was necessarily true.
 ∴ It is necessary that today there is a sea-battle.</p> |
|---|---|

Originally meant to highlight the tension between the principle of bivalence and the open future intuition, this paradox was reconsidered through a theological prism during the medieval period, trying to reconcile God's foreknowledge of future events with the Christian doctrine of free will. Unlike Aristotle's First Mover, understood as an abstract metaphysical principle whose contemplation is not directed towards the physical world (*Met.* 1072a19-b30), the Christian God possesses attributes of goodness and justice and actively participates in the life of the created universe. One of the first theological versions of the paradox can be found in Boethius' *Consolation of Philosophy* (book V) and his second commentary on Aristotle's *On interpretation* (225,10-226,14).¹¹ Boethius and later medieval thinkers noticed the apparent inconsistency between the idea that we must have free will in order to be praised or punished for our actions, and the fact that God infallibly knows not only past and present but also all future facts, including our future choices even before they are made. Boethius expresses this tension with the question:

How God can know in advance that these things will happen if they are uncertain. [...] If the mind of God cannot be uncertain, then those things that he knows will happen absolutely must happen. And if that is true, then human thoughts and actions have no freedom about them at all, because the mind of God sees all things in advance and can never be led astray, which means that his certainty compels all thoughts and actions to happen. (*Consolatio philosophiae*, book V, chapter III, translation by David R. Slavitt)

The theological version of the aforementioned fatalistic argument could be presented this way (where for p we can substitute any future contingent proposition):

¹¹ For an earlier discussion of this version of the paradox see Augustine's *City of God*, book V, chapters 9 and 10.

- 1) There exists an omniscient Being knowing all past, present and future facts;
 - 2) everything in the past is unchangeable and therefore necessary;
 - 3) if someone knows that p , then p ;
 - 4) yesterday an omniscient Being knew that p ;
 - 5) today it is necessary that yesterday an omniscient Being knew that p .
- \therefore Today it is necessary that p .

2. Prior on The Sea-Battle paradox

Philosophically, the argument from the existence of the omniscient God to determinism can be reformulated in such a way that it does not rest on the assumption that there is such a being as God, since whatever God knows is true, and whatever is true is known by God; thus, it is enough to just talk about what is, was or will be and to drop God's knowledge from the picture. Looking through the lens of tense logic developed by Prior it is possible to discern five principles that are at play in the arguments for determinism¹²:

- (P1) $\varphi \rightarrow P_n F_n \varphi$
(P2) $\Box(P_n F_n \varphi \rightarrow \varphi)$
(P3) $P_n \varphi \rightarrow \Box P_n \varphi$
(P4) $\Box(\varphi \rightarrow \psi) \rightarrow (\Box \varphi \rightarrow \Box \psi)$
(P5) $F_n \varphi \vee F_n \sim \varphi$

(where subscript letters n and m specify some period of time, e.g., one day). The first principle says that if φ , then it was the case n ago that it will be after n that φ . For example, if a dog is barking, then yesterday it was the case that the dog will bark tomorrow. According to the second principle, it is necessary that if n ago it was the case that after n it will be the case that φ , then it is φ . For example, it is necessary that if yesterday it was the case that the dog will bark tomorrow, then the dog is barking today. The third states that the past is necessary: the fact that the dog barked n moments ago is now necessary: once something took place, it is impossible to change that. The fourth is a well-known modal principle, called axiom K, an axiom which is included in any normal modal logic. It states that given that an implication is necessary, if its antecedent is necessary, then its consequence is also necessary. Roughly speaking, if in every possible world it is the case that if φ , then ψ , then if φ is true in all possible worlds, then ψ is true in all possible worlds. The final principle is the law of future excluded middle: it states that for any period of time n , either it will be after n that φ or it will be after n that $\sim \varphi$.

¹² In the presentation we follow, with slight modifications, Goranko 2023: 32–35.

Note that these principles seem to be uncontroversial: each one seems to be intuitively correct. These principles, however, are all that is needed to secure the deterministic conclusion that if something will happen, it will happen by necessity, and if it won't happen, it won't happen by necessity.

1. $F_m p \rightarrow P_n F_n F_m p$ (by P1, when $\varphi / F_m p$)
2. $P_n F_n F_m p \rightarrow \Box P_n F_n F_m p$ (by P3, when $\varphi / F_n F_m p$)
3. $F_m p \rightarrow \Box P_n F_n F_m p$ (by 1 and 2 by transitivity of \rightarrow)
4. $\Box(P_n F_n F_m p \rightarrow F_m p)$ (by P2, when $\varphi / F_m p$)
5. $\Box(P_n F_n F_m p \rightarrow F_m p) \rightarrow (\Box P_n F_n F_m p \rightarrow \Box F_m p)$ (by P4, when $\phi / P_n F_n F_m p$, $\psi / F_m p$)
6. $\Box P_n F_n F_m p \rightarrow \Box F_m p$ (by 4 and 5 by *modus ponens*)
7. $F_m p \rightarrow \Box F_m p$ (by 3 and 6 by transitivity of \rightarrow)
8. $F_m \sim p \rightarrow \Box F_m \sim p$ (repeating the argument from 1-7 with $\sim p$ in place of p)
9. $F_m p \vee F_m \sim p$ (by P5)
10. $\Box F_m p \vee \Box F_m \sim p$ (by 7, 8, 9)

The conclusion reached states that determinism holds.

If indeterminist worldview is to be defended, then one of the five principles must be rejected. Perhaps the best-known answer to the above argument is Ockhamist semantics – a formal semantic theory specifying truth conditions for future statements, that was developed by Prior (1968: 122–127). This semantics shows how the third principle – the principle stating that whatever is past is necessary – can be falsified. Ockhamist semantics is based on the branching time structure¹³, which Saul Kripke suggested to Prior in a letter written in 1958. Kripke wrote:

Now in an indetermined system, we perhaps should not regard time as a linear series, as you have done. Given the present moment, there are several possibilities for what the next moment may be like – and for each possible next moment, there are several possibilities for the next moment after that. Thus the situation takes the form, not of a linear sequence, but of a “tree”¹⁴.

Kripke here contrasts two ways of thinking about the structure of time. The linear sequence that Kripke is referring to is the structure of time that Prior worked with in his book *Time and Modality* (1957): time is represented as a line stretching from the past through the present to the future.

¹³ There is another well-known semantics, called Peircean, which is also based on branching-time structures (see Prior 1968: 128–134). It will not be discussed here due to space limitations. Also, note that it is a separate question whether the historical William of Ockham endorsed what is here called Ockhamist semantics. Some think he did not, see Øhrstrøm 1984: 217.

¹⁴ Quoted in Øhrstrøm and Hasle 2020: §3.

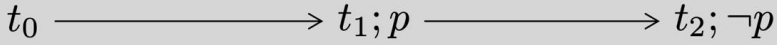


FIGURE 2. Linear time model

Now it is obvious that this way of thinking about time codifies determinism: from any point in time, there is a unique future awaiting. What Kripke suggests to Prior is a branching or tree-like structure of time, where each moment has a set of alternative possible futures associated with it (therefore, it fits the indeterminist worldview much better):

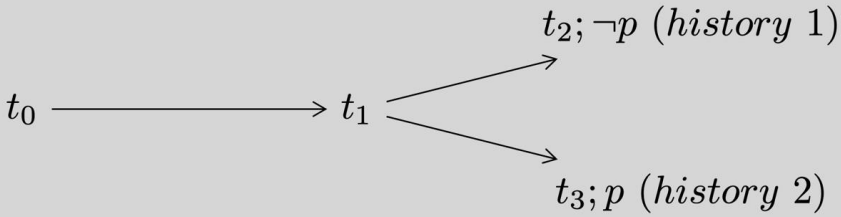


FIGURE 3. Branching time model

However, the branching-time structure raises new questions. If linear time framework is adopted, then the truth value of a statement about the future, say $F_m p$, at time t , depends on the truth value of p at moment $t + m$: if p is true there, then $F_m p$ is true at t ; false otherwise. So if m is one day and p is the proposition *the dog is barking*, then it is today true that tomorrow the dog will bark, if and only if tomorrow it is true that the dog is barking. Thus, in the above diagram of linear time, at t_0 the statement $F_n p$ is true but $F_{n+m} p$ is not (where n is the distance between t_0 and t_1 , and m is the distance between t_1 and t_2). So if p and m are interpreted as before and n is also one day, then in the above diagram at t_0 it is true that the dog will bark tomorrow but false that the dog will bark on the day after tomorrow. However, there is no straightforward way of answering the question of whether $F_m p$ is true at t_1 in the branching-time diagram above (where m is the distance between t_1 and t_2 , and the distance between t_1 and t_3).

