

¿Puede una sociedad justa imponer la felicidad?

La respuesta corta es **no**, al menos desde la tradición liberal y desde buena parte de la filosofía política contemporánea. Una sociedad justa puede crear las condiciones para que las personas busquen su propia felicidad, pero no puede imponer una concepción única de lo que significa ser feliz sin sacrificar la libertad individual. Sin embargo, esta cuestión ha sido objeto de un intenso debate desde la antigüedad.

Para Aristóteles, el fin de la polis era promover la *eudaimonia* (florecimiento humano). La ciudad debía educar a los ciudadanos en la virtud, pues solo una vida virtuosa conducía a la verdadera felicidad. En este sentido, el Estado sí tenía un papel activo en orientar a los individuos hacia una vida buena, aunque no mediante la coacción arbitraria, sino a través de la educación y las leyes.

Con la modernidad, esta visión comenzó a cambiar. John Locke sostuvo que el propósito principal del gobierno era proteger los derechos naturales —la vida, la libertad y la propiedad—, dejando a cada individuo la tarea de buscar su propia felicidad. Esta idea influyó decisivamente en la Declaración de Independencia de los Estados Unidos, que reconoce el derecho a "la vida, la libertad y la búsqueda de la felicidad", pero no a la felicidad misma. La diferencia es profunda: el Estado garantiza la libertad para perseguirla, no el resultado.

John Stuart Mill profundizó esta idea con su principio del daño (*harm principle*): el poder político solo puede limitar la libertad de una persona para impedir que perjudique a otros, no para obligarla a vivir de una determinada manera, aunque esa forma de vida parezca objetivamente mejor.

En el siglo XX, Isaiah Berlin distinguió entre libertad negativa y libertad positiva. Advirtió que cuando los gobiernos afirman conocer qué hace verdaderamente felices a los ciudadanos, pueden terminar restringiendo su libertad "por su propio bien". Muchos regímenes autoritarios han justificado así políticas paternalistas o incluso represivas.

De manera similar, Judith Shklar defendió lo que llamó el "liberalismo del miedo". Según ella, la primera obligación de una sociedad justa no es hacer felices a sus ciudadanos, sino evitar la crueldad, el abuso y la opresión. El Estado debe minimizar el miedo y garantizar un marco de derechos, dejando que cada persona defina su propio proyecto de vida.

Por otra parte, filósofos como John Rawls sostienen que una sociedad justa debe ser neutral respecto de las diversas concepciones del bien. Los ciudadanos tienen ideas muy distintas sobre qué constituye una vida plena: algunos la encuentran en la religión, otros en la familia, la ciencia, el arte, el comercio o el servicio público. Un Estado que eligiera una de esas visiones como la única correcta dejaría de tratar a los ciudadanos como personas libres e iguales.

Esto no significa que el Estado sea indiferente al bienestar. Puede y debe proporcionar bienes públicos como seguridad, educación, salud, justicia, infraestructura y protección de derechos fundamentales. También puede diseñar políticas que aumenten las oportunidades y reduzcan la pobreza. Pero existe una diferencia esencial entre **crear las condiciones para que las personas puedan ser felices** e **imponerles una definición oficial de felicidad**.

La experiencia histórica ofrece numerosas advertencias. Desde las utopías revolucionarias hasta algunos regímenes totalitarios del siglo XX, muchos gobiernos afirmaron conocer el camino hacia la felicidad colectiva. El resultado fue, con frecuencia, la supresión de la libertad de expresión, de conciencia y de asociación, bajo el argumento de que quienes discrepaban actuaban contra el bienestar común.

Por ello, una sociedad verdaderamente justa debe distinguir entre **bienestar** y **felicidad**. El bienestar puede medirse y promoverse mediante instituciones eficaces y políticas públicas; la felicidad, en cambio, es una experiencia profundamente personal, ligada a los valores, las aspiraciones y las circunstancias de cada individuo.

En conclusión, una sociedad justa **no puede ni debe imponer la felicidad**. Su misión consiste en proteger la libertad, garantizar la igualdad ante la ley y ofrecer oportunidades para que cada persona pueda perseguir su propia idea de una vida buena. Como sugieren Locke, Mill, Rawls, Berlin y Shklar, el mayor triunfo de una sociedad libre no es hacer felices a todos según un mismo modelo, sino permitir que cada individuo busque la felicidad conforme a su propia conciencia, siempre respetando los derechos de los demás. Esa distinción constituye uno de los pilares fundamentales del constitucionalismo liberal moderno.

¿Es moral o ético obedecer leyes u ordenes injustas?

La pregunta ha ocupado a filósofos, juristas y teólogos durante más de dos mil años. La respuesta depende del marco ético que se adopte, pero existe un amplio consenso en que **la legalidad no es sinónimo de moralidad**. Una ley puede ser válida desde el punto de vista jurídico y, al mismo tiempo, ser profundamente injusta.

La tradición del derecho natural: no existe obligación moral de obedecer leyes injustas

Desde Cicerón hasta Santo Tomás de Aquino, la tradición del derecho natural sostiene que una ley contraria a la justicia deja de ser una verdadera ley en sentido moral. Santo Tomás formuló una de las frases más influyentes de la filosofía jurídica:

"Lex injusta non est lex" ("Una ley injusta no es ley").

Para él, las leyes humanas derivan su legitimidad de la ley natural. Si contradicen la dignidad humana o el bien común, pueden generar una obligación jurídica de hecho —por el riesgo de sanción—, pero no una obligación moral.

El liberalismo: el Estado está limitado por los derechos

John Locke sostuvo que los gobiernos existen para proteger los derechos naturales. Cuando dejan de hacerlo y violan sistemáticamente la vida, la libertad o la propiedad, los ciudadanos no solo pueden resistirse, sino que incluso poseen un derecho de resistencia frente a la tiranía.

Más tarde, John Rawls defendió la legitimidad de la desobediencia civil en sociedades democráticas cuando una injusticia grave persiste y los mecanismos institucionales han fracasado. La desobediencia civil debe ser pública, pacífica y orientada a restaurar la justicia constitucional.

La experiencia del siglo XX

Después de la Segunda Guerra Mundial, esta cuestión adquirió una importancia decisiva. En los Juicios de Núremberg, numerosos acusados alegaron que simplemente obedecían órdenes superiores.

El tribunal rechazó ese argumento como defensa absoluta. Estableció un principio fundamental del derecho internacional: **las personas conservan responsabilidad moral y jurídica por actos manifiestamente criminales**, aun cuando hayan sido ordenados por una autoridad.

El deber de desobedecer

Diversos pensadores han defendido que, en determinadas circunstancias, existe incluso un deber moral de desobedecer.

Henry David Thoreau argumentó que la conciencia individual debe prevalecer sobre las leyes injustas. Su ensayo sobre la desobediencia civil inspiró posteriormente a Mahatma Gandhi y a Martin Luther King Jr..

King escribió desde la cárcel de Birmingham:

"Uno tiene la responsabilidad moral de obedecer las leyes justas. Por el contrario, tiene la responsabilidad moral de desobedecer las leyes injustas."

Pero también existe un riesgo

No toda persona que considera una ley injusta tiene necesariamente razón. Si cada individuo obedeciera únicamente las normas que coinciden con sus preferencias, el Estado de derecho desaparecería.

Por ello, muchos filósofos distinguen entre:

- **Leyes simplemente inconvenientes o discutibles**, que normalmente deben obedecerse mientras puedan modificarse mediante procedimientos democráticos.
- **Leyes gravemente injustas**, que violan derechos humanos fundamentales o la dignidad de las personas, respecto de las cuales puede surgir una justificación moral para resistirse o desobedecer.

La dificultad está precisamente en identificar cuándo una injusticia alcanza ese umbral.

Una síntesis

Podría resumirse la cuestión en cuatro principios:

1. **La legalidad no garantiza la moralidad.**
2. **La obediencia no elimina la responsabilidad personal.**
3. **La conciencia moral no puede delegarse completamente en la autoridad.**
4. **La desobediencia ética debe ejercerse con prudencia, proporcionalidad y responsabilidad, especialmente en un Estado democrático.**

En conclusión, **no existe un deber moral absoluto de obedecer leyes u órdenes injustas**. La historia demuestra que algunos de los mayores crímenes fueron cometidos por personas que afirmaban "solo cumplir órdenes". Al mismo tiempo, una sociedad libre necesita respeto por el Estado de derecho; por ello, la desobediencia moral solo encuentra una sólida justificación cuando la ley vulnera principios fundamentales de justicia, dignidad humana o derechos básicos. El reto ético consiste en mantener un equilibrio entre el respeto a las instituciones y la fidelidad a la propia conciencia moral.

¿Cuál es el verdadero sentido ético de Th. More y de E. Kant? ¿Son ellos moralistas autoritarios con piel de liberales?

La pregunta es provocadora y filosóficamente muy interesante. La respuesta es que **depende de qué aspecto de Thomas More y Immanuel Kant se examine**. Ambos defendieron la dignidad humana y ciertos principios que hoy asociamos con el liberalismo, pero también sostuvieron concepciones de la moral que pueden parecer profundamente exigentes e incluso paternalistas desde una perspectiva liberal contemporánea.

Thomas More: virtud antes que libertad

En su Utopía, More describe una sociedad donde prácticamente todos los aspectos de la vida están regulados:

- la propiedad privada desaparece;
- el trabajo está organizado por el Estado;
- los desplazamientos requieren autorización;
- la educación tiene fines morales;
- el ocio está orientado hacia actividades consideradas virtuosas.

La libertad individual ocupa un lugar secundario frente al bien común.

Paradójicamente, More también defendió una notable tolerancia religiosa para su época dentro de *Utopía*. Sin embargo, en su vida política como canciller de Inglaterra persiguió activamente a quienes consideraba herejes, mostrando una tensión entre el ideal humanista y su práctica política.

Desde una perspectiva liberal moderna, More no es un liberal. Su ideal es una **comunidad moralmente ordenada**, donde la autoridad orienta a los ciudadanos hacia la virtud.

Kant: autonomía, pero bajo la ley moral

Kant parece mucho más cercano al liberalismo porque coloca en el centro la **autonomía**.

Sin embargo, aquí conviene precisar qué entiende por autonomía.

Para Kant, autonomía **no significa hacer lo que uno desea**, sino obedecer la ley moral que la razón descubre universalmente.

Su famoso imperativo categórico exige actuar solo conforme a máximas que puedan convertirse en ley universal.

Así, cuando alguien actúa siguiendo sus deseos o inclinaciones, para Kant no está siendo plenamente libre; está sometido a sus impulsos. La verdadera libertad consiste en obedecer racionalmente el deber.

En ese sentido, Kant es extraordinariamente exigente. La moral no depende de las consecuencias ni de la felicidad, sino del deber.

¿Es esto autoritarismo?

Depende del significado que demos a "autoritarismo".

En sentido político

Probablemente no.

Kant defendió:

- la igualdad jurídica;

- el Estado de derecho;
- la dignidad intrínseca de cada persona;
- la prohibición de tratar a los seres humanos únicamente como medios;
- una república constitucional.

Estos son pilares del pensamiento liberal moderno.

En sentido moral

Aquí la respuesta es más compleja.

Kant sostiene que existe **una única ley moral válida para todos los seres racionales**.

No deja mucho espacio para el pluralismo moral que defenderían posteriormente autores como Isaiah Berlin o Judith Shklar.

Desde esta perspectiva, puede decirse que Kant es un **universalista moral**.

La crítica liberal contemporánea

Muchos liberales del siglo XX comenzaron precisamente criticando esta tradición.

Berlin sostuvo que existen valores igualmente importantes que pueden entrar en conflicto sin solución perfecta:

- libertad;
- igualdad;
- justicia;
- seguridad;
- compasión.

No existe una fórmula racional única para conciliarlos siempre.

Shklar fue aún más lejos. Para ella, la política no debe intentar hacer virtuosos a los ciudadanos.

Su objetivo principal consiste en evitar:

- la crueldad;

- el miedo;
- la humillación;
- el abuso del poder.

El Estado no debe convertirse en un educador moral universal.

¿"Moralistas autoritarios con piel de liberales"?

Como caracterización histórica probablemente sería excesiva.

Sería más preciso decir que ambos pertenecen a una tradición que podría llamarse **liberalismo perfeccionista** o **humanismo moral**.

Comparten la idea de que:

- existe una naturaleza humana;
- existe una forma objetivamente mejor de vivir;
- la razón puede descubrir principios universales.

El liberalismo contemporáneo, especialmente el influido por John Rawls, Berlin y Shklar, desconfía precisamente de esa pretensión. Considera que una sociedad libre debe permitir que personas razonables mantengan concepciones distintas del bien, siempre que respeten los derechos ajenos.

En ese sentido, podría afirmarse que More y Kant no son liberales en el sentido pluralista actual. Ambos creen que existe una moral objetivamente correcta. La diferencia es decisiva: **More admite un papel amplio para las instituciones en la promoción de esa moral**, mientras que **Kant insiste en que la obediencia moral solo tiene valor cuando nace de la autonomía racional del propio individuo**, no de la coacción externa.

En consecuencia, ninguno encaja bien en la etiqueta de "moralista autoritario con piel de liberal". More se aproxima más a un modelo de comunidad ética donde la autoridad tiene una función formativa. Kant, por el contrario, es un defensor radical de la libertad entendida como **autolegislación racional**: no busca que el Estado imponga la virtud, sino que cada persona, mediante el uso de su razón, se someta libremente a una ley moral universal. La crítica liberal contemporánea no suele acusarlos de autoritarismo en sentido estricto, sino de asumir que existe

una única concepción correcta de la vida moral, una premisa que el pluralismo liberal moderno pone seriamente en cuestión.

Civil Disobedience

By Henry David Thoreau

1849

I heartily accept the motto, "That government is best which governs least"; and I should like to see it acted up to more rapidly and systematically. Carried out, it finally amounts to this, which also I believe- "That government is best which governs not at all"; and when men are prepared for it, that will be the kind of government which they will have. Government is at best but an expedient; but most governments are usually, and all governments are sometimes, inexpedient. The objections which have been brought against a standing army, and they are many and weighty, and deserve to prevail, may also at last be brought against a standing government. The standing army is only an arm of the standing government. The government itself, which is only the mode which the people have chosen to execute their will, is equally liable to be abused and perverted before the people can act through it. Witness the present Mexican war, the work of comparatively a few individuals using the standing government as their tool; for, in the outset, the people would not have consented to this measure.

This American government- what is it but a tradition, though a recent one, endeavoring to transmit itself unimpaired to posterity, but each instant losing some of its integrity? It has not the vitality and force of a single living man; for a single man can bend it to his will. It is a sort of wooden gun to the people themselves. But it is not the less necessary for this; for the people must have some complicated machinery or other, and hear its din, to satisfy that idea of government which they have. Governments show thus how successfully men can be imposed on, even impose on themselves, for their own advantage. It is excellent, we must all allow. Yet this government never of itself furthered any enterprise, but by the alacrity with which it got out of its way. It does not keep the country free. It does not settle the West. It does not educate. The character inherent in the American people has done all that has been accomplished; and it would have done somewhat more, if the government had not sometimes got in its way. For government is an expedient by which men would fain succeed in letting one another alone; and, as has been said, when it is most expedient, the governed are most let alone by it. Trade and commerce, if they were not made of india-rubber, would never manage to bounce over the obstacles which legislators are continually putting in their way; and, if one were to judge these men wholly by the effects of their actions and not partly by their intentions,

they would deserve to be classed and punished with those mischievous persons who put obstructions on the railroads.

But, to speak practically and as a citizen, unlike those who call themselves no-government men, I ask for, not at once no government, but at once a better government. Let every man make known what kind of government would command his respect, and that will be one step toward obtaining it.

After all, the practical reason why, when the power is once in the hands of the people, a majority are permitted, and for a long period continue, to rule is not because they are most likely to be in the right, nor because this seems fairest to the minority, but because they are physically the strongest. But a government in which the majority rule in all cases cannot be based on justice, even as far as men understand it. Can there not be a government in which majorities do not virtually decide right and wrong, but conscience?— in which majorities decide only those questions to which the rule of expediency is applicable? Must the citizen ever for a moment, or in the least degree, resign his conscience to the legislation? Why has every man a conscience, then? I think that we should be men first, and subjects afterward. It is not desirable to cultivate a respect for the law, so much as for the right. The only obligation which I have a right to assume is to do at any time what I think right. It is truly enough said that a corporation has no conscience; but a corporation of conscientious men is a corporation with a conscience. Law never made men a whit more just; and, by means of their respect for it, even the well-disposed are daily made the agents of injustice. A common and natural result of an undue respect for law is, that you may see a file of soldiers, colonel, captain, corporal, privates, powder-monkeys, and all, marching in admirable order over hill and dale to the wars, against their wills, ay, against their common sense and consciences, which makes it very steep marching indeed, and produces a palpitation of the heart. They have no doubt that it is a damnable business in which they are concerned; they are all peaceably inclined. Now, what are they? Men at all? or small movable forts and magazines, at the service of some unscrupulous man in power? Visit the Navy-Yard, and behold a marine, such a man as an American government can make, or such as it can make a man with its black arts— a mere shadow and reminiscence of humanity, a man laid out alive and standing, and already, as one may say, buried under arms with funeral accompaniments, though it may be,

"Not a drum was heard, not a funeral note,

As his corse to the rampart we hurried;

Not a soldier discharged his farewell shot

O'er the grave where our hero we buried."

The mass of men serve the state thus, not as men mainly, but as machines, with their bodies. They are the standing army, and the militia, jailers, constables, posse comitatus, etc. In most cases there is no free exercise whatever of the judgment or of the moral sense; but they put themselves on a level with wood and earth and stones; and wooden men can perhaps be manufactured that will serve the purpose as well. Such command no more respect than men of straw or a lump of dirt. They have the same sort of worth only as horses and dogs. Yet such as these even are commonly esteemed good citizens. Others- as most legislators, politicians, lawyers, ministers, and office-holders- serve the state chiefly with their heads; and, as they rarely make any moral distinctions, they are as likely to serve the devil, without intending it, as God. A very few- as heroes, patriots, martyrs, reformers in the great sense, and men- serve the state with their consciences also, and so necessarily resist it for the most part; and they are commonly treated as enemies by it. A wise man will only be useful as a man, and will not submit to be "clay," and "stop a hole to keep the wind away," but leave that office to his dust at least:

"I am too high-born to be propertied,

To be a secondary at control,

Or useful serving-man and instrument

To any sovereign state throughout the world."

He who gives himself entirely to his fellow-men appears to them useless and selfish; but he who gives himself partially to them is pronounced a benefactor and philanthropist.

How does it become a man to behave toward this American government today? I answer, that he cannot without disgrace be associated with it. I cannot for an instant recognize that political organization as my government which is the slave's government also.

All men recognize the right of revolution; that is, the right to refuse allegiance to, and to resist, the government, when its tyranny or its inefficiency are great and unendurable. But almost all say that such is not the case now. But such was the case, they think, in the Revolution Of '75. If one were to tell me that this was a bad government because it taxed certain foreign commodities brought to its ports, it is most probable that I should not make an ado about it, for I can do

without them. All machines have their friction; and possibly this does enough good to counterbalance the evil. At any rate, it is a great evil to make a stir about it. But when the friction comes to have its machine, and oppression and robbery are organized, I say, let us not have such a machine any longer. In other words, when a sixth of the population of a nation which has undertaken to be the refuge of liberty are slaves, and a whole country is unjustly overrun and conquered by a foreign army, and subjected to military law, I think that it is not too soon for honest men to rebel and revolutionize. What makes this duty the more urgent is the fact that the country so overrun is not our own, but ours is the invading army.

Paley, a common authority with many on moral questions, in his chapter on the "Duty of Submission to Civil Government," resolves all civil obligation into expediency; and he proceeds to say that "so long as the interest of the whole society requires it, that is, so long as the established government cannot be resisted or changed without public inconveniency, it is the will of God... that the established government be obeyed- and no longer. This principle being admitted, the justice of every particular case of resistance is reduced to a computation of the quantity of the danger and grievance on the one side, and of the probability and expense of redressing it on the other." Of this, he says, every man shall judge for himself. But Paley appears never to have contemplated those cases to which the rule of expediency does not apply, in which a people, as well as an individual, must do justice, cost what it may. If I have unjustly wrested a plank from a drowning man, I must restore it to him though I drown myself. This, according to Paley, would be inconvenient. But he that would save his life, in such a case, shall lose it. This people must cease to hold slaves, and to make war on Mexico, though it cost them their existence as a people.

In their practice, nations agree with Paley; but does any one think that Massachusetts does exactly what is right at the present crisis?

"A drab of state, a cloth-o'-silver slut,

To have her train borne up, and her soul trail in the dirt."

Practically speaking, the opponents to a reform in Massachusetts are not a hundred thousand politicians at the South, but a hundred thousand merchants and farmers here, who are more interested in commerce and agriculture than they are in humanity, and are not prepared to do justice to the slave and to Mexico, cost what it may. I quarrel not with far-off foes, but with those who, near at home, cooperate with, and do the bidding of those far away, and

without whom the latter would be harmless. We are accustomed to say, that the mass of men are unprepared; but improvement is slow, because the few are not materially wiser or better than the many. It is not so important that many should be as good as you, as that there be some absolute goodness somewhere; for that will leaven the whole lump. There are thousands who are in opinion opposed to slavery and to the war, who yet in effect do nothing to put an end to them; who, esteeming themselves children of Washington and Franklin, sit down with their hands in their pockets, and say that they know not what to do, and do nothing; who even postpone the question of freedom to the question of free trade, and quietly read the prices-current along with the latest advices from Mexico, after dinner, and, it may be, fall asleep over them both. What is the price-current of an honest man and patriot today? They hesitate, and they regret, and sometimes they petition; but they do nothing in earnest and with effect. They will wait, well disposed, for others to remedy the evil, that they may no longer have it to regret. At most, they give only a cheap vote, and a feeble countenance and God-speed, to the right, as it goes by them. There are nine hundred and ninety-nine patrons of virtue to one virtuous man. But it is easier to deal with the real possessor of a thing than with the temporary guardian of it.

All voting is a sort of gaming, like checkers or backgammon, with a slight moral tinge to it, a playing with right and wrong, with moral questions; and betting naturally accompanies it. The character of the voters is not staked. I cast my vote, perchance, as I think right; but I am not vitally concerned that that right should prevail. I am willing to leave it to the majority. Its obligation, therefore, never exceeds that of expediency. Even voting for the right is doing nothing for it. It is only expressing to men feebly your desire that it should prevail. A wise man will not leave the right to the mercy of chance, nor wish it to prevail through the power of the majority. There is but little virtue in the action of masses of men. When the majority shall at length vote for the abolition of slavery, it will be because they are indifferent to slavery, or because there is but little slavery left to be abolished by their vote. They will then be the only slaves. Only his vote can hasten the abolition of slavery who asserts his own freedom by his vote.

I hear of a convention to be held at Baltimore, or elsewhere, for the selection of a candidate for the Presidency, made up chiefly of editors, and men who are politicians by profession; but I think, what is it to any independent, intelligent, and respectable man what decision they may come to? Shall we not have the advantage of his wisdom and honesty, nevertheless? Can we not count upon some independent votes? Are there not many individuals in the country who do not attend conventions? But no: I find that the respectable man, so called, has immediately drifted from his position, and despairs of his country, when his country has more reason to despair of him. He forthwith adopts one of the

candidates thus selected as the only available one, thus proving that he is himself available for any purposes of the demagogue. His vote is of no more worth than that of any unprincipled foreigner or hireling native, who may have been bought. O for a man who is a man, and, as my neighbor says, has a bone in his back which you cannot pass your hand through! Our statistics are at fault: the population has been returned too large. How many men are there to a square thousand miles in this country? Hardly one. Does not America offer any inducement for men to settle here? The American has dwindled into an Odd Fellow-one who may be known by the development of his organ of gregariousness, and a manifest lack of intellect and cheerful self-reliance; whose first and chief concern, on coming into the world, is to see that the almshouses are in good repair; and, before yet he has lawfully donned the virile garb, to collect a fund for the support of the widows and orphans that may be; who, in short, ventures to live only by the aid of the Mutual Insurance company, which has promised to bury him decently.

It is not a man's duty, as a matter of course, to devote himself to the eradication of any, even the most enormous, wrong; he may still properly have other concerns to engage him; but it is his duty, at least, to wash his hands of it, and, if he gives it no thought longer, not to give it practically his support. If I devote myself to other pursuits and contemplations, I must first see, at least, that I do not pursue them sitting upon another man's shoulders. I must get off him first, that he may pursue his contemplations too. See what gross inconsistency is tolerated. I have heard some of my townsmen say, "I should like to have them order me out to help put down an insurrection of the slaves, or to march to Mexico;- see if I would go"; and yet these very men have each, directly by their allegiance, and so indirectly, at least, by their money, furnished a substitute. The soldier is applauded who refuses to serve in an unjust war by those who do not refuse to sustain the unjust government which makes the war; is applauded by those whose own act and authority he disregards and sets at naught; as if the state were penitent to that degree that it differed one to scourge it while it sinned, but not to that degree that it left off sinning for a moment. Thus, under the name of Order and Civil Government, we are all made at last to pay homage to and support our own meanness. After the first blush of sin comes its indifference; and from immoral it becomes, as it were, unmoral, and not quite unnecessary to that life which we have made.

The broadest and most prevalent error requires the most disinterested virtue to sustain it. The slight reproach to which the virtue of patriotism is commonly liable, the noble are most likely to incur. Those who, while they disapprove of the character and measures of a government, yield to it their allegiance and support are undoubtedly its most conscientious supporters, and so frequently the most serious obstacles to reform. Some are petitioning the State to dissolve the Union, to disregard the requisitions of the President. Why do they not

dissolve it themselves- the union between themselves and the State- and refuse to pay their quota into its treasury? Do not they stand in the same relation to the State that the State does to the Union? And have not the same reasons prevented the State from resisting the Union which have prevented them from resisting the State?

How can a man be satisfied to entertain an opinion merely, and enjoy it? Is there any enjoyment in it, if his opinion is that he is aggrieved? If you are cheated out of a single dollar by your neighbor, you do not rest satisfied with knowing that you are cheated, or with saying that you are cheated, or even with petitioning him to pay you your due; but you take effectual steps at once to obtain the full amount, and see that you are never cheated again. Action from principle, the perception and the performance of right, changes things and relations; it is essentially revolutionary, and does not consist wholly with anything which was. It not only divides States and churches, it divides families; ay, it divides the individual, separating the diabolical in him from the divine.

Unjust laws exist: shall we be content to obey them, or shall we endeavor to amend them, and obey them until we have succeeded, or shall we transgress them at once? Men generally, under such a government as this, think that they ought to wait until they have persuaded the majority to alter them. They think that, if they should resist, the remedy would be worse than the evil. But it is the fault of the government itself that the remedy is worse than the evil. It makes it worse. Why is it not more apt to anticipate and provide for reform? Why does it not cherish its wise minority? Why does it cry and resist before it is hurt? Why does it not encourage its citizens to be on the alert to point out its faults, and do better than it would have them? Why does it always crucify Christ, and excommunicate Copernicus and Luther, and pronounce Washington and Franklin rebels?

One would think, that a deliberate and practical denial of its authority was the only offence never contemplated by government; else, why has it not assigned its definite, its suitable and proportionate, penalty? If a man who has no property refuses but once to earn nine shillings for the State, he is put in prison for a period unlimited by any law that I know, and determined only by the discretion of those who placed him there; but if he should steal ninety times nine shillings from the State, he is soon permitted to go at large again.

If the injustice is part of the necessary friction of the machine of government, let it go, let it go: perchance it will wear smooth- certainly the machine will wear out. If the injustice has a spring, or a pulley, or a rope, or a crank, exclusively for itself, then perhaps you may consider whether the remedy will not be worse than the evil; but if it is of such a nature that it requires you to be the agent of injustice to another, then, I say, break the law. Let your life be a counter-friction to stop the machine. What I have to do is to see, at any rate,

that I do not lend myself to the wrong which I condemn.

As for adopting the ways which the State has provided for remedying the evil, I know not of such ways. They take too much time, and a man's life will be gone. I have other affairs to attend to. I came into this world, not chiefly to make this a good place to live in, but to live in it, be it good or bad. A man has not everything to do, but something; and because he cannot do everything, it is not necessary that he should do something wrong. It is not my business to be petitioning the Governor or the Legislature any more than it is theirs to petition me; and if they should not bear my petition, what should I do then? But in this case the State has provided no way: its very Constitution is the evil. This may seem to be harsh and stubborn and unconciliatory; but it is to treat with the utmost kindness and consideration the only spirit that can appreciate or deserves it. So is an change for the better, like birth and death, which convulse the body.

I do not hesitate to say, that those who call themselves Abolitionists should at once effectually withdraw their support, both in person and property, from the government of Massachusetts, and not wait till they constitute a majority of one, before they suffer the right to prevail through them. I think that it is enough if they have God on their side, without waiting for that other one. Moreover, any man more right than his neighbors constitutes a majority of one already.

I meet this American government, or its representative, the State government, directly, and face to face, once a year- no more- in the person of its tax-gatherer; this is the only mode in which a man situated as I am necessarily meets it; and it then says distinctly, Recognize me; and the simplest, the most effectual, and, in the present posture of affairs, the indispensablest mode of treating with it on this head, of expressing your little satisfaction with and love for it, is to deny it then. My civil neighbor, the tax-gatherer, is the very man I have to deal with- for it is, after all, with men and not with parchment that I quarrel- and he has voluntarily chosen to be an agent of the government. How shall he ever know well what he is and does as an officer of the government, or as a man, until he is obliged to consider whether he shall treat me, his neighbor, for whom he has respect, as a neighbor and well-disposed man, or as a maniac and disturber of the peace, and see if he can get over this obstruction to his neighborliness without a ruder and more impetuous thought or speech corresponding with his action. I know this well, that if one thousand, if one hundred, if ten men whom I could name- if ten honest men only- ay, if one HONEST man, in this State of Massachusetts, ceasing to hold slaves, were actually to withdraw from this copartnership, and be locked up in the county jail therefor, it would be the abolition of slavery in America. For it matters not how small the beginning may seem to be: what is once well done is done forever. But we love better to talk about it: that we say is our mission, Reform

keeps many scores of newspapers in its service, but not one man. If my esteemed neighbor, the State's ambassador, who will devote his days to the settlement of the question of human rights in the Council Chamber, instead of being threatened with the prisons of Carolina, were to sit down the prisoner of Massachusetts, that State which is so anxious to foist the sin of slavery upon her sister- though at present she can discover only an act of inhospitality to be the ground of a quarrel with her- the Legislature would not wholly waive the subject the following winter.