The Ockhamist semantics provides one specific answer regarding the evaluation of such statements. Essentially, Ockhamist semantics says it depends on

the history that is selected (where history is a maximal path through the branching structure). For example, if history 2 is selected, then $F_m p$ is true at t_1 , while if history 1 is selected, then $F_m p$ is false at t_1 . Thus, according to the Okchamist semantics, statements are evaluated not only relative to a time moment but also relative to some *history*. Importantly, modal operators \diamond (possible) and Υ (necessary) function as quantifiers over histories, so that *necessarily there will be a sea battle tomorrow* is today true if and only if in every history (that passes the present moment) tomorrow there is a sea battle¹⁵. The number of different histories depends on the number of contingent propositions.

Ockhamist semantics invalidates P3 which is needed for the derivation of deterministic conclusion. P3 says that $P_n \varphi \rightarrow \Box P_n \varphi$, that is, if n ago φ holds, then it is necessary that n ago φ holds. Now consider the case of P3 where $F_n F_m p$ is substituted for φ , $P_n F_n F_m p \rightarrow \Box P_n F_n F_m p$ (where n is the distance between t_0 and t_1). If it was the case yesterday that after two days the dog will bark, then it necessarily was the case yesterday that after two days the dog will bark. Now, in our diagram above, is $P_n F_n F_m p \rightarrow \Box P_n F_n F_m p$ true at t_1 relative to history 2? The antecedent $P_n F_n F_m p$ is true at t_1 relative to history 2, since $F_n F_m p$ is true at t_0 relative to history 2; the latter holds because p is true at t_3 relative to history 2. On the other hand, the consequent $\Box P_n F_n F_m p$ is *false* at t_1 relative to history 2, since if it were true, then $P_n F_n F_m p$ would have to hold relative to any history, and hence in particular relative to history 1. However, $P_n F_n F_m p$ is *false* at t_1 relative to history 1, as can be easily checked. The implication $P_n F_n F_m p \rightarrow \Box P_n F_n F_m p$ is thus false at t_1 since it has a true antecedent and a false consequent. The general principle that what is past is necessary is falsified. One of the premises needed in the derivation of determinism is no longer true, and thus the argument for determinism halts to a stop.

Analysis of the problem of the future of contingents with the tools of formal logic makes progress on the issue, for the principles causing the problem are singled out perspicuously, the possible solutions are discerned, and the merits of these solutions can thus be evaluated by abductive methodology.

¹⁵ Here we do not provide the formal Ockhamist semantics for reasons of space. Note that there are two ways of doing it. As it was first developed by Prior (1968: §7), the semantics rested on having two notions of a formula: one includes all formulas and the other only those that are not about the future. On this approach, we first assign values to statements that are not about the future relative to moments of time, and then assign prime-facie assignments relative to histories and moments of time, and then modal operators are interpreted as saying that the formula to which it is attached is true on all or some (as the case may be) prime-facie assignments. Alternatively, it is possible to work with one sorted notion of a formula. Then an interpretation of them assigns a subset of the cartesian product of the set of times and the set of histories. See Thomasson 1984 and Goranko 2023 for discussion.

3. *Other applications of Prior's tense logic*

The advances that Prior made are not limited, however, to the original problem of future contingents. Once time is analysed in a formal system, many fundamental questions about it can be given a rigorous formulation. For example, precise formulations can be given of the view that the world has no beginning or an end, that time is dense and not discrete, and other important metaphysical views. Additionally, and philosophically much more interestingly, the language of propositional tense logic can be enriched with individual terms, quantifiers, and predicates, and then one can raise questions about whether individuals exist temporarily or eternally, about how individuals persist through time: are individuals wholly present at every moment of their existence, as endurantists would have it, or do individuals persist by being made out of a series of time slices, as perdurantists hold?

More generally, Prior's work in tense logic paved the way for other important developments in analytic philosophy, especially in metaphysics and philosophical logic¹⁶. Note that in Prior's models of tense logic, the set of time moments is considered as an element of the model. This suggests that time is an objective phenomenon about which hypotheses in the formal object language can be formulated. It is to be expected, thus, that the correct logic of time will codify some substantial metaphysical principles. This seems quite a simple and uncontroversial idea when the subject matter is time; when the subject matter is possibility and necessity, however, it is less so. In the first half of the XX century, the dominant view of modality was metalinguistic; for example, Carnap (1947) held that what is necessary is that whose truth follows from some semantic rules for the language. The major development in modal logic was Kripke's (1963) work on possible worlds semantics, which takes the set of possible worlds to be in the model, exactly in the same way as the set of time moments is considered in Prior's models of tense logic. Kripke's formal work in the model theory of modal logics suggested that modal discourse is concerned with objective phenomena and not with the language one speaks. Similarly, it is to be expected, thus, that the correct logic of modality will codify some substantial metaphysical principles. Possible worlds semantics and its philosophical surroundings had a major impact on the development of metaphysics, and analytic philosophy more generally. It is reasonable to think that Kripke took at least some inspiration from Prior's work in tense logic, which in turn, as already noted, took inspiration from Ancient authors, in particular Aristotle.

¹⁶ In what follows, the main points are Williamson's' (2014: 9).

The influence of Prior's work is not confined to tense logic and analytic philosophy: the formal systems he developed turned out to be immensely useful in computer science and artificial intelligence, something that Prior himself had foreseen¹⁷. Starting already in the 70s, most notably with the work of Pnueli (1977), temporal logics became an important part of computer science. Later in the 80s, further work dealing with temporal databases (Dean and McDermott 1987) and reasoning about temporal processes (McDermott 1982) were an integral segment of research in artificial intelligence (see Fisher et al. 2005).¹⁸

REFERENCES

- Aristotle. *The Complete Works of Aristotle*, Volumes I and II., ed. Barnes, J., Princeton: Princeton University Press, 1984.
- Belnap N. & Green M., "Indeterminism and the Thin Red Line", in *Philosophical Perspectives* 8, 1994, pp. 365–88.
- Bigelow J., "Presentism and Properties", in *Philosophical Perspectives*, No. 10, 1996, pp. 35–52.
- Birkhoff G. & von Neumann J., "The Logic of Quantum Mechanics", in *Annals of Mathematics* (Second Series), No. 37 (4), 1936, pp. 823–843.
- Blank D. L. & Kretzmann N., *Ammonius: On Aristotle On Interpretation 9 with Boethius: On Aristotle On Interpretation 9*, London: Bloomsbury Academic, 1998.
- Borghini A. & Torrenzo G., The Metaphysics of the Thin Red Line, in Correia, F. and Iacona, A. (eds.), *Around the Tree*, Synthese Library Vol. 361, 2013, pp. 105–127.
- Bourne C., *A Future For Presentism*, Oxford: Oxford University Press, 2006.
- Carnap R., *Meaning and Necessity: A Study in Semantics and Modal Logic*, Chicago: Chicago University Press, 1947.
- Dean, T. L., & McDermott, D. V., "Temporal Database Management", in *Artificial Intelligence* No. 32 (1), 1987, pp. 1–55.
- Dyke H., "McTaggart and the Truth About Time", in ed. Craig Callender, *Time, Reality and Experience*, Cambridge: Cambridge University Press, 2002, pp. 135–151.
- Fisher, M., Gabbay, D., & Vila, L. (Eds.), *Handbook of Temporal Reasoning in Artificial Intelligence*. Elsevier, 2005.
- Forrest P., "The Real but Dead Past: a Reply to Braddon-Mitchell", *Analysis*, No. 64 (284), 2004, pp. 358–362.
- Gale R., "McTaggart's Analysis of Time", in *American Philosophical Quarterly*, No. 3 (2), 1966, pp. 145–152.

¹⁷ See Øhrstrøm and Hasle 1993: 48, where Prior's unpublished manuscript *A Statement of Temporal Realism* is quoted.