Under a government which imprisons any unjustly, the true place for a just man is also a prison. The proper place today, the only place which Massachusetts has provided for her freer and less desponding spirits, is in her prisons, to be put out and locked out of the State by her own act, as they have already put themselves out by their principles. It is there that the fugitive slave, and the Mexican prisoner on parole, and the Indian come to plead the wrongs of his race should find them; on that separate, but more free and honorable, ground, where the State places those who are not with her, but against her- the only house in a slave State in which a free man can abide with honor. If any think that their influence would be lost there, and their voices no longer afflict the ear of the State, that they would not be as an enemy within its walls, they do not know by how much truth is stronger than error, nor how much more eloquently and effectively he can combat injustice who has experienced a little in his own person. Cast your whole vote, not a strip of paper merely, but your whole influence. A minority is powerless while it conforms to the majority; it is not even a minority then; but it is irresistible when it clogs by its whole weight. If the alternative is to keep all just men in prison, or give up war and slavery, the State will not hesitate which to choose. If a thousand men were not to pay their tax-bills this year, that would not be a violent and bloody measure, as it would be to pay them, and enable the State to commit violence and shed innocent blood. This is, in fact, the definition of a peaceable revolution, if any such is possible. If the tax-gatherer, or any other public officer, asks me, as one has done, "But what shall I do?" my answer is, "If you really wish to do anything, resign your office." When the subject has refused allegiance, and the officer has resigned his office, then the revolution is accomplished. But even suppose blood should flow. Is there not a sort of blood shed when the conscience is wounded? Through this wound a man's real manhood and immortality flow out, and he bleeds to an everlasting death. I see this blood flowing now.

I have contemplated the imprisonment of the offender, rather than the seizure of his goods- though both will serve the same purpose- because they who assert the purest right, and consequently are most dangerous to a corrupt State, commonly have not spent much time in accumulating property. To such the State renders comparatively small service, and a slight tax is wont to appear exorbitant, particularly if they are obliged to earn it by special labor with their

hands. If there were one who lived wholly without the use of money, the State itself would hesitate to demand it of him. But the rich man- not to make any invidious comparison- is always sold to the institution which makes him rich. Absolutely speaking, the more money, the less virtue; for money comes between a man and his objects, and obtains them for him; and it was certainly no great virtue to obtain it. It puts to rest many questions which he would otherwise be taxed to answer; while the only new question which it puts is the hard but superfluous one, how to spend it. Thus his moral ground is taken from under his feet. The opportunities of living are diminished in proportion as what are called the "means" are increased. The best thing a man can do for his culture when he is rich is to endeavor to carry out those schemes which he entertained when he was poor. Christ answered the Herodians according to their condition. "Show me the tribute-money," said he;- and one took a penny out of his pocket;- if you use money which has the image of Caesar on it, and which he has made current and valuable, that is, if you are men of the State, and gladly enjoy the advantages of Caesar's government, then pay him back some of his own when he demands it. "Render therefore to Caesar that which is Caesar's, and to God those things which are God's"- leaving them no wiser than before as to which was which; for they did not wish to know.

When I converse with the freest of my neighbors, I perceive that, whatever they may say about the magnitude and seriousness of the question, and their regard for the public tranquillity, the long and the short of the matter is, that they cannot spare the protection of the existing government, and they dread the consequences to their property and families of disobedience to it. For my own part, I should not like to think that I ever rely on the protection of the State. But, if I deny the authority of the State when it presents its tax-bill, it will soon take and waste all my property, and so harass me and my children without end. This is hard. This makes it impossible for a man to live honestly, and at the same time comfortably, in outward respects. It will not be worth the while to accumulate property; that would be sure to go again. You must hire or squat somewhere, and raise but a small crop, and eat that soon. You must live within yourself, and depend upon yourself always tucked up and ready for a start, and not have many affairs. A man may grow rich in Turkey even, if he will be in all respects a good subject of the Turkish government. Confucius said: "If a state is governed by the principles of reason, poverty and misery are subjects of shame; if a state is not governed by the principles of reason, riches and honors are the subjects of shame." No: until I want the protection of Massachusetts to be extended to me in some distant Southern port, where my liberty is endangered, or until I am bent solely on building up an estate at home by peaceful enterprise, I can afford to refuse allegiance to Massachusetts, and her right to my property and life. It costs me less in every sense to incur the penalty of disobedience to the State than it would to obey. I should feel as if I were worth less in that case.

Some years ago, the State met me in behalf of the Church, and commanded me to pay a certain sum toward the support of a clergyman whose preaching my father attended, but never I myself. "Pay," it said, "or be locked up in the jail." I declined to pay. But, unfortunately, another man saw fit to pay it. I did not see why the schoolmaster should be taxed to support the priest, and not the priest the schoolmaster; for I was not the State's schoolmaster, but I supported myself by voluntary subscription. I did not see why the lyceum should not present its tax-bill, and have the State to back its demand, as well as the Church.

However, at the request of the selectmen, I condescended to make some such statement as this in writing:- "Know all men by these presents, that I, Henry Thoreau, do not wish to be regarded as a member of any incorporated society which I have not joined." This I gave to the town clerk; and he has it. The State, having thus learned that I did not wish to be regarded as a member of that church, has never made a like demand on me since; though it said that it must adhere to its original presumption that time. If I had known how to name them, I should then have signed off in detail from all the societies which I never signed on to; but I did not know where to find a complete list.

I have paid no poll-tax for six years. I was put into a jail once on this account, for one night; and, as I stood considering the walls of solid stone, two or three feet thick, the door of wood and iron, a foot thick, and the iron grating which strained the light, I could not help being struck with the foolishness of that institution which treated me as if I were mere flesh and blood and bones, to be locked up. I wondered that it should have concluded at length that this was the best use it could put me to, and had never thought to avail itself of my services in some way. I saw that, if there was a wall of stone between me and my townsmen, there was a still more difficult one to climb or break through before they could get to be as free as I was. I did not for a moment feel confined, and the walls seemed a great waste of stone and mortar. I felt as if I alone of all my townsmen had paid my tax. They plainly did not know how to treat me, but behaved like persons who are underbred. In every threat and in every compliment there was a blunder; for they thought that my chief desire was to stand the other side of that stone wall. I could not but smile to see how industriously they locked the door on my meditations, which followed them out again without let or hindrance, and they were really all that was dangerous. As they could not reach me, they had resolved to punish my body; just as boys, if they cannot come at some person against whom they have a spite, will abuse his dog. I saw that the State was half-witted, that it was timid as a lone woman with her silver spoons, and that it did not know its friends from its foes, and I lost all my remaining respect for it, and pitied it.

Thus the State never intentionally confronts a man's sense, intellectual or moral, but only his body, his senses. It is not armed with superior wit or honesty, but with superior physical strength. I was not born to be forced. I will

breathe after my own fashion. Let us see who is the strongest. What force has a multitude? They only can force me who obey a higher law than I. They force me to become like themselves. I do not hear of men being forced to have this way or that by masses of men. What sort of life were that to live? When I meet a government which says to me, "Your money or your life," why should I be in haste to give it my money? It may be in a great strait, and not know what to do: I cannot help that. It must help itself; do as I do. It is not worth the while to snivel about it. I am not responsible for the successful working of the machinery of society. I am not the son of the engineer. I perceive that, when an acorn and a chestnut fall side by side, the one does not remain inert to make way for the other, but both obey their own laws, and spring and grow and flourish as best they can, till one, perchance, overshadows and destroys the other. If a plant cannot live according to its nature, it dies; and so a man.

The night in prison was novel and interesting enough. The prisoners in their shirt-sleeves were enjoying a chat and the evening air in the doorway, when I entered. But the jailer said, "Come, boys, it is time to lock up"; and so they dispersed, and I heard the sound of their steps returning into the hollow apartments. My room-mate was introduced to me by the jailer as "a first-rate fellow and a clever man." When the door was locked, he showed me where to hang my hat, and how he managed matters there. The rooms were whitewashed once a month; and this one, at least, was the whitest, most simply furnished, and probably the neatest apartment in the town. He naturally wanted to know where I came from, and what brought me there; and, when I had told him, I asked him in my turn how he came there, presuming him to be an honest man, of course; and, as the world goes, I believe he was. "Why," said he, "they accuse me of burning a barn; but I never did it." As near as I could discover, he had probably gone to bed in a barn when drunk, and smoked his pipe there; and so a barn was burnt. He had the reputation of being a clever man, had been there some three months waiting for his trial to come on, and would have to wait as much longer; but he was quite domesticated and contented, since he got his board for nothing, and thought that he was well treated.

He occupied one window, and I the other; and I saw that if one stayed there long, his principal business would be to look out the window. I had soon read all the tracts that were left there, and examined where former prisoners had broken out, and where a grate had been sawed off, and heard the history of the various occupants of that room; for I found that even here there was a history and a gossip which never circulated beyond the walls of the jail. Probably this is the only house in the town where verses are composed, which are afterward printed in a circular form, but not published. I was shown quite a long list of verses which were composed by some young men who had been detected in an attempt to escape, who avenged themselves by singing them.

I pumped my fellow-prisoner as dry as I could, for fear I should never see him

again; but at length he showed me which was my bed, and left me to blow out the lamp.

It was like travelling into a far country, such as I had never expected to behold, to lie there for one night. It seemed to me that I never had heard the town clock strike before, nor the evening sounds of the village; for we slept with the windows open, which were inside the grating. It was to see my native village in the light of the Middle Ages, and our Concord was turned into a Rhine stream, and visions of knights and castles passed before me. They were the voices of old burghers that I heard in the streets. I was an involuntary spectator and auditor of whatever was done and said in the kitchen of the adjacent village inn- a wholly new and rare experience to me. It was a closer view of my native town. I was fairly inside of it. I never had seen its institutions before. This is one of its peculiar institutions; for it is a shire town. I began to comprehend what its inhabitants were about.

In the morning, our breakfasts were put through the hole in the door, in small oblong-square tin pans, made to fit, and holding a pint of chocolate, with brown bread, and an iron spoon. When they called for the vessels again, I was green enough to return what bread I had left; but my comrade seized it, and said that I should lay that up for lunch or dinner. Soon after he was let out to work at haying in a neighboring field, whither he went every day, and would not be back till noon; so he bade me good-day, saying that he doubted if he should see me again.

When I came out of prison- for some one interfered, and paid that tax- I did not perceive that great changes had taken place on the common, such as he observed who went in a youth and emerged a tottering and gray-headed man; and yet a change had to my eyes come over the scene- the town, and State, and country- greater than any that mere time could effect. I saw yet more distinctly the State in which I lived. I saw to what extent the people among whom I lived could be trusted as good neighbors and friends; that their friendship was for summer weather only; that they did not greatly propose to do right; that they were a distinct race from me by their prejudices and superstitions, as the Chinamen and Malays are; that in their sacrifices to humanity they ran no risks, not even to their property; that after all they were not so noble but they treated the thief as he had treated them, and hoped, by a certain outward observance and a few prayers, and by walking in a particular straight though useless path from time to time, to save their souls. This may be to judge my neighbors harshly; for I believe that many of them are not aware that they have such an institution as the jail in their village.

It was formerly the custom in our village, when a poor debtor came out of jail, for his acquaintances to salute him, looking through their fingers, which were crossed to represent the grating of a jail window, "How do ye do?" My

neighbors did not thus salute me, but first looked at me, and then at one another, as if I had returned from a long journey. I was put into jail as I was going to the shoemaker's to get a shoe which was mended. When I was let out the next morning, I proceeded to finish my errand, and, having put on my mended shoe, joined a huckleberry party, who were impatient to put themselves under my conduct; and in half an hour- for the horse was soon tackled- was in the midst of a huckleberry field, on one of our highest hills, two miles off, and then the State was nowhere to be seen.

This is the whole history of "My Prisons."

I have never declined paying the highway tax, because I am as desirous of being a good neighbor as I am of being a bad subject; and as for supporting schools, I am doing my part to educate my fellow-countrymen now. It is for no particular item in the tax-bill that I refuse to pay it. I simply wish to refuse allegiance to the State, to withdraw and stand aloof from it effectually. I do not care to trace the course of my dollar, if I could, till it buys a man or a musket to shoot one with- the dollar is innocent- but I am concerned to trace the effects of my allegiance. In fact, I quietly declare war with the State, after my fashion, though I will still make what use and get what advantage of her I can, as is usual in such cases.

If others pay the tax which is demanded of me, from a sympathy with the State, they do but what they have already done in their own case, or rather they abet injustice to a greater extent than the State requires. If they pay the tax from a mistaken interest in the individual taxed, to save his property, or prevent his going to jail, it is because they have not considered wisely how far they let their private feelings interfere with the public good.

This, then, is my position at present. But one cannot be too much on his guard in such a case, lest his action be biased by obstinacy or an undue regard for the opinions of men. Let him see that he does only what belongs to himself and to the hour.

I think sometimes, Why, this people mean well, they are only ignorant; they would do better if they knew how: why give your neighbors this pain to treat you as they are not inclined to? But I think again, This is no reason why I should do as they do, or permit others to suffer much greater pain of a different kind. Again, I sometimes say to myself, When many millions of men, without heat, without ill will, without personal feeling of any kind, demand of you a few shillings only, without the possibility, such is their constitution, of retracting or altering their present demand, and without the possibility, on your side, of appeal to any other millions, why expose yourself to this overwhelming brute force? You do not resist cold and hunger, the winds and the waves, thus obstinately; you quietly submit to a thousand similar necessities. You do not

put your head into the fire. But just in proportion as I regard this as not wholly a brute force, but partly a human force, and consider that I have relations to those millions as to so many millions of men, and not of mere brute or inanimate things, I see that appeal is possible, first and instantaneously, from them to the Maker of them, and, secondly, from them to themselves. But if I put my head deliberately into the fire, there is no appeal to fire or to the Maker of fire, and I have only myself to blame. If I could convince myself that I have any right to be satisfied with men as they are, and to treat them accordingly, and not according, in some respects, to my requisitions and expectations of what they and I ought to be, then, like a good Mussulman and fatalist, I should endeavor to be satisfied with things as they are, and say it is the will of God. And, above all, there is this difference between resisting this and a purely brute or natural force, that I can resist this with some effect; but I cannot expect, like Orpheus, to change the nature of the rocks and trees and beasts.

I do not wish to quarrel with any man or nation. I do not wish to split hairs, to make fine distinctions, or set myself up as better than my neighbors. I seek rather, I may say, even an excuse for conforming to the laws of the land. I am but too ready to conform to them. Indeed, I have reason to suspect myself on this head; and each year, as the tax-gatherer comes round, I find myself disposed to review the acts and position of the general and State governments, and the spirit of the people, to discover a pretext for conformity.

"We must affect our country as our parents,

And if at any time we alienate

Our love or industry from doing it honor,

We must respect effects and teach the soul

Matter of conscience and religion,

And not desire of rule or benefit."

I believe that the State will soon be able to take all my work of this sort out of my hands, and then I shall be no better a patriot than my fellow-countrymen. Seen from a lower point of view, the Constitution, with all its faults, is very good; the law and the courts are very respectable; even this State and this American government are, in many respects, very admirable, and rare things, to be thankful for, such as a great many have described them; but seen from a point of view a little higher, they are what I have described them; seen from a higher still, and the highest, who shall say what they are, or that they are worth

looking at or thinking of at all?

However, the government does not concern me much, and I shall bestow the fewest possible thoughts on it. It is not many moments that I live under a government, even in this world. If a man is thought-free, fancy-free, imagination-free, that which is not never for a long time appearing to be to him, unwise rulers or reformers cannot fatally interrupt him.

I know that most men think differently from myself; but those whose lives are by profession devoted to the study of these or kindred subjects content me as little as any. Statesmen and legislators, standing so completely within the institution, never distinctly and nakedly behold it. They speak of moving society, but have no resting-place without it. They may be men of a certain experience and discrimination, and have no doubt invented ingenious and even useful systems, for which we sincerely thank them; but all their wit and usefulness lie within certain not very wide limits. They are wont to forget that the world is not governed by policy and expediency. Webster never goes behind government, and so cannot speak with authority about it. His words are wisdom to those legislators who contemplate no essential reform in the existing government; but for thinkers, and those who legislate for all time, he never once glances at the subject. I know of those whose serene and wise speculations on this theme would soon reveal the limits of his mind's range and hospitality. Yet, compared with the cheap professions of most reformers, and the still cheaper wisdom and eloquence of politicians in general, his are almost the only sensible and valuable words, and we thank Heaven for him.

Comparatively, he is always strong, original, and, above all, practical. Still, his quality is not wisdom, but prudence. The lawyer's truth is not Truth, but consistency or a consistent expediency. Truth is always in harmony with herself, and is not concerned chiefly to reveal the justice that may consist with wrong-doing. He well deserves to be called, as he has been called, the Defender of the Constitution. There are really no blows to be given by him but defensive ones. He is not a leader, but a follower. His leaders are the men of '87- "I have never made an effort," he says, "and never propose to make an effort; I have never countenanced an effort, and never mean to countenance an effort, to disturb the arrangement as originally made, by which the various States came into the Union." Still thinking of the sanction which the Constitution gives to slavery, he says, "Because it was a part of the original compact- let it stand." Notwithstanding his special acuteness and ability, he is unable to take a fact out of its merely political relations, and behold it as it lies absolutely to be disposed of by the intellect- what, for instance, it behooves a man to do here in America today with regard to slavery- but ventures, or is driven, to make some such desperate answer as the following, while professing to speak absolutely, and as a private man- from which what new and singular code of social duties might be inferred? "The manner," says he, "in which the

governments of those States where slavery exists are to regulate it is for their own consideration, under their responsibility to their constituents, to the general laws of propriety, humanity, and justice, and to God. Associations formed elsewhere, springing from a feeling of humanity, or any other cause, have nothing whatever to do with it. They have never received any encouragement from me, and they never will."

They who know of no purer sources of truth, who have traced up its stream no higher, stand, and wisely stand, by the Bible and the Constitution, and drink at it there with reverence and humility; but they who behold where it comes trickling into this lake or that pool, gird up their loins once more, and continue their pilgrimage toward its fountain-head.

No man with a genius for legislation has appeared in America. They are rare in the history of the world. There are orators, politicians, and eloquent men, by the thousand; but the speaker has not yet opened his mouth to speak who is capable of settling the much-vexed questions of the day. We love eloquence for its own sake, and not for any truth which it may utter, or any heroism it may inspire. Our legislators have not yet learned the comparative value of free trade and of freedom, of union, and of rectitude, to a nation. They have no genius or talent for comparatively humble questions of taxation and finance, commerce and manufactures and agriculture. If we were left solely to the wordy wit of legislators in Congress for our guidance, uncorrected by the seasonable experience and the effectual complaints of the people, America would not long retain her rank among the nations. For eighteen hundred years, though perchance I have no right to say it, the New Testament has been written; yet where is the legislator who has wisdom and practical talent enough to avail himself of the light which it sheds on the science of legislation?

The authority of government, even such as I am willing to submit to- for I will cheerfully obey those who know and can do better than I, and in many things even those who neither know nor can do so well- is still an impure one: to be strictly just, it must have the sanction and consent of the governed. It can have no pure right over my person and property but what I concede to it. The progress from an absolute to a limited monarchy, from a limited monarchy to a democracy, is a progress toward a true respect for the individual. Even the Chinese philosopher was wise enough to regard the individual as the basis of the empire. Is a democracy, such as we know it, the last improvement possible in government? Is it not possible to take a step further towards recognizing and organizing the rights of man? There will never be a really free and enlightened State until the State comes to recognize the individual as a higher and independent power, from which all its own power and authority are derived, and treats him accordingly. I please myself with imagining a State at least which can afford to be just to all men, and to treat the individual with respect as a neighbor; which even would not think it inconsistent with its own repose if

a few were to live aloof from it, not meddling with it, nor embraced by it, who fulfilled all the duties of neighbors and fellow-men. A State which bore this kind of fruit, and suffered it to drop off as fast as it ripened, would prepare the way for a still more perfect and glorious State, which also I have imagined, but not yet anywhere seen.

THE END

[BACK](#) | [FORWARD](#)

IMMANUEL KANT

Metafísica de las costumbres

Traducción, introducción, notas y comentarios
Manuel Jiménez Redondo

Prólogo
Tomás S. Vives Antón

METAFÍSICA DE LAS COSTUMBRES

COMITÉ CIENTÍFICO DE LA EDITORIAL TIRANT HUMANIDADES

MANUEL ASENSI PÉREZ

*Catedrático de Teoría de la Literatura y de la Literatura Comparada
Universitat de València*

RAMÓN COTARELO

*Catedrático de Ciencia Política y de la Administración de la Facultad de Ciencias Políticas y Sociología
de la Universidad Nacional de Educación a Distancia*

M.^a TERESA ECHENIQUE ELIZONDO

*Catedrática de Lengua Española
Universitat de València*

JUAN MANUEL FERNÁNDEZ SORIA

*Catedrático de Teoría e Historia de la Educación
Universitat de València*

PABLO OÑATE RUBALCABA

*Catedrático de Ciencia Política y de la Administración
Universitat de València*

JOAN ROMERO

*Catedrático de Geografía Humana
Universitat de València*

JUAN JOSÉ TAMAYO

*Director de la Cátedra de Teología y Ciencias de las Religiones
Universidad Carlos III de Madrid*

METAFÍSICA DE LAS COSTUMBRES

IMMANUEL KANT

**Traducción, introducción, notas y comentarios
MANUEL JIMÉNEZ REDONDO**

Prólogo de Tomás S. Vives Antón

tirant humanidades

Valencia, 2022

Copyright © 2022

Todos los derechos reservados. Ni la totalidad ni parte de este libro puede reproducirse o transmitirse por ningún procedimiento electrónico o mecánico, incluyendo fotocopia, grabación magnética, o cualquier almacenamiento de información y sistema de recuperación sin permiso escrito del autor y del editor.

En caso de erratas y actualizaciones, la Editorial Tirant Humanidades publicará la pertinente corrección en la página web www.tirant.com.

© Immanuel Kant

© TIRANT HUMANIDADES
EDITA: TIRANT HUMANIDADES
C/ Artes Gráficas, 14 - 46010 - Valencia
TELF.: 96/361 00 48 - 50
FAX: 96/369 41 51
Email: tlb@tirant.com
www.tirant.com
Librería virtual: www.tirant.es
ISBN: 978-84-18970-10-8
MAQUETA: Innovatext

Si tiene alguna queja o sugerencia, envíenos un mail a: atencioncliente@tirant.com. En caso de no ser atendida su sugerencia, por favor, lea en www.tirant.net/index.php/empresa/politicas-de-empresa nuestro Procedimiento de quejas.

Responsabilidad Social Corporativa: http://www.tirant.net/Docs/RSC_Tirant.pdf

Índice

PRÓLOGO de Tomás S. Vives Antón	13
INTRODUCCIÓN DEL TRADUCTOR	17
Primera parte: miseria y grandeza de la <i>metafísica de las costumbres</i>	18
Cuestiones de nombre	18
Ediciones de la <i>Metafísica de las costumbres</i>	19
Ediciones y traducciones de la obra	20
Nuestro texto de referencia	21
Miseria de la forma del texto	23
Perplejidades ante el contenido del texto	23
Remediando los problemas de forma: la edición de Ludwig	24
Segunda parte: la filosofía del derecho de Kant	26
Sección Primera: Kant y la Revolución francesa	26
La génesis de la <i>Metafísica de las costumbres</i>	26
Kant y las Declaraciones de 1776 y 1789	28
La Declaración de 1789, lo mío y lo tuyo externos, el Estado	30
Kant trasciende la perspectiva de la Declaración	33
Sección Segunda: Kant y la tradición de la doctrina del derecho natural	34
El carácter tripartito del orden de derecho	34
Sobre el derecho de personas, <i>libertas y servitus</i>	35
La santidad de la persona	36
Kant rehace, pues, la tradición y la Declaración	38
Ampliación y superación de los conceptos de soberanía y contrato social	39
Sobre el <i>Ius publicum europaeum</i>	41
Sección tercera: El origen de la soberanía; revolución y reforma	42
Y, sin embargo, Kant rechaza la Revolución	42
Los revolucionarios buscan invitar a Kant a París	45
Tercera parte: ética y derecho, Kant rehace su filosofía práctica	46
Kant al final de su vida	46
El imperativo moral, la idea de libertad	47
El mandato general del derecho, derecho de libertad	49
La desarticulación de las posiciones anteriores	51
La ética: el sistema de los fines que es un deber proponerse; en definitiva, sólo uno: el ser libre mismo	52
El pensamiento ético de Kant, rehecho	58
Cuarta parte: retorno a Kant	58
De vuelta a Kant a través de dos libros	58
Una teoría de la justicia	59
Facticidad y validez	61
La cuestión de lo mío y lo tuyo externos	63

IMMANUEL KANT METAFÍSICA DE LAS COSTUMBRES

PRIMERA PARTE: PRINCIPIOS METAFÍSICOS DE LA DOCTRINA DEL DERECHO ..	67
Prefacio	69
Tabla de la división de la doctrina del derecho.....	75
Introducción a la metafísica de las costumbres.....	77
I. De la relación de las facultades del ánimo del hombre con las leyes de las costumbres	77
II. De la idea y necesidad de una metafísica de las costumbres	80
III. De la división de una metafísica de las costumbres.....	83
IV. Conceptos preliminares de la metafísica de las costumbres (<i>philosophia practica universalis</i>)	86
Introducción a la doctrina del derecho.....	93
§ A. ¿Qué es la doctrina del derecho?	93
§ B. ¿Qué es derecho?	93
§ C. Principio general del derecho	94
§ D. El derecho va unido a la facultad de coaccionar	95
§ E. El derecho estricto puede representarse como la posibilidad de una universal coacción recíproca que concuerde con la libertad de cada cual conforme a leyes generales.....	96
Apéndice a la introducción a la doctrina del derecho.....	97
Del derecho equívoco (<i>ius aequivocum</i>)	97
I. La equidad (<i>aequitas</i>).....	98
II. El derecho de la necesidad (<i>ius necessitatis</i>).....	99
División de la doctrina del derecho	100
A. División general de los deberes jurídicos.....	100
B. División general de los derechos	101
División de la metafísica de las costumbres en general	102
Primera parte: el derecho privado	107
Capítulo primero: del modo de tener algo externo como suyo	109
§ 1.	109
§ 2. Postulado jurídico de la razón práctica	110
§ 3.	111
§ 4. Exposición del concepto de lo mío y lo tuyo externos	111
§ 5. Definición del concepto de lo mío y lo tuyo externos	112
§ 6. Deducción del concepto de posesión meramente jurídica de un objeto externo (<i>possessio noumenon</i>)	113
§ 7. Aplicación del principio de la posibilidad de lo mío y lo tuyo externos a objetos de la experiencia.....	117
§ 8. Tener algo externo como suyo sólo es posible en un estado jurídico, bajo un poder legislativo público, es decir, sólo es posible en un estado civil...	120
§ 9. En el estado de naturaleza puede, ciertamente, haber un mío y un tuyo externos que sean reales, pero sólo de forma provisional.....	120

Capítulo segundo: de la forma de adquirir algo externo.....	123
§ 10. Principio general de la adquisición externa.....	123
Sección primera: del derecho sobre una cosa o derecho real	125
§ 11. ¿Qué es un derecho real?.....	125
§ 12. La primera adquisición de una cosa no puede ser otra que la del suelo	126
§ 13. Todo suelo puede ser adquirido originalmente y el fundamento de la posibilidad de esta adquisición es la comunidad original de suelo.....	127
§ 14. El acto jurídico de esa adquisición es la ocupación (occupatio)	128
§ 15. Sólo en una constitución civil puede adquirirse algo perentoriamente, en cambio en el estado de naturaleza puede adquirirse también, pero sólo de modo provisional.....	129
§ 16. Exposición del concepto de una adquisición original del suelo	132
§ 17. Deducción del concepto de adquisición original	134
Sección segunda: del derecho personal §§ 18-21	137
Sección tercera: del derecho personal en forma real §§ 22-23	142
Título primero: el derecho matrimonial §§ 24-27	143
Título segundo: el derecho de los padres §§ 28-29	146
Título tercero: el derecho del amo de la casa § 30	148
División dogmática de todos los derechos adquiribles por contratos § 31	150
I. ¿Qué es el dinero?.....	153
II. ¿Qué es un libro?	156
Sección episódica: de la adquisición ideal de un objeto externo del arbitrio	158
§ 32.	158
I. Adquisición por usucapión § 33.....	158
II. La sucesión (<i>acquisitio hereditatis</i>) § 34	160
III. El dejar una buena fama después de la muerte (<i>bona fama defuncti</i>) § 35..	161
Capítulo tercero: de la adquisición, subjetivamente condicionada, por sentencia de una jurisdicción pública.....	165
§ 36.	165
A. § 37. Del contrato de donación.....	166
B. § 38. Del contrato de préstamo de uso, o comodato.....	167
C. § 39. De la recuperación de lo perdido (<i>vindicatio</i>).....	168
D. § 40 De la adquisición de seguridad mediante la prestación de juramento (<i>cautio iuratoria</i>).....	172
Tránsito de lo mío y lo tuyo en el estado de naturaleza a lo mío y lo tuyo en el esta- do civil §§ 41-42	174
Segunda parte: el derecho público	177
Sección primera: el derecho estatal §§ 43-49.....	177
Observación general sobre los efectos jurídicos que se siguen de la naturaleza de la asociación civil.....	186
A.-D.....	186
E. Del derecho penal y del derecho de gracia	199
De la relación jurídica del ciudadano con la patria y con el extranjero §§ 50-52	205

Sección segunda: el derecho de gentes §§ 53-61.....	211
Sección tercera: el derecho cosmopolita § 62	219
Conclusión.....	221
APÉNDICE: observaciones aclaratorias a los principios metafísicos de la doctrina del derecho [respuesta a Bouterwek].....	223
1. Preparación lógica para un concepto jurídico intentado últimamente.....	224
2. Justificación del concepto de un derecho personal en forma real.....	225
3. Ejemplos.....	225
4. Sobre una confusión del derecho de cosas con el de personas.....	228
5. Complemento a la discusión de los conceptos de derecho penal	229
6. Del derecho de usucapión.....	230
7. De las sucesiones.....	232
8. De los derechos del estado en lo que respecta a las fundaciones a perpetuidad en favor sus súbditos.....	234
Conclusión.....	238

IMMANUEL KANT METAFÍSICA DE LAS COSTUMBRES

SEGUNDA PARTE: PRINCIPIOS METAFÍSICOS DE LA DOCTRINA DE LA VIRTUD..	241
Prefacio.....	243
Introducción a la doctrina de la virtud	247
I. Discusión del concepto de una doctrina de la virtud	247
II. Discusión del concepto de un fin que a la vez sea un deber.....	250
III. De la razón de pensarse un fin que sea a la vez un deber	252
IV. ¿Cuáles son los fines que son a la vez deberes?	253
V. Aclaración de estos dos conceptos	254
A. La perfección propia.....	254
B. La felicidad ajena	255
VI. La ética no da leyes para las acciones (pues eso lo hace el ius) sino sólo para las máximas de las acciones	256
VII. Los deberes éticos son de obligatoriedad lata, mientras que los deberes jurídicos son de obligatoriedad estricta	257
VIII. Exposición de los deberes de virtud como deberes latos.....	259
1. La perfección propia como fin que es a la vez un deber	259
2. La felicidad ajena como fin que es a la vez un deber	261
IX. ¿Qué es un deber de virtud?	262
X. El principio supremo de la doctrina del derecho era analítico; el de la doctrina de la virtud es sintético.....	263
XI. Esquema de los deberes de virtud.....	265
XII. Conceptos estéticos previos relativos a la receptividad del ánimo para los conceptos de deber	265
a. El sentimiento moral.....	266
b. De la conciencia moral [Gewissen]	267
c. Del amor a los hombres	268
d. Del respeto.....	269

XIII. Principios generales de la metafísica de las costumbres, relativos a cómo proceder en una doctrina pura de la virtud	269
XIV. De la virtud en general	271
XV. Del principio de separación entre la doctrina de la virtud y la doctrina del derecho	273
XVI. Para la virtud se requiere primero el dominio (herrschaft) de sí mismo	274
XVII. Para la virtud se presupone necesariamente la apatía (considerada como fuerza)	274
XVIII. Conceptos previos relativos a la división de la doctrina de la virtud	276
XIX. [División de la ética]	278
I. Doctrina ética elemental	279
Primera parte: de los deberes para consigo mismo en general	281
Introducción	281
§ 1. El concepto de un deber para consigo mismo contiene (a primera vista) una contradicción	281
§ 2. Y, sin embargo, existen deberes del hombre para consigo mismo	282
§ 3. Explicación de esta aparente antinomia	282
§ 4. Del principio de la división de los deberes para consigo mismo	283
Libro primero: de los deberes perfectos para consigo mismo.	285
Capítulo primero. el deber del hombre para consigo mismo como un ser animal § 5	285
Artículo primero: del suicidio y la mutilación § 6	286
Artículo segundo: de la profanación de sí mismo por el abuso del sexo § 7	288
Artículo tercero: del autoatardimiento por empleo inmoderado de productos que se consumen por placer, o también de alimentos § 8	290
Capítulo segundo: el deber del hombre para consigo mismo simplemente como ser moral	292
I. De la mentira § 9	292
II. De la avaricia § 10	295
III. Del servilismo §§ 11-12	298
Sección primera: el deber del hombre para consigo mismo como juez nato sobre sí mismo § 13	301
Sección segunda: del primer mandato de todos los deberes para consigo mismo §§ 14-15	304
Sección episódica: de la anfibología de los conceptos morales de reflexión: del tener por un deber para con otros [seres] lo que es un deber del hombre para consigo mismo §§ 16-18	305
Libro segundo: de los deberes imperfectos del hombre para consigo mismo (en lo que respecta a su fin)	309
Sección primera: del deber para consigo mismo en lo que respecta al aumento de la propia perfección natural, es decir, en sentido pragmático §§ 19-20	309
Sección segunda: del deber para consigo mismo en lo que respecta al aumento de su propia perfección moral, es decir, del deber para consigo mismo en sentido puramente ético §§ 21-22	311

Segunda parte: de los deberes éticos para con otros hombres.....	313
Capítulo primero: de los deberes para con los otros simplemente como hombres	313
Sección primera: del deber de amar a los otros hombres	313
División §§ 23-24-25	313
Del deber de amar, en particular §§ 26-28.....	315
División de los deberes de amor.....	317
A. Del deber de beneficencia §§ 29-31	317
B. Del deber de gratitud §§ 32-33.....	320
C. La sensibilidad simpatética es en general un deber §§ 34-35.....	322
De los vicios del odio a los hombres, que directamente (<i>contrarie</i>) se opo- nen al amor a los hombres § 36.....	324
Sección segunda: de los deberes de virtud para con otros hombres por el respeto que se les debe §§ 37-41	327
De los vicios que vulneran el deber de respeto a los otros hombres	330
A. La soberbia § 42	330
B. La detracción § 43	331
C. El escarnio § 44.....	332
Capítulo segundo: de los deberes éticos de los hombres los unos para con los otros en lo que respecta a su estado § 45.....	334
Conclusion de la doctrina elemental: de la muy íntima unión del amor con el res- peto en la amistad §§ 46-47	335
Apéndice: de las virtudes del trato (<i>virtutes homileticae</i>).....	339
II. Doctrina ética del método.....	341
Sección primera: la didáctica ética §§ 49-52.....	343
Sección segunda: la ascética moral § 53	350
Conclusión: la doctrina de la religión como doctrina de los deberes para con Dios queda fuera de los límites de la filosofía moral pura.....	351
Tabla de la división de la ética.....	357
NOTAS A LA “INTRODUCCIÓN DEL TRADUCTOR”	359
NOTAS Y COMENTARIOS DEL TRADUCTOR A LA “DOCTRINA DEL DERECHO”	373
NOTAS Y COMENTARIOS DEL TRADUCTOR A LA “DOCTRINA DE LA VIRTUD”	519
BIBLIOGRAFÍA.....	615

PRÓLOGO

DE TOMÁS S. VIVES ANTÓN

Cuando se afronta una nueva edición de *La Metafísica de las Costumbres* la primera pregunta que cabe hacerse es la de si es necesaria una nueva edición de una obra que, desde una perspectiva crítica, ha experimentado un declive importante en nuestro tiempo, hasta el punto de que se ha hablado de una despedida de Kant y Hegel. Por eso, es preciso abordar si esa despedida tiene fundamento o carece de él. He tratado en diversas ocasiones esa cuestión y he razonado que, si bien la concepción del Estado y del delito de Kant ni está superada ni es superable, su modo de concebir la pena es inadecuado y no puede sostenerse a día de hoy. Eso bastaría para justificar esta nueva edición, pues en ella se contienen observaciones de Manuel Jiménez que pueden revolucionar el modo de entender esta obra y dar un sentido nuevo a su importancia y alcance.

Manuel Jiménez Redondo, autor de esta traducción, no es precisamente una persona irrelevante por lo que respecta al pensamiento moderno. Para comprenderlo basta mencionar su espléndida traducción de la *Fenomenología del espíritu*. Tuve con él una estrecha relación cuando cursé, en el Seminario de Habermas en Frankfurt, un cuatrimestre dedicado a desarrollar su pensamiento. Habermas no era un orador didáctico y su pronunciación alemana hacía aún más difícil entenderle. Por eso, casi todos los asistentes, alemanes incluidos (que pasaron de los trescientos iniciales a poco más de veinte a final del curso), nos reuníamos alrededor de Manuel, para tener la seguridad de que habíamos entendido bien las diversas lecciones. Creo que esta anécdota basta para poner de manifiesto el dominio que Manuel poseía y posee tanto de la lengua cuanto de la filosofía alemana de la modernidad y, en concreto, de Kant, lo que confiere a su traducción un valor excepcional.

Para sintetizar ese valor yo diría que, en primer lugar, especifica que *La Metafísica de las Costumbres* resulta ser un comentario a la Declaración Francesa de

los Derechos del Hombre y del Ciudadano. Esa perspectiva inicial del traductor comporta un nuevo modo de entender la obra y, a mi juicio, justifica la primacía de la concepción del Derecho sobre la de la pena. Situada en el corazón del entendimiento del Derecho por parte de Kant la igual libertad de todos los hombres y concebida esa libertad como modo de lograr una convivencia externa pacífica, resulta incongruente entender la pena como una obligación de la comunidad, pues la Declaración de Derechos del Hombre y del Ciudadano sólo entiende justificada la pena cuando sea estricta y absolutamente necesaria. De modo que lo que justifica la pena es su necesidad para el mantenimiento de un orden social justo y no ninguna clase de justicia intrínseca.

La conocida concepción de Kant según la cual “Aun cuando se disolviera la sociedad civil con el consentimiento de todos sus miembros (por ejemplo, decidiera disgregarse y diseminarse por todo el mundo el pueblo que vive en una isla), antes tendría que ser ejecutado hasta el último asesino que se encuentre en la cárcel, para que cada cual reciba lo que merecen sus actos y el homicidio no recaiga sobre el pueblo que no ha exigido este castigo: porque puede considerársele como cómplice de esta violación pública de la justicia”. Esas primeras frases se especifican después del siguiente modo: “Esta igualdad de las penas, que sólo es posible por la condena a muerte por parte del juez, según la estricta ley del talión, se manifiesta en el hecho de que sólo de este modo la sentencia de muerte se pronuncia sobre todos de forma proporcionada a la maldad interna de los criminales (aunque no se tratara de un homicidio, sino de otro crimen de Estado que sólo la muerte puede borrar)”. Podríamos seguir; pero basta lo transcrito para poner de manifiesto varias contradicciones. En primer término, que la ley del talión *stricto sensu* se expresa diciendo “ojo por ojo, diente por diente” a la que, obviamente, le es aplicable la negación de Hegel para el caso de que el delincuente fuese ciego o desdentado; pero aquí el talión material se transforma en una especie indefinida de talión ideal: el delincuente ha de sufrir un daño equivalente al mal causado. Pero, ¿cómo se justifica imponer un mal por haberse causado otro? De ese modo el Derecho no anularía un mal, sino que se limitaría a producir un mal complementario. Sólo si la causación de ese otro mal fuese necesaria para producir un bien mayor (como podría serlo el respeto al sistema de reglas), podría entenderse justificada y eso es lo que dice la Declaración de Derechos del Hombre y del Ciudadano, pero no es lo que dice Kant. Así, Kant da a la pena una justificación inconsistente y antiliberal. La obligación de castigar tendría que poder justificarse por un derecho de los ciudadanos al castigo, que no se proclama en modo alguno en la Declaración y que no fortalece los derechos de todos sino que únicamente refuerza el poder de castigar.

Partir de que el castigo solo es legítimo cuando resulta estricta y absolutamente necesario, como reza la Declaración de Derechos del Hombre y del Ciudadano y, por otra parte, proclamar la absoluta necesidad de imponer un castigo igual

al daño del delito cometido, como propone Kant, es evidentemente una contradicción que no pudo pasarle inadvertida al autor. Tampoco pudo ignorar que una tal obligación era incongruente con la regla previa de maximalización de la libertad. De modo que afirmar, en principio, la maximalización de la libertad de todos y castigar el delito en la forma que Kant propone es incompatible. Sin embargo, Kant afirmaba que no había dicho todo lo que pensaba, pero sí que había pensado todo lo que decía. Entender que el pensamiento de Kant acogía, a la vez, dos afirmaciones tan evidentemente contradictorias es atribuir a uno de los más grandes pensadores de todos los tiempos un defecto lógico tan burdo que resulta increíble. Propondría, por tanto, interpretar su afirmación en un sentido banal, a saber: queriendo decir que muchas de las cosas que pensaba no las dijo; pero que para decir las que dijo había tenido, obviamente, que pensarlas antes.

Manuel Jiménez a propósito, precisamente, de la pena de muerte destaca que el argumento de Kant no se sostiene. Su punto de partida, la idea del talión, es rechazado, por ejemplo, en el ámbito de los delitos sexuales, diciendo que el Estado no puede castigar un delito cometiendo otro. No puedo admitir que Kant no se percatase de la inconsistencia de su planteamiento. De modo que, creo que para entender por qué lo expresó así habría que acudir a otras razones que, desde luego, no faltan si se tiene en cuenta la difícil situación en la que Kant escribía. El desconocimiento de esa concreta situación ha llevado a muchos autores a colocar a Kant como principio del fin de la Ilustración o como una suerte de pensador neoliberal que, de un lado, proclama la supremacía de la libertad; pero, de otro lado, la concibe de modo tan formal que permite tantos y tan graves recortes que pueden llevar a dejarla sin contenido alguno.

Manuel Jiménez ha analizado estas y otras contradicciones de la concepción kantiana del Derecho, en su reciente artículo “Kant sobre el Derecho Penal”, que forma parte de su edición comentada de *La Metafísica de las costumbres* que aquí se prologa. Tanto en esa obra, como en otros trabajos previos, lo que Jiménez hace suyo, indudablemente, es el liberalismo de Kant.

Por eso me parece indispensable caracterizar ese liberalismo. Se ha objetado a Kant, y al entendimiento de Kant de Manuel Jiménez, que parece permanecer anclado en la idea de Estado liberal de Derecho, por su radical separación entre el Derecho y la Moral. Sin embargo, esa separación no comporta, para Manuel Jiménez, ni desde luego para el propio Kant, que el Derecho pueda dar la espalda absolutamente a la Moral.

En efecto, aunque para Manuel Jiménez la Moral no es el Derecho y el Derecho no es la Moral, “para la conciencia moderna contemporánea la separación entre moral y derecho se debe a lo más básico de todo en la moral y a lo más básico de todo en el derecho. Y eso más básico de todo es uno y lo mismo para ambos

(...). La moral se refiere a los fines que los hombres deben proponerse (...) y hay fines que el hombre necesariamente debe proponerse (...). Pero en el derecho no puede tratarse en absoluto de eso. Querer imponer a otro mediante coacción que se proponga un fin es contradictorio, pues no sería un fin que él se propone, sería un fin que quien se lo impone realiza a través de él¹.

Pero la libertad que tanto Kant como Manuel Jiménez sitúan en el centro de su concepción del Derecho no es la que confiere a pobres y a ricos el mismo derecho a vivir debajo de los puentes: es una libertad con contenido que da lugar a una igualdad relativa en términos reales, sin la cual no puede sostenerse por largo tiempo un sistema jurídico razonable. Para comprenderlo así y para captar en este punto la fecundidad y la riqueza del pensamiento kantiano basta recordar cuanto al respecto se dice en *La Paz Perpetua* por Kant. Kant postula un derecho de ciudadanía mundial del que se desprende como mínimo el derecho de hospitalidad. “No se trata aquí de un derecho por el cual el recién llegado pueda exigir el trato de huésped –que para ello sería preciso un convenio especial benéfico que diera al extranjero la consideración y el trato de un amigo o convidado–, sino simplemente de un derecho de visitante, que a todos los hombres asiste: el derecho a presentarse en una sociedad”. Ese derecho se funda en la común posesión del suelo de la tierra. Estas ideas van ya mucho más allá de los postulados actuales de los Estados liberales de Derecho y contrasta con el inaceptable trato que recibe la emigración.

Lo que sigue a ese punto de partida es la igualdad postulada de todos los pueblos en el marco de un Derecho público universal. Es decir, en el marco de un Derecho público cosmopolita común a todos y aceptado por todos como garantía de la paz perpetua. Ese objetivo está muy lejos; pero el día que se lograra, el mundo se hallaría en una situación mucho mejor que la actual para todos los individuos y se habría asegurado la paz perpetua. Tender a ese objetivo, por dificultoso que sea, es para Kant una obligación. De modo que, no cabe atribuirle ninguna clase de formalismo como tampoco cabe hacerlo respecto de Manuel Jiménez que, en muchas ocasiones, que no es preciso recordar aquí ha subrayado el contenido social y humano del liberalismo de Kant que él defiende y que yo no puedo sino suscribir enteramente.

Leer la *Metafísica de las costumbres* desde la visión de Manuel Jiménez puede resultar una gratificante aventura intelectual y, por ello, no puedo sino invitar a hacerlo.

Valencia, septiembre de 2020

INTRODUCCIÓN DEL TRADUCTOR

Divido la presente introducción en cuatro partes. La **primera parte**, titulada “Grandeza y miseria de la *Metafísica de las costumbres*” está dedicada a asuntos relacionados con el texto original de la *Metafísica de las costumbres* de Kant y a asuntos relacionados con la presente traducción española. La **segunda parte**, titulada “La doctrina del derecho de Kant”, consta a su vez de tres capítulos. El primero, titulado “Kant y la Revolución francesa”, está dedicado a la “Declaración de los derechos del hombre y del ciudadano” de 1789 de la que la “Doctrina del derecho” de la *Metafísica de las costumbres* puede considerarse un comentario. El segundo capítulo, titulado “Kant y la tradición del derecho natural”, versa sobre la tradición del derecho natural que Kant reformula basándose en los principios de la Declaración de 1789 y poniendo los principios y conceptos de ésta en un contexto cosmopolita que en la Declaración faltaba y que Kant considera fundamental. El tercer capítulo, titulado “El origen de la soberanía, revolución y reforma”, versa sobre la discusión de Kant del “derecho de resistencia a la opresión” y sobre alguna anécdota de las relaciones de Kant con los revolucionarios franceses. La **tercera parte** titulada “Ética y derecho: Kant rehace su filosofía práctica” está dedicada a la segunda parte de la *Metafísica de las costumbres*, la “Doctrina de la virtud”, en cuya Introducción Kant lleva a cabo una reestructuración de su filosofía moral anterior, repasando los fundamentos del derecho, estableciendo los de la ética, y repasando y aclarando la tesis de la separación entre ambos y de su simultánea co-pertenencia. La **cuarta parte**, titulada “Retorno a Kant”, está dedicada a dos de las principales recepciones de la filosofía jurídica y ética de Kant en el siglo XX, en términos de contraste con el propio texto de Kant.

La intención de la presente Introducción del traductor es mostrar que la *Metafísica de las costumbres* (1797) no es un texto secundario frente a la *Fundamentación de la metafísica de las costumbres* (1785) y la *Crítica de la razón práctica* (1788),

sino un texto en el que ambas se terminan y se rehacen por completo, en forma de una consideración por separado de los principios del derecho y de la ética, en la que se los muestra como derivando de una misma fuente (el concepto de libertad), que exige su separación. Ello se convierte por parte de Kant en una aclaración de los principios de la modernidad jurídica, política y ética en una medida que, a mi juicio, deja por detrás lo que han sido algunas de las principales recepciones de la filosofía moral de Kant en el siglo XX. Kant pasa hoy por delante de ellas.

PRIMERA PARTE: MISERIA Y GRANDEZA DE LA METAFÍSICA DE LAS COSTUMBRES

Cuestiones de nombre

Conviene empezar aclarándose sobre títulos tales como “Metafísica de las costumbres”, “Doctrina del derecho” y “Doctrina de la virtud”. Sobre todo, este último no goza de aceptación en la actualidad, sin duda por el descrédito de un discurso sobre la virtud que disociaba ésta del interés por “el curso del mundo”, dicho en términos de Hegel. En todo caso es la expresión que a fines del siglo XVIII escoge Kant, no con mucho entusiasmo, para denominar lo que hoy por lo general llamamos *ética*. La *Metafísica de las costumbres* abarca, pues, los *principios racionales del derecho* y los *principios racionales de la ética*. De eso se trata en ella. Estos principios son prácticos, no teóricos; el término alemán *Lehre*, *doctrina*, puede significar en alemán igualmente *teoría*, e incluso por lo general es eso lo que significa; pero Kant parece querer recalcar aquí con él que de lo que aquí se trata es de principios *prácticos*, no de principios teóricos, a diferencia de lo que sucede con “los principios metafísicos de la *ciencia* natural” que son el equivalente de “la metafísica de las costumbres”. Aquéllos son por el lado de la *Crítica de la razón pura*, lo que ésta es por el lado de la *Crítica de la razón práctica*. Así, al menos, quiere organizar Kant las cosas.

Aunque no haya otra manera de traducir *Metaphysik der Sitten* que por *Metafísica de las costumbres*, esta expresión tampoco resulta habitual ni dice nada en español. El término alemán *Sitten* traduce exactamente el término latino *mores*. Kant se está refiriendo con él al ámbito de la acción libre en general, al ámbito de las *leyes de la libertad*, en cuanto *contrapuesto* al ámbito de la determinación causal natural, esto es, al ámbito de las leyes de la naturaleza. La *Metafísica de las costumbres* versa sobre las *leyes de la libertad* en este sentido, no en ningún otro.

Conviene señalar desde el principio otro problema terminológico que hay que tener presente para no incurrir en confusiones que alguna vez podrían ser impor-

tantes. Kant usa el término *moral* para referirse tanto a los principios del *derecho* como a los principios de la ética. Ambos son *principios morales* o caen bajo la denominación de *morales*. Nosotros solemos distinguir en español entre *derecho* y *moral*; Kant habla de *derecho y ética* para referirse exactamente a esa misma distinción. Es sólo cuestión de términos y de nada más. Así pues, tal como Kant utiliza los términos, *moral* no se contrapone a *derecho* ni coincide con ética, sino que abarca ambos. *Moral* es todo lo que tiene que ver con las leyes de la libertad y éstas o bien son leyes *jurídicas* o bien son leyes éticas. Pero cuando no haya riesgos de que se produzcan confusiones podemos seguir hablando de la distinción entre derecho y moral, conforme a lo que es nuestro uso en español; a veces Kant también lo hace.

Tanto en el caso de los principios *metafísicos* de la ciencia natural, como en el caso de los principios *metafísicos* del derecho, como en el caso de principios *metafísicos* de la ética, *metafísicos* significa: *a priori*. Se trata de elementos conceptuales básicos que no provienen de la experiencia, sino que la hacen posible y la estructuran en el caso de la ciencia natural, o de principios prácticos, de conceptos jurídicos o éticos básicos, que precisamente por referirse a la acción libre, no pueden provenir de la experiencia; pues ésta, según Kant, no puede atestiguar que somos libres. Esos elementos provienen de la pura razón, al igual que los conceptos *teóricos* puros que son condición de posibilidad de la experiencia. Sólo que en este caso provienen de la razón no por su lado teórico, sino por su lado práctico, es decir, que provienen de la *razón pura práctica*. Con esta expresión no nos estamos refiriendo sino a nuestro querer, a nuestro arbitrio en cuanto determinado por principios *a priori* relativos a la acción, como aún veremos.

La terminología con la que la *Metafísica de las costumbres* de Kant hace su presentación, no dispone, pues, al lector en su favor. Se trata una terminología, hoy no sólo en desuso, sino que incluso se supone superada, al menos en parte. No así su contenido.

Ediciones de la *Metafísica de las costumbres*

El título del presente libro de Kant es *Die Metaphysik der Sitten* (*La metafísica de las costumbres*), pero se ha vuelto habitual en español llamar al libro *Metafísica de las costumbres*, suprimiendo el artículo; así lo haré en todo lo que sigue. La primera parte de la *Metafísica de las costumbres*, es decir, la “Doctrina del derecho”, se publicó en enero de 1797. Kant la había entregado a la imprenta en octubre de 1796. El texto contiene muchas erratas, errores gramaticales, redacciones defectuosas, faltan a veces algunas palabras y hay que recomponer la correspondiente frase, etcétera. Seguramente, Kant, como por lo demás era

habitual en él, no prestó mucha atención a ese aspecto del ejemplar que llegó a sus manos. Y estaba además muy ocupado con la redacción de la segunda parte de *Metafísica de las costumbres*, la “Doctrina de la virtud”, que se publicó a fines de agosto de 1797.

Ya en febrero de 1797 la “Doctrina del derecho” fue objeto de una recensión no muy favorable (y no firmada) en la revista *Noticiero de Gotinga sobre cuestiones científicas*, debida casi con toda seguridad al profesor de Gotinga, Friedrich Bouterwek¹; La respuesta de Kant se publicó como *Apéndice* a la “Doctrina del derecho” en la segunda edición de ésta en 1798, y así se ha venido publicando después en todas las ediciones y traducciones de la “Doctrina del derecho”, aunque no a continuación de la primera parte “El derecho privado”, como se hizo en 1798, sino al final del texto completo de la “Doctrina del derecho”. La presente versión española la contiene como Apéndice a la “Doctrina del derecho” al final de ésta.

Aparte de ese Apéndice, lo único que Kant añade en esa segunda edición de 1798 (lo único que con toda seguridad proviene de él) es un paréntesis en el § 5 en el que se introduce la definición del concepto jurídico de *lesión*, definición que enfáticamente le había pedido el recensor de Gotinga: “Lesión es menoscabo de mi libertad que puede coexistir con la libertad de cualquiera conforme a una ley general”. Por lo demás, en el texto se hacen correcciones de estilo, respecto a las que se está de acuerdo en que no provienen de la mano de Kant, aparte de que, aunque se corrigen bastantes erratas, se introducen algunas decenas más. Así pues, pese a que la segunda edición de la “Doctrina del derecho” se publica en vida de Kant, el texto de referencia, con las salvedades dichas, ha de ser el de la primera edición, como aún diré en notas.

Kant murió en febrero de 1804, a los ochenta años de edad. La segunda edición de la “Doctrina de la virtud” se hizo en 1803. Pero esa segunda edición difícilmente puede contener ya nada que provenga de la mano de Kant, por más que sus discípulos le sigan atribuyendo la preparación de ella. Desde fines de 1798 o desde principios de 1799 Kant experimenta un importante declive de sus facultades que hizo que de sus asuntos pasara a ocuparse su discípulo, “amanuense” y amigo E. A. Ch. Wasianski². Por tanto, también en el caso de la “Doctrina de la virtud” el texto de referencia habría de ser el de la primera edición. A esto volveré a referirme asimismo en notas.

Ediciones y traducciones de la obra

Las ediciones que desde principios del siglo XIX han venido haciéndose de la *Metafísica de las costumbres* (incluyendo ya sus dos partes, la “Doctrina del

derecho” y la “Doctrina de la virtud”) han tenido que hacer frente a las deficiencias de las ediciones hechas en vida de Kant. Entre estas ediciones posteriores las más relevantes en este sentido son la de K. F. Rosenkranz y F. W. Schubert, Leipzig 1839, la de G. Hartenstein, Leipzig 1838, la del mismo G. Hartenstein en el volumen 7 de su edición de las “Obras completas de Kant por orden cronológico”, Leipzig 1867, la de J. H. von Kirchmann, Berlin 1870, la de K. Vorländer, Leipzig 1919³, la de P. Natorp, Berlin 1914, la de Benzon Kellermann en el volumen 6 de la edición de las obras de Kant promovida por E. Cassirer, Berlin 1922, la de W. Weischedel, Wiesbaden 1957, Frankfurt 1977², la de B. Ludwig, Hamburgo 1986, 1990, y finalmente la de H. Ebeling, Stuttgart 1990. Copias de las ediciones hechas en vida de Kant, así como copias de todas las ediciones indicadas (salvo las de W. Weischedel, B. Ludwig y H. Ebeling) pueden obtenerse en el sitio *Internet Archive.org*.

Nuestro texto de referencia

El texto de referencia de la presente versión española ha sido, como casi es obligado, aunque ello, como vamos a ver, haya dejado hoy de ser obvio, el del tomo VI de la edición de todos los escritos de Kant, que inició la Academia Prusiana de las Ciencias en 1900: *Kants gesammelte Schriften. Herausgegeben von der Königlich Preussische Akademie der Wissenschaften* (tomo VI, Berlín 1907/14), conocida también como la *Akademie-Ausgabe*, AA. El correspondiente número de página de ese tomo VI se incluye entre corchetes en la presente versión española, como también suele ser habitual en las ediciones y traducciones del texto de Kant. Como es corriente hacerlo, las citas que hago del texto tendrán la forma: Kant AA VI, y número de página; hago lo mismo en el caso de la cita de textos contenidos en otros tomos.

La preparación de la edición de la *Metafísica de las costumbres* en ese tomo VI de la *Akademie-Ausgabe* a cargo de Paul Natorp, publicado en 1914, consta del texto de la “Doctrina del derecho”, del texto del Apéndice, y del texto de la “Doctrina de la virtud”, todos ellos minuciosamente revisados y corregidos, para lo cual se tienen presentes todas las ediciones anteriores, muy principalmente las de Hartenstein y Kirchmann. De igual interés es la edición de K. Vorländer³, que tiene ya presente la de Paul Natorp (al igual que la de Natorp contiene sugerencias de Vorländer, pues éste colaboró en ella); difiere de la de Natorp en algunas decisiones en lo que respecta a la fijación del texto; a ello haré referencia en notas. Para la presente versión española he utilizado, aparte del texto de la *Akademie-Ausgabe*, las ediciones de Vorländer y Weischedel. He tenido asimismo a la vista los tomos de la *Akademie-Ausgabe* en que se recogen

los papeles preparatorios y comentarios de Kant sobre temas de *metafísica de las costumbres* y temas afines y las “hojas sueltas” de Kant en que se hacen referencias a ellos⁴. He hecho también uso de los tomos de la “cuarta sección” de la *Akademie-Ausgabe*, en que se recogen los apuntes de asistentes a los cursos de Kant. Sobre todo los apuntes de Feyerabend⁵, Mrongovius⁶ y Vigilantius⁷ me han sido de especial interés a la hora de descifrar algunos enigmas que el texto ofrece, que, si no, me hubieran resultado inextricables⁸. Naturalmente, en el presente libro no se trata ni puede tratarse de introducir y comentar el “entorno textual” de la *Metafísica de las costumbres*, sino sólo de traducir y comentar la *Metafísica de las costumbres*, y de nada más. Recorro a otros textos publicados por Kant, a materiales del propio Kant no publicados por él y a los apuntes de sus oyentes, solamente con ese fin.

También he visitado con mucha frecuencia libros de comentaristas de la obra de Kant coetáneos de él, tanto de su obra en general, como sobre todo de la *Metafísica de las costumbres*. Me refiero principalmente a G. S. A. Mellin, J. S. Beck, J. H. Tieftrunks y J. A. Bergk⁹.

Para conseguir mayor claridad del texto he introducido a veces alguna mínima aclaración entre corchetes. La totalidad de las aclaraciones entre corchetes que se contienen en el presente libro son del traductor. Asimismo, he traducido siempre todas las expresiones y frases latinas que Kant introduce entre paréntesis; por tanto, la traducción española que en esos paréntesis sigue al término o texto latino de Kant es siempre del traductor. En lo que se refiere a notas y comentarios, en el presente libro las notas de Kant van todas a pie de página utilizando como llamada un asterisco. A fin de no complicar la estructura del libro, las notas y comentarios del traductor van todas al final, sin distinguir entre lo que son breves notas circunstanciales y lo que son notas más largas e incluso comentarios de varias páginas. Los subrayados del texto de Kant en las notas y comentarios son por lo general del traductor.

Respecto a las traducciones al español, inglés, francés e italiano (sean de toda la obra, sean sólo de alguna de sus partes) he tenido presentes las de Adela Cortina y Jesus Conill (1989), T. Tissot (1837), J. Barni (1853), G. Lizarraga (1873), W. Hastie (1877), J. W. Semple (1886), A. Philonenko (1971), A. Renau (1994), J. Ladd (1965), M. Gregor (1991) y G. L. Petrone (2006). Naturalmente, esta lista no pretende ser completa en ningún sentido; se trata simplemente de las traducciones que de hecho he manejado y consultado.

Finalmente he de agradecer a algunos colegas los comentarios que me han hecho sobre el texto, y a Gloria Conejero Cervera la ayuda que desde el principio me ha prestado en la preparación del mismo.