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- Gaskin, R., *The Sea Battle and the Master Argument: Aristotle and Diodorus Cronus on the Metaphysics of the Future*, Berlin – New York: De Gruyter, 1995.
- Goranko V., *Temporal Logics*, Cambridge University Press, 2023.
- Greenough P., "Indeterminate truth", in *Midwest Studies in Philosophy*, 32, 2008, pp. 213–41.
- Kripke S. A., "A Completeness Theorem in Modal Logic", in *Journal of Symbolic Logic*, No. 24 (1), 1959, pp. 1–14.
- Kripke, S. A., "Semantical Considerations on Modal Logic". *Acta Philosophica Fennica* No. 16, 1963, 83–94.
- Łukasiewicz J., *Selected works*, L. Borkowski (Ed.), London, UK: North Holland Publishing Company, 1970 [1920].
- MacFarlane J., "Future Contingents and Relative Truth", in *The Philosophical Quarterly*, Vol. 53, No. 212, 2003, pp. 321–36.
- Malpass A. and Wawer J., "A Future for the Thin Red Line", in *Synthese*, no. 188/1, 2012, pp. 117–142.
- Markosian N., "A Defence of Presentism", in *Oxford Studies in Metaphysics*, No. 1 (3), 2004, pp. 47-82.
- Markosian N., "Time", in ed. J. W. Carroll & N. Markosian, *An Introduction to Metaphysics*, New York: Cambridge University Press, 2010, pp. 159-184.
- McDermott, D., "A Temporal Logic for Reasoning about Processes and Plans", in *Cognitive Science*, No. 6(2), 1982, pp. 101–155.
- Mellor D. H., *Real Time*, Cambridge: Cambridge University Press, 1981.
- Mellor D. H., *Real Time II*. London: Routledge, 1998.
- Øhrstrøm, P., "Anselm, Ockham and Leibniz on Divine Foreknowledge and Human Freedom", in *Erkenntnis*, No. 21, 1984, pp. 209–222.
- Øhrstrøm, P. & Hasle, P., "Future Contingents", in *The Stanford Encyclopedia of Philosophy* (Summer 2020 Edition), Edward N. Zalta (ed.), URL = <<https://plato.stanford.edu/archives/sum2020/entries/future-contingents/>>.
- Øhrstrøm, P. & Hasle, P., "A. N. Prior's Rediscovery of Tense Logic", *Erkenntnis*, No. 39, 1993, pp. 23–50.
- Parsons, T., *Articulating Medieval Logic*, Oxford University Press, 2014.
- Pnueli, A., The Temporal Logic of Programs, in *Proceedings of the Eighteenth IEEE Symposium on the Foundations of Computer Science*, IEEE Computer Society, 1977, pp. 46–57.
- Prior, A. N., "Three-Valued Logic and Future Contingents", *Philosophical Quarterly*, vol. 3, 1953, pp. 317–326.
- Prior, A. N., *Time and Modality*, Clarendon Press, 1957.
- Prior, A. N., *Past, Present and Future*, Oxford University Press, 1967.
- Russell B., *The Collected Papers of Bertrand Russell*, vol. 5: *Toward Principia Mathematica*, Ed. G. H. Moore, London & New York: Routledge, 2015.
- Smart J. J. C., "The Tenseless Theory of Time", in eds. Theodore Sider, John Hawthorne & Dean W. Zimmerman, *Contemporary Debates in Metaphysics*, MA: Wiley-Blackwell, 2008, pp. 226–238.

- Thomason R. H., "Indeterminist time and truth value gaps", in *Theoria*, 36, 1970, 264–281.
- Thomason, R., "Combinations of Tense and Modality", in eds. D. Gabbay & F. Guentner, *Handbook of Philosophical Logic, volume II: Extensions of Classical Logic*, Reidel, 1984, pp. 135–166.
- Tooley M., *Time, Tense and Causation*, Oxford: Clarendon Press, 1997.
- Williamson, T., "How did we get here from there? The transformation of analytic philosophy", *Belgrade Philosophical Annual* No. 27, 2014, pp. 7–37.

The Problem of Being in the Middle Ages: An Essay on Medieval History of Being

Florin CHERMAN*

ABSTRACT. The main question of this paper is whether, and if yes – how, is it possible to speak about the history of being in the Middle Ages? Heidegger’s writings suggest that indeed it is possible, and said history can be outlined with the help of the concept of production. However, one cannot escape the rightful feeling that there is more to this epoch of being than it is suggested. There is a doubt whether Heidegger himself went far enough in deconstructing the Medieval epoch of being. Thus, the second part of the paper presents an endeavor of describing the problem of being in the Middle Ages, using Jan A. Aertsen’s distinctions and insights.

Keywords: problem of being, medieval ontology, metaphysics, production, transcendence.

1. Preliminary remarks

The premise of this paper is the following: *Es gibt Sein*, and consequently there is a philosophical problem of being. The number of books stored on many bookshelves, and studies, articles in journals, all kinds of contributions to this subject confirm its persistency, and for some mayhap – its urgency. The various titles carry the mixture of sameness and difference: Heidegger’s *Being and Time*, Sartre’s *Being and Nothingness*, Aubenque’s *Le problème de l’être chez Aristote*, Brentano’s *On the several senses of being in Aristotle*, Blanchette’s *Philosophy of Being*, and so many others. Since there are little to no titles of a particular kind, we will ask whether it is possible at all to have, as a subject of pertinent research, the problem of being in the Middle Ages, or is it too general, too vast and undetermined

* PhD student, Doctoral School of Philosophy, Faculty of History and Philosophy, "Babeş-Bolyai" University of Cluj-Napoca, florin.cherman@ubbcluj.ro



so that it, consequently, fails to meet the requirements of a 'subject'? In answering this question, the first step is to explain the problem regarding the history of being, since it touches on the historical representation of said problem.

Not uncommonly proximity can be the cause of obscurity, and thus, that which is closer is in fact further from being understood precisely because it looks familiar. In this case, the task of philosophy is elucidation through distancing something out to the light of understanding, making it visible, as in the case of farsightedness by removing the object from the close range. The term 'history of being', *du jour* especially among contemporary continental ontology, is of such kind. Quite similarly with its closely related sibling-concept 'problem of being', no part of it is free from ambiguities and problems. How is 'history' meant to be conceived? - As a 'systematization' and 'putting something in order', as Greek etymology suggests, or as a mere chronology or doxography, as this word is commonly understood? Furthermore, what is to be grasped by the idea of genitive present in the preposition 'of': the *Genitivus Subjectivus* or *Objectivus*? - Is 'being' the object of the said history or its subject? Depending on the interpretation two different philosophies arise. If 'being' is the object of either, the systematization or the chronology, then the resulting narrative could be called conceptualist or nominalist. Meaning that there is a concept which is understood differently in different epochs, and this is the subject of investigation. On the other hand, if 'being' is the subject, then nothing is to be excluded: from a realistic point of view where 'being' stand for a reality which has its own history, to the super-realistic representation of a willful Being, beyond the reality, that generates and possesses the said history, as its author and actor, up to any quasi-religious representations where 'Being' is a divine name, a substitute name for that of conceived and praised 'Entity'. As to the third element of the term at hand - any kind of emphasizing is hardly needed, for one never escapes the awe, the fear and trembling, should one attempt to raise the question: what is being, or what its meaning is. *Prima facie*, being is either a verb and thus an action (an event, or process), or a noun and thus a thing, or put it better, "anything which is real, from a stone to an impression, from a colour to a certain place in the universe, is a being. Being is not one class of things: all things, whatever class they belong to, are beings."¹ This is the context in which Etienne Gilson's reference to 'fundamental ambiguity of the notion of being' could be understood: "In a first acceptance, the word being is a noun. As such, it signifies either a being (that is, the substance, nature, and essence of anything existent), or being itself, a property common to all that which can rightly be said to be. In a second acceptance, (...) the present participle of the verb 'to be.' As a verb it signifies (...) the very act whereby any given reality actually is, or exists.

¹ Leo J. Elders, *The Metaphysics of Being of St. Thomas Aquinas in a Historical Perspective*, Brill, 1993, p. 33.

Let us call this act a 'to be', in contradistinction to what is commonly called 'a being'.² Or, alternatively, one may refer to these acceptances as to nominal and verbal senses of being. Any further elaborations of this dangerously wide subject, notoriously devoid of clear means of navigation, will be subjugated to the aims and ends of the present paper, which shall be stated in the following lines.

2. Defining the object of the present work

The subject of this work is to investigate a precise episode of the history of being, already anticipated in the introductory lines – the Middle Ages. The scarcity of investigations accompanied by abundance of sources, upon which one could found said investigations, is what determines us to embrace this endeavor. Collaterally, this work aims to touch on the problem of meaning and of the possibility of such history.

In what follows, the term 'being' will be taken as a philosophical concept, the object of the homonymous problem. Hence, the history thus unraveled will be a history of a concept. The problem of the referent of this concept – marvelously expressed by Plato, in the lines: "Then since we are in perplexity, do you tell us plainly what you wish to designate when you say "being."³ – will remain outside of this work's limits, since it is a matter to be treated in a separate (and rather lengthy) work.

While trying to answer the main question that we have already raised in the opening of this paper, regarding the feasibility of history of being in the Middle Ages as the object of research, we will be guided by the following second level questions: is it possible to identify some general lines along which this concept was conceived during the Middle Ages, and if so, how precisely has it been done? Can we identify some special kind of concepts, by means of which one could sum up concisely, synthetically, and most importantly – altering, corrupting, and misrepresenting as little as possible – the ontological thought in the Middle Ages. We will call such kind of concepts - 'pivotal concepts', intending a prior, more general concepts, by means of which another concept, that of being in our case, is conceived, and by means of which a continuous act of conceptualization characteristic to a certain individuals, of the Middle Ages in our case, can be narrated.

There are great many notorious problems associated with the concept of being, of which we would like to underline the one touching its simplicity, generality and confusedness, the problem which can be summed up in the next formula: meaning anything whatsoever it means nothing rigorous, nothing practical, making this concept obsolete. Nevertheless, one cannot ignore the fact that it is one of the

² Etienne Gilson, *Being and Some Philosophers*, Pontifical Institute of Medieval Studies, 1952, pp. 3-4.