Miseria de la forma del texto

Ya desde principios del siglo XIX empezaron a escucharse quejas sobre el texto de la *Metafísica de las costumbres* de Kant. La abundancia de esquemas en la parte inicial de la “Doctrina del derecho” no sólo no contribuye a la comprensión del texto, sino que lo vuelve confuso, caótico (“tumultuario”, como dice Kant). En la primera parte de la “Doctrina del derecho”, titulada “El derecho privado, de lo mío y lo tuyo en general”, son difíciles de entender tanto el concepto de lo mío y lo tuyo externos como la deducción que se hace del concepto de adquisición de lo mío y lo tuyo externos; el § 6 resulta simplemente ininteligible tal como está; y ello dificulta enormemente seguir el hilo argumentativo de los §§ 1-9: “Pese a toda mi buena voluntad, y tras haber leído varias veces los pasajes correspondientes, no he logrado entender en qué radica lo concluyente de la prueba”¹⁰, dice ya un crítico en 1804. La estructuración tanto de la “Doctrina del derecho” como de la “Doctrina de la virtud”, sobre todo la de esta última, resulta desequilibrada. Por poner sólo algunos ejemplos: la “Doctrina del derecho” contiene varios capítulos sobre lo mío y lo tuyo *externos*, pero se echa entonces en falta una exposición detallada del concepto de lo mío y lo tuyo *internos*, que queda reducida a dos páginas al final de la “Introducción a la doctrina del derecho”. La “Introducción a la doctrina de la virtud” ocupa más de un tercio de la extensión total del texto de la “Doctrina de la virtud”, y está compuesta de fragmentos sobre temas distintos, cuya concatenación no es siempre fácil de ver, etcétera.

Perplejidades ante el contenido del texto

Aparte de por su miseria formal, el texto desconcierta por su contenido. También sobre ello abundan las posiciones críticas. El texto parece ofrecernos una ambigua teoría del derecho, en la que en definitiva no se ve si separa o no el derecho de la ética, unas veces parece que sí, otras que no. Además, la segunda parte de la obra, la “Doctrina de la virtud”, parece ofrecernos una ética material pre-crítica, un retorno a lo que Kant había dado por abandonado; para convencerse de ello bastaría con mirar el índice. En lo que se refiere, pues, a esto último, en la *Metafísica de las costumbres* (1797) se produciría entonces una especie de retroceso respecto de la *Fundamentación de la metafísica de las costumbres* (1785) y de la *Crítica de la razón práctica* (1788), por más que en algún pasaje de la *Fundamentación* parezca anunciarse expresamente lo que después se hace en la “Doctrina de la virtud”¹¹. Más aún, la *Metafísica de las costumbres* podría incluso llevar a preguntarnos si existió alguna vez algo así como una ética y una filosofía del derecho *críticas* de Kant; es la pregunta que, por ejemplo, se hace K.-H. Ilting en un polémico artículo¹².

Nada tiene de extraño que, aun sin compartir estas tesis extremas, no hayan sido pocos los lectores (Hannah Arendt estuvo entre ellos¹³) que han tendido al menos a

simpatizar (extendiéndolo desde luego a todos los aspectos de la *Metafísica de las costumbres*, a los formales y a los de contenido) con el juicio que A. Schopenhauer daba sobre ella en un apéndice de *El mundo como voluntad y representación*. Ese apéndice lleva por título “Crítica de la filosofía de Kant” y se abre con una cita de Voltaire: “Es un privilegio del verdadero genio, sobre todo del que abre camino, cometer impunemente grandes errores”. La *Metafísica de las costumbres* de Kant nos mostraría al genio que Kant fue, pero en completo declive en todos los sentidos, en los aspectos de invención y de contenido y de forma. Schopenhauer se refiere a esta obra no por el lado de la “Doctrina de la virtud”, sino por el lado de la “Doctrina del derecho”: “La *Metafísica de las costumbres* es una de las últimas obras de Kant, y tan floja que, aunque la desapruuebo por completo, no voy a entrar en polémica con ella, simplemente porque lo considero superfluo, ya que, como si no fuese la obra de este gran hombre, sino la obra de un hijo corriente de la tierra, esa obra está llamada a morir de muerte natural por su propia debilidad”¹⁴. “Los defectos que he barruntado en la *Crítica de la razón pura* se encuentran en *La metafísica de las costumbres* en tal exceso, que esta obra puede considerarse una verdadera parodia de la manera que Kant tiene de hacer filosofía”¹⁵.

Y pasa a señalar en concreto la cuestión que, a su juicio, había constituido hasta entonces la *crux* de todos los intérpretes de esta obra, la incurable ambigüedad e imposible pretensión de la filosofía del derecho de Kant, lo absurdo de su intento: “Kant quiere, y otros desde entonces han querido también, establecer una estricta separación entre la doctrina del derecho y la ética, y, sin embargo, no hacer depender la primera de la legislación positiva, de la simple coacción, sino hacer que el concepto de derecho se sostenga por sí puramente y *a priori* [como una instancia crítica de la legislación positiva, N.T.]. Sólo que esto no es posible. Pues la acción, fuera de su significado ético y fuera de la relación física con los otros (y, por tanto, fuera de la coacción externa), no ofrece ni siquiera la posibilidad de otra tercera perspectiva”¹⁶.

Y así, Schopenhauer concluye que la doctrina del derecho de Kant, aparte de todos los demás defectos que contiene, “parece moverse en algún no-lugar entre el cielo y la tierra”. Conforme a criterios análogos, la opinión sobre la “Doctrina de la virtud” habría de ser aún más modesta; y así lo expresa Schopenhauer, que no deja de tener algunos aspectos de ella no ya por flojos sino simplemente por “vergonzosos”, como veremos en un comentario del traductor sobre la idea de “compasión” en Kant. En todo caso, la cuestión de la separación entre ética y derecho parece, pues, central.

Remediando los problemas de forma: la edición de Ludwig

La edición de la “Doctrina del derecho” (1986)¹⁷ y de la “Doctrina de la virtud” (1990)¹⁸ por parte de Bernd Ludwig, que éste acompañó de un libro en el que ex-

plica el trabajo de edición realizado¹⁹, supuso una conmoción en la consideración de la *Metafísica de las costumbres* por parte del público especializado.

En 1929, en una tesis doctoral defendida en la universidad de Jena, G. Buchda demostraba que el § 6 de la “Doctrina del derecho” contiene una larga interpolación que vuelve ininteligible el razonamiento de Kant en ese párrafo²⁰. Siguiendo a H. Ebeling²¹, en la presente versión española se avisa de ella poniéndola entre corchetes. Ese texto interpolado hay que trasladarlo al final § 16, que, si no, quedaría incompleto; es en él donde cobra pleno sentido (en la presente versión española se incluye asimismo entre corchetes en el § 16). En un artículo de 1949, titulado “Sobre una necesaria corrección del texto en la *Metafísica de las costumbres* de Kant) F. Tenbruk insiste en lo mismo²². Y en un artículo de 1981, titulado “Kants metaphysics of morals: a note on the text”, T. Mautner propone una reconstrucción del texto de la “Doctrina del derecho”²³. Es sobre este trasfondo sobre el que B. Ludwig lleva a cabo en su edición de la “Doctrina del derecho” una muy nutrida serie de intervenciones y cambios en el texto de Kant, las más importantes e incisivas de las cuales quedan reseñadas en la página XXXV de su introducción a su edición (separada) de esa parte de la *Metafísica de las costumbres*, y quedan explicadas y justificadas en el libro mencionado.

Ningún comentarista pone hoy en duda que el § 6 de la “Doctrina del derecho” contiene una interpolación que convierte el conjunto de ese párrafo en difícilmente inteligible. La idea de Ludwig es que, suprimida esa interpolación y ordenados adecuadamente todos los párrafos adyacentes, el texto de Kant se convierte en un texto completamente equiparable al de, por ejemplo, la *Fundamentación de la metafísica de las costumbres* o al de la *Crítica de la razón práctica*; se convierte, pues, en un texto que no ofrece más problemas de comprensión que los que pueda ofrecer cualquier otro texto de Kant. Las dificultades de contenido o las perplejidades que el contenido del texto pueda suscitar, no son de tipo distinto que las dificultades o perplejidades que pueda suscitar la *Crítica de la razón pura* o cualquier otra obra de Kant en la que reconocemos no precisamente un genio en declive sino un genio en el ejercicio de toda su capacidad intelectual y de su capacidad de acuñar conceptos.

Pero Ludwig no se limita al § 16 y adyacentes, sino que extiende esta idea al texto completo de la “Doctrina del derecho” y lleva a cabo la reordenación de él que explica en su libro. Ludwig no encuentra ninguna razón para hacer lo mismo en el caso de la “Doctrina de la virtud”. A esto me referiré aún en notas del traductor.

La hipótesis de Ludwig es que en el caso de la “Doctrina del derecho” estamos ante un texto corrompido. Kant iba haciendo envíos de las partes acabadas del texto a la editorial de Nicolovius en Königsberg con indicaciones al lector de la editorial. A veces aprovechaba papel en cuyo reverso figuraba alguna redacción previa. La

numeración de los párrafos de los capítulos e incluso los títulos de los capítulos quedaban abiertos hasta completar los capítulos. Muchas veces el lector de la editorial interpretó mal las indicaciones de Kant, e incluso más de una vez introdujo algún reverso que, quizá por descuido, Kant dejó sin tachar (eso explicaría la interpolación del § 6). El lector también interpretó mal varias veces las indicaciones sobre el lugar en que habían de colocarse los esquemas que Kant introduce. Desde la editorial de Nicolovius en Königsberg, el texto se envió a la imprenta en Leipzig sin revisión de Kant, muy ocupado en la redacción de la “Doctrina de la virtud”. Y desde la imprenta se distribuyó a las librerías. Si Kant llegó a darse cuenta de lo sucedido, ya no pudo hacer nada. Parece que no se dio cuenta, pues la lectura del Apéndice revela que Kant no releyó el texto de la “Doctrina del derecho” para responder a Bouterwek, sino que se refiere a él de memoria; se limita, como he dicho, a introducir en el § 5 la definición de *lesión jurídica* que Bouterwek echaba en falta.

Por mi parte, he dado muchas vueltas a este asunto, pero poco a poco mi posición se me ha vuelto mucho más clara, y no sólo porque, como dice H. Ebeling en su introducción a su edición de la *Metafísica de las costumbres*, falta siempre una última evidencia²⁴, sino porque pienso que a veces no solamente puede haber explicaciones alternativas, que las hay, sino que hay también evidencias en contra. Me inclino a pensar que todo el texto de la presente obra, incluyendo también su estructura, proviene, tal como está, de la mano de Kant, incluyendo la interpolación que seguramente por descuido a la hora de ordenar los papeles escritos se le produce al anciano y apresurado Kant en el § 6. La re-estructuración de Ludwig no sólo genera otras incoherencias, como dice H. Ebeling, sino que, a mi juicio, tapa quizá aspectos del texto, en concreto aspectos de la génesis de él, que pueden tener mucho interés, como señalaré en las notas y comentarios del traductor y también señalaré aún en la presente Introducción del traductor.

SEGUNDA PARTE: LA FILOSOFIA DEL DERECHO DE KANT

Sección Primera: Kant y la Revolución francesa

La génesis de la *Metafísica de las costumbres*

Desde 1782 se empieza a hablar en la correspondencia de Kant y en la correspondencia sobre Kant de que éste está trabajando en una metafísica de las costumbres. Esos trabajos tienen por resultado la *Fundamentación de la metafísica de las costumbres* (1785) y la *Crítica de la razón práctica* (1788). A ésta sigue la

Crítica del juicio (1790). En 1786 ya se habían publicado los *Principios metafísicos de la ciencia natural*. Y, por tanto, desde de 1790 vuelve a hablarse de su equivalente práctico, es decir, de los *principios metafísicos* de la “Doctrina del derecho” y de los *principios metafísicos* de la “Doctrina de la virtud”. El comienzo de lo que llamamos “Revolución francesa” tiene lugar en julio de 1789. En 1793/94, de la mano de su escrito titulado: “Sobre el dicho: esto puede ser correcto en teoría, pero no vale para la práctica” (septiembre de 1793), Kant reemprende sus cursos sobre filosofía moral después de un par de años de silencio, coincidentes con el desenvolvimiento de los acontecimientos revolucionarios en Francia, de los que Kant está siempre al día. Ese primer curso de Kant lleva por título “Metafísica de las costumbres” y de él son los apuntes de Vigilantius. A partir de 1793 empieza a esperarse con interés entre los discípulos próximos al maestro la publicación de la *Metafísica de las costumbres*, pero la publicación se retrasa cuatro años.

Las razones de esa demora son tres principalmente. A ellas se refiere K. Vorländer en la introducción a su edición de la *Metafísica de las costumbres*²⁵, y le sigue Ludwig²⁶.

La primera, que me parece importante a efectos de interpretación del libro, es la que F. Schiller da en una carta de 26 de octubre de 1794 a J. B. Erhard: “La deducción del derecho de propiedad es ahora un punto que ocupa a muchas cabezas pensantes y, según he oído decir, del propio Kant podemos esperar algo de eso en su metafísica de las costumbres. Pero a la vez he oído que no está muy satisfecho de sus ideas sobre ello y que, por eso, ha pospuesto por el momento la publicación del libro”²⁷. La principal razón de la demora parece ser, pues, según Schiller, la dificultad de la primera parte de la “Doctrina del derecho” (la relativa a lo *mío* y lo *tuyo externos*), aquélla de cuyos conceptos básicos uno de los primeros críticos del libro decía no haber entendido nada.

Las otras dos razones a las que se refiere K. Vorländer son las que Kant da en una carta del 24 de noviembre de 1794 al editor de la *Crítica del juicio*. Una de ellas es su mala salud, y otra la censura: “Por mi mucha edad mi trabajo de escritor sólo progresa muy lentamente, de modo que, por lo menos ahora, no puedo fijar con seguridad ningún plazo para terminar las cosas, y la otra es que, como propiamente mi tema es la metafísica en su sentido más amplio y, como tal, comprende la teología, la moral (y con ella la religión) y también el derecho natural (y con ello el derecho estatal y el derecho de gentes), aunque sólo conforme a aquello que la mera razón tiene que decir sobre ello, y, como éstos son temas sobre los que anda muy encima la censura, uno no está seguro de que todo el esfuerzo que emplea en estos asuntos no sea en vano por una simple tachadura del censor”²⁸.

Éstas tres razones: la dificultad de la doctrina de la propiedad, el riesgo de la censura y las razones de salud y de edad van juntas. A las tres tendremos ocasión de hacer referencia en lo que sigue.

Kant y las Declaraciones de 1776 y 1789

En el mes de agosto de 1789 tiene lugar en la recién estrenada Asamblea Nacional francesa la larga y tensa discusión de principios (en la que, según algún comentarista de la época, la Sorbona parecía haberse trasladado a la Asamblea Nacional) de la que resulta la “Declaración de los derechos del hombre y del ciudadano” de agosto 1789. En el contexto de aquella discusión en la Asamblea Nacional eran ya conocidas las enmiendas de 1791 a la Constitución americana, que, pese a ser ratificadas en ese año, estaban ya redactadas y aprobadas tres años antes y eran conocidas en París a través del embajador de los Estados Unidos, Thomas Jefferson. Basta leer la primera para ver su relación con la Declaración de 1789: “El Congreso no hará ley alguna por la que adopte una religión como oficial del Estado o se prohíba practicarla libremente, o que coarte la libertad de palabra o de imprenta, el derecho del pueblo para reunirse pacíficamente y para pedir al gobierno la reparación de agravios”.

Hablando en la “Crítica del juicio teleológico” de la *Crítica del juicio* de cómo en los *organismos*, por su carácter de fines naturales, cada parte es a la vez fin y medio, Kant pone una nota, que no viene en absoluto a cuento, que para el lector es siempre una sorpresa y que se refiere a los acontecimientos del julio de 1789 en París y a las discusiones en la Asamblea Nacional francesa en agosto de 1789. Si la *Crítica del juicio* se publica en 1790, la redacción de esa nota coincide más o menos en el tiempo con los acontecimientos de París. Dice Kant en esa nota: “A la inversa, mediante analogía con estos fines naturales inmediatos se puede arrojar luz sobre una cierta conexión, pero que encontramos más en la idea que en la realidad. Así, por ejemplo, en la concreta reconfiguración que últimamente se ha emprendido de un gran pueblo convirtiéndolo en un Estado se ha empleado muy adecuadamente el término *organización* para referirse al establecimiento de las magistraturas, etcétera, e incluso a la estructura del cuerpo estatal en conjunto. Pues cada miembro ha de ser considerado en ese todo no meramente como medio sino a la vez también como un fin, y, en cuanto coopera en que ese todo sea posible, le ha de venir determinado a su vez su puesto y función por la idea de ese todo”²⁹.

La idea de una organización en la que cada uno sea considerado siempre a la vez como un fin, con todas las consecuencias, y no meramente como un medio para los fines de otros, y conforme a la que se organice consecuentemente el or-

den estatal, es a lo que Kant está dando su asentimiento y está celebrando en esta nota perdida y fuera de lugar, en el momento en que esa idea está tratando de darse realidad, todavía no violentamente del todo.

Esto no tiene nada de extraño. La *Idea de una historia universal en sentido cosmopolita*, publicada en noviembre de 1784, y también el artículo “¿Qué es ilustración?” del mismo año, nacen sobre el trasfondo de una primera y apasionada discusión casual de Kant con Joseph Green, comerciante inglés asentado en Königsberg, y de otras discusiones posteriores con él y con su socio Robert Motherby, acerca del proceso de independencia de Estados Unidos respecto de Inglaterra y en favor de ese proceso y acerca del proceso de organización constitucional de Estados Unidos, según cuenta R. B. Jachmann, discípulo, amigo y uno de los primeros biógrafos de Kant³⁰. El ideario de ese proceso se plasma en la “Declaración de los derechos de Virginia” de 1776 y en la Declaración de Independencia del mismo año. Puede que en la nota de la *Crítica del juicio* a que acabamos de referirnos Kant se esté refiriendo también a Estados Unidos. Sea como fuere, y es lo queremos subrayar aquí, el pensamiento político y jurídico de Kant parece venir *directamente* motivado por su intensa implicación intelectual en los procesos políticos revolucionarios de fines del siglo XVIII.

En 1785 se publica la *Fundamentación de la metafísica de las costumbres*. Se trata, según dice el propio Kant en el libro, de la introducción a una crítica de la razón práctica, a la que sigue la *Crítica de la razón práctica* en 1788, y a ésta, como dice Kant al principio del Prefacio del presente libro, “había de seguir el sistema”, la *Metafísica de las costumbres*. El sistema, pues, es el presente libro en sus dos partes, “Doctrina del derecho” y “Doctrina de la virtud”, publicadas ambas en 1797.

A diferencia de lo que sucede en los cursos que imparte Kant por esas fechas, en la *Fundamentación de la metafísica de las costumbres* y en la *Crítica de la razón práctica*, en cuanto trabajo crítico preparatorio para el sistema que es la *Metafísica de las costumbres*, no hay nada que anuncie la división de ésta en “Doctrina del derecho” y “Doctrina de la virtud”. Podríamos decir que esas dos obras, pese al completo vuelco que representan de la tradición de la filosofía práctica antigua y moderna son aún, en el aspecto que presentan, jurídica y políticamente neutras. Se refieren sólo a la moral en el sentido más bien restringido de ética, es decir, sin incluir también los principios del derecho; al menos es el aspecto inmediato que ofrecen y, por lo general, es así como principalmente han sido entendidas y leídas, aunque no necesariamente.

Pero no así el escrito publicado en 1793 después de un par de años de silencio sobre política y derecho, titulado “Sobre el dicho: esto puede ser correcto en la teoría, pero no vale para la práctica”, al que ya nos hemos referido. En la parte segun-

da del artículo, la *libertad*, la *igualdad* y la *fraternidad* se convierten para Kant en libertad, igualdad y autonomía solidaria del ciudadano en la comunidad política. Esa parte del artículo anticipa la segunda parte de la “Doctrina del derecho” de la presente *Metafísica de las costumbres*, titulada “El derecho público” y, en el artículo y en ella, Kant sistematiza los principios de la “Declaración de los derechos del hombre y del ciudadano” de 1789 (sin mencionarla; ya se había publicado en 1792 en Prusia un estricto edicto de censura), dándole mediante las ideas de derecho de gentes y derecho cosmopolita un marco más amplio que el del derecho estatal al que se restringe la Declaración. Paso a referirme a ambas cosas.

La Declaración de 1789, lo mío y lo tuyo externos, el Estado

Repasemos primero algunos de los diecisiete artículos de los que se compone esa Declaración. El primero de ellos dice que “los hombres nacen libres e iguales en derechos”. Conforme al artículo 2, “la finalidad de la asociación política es la conservación de los derechos naturales e imprescriptibles del hombre: estos derechos son la *libertad*, la *propiedad*, la *seguridad*, y la *resistencia a la opresión*”. Según el artículo 4, que proviene del capítulo segundo del *Segundo tratado sobre el gobierno* de John Locke y en el que resuena a su vez (veremos en qué sentido) el título III del libro I de las *Institutiones* de Justianiano, “la libertad consiste en poder hacer todo aquello que no daña a los demás: así el ejercicio de los derechos naturales de cada hombre no tiene otros límites que los que aseguran a cada miembro de la sociedad el goce de esos mismos derechos. Esos límites sólo pueden venir definidos por la ley”. El artículo 5, que completa el artículo 4, es llamativo, pues apunta a dos fuentes de normatividad aparentemente distintas dentro del orden de derecho, a saber: la que representa el derecho de libertad y la que representa la ley, que pueden entrar en conflicto entre sí; dice: “*La ley no tiene derecho a prohibir sino las acciones que son perjudiciales para la sociedad*. Todo lo que no esté prohibido por la ley, no puede impedírsele a nadie, y nadie puede ser obligado a hacer lo que la ley no ordena”. Ahora bien, por “perjudicial para la sociedad” no puede entenderse aquí, al menos muy principalmente, sino aquello que se opone al fin de la asociación política misma, que es la protección y defensa de los derechos de *libertad*, *propiedad*, *seguridad* y *resistencia a la opresión*; es aquello que impida su ejercicio lo que ante todo la *ley tiene derecho a prohibir*; cualquier otra prohibición habrá de ser afín a la defensa de estos derechos, si es que la ley no quiere negar su propia función y sentido.

El artículo 6, con el que el anterior artículo 5 puede chocar, proviene literalmente en parte del libro segundo de *El contrato social* de Rousseau; dice: “La ley es la expresión de la voluntad general. Todos los ciudadanos tienen derecho a con-

currir personal o por medio de sus representantes a su producción. Debe ser la misma para todos, ya sea que proteja, ya sea que castigue”. Conforme a los libros primero y segundo de *El Contrato social* de Rousseau, el soberano es la fuente de la ley. Soberano sólo puede serlo el colectivo, el *pueblo*; su voluntad, la *voluntad general*, es la *soberanía* en ejercicio, y la *ley* es la expresión de la voluntad general.

Los artículos 10 y 11 de la Declaración se refieren tanto a aspectos del derecho de libertad como a las condiciones del ejercicio de la soberanía, tomadas ambas cosas conjuntamente. El artículo 10 dice: “Nadie puede ser inquietado por sus opiniones, incluso religiosas, con tal de que su manifestación no perturbe el orden público establecido por la ley”. Y el artículo 11 dice: “La libre comunicación de las ideas y opiniones es uno de los derechos más preciosos del hombre: Todo ciudadano puede, pues, hablar, escribir, imprimir libremente, con la salvedad de haber de responder de los abusos de esta libertad en los casos determinados por la ley”.

Y después de un tajante artículo 16 en el que se dice que “toda sociedad en la que no está asegurada la garantía de los derechos ni determinada la división de poderes no tiene en absoluto constitución”, que, en lo principal, proviene, como es sabido, de Montesquieu, viene el artículo 17 y último, en que se refleja la tensión y enfrentamiento entre los partidarios de Locke y los partidarios de Rousseau en la Asamblea Nacional durante la redacción y discusión del texto de la Declaración. Los primeros ponen el centro de gravedad normativo en los artículos 4 y 5 que versan sobre el derecho natural de libertad, previo a la ley, que se da articulación y viabilidad por medio de la ley; los segundos, lo ponen en el artículo 6 sobre la ley como expresión de la voluntad general. La ley, dimanante de la voluntad unida de todos, establecería todo lo que hubiera de considerarse derecho, sin ningún criterio de normatividad previo a la voluntad general como ejercicio de la soberanía; el artículo 17 dice: “Siendo la propiedad un derecho inviolable y sagrado, nadie puede ser privado de ella, a no ser que la necesidad pública legalmente constatada lo exija evidentemente y a condición de una justa y previa indemnización”.

Pues bien, son este artículo y la mención que se hace del derecho de propiedad en el artículo 2 de la Declaración los que Kant trata de poner sistemáticamente en conexión con los artículos 4 y 5 (principio de libertad) y con el artículo 6 (principio democrático). De la detallada, inusitada y prolija consideración kantiana de ello y, por tanto, de la consideración kantiana de los supuestos del ejercicio de la libertad, es de la que resulta todo el contenido de la primera parte de la “Doctrina del derecho” de la *Metafísica de las costumbres*, que lleva por título “El derecho privado”.

Ahora bien, esa misma tensión que se hace especialmente notar en el artículo 17 alcanza a toda la Declaración. Se muestra ya en el propio título “Declaración

de los derechos *del hombre y del ciudadano*”, el cual no es sino un compromiso entre los partidarios de Locke y los partidarios de Rousseau en la Asamblea Nacional. Para estos últimos no podía haber sino derechos del *ciudadano*; para los primeros no podía haber sino derechos del *hombre*, que son normativamente previos al carácter de *ciudadano* de éste; finalmente, se llegó al compromiso de titularla “Declaración de los derechos *del hombre y del ciudadano*”. Es la misma tensión que, como ya he dicho, reaparece en el artículo 5, en el que paradójicamente se dice que “la ley no tiene derecho sino a...”. Con el artículo 17, pues, los partidarios de Locke querían dejar claro frente a los partidarios de Rousseau que el derecho de propiedad que se enuncia al final del capítulo quinto del *Segundo libro sobre el gobierno* de Locke y que se recoge en el artículo 2 de la Declaración es un derecho previo a la ley, que la ley, ciertamente, como no podía ser de otra manera, tiene que confirmar y administrar, pero que nunca puede cuestionar en su sentido.

Podemos entonces entender la “Doctrina del derecho” de la *Metafísica de las costumbres* como el intento por parte de Kant de organizar en conceptos claros y conforme a principios la “Declaración de los derechos del hombre y del ciudadano” de 1789, convirtiéndola de una declaración política, resultante de compromisos y arreglos que fácilmente pueden leerse en ella, en una teoría normativa bien articulada del orden de derecho asentado sobre la idea de libertad y de las condiciones materiales de su ejercicio. Éste es su centro. En tal intento Kant se encuentra con que ya en la Declaración ha saltado a primer plano el problema de los conceptos de lo mío y lo tuyo externos y de la adquisición de lo mío y lo tuyo externos (la propiedad) en su relación con lo mío y lo tuyo internos (el derecho de libertad) y con la ley como expresión de una voluntad general, que ha de volver efectivos y reales tanto lo mío y lo tuyo internos como lo mío y lo tuyo externos. A la aclaración de los conceptos de lo mío y lo tuyo internos, de lo mío y lo tuyo externos y de la adquisición de lo mío y lo tuyo externos dedica, pues, Kant la primera parte de la “Doctrina del derecho”, titulada “El derecho privado”.

A la aclaración de los principios *a priori* a los que en idea ha de sujetarse la constitución de un orden de derecho que haga efectivos lo mío y lo tuyo internos y lo mío y lo tuyo externos y la adquisición de lo mío y lo tuyo externos está dedicada la segunda parte de la “Doctrina del derecho”, titulada “El derecho público”. Ésta comprende el derecho estatal, el derecho de gentes y el derecho cosmopolita. Si ese orden de derecho ha de entenderse como expresión de una voluntad soberana que fuese su fuente, ésta habría de tener en idea tal carácter tripartito, por más que por soberanía solamos entender por lo general sólo la soberanía estatal y nada más. Pero Kant trasciende la perspectiva de la Declaración.

Kant trasciende la perspectiva de la Declaración

Kant pone a la Declaración en un marco que ésta ignora. Conforme al jurista romano Ulpiano, tal como se recoge en el título I del libro I de las *Institutiones* y en el libro I, cap. I, parágrafo 10.1, del *Digesto* del *Corpus Iuris* de Justiniano³¹, lo que fundamentalmente el derecho manda, los *praecepta iuris*, pueden reducirse a tres: *honeste vivere*, *alterum non laedere*, *suum cuique tribuere*, vivir honestamente, no dañar al otro, dar a cada uno lo suyo. Kant los interpreta libremente en la “Introducción a la doctrina del derecho”³²: aparte de la instauración de un orden de derecho asentado sobre el derecho de libertad (*honeste vivere*), de lo que en ese orden de derecho se trata es de hacer valer los derechos de todos y cada uno tanto en lo que se refiere a lo mío y lo tuyo internos como en lo que se refiere a lo mío y lo tuyo externos (*alterum non laedere*) en un orden de justicia distributiva que asegure a cada uno lo que es suyo (*suum cuique tribuere*).

Pero este *suum* puede referirse tanto a las relaciones de los individuos entre sí en un orden de derecho estatal, como a la relación de los Estados entre sí, como a las relaciones entre individuos y Estados como formando todos parte de una cosmo-polis. Los problemas que la Declaración de 1789 empieza planteando y que en ella parecen quedar restringidos a problemas relativos a los principios de un orden estatal, habrían, por tanto, de plantearse ya de entrada en un marco más amplio y referirse a los principios de un orden de derecho más amplio, cuya idea Kant recibe de la tradición del derecho natural clásico y de la tradición del derecho natural racional moderno.

Y entonces la cuestión del derecho de propiedad incluye cuestiones que son lógicamente previas a la cuestión del derecho estatal, como es, por ejemplo, la cuestión de los principios y condiciones a los que ha de suponerse sujeta la apropiación de suelo tanto por los particulares como por los Estados para poder ser considerada como conforme a derecho; o en general la cuestión de los principios y condiciones del reparto del globo terráqueo (y consecuentemente del reparto del espacio que lo rodea y que resultase accesible); o la cuestión del cuidado de esos espacios; o la cuestión de los principios y condiciones a los que han de considerarse sujetos el tránsito por el globo terráqueo y el aposentamiento en él como el lugar de habitación que el Creador dio a los seres libres que son los hombres; o la cuestión de cómo el derecho de libertad ha de hacerse real y materialmente efectivo para todos, es decir, de los “derechos sociales”.

Aun suponiendo que un colectivo estatal acordase suspender en el nivel que fuere el derecho de propiedad, cosa que siempre sería posible y legítima por pacto, la cuestión de *lo mío y lo tuyo internos* y de *lo mío y lo tuyo externos* seguirá siempre en pie mientras haya seres libres (en plural): sea como una cuestión entre particula-

res, sea como una cuestión entre Estados, sea como una cuestión entre particulares y Estados. La distinción entre lo tuyo y lo mío dejaría de ser cuestión y dejaría de tener sentido sólo para un ser libre que estuviese solo en el mundo, y para seres que no habitasen una superficie esférica, un globo, que no pueden evitar que los problemas se les vuelvan globales. Incluso la existencia misma del derecho está para Kant esencialmente ligada al carácter global de la habitación humana, como se verá.

Sección Segunda: **Kant y la tradición de la doctrina del derecho natural**

El carácter tripartito del orden de derecho

Esa ampliación de perspectiva Kant la consume por vía de remover, rehacer y acabar toda la tradición del derecho natural clásico y moderno, poniéndola sobre bases distintas. Se trata de ver algunos aspectos de ello.

Casi todos los artífices del orden político y jurídico que llamamos *moderno* estaban formados en los conceptos del derecho romano y en concreto en las *Institutiones* de Justiniano, que es un texto que se diría casi memorizado por todos. A veces se ve cómo el concepto moderno resulta de una cierta torsión del antiguo. Introducirse en aquellos conceptos y asistir a la transformación que experimentan, es hacerse cargo de los conceptos más básicos del orden jurídico y político moderno en contraposición al antiguo y de la lógica de esos conceptos. Ello es de especial interés para entender el pensamiento jurídico de Kant, y con ello y con la dependencia de Kant respecto a la tradición del derecho natural moderno tiene que ver la abundancia de referencias latinas en el presente libro.

En el libro I, título I, de las *Institutiones* de Justiniano se hace una primera división del derecho; éste se divide en público y privado; el público es el que se refiere al *status rei romanae*, el privado el que se refiere a la utilidad de los particulares. Pero de esta primera división podemos prescindir, pues cabe reducirla a otra segunda.

En el título II del libro I se dice que el derecho se divide en *derecho natural*, *derecho civil* y *derecho de gentes*. El primero es “el que la naturaleza enseñó a todos los animales, a él pertenecen la unión del hombre y la mujer, que llamamos matrimonio, la generación y educación de los hijos”, etcétera. En lo que se refiere al derecho civil, es decir, al derecho de cada ciudad, y al derecho de gentes, “todos los pueblos se rigen en parte por sus propias leyes y costumbres y en parte por un derecho que es común a todos los hombres”. En lo que respecta al derecho civil, éste es el derecho que cada pueblo, *ipse*, él mismo, constituyó para sí, y puede incluir tanto lo relativo a la estructura de la ciudad como lo relativo a la utilidad de los particulares, es decir,

comprende lo que nosotros entendemos por derecho público y derecho privado. En lo que respecta al derecho de gentes, “éste es un derecho que es común a todos los hombres, ya que, exigiéndolo el uso y las necesidades humanas, las gentes humanas constituyeron para sí unas determinadas cosas: pues nacieron las guerras y con ellas las cautividades y servidumbres que son contrarias al derecho natural (ya que por derecho natural todos los hombres nacían libres desde el principio)”; y a ello hay que añadir las instituciones relativas a contratos y comercio en general, que son comunes a todos los hombres. Tenemos, pues, aquí que la *división del derecho es una tripartición*: el derecho es tripartito, consta de los preceptos del *derecho natural*, que la naturaleza enseñó a todos los animales; de los preceptos del *derecho civil*, es decir, del derecho que cada pueblo constituyó para sí tanto en lo tocante a su organización como en lo tocante a la utilidad de los particulares; y de los preceptos del *derecho de gentes*, del compartido por todos los hombres, al que pertenecen instituciones como son la servidumbre, por un lado, y todas las relativas al intercambio y tráfico cosmopolitas, por otro.

Pero Kant transforma esa tripartición en otra, *al convertir el derecho de libertad en el único contenido del derecho natural* y, con base en ella, dividir entonces en dos el derecho de gentes. Antes de que, a causa de las guerras y como resultado de ellas, se introdujesen las cautividades y servidumbres, “todos los hombres nacían libres por derecho natural” (*iure enim naturali ab initio omnes homines liberi nascebantur*), se dice en libro I, título II de las *Institutiones*. El derecho de libertad que el hombre moderno reclama, reclamándose así tal como era en el origen, es el único derecho innato que asiste al hombre en virtud de su humanidad; en palabras de Kant: “La libertad (independencia respecto del arbitrio de otro que pueda obligarme) en cuanto sea compatible con la libertad de cualquier otro conforme a una ley general es el único derecho original, innato, que asiste a cada hombre en virtud de su humanidad”³³. Todos los demás derechos tienen por base éste.

El orden de derecho asentado sobre ese único derecho innato y deducido a partir de él tiene que ser tripartido. Necesariamente ha de dividirse (a) en derecho estatal, (b) en derecho que rige las relaciones entre Estados y (c) en derecho que rige el tránsito cosmopolita, es decir, en derecho que rige las relaciones entre Estados e individuos entre sí en cuanto formando todos ellos parte de una misma cosmo-polis. Si falla una de esas tres partes, dice Kant, necesariamente tienen que fallar las otras dos³⁴.

Sobre el derecho de personas, *libertas* y *servitus*

En el título III del libro I de las *Institutiones* se introduce la *summa divisio*, la “división suprema”, del derecho de personas. Ésta es que todos los hombres o

bien son libres o bien siervos. Y la *libertas*, de donde viene la denominación de libres, es “la facultad de hacer aquello que uno quiera hacer si no se lo prohíbe la fuerza o el derecho”. A la *libertas* se opone la *servitus*, “que es aquella institución del derecho de gentes por la que uno queda sometido al dominio de otro *contra naturam*”. *Contra naturam*: tal como ello se nos describe en el libro I de *El Contrato social* de Rousseau, la existencia moderna se llama a sí misma a emprender revolucionariamente un nuevo comienzo, a reponerse como libre, movida por la nostalgia de aquel origen perdido, cancelando la situación contra-natural en la que se encuentra. Y entonces, si la libertad es la facultad de hacer aquello que uno quiera hacer si no se lo impide la fuerza y el derecho, una vez que el hombre, todo hombre, se reclama y repone tal como era en el origen, es decir, se reclama y pone como libre, la *libertas* no puede tener otro límite, en lo que se refiere a derecho, que el mayor grado posible de igual libertad, articulada conforme a leyes que puedan entenderse como proviniendo de la voluntad unida de todos, y, en lo que se refiere a fuerza, la libertad no puede tener legítimamente otro límite que la violencia necesaria para hacer valer el igual derecho de libertad; y, para que sea así, el uso de tal violencia legítima ha de reservárselo el colectivo mismo jurídicamente *organizado*; ha de reservárselo, como dice Kant, el “estado jurídico”, correspondiendo asimismo a éste hacer que el derecho de libertad sea real y efectivo, es decir, que incluya también las condiciones materiales que hacen posible su ejercicio, porque, si no, su proclamación sería una burla. Así entiende las cosas Kant: la *libertas* deja de ser una *institutio* más al lado de la *servitus* y se convierte en principio del derecho. Esto es lo que distingue a la existencia moderna de la antigua y lo que la Declaración de 1789 expresa.

La santidad de la persona

Ese derecho de libertad es *santo*, dice Kant. Veamos qué quiere decir con ello. El libro III de las *Institutiones* de Justiniano versa sobre el derecho de cosas. Empieza con la división suprema de este derecho. Es ésta: Las cosas *vel in nostro patrimonio vel extra nostrum patrimonium habentur*, las cosas o están en nuestro patrimonio o están fuera de nuestro patrimonio. No están en nuestro patrimonio las cosas que son de todos los hombres, como el mar, el aire, los ríos, etcétera, o las cosas que son del colectivo, como las plazas, los teatros, etcétera. Pero puede tratarse también de cosas que no están en nuestro patrimonio, no porque sean cosas de todos los hombres, ni porque sean cosas que pertenezcan al colectivo, ni porque sean cosas de nadie pero que podríamos apropiárnoslas los particulares o que podría apropiárselas el colectivo o que podrían llegar a ser declaradas propiedad de todos los hombres, sino porque son cosas que *esencialmente* son cosas de nadie. Éstas son las cosas *religiosas, sagradas y santas*; pertenecen a los dioses.

Podemos decir entonces que la existencia antigua, vista desde los conceptos de derecho en que ella se interpreta a sí misma, se basa en una transferencia del derecho de cosas al de personas por la que una clase de personas (en el origen, los vencidos en las guerras) son considerados cosas que están en nuestro patrimonio o en el del colectivo, porque estuvo en nuestra mano o en la del colectivo también el destruirlos y, al no hacerlo, quedaron en nuestras manos como algo de lo que podemos disponer. La existencia moderna, en cambio, vista desde esos mismos conceptos de derecho antiguo, se basa en una transferencia del derecho de cosas al de personas por la que la persona, toda persona, es considerada una cosa sagrada, religiosa y santa; *intangible*, por tanto; pues *esencialmente* no puede ser cosa de nadie. Así lo ve Kant; la persona es señora de sí, manda en sí, pero no es dueña de sí, no es propietaria suya, dice Kant; se tiene en usufructo, no en propiedad, y, así, no puede venderse como esclavo, a diferencia de lo que se admite como obvio en el título III del libro I de las *Institutiones*.

Si hubiésemos de afirmar la realidad del concepto *problemático* de libertad trascendental (el único que en definitiva para Kant queda en pie) que Kant expone en la *Crítica de la razón pura* a propósito de la “tercera antinomia”³⁵, cabría decir que cada acto libre es siempre el primero, pues no viene determinado por nada que le anteceda, ni tampoco por ningún otro acto libre precedente. Cada acto libre no se produce sino por causa de sí, por encima de todo lo que pudiera determinarle en el espacio y en el tiempo. Últimamente, la persona, en su ser libre en general, no puede entenderse ya a sí misma simplemente como un medio para otra cosa, sino como un fin que queda por encima de cualquier cosa y, por tanto, que queda por encima de cualquier otro fin al que pudiese supeditarse³⁶. Y, por tanto, tampoco puede entenderse entonces como un fin para sí misma que la cerrara sobre sí. Pues eso sería un disponer ella de sí y, por tanto, un quedar ella por encima de sí misma disponiendo, y es de este quedar ella por encima de sí misma (en que ya no es suya) de lo que aquí se trata al hablar del ser libre como fin que ya no está para otra cosa. El ser libre es *un fin en sí*, un fin en absoluto, no un fin relativo, tampoco relativo a sí mismo. Y en este quedar por encima de cualquier otra cosa, también por encima de sí mismo, el ser libre es algo que no se pertenece a sí mismo, se ha recibido desde el más allá de sí mismo en que él consiste y cuya “sublimidad”, de la que se habla en la *Crítica del juicio*, no puede menos de imponerle *respeto*, dice Kant. En ese punto es para sí mismo cosa *intangible*, cosa *santa*. Ése fue siempre el lugar de las religiones, de lo incondicionado en el hombre, que para la existencia moderna se reduce, pues, a la libertad. Sólo ella podría ser la residencia de los dioses. Sobre esta idea de libertad que, como fácilmente podría verse, aún está ausente en los clásicos de la doctrina del derecho natural de los siglos XVI, XVII y aun XVIII³⁷ es sobre la que Kant asienta ahora la idea de derecho

y el carácter tripartito de éste y la que Kant considera la base de la Declaración, que él trae a concepto.

Kant rehace, pues, la tradición y la Declaración

Y así Kant rehace la tradición de la doctrina del derecho natural, clásica y moderna, con base en los principios de la Declaración, y da a ésta el marco que representa aquella tradición transformada desde ella. Kant convierte la Declaración de 1789 en una teoría bien estructurada de los principios racionales del derecho y de la política, decíamos más arriba. Lo hace sobre la base del concepto de libertad como único derecho innato que asiste al hombre en virtud de su humanidad y de la exigencia que el derecho de libertad comporta de que se lo haga viable, materialmente posible, efectivo y real mediante leyes que puedan considerarse provenientes de forma efectiva de la voluntad unida de todos; ésta es, pues, la voluntad soberana de la que en idea la ley es expresión, y que se vuelve institución en un orden de derecho que asegura a cada uno lo que es suyo, lo que como libre le corresponde. Ahora podemos decir que, con base en los conceptos y principios conforme a los que efectúa esa conversión, en definitiva con base en el concepto del derecho de libertad como único derecho que asiste al hombre en virtud de su humanidad, Kant rehace por completo toda la tradición de la doctrina del derecho natural clásico y del derecho natural moderno, y, una vez que la ha rehecho desde los principios de aquella Declaración, sitúa la Declaración y sus fuentes (Hobbes, Locke, Rousseau) en aquella tradición que él ha rehecho desde ella. Y es así como trae ambas conjuntamente al presente, al suyo y al nuestro.

El situar la Declaración en aquella tradición rehecha desde ella, lleva a Kant a transformar dos conceptos: el concepto de soberanía de Bodino, de Rousseau y de la Declaración misma (artículo 3) y, junto con el concepto de soberanía, la idea de contrato social de Hobbes, Locke y Rousseau y del iusnaturalismo moderno en general.

Hegel, que es sin duda uno de los últimos pasos en esa vía kantiana, se queda, sin embargo, en su “Filosofía del derecho” por detrás de él. Fueron, por así decirlo, las ideas de Hegel, no las de Kant las que estuvieron vigentes hasta la catástrofe de civilización de la primera mitad del siglo XX. En su “Filosofía del derecho” Hegel se mofa de la idea que Kant toma del derecho romano de que, en idea, el derecho “por estar tomado de los preceptos del derecho natural, civil y de gentes” es tripartito, de modo que, si no lo es, se vendría abajo en conjunto.

Para Kant sobre la base del derecho de libertad como único derecho innato que asiste al hombre en virtud de su humanidad y habida cuenta de la globalidad de la existencia humana, es decir, de que ésta tiene como morada no una super-

ficie indefinida sino un globo (una superficie esférica, que desde principios del siglo XVI se vuelve patente, sabida y abarcable), un orden de derecho tiene que componerse de los preceptos del derecho de la ciudad, de los preceptos del derecho que rige las relaciones entre ciudades y de los preceptos del derecho de tránsito cosmopolita, de modo que cada una de esas partes necesita a las otras dos.

Para Hegel, en cambio, no puede haber ningún más-allá del derecho estatal, que pueda tener de verdad forma de derecho. Entre entidades *soberanas*, es decir, entre entidades que son fuentes de la ley que dictan para sus respectivos territorios sin que normativamente haya nada por encima de ellas (y éstas son solamente *los Estados territoriales y nadie más*), no puede haber en definitiva otra relación que la relación amigo/enemigo, la relación de guerra posible, ya que “enemigo es aquel –dice Hobbes– que ni me manda ni me obedece”³⁸. Todo lo demás sería para Hegel pura abstracción y sentimentalismo edificante, resultado de poner en el centro el “derecho abstracto” romano-kantiano, suplantando al orden de *eticidad* concreta que es donde el derecho tiene su fuente³⁹.

Ampliación y superación de los conceptos de soberanía y contrato social

Y, sin embargo, lo que Kant hace desde el principio es *ampliar* desde su raíz aquel concepto de soberanía *superándolo*. Se diría que de antemano ha quitado a Hegel su base. En idea sólo cabe concebir una única voluntad soberana. “Toda cosa en la naturaleza –dice Kant– opera conforme a leyes. Pero sólo un ser racional tiene la capacidad de actuar conforme a la representación de las leyes, es decir, conforme a principios, o sea tiene una *voluntad*. Como para deducir las acciones a partir de las leyes se necesita razón, la voluntad no es entonces otra cosa que razón práctica”⁴⁰. Voluntad *soberana* es “la *voluntad* unida *a priori*, conforme a principios, con carácter general, legisladora y que se hace efectivamente valer”, haciendo *concretamente efectivo* lo que manda y declara, como tantas veces repite a lo largo de la “Doctrina del derecho” y que, por tanto, es siempre ya la voluntad de cada ser libre en cuanto fuente y sujeto de la ley que la libertad es para sí misma, junto con la misma voluntad de todos los demás. Y es a esta voluntad a la que en idea se ve remitido todo orden de derecho positivo. Todo orden de derecho positivo, medido conforme a lo que es su idea (y nunca podría sacudírsela), habría de poder entenderse como naciendo de esa voluntad, como habiendo de atenderse a ella como medida suya y como siendo cambiabile conforme a ella. Ahora bien, esa voluntad no puede ser la del “sistema de Estados soberanos” europeos.

Soberano (tal como este concepto se entendió desde fines del siglo XVI cuando lo introdujo J. Bodino en el primero de sus *Seis libros sobre la república* y tal como se constituyó en centro del sistema de Estados europeos nacido de la Paz

de Westfalia en 1648) es aquel poder que se acredita por su capacidad de imponer el derecho que dicta, pacificando así la existencia (sacándola de las guerras de religión), cuando en la existencia se ha dejado de compartir la idea de un sentido último de la vida y del mundo del que pudiera derivarse un orden objetivo de derecho. Poder soberano es el poder de dar y derogar la ley, de la que él es la única fuente, sin que haya ninguna otra por encima de él. La ley no es sino el mandato del soberano en el ejercicio de su poder ⁴¹. El derecho consuetudinario y el derecho sacro quedan así devaluados frente al derecho que el soberano dicta y que es el único que puede valer efectivamente. Es un nuevo mundo. Y la decisión acerca del sentido último que para cada cual hayan de tener la vida y el mundo queda remitida a la existencia individual, desaparece de la pública, o la pública no tiene su centro en ella.

Pero Kant cancela este concepto de soberanía ampliándolo, decimos. Y a la vez cancela el concepto de contrato social; *a ambos los convierte en ideas de la razón*. Kant cancela el concepto de soberanía de Bodino, es decir, el concepto moderno de soberanía, mostrando que, si se lo lleva hasta sus últimas consecuencias y se lo hace valer en puridad, no puede consistir sino en un concepto de soberanía que exige ampliación al orden tripartito del derecho, del que sería fuente, y que, por vía de ampliarse, se borra.

Fuente efectiva de la ley, poder soberano que pone el derecho, sólo puede serlo en idea una voluntad con poder para hacerse valer, unida de antemano con carácter general conforme a principios provenientes de su propio ser libre, que no se refieren a ninguna materia, sino sólo a la forma de la relación entre los arbitrios, cualesquiera puedan ser los fines de éstos. Esos principios y perspectivas son principios y perspectivas que *todo ser libre*, por el hecho de serlo, ha suscrito ya siempre, es el *contrato original*, y a nadie se le hace injusticia por obligarlo a entrar en un orden atenido a su idea, es decir, por hacerle cumplir el contrato ya siempre firmado. Una multitud queda convertida en un pueblo por un poder capaz de hacerlo; y éste o bien viene estructurado conforme a aquellos principios desde su mismo origen (*rarissima avis*) o queda bajo la *exigencia categórica* de llegar a estarlo. Cualquier otro principio de integración, sea religioso, nacional, ideológico o del tipo que fuere, que tratase de suplantar a los “principios racionales del derecho” en lugar de subordinarse enteramente a ellos, y quedando así a la vez efectivamente protegido por ellos, se convierte en *normativamente* espurio. El individuo libre no es accidente de ninguna sustancia ética tradicional ni de ninguna otra cosa, sino, si acaso, de lo incondicionado de su propio ser libre. Como libre, el individuo, a la vez que remitido radicalmente a sí mismo, es un universal, vinculado con todos los demás por el contrato que, como libre, ha firmado ya siempre con ellos y que hay que hacer efectivo, y es desde ahí desde donde se cuida de, y decide sobre, sus particularidades, por encima de las cuales,

sin embargo, está ya siempre. Considerado desde el ser libre, todo “estado jurídico” que se forme habrá, pues, de pensarse como objetivamente necesario, pero como histórica y subjetivamente contingente. Y como no es pensable que pudiese haber una sola unidad política sino muchas, éstas quedan en idea sujetas a los conceptos y principios implicados por aquella voluntad, es decir, a los conceptos y principios firmados ya siempre de antemano por todos. Ni a los individuos se les hace injusticia por obligarlos a entrar en un estado jurídico, puesto que éste es un pacto que ya siempre han firmado, ni a los Estados se les hace injusticia por obligarlos a entrar en un orden de derecho de gentes y cosmopolita conforme a aquellos mismos principios, pues ése es un pacto que ya siempre todo ser libre también ha firmado. El concepto de soberanía de Bodino, esto es, el concepto de soberanía del Estado soberano, el concepto de éste como fuente última del derecho, ha quedado, pues, detrás. Soberana sólo podría serlo la voluntad unida de antemano conforme a los principios que dimanen del propio ser libre, de la que hemos hablado, que se hiciese efectiva en un orden tripartito, global, de derecho, en la que las voluntades particulares que respecto a ella constituyen los Estados (si no es pensable sino una pluralidad de ellos) habrían de quedar comprendidas. A ese orden queda ineludiblemente remitido todo orden.

Sobre el *Ius publicum europaeum*

Asunto distinto es quien pone el cascabel al gato. En el caso de cada Estado, un Estado es fundado por el poder que convirtió a una multitud en un pueblo, dándole una constitución, imponiéndole el orden de derecho que fuere, sujeto en idea a responder a los “principios metafísicos del derecho”. En el caso del conjunto de los Estados, habrían de ser “pueblos ilustrados y poderosos” los que introdujesen un suficiente orden de derecho al que ellos mismos quedasen sujetos y que diese alcance a las formas de “socialidad” que hoy desbordan a los Estados. Si esa introducción fue posible para la constitución de un Estado, no se ve por qué no habría de ser posible, o digamos al menos no-imposible, para la constitución de un orden de derecho entre Estados, que quedase por encima de ellos y diese alcance a las formas de “socialidad” que los desbordan, sujetándolas a ley que todo ser libre pudiese considerar proveniente de la voluntad unida de todos, en la que las voluntades de los Estados particulares y las diferencias que éstos incluyen en sí, quedasen *contenidas*, formando, como dice Kant, un “Estado de pueblos”. Y ello por más que pragmáticamente tal orden pueda muy bien antojársenos *subjetivamente* imposible.

En la exposición del derecho de gentes en la segunda parte de la “Doctrina del derecho” de la presente *Metafísica de las costumbres* Kant presenta el *ius publicum*

europaeum que, con centro en la idea de *soberanía estatal*, rigió las relaciones entre Estados en el sistema de Estados europeos desde la Paz de Westfalia (1648) y que siguió rigiéndolas en el sistema de Estados occidentales (junto algunos orientales) hasta las dos Guerras Mundiales del siglo XX. Lo presenta como un peculiar orden de no-derecho, sin ley, determinado casi exclusivamente por la relación amigo/enemigo, como un perpetuo estado de guerra posible en el sentido de Hobbes y, por tanto, como un permanente moverse al borde de la catástrofe. Es un *mandato categórico de la razón superar ese estado* (por más que Kant sucumba por momentos a ese concepto de soberanía estatal que normativamente él deja detrás, sobre todo cuando se refiere a asuntos de derecho penal).

Y, paradójicamente, donde sin ambigüedades queda expuesto en Kant el concepto de soberanía como idea de la razón, referida a un orden global de derecho es precisamente en la exposición del concepto de *adquisición original* de lo mío y lo tuyo externos en el capítulo segundo de la primera parte de la “Doctrina del derecho”. Tanto en lo que se refiere a particulares como en lo que se refiere a colectivos como en lo que se refiere a Estados, la adquisición original de espacio, incluyendo el territorio estatal, no puede entenderse sino como un reparto de la tierra que de antemano ha de considerarse sujeto a las condiciones que hayan de provenirle de una voluntad unida de antemano conforme a principios, con carácter general, legisladora, con poder para imponer el derecho que dicta, es decir, convertida en institución efectiva; se trata de nuevo de un querer conforme a principios, objetivamente necesario, aunque subjetivamente contingente, en el que habrían de quedar contenidas las voluntades particulares tanto de individuos como de Estados, y que de antemano es objetivamente ya el de todo ser libre, pues es la única perspectiva en la que de antemano éste, como libre, podría entenderse.

Sección tercera: El origen de la soberanía; revolución y reforma

Y, sin embargo, Kant rechaza la Revolución

Todo lo dicho quedaría incompleto si no nos refiriésemos también a las reticencias de Kant frente a la Revolución francesa y a cómo los revolucionarios franceses vieron a Kant, pues éstos tuvieron noticias de él.

A los escritos de Kant sobre filosofía política y jurídica, que hemos mencionado, en cuyo centro está sin duda la presente *Metafísica de las costumbres*, hemos de añadir otro, que en la serie de escritos de Kant sobre política y derecho queda al final del todo, *La disputa de las Facultades* de 1798, sección segunda⁴². En él, a la vez que expresa su entusiasmo por la irrupción del *ideario* de la Revolución

francesa, se echa para atrás en lo que se refiere a los *desarrollos reales* de ésta, tal como ya lo había hecho en una larga nota de la segunda parte (AA VI, 321) de la “Doctrina del derecho” de la presente *Metafísica de las costumbres*, negando la legitimidad de las revoluciones. Aquel escrito nos ayuda a entender esta importante nota. Tras ese echarse para atrás se esconde más de un motivo.

El primero de ellos es que para Kant un desarrollo evolutivo del tipo del que había representado la política del “gran rey” (Federico II de Prusia), desarrollo en el que al cabo el rey se hubiera hecho superfluo como centro, dando lugar a un orden republicano (cuya mentalidad él encarnó, a juicio de Kant, mejor que nadie), hubiera sido preferible al abismo en que se convirtió el hecho revolucionario, al menos y precisamente cuando más delante lo tuvo Kant, interesadísimo en él. La sincera idealización por Kant de la figura de Federico II (pienso que Kant está entendiendo lo que dice tal como lo dice) también le ayuda a velar un tanto, en el contexto de la situación de estricta censura prusiana, el entusiasmo por la Revolución que él, sin embargo, no oculta (abiertamente viene a decir que admira al “gran rey”, porque, a su juicio, llevaba a lo mismo, incluso de forma más depurada, que aquello a lo que conduce el hecho revolucionario).

Pero en ese echarse para atrás frente al hecho revolucionario hay también una cuestión de principio. A nadie se le hace injusticia por obligarlo a entrar en un “estado jurídico”, es decir, en un orden de derecho; es él quien la hace si se resiste a entrar. En el origen de un “estado jurídico” tenemos casi siempre no un pacto sino un acto de fuerza por el que se impone un orden que se sostiene porque quizá pronto empieza a versar sobre él un consenso debido probablemente a la red de intereses que crea; éstos sostienen al poder que representa el lado coactivo de ese orden. A partir de ahí no cabe pensar en ninguna ruptura interna que no trastocase, digámoslo así, el orden de lo (y esto es lo más problemático de la posición de Kant) *incondicionalmente debido* si el “postulado del derecho público” (“entra en un orden de derecho donde le venga asegurado a cada uno lo suyo interno y lo suyo externo”)⁴³ es un mandato categórico de la razón. Sólo cabe pensar en reforma y evolución. Es lo que, como he dicho, expone Kant en una larga nota de la sección primera de la segunda parte de la “Doctrina del derecho” del presente libro (en el apartado A de la “Observación general”) y en su respuesta Bouterwek en el último apartado del Apéndice de la “Doctrina del derecho”. En la nota empieza diciendo que “el origen de la soberanía es inescrutable en sentido práctico”. Es decir, nadie puede negar su obediencia al soberano en razón de su origen, poniéndose a dar vueltas a éste.

Ahora bien, cuando tales posibilidades evolutivas se taponan y se desespera de que vayan a hacerse efectivas –dice Kant–, no puede menos de producirse *de hecho* un estallido revolucionario, que, aunque para Kant no es justificable con-

forme a principios, el observador interesado no puede menos de “comprender”, de aprobar e incluso de celebrar, aun lamentando que las cosas hayan tenido que producirse así. Es la posición de Kant en *La disputa de las Facultades*. Para el nuevo régimen que se instaura (por ejemplo, con la Revolución Puritana inglesa de 1648 de Cromwell; con la Revolución Gloriosa inglesa de 1688; con la Declaración de derechos de Virginia de 1776, la Declaración de independencia de Estados Unidos de 1776 y las Enmiendas de 1791 a la Constitución de Estados Unidos; y con la Revolución francesa de 1789) vale exactamente la misma tesis de principio, a saber: que el origen de la soberanía es inescrutable en sentido práctico, es decir, que nadie puede negarle su obediencia poniéndose a dar vueltas a su origen, pues ello sería inconsistente con la idea de derecho y con la idea de poder soberano que la idea de derecho implica. Sólo que, en el caso de esas revoluciones, el origen de la nueva soberanía que de ellas ha surgido puede ser pensado como un resultado normativamente equivalente al de las reformas que normativamente se exigían, cuyos principios tanto el actor directamente implicado como el espectador interesado no pueden menos de aprobar e incluso celebrar.

Un orden de derecho no lo es sin la fuerza que por lo general habrá de precederlo para hacerlo efectivo⁴⁴; éste – es la idea de Kant – habrá de poder dar alcance a esa fuerza re-estructurándola jurídicamente conforme a los “principios del derecho”; es la vía *reformista*. Mientras tanto, piensa Kant, a esa fuerza le asiste la legitimidad e incondicionalidad del orden de derecho que representa; tratar de imponerse sobre ella a su vez por la fuerza sería declarar nula la idea de derecho. Una parte importante de esa anulación consistiría en volver imposible el castigo que toda vulneración del orden de derecho exige en idea; la rebelión se vuelve contradictoria, porque, de triunfar, se convierte en un crimen inexpiable cuando no puede menos de contar como crimen que habría de expiarse conforme al orden de derecho contra el que se dirige. La ejecución *formal* de un soberano (Carlos I de Inglaterra, Luis XVI de Francia) es conceptualmente la idea de derecho vuelta del revés, un abismo que a Kant le produce escalofrío y que fácilmente puede convertirse en un abismo en los hechos.

Sin embargo, las reticencias no sólo pragmáticas sino normativas de Kant frente al “derecho de resistencia a la opresión”, del que se habla en el artículo 2 de la Declaración de 1789, cuando éste se entiende como violencia ofensiva contra la “violencia opresora”, reticencias que se expresan en varios lugares de los escritos de filosofía del derecho de Kant, no deberían velarnos ni ocultarnos el hecho, como a veces sucede, de que la “Doctrina del derecho” de la *Metafísica de las costumbres* quiere siempre ser precisamente un comentario de la Declaración de 1789 también en lo tocante a la discusión de ese derecho. Ese derecho de resistencia –es la idea de Kant– no podría ser incluido por principio en ningún orden de derecho sin que éste se contradijese a sí mismo poniendo un soberano por

encima de un soberano, introduciendo así dos soberanos, y dejando así de ser un orden de derecho para convertirse contradictoriamente en institucionalización tácita de un estado de guerra. Pues, como queda dicho, sin un poder soberano que dicte la ley y sea capaz de imponerla, no hay derecho (lo cual convertiría en vacuo el “derecho de resistencia”).