³ Plato, *Sophist*, (transl. by Harold N. Fowler), Harvard University Press, 1921, 244a.

oldest concepts and problems of philosophy, and one of the most fascinating, at that. The aim of this paper is thus to understand how medieval thinkers thought about being. Is there something special, or at least characteristic, about medieval ontology?

3. The history of being in the Middle Ages according to Martin Heidegger

For the first part of this investigation, we will inquire into two of Heidegger's texts: *The Basic Problems of Phenomenology* and *Metaphysics as History of Being*. The choice of the second text is obvious, and if it is not so for the former, we will specify that it also bears a fragment of the history of being, not only *per se*, but also pertaining to Middle Ages. Certainly, one does not easily refer, at the same time, to works after and before the *Kehre*. Nevertheless, it isn't the unity of Heidegger's thought that is under investigation now, but the history of being. Hence, the unity of the subject will guarantee the validity of nearing the two works.

The area of the philosophical problem regarding the concept of being is delineated by Heidegger thusly: "If philosophy is the science of being, then the first and the last and basic problem of philosophy must be, What does being signify? Whence can something like being in general be understood? How is understanding of being at all possible?"⁴ The author, in this work, adopted the *Genitivus Objectivus* interpretation of the term 'science of being': being is something to be studied, and more than that, it is the one and only rightful object of philosophy. Although this will be the main interpretation throughout the book, Heidegger did not exclude the opposite interpretation, which will become dominant in the second text, *Metaphysics as History of Being*. For the author writes in the *Basic Problems of Phenomenology*: "Something like being reveals itself to us in the understanding of being, an understanding that lies at the root of all comportment toward beings."⁵ Regarded from the proposed point of view, this sentence is complex, for neither of the two interpretations is excluded: 'being reveals itself', means the subjective interpretation of 'reveal of being', but simultaneously it reveals itself to human mind, in the 'understanding of being', properly interpreted this time as *Genitivus Objectivus*. The possibility of coexistence of both interpretations is based on the concept that is the final aim of the *Basic Problems of Phenomenology*, likewise one of the main concepts for Heidegger's thought – ontological difference: the ontical being would often be put into words by the grammar of *Genitivus Objectivus*, while ontological being will be spoken about by means of *Genitivus Objectivus*. The ontical being can be rendered

⁴ Martin Heidegger, *The Basic Problems of Phenomenology*, Indiana University Press, 1988, p. 15.

⁵ *Idem*, p. 16.

in nominal and verbal senses, while ontological – only in the nominal sense. With this in mind, the next question raises the problem of the history of being.

In his *Basic problems*, Heidegger investigates “some characteristic theses about being as individual concrete phenomenological problems, theses that have been advocated in the course of the history of Western philosophy since Antiquity”⁶. The author immediately adds that his intention is not to investigate them “in the historical context (...) but in the specific inherent content”⁷. The notion of history can be grasped here, without making too big of a mistake, as chronological timeline, that is the sequence of episodes of intellectual life, from Antiquity onwards during which the said theses were proclaimed and advocated. Using the terms of this paper, the term ‘history of being’ is understood here through the *Genitivus Objectivus*, where ‘being’ is the ‘what’ which is studied during the various epochs of Western thought. The unfolding of various episodes, i.e. the history, appears to be of a high complexity, made of an entangled web of circumstances that shaped it, from which there is no escape, to the degree that, “[e]ven the ontological investigation which we are now conducting is determined by its historical situation and, therewith, by certain possibilities of approaching beings and by preceding philosophical tradition.”⁸. This sentence acknowledges the inclusion of the text itself in the history of being, which indicates a degree of consciousness about philosopher’s own historical positioning, putting the text neither outside, nor above the said history. These claims about the history are warranted, as Heidegger puts it “(...) [b]ecause the Dasein is historical in its own existence, possibilities of access and modes of interpretation of beings are themselves diverse, varying in different historical circumstances.”⁹ The principle, whose recognizable universality transcends the Heideggerian characteristic language, expressed in the cited sentence supports the validity of the relation between history and being. Most certainly this relation could be problematic, since in some philosophies being, namely the true being, together with its entire realm, and its modes of being are associated with atemporality. Not so, however, with the concept of being, which as a concept *in mente*, is historical as humans themselves are. Thus, as with any human enterprise that evolved along with humanity itself, there can also be a history of being. In order to see what precisely the content of the history of being, as M. Heidegger suggested it in his *Basic problems*, is we will take a closer look to the theses.

⁶ Idem, p. 15.

⁷ Ibidem.

⁸ Martin Heidegger, *The Basic Problems of Phenomenology*, Indiana University Press, 1988, p. 22.

⁹ Ibidem.

We choose four such theses: 1. Kant's thesis: Being is not a real predicate. 2. The thesis of medieval ontology (Scholasticism) which goes back to Aristotle: to the constitution of being of a being there belong (a) whatness, essence (Was-sein, essentia), and (b) existence of extantness (existentia, Vorhandensein). 3. The thesis of modern ontology: the basic ways of being of nature (res extensa) and the being of mind (res cogitans). 4. The thesis of logic in the broadest sense: Every being, regardless of its particular way of being, can be addressed and talked about by means of the 'is.' The being of the copula. These theses seem at first to have been gathered arbitrarily.¹⁰

Indeed, they do, and because of that, Heidegger immediately proceeds to show their most intimate interconnection. For this work's purposes, however, we will be satisfied by presenting other ways of said interconnections. Out of four theses, there are two ontological distinctions: the one pertaining to Ancient-Medieval ontology, between essence and existence; another, modern and specifically Cartesian, between being of nature and that of reason. Furthermore, there are two theses pertaining to the theory of predication, fully intelligible within the domain of intersection of logic and ontology. Considered from the point of view of their origin, there is a Kantian thesis, a Medieval-Scholastic thesis with the roots in Aristotle's philosophy, a modern thesis, and a thesis of logic. This means, a thesis pertaining to a particular thinker, another – to a branch of philosophy, and the other two – to historical epochs. Using a rather loose sense of the terms we will say that there are three temporal and one a-temporal thesis, that of logic. The first three can perfectly be arranged chronologically, thus constructing the narrative of the history of being. It may very well appear that Modern ontology is represented here with two theses, and that there is no distinction between Ancient and Medieval ontology. This situation is, in fact, of a slightly different nature, since Kant's thesis according to Heidegger, does not belong to modern ontology but is placed in the continuation of the Ancient and Medieval, between which there indeed is too little of a difference, again according to the author.

"[A]ll ontological investigations proceed within an average concept of being in general,"¹¹ about whose origin and area of application the text reads: "[a]s early as Antiquity a common or average concept of being came to light, which was employed for the interpretation of all the beings of the various domains of being and their modes of being (...)."¹² This concept is the one that interests us the most.

¹⁰ Idem, p. 15

¹¹ Martin Heidegger, *The Basic Problems of Phenomenology*, Indiana University Press, 1988, p. 22.

¹² Ibidem.

To ancient understanding of being belongs the distinction between “the way in which something actual or existent is,”¹³ and, on the other hand, “that it is such and such. [t]he character of the what, the what-character.”¹⁴ That is, “the distinction between reality and existentia, or between essentia and existentia”¹⁵. Known since the times of Aristotle, and taken from then as self-evident, the only historical progress that this understanding of the ontological constitution of the being of a being has suffered is manifested in the difference that Antiquity never raised the question of “how this distinction is to be defined”¹⁶ whereas “The problem of the distinction and the connection – of the distinctio and the compositio – between the what-character of a being in its way of being, essentia and existentia, first becomes urgent in the Middle Ages.”¹⁷ In other words, the only progress is that the following epoch started questioning that which was self-evident for the previous. Thus, Heidegger will speak about the traditional concept of being, understanding by this name at least ancient and medieval concept of being, if not the concept that prevails in the understanding of the philosophers from Parmenides to Kant. Since Heidegger’s work is anything but a monograph on the history of philosophy, the chronology is loose. This fact does not affect the purposes of our essay, interested in the history of being.

Having thus established that there indeed is a medieval history of being, although nearly indistinguishable from the ancient, we will address the second question to Heidegger’s text, to which happily there is a straight answer, namely – what is special to traditional understanding of being, i.e. what is the pivotal concept by means of which the concept of being was grasped and explained. Indeed, for the second step of his research, Heidegger “shall attempt to trace the origin of the concepts essentia and existentia,”¹⁸ which means the need “to bring to light the horizon of the understanding and interpretation of what is denominated in these concepts.”¹⁹ Finally, this horizon is identified “in relation to our Dasein as an acting Dasein or, to speak more precisely, as a creative, productive Dasein.”²⁰ The conclusion needed as the answer for our question is that “the sense of actuality as it was conceived in ancient thought and Scholasticism (...) is understood by going

¹³ Idem, p. 78

¹⁴ Ibidem.

¹⁵ Ibidem.

¹⁶ Ibidem.

¹⁷ Martin Heidegger, *The Basic Problems of Phenomenology*, Indiana University Press, 1988, p. 78.