Llama, sin embargo, la atención que, en lo que se refiere al origen de la soberanía, Kant no explorase conceptualmente la vía de que una situación jurídica patentemente no atendida a los principios de la Declaración de 1789 e incluso vuelta contra ellos, una “constitución degenerada”, como dice Kant, se convierte, cuando ello entra en la conciencia pública, en un estado de guerra (en un estado de no derecho) del que es un mandato de la razón salir. Desde esta perspectiva, que normativamente suele ser la nuestra (y que es la que parece adoptar Bouterwek contra Kant), el punto de vista del *observador*, que Kant da por obvio a la hora de “comprender” una rebelión, quedaría articulado con el punto de vista del *agente*. Kant pone al *agente* una barrera normativa que le impide asumir como máxima de acción aquello que el *observador* da por obvio o que desde el punto de vista del observador se da por obvio y se “comprende”, e incluso se celebra, como el propio Kant hizo en el caso de la proclamación de la República francesa⁴⁵. El derecho de “resistencia a la opresión” como derecho “natural e imprescriptible” que la Declaración de 1789 menciona en último lugar ocuparía así el primero, en el sentido de que, al ser un derecho no positivable o sólo limitadamente positivable en un orden de derecho positivo, se convertiría respecto a éste en la *suposición* de que todo orden jurídico ha de consistir efectivamente en la posibilidad del ejercicio de la fuerza, pero conforme a los *principios* de la Declaración.

Los revolucionarios buscan invitar a Kant a París

Kant no es sólo el filósofo de la Revolución, tal como podemos ver ello hoy, sino que fue considerado también así por alguno de los principales protagonistas del movimiento revolucionario francés. Como confirmación de ello valga una anécdota. En su libro *La posición de Kant respecto a la Revolución francesa*, K. Vorländer recoge el testimonio de correspondientes, discípulos y primeros biógrafos de Kant, en el que se refleja algún detalle curioso en lo que respecta a esa posición⁴⁶, como es el siguiente. Tras el prestigio que cobra Kant al conocerse en Francia su escrito *Sobre la paz perpetua* (1795), el abate Sieyès, uno de los “padres” de la Asamblea Nacional Francesa y uno de los redactores de la “Declaración de los derechos del hombre y del ciudadano” de 1789, habría tratado de contactar con Kant en 1796 para invitarle a “examinar las leyes constitucionales en proyecto, borrar lo innecesario e indicar lo mejor”; en definitiva “para invi-

tarlo a Francia como legislador y como fundador de la tranquilidad y de la paz”. El mediador habría sido el *chef de bureau* del famoso *Comité de salut public*, Karl Theremin, de procedencia prusiana, próximo a Sieyès, a través de un hermano suyo, predicador, residente en Memel. Sieyès habría mostrado un gran interés por la filosofía crítica de Kant, a causa de la gran proximidad que constataba con su propio pensamiento, y pensaba que su obra debería traducirse al francés e incluso fundarse una cátedra en París para el estudio de la filosofía crítica de Kant, pues entendía que “su estudio por los franceses representaría un complemento a la Revolución”. (Es una lástima que, cuando H. Heine escribió sobre Kant y la Revolución francesa en su libro *Sobre la historia de la filosofía y de la religión en Alemania*, no fuese todavía –según parece– sabedor de esto⁴⁷). Incluso se pensó en invitar a Kant a París, pues se suponía que Kant no podría menos de querer “contribuir a la ilustración de esta gran nación”. Se rumoreó que “Kant habría obtenido incluso el permiso de su rey para viajar a Francia”. No se conservan las repuestas de Kant a esta propuesta de correspondencia con Sieyès. Parece que la rechazó porque no quería mezclarse en asuntos constitucionales de un país extranjero, lo mismo que “muy vehementemente y a menudo” había rechazado que se mezclase Prusia.

TERCERA PARTE: ÉTICA Y DERECHO, KANT REHACE SU FILOSOFÍA PRÁCTICA

Kant al final de su vida

Hasta el momento sólo nos hemos referido (y más bien sólo externamente, aunque no sólo) a una de las partes de la *Metafísica de las costumbres*, que es la que trata de los principios metafísicos de la doctrina del derecho. Pero la *Metafísica de las costumbres* tiene una segunda parte, que es en la que se exponen los principios metafísicos de la doctrina de la virtud o ética. Como dijimos al principio, a ambas cosas conjuntamente, a los principios metafísicos de la doctrina del derecho y a los principios metafísicos de la ética se refiere Kant al hablar de *moral*.

En lo que respecta a la construcción del libro, los principios metafísicos de la doctrina de la virtud o ética vienen, ciertamente, en el presente libro detrás de los principios metafísicos de la doctrina del derecho. Pero que vengan detrás no quiere decir que no contengan también los fundamentos de la primera parte, es decir, que lógicamente no queden por delante de ésta. Es lo que significa la larga y desproporcionada “Introducción a la doctrina de la virtud”, que acaba ocupando casi un tercio de la extensión de esa segunda parte de la *Metafísica de las costum-*

bres. Esa “Introducción a la doctrina de la virtud” constituye propiamente la base de la “Doctrina del derecho” a la vez que la de la “Doctrina de la virtud”. Y, a mi juicio, representa la reordenación y terminación de toda la filosofía práctica de Kant.

Está tan mal redactada, tan deshilachada, que exige un gran esfuerzo de comprensión tanto por parte del lector como por parte del traductor y comentarista. Propiamente lo que el traductor y comentarista va a decir en las líneas que aquí siguen no debe entenderse sino como una anticipación de las largas notas a pie de página que ha introducido en esa segunda parte del libro, pues el texto de la “Introducción a la doctrina de la virtud” no podía comentarse en la presente “Introducción del traductor”, sino que, por así decirlo, había que comentarlo a pie de obra.

Después de acabada la “Doctrina del derecho”, al tratar de terminar para su publicación la “Doctrina de la virtud” y tener que señalar las diferencias y la relación entre derecho y ética, Kant se percata –podemos entenderlo y decirlo así– de que en lo que se refiere a fundamentos tiene que rehacer el todo, pero rehacerlo sin cambiar propiamente nada, o sólo muy poco. Y efectivamente, es lo que hace, pero, en cierta manera, lo hace para él. Se ha olvidado del lector. Esa larga Introducción, que, por lo demás, salta a la vista que está escrita después del texto de la “Doctrina de la virtud”, tiene el aspecto de notas y apuntes de Kant para sí mismo. Y, por así decirlo, una vez que diseña esa auto-aclaración la entrega al lector, tal cual la tiene, para que éste, si quiere, trate de aclararse por su cuenta junto con él y de terminar así junto con él lo que son las bases de su filosofía práctica. Kant presiente que muy pronto le van a faltar las fuerzas y las que le queden ha decidido emplearlas (no sin una cierta angustia de fondo de no tener tiempo) en aquel proyecto con el que se encaprichó, no acabado, y al que se le ha dado el nombre de *opus postumum*⁴⁸.

Remito, pues, al lector, a las largas notas en las que he tratado de reconstruir el complicado hilo argumentativo de la “Introducción a la doctrina de la virtud”. Aquí he de limitarme a hacer algunas indicaciones introductorias y complementarias, anticipando aquéllas.

El imperativo moral, la idea de libertad

En 1785, un año después de publicar *Idea de una historia universal en sentido cosmopolita*, Kant publica su *Fundamentación de la metafísica de las costumbres*.

En el libro se dan básicamente tres formulaciones del principio moral⁴⁹, entendido como un imperativo no hipotético, ni asertórico, sino como un imperativo que, si ha de haber algo bueno *en absoluto* (y no habría otra manera de entender

lo “bueno” en sentido moral), lo cual sólo podría serlo entonces una “buena voluntad”, habría que entender como un imperativo categórico, incondicionado, al que el arbitrio se sujeta. La primera formulación es: “Obra conforme a aquella máxima de acción de la que puedas a la vez querer que se convierta en una ley universal”⁵⁰. La segunda formulación dice: “Obra de manera que la humanidad tanto en tu persona como en la de cada uno de los demás la trates siempre como un fin y no solamente como un medio”⁵¹. La tercera dice: no has de obrar sino de forma que “tu voluntad por su máxima pueda considerarse a la vez como siendo universalmente legisladora”⁵². Estas tres formulaciones, según Kant, son equivalentes, cada una de ellas implica las otras dos⁵³.

Pero, ¿cómo probar que éste es el principio de la moralidad? Llamamos ser racional a aquel que tiene la capacidad de actuar conforme a principios, que es lo que entendemos por *voluntad*. Entonces, si el imperativo moral ha de entenderse como un imperativo categórico, esas tres formulaciones del imperativo podrían expresarse en las correspondientes proposiciones: “El ser racional está categóricamente obligado a actuar de forma que...”. Estas proposiciones no son analíticas, su predicado no está contenido en ese sujeto, o no se ve cómo podría estarlo; por tanto, su verdad no se basa en el principio de no contradicción, o no podemos suponer eso. Son sintéticas, pero su verdad no se basa en la experiencia, más bien la experiencia las contradice. Son sintéticas, pero *a priori*. ¿Cómo son posibles o serían posibles estas proposiciones sintéticas *a priori*?

Kant responde: sólo si suponemos la libertad de la voluntad; es decir, sólo (1) si suponemos que la voluntad es una causa que no viene determinada por ninguna otra cosa que le preceda, sino que se determina a sí misma, y (2) si suponemos que, aparte de eso, (dado que, tras la destrucción de la teología racional en la *Crítica de la razón pura*, no podemos suponer que la moral se base en la teología, sino, si acaso, al contrario)⁵⁴, la voluntad contiene o es ella misma la ley conforme a la que se determina, es decir, si suponemos la autonomía de la voluntad. Pues bien, esas formulaciones del imperativo categórico se siguen las tres *analíticamente* del concepto de ser racional si suponemos la libertad de la voluntad en el sentido de espontaneidad y autonomía, es decir, se siguen analíticamente del concepto de voluntad libre.

Después de muchas vueltas en la parte tercera de la *Fundamentación de la metafísica de las costumbres*, Kant no logra en definitiva probar –entendámoslo así– la existencia de la libertad entendida como espontaneidad (causa libre en sentido negativo) y como autonomía (causa libre en sentido positivo)⁵⁵.

En la *Crítica de la razón práctica* Kant invierte el procedimiento⁵⁶: la ley moral que expresamos mediante aquellas tres formulaciones de un mismo imperativo categórico es un *factum* y ese *factum* tiene por presupuesto la libertad tanto en su

sentido positivo como en su sentido negativo. Supuesta la libertad, se obtiene el imperativo que es el contenido de ese *factum*. Así, la libertad es la *ratio essendi* de la ley moral, y la ley moral la *ratio cognoscendi* de la libertad. Pero estos son temas kantianos bien sabidos, que Kant mantiene intactos hasta el final, y que, teniendo claro que los mantiene intactos hasta el final, podemos darlos por supuestos en lo que sigue, por más que sobre ello habría mucho que comentar y precisar⁵⁷.

El mandato general del derecho, derecho de libertad

Manteniendo en el trasfondo esas tres formulaciones equivalentes del imperativo moral en el sentido dicho de que cada una implica las otras dos⁵⁸, podemos hacer algunas elementales reflexiones sobre el concepto de *fin*. Un fin es algo que sólo puedo proponérmelo yo. Alguien puede sin duda forzarme a la realización de las acciones conducentes a un fin. Pero ese fin sería un fin suyo, no un fin mío. Yo sólo sería el *medio*, y no más que el medio, que él está utilizando para la obtención de ese fin suyo. Ello en nada cambiaría si el fin que el otro se propone al forzarme a realizar ciertas acciones fuese mi propia perfección o incluso en sentido religioso el fin fuese la “salvación de mi alma”; pues eso sería entonces un fin suyo, no mío (por íntimamente que me concierna a mí), si no me lo he propuesto yo, y las acciones mías a las que me obliga tendentes a él serían el medio como el que él me utiliza para obtener un fin que es un fin suyo.

Por tanto, si de verdad, conforme a la segunda formulación del imperativo moral, el ser libre (la humanidad) tanto en tu persona como en la mía como en la de todos los demás, ha de ser tratado siempre a la vez como un fin y nunca meramente como un medio, entonces tal imperativo que dimana de la libertad misma como ley que ésta es para sí misma, ha de referirse *primariamente* a la forma de la relación entre los arbitrios, cualesquiera sean los fines que esos arbitrios puedan proponerse y con abstracción de los fines que cada uno se proponga, con tal de que no vulneren la forma de la relación que se ajuste al imperativo.

Más aún: como un fin es algo que sólo puedo proponérmelo yo, nadie puede pretender imponerme que el motivo por el que me atengo a la norma o normas en que el imperativo moral se concrete, sea el respeto a esa norma misma (puede ser cualquier otro con tal de que sea compatible con la norma), porque, de pretenderlo, me estaría utilizando para un fin o con un propósito que quizá no fuese ningún fin ni ningún propósito mío, sino sólo suyo, y, por tanto, me estaría utilizando en ese aspecto sólo como un medio para sus fines. Por tanto, como entonces no puede suponerse que el imperativo (o las normas en que el imperativo se concreta) se convierta él mismo en principio subjetivo de acción, la *necesidad práctica* que ese principio objetivo lleva consigo como imperativo categórico de

la razón la debe (por su propia estructura) a ser “moralmente compatible” con la coacción. Eso quiere decir: a nadie se le hace injusticia por obligarlo a atenerse a él (a las normas en que ese imperativo se concreta); o a la inversa: sería inadmisibles que no se lo obligase coactivamente a ello sin más.

Pero con todas estas precisiones que acabamos de introducir, el imperativo moral del que partimos, el de tratar al ser libre en mí y en cada uno de los demás siempre también como un fin y nunca sólo como un medio, se nos ha transformado en un imperativo incondicional que dice: “Obra externamente de suerte que el uso de tu arbitrio pueda ser compatible con la libertad de cualquiera conforme a una ley general”⁵⁹, que para Kant es justamente el “mandato general” del derecho. A nadie se le hace injusticia por obligarlo a ello.

Y de tal mandato se sigue lo que en el juego de fuerzas de una interacción regulada conforme a dicho mandato cada uno está facultado para exigir a todos y cada uno de los demás y para imponer a todos y a cada uno de los demás, es decir, de tal mandato se sigue lo que es lo más fundamental que cada cual puede exigir e imponer a todos los demás, a saber, la no vulneración de su *derecho de libertad*. Digámoslo una vez más: “La libertad (independencia respecto del arbitrio del otro que pueda obligarme a algo) en cuanto que pueda ser compatible con la libertad de cada uno de los otros conforme a una ley general es el único derecho innato que asiste al hombre en virtud de su humanidad”⁶⁰, lo que equivale a decir: es el único derecho innato que asiste al hombre en virtud de su ser libre. De él derivan o habrán de derivar tanto lo mío y lo tuyo internos como lo mío y lo tuyo externos.

De tal derecho de libertad se siguen inmediatamente tres cosas. La primera es que, si puede mostrarse que el ejercicio de mi arbitrio es compatible con el ejercicio del arbitrio de cualquiera conforme a alguna ley general y alguien me impide ejercitarlo, me está haciendo injusticia, es decir, que el derecho de libertad implica “la mayor medida posible de iguales libertades básicas”⁶¹. La segunda es que si, al establecer las leyes conforme a las que se regula esa igual libertad, ha de quedar excluido que yo quede considerado sólo como un medio, en vez de ser considerado siempre también como un fin, yo he de ser colegislador junto con todos los demás al establecer la ley a la que junto con todos los demás quedo sometido. Es decir, el derecho de libertad implica el *principio democrático* en lo que respecta a la fuente y producción de la ley⁶². Y la tercera es que, si la ley ha de hacer viable y efectivo el ejercicio de la igual libertad, ha de asegurar que se cumplan las condiciones materiales de ese ejercicio⁶³.

Y como el derecho, según hemos visto, no puede imponerme que yo convierta esos principios objetivos en principio subjetivos (móviles) sin vulnerar mi carácter de fin en sí, el derecho puede imponer un orden atenido a esos principios,

pero no puede inculcar en los corazones las bases normativas de ese orden. En este sentido un orden de derecho atendido al principio de libertad puede muy bien ser posible también en un “pueblo de diablos”, como dice Kant en *Sobre la paz perpetua*. Precisamente un orden de derecho atendido a principios que, como hemos visto, directamente dimanaban del concepto de libertad trascendental (es decir, de la idea de ser libre como espontaneidad y autonomía), que es el único concepto de libertad que para Kant tiene realidad objetiva, no domina sus propias bases motivacionales e incluso habrá de dar cobijo a motivaciones e ideologías que le sean directamente adversas. El derecho, por tanto, aparte de las condiciones del equilibrio de fuerzas en que ha de sustentarse, necesita también de una opinión pública y de una actitud ética general, imbuidas de sus principios. (Pero esto último no bastaría, ya que, si se rompe el equilibrio de fuerzas, esa actitud quedaría engullida posiblemente por el “dilema de los prisioneros” al que esa ruptura daría lugar. Pero no podemos entrar en aquí en esto).

La desarticulación de las posiciones anteriores

Ahora bien, cuando en la *Fundamentación de la Metafísica de las costumbres* se obtuvieron aquellas tres formulaciones del imperativo que, conforme a la tercera parte de ese libro, resultaron no poder tener por base sino el concepto de libertad trascendental⁶⁴ o al inferirse en la *Crítica de la razón práctica* la “realidad objetiva” de ese concepto de libertad a partir del *hecho* del mandato *moral*, que para la existencia moderna puede expresarse en alguna de aquellas tres formulaciones, para Kant era evidente que, como condición de la moralidad misma, aquel *principio objetivo* tenía que convertirse de forma prácticamente necesaria en *principio subjetivo* de la acción (es decir, que la acción moral, aparte de *conforme a deber*, tenía que ser también *por deber*) y ello sin más razón que el *respeto* que la ley suscitaba en nuestro ánimo. Pues el interés que esos principios, en cuanto morales, suscitasen en nuestro ánimo había de quedar por encima de cualquier otro interés. Ya que, si en nuestra acción esos mandatos quedasen supeditados en nuestro ánimo a algún otro interés, o bien sería que se los está vulnerando o bien sería que esos mandatos son una quimera, es decir, que no constituyen una adecuada explicación del sentido del deber moral en general, pues no serían de verdad categóricos. Si su cumplimiento responde a otro interés, no son imperativos categóricos, sino condicionados. Es decir, si hace falta alguna otra razón para ser moral que el imperativo moral mismo, esto es, si la pregunta de por qué ser moral tuviese otro sentido que la afirmación del ser moral mismo, eso significaría que el imperativo moral no es imperativo categórico alguno, sino un imperativo condicionado, supeditado a un interés distinto, como podría ser en sentido religioso el de la propia “salvación”⁶⁵.

Pero ahora resulta que lo primero que hemos obtenido del principio moral ha sido un mandato del derecho, que ni exige ni puede exigir que la observancia de él sea por respeto a ese principio, pues exigir tal cosa sería vulnerar el mandato de tratar al hombre como un fin en sí, que es la base del derecho, como acabamos de ver. Lo que ha sucedido, por tanto, es que, precisamente dando por supuesto el concepto de libertad como espontaneidad y autonomía en el que se basa aquella triple formulación del imperativo moral, la estructura argumentativa de la *Fundamentación de la metafísica de las costumbres* y, por tanto, también de la Analítica de la *Crítica de la razón práctica*, no sólo se nos ha desarticulado un poco, sino que se nos ha desarticulado casi por completo, aunque todos sus elementos permanezcan quizá intactos y los mismos.

La causa de la desarticulación parece que ha consistido en que en ninguna de esas dos obras estaba prevista propiamente la *norma jurídica*, que, sin embargo, es la primera que hemos obtenido mediante una somera consideración de las tres formulaciones del imperativo categórico en que nuestro ser libre se expresa en cuanto ley para sí mismo (y la primera que Kant da por supuesta). O más exactamente: tal como lo explica Kant en el apartado X de la de la “Introducción a la doctrina de la virtud”, de lo que se estaba hablando allí como *analíticamente* deducible de la idea de libertad como espontaneidad y autonomía era de la norma jurídica; pero se estaba cometiendo el error de decir que en cuanto tal norma jurídica y como ingrediente del sentido de ella su cumplimiento tenía que ser *por deber y no sólo conforme a deber*, cosa que repugna al sentido mismo del principio general del derecho.

La ética: el sistema de los fines que es un deber proponerse; en definitiva, sólo uno: el ser libre mismo

A partir de la *Fundamentación de la metafísica de las costumbres* hemos obtenido, pues, el principio del derecho, pero no hemos obtenido aún nada que tenga que ver con la ética, ni siquiera la idea de ésta. Al contrario, más bien nos ha quedado deshecha la idea de ética que suponíamos expuesta en esa obra. Para ver qué hay de la idea de ética, retornemos de nuevo, frescamente, a la *Fundamentación de la metafísica de las costumbres*, que en definitiva es lo principal que en la filosofía occidental se ha escrito sobre ética después de la Ética a Nicómaco de Aristóteles (entendida ésta también como trasfondo del pensamiento ético estoico, epicúreo y cristiano en general), si es que el utilitarismo no puede aspirar a ese mismo nivel. Lo haremos en cuatro pasos y una conclusión.

Primer paso. Hemos visto que el imperativo moral a que nos vemos sometidos como libres, el cual implica la realidad objetiva del concepto de libertad trascen-

dental, exige del ser libre (del agente moral) que actúe de suerte que pueda a la vez querer que la *máxima* conforme a la que actúa se convierta en una ley universal. Pues bien, lo que Kant llama *máxima* es la regla de obtención del fin que se busca al actuar. Y el fin (como se dice ya desde la primera página del libro I de la *Ética* a Nicómaco de Aristóteles) es momento esencial de la acción; sin proponerme un fin no hay acción, como dice Aristóteles y recuerda Kant una y otra vez, ya consista ese fin en obtener algo como resultado distinto de la acción misma, ya consista en el ejercicio de esa misma acción. Por tanto, si, conforme a la *Fundamentación de la metafísica de las costumbres*, actuar como debo, cuando se me plantea en serio la cuestión de cómo debo o no debo actuar, es actuar conforme a una máxima de la que yo pueda a la vez querer sin contradecirme que se convirtiese en ley para todos, es decir, que yo esté dispuesto a defender ante cualquiera, y la *máxima es la regla para la obtención de un fin*, podemos decir que, en términos generales, hay *fin*es que es un deber proponerse. Y como deber significa imposición, es decir, significa hacer algo que en definitiva no hago espontáneamente ni de grado, hay fines que soy yo quien incondicionalmente he de imponérmelos, pues un fin es algo que sólo puedo proponérmelo yo y que, por tanto, es esencialmente un asunto mío.

Pues bien, la ética – dice Kant – en contraposición al derecho, el cual precisamente abstrae de fines y tiene que abstraer de los fines del agente, es el *sistema de los fines de la razón práctica*, esto es, el sistema de los fines que es un deber proponerse, es decir, que es para mí un deber proponérmelos yo, en cuanto libre. El derecho, en cambio, se refería a la forma de la relación entre arbitrios, cualesquiera fuesen los fines que estos pudieran proponerse; abstraía, por tanto, de los motivos por los que el agente pudiese actuar, con tal de que éstos pudiesen coexistir con la norma jurídica, y, por ende, la *necesidad práctica* de la norma sólo podía basarse entonces en la coacción, cosa que la ética como sistema de fines *excluye por completo*. Y, como hablar de fines es hablar de máximas conducentes a ellos, la *ética*, a diferencia del derecho, *no manda o prohíbe acciones*, sino que lo que manda o prohíbe son fines o máximas de acción, orientaciones de acción en general, que no pueden quedar agotadas por ninguna acción particular y que pueden implementarse mediante cursos de acción distintos o muy distintos. El derecho prohíbe o manda acciones a las que tipifica. El orden ético no puede entenderse, pues, por analogía con un orden de derecho, sin pervertirlo en su propia estructura.

Segundo paso. Hay uno de estos fines que es un deber proponerse, que parece obvio. Podemos, por tanto, empezar por él. Es en un orden de derecho estructurado conforme al principio de igual libertad y, por tanto, conforme a leyes que puedan entenderse como proviniendo de la voluntad unida de todos, es en tal orden, digo, donde el ser libre en mí y en los demás es tratado como un fin en sí. Pero entonces sería contradictorio que el ser libre en cuanto fin en sí no se

impusiese a sí mismo incondicionalmente como exigencia (aun a costa quizá de arriesgar su existencia empírica por ello), es decir, no asumiese como un deber ético que le concierne a él como ser libre, el contribuir a instaurar y promover un orden de derecho que tuviese como centro el derecho de libertad y en el que la ley general conforme a la que ese derecho se organiza y se da viabilidad y realidad pudiera entenderse como proviniendo (por la vía y procedimientos que fuesen) de la voluntad unidad de todos los que quedan sometidos a ella. Sólo así puede entenderse el ser libre a sí mismo como actuando conforme a la segunda y tercera formulación del imperativo moral, que hemos visto más arriba, las cuales derivan de la idea del ser libre. Así se entiende, por lo demás, el entusiasmo ético de Kant ante los procesos revolucionarios de fines del siglo XVIII.

Pero por obvio que parezca ese deber, también es obvio que eso que yo habría de considerar un deber ético mío no es algo que el derecho pueda imponerme sin pervertirse. La idea del hombre como fin en sí, como hemos visto en la deducción del principio general del derecho, puede ser hecha valer por el derecho en el sentido de que a nadie se le hace objetivamente injusticia por obligarlo a entrar en un orden articulado conforme a él. Pero el derecho no puede tratar de imponerme que yo convierta ese principio objetivo en principio subjetivo de mi acción sin pervertirse como derecho y sin pervertir ese fin, pues supondría, como hemos dicho, el empleo del ser libre sólo como un medio y no siempre también como un fin. Sólo la ética, no el derecho, puede *mandar* considerar santos los derechos del hombre, dice Kant⁶⁶. Y, por tanto, de este primer deber ético mío forma también parte (si es que llegásemos finalmente a aclararnos sobre el concepto de ética y de deber ético) el deber de distinguir estrictamente entre ética y derecho, distinción sin la cual queda pervertida la naturaleza de ambos, pues sin ella se esfumaría el mutuo trato de todos y de cada uno como fines en sí. He aquí de nuevo el sentido de la distinción de Kant entre ética y derecho.

Tercer paso. Pero el concepto de ética está muy lejos de quedarnos claro aún. Ello se ve tan pronto como Kant habla de fines que es un deber proponerse y que sólo puedo proponérmelos yo; enseguida surge una duda que es básica, no se entiende bien lo que quiere decir. Y esto divide radicalmente a los intérpretes de la “Introducción a la doctrina de la virtud” ¿Obtienen esos fines su carácter de deber de la idoneidad de la máxima conducente a ellos para convertirse en ley universal, o no sucede más bien al revés? ¿No sucede que, entre otras varias máximas de las que, al actuar conforme a ellas, yo podría a la vez querer sin contradicción que fuesen universalizables, la idoneidad de una de ellas para convertirse en ley se decide atendiendo a la *materia* que representa el fin, y que esa *materia* actuaría entonces de *criterio de selección de máximas*? Dicho de otro modo: si lo que la ética manda son fines y, por tanto, sólo la adopción de máximas conducentes a fines o la adopción de orientaciones finales que pueden cumplirse por distintas

vías, ¿es de verdad la universalizabilidad de la máxima la que decide sobre el fin o no es más bien alguno de los aspectos de la materia del fin la que se convierte en criterio de selección entre máximas? Eso sí, quedan excluidas las máximas no universalizables, no defendibles ante cualquiera.

Pero si es la materia de la máxima la que sirve de criterio de selección, no sería la universalizabilidad de la máxima la que tendría la última palabra sino el fin al que la máxima universalizable sirve. La “Doctrina de la virtud” de la presente *Metafísica de las costumbres* (basta mirar el índice, como ya he dicho más arriba) constituiría entonces tal sistema de fines *materiales*, es decir, una *ética material*. Conforme a esta interpretación, sea dicho una vez más, en la “Doctrina de la virtud” de la *Metafísica de las costumbres* Kant se habría desdicho de lo que eran sus posiciones en la *Fundamentación de la metafísica de las costumbres* y en la *Crítica de la razón práctica*. Habría vuelto a los textos de la escuela de Wolff, que Kant explicó durante años en sus cursos de ética.

Cuarto paso. Pero pienso que no hay tal cosa. Ni el fin que es un deber proponerse consiste para Kant en aquel de cuya máxima podamos querer sin contradicción que se convierta en ley, cualquiera que sea ese fin, ni tampoco consiste para Kant en un fin material que sirva de criterio positivo de selección de máximas universalizables. Para Kant el fin que es un deber proponerse no puede ser ni *contingente* ni *material*. Se trata de entender esto. Me parece que aquí está la clave de una correcta interpretación de la “Introducción a la doctrina de la virtud” de la *Metafísica de las costumbres* de Kant, “uno de los textos más difíciles de la obra de Kant”⁶⁷, aunque quizá no lo sea tanto.

Ya en la *Fundamentación de la metafísica de las costumbres* se dice que toda máxima conduce a un fin, tiene una materia; y a ésta se refiere el principio moral cuando en la segunda formulación del imperativo dice que “el ser racional, en cuanto fin por su propia naturaleza y, por tanto, en cuanto fin en sí, ha de servir a toda máxima como condición restrictiva de todos los fines meramente relativos y discrecionales”⁶⁸.

Y efectivamente, más arriba, conforme a la tercera parte de la *Fundamentación de la metafísica de las costumbres*, supuesta la “realidad objetiva” del concepto de libertad trascendental, obteníamos *analíticamente* a partir de la segunda formulación del imperativo categórico el principio general del derecho como *principio restrictivo* de todos los fines que uno pudiera proponerse, quisiera proponerse o considerase quizá su deber proponerse. Éstos habían de ser compatibles con la libertad de arbitrio de cualquiera conforme a una ley general.

Pues bien, ahora podemos simplemente *añadir*: si la razón, en contraposición al entendimiento, ha de ser una facultad de fines y no sólo de los medios, ya que de otro modo no habría sino medios sin fin, pues todo fin sería contingente y dis-

crecional y podría supeditarse a otros fines, tiene que haber un fin que se muestre como prácticamente *necesario*. Para eso no basta que sea un fin contingente de cuya máxima pudiera yo querer que se convirtiese en ley. Tendrá que ser un fin que pueda serlo *a priori*, pues toda materia no puede suministrar sino fines contingentes y relativos, y, por tanto, condicionados. Y la pregunta es: ¿existe tal cosa?

La respuesta de Kant es ahora tan sencilla, que es muy fácil pasarla por alto y, por tanto, no entenderla de lo fácil que es. Sí que existe tal fin. Pues lo que *a priori* puede ser un fin para la razón práctica no tiene más remedio que serlo si es que ésta ha de ser una facultad de los fines y si es que los medios no pueden ser sin fin, ya que entonces no habría fin sino sólo medios. ¿Cómo no iba a serlo, *si puede serlo* y si la razón práctica, a diferencia del entendimiento, ha de ser una facultad de los fines y no sólo de medios? Pues bien, ese fin es *el ser libre mismo*.

El ser libre como fin, que en la deducción analítica del principio del derecho se nos mostró como *condición restrictiva* externa de todo fin, la cual tenía que hacerse coactivamente valer, pues no se me podía pretender imponer a mí como fin mío, se nos muestra ahora *sintéticamente* como un fin que debo proponerme yo; se muestra como un fin *necesario*, como un fin *a priori* de la razón práctica, que, *puesto que puede serlo*, lo es. No sería concebible que no lo fuese. Y ésta es toda su *deducción*.