¹⁸ Idem, p. 100.

¹⁹ Ibidem.

²⁰ Ibidem.

back to the productive behavior of the Dasein²¹, and namely that “the concepts we have enumerated for essentia (quidditas, natura, definitio, forma), must be made intelligible from this horizon of productive behavior.”²², or, in other words, the main idea is that “[p]roduction stands in the guiding horizon of this interpretation of whatness”²³, and not only that, but also for the whole understanding of being in pre-Kantian philosophy.

The idea of “the comprehension of being by way of production”²⁴ is also present in the other Heidegger’s text, the one that records the “historical report about the history of the concept of Being”²⁵, known under the title *Metaphysics as History of Being*. By juxtaposing this two works pertaining to two distinct periods of Heidegger’s thinking, whose legitimacy we discussed some lines above, we wish to underline that Heidegger’s thinking itself marks an event of history of being, comprising two episodes, the second starting after the Kehre. As we will show, in spite of known discontinuities the thought is in no way devoid of continuity. Without trying to make an exhaustive comparison between the two Heideggers, the main difference among them, useful for the sake of this work, was already hinted at above and will be discussed in due course.

Although defining being is unanimously regarded as one of the most problematic questions of metaphysics, this text begins precisely with such a definition: “‘Being’ means that beings are, and are not nonexistent”, reads Heidegger’s text²⁶, adding the correlative characterisation of Being as “the decisiveness of the insurrection against nothingness.”²⁷ Once the insurrection is committed, the being is.

From a certain point onwards, it is possible to speak about the history of Being, a discussion in which the use of capitalized ‘B’ is far from accidental or irrelevant. The text reads that “[t]he history of Being as metaphysics begins with this distinction and its preparation”²⁸, namely with the already known distinction according to which “Being is divided into whatness and thatness”²⁹. Henceforth, there are some epochs that can roughly be equated with Antiquity, Middle Ages and so on. Assuming the limits of this paper however, anything farther than Medieval lies outside the strength to cover.

²¹ Idem, p. 102.

²² Ibidem.

²³ Idem, p. 105.

²⁴ Ibidem

²⁵ Martin Heidegger, *The End Of Philosophy*, The University Of Chicago Press, 1973, p. 1.

²⁶ Ibidem.

²⁷ Ibidem.

²⁸ Idem, p. 2

²⁹ Ibidem.

In Greek Antiquity, that is, “In the beginning of its history, Being opens itself out as emerging (*physis*) and unconcealment (*aletheia*). From there it reaches the formulation of presence and permanence in the sense of enduring (*ousia*). Metaphysics proper begins with this.”³⁰ Let us outline here the difference of Heidegger’s thinking pre- and post-Kehre: the species of the Genitivus, which here assumes the species of Subjectivus: it is the Being which opens itself out. Being is no longer an object of history, the something to be studied, it the Subject which creates and lives said history.

The transitions from Antiquity to Middle Ages starts when “*Ergon* now characterizes the manner of presencing. Presence, *ousia*, thus means *energeia*.”³¹ The second epoch of Being begins when “*Energeia* becomes *actualitas*”³². There is also a context of this *translatio*, where one should take notice of the “transition from the Greek to the Roman conceptual language”, to the “Roman Character”, likewise to “politically imperial element of Rome” and also to the “Christian element of the Roman church”, to the all of these along with “imperial and papal elements”³³. It is under the action of these factors, that “*ergon* becomes the *opus* of the *operari*, the *factum* of the *facere*, the *actus* of the *agere*”³⁴. This epoch of manifestation of Being began once “Being has changed to *actualitas* (reality), beings are what is real. They are determined by working, in the sense of causal making”³⁵. The causality is further related to the activity of the prime causal factor - God, and “metaphysically thought, God is called the *summum ens*. The apex of his Being, however, consists in his being the *summum bonum*. For the *bonum* is *causa*, and as *finis* the *causa causarum*.”³⁶

Having reached this point, we are ready now to draw the first conclusions of the first part of this paper. To the question whether history of being in the Middle Ages can be taken as a subject of a rigorous and pertinent work of philosophy, we answered positively, arguing that there is in fact not only one but at least two works, albeit of the same author, that does that. The same positive answer is offered to the questions regarding the existence of a pivotal concept of medieval ontology. According to Martin Heidegger, production, the activity itself and the subsequent experience primarily, and likewise the concept thus gained, is the pivotal concept of pre-Kantian ontology. It is correctly called ‘horizon’ in both texts,

³⁰ Idem, p. 4

³¹ Martin Heidegger, *The End Of Philosophy*, The University Of Chicago Press, 1973, p. 5.

³² Idem, p 11

³³ Idem, p. 12

³⁴ Ibidem.

³⁵ Idem, p. 14

³⁶ Idem, p. 15

and parting from it the understanding of being and the entire vocabulary of being, together with its entire and complex web of interrelations evolved. Stating that 'production' is the pivotal concept, or the proper horizon, of the interpretation of the concept of being is not, however, devoid of its own problems, for it touches on the problem regarding the traditional hierarchy of concepts. One of the main properties of the concept of being is primacy, meaning that it should properly be conceived as the first concept, and consequently the simplest and most general, and most abstract and so on. It could appear however that we are contradicting this primacy by claiming that the concept of production is somehow prior to the concept of being. The apparent contradiction is prevented when the conceptual scheme of the inversion of the orders of understanding and of nature is employed. The concept of being thus keeps its primacy in order of simplicity and abstraction. Using Aristotelian vocabulary, the concept of production is prior, meaning that it is closer only "for us", and not in the order of nature: there is firstly the experience of production, then the concept of production, and ultimately the concept of being understood along these lines, in which said 'production' is stripped of the concrete content, becoming the pivotal concept of the understanding of being.

Summing up, from these works the following insights were gained: that the concept of history of being (and equally, the problem of being and understanding of being) can be understood twofold, either when being is taken as an active subject, or as a passive object of history and of understanding; that there is a history of being which starts, at least in Western philosophy, in Antiquity, with the distinction between whatness and thatness, and that this is the proper start of any possible ontological reflection. The following epoch, i.e. that of medieval ontology is not much different than the previous; and finally, that the understanding of being in these epochs can be itself understood and summed up through the concept of production. We reached our answers, but our research must, however, continue because one can hardly be satisfied with Heidegger's way of dealing with this problem. There are some problems that are too heavy to be overlooked.

Starting from the simplest one, M. Heidegger claims that the problem of the relationship between *essentia* and *existentia* "must be understood in the philosophical context of the distinction between the concepts of infinite and finite being"³⁷, without explaining why these and not any other of the numerous disjunctive properties of being. Further on, the text adds that this distinction touches on the problem of "God as the first and principal being (...) the *primum significatum*, that which is signified first, that which constitutes the significance of all significances; the *primum analogatum*, that to which every assertion about being and every

³⁷ Martin Heidegger, *The Basic Problems of Phenomenology*, Indiana University Press, 1988, p. 81.

understanding of being is traced back.”³⁸ In this point, it may appear quite unfair to make a reference to the problem of analogy, when the explicit intention of the research is to reach the most general medieval concept of being, because the problem of analogy, univocation and equivocation of being is notoriously one of the main problems of medieval ontology, where the thesis ‘God as *primum analogatum*’ pertains to a single side of the problem, that is to the defenders of the analogy. Heidegger’s preference becomes crystal clear when text reads explicitly that “we shall not choose the purely historical path but instead take our orientation on this matter from Thomas, who himself takes up the tradition and passes it on after giving it further determination,”³⁹ confirming thus that the suspicion of the philosopher’s siding with one precise party of medieval philosophy of being was not that exaggerated or groundless at all. This, however, is in no way a pretentious and disrespectful objection to Heidegger’s contribution to the problem, but a fact that needs to be taken into consideration. We stressed above that M. Heidegger acknowledges his own historical situation, and itself the fact to take Thomas Aquinas’s ontological theses as representative for the whole Middle Ages, is itself, in fact, a historical position, inscribed in the precise episode of the evolution of medieval studies, inaugurated by and having as its main representative figure – Étienne Gilson. Thus, it is of no wonder that the works of these two philosophers, Gilson and Heidegger, that is *The Basic Problems of Phenomenology* and *Being and Some Philosophers*, without claiming any influence one upon another, coincide in the idea that philosophy of being begins with the distinction between essence and existence.

We would believe, consequently, that these and many more similar sentences, are the reason that determined Oliva Blanchette to rise a doubt⁴⁰ whether Heidegger himself went far enough in deconstructing the Medieval epoch of being, or, we will add, did he remain too caught up in the modern prejudices towards the Middle Ages’s thinking. One simply cannot escape the rightful feeling that there is much more to this epoch than it is suggested by Heidegger. Yet, the same Oliva Blanchette suggested that the optimal point would be to start “referring first to Heidegger, who has done more than anyone else in our time to bring the question of being back to the forefront of philosophy.”⁴¹

³⁸ Ibidem.