Dicho de forma aún más simple: supuesta la idea del ser libre como un fin en sí se sigue la idea de un orden de derecho atendido al principio de libertad, que abstrae de motivos y fines y que no puede imponerte a ti ningún fin sin pretender utilizarte sólo como un medio para ese fin; ni siquiera puede pretender imponerte que ese orden de derecho se convierta para ti en un fin. Pero aparte de eso, el ser libre como fin es *además* un fin que debes proponerte tú. Es un fin prácticamente *necesario*, lo cual quiere decir que es un fin que es un deber.

Dicho de forma más breve. Supuesto el concepto de libertad como espontaneidad y autonomía se sigue la necesidad práctica de un orden de derecho en el que el ser libre sea tratado siempre también como un fin. Pero además y aparte de eso, el ser libre en ti y en los demás es un fin que debes proponerte tú. Si ese fin no existiese, *lógicamente* tampoco existiría la idea del hombre como un fin en sí que el derecho hace valer, cualesquiera sean los fines que cada cual se proponga.

Si el principio general del derecho dice que “es justa toda acción conforme a cuya máxima mi libertad de arbitrio pueda ser compatible con la de cualquiera conforme a una ley general”, el principio supremo de la ética dice: “Obra conforme a una máxima de fines que tenerlos sea un deber”. Y el único fin que para el ser libre es un deber proponerse es el ser libre mismo en mí y en los demás.

Y esto último funda un orden que no es ya el del derecho. Es el orden ético. Derecho y ética se distinguen precisamente por tener una misma base que los exi-

ge como órdenes distintos. Aquél como un orden asentado en la idea del ser libre como fin en sí, que no podría imponerte a ti ningún fin sin acabar convirtiéndote sólo en medio para ese fin que sería entonces el fin de otro, y éste como un orden pendiente de la idea del ser libre como un fin que debes proponerte tú.

Del concepto del ser libre como fin se obtiene *analíticamente* el principio del derecho y *sintéticamente* el principio de la ética: son dos caras de lo mismo, de las que, sin embargo, resultan dos órdenes normativos completamente distintos, requeridos por la libertad, que en ambos es ley para sí misma, en el derecho en sus *relaciones externas* y en la ética en sus *relaciones internas*.

¿Y si yo decidiese prescindir del ser libre como un fin que como deber me concerniese directamente a mí, es decir, si yo decidiese limitarme al terreno del derecho, sin ética? Eso es *subjetivamente* tan posible y aun probable como *objetivamente* imposible. El ser libre es *de antemano* un fin para la razón práctica, es decir, es un fin necesario de la razón práctica, y necesidad de la razón práctica sólo puede significar deber. El ser libre, por serlo, por ser la libertad ley para sí misma, es constitutivamente ya siempre para sí mismo un deber que él no puede obviar: *llega a ser lo que eres*. Éste es un mandato que el ser libre lo es siempre; el ser libre por serlo es ya siempre para sí mismo un deber ser, justo un deber de ser libre; y no hay ni la más insignificante decisión si no es en el horizonte de ese deber primero que el ser libre es para sí mismo.

Conclusión. El único fin de antemano, *a priori*, que es un deber proponerse es para el ser libre en cuanto tal el ser libre mismo en mí y en los demás, hemos dicho. Éste es un deber que, por tanto, debe su incondicionalidad a la *forma* y sólo a la forma. Pues el ser libre queda más allá de toda materia. No hay retorno de Kant a una ética material. Eso es imposible.

Todos los demás fines que fuera un deber proponerse, habrán de entenderse como fines en el que ese único fin que es un deber proponerse se desgrana y esquematiza, mirando a nuestra naturaleza físico-espiritual, es decir, mirando a la antropología, pero no extrayendo de ella los principios. Los principios que *valen para todo ser racional* se aplican en la ética al hombre; es lo que expresamente se dice tanto en la *Fundamentación de la metafísica de las costumbres* como en el curso de Vigilantius. Ya el concepto mismo de *imperativo* categórico resulta de una aplicación de aquellos principios al ser sensible, al *homo phaenomenon*. Si la libertad ha de ser aquí ley para sí misma, habrá de serlo de forma sistemática para el hombre en conjunto en *el fenómeno*. Y es en la exposición de ello en lo que consiste el texto de la “Doctrina de la virtud” de la *Metafísica de las costumbres*.

Ahora bien, para llegar a la “Doctrina del derecho” y a la “Doctrina de la virtud” de la *Metafísica de las costumbres* y a cómo en ella se separan ambas y en qué sentido se separan, no nos ha bastado ni nos basta con mirar sólo a la antro-

pología. Como demuestra el tratado “Idea de una historia universal en sentido cosmopolita” (1784), escrito, como hemos dicho, con ocasión de una discusión sobre la Independencia americana, el vernos confrontados con lo que se nos descubre como los principios racionales, incondicionados, del derecho y de la ética necesariamente nos lleva a proyectar también una “sociología histórica”, es decir, necesariamente nos lleva también a mirar hacia atrás precisamente desde esos principios para hacernos un esquema de la historia pasada con la finalidad de hacernos así cargo de cuál es nuestra situación en lo tocante a ellos⁶⁹, lo cual es algo muy distinto de pretender deducirlos de esa historia o de reducirlos a ella.

El pensamiento ético de Kant, rehecho

Tenemos en suma que del mismo concepto de libertad trascendental como ley que es para sí misma se siguen por un lado deberes de la libertad externa, “moralmente compatibles con la coacción”, es decir, *deberes jurídicos*, y deberes de la libertad interna “moralmente incompatibles con la coacción”, es decir, *deberes éticos*. Éstos tendrían en definitiva que ver con la resolución individual en afirmar el fin en sí como el que el sujeto en cuanto ser libre se encuentra siendo, es decir, tendrían que ver con la *fuerza, firmeza y constancia* que el ser libre, al afirmarse como libre, pone en tal afirmación; es lo que Kant llama *virtud*. La virtud no se aprende de la experiencia, se obtiene de la razón, pero, puesto que no es sino fuerza en la afirmación del ser libre, se aprende ejercitándola.

Así, si la obtención *analítica* del principio del derecho parecía desarticular toda la obra ética anterior de Kant, la obtención *sintética* del principio supremo de la doctrina de la virtud nos restituye rehecho todo el *pensamiento moral* de Kant, tanto en lo que se refiere a su lado de *pensamiento jurídico* como a su lado de *pensamiento ético*, intacto en lo que se refiere a sus bases y conceptos fundamentales, en esta reformulación que Kant hace de él en la “Introducción a la doctrina de la virtud”.

CUARTA PARTE: RETORNO A KANT

De vuelta a Kant a través de dos libros

Es casi natural que para muchos nuestra visión de la filosofía práctica de Kant en general, haya venido en buena parte condicionada por algunos textos que fueron determinantes para mi generación. Me refiero a *Una teoría de la Justicia* ⁷⁰ de

John Rawls y a los textos de Jürgen Habermas sobre filosofía práctica, incluyendo su libro de filosofía del derecho, *Facticidad y validez*⁷¹.

Una teoría de la justicia

Rawls reformula, digámoslo así, el concepto de libertad trascendental, de la libertad que es ley para sí misma, introduciendo la *construcción* que es la *posición original* con un *velo de ignorancia*, en la que egoístas racionales que ignoran todo acerca de cuál va ser su posición en una determinada sociedad, incluso el momento en que van a ocuparla, escogen entre varias alternativas los principios de justicia a los que habrían de responder las *instituciones básicas* de esa sociedad. En tal *situación original* caracterizada por tal *velo de ignorancia* la decisión versa sobre los “bienes primarios” (aquellos que se desean cualesquiera sean los demás bienes que además se deseen, a saber: libertades y bienestar, pero por este orden) que los egoístas racionales tratan de asegurarse y maximizar. Los principios que escogen son el de la exigencia del mayor esquema posible de libertades básicas, compatible con igual libertad para todos los demás, y el de que las diferencias sociales se arreglen de forma que redunden en beneficio de los menos favorecidos y no menoscaben ni el auto-respeto que cada uno se debe ni el respeto debido a nadie. Se resumen, pues, aquí casi todos los elementos de la filosofía del derecho de Kant, organizados de otro modo.

Cuando se pregunta a Rawls por el fundamento de tal construcción, no puede apelar a otra cosa que a lo que él llama en un escrito posterior el “constructivismo kantiano en filosofía moral”⁷², en cuanto que la construcción resultante “*matches our considered judgements in reflective equilibrium*”, los cuales, al poder tenerse así sistemáticamente delante, al poder verse como en un espejo, pueden organizarse a la vez que corregirse. Así, a lo largo de todo el libro “la posición original y su interpretación kantiana”⁷³ se convierten una y otra vez en la premisa de sus principales razonamientos.

Mucho más tarde, en un artículo titulado: “Justice as fairness: political not metaphysical” (1985)⁷⁴, Rawls da otra base a su obra, que no excluye la base anterior. Su obra debe entenderse no como conteniendo una verdad, sino como conteniendo una *salida política* que puede considerarse *fair* para aquellos que han hecho la experiencia de las *guerras de religión*, es decir, como la *razonable* forma política de hacer frente a la condición humana moderna de no acuerdo acerca del sentido último de la vida y del mundo. Esa salida consiste en un orden que abstrayendo de los fines de todos garantiza a todos igual respeto y libertad. La universalidad y validez universal de esa salida política radicaría en que de ella *puede aprender cualquiera* que se encuentre en la situación de la humanidad europea que recu-

rrió a esa salida. Pues si *Una teoría de la justicia* se entendiese como conteniendo una verdad, no sería sino un implicado más en las guerras de religión de las que la única salida sería otra vez esa *teoría*, pero no entendida como una verdad sino como una salida política que es *fair*.

Una teoría de la justicia se entiende, por lo demás, como una teoría de la justicia de las instituciones básicas de *una sociedad en general*, e ignora por completo lo que Kant, siguiendo a las *Institutiones* y a los clásicos del derecho natural clásico y moderno, llama el carácter tripartito del derecho. El complemento relativo a principios del derecho internacional, que después Rawls ha querido dar a su inicial teoría de la justicia, dista mucho de ser aceptable cuando se lo mide por Kant⁷⁵.

A la vez, y precisamente en tal contexto, la consideración de la “teoría de la justicia” sólo como una *propuesta política* y no como una *teoría*, dista mucho de poder sacudirse su radical dependencia inicial de la “metafísica de la libertad” de Kant. En la medida en que la “posición original” como punto de vista desde el que los *noumenal selves* miran el mundo no es susceptible de una reducción pragmática (pues por su propio planteamiento quiere ser algo más que una introducción a una manera de ver las cosas que facilite un *modus vivendi* en que se eviten las cuestiones de principio), no puede evitar la discusión con esa metafísica. Es decir, esa reducción de la teoría a propuesta política sólo es aceptable para quien, por así decirlo, está ya en Kant o ha empezado a dejarse convencer por él; para quien está fuera no es aceptable en rigor. Pues tácitamente la “teoría de la justicia” no puede menos de reclamar una validez sobre las demás posiciones, al menos en el sentido de un quedar por encima de ellas y de convertirse en su árbitro; y así, al hacerlas converger hacia ella, propiamente sólo es asumible sin problemas desde ella y cuando se está en ella, no desde las demás posiciones. Ese árbitro, por así decirlo, no es neutral ni puede serlo respecto al principio de libertad de Kant y a la idea del *homo noumenon* como fin en sí, es decir, respecto a los principios de lo *razonable*, como dice Rawls.

De modo que, si Rawls nos es hoy imprescindible, lo es porque, aprendiendo de Rawls, vemos que Kant no solamente sigue a la base, sino que tiene mucho más claro cuáles son los conceptos y problemas básicos, a mi juicio. En el tratamiento y análisis de ellos, al menos en lo que se refiere a fundamentos, Kant se nos pone hoy muy por delante de Rawls, pese a la inteligente y sugestiva “operacionalización” que, en términos de los principios de un “liberalismo político” basado en un *overlapping consensus* en que se abstraiga de cuestiones de metafísica y de religión, Rawls lleva a cabo de la doctrina del derecho Kant. Pero, pese a todas las apariencias, las cuestiones de metafísica y religión no se dejan tan fácilmente echar a un lado en orden a construir unos principios de lo *razonable* que abstrai-

gan de ellas; quizá sea más fácil para todos abordarlas directamente cuando es inevitable, y dejarse convencer por Kant del sitio que les corresponde.

Es entonces el estudio de textos como los de Rawls el que nos convence de que los grandes textos del pensamiento político moderno no quedaron detrás, sino que, a la hora de tener que revisar nuestra situación *en lo que se refiere a principios*, quizá nos han sobrepasado ya con mucho, están muy por delante, siguen pendientes, por así decirlo; por más que de la importancia de Kant no hayamos podido convencernos sino leyendo críticamente los textos de Rawls.

Facticidad y validez

Algo análogo sucede con los textos de Habermas. En *Facticidad y validez* Habermas intenta una “génesis lógica” de lo que llama el “sistema de los derechos”⁷⁶ de un orden de derecho atendido a razón, a saber: los derechos de libertad (“en la mayor medida posible”), los derechos de pertenencia a la comunidad jurídica, los derechos de participación política, los derechos sociales y los derechos ecológicos. Para esa génesis o “deducción” Habermas parte exclusivamente de dos elementos: la *forma jurídica* de la norma y el *principio de discurso*.

La *forma jurídica* no tiene para Habermas sentido normativo alguno⁷⁷. Es un hecho, sólo un hecho y nada más que un hecho, que las sociedades modernas, dada su complejidad y pluralidad internas, sólo pueden regirse por normas de tipo jurídico, es decir, por normas que abstraen de los fines de los agentes y de los motivos que éstos puedan tener para atenerse o no a la norma, los cuales son reducidos por el derecho al motivo genérico de evitar la sanción que la norma lleva aneja para el caso de no cumplimiento. El único elemento normativo es para Habermas el *principio de discurso*, que, cuando se refiere a normas de forma jurídica, podemos llamar *principio democrático* y, cuando se refiere a normas externamente no coactivas que habrían de valer para todos por igual, podemos llamar *principio moral*. El *principio democrático* dice, pues: “Una norma es legítima si y solo si puede ser aceptada por todos los posibles sometidos a ella, en el medio de discursos racionales”. Y por discurso racional o discusión racional se entiende en definitiva aquella que se organice y se desenvuelva en términos tales que sus resultados puedan tener a su favor la presunción de contar con los mejores argumentos⁷⁸. Pero esto, por bien que suene, no parece admisible. Cuando intenta la “génesis lógica del sistema de los derechos”, Habermas querría obtener el requisito de “la mayor medida posible de iguales libertades subjetivas de acción” del hecho de que la forma jurídica de la norma tiene que dejar al arbitrio del agente los fines que quiera proponerse y los motivos por los que actúe⁷⁹.

Pero evidentemente ello no es así; si la *forma jurídica* de la norma no tiene ningún sentido normativo en absoluto, sino sólo un *sentido funcional* y nada más, entonces el dejar mayor o menor espacio de “libertades subjetivas de acción” dependerá de las razones *funcionales* que se tomen en consideración en el establecimiento de la norma. En principio, con estos supuestos, el espacio de libertades subjetivas que la norma dejase podría ser mínimo o irrelevante, a no ser que en el discurso deliberativo del que resulta la norma se introduzca como criterio *fundamental* el que la norma, incluso al proveer a la necesidad de que se trate y por complejo que sea un orden, no se refiera tanto a fines como a la forma de la relación entre arbitrios cualesquiera sean los fines que éstos puedan proponerse, de suerte que “yo pueda actuar como quiera a condición de que el libre uso de mi arbitrio sea compatible con la libertad de cualquiera conforme a una ley general”; pues me haría injusticia quien, siendo mi acción compatible con la de los demás conforme a una ley general, busca impedírmela; esa ley general sería la que en ese proceso deliberativo se estaría descubriendo y estableciendo. E introducir ese criterio en el discurso deliberativo sería introducir el *derecho de libertad* de Kant como criterio restrictivo de la ley, y ese derecho simplemente no existe en *Facticidad y validez*.

Es, por lo demás, claro que un criterio tal es equivalente a afirmar el carácter normativo de la forma jurídica, pues sólo una norma de forma jurídica (es decir, de tipo coactivo) puede responder a ese principio incondicionado. Es también claro que de donde ese criterio se sigue es del concepto de libertad trascendental de Kant, no del principio de discurso o del concepto subyacente de libertad comunicativa de Habermas. En teoría del derecho, Habermas sólo puede proporcionar, si acaso, una atractiva, pero dudosa, reformulación de la idea de que la ley ha de poder considerarse proveniente de la voluntad unida de todos, pero no de lo que Kant llama “principio general del derecho”. Y al no poder proporcionar una adecuada formulación de éste, no puede tampoco proporcionar un concepto claro de la relación entre el derecho de libertad y la “voluntad general” como fuente de la ley, ni, por tanto, una idea clara de la estructura (en idea) del orden de derecho en conjunto, ni de la relación de éste con el orden ético, todo lo cual fue lo que llevó Kant a repasar a fondo la estructura de la Declaración de 1789⁸⁰.

En *Facticidad y validez* ese orden de derecho se limita, por lo demás, a ser un orden concreto de derecho frente otros, y nada se sabe del carácter *tripartito* del derecho. Lo mismo que en el caso de Rawls, en los complementos añadidos por Habermas en este sentido no deja de reconocerse el sello de ese insuficiente planteamiento inicial⁸¹.

Asimismo, en artículos de fines de los años noventa del siglo pasado y de principios de éste, muy especialmente en la introducción a su escrito sobre una posi-

ble Constitución europea, Habermas ha tratado de articular, como hace Kant, el principio de libertad y el principio democrático, pero pienso que en ambos casos ello ha quedado en dar vueltas y más vueltas al mismo problema suponiendo haberle dado salida sin dársela en ninguno de los dos casos⁸². En Kant la fuente de esa articulación, a la vez que la de la articulación entre ética y derecho, está en el concepto de libertad trascendental, es decir, de la libertad como espontaneidad y autonomía. En Habermas queda claro, por más vueltas que le ha dado, que el concepto de razón comunicativa no alcanza para una formulación satisfactoria del derecho de libertad. La doctrina del derecho de Kant es para Habermas una y otra vez un *desideratum*, pero el concepto de razón comunicativa no logra dar alcance a ese *desideratum*. De nuevo, a través de Habermas y aprendiendo de Habermas, uno se ve devuelto al texto de Kant, que, aquí, una vez más, vuelve a pasar por delante y a quedarnos delante.

La cuestión de lo mío y lo tuyo externos

Pero en este retorno a Kant que se produce en la segunda mitad del siglo XX, no sólo por parte de Rawls y Habermas y por parte de otros, sino en general en el pensamiento ético-político del que se nutrió mi generación, se advierte una especie de pudor a la hora de abordar la cuestión del derecho de propiedad, a la que Kant dedica en definitiva toda la primera parte de la “Doctrina del derecho”. La excepción en aquel contexto era la apelación de R. Nozick⁸³ a Locke, cuyas bases, por cierto, Kant rechaza por completo.

Para mi generación el “postulado del derecho público” que en el texto de Kant enmarca el tránsito del derecho de propiedad a la organización estatal que lo hace perentorio y efectivo, venía siendo interpretado desde hacía tiempo en términos de crítica ideológica como una evidencia de que, planteadas así las cosas, el orden estatal no guardaba quizá con el derecho de propiedad sino una relación de superestructura y fenómeno respecto a un orden de lo económico en general, asentado sobre el derecho de propiedad privada, en definitiva sobre la *relación económica*, como dice Marx, que podía considerarse la infraestructura y esencia.

Sea lo que fuere de esta crítica, el caso es que, quizá a causa de ella, e incluso seguramente a causa de ella, la teoría del Estado en idea (es decir, la cuestión de la justicia como propiedad de las instituciones jurídicas y políticas básicas de una sociedad, como Rawls dice) quedó desligada de la cuestión del derecho de propiedad, como si el derecho de propiedad pudiese considerarse un derecho situado conceptualmente tan a distancia del derecho de libertad, que no afectase a las cuestiones de principio del derecho estatal, por más que sea una obviedad que eso no es así. Lo que hubiese que decidir sobre el derecho de propiedad dependería,

UTOPIA

by THOMAS MORE

edited by Henry Morley and by Stephen Duncombe

translated by Gilbert Burnet

London: Cassell & Company Editions, 1901

Project Gutenberg eBook, Utopia, 2005

The Open Utopia, 2012

ENGLISH EDITION

CONCERNING THE BEST STATE OF A COMMONWEALTH,
AND THE NEW ISLAND OF UTOPIA

THOMAS MORE TO PETER GILES, GREETINGS.

I am almost ashamed, right well beloved Peter Giles, to send you this book of the Utopian commonwealth, well nigh after a year's space, which I am sure you looked for within a month and a half. And no marvel. For you know well enough that I was already disburdened of all the labor and study belonging to the invention of this work, and that I had no need at all to trouble my brains about the disposition or conveyance of that matter and, therefore, had nothing else to do but only to rehearse those things which you and I together heard Master Raphael tell and declare. Wherefore there was no cause why I should study to set forth the matter with eloquence; for as much as his talk could not be fine and eloquent, being first not studied for but sudden and unpremeditated, and then, as you know, of a man better seen in the Greek language than in the Latin tongue. And my writing, the nearer it should approach his homely, plain, and simple speech, so much the nearer should it go to the truth; which is the only mark, where unto I do and ought to direct all my travail and study herein. I grant and confess, friend Peter, myself discharged of so much labor, having all these things ready done to my hand, that almost there was nothing left for me to do. Else either the invention, or the disposition of this matter, might have required of a wit neither base nor at all unlearned, both some time and leisure, and also some study. But if it was requisite and necessary that the matter should also have been written eloquently,

and not alone truly, of a surety that thing I could have performed by no time or study. But now, seeing all these cares, stays, and hindrances were taken away, wherein else so much labor and study should have been employed, and that there remained no other thing for me to do but only to write plainly the matter as I heard it spoken, that indeed was a thing light and easy to be done. Howbeit, to the dispatching of this so little business my other cares and troubles did leave almost less than no leisure. While I do daily bestow my time about law matters; some to plead, some to hear, some as an arbitrator with mine award to determine, some as an umpire or a judge with my sentence finally to discuss; while I go one way to see and visit my friend, an other way about mine own private affairs; while I spend almost all the day abroad amongst others and then reside at home among mine own, I leave to my myself, I mean to my book, no time.

For when I come home, I must commune with my wife, chat with my children, and talk with my servants. All the which things I reckon and account among business, forasmuch as they must of necessity be done; and done must they need be unless a man will be a stranger in his own house. And, in any wise, a man must so fashion and order his conditions, and so appoint and dispose himself, that he be merry, jocund, and pleasant among them whom either nature has provided, or chance has made, or he himself has chosen to be the fellows and companions of his life: so that with too much gentle behavior and familiarity he do not mar them, and by too much sufferance, of his servants make them his masters. Among these things now rehearsed steal away the day, the month, the year. When do I write then? And all this while I have spoken no word of sleep, neither yet of meals, which among a great number doth waste no

less time than doth sleep, wherein almost half the time of man creepeth away. I, therefore, do win and get only that time which I steal from sleep and meals. Which time, because it is very little, and yet somewhat it is, therefore have I once at the last, though it be long first, finished Utopia and have sent it to you Peter to read and peruse to the intent that if anything has escaped me you might put me in remembrance of it. For though in this behalf I do not greatly mistrust myself (which would God I were somewhat in wit and learning, as I am not all of the worst and dullest in memory), yet have I not so great trust and confidence in it that I think nothing could fall out of my mind.

For John Clement, my boy, who as you know was there present with us, whom I suffer to be away from no talk wherein may be any profit or goodness (for out of this young-bladed and new-shot-up corn, which has already begun to spring up both in Latin and Greek language, I look for plentiful increase at length of goodly ripe grain), he, I say, has brought me into great doubt. For whereas Hythloday (unless my memory fail me) said that the bridge of Amaurot, which goes over the river of Anyder, is five hundred paces, that is to say, half a mile, in length; my John saith that two hundred of these paces must be plucked away, for that the river contains there not above three hundred paces in breadth. I pray you heartily call the matter to your remembrance. For if you agree with him I also will say as you say and confess myself deceived. But if you cannot remember the thing, then surely I will write as I have done, and as mine own remembrance serves me. For as I shall take good heed that there be in my book nothing false, so if there be anything in doubt I will rather tell a lie then make a lie, because I had rather be good than wise.

Howbeit, this matter may easily be remedied if you will take the pains to ask the question of Raphael himself, by word of mouth if he be now with you, or else by your letters; which you must needs do for another doubt also which has chanced through whose fault I cannot tell, whether through mine or yours or Raphael's. For neither we remembered to inquire of him, nor he to tell us, in what part of that new world Utopia is situated; which thing I had rather have spent no small sum of money than it should thus have escaped us. As well for that I am ashamed to be ignorant of what sea that Island standeth whereof I write so long a treatise; as also because there be with us certain men, and especially one devout and godly man, who is exceeding desirous to go unto Utopia, not for a vain and curious desire to see news, but to the intent that he may further and increase our religion which is there already begun. And that he may the better accomplish and perform this his good intent, he is minded to procure that he may be sent there by the high Bishop, yes, and that he himself made be made Bishop of Utopia; being nothing scrupulous herein, that he may obtain this bishopric with suit. For he counteth that a godly suit which proceeds not of the desire of honor or lucre but only of a godly zeal. Wherefore, I most earnestly desire you, friend Peter, to talk with Hythloday, if you can face to face, or else write letters to him, and so to work in this matter that in this, my book, there may be neither anything be found that is untrue, neither anything be lacking which is true. And I think verily it shall be well done that you show unto him the book itself, for if I have missed or failed in any point, or find any fault have escaped me, no man can so well correct and amend it as he can, and yet that can he not do unless he peruse and read over my book written. Moreover,

by this means shall you perceive whether he will be willing and content that I should undertake to put this work in writing. For if he be minded to publish and put forth his own labors and travails himself, perchance he would be loathe, and so would I also, that in publishing the Utopian commonwealth I should prevent and take from him the flower and grace of the novelty of this his history.

Howbeit, to say the very truth, I am not fully determined with myself whether I will put forth my book or no. For the natures of men be so divers, the fantasies of some so wayward, their minds so unkind, their judgments so corrupt that they which lead a merry and jocund life following their own sensual pleasures and carnal lusts, may seem to be in a much better state or case than they that vex and unquiet themselves with cares and studies for putting forth and publishing of something, that may be either profit or pleasure to others, which others nevertheless will disdainfully, scornfully, and unkindly accept the same. The most part of all be unlearned, and a great number hold learning in contempt. The rude and barbarous allow nothing but that which is very barbarous indeed. If it be one that has a little smack of learning, he rejects as homely and common-ware whatsoever is not stuffed full of old moth-eaten words and that be worn out of use. Some there be that have pleasure only in old rustic antiquities, and some only in their own doings. One is so sour, so crabbed, and so unpleasant that he can away with no mirth or sport; another is so narrow between the shoulders, that he can bear no jests or taunts. Some silly poor souls be so afraid that at every snappish word their nose shall be bitten off that they stand in no less dread of every quick and sharp word then he that is bitten of a mad dog fears water. Some be so mutable and

wavering that every hour they be in a new mind, saying one thing sitting and an other thing standing. Another sort sits upon their ale benches, and there among their cups they give judgment of the wits of writers and with great authority they condemn even as please them every writer according to his writing in most spiteful manner mocking, louting, and flouting them: being themselves in the mean season safe and, as sayeth the proverb, out of all danger of gunshot. For why they be so smug and smooth that they have not so much as one hair of an honest man whereby one may take hold of them. There be, moreover, some so unkind and ungente that though they take great pleasure and delectation in the work, yet for all that they can not find in their hearts to love the author thereof, nor to afford him a good word, being much like uncourteous, unthankful, and churlish guests, which when they have with good and dainty meats well filled their bellies, depart home giving no thanks to the feast-maker. Go your ways now, and make a costly feast at your own charges for guests so dainty-mouthed, so divers in taste, and besides that, of so unkind and unthankful natures.

But nevertheless, friend Peter, do I pray you with Hythloday as I willed you before, and as for this matter, I shall be at my liberty afterwards to take new advisement. Howbeit, seeing I have taken great pains and labor in writing the matter, if it may stand with his mind and pleasure, I will, as touching the edition or publishing of the book, follow the counsel and advice of my friends, and especially yours. Thus fare you well, right heartily beloved friend Peter, with your gentle wife; and love me as you have ever done; for I love you better then I ever did.

FIRST BOOK
OF THE DISCUSSION WHICH THE EXCEPTIONAL MAN
RAPHAEL HYTHLODAY HELD CONCERNING THE
BEST STATE OF A COMMONWEALTH,
BY WAY OF THE ILLUSTRIOUS MAN THOMAS MORE,
CITIZEN AND UNDERSHERIFF OF THE
GLORIOUS CITY OF LONDON IN BRITAIN

Henry VIII, the unconquered King of England, a prince adorned with all the virtues that become a great monarch, having some differences of no small consequence with Charles the most serene Prince of Castile, sent me into Flanders, as his ambassador, for treating and composing matters between them. I was colleague and companion to that incomparable man Cuthbert Tonstall, whom the King, with such universal applause, lately made Master of the Rolls; but of whom I will say nothing; not because I fear that the testimony of a friend will be suspected, but rather because his learning and virtues are too great for me to do them justice, and so well known, that they need not my commendations, unless I would, according to the proverb, "Show the sun with a lantern."

Those that were appointed by the Prince to treat with us, met us at Bruges, according to agreement; they were all worthy men. The Margrave of Bruges was their head, and the chief man among them; but he that was esteemed the wisest, and that spoke for the rest, was George Temse, the Provost of Casselsee: both art and nature had concurred to make him eloquent: he was very learned in the law; and, as he had a great capacity, so, by a long practice in affairs, he was very dexterous at unraveling them.

After we had several times met, without coming to an agreement, they went to Brussels for some days, to know the Prince's pleasure; and, since our business would admit it, I went to Antwerp.

While I was there, among many that visited me, there was one that was more acceptable to me than any other, Peter Giles, born at Antwerp, who is a man of great honor, and of a good rank in his town, though less than he deserves; for I do not know if there be anywhere to be found a more learned and a better bred young man; for as he is both a very worthy and a very knowing person, so he is so civil to all men, so particularly kind to his friends, and so full of candor and affection, that there is not, perhaps, above one or two anywhere to be found, that is in all respects so perfect a friend: he is extraordinarily modest, there is no artifice in him, and yet no man has more of a prudent simplicity. His conversation was so pleasant and so innocently cheerful, that his company in a great measure lessened any longings to go back to my country, and to my wife and children, which an absence of four months had quickened very much.