³⁹ Martin Heidegger, *The Basic Problems of Phenomenology*, Indiana University Press, 1988, p. 83

⁴⁰ Oliva Blanchette, *Philosophy of Being. A Reconstructive Essay in Metaphysics*, The Catholic University of America Press, 2003, p. xiii

⁴¹ Idem, p. xiv

4. Medieval history of being from the perspective of transcendentality

The title of Heidegger's second text to which we referred above contains a thesis with which we strongly agree. For that reason, it will be taken as our starting point, namely the idea that there is an essential relation between the history of being and metaphysics. Not, however, in the way that metaphysics is nothing more than a chronology of theses about being, but meaning, firstly, that the history of metaphysics is tied to the history of being, and, secondly, that metaphysics is the science of being that evolved alongside the evolution of the concept of being. In the next few lines, we would attempt to offer the shortest and the most synthetic history of medieval metaphysics in order to see how it can help us to reconstruct the history of being in the Middle Ages⁴².

Firstly, there were two projects from Antiquity which the Middle Ages inherited: the metaphysics of the Aristotelian authorship and the henology of the Platonic and the Neoplatonic origin. These two are in no way opposed to each other, for the henology is not foreign to Aristotle's metaphysics, which was stressed by the Neoplatonism of the Late Antiquity through the aspiration to synthesize the two greatest sources of ancient philosophy, Plato and Aristotle, incorporating the insights from the *Metaphysics* into the project of henology. Likewise, the project of philosophy of being is not foreign to henology. However, of these two only one – Aristotle's metaphysics – will be directed towards claiming the title of science represented in the curricula of what will be known as University. Further on, in addition to those listed there is one more source of medieval ontological reflection, namely the ontological thesis of Abrahamic Divinity (common to the three religions of Mediterranean Sea) which stated, as an axiom for philosophy and as a dogma for religion, the identity between God and being. Having these sources, the history of metaphysics can be roughly divided into three episodes. The first is so-called Aetas Boethiana. It covers, in Europe, with rough approximation the period from Boethius until the Thirteenth century, when *Metaphysics*' translation becomes fully available. It is marked by the fact that Aristotle's *Categories*, and Boethius' *De Hebdomadibus* are the main starting points of reflection about being. This is likewise the episode in which the problem of universals, the problem of essence and existence and the problem of transcendentals are properly and explicitly formulated, receiving, in

⁴² The following exposition sums up two works, which are recommended to be consulted for in depth analysis: Jan A. Aertsen, *Medieval Philosophy as Transcendental Thought. From Philip the Chancellor (ca. 1225) to Francisco Suarez*, Brill, 2012; and Jan A. Aertsen, "The Transformation of Metaphysics In The Middle Ages", in K. Emery, A. Friedman, A. Speer, *Philosophy and Theology in the Long Middle Ages*, Brill, 2011.

addition, the first theses which from this point on will start the dialogue for the centuries to come. After this, there is the epoch of first philosophy in Arab *falsafa*, chronologically situated between Al-Kindi's *De Prima Philosophia*, and Averroes's *Commentaries on Metaphysics*, which were second in importance only to Aristotle's *Metaphysics* itself. According to such source as Duns Scotus⁴³, in this episode of the history of metaphysics the main vectors of understanding of the nature of the metaphysics are prefigured: it is either a science of being or a science about God. The final episode lasted from High to Late Scholastics. As is quite unanimously accepted it ends with Suarez's *Disputations*, which is considered to be the last synthesis of medieval metaphysics, with which ends the tradition of commentaries and starts the era of treatises⁴⁴.

Concluding the above, the sources of the reflection about being appear, on the first sight, to be twofold: philosophical and religious. Under closer investigation, the philosophical sources are themselves, again, twofold: Aristotelian and Neoplatonic or Platonic. About the last, however, there would not be unnecessary to mention that a source such as E. Gilson speaks about the inherent religiosity of neoplatonic writings,⁴⁵ which underlines again the intrinsic entanglement of the mixture of all the sources. Lastly, likewise twofold are the theoretical domains of the reflection about being, which are both logical and ontological. Because of the mixture of said sources the label of transcendentalism is, since the Middle Ages, irreversibly attached to the concept of being. By this we do not intend to advocate that the transcendentalism has been unknown to Ancient philosophy, but rather that it was more problematic, and that the said character was not in the forefront of investigations, unlike in the Middle Ages.

In the next lines we will try to take a closer look at the meaning of '*transcendentia*' and interpret the concept of being from this point of view. We find this approach suitable point of departure for at least three reasons. Firstly, transcendence seems to be an inseparable feature of being itself. Secondly, the

⁴³ "Therefore our first question: Is the proper subject of metaphysics being qua being as Avicenna claims or God and the Intelligences as the Commentator, Averroes assumes?", see John Duns Scotus, *The Questions on the Metaphysics of Aristotle*, Franciscan Institute Publications, 1997, p. 13

⁴⁴ According to a study authored by William O. Duba, this claim should be revised. The author shows that the title of the first treaty on metaphysics that is not a commentary would belong to XIVth century scotist Nicholas Bonet's work titled '*Metaphysia*'. For more details see: William O. Duba, "Three Franciscan Metaphysicians after Scotus: Antonius Andreae, Francis of Marchia, and Nicholas Bonet" in F. Amerini and G. Galluzzo, *A Companion to the Latin Medieval Commentaries on Aristotle's Metaphysics*, Brill, 2014, p. 464 sqq.

⁴⁵ "Plato had been a philosopher with a deep religious feeling; Plotinus looks rather as a theologian with deep philosophical insight", for more details on this, see Etienne Gilson, *Being and Some Philosophers*, Pontifical Institute of Medieval Studies, 1952, pp. 17 sqq.

transcendence of being was undisputed throughout the whole of Middle Ages. And lastly, this concept plays the role of a bridge between medieval and modern understandings of being, since the meaning of being itself will change together with the meaning of transcendence, in Kant's philosophy. In what follows, two things are wished to be accomplished. First, to recall the meanings of transcendence according to Jan Aertsen's account. The second, to use these insights to advance a perspective through which the medieval history of being could be written.

Aertsen starts by mentioning that there is an opinion, shared among others by L. M de Rijk that "the expression 'transcendental' is an exclusively Kantian terminology, but this assumption is not correct."⁴⁶ And the most obvious and irrefutable argument for this is Kant himself, who is referring to the transcendental philosophy of the ancients in his *Critique of Pure Reason*.

With the purpose of explaining and fixing the terminology for the inquiry to be exposed further, Aertsen devotes numerous pages to scrutinize the *Declaratio difficultum terminorum* of Armand of Bellevue, a "fourteenth-century lexicon that is also highly interesting for the history of philosophy"⁴⁷. The conclusion that the author formulates at the end of his exposition, which also bears a determinative role for his entire work, is that: "[a]lthough Armand states that the "transcending", expressed in the term '*transcendens*', occurs "in three manners", it is evident that the essential division in his explanation is twofold, namely the distinction between transcending through 'the nobility of being' and through 'the commonness of predication'."⁴⁸

Therefore, we find again two aspects. There are "two types of *transcensus*, which differ from one another with respect to that which transcends, i.e. the terminus of the process of surpassing, and to that which is transcended."⁴⁹ Namely these two: "*Transcendens* (1) relates to God, who is beyond every being; what is transcended is the material or created world. *Transcendens* (2) relates to the common features of reality; what is transcended is the categorial multiplicity or particularity of things."⁵⁰ In the language of Johannes Scharff, the first kind of transcendence operates by means of *entis nobilitate*, while the second, through *praedicationis communitate*⁵¹. Nobility and commonness, although looking much like antonyms are here taken as closely related, both advocating for the transcendence of being.

⁴⁶ Jan A. Aertsen, *Medieval Philosophy as Transcendental Thought: From Philip the Chancellor (ca. 1225) to Francisco Suárez*, Brill, 2021, p. 14.

⁴⁷ Idem, p. 15.

⁴⁸ Idem, p. 18.

⁴⁹ Idem, p. 19.

⁵⁰ Idem, pp. 19-20.

⁵¹ Jan A. Aertsen, *Medieval Philosophy as Transcendental Thought: From Philip the Chancellor (ca. 1225) to Francisco Suárez*, Brill, 2021, p. 20.

As a development of this double understanding, and likewise as the proof that it in fact persisted through the ages, the book recalls “the treatise *De natura generis*. This anonymous treatise has (wrongly) been attributed to Thomas Aquinas.”⁵² Leaving aside the problem of authorship, Jan A. Aertsen is pointing out that this text speaks of “a *duplex analogia* found in being. It is applied to the division of being into substance and the accidents (the “transcendental” analogy), and it is applied to God and the creatures (the “theological” analogy).”⁵³ Latter on, the author would define “[a] typical feature of the medieval doctrine is that it teaches a *duplex analogia*, a twofold application of the analogy of being and the transcendental terms”⁵⁴. The two senses correspond to the two of the main sources of Medieval Thought that it inherited from the ancient past, no others than Aristotelian and Neoplatonic texts, which has been already mentioned above: “In the reception of Aristotle the application of analogy to the categorial diversity found acceptance: ‘Being’ or ‘good’ is said of substance and accident according to a relation of ‘prior’ and ‘posterior’. The reception of Dionysius determinates another, Platonic application of the doctrine, the ‘theological’ analogy, which is concerned with the relation of divine and creaturely being. (...) ‘Analogy’ is the ‘proportion’ or different ‘capacity’ of creatures to participate in the divine perfections, a capacity that determines the place of every being in the hierarchy of things.”⁵⁵ Indeed, we see here the degree of the closeness, that we spoke of, between the history of metaphysics and the understanding of being. The understanding of the transcendentality of being copies the twofold scheme of the history of metaphysics in what regards the sources and the domains.

Furthermore, in a not much different sense one could understand also “Thomas’s distinction between two kinds of commonness. Considering what is common (*communia*) to all beings, he distinguishes commonness by predication and commonness by causality.” Quite evidently, the last refers to abovesaid commonness *via entis nobilitate* while the first, to the *praedicationis communitate*.

Accordingly, when it comes to writers and writings that have articulated this understanding of transcendence of being, or, speaking in Heideggerian language, to which Being presented itself in this kind of double surpassing, Aertsen mentions two kinds of philosophies, or more properly “divergent philosophical orientations: one understands itself as a “philosophy of the transcendent”, the other as “transcendental philosophy”. The history of First Philosophy or metaphysics is determined by a tension

⁵² Idem, p. 49.

⁵³ Idem, p. 50.

⁵⁴ Idem, p.106.

⁵⁵ Idem, pp. 106 – 107.

between these two tendencies.”⁵⁶ Under the aegis of the philosophy of transcendent are included Plato, seen through the eyes of Augustine, who also is a part of this orientation. Moreover, based on Aertsen’s sentence that reads that “[i]n his characterization of the Platonist’s intention by the verb *transcendere*, Augustine gave their purport a personal twist by interpreting it as an *itinerarium mentis in Deum*.”⁵⁷, one would legitimately include Bonaventure in this order. Under the same umbrella are included also the Neoplatonism of *Corpus Dionysiacum*, and the particular understanding of Aristotle’s *Metaphysics* that results from this view.

In what regards the second understanding of philosophy, “[i]llustrative of the transformation is the etymological explanation of the name ‘metaphysics’, which Duns Scotus presents in his *Questions on the Metaphysics*.”⁵⁸. This is because, “[t]ranscendens in Scotus’s text does not mean “transcendent”, but rather “transcendental”, and qualifies the scope of this science. In the passage just preceding his account of the name, Scotus had introduced the term *transcendentia* as another name for the *communissima*, such as being qua being and its properties”⁵⁹, that is, as *praedicationis communitate* rather than *entis nobilitate*. Under this orientation of philosophy, the transcendental, one also finds Porphyry *Isagoge*, Aristotle’s *Categories*, and all the amount of related works it generated, including here “(among others) Boethius, Peter Abelard, Albert the Great, Duns Scotus and William of Ockham.”⁶⁰

There is yet another instance that proves the historical persistency of this twofoldness, which as it is clearly now, is one of the main notions of our paper. This instance is the more interesting it is as it is problematic. Writing the famous and undoubtably influential work *The Doctrine of Being in the Aristotelian Metaphysics*, in the second part of the XXth century, Joseph Owens starts with the question asking how to distinguish Aristotelian from Platonic understandings of being. For this, the author is referring to the 1930’s work about Alexander de Hales’ concept of being, written by Johann Fuchs, where the answer is not much different from the determinations already provide above: Platonic Being is conceived as *ens perfectissimum*, as the proper concept of God, while the Aristotelian concept of Being is the *ens commune*, the most abstract, the most empty of content, and thus having the widest extension.⁶¹ Without a shadow of a doubt this thesis is problematic to say

⁵⁶ Jan A. Aertsen, *Medieval Philosophy as Transcendental Thought: From Philip the Chancellor (ca. 1225) to Francisco Suárez*, Brill, 2021, p.20

⁵⁷ Idem, p. 21

⁵⁸ Idem, p. 26

⁵⁹ Idem, p. 26

⁶⁰ Idem, p. 27

⁶¹ Joseph Owens, *The Doctrine Of Being In The Aristotelian Metaphysics*, Pontifical Institute Of Medieval Studies, 1978, p. 1

the least, as Owens does, writing that “some serious misgivings arise after a little reflection on this situation.”⁶² The recent papers on history of philosophy showed enough how misleading the use of these criteria to qualify certain thinkers as Aristotelians or Platonists can be. Nevertheless, what is persistent is the idea that up until the XXth century the discussion on being does not abandon the twofold terrain of the more theological, or more logical facies that being shows, in which we can easily enough recognize the twofoldness of sources of medieval metaphysics.

Resuming what was said so that the investigation could go further, we will reiterate that there are two senses of the transcendental character of being, or, alternatively, the being presents itself in double sense of transcendence, namely in the order of things, through its nobility and causation; and in the order of understanding, playing the role of the most common name that any thing whatsoever can adopt. The double transcendence meant a double understanding of analogy, especially for those for whom being was unconceivable outside of it. But it also meant that there can be two vectors of human endeavor to understand and explain the existing world, grounded on these two ways of seeing the transcendental character of being. Thus, there are two senses of transcendence, two understandings of commonness, and two philosophical orientations. In the next few lines we will present, shortly and synthetically, the medieval concept of being grasped along these lines, together with the desired pivotal concepts drawn from the twofold concept of transcendence.

5. The problem of being in Middle Ages: procession and convertibility

To think and to interpret the concept of being parting from the understandings of the concept of transcendentality does not mean anything other than to understand the investigated object through its proper activity, that is to ask ‘what the being does when the being is?’ or ‘what does it mean for the being to be’, and consequently narrowing down the question to the chronological limits of this paper – ‘how did Medieval era of thought conceived the fact that being is?’ As we showed above, the most proper property of being is transcendence, thus ‘the being is’, means ‘the being transcends’: it transcends concepts likewise realities, according to the senses of surpassing explained above, culminating in the identity of being with good, unity, truth and God. The action by which being transcends concepts is understood as the action by which being converts from one concept into another, in a quasi-total synonymy. By the transcendence of realities is meant the action by which being ‘makes’ them be (when the genesis is understood as

⁶² Idem, p. 3

creation; or it 'lets' them be, as it is more properly to say in the neoplatonic context of the genesis of the reality), it creates something posterior to it, itself remaining always behind. Being is thus always precedent, it proceeds, using the Neoplatonic term of Pseudo-Dionysian coinage.

In this fashion we have arrived at the formulation of the searched pivotal concepts. The transcendental of being within the logical hierarchy of concepts will be called by its Scholastic name – 'convertibility', while the transcendental of being along the hierarchy of realities will be called, using the neoplatonic name, 'procession'. With no doubt the term 'procession' is a close synonym of the 'emanation', the proper Plotinian term, thus we would need to explain why the choice did not fall in the second instead. Sure enough it could perfectly function, so our preference is circumstantial and in no way necessary, some minor factors determined us to opt for this term: that the Pseudo-Dionysian corpus is chronologically closer to medieval world of thought than the writings of Plotinus; likewise it is explicitly the result of intersection of philosophical and religious sources; and also, because 'procession' unlike 'emanation' has also an immanent sense to it, referring not only to celestial, that is metaphysical, hierarchy, but likewise to the social.

Therefore, being in the Middle Ages showed itself, or has been conceived through procession and convertibility.

Conceived by means of the pivotal concept of 'procession', the concept of being stands for the absolute source, the first cause and the ultimate end. It is untold for it is radically beyond, hence it can only be praised through various realities it causes. It is characterized by infinite nobility and asks for veneration. As untold it is consequently unknown. The concept of procession ultimately explains the hierarchy of realities and values. Sure enough, this facet of the concept of being is more properly spoken of, certainly to the extent to which it is possible at all, through by the grammar of Genitivus Subiectivus, through the nominal sense of being (i.e. as a noun), and, somewhat ironically, less by the verbal (or processual) meaning.

Through 'convertibility', being is said in many ways, it is the most common name that can be applied to all the existing realities. Being is not a genus. It has maximal extension, and thus it embraces all the things. It can only be known, conceived, studied however there is little to be understood, for having maximal extension, it has the least content. It has no obstacles to being spoken about in the verbal or normal senses, assuming the role of the subject likewise the predicate. As a name it needs clarification whether it is univocal, equivocal or denominative. Through convertibility one can make judgements about the logical hierarchy of terms.