One day, as I was returning home from mass at St. Mary's, which is the chief church, and the most frequented of any in Antwerp, I saw him, by accident, talking with a stranger, who seemed past the flower of his age; his face was tanned, he had a long beard, and his cloak was hanging carelessly about him, so that, by his looks and habit, I concluded he was a seaman. As soon as Peter saw me, he came and saluted me, and as I was returning his civility, he took me aside, and pointing to him with whom he had been discoursing, he said, "Do you see that man? I was just thinking to bring him to you."

I answered, "He should have been very welcome on your account."

"And on his own too," replied he, "if you knew the man, for there is none

alive that can give so copious an account of unknown nations and countries as he can do, which I know you very much desire.”

“Then,” said I, “I did not guess amiss, for at first sight I took him for a seaman.”

“But you are much mistaken,” said he, “for he has not sailed as a seaman, but as a traveler, or rather a philosopher. This Raphael, who from his family carries the name of Hythloday, is not ignorant of the Latin tongue, but is eminently learned in the Greek, having applied himself more particularly to that than to the former, because he had given himself much to philosophy, in which he knew that the Romans have left us nothing that is valuable, except what is to be found in Seneca and Cicero. He is a Portuguese by birth, and was so desirous of seeing the world, that he divided his estate among his brothers, ran the same hazard as Americus Vesputius, and bore a share in three of his four voyages that are now published; only he did not return with him in his last, but obtained leave of him, almost by force, that he might be one of those twenty-four who were left at the farthest place at which they touched in their last voyage to New Castile. The leaving him thus did not a little gratify one that was more fond of traveling than of returning home to be buried in his own country; for he used often to say, ‘that the way to heaven was the same from all places,’ and ‘he that had no grave had the heavens still over him.’ Yet this disposition of mind had cost him dear, if God had not been very gracious to him; for after he, with five Castilians, had traveled over many countries, at last, by strange good fortune, he got to Ceylon, and from thence to Calicut, where he, very happily, found some Portuguese ships; and, beyond all men’s expectations, returned to his native country.”

When Peter had said this to me, I thanked him for his kindness in intending to give me the acquaintance of a man whose conversation he knew would be so acceptable; and upon that Raphael and I embraced each other. After those civilities were past which are usual with strangers upon their first meeting, we all went to my house, and entering into the garden, sat down on a green bank and entertained one another in discourse.

He told us that when Vesputius had sailed away, he, and his companions that stayed behind in New Castile, by degrees insinuated themselves into the affections of the people of the country, meeting often with them and treating them gently; and at last they not only lived among them without danger, but conversed familiarly with them, and got so far into the heart of a prince, whose name and country I have forgot, that he both furnished them plentifully with all things necessary, and also with the conveniences of traveling, both boats when they went by water, and wagons when they traveled over land: he sent with them a very faithful guide, who was to introduce and recommend them to such other princes as they had a mind to see: and after many days' journey, they came to towns, and cities, and to commonwealths, that were both happily governed and well peopled.

Under the equator, and as far on both sides of it as the sun moves, there lay vast deserts that were parched with the perpetual heat of the sun; the soil was withered, all things looked dismally, and all places were either quite uninhabited, or abounded with wild beasts and serpents, and some few men, that were neither less wild nor less cruel than the beasts themselves. But, as they went farther, a new scene opened, all things grew milder, the air less burning, the soil more verdant, and even the beasts were less wild: and, at last, there were nations, towns, and cities, that had not only

mutual commerce among themselves and with their neighbors, but traded, both by sea and land, to very remote countries. There they found the conveniences of seeing many countries on all hands, for no ship went any voyage into which he and his companions were not very welcome.

The first vessels that they saw were flat-bottomed, their sails were made of reeds and wicker, woven close together, only some were of leather; but afterwards, they found ships made with round keels and canvas sails, and in all respects like our ships, and the seamen understood both astronomy and navigation. He got wonderfully into their favor by showing them the use of the needle, of which till then they were utterly ignorant. They sailed before with great caution, and only in summer time; but now they count all seasons alike, trusting wholly to the loadstone, in which they are, perhaps, more secure than safe; so that there is reason to fear that this discovery, which was thought would prove so much to their advantage, may, by their imprudence, become an occasion of much mischief to them.

But it were too long to dwell on all that he told us he had observed in every place, it would be too great a digression from our present purpose: whatever is necessary to be told concerning those wise and prudent institutions which he observed among civilized nations, may perhaps be related by us on a more proper occasion. We asked him many questions concerning all these things, to which he answered very willingly; we made no inquiries after monsters, than which nothing is more common; for everywhere one may hear of ravenous dogs and wolves, and cruel men-eaters, but it is not so easy to find states that are well and wisely governed. As he told us of many things that were amiss in those new-discovered countries, so he reckoned up not a few things, from which patterns might be

taken for correcting the errors of these nations among whom we live; of which an account may be given, as I have already promised, at some other time; for, at present, I intend only to relate those particulars that he told us, of the manners and laws of the Utopians: but I will begin with the occasion that led us to speak of that commonwealth.

After Raphael had discoursed with great judgment on the many errors that were both among us and these nations, had treated of the wise institutions both here and there, and had spoken as distinctly of the customs and government of every nation through which he had past, as if he had spent his whole life in it, Peter, being struck with admiration, said, "I wonder, Raphael, how it comes that you enter into no king's service, for I am sure there are none to whom you would not be very acceptable; for your learning and knowledge, both of men and things, is such, that you would not only entertain them very pleasantly, but be of great use to them, by the examples you could set before them, and the advices you could give them; and by this means you would both serve your own interest, and be of great use to all your friends."

"As for my friends," answered he, "I need not be much concerned, having already done for them all that was incumbent on me; for when I was not only in good health, but fresh and young, I distributed that among my kindred and friends which other people do not part with till they are old and sick: when they then unwillingly give that which they can enjoy no longer themselves. I think my friends ought to rest contented with this, and not to expect that for their sakes I should enslave myself to any king whatsoever."

"Soft and fair!" said Peter; "I do not mean that you should be a slave to any king, but only that you should assist them and be useful to them."

“The change of the word,” said he, “does not alter the matter.”

“But term it as you will,” replied Peter, “I do not see any other way in which you can be so useful, both in private to your friends and to the public, and by which you can make your own condition happier.”

“Happier?” answered Raphael, “is that to be achieved in a way so abhorrent to my genius? Now I live as I will, to which I believe, few courtiers can pretend; and there are so many that court the favor of great men, that there will be no great loss if they are not troubled either with me or with others of my temper.”

Upon this, said I, “I perceive, Raphael, that you neither desire wealth nor greatness; and, indeed, I value and admire such a man much more than I do any of the great men in the world. Yet I think you would do what would well become so generous and philosophical a soul as yours is, if you would apply your time and thoughts to public affairs, even though you may happen to find it a little uneasy to yourself; and this you can never do with so much advantage as by being taken into the council of some great prince and putting him on noble and worthy actions, which I know you would do if you were in such a post; for the springs both of good and evil flow from the prince over a whole nation, as from a lasting fountain. So much learning as you have, even without practice in affairs, or so great a practice as you have had, without any other learning, would render you a very fit counselor to any king whatsoever.”

“You are doubly mistaken,” said he, “Mr. More, both in your opinion of me and in the judgment you make of things: for as I have not that capacity that you fancy I have, so if I had it, the public would not be one jot the better when I had sacrificed my quiet to it. For most princes apply

themselves more to affairs of war than to the useful arts of peace; and in these I neither have any knowledge, nor do I much desire it; they are generally more set on acquiring new kingdoms, right or wrong, than on governing well those they possess: and, among the ministers of princes, there are none that are not so wise as to need no assistance, or at least, that do not think themselves so wise that they imagine they need none; and if they court any, it is only those for whom the prince has much personal favor, whom by their fawning and flatteries they endeavor to fix to their own interests; and, indeed, nature has so made us, that we all love to be flattered and to please ourselves with our own notions: the old crow loves his young, and the ape her cubs. Now if in such a court, made up of persons who envy all others and only admire themselves, a person should but propose anything that he had either read in history or observed in his travels, the rest would think that the reputation of their wisdom would sink, and that their interests would be much depressed if they could not run it down: and, if all other things failed, then they would fly to this, that such or such things pleased our ancestors, and it were well for us if we could but match them. They would set up their rest on such an answer, as a sufficient confutation of all that could be said, as if it were a great misfortune that any should be found wiser than his ancestors. But though they willingly let go all the good things that were among those of former ages, yet, if better things are proposed, they cover themselves obstinately with this excuse of reverence to past times. I have met with these proud, morose, and absurd judgments of things in many places, particularly once in England.”

“Were you ever there?” said I.

“Yes, I was,” answered he, “and stayed some months there, not long after the rebellion in the West was suppressed, with a great slaughter of the poor people that were engaged in it. I was then much obliged to that reverend prelate, John Morton, Archbishop of Canterbury, Cardinal, and Chancellor of England; a man, Peter (for Mr. More knows well what he was), that was not less venerable for his wisdom and virtues than for the high character he bore: he was of a middle stature, not broken with age; his looks begot reverence rather than fear; his conversation was easy, but serious and grave; he sometimes took pleasure to try the force of those that came as suitors to him upon business by speaking sharply, though decently, to them, and by that he discovered their spirit and presence of mind; with which he was much delighted when it did not grow up to impudence, as bearing a great resemblance to his own temper, and he looked on such persons as the fittest men for affairs. He spoke both gracefully and weightily; he was eminently skilled in the law, had a vast understanding, and a prodigious memory; and those excellent talents with which nature had furnished him were improved by study and experience. When I was in England the King depended much on his counsels, and the Government seemed to be chiefly supported by him; for from his youth he had been all along practiced in affairs; and, having passed through many traverses of fortune, he had, with great cost, acquired a vast stock of wisdom, which is not soon lost when it is purchased so dear.

“One day, when I was dining with him, there happened to be at table one of the English lawyers, who took occasion to run out in a high commendation of the severe execution of justice upon thieves, ‘who,’ as he said, ‘were then hanged so fast that there were sometimes twenty on one gibbet!’ and, upon

that, he said, ‘he could not wonder enough how it came to pass that, since so few escaped, there were yet so many thieves left, who were still robbing in all places.’

“Upon this, I (who took the boldness to speak freely before the Cardinal) said, ‘There was no reason to wonder at the matter, since this way of punishing thieves was neither just in itself nor good for the public; for, as the severity was too great, so the remedy was not effectual; simple theft not being so great a crime that it ought to cost a man his life; no punishment, how severe soever, being able to restrain those from robbing who can find out no other way of livelihood. In this,’ said I, ‘not only you in England, but a great part of the world, imitate some ill masters, that are readier to chastise their scholars than to teach them. There are dreadful punishments enacted against thieves, but it were much better to make such good provisions by which every man might be put in a method how to live, and so be preserved from the fatal necessity of stealing and of dying for it.’

“‘There has been care enough taken for that,’ said he; ‘there are many handicrafts, and there is husbandry, by which they may make a shift to live, unless they have a greater mind to follow ill courses.’

“‘That will not serve your turn,’ said I, ‘for many lose their limbs in civil or foreign wars, as lately in the Cornish rebellion, and some time ago in your wars with France, who, being thus mutilated in the service of their king and country, can no more follow their old trades, and are too old to learn new ones; but since wars are only accidental things, and have intervals, let us consider those things that fall out every day. There is a great number of noblemen among you that are themselves as idle as drones, that subsist on other men’s labor, on the labor of their tenants, whom, to

raise their revenues, they pare to the quick. This, indeed, is the only instance of their frugality, for in all other things they are prodigal, even to the beggaring of themselves; but, besides this, they carry about with them a great number of idle fellows, who never learned any art by which they may gain their living; and these, as soon as either their lord dies, or they themselves fall sick, are turned out of doors; for your lords are readier to feed idle people than to take care of the sick; and often the heir is not able to keep together so great a family as his predecessor did. Now, when the stomachs of those that are thus turned out of doors grow keen, they rob no less keenly; and what else can they do? For when, by wandering about, they have worn out both their health and their clothes, and are tattered, and look ghastly, men of quality will not entertain them, and poor men dare not do it, knowing that one who has been bred up in idleness and pleasure, and who was used to walk about with his sword and buckler, despising all the neighborhood with an insolent scorn as far below him, is not fit for the spade and mattock; nor will he serve a poor man for so small a hire and in so low a diet as he can afford to give him.'

"To this he answered, 'This sort of men ought to be particularly cherished, for in them consists the force of the armies for which we have occasion; since their birth inspires them with a nobler sense of honor than is to be found among tradesmen or plowmen.'

"'You may as well say,' replied I, 'that you must cherish thieves on the account of wars, for you will never want the one as long as you have the other; and as robbers prove sometimes gallant soldiers, so soldiers often prove brave robbers, so near an alliance there is between those two sorts of life. But this bad custom, so common among you, of keeping many servants, is

not peculiar to this nation. In France there is yet a more pestiferous sort of people, for the whole country is full of soldiers, still kept up in time of peace (if such a state of a nation can be called a peace); and these are kept in pay upon the same account that you plead for those idle retainers about noblemen: this being a maxim of those pretended statesmen, that it is necessary for the public safety to have a good body of veteran soldiers ever in readiness. They think raw men are not to be depended on, and they sometimes seek occasions for making war, that they may train up their soldiers in the art of cutting throats, or, as Sallust observed, “for keeping their hands in use, that they may not grow dull by too long an intermission.” But France has learned to its cost how dangerous it is to feed such beasts. The fate of the Romans, Carthaginians, and Syrians, and many other nations and cities, which were both overturned and quite ruined by those standing armies, should make others wiser; and the folly of this maxim of the French appears plainly even from this, that their trained soldiers often find your raw men prove too hard for them, of which I will not say much, lest you may think I flatter the English. Every day’s experience shows that the mechanics in the towns or the clowns in the country are not afraid of fighting with those idle gentlemen, if they are not disabled by some misfortune in their body or dispirited by extreme want; so that you need not fear that those well shaped and strong men (for it is only such that noblemen love to keep about them till they spoil them), who now grow feeble with ease and are softened with their effeminate manner of life, would be less fit for action if they were well bred and well employed. And it seems very unreasonable that, for the prospect of a war, which you need never have but when you please, you should maintain so many idle men, as will always disturb you in time of peace,

which is ever to be more considered than war. But I do not think that this necessity of stealing arises only from hence; there is another cause of it, more peculiar to England.'

"'What is that?' said the Cardinal.

"'The increase of pasture,' said I, 'by which your sheep, which are naturally mild, and easily kept in order, may be said now to devour men and unpeople, not only villages, but towns; for wherever it is found that the sheep of any soil yield a softer and richer wool than ordinary, there the nobility and gentry, and even those holy men, the abbots! not contented with the old rents which their farms yielded, nor thinking it enough that they, living at their ease, do no good to the public, resolve to do it hurt instead of good. They stop the course of agriculture, destroying houses and towns, reserving only the churches, and enclose grounds that they may lodge their sheep in them. As if forests and parks had swallowed up too little of the land, those worthy countrymen turn the best inhabited places into solitudes; for when an insatiable wretch, who is a plague to his country, resolves to enclose many thousand acres of ground, the owners, as well as tenants, are turned out of their possessions by trick or by main force, or, being wearied out by ill usage, they are forced to sell them; by which means those miserable people, both men and women, married and unmarried, old and young, with their poor but numerous families (since country business requires many hands), are all forced to change their seats, not knowing whither to go; and they must sell, almost for nothing, their household stuff, which could not bring them much money, even though they might stay for a buyer. When that little money is at an end (for it will be soon spent), what is left for them to do but either to steal,

and so to be hanged (God knows how justly!), or to go about and beg? and if they do this they are put in prison as idle vagabonds, while they would willingly work but can find none that will hire them; for there is no more occasion for country labor, to which they have been bred, when there is no arable ground left. One shepherd can look after a flock, which will stock an extent of ground that would require many hands if it were to be plowed and reaped.

“This, likewise, in many places raises the price of corn. The price of wool is also so risen that the poor people, who were wont to make cloth, are no more able to buy it; and this, likewise, makes many of them idle: for since the increase of pasture God has punished the avarice of the owners by a rot among the sheep, which has destroyed vast numbers of them—to us it might have seemed more just had it fell on the owners themselves. But, suppose the sheep should increase ever so much, their price is not likely to fall; since, though they cannot be called a monopoly, because they are not engrossed by one person, yet they are in so few hands, and these are so rich, that, as they are not pressed to sell them sooner than they have a mind to it, so they never do it till they have raised the price as high as possible.

“On the same account it is that the other kinds of cattle are so dear, because many villages being pulled down, and all country labor being much neglected, there are none who make it their business to breed them. The rich do not breed cattle as they do sheep, but buy them lean and at low prices; and, after they have fattened them on their grounds, sell them again at high rates. And I do not think that all the inconveniences this will produce are yet observed; for, as they sell the cattle dear, so, if they

are consumed faster than the breeding countries from which they are brought can afford them, then the stock must decrease, and this must needs end in great scarcity; and by these means, this your island, which seemed as to this particular the happiest in the world, will suffer much by the cursed avarice of a few persons: besides this, the rising of corn makes all people lessen their families as much as they can; and what can those who are dismissed by them do but either beg or rob? And to this last a man of a great mind is much sooner drawn than to the former.

“Luxury likewise breaks in apace upon you to set forward your poverty and misery; there is an excessive vanity in apparel, and great cost in diet, and that not only in noblemen’s families, but even among tradesmen, among the farmers themselves, and among all ranks of persons. You have also many infamous houses, and, besides those that are known, the taverns and ale-houses are no better; add to these dice, cards, tables, football, tennis, and quoits, in which money runs fast away; and those that are initiated into them must, in the conclusion, betake themselves to robbing for a supply. Banish these plagues, and give orders that those who have dispeopled so much soil may either rebuild the villages they have pulled down or let out their grounds to such as will do it; restrain those engrossings of the rich, that are as bad almost as monopolies; leave fewer occasions to idleness; let agriculture be set up again, and the manufacture of the wool be regulated, that so there may be work found for those companies of idle people whom want forces to be thieves, or who now, being idle vagabonds or useless servants, will certainly grow thieves at last. If you do not find a remedy to these evils it is a vain thing to boast of your severity in punishing theft, which, though it may have the appearance of

justice, yet in itself is neither just nor convenient; for if you suffer your people to be ill-educated, and their manners to be corrupted from their infancy, and then punish them for those crimes to which their first education disposed them, what else is to be concluded from this but that you first make thieves and then punish them?’

“While I was talking thus, the lawyer, who was present, had prepared an answer, and had resolved to resume all I had said, according to the formality of a debate, in which things are generally repeated more faithfully than they are answered, as if the chief trial to be made were of men’s memories.

“‘You have talked prettily, for a stranger,’ said he, ‘having heard of many things among us which you have not been able to consider well; but I will make the whole matter plain to you, and will first repeat in order all that you have said; then I will show how much your ignorance of our affairs has misled you; and will, in the last place, answer all your arguments. And, that I may begin where I promised, there were four things –’

“‘Hold your peace!’ said the Cardinal; ‘this will take up too much time; therefore we will, at present, ease you of the trouble of answering, and reserve it to our next meeting, which shall be tomorrow, if Raphael’s affairs and yours can admit of it. But, Raphael,’ said he to me, ‘I would gladly know upon what reason it is that you think theft ought not to be punished by death: would you give way to it? or do you propose any other punishment that will be more useful to the public? for, since death does not restrain theft, if men thought their lives would be safe, what fear or force could restrain ill men? On the contrary, they would look on the mitigation of the punishment as an invitation to commit more crimes.’

“I answered, ‘It seems to me a very unjust thing to take away a man’s life for a little money, for nothing in the world can be of equal value with a man’s life: and if it be said, “that it is not for the money that one suffers, but for his breaking the law,” I must say, extreme justice is an extreme injury: for we ought not to approve of those terrible laws that make the smallest offenses capital, nor of that opinion of the Stoics that makes all crimes equal; as if there were no difference to be made between the killing a man and the taking his purse, between which, if we examine things impartially, there is no likeness nor proportion. God has commanded us not to kill, and shall we kill so easily for a little money? But if one shall say, that by that law we are only forbid to kill any except when the laws of the land allow of it, upon the same grounds, laws may be made, in some cases, to allow of adultery and perjury: for God having taken from us the right of disposing either of our own or of other people’s lives, if it is pretended that the mutual consent of men in making laws can authorize man-slaughter in cases in which God has given us no example, that it frees people from the obligation of the divine law, and so makes murder a lawful action, what is this, but to give a preference to human laws before the divine? and, if this is once admitted, by the same rule men may, in all other things, put what restrictions they please upon the laws of God. If, by the Mosaical law, though it was rough and severe, as being a yoke laid on an obstinate and servile nation, men were only fined, and not put to death for theft, we cannot imagine, that in this new law of mercy, in which God treats us with the tenderness of a father, He has given us a greater license to cruelty than He did to the Jews.

“Upon these reasons it is, that I think putting thieves to death is not

lawful; and it is plain and obvious that it is absurd and of ill consequence to the commonwealth that a thief and a murderer should be equally punished; for if a robber sees that his danger is the same if he is convicted of theft as if he were guilty of murder, this will naturally incite him to kill the person whom otherwise he would only have robbed; since, if the punishment is the same, there is more security, and less danger of discovery, when he that can best make it is put out of the way; so that terrifying thieves too much provokes them to cruelty.

“But as to the question, ‘What more convenient way of punishment can be found?’ I think it much easier to find out that than to invent anything that is worse; why should we doubt but the way that was so long in use among the old Romans, who understood so well the arts of government, was very proper for their punishment? They condemned such as they found guilty of great crimes to work their whole lives in quarries, or to dig in mines with chains about them. But the method that I liked best was that which I observed in my travels in Persia, among the Polylerits, who are a considerable and well governed people: they pay a yearly tribute to the King of Persia, but in all other respects they are a free nation, and governed by their own laws: they lie far from the sea, and are environed with hills; and, being contented with the productions of their own country, which is very fruitful, they have little commerce with any other nation; and as they, according to the genius of their country, have no inclination to enlarge their borders, so their mountains and the pension they pay to the Persian, secure them from all invasions. Thus they have no wars among them; they live rather conveniently than with splendor, and may be rather called a happy nation than either eminent or famous; for I do not think that they

are known, so much as by name, to any but their next neighbors.

“Those that are found guilty of theft among them are bound to make restitution to the owner, and not, as it is in other places, to the prince, for they reckon that the prince has no more right to the stolen goods than the thief; but if that which was stolen is no more in being, then the goods of the thieves are estimated, and restitution being made out of them, the remainder is given to their wives and children. The thieves are condemned to serve in the public works, but are neither imprisoned nor chained, unless there happens to be some extraordinary circumstance in their crimes. They go about loose and free, working for the public: if they are idle or backward to work they are whipped, but if they work hard they are well used and treated without any mark of reproach; only the lists of them are called always at night, and then they are shut up. They suffer no other uneasiness but this of constant labor; for, as they work for the public, so they are well entertained out of the public stock, which is done differently in different places: in some places whatever is bestowed on them is raised by a charitable contribution; and, though this way may seem uncertain, yet so merciful are the inclinations of that people, that they are plentifully supplied by it; but in other places public revenues are set aside for them, or there is a constant tax or poll-money raised for their maintenance. In some places they are set to no public work, but every private man that has occasion to hire workmen goes to the market places and hires them of the public, a little lower than he would do a freeman. If they go lazily about their task he may quicken them with the whip. By this means there is always some piece of work or other to be done by them; and, besides their livelihood, they earn somewhat still to the public.

“They all wear a peculiar habit, of one certain color, and their hair is cropped a little above their ears, and a piece of one of their ears is cut off. Their friends are allowed to give them either meat, drink, or clothes, so long as they are of their proper color; but it is death, both to the giver and taker, if they give them money; nor is it less penal for any freeman to take money from them upon any account whatsoever: and it is also death for any of these slaves (so they are called) to handle arms. Those of every division of the country are distinguished by a peculiar mark, which it is capital for them to lay aside, to go out of their bounds, or to talk with a slave of another jurisdiction, and the very attempt of an escape is no less penal than an escape itself. It is death for any other slave to be accessory to it; and if a freeman engages in it he is condemned to slavery. Those that discover it are rewarded – if freemen, in money; and if slaves, with liberty, together with a pardon for being accessory to it; that so they might find their account rather in repenting of their engaging in such a design than in persisting in it.

“These are their laws and rules in relation to robbery, and it is obvious that they are as advantageous as they are mild and gentle; since vice is not only destroyed and men preserved, but they are treated in such a manner as to make them see the necessity of being honest and of employing the rest of their lives in repairing the injuries they had formerly done to society. Nor is there any hazard of their falling back to their old customs; and so little do travelers apprehend mischief from them that they generally make use of them for guides from one jurisdiction to another; for there is nothing left them by which they can rob or be the better for it, since, as they are disarmed, so the very having of money is a sufficient conviction:

and as they are certainly punished if discovered, so they cannot hope to escape; for their habit being in all the parts of it different from what is commonly worn, they cannot fly away, unless they would go naked, and even then their cropped ear would betray them. The only danger to be feared from them is their conspiring against the government; but those of one division and neighborhood can do nothing to any purpose unless a general conspiracy were laid amongst all the slaves of the several jurisdictions, which cannot be done, since they cannot meet or talk together; nor will any venture on a design where the concealment would be so dangerous and the discovery so profitable. None are quite hopeless of recovering their freedom, since by their obedience and patience, and by giving good grounds to believe that they will change their manner of life for the future, they may expect at last to obtain their liberty, and some are every year restored to it upon the good character that is given of them.

“When I had related all this, I added that I did not see why such a method might not be followed with more advantage than could ever be expected from that severe “justice” which the lawyer magnified so much. To this he answered, ‘That it could never take place in England without endangering the whole nation.’

“As he said this he shook his head, made some grimaces, and held his peace, while all the company seemed of his opinion, except the Cardinal, who said, ‘That it was not easy to form a judgment of its success, since it was a method that never yet had been tried; but if,’ said he, ‘when sentence of death were passed upon a thief, the prince would reprieve him for a while, and make the experiment upon him, denying him the privilege of a sanctuary; and then, if it had a good effect upon him, it might

take place; and, if it did not succeed, the worst would be to execute the sentence on the condemned persons at last; and I do not see,' added he, 'why it would be either unjust, inconvenient, or at all dangerous to admit of such a delay; in my opinion the vagabonds ought to be treated in the same manner, against whom, though we have made many laws, yet we have not been able to gain our end.'

"When the Cardinal was done, they all commended the motion, though they had despised it when it came from me, but more particularly commended what related to the vagabonds, because it was his own observation.

"I do not know whether it be worth while to tell what followed, for it was very ridiculous; but I shall venture at it, for as it is not foreign to this matter, so some good use may be made of it. There was a Jester standing by, that counterfeited the fool so naturally that he seemed to be really one; the jests which he offered were so cold and dull that we laughed more at him than at them, yet sometimes he said, as it were by chance, things that were not unpleasant, so as to justify the old proverb, 'That he who throws the dice often, will sometimes have a lucky hit.'

"One of the company then said that I had taken care of the thieves, and the Cardinal had taken care of the vagabonds, so that there remained nothing but that some public provision might be made for the poor whom sickness or old age had disabled from labor 'Leave that to me,' said the Fool, 'and I shall take care of them, for there is no sort of people whose sight I abhor more, having been so often vexed with them and with their sad complaints; but as dolefully so-ever as they have told their tale, they could never prevail so far as to draw one penny from me; for either I had

no mind to give them anything, or, when I had a mind to do it, I had nothing to give them; and they now know me so well that they will not lose their labor, but let me pass without giving me any trouble, because they hope for nothing—no more, in faith, than if I were a priest; but I would have a law made for sending all these beggars to monasteries, the men to the Benedictines, to be made lay-brothers, and the women to be nuns.’

“The Cardinal smiled, and approved of it in jest, but the rest liked it in earnest. There was a divine present, who, though he was a grave morose man, yet he was so pleased with this reflection that was made on the priests and the monks that he began to play with the Fool, and said to him, ‘This will not deliver you from all beggars, except you take care of us Friars.’ ‘That is done already,’ answered the Fool, ‘for the Cardinal has provided for you by what he proposed for restraining vagabonds and setting them to work, for I know no vagabonds like you.’

“This was well entertained by the whole company, who, looking at the Cardinal, perceived that he was not ill-pleased at it; only the Friar himself was vexed, as may be easily imagined, and fell into such a passion that he could not forbear railing at the Fool, and calling him knave, slanderer, backbiter, and son of perdition, and then cited some dreadful threatenings out of the Scriptures against him. Now the Jester thought he was in his element, and laid about him freely. ‘Good Friar,’ said he, ‘be not angry, for it is written, “In patience possess your soul.”’

“The Friar answered (for I shall give you his own words), ‘I am not angry, you hangman; at least, I do not sin in it, for the Psalmist says, “Be ye angry and sin not.”’ Upon this the Cardinal admonished him gently, and wished him to govern his passions. ‘No, my lord,’ said he, ‘I speak not but

from a good zeal, which I ought to have, for holy men have had a good zeal, as it is said, “The zeal of thy house hath eaten me up;” and we sing in our church that those who mocked Elisha as he went up to the house of God felt the effects of his zeal, which that mocker, that rogue, that scoundrel, will perhaps feel.’

“‘You do this, perhaps, with a good intention,’ said the Cardinal, ‘but, in my opinion, it were wiser in you, and perhaps better for you, not to engage in so ridiculous a contest with a Fool.’

“‘No, my lord,’ answered he, ‘that were not wisely done, for Solomon, the wisest of men, said, “Answer a Fool according to his folly,” which I now do, and show him the ditch into which he will fall, if he is not aware of it; for if the many mockers of Elisha, who was but one bald man, felt the effect of his zeal, what will become of the mocker of so many Friars, among whom there are so many bald men? We have, likewise, a bull, by which all that jeer us are excommunicated.’

“When the Cardinal saw that there was no end of this matter he made a sign to the Fool to withdraw, turned the discourse another way, and soon after rose from the table, and, dismissing us, went to hear causes.

“Thus, Mr. More, I have run out into a tedious story, of the length of which I had been ashamed, if (as you earnestly begged it of me) I had not observed you to hearken to it as if you had no mind to lose any part of it. I might have contracted it, but I resolved to give it you at large, that you might observe how those that despised what I had proposed, no sooner perceived that the Cardinal did not dislike it but presently approved of it, fawned so on him and flattered him to such a degree, that they in good earnest applauded those things that he only liked in jest; and from hence you may gather how

little courtiers would value either me or my counsels.”

To this I answered, “You have done me a great kindness in this relation; for as everything has been related by you both wisely and pleasantly, so you have made me imagine that I was in my own country and grown young again, by recalling that good Cardinal to my thoughts, in whose family I was bred from my childhood; and though you are, upon other accounts, very dear to me, yet you are the dearer because you honor his memory so much; but, after all this, I cannot change my opinion, for I still think that if you could overcome that aversion which you have to the courts of princes, you might, by the advice which it is in your power to give, do a great deal of good to mankind, and this is the chief design that every good man ought to propose to himself in living; for your friend Plato thinks that nations will be happy when either philosophers become kings