Should one raise the question whether there are, in fact, two different concepts of being instead of one concept understood through two pivotal concepts,

that are distinct yet not different, the answer will have to be negative. Because under the principles of convertibility, are converting the names of those things which proceed in the procession of being. In other words, the names of the object of procession are the ones which are convertible. Why then is it necessary at all to distinguish them? Firstly because of the spheres of being under research: logical on the one hand, ontological – on the other. Similarly, in our interpretation, the existence of convertible concepts, i.e. interchangeable terms, is motivated, metaphysically, by the fact that the things bearing the respective names are the result of the procession, that is, that they have a common first cause which, according to the known principle from the *Liber de Causis* is more influential upon the caused thing than any other from the hierarchy. This is so, because the caused reality bears the imprint, the trace, *vestigium*, upon them of the prime cause. We specified above that the motivation is specifically ‘metaphysical’ because, as the convertibility functions in the sphere of logical conceptualization, there is also a logical motive of quasi-identity established among convertible terms, namely because of the extension of terms, and similar semantics that they bear, likewise the sameness of the referent: the paper on which I am writing these notes is a being, a *res*, an *aliquid*; in its character of something existing and, in fact, present it is empirically real, thus *verum*, and since it bears all of the above – my paper is something *bonum*. Concluding this remarks, it is to be reiterated that the procession and the convertibility are two complementary concepts, or aspects of Being that thusly manifests itself, still, the two are distinct in the order of understanding and exposition. The fact of the complementarity lacking the obvious hierarchy to them can be seen as the cause that determined the urgency of the problem of analogy. It can be reformulated in the term of this essay thusly: is being primarily and principally conceived by convertibility, and thus being is univocal, since to be convertible it has to be synonymous, or it should be conceived through analogy with its apex of procession – the said *primum analogatum*, *primum ens*. In this way, the misconception according to which the medieval philosophy is seen as a conflict between Aquinas and Scotus, that is between Dominicans and Franciscans, that is between analogy and univocity becomes understandable. It is so because interpreted in the way we proposed we wished to underline that the gravity of this problem is due to it touching the pivotal concepts of the whole of medieval philosophy.

We wouldn’t dare to close this section without clarifying another possible misunderstanding that we anticipate. The misunderstanding would consist in the use of the terms conceptual and realistic, when referring to, respectively, convertibility and procession. Because procession is no more ‘real’ than convertibility is. Regardless

of the degree of belief or conviction with which one could treat it, the procession will remain a theoretical model, i.e. conceptual scheme by means of which the thinkers, Greek likewise Arab and Latin speaking ones, Pagan likewise Christian, and Arab, argued for a determined origin and hierarchy of the observable universe.

One last thing to mention is that the proposed apparatus of pivotal concepts of convertibility and procession proves to be useful likewise as a tool of interpreting the intellectual history of the Middle Ages and the transition towards Modernity, namely the event, whose importance is hard, if not impossible, to overestimate, the Condemnations of 1277.

This event has been the object of study of many investigations. By the fact that each of them has been focusing and emphasizing one particularity of the event's complexity, we find ourselves in the position of a big comprehensive picture, composed of complementary descriptions. Firstly, from what transpires from the text of condemnation and from the fact that the title targets directly Siger of Brabant and Boethius of Dacia, it is unanimously accepted that the target of the condemnations is the so called averroistic aristotelism, that is a kind of aristotelism with a prominent arab neoplatonic influence. Further, as it is shown by A. Baumgarten, the cultural shift marked by said Condemnations can be understood as a fracture from which started the abandonment of the hierarchical understanding of the world's architecture, based on the qualitative understanding of beings⁶³. In a similar context, according to E. Gilson "[t]he very spirit of that famous ecclesiastical pronouncement is the solemn refusal it opposes to Greco-Arabic determinism and the claim it lays to liberty (...) Bishop Etienne Tempier was simply asking, in the name of the Christian Faith, for a free world under a free God."⁶⁴ In other words, the attack has been directed towards the necessitarian understanding of the world, so alien to Christian worldview. In the terms of this paper, we can say that what was under attack was the pivotal concept of procession, by means of which being appeared with its characteristics of necessity and hierarchy. Thus, the transition from Middle Ages to the Modernity meant the abandonment of procession alone from the concept of transcendentality of being, responsible for the necessary hierarchical understanding of the genesis of realities with all the intermediary beings, and the vertical hierarchy of values conceived through the category of quality, while keeping the modified version of the convertibility, in which *ens* loses its priority firstly to *ens reale* and latter to *res*, which consequently opens the possibility for the rise of the philosophies

⁶³ See Aristotel et al. *De mundi aeternitate*, IRI, 1999, especially the afterword; Alexander Baumgarten, *Principiile Cerului*, Humanitas, 2008. and Alexander Baumgarten, "Saint Thomas, La censure universitaire du 7 mars 1277 et la genèse de la modernité philosophique", in Laura Bădescu (ed.) *Perspectives contemporaines sur le monde médiéval*, Tiparg, 2010, pp. 40-55.

⁶⁴ Etienne Gilson, *Being and Some Philosophers*, Pontifical Institute of Medieval Studies, 1952, p. 83.

centered on the concepts of extension (Descartes) or of object and position (Kant). The abandonment of the procession meant primarily the abandonment of Neoplatonic sources, among which the main should be *Liber the Causis*, as one of the main exponents of the said procession-type understanding of being, together with the concepts of necessity and hierarchy it contains. This is why, without any real corelation between them, Kant's *Prolegomena to any Future Metaphysics*, which heavily rests on Hume's critiques of the concept of causality, can be productively seen and read as a direct attack on said *Liber de Causis*.

Having stated all these we can draw now the final conclusions of the paper.

6. Conclusive remarks

Three questions have been raised: 1) whether it is possible at all to have as a subject of pertinent research the problem of being in the Middle Ages? 2) whether it is possible to identify some pivotal concepts in the medieval philosophy of being? 3) what is special to the medieval concept of being? In light of the fact that this paper is about medieval philosophy, as an act of reverence to it, we can equate the first part of this paper with an *argumentum ad auctoritatem* where we tried to show that the positive answers to our questions are based on empirical existence of Heidegger's research on the subject. However, this *auctoritas* has been deemed not too convincing, which is why we assumed our own navigation and our own method. Thus, with the help of current exegetical literature on the Middle Ages' philosophy we have come to the following conclusions. The problem of being in the Middle Ages is indeed a fruitful subject of research, especially if it is considered in its Genitivus Objectivus interpretation which avoids, sometimes exaggerated, personification of being. Seeing the history of being close to the history of metaphysics, and implicitly adhering as close as possible to available sources, it is indeed possible to come to a formulation of the problem of being in the Middle Ages. Thus, our final proposition is this: In the Middle Ages, the being has been conceived mainly through its transcendental character, which in this epoch of thought becomes one of its essential characteristics, which in particular meant the twofold conceiving of the surpassing as procession and convertibility, two concepts that play the role of pivotal concepts of the medieval ontology. This being the main conclusion, we must add that the paper acknowledges its limits, among the which we want to stress the following: agreeing with Heidegger's title, *Metaphysics as History of being*, we said that history of being is inseparable from the history of metaphysics, and as long as the latter is yet to be written, so is the former, it itself remains yet to be written too.

REFERENCES

Primary sources

- Aristotel et all., *De mundi aeternitate*, IRI, 1999
John Duns Scotus, *The Questions on the Metaphysics of Aristotle*, Franciscan Institute Publications, 1997
Martin Heidegger, *The Basic Problems of Phenomenology*, Indiana University Press, 1988
Martin Heidegger, *The End Of Philosophy*, The University Of Chicago Press, 1973
Plato, *Sophist*, (transl. by Harold N. Fowler), Harvard University Press, 1921

Secondary sources

- A. Aertsen, "The Transformation Of Metaphysics In The Middle Ages", in K. Emery, R. Friedman, A. Speer, *Philosophy and Theology in the Long Middle Ages*, Brill, 2011
A. Aertsen, *Medieval Philosophy as Transcendental Thought. From Philip the Chancellor (ca. 1225) to Francisco Suarez*, Brill, 2012
Alexander Baumgarten, "Saint Thomas, La censure universitaire du 7 mars 1277 et la genèse de la modernité philosophique", in Laura Bădescu (ed.) *Perspectives contemporaines sur le monde médiéval*, Tiparg, 2010
Alexander Baumgarten, *Principiile Cerului*, Humanitas, 2008
Etienne Gilson, *Being and Some Philosophers*, Pontifical Institute of Medieval Studies, 1952
Joseph Owens, *The Doctrine Of Being In The Aristotelian Metaphysics*, Pontifical Institute Of Medieval Studies, 1978
Leo J. Elders, *The Metaphysics of Being of St. Thomas Aquinas in a Historical Perspective*, Brill, 1993
Oliva Blanchette, *Philosophy of Being. A Reconstructive Essay in Metaphysics*, The Catholic University of America Press, 2003
William O. Duba, "Three Franciscan Metaphysicians after Scotus: Antonius Andreae, Francis of Marchia, and Nicholas Bonet" in F. Amerini and G. Galluzzo, *A Companion to the Latin Medieval Commentaries on Aristotle's Metaphysics*, Brill, 2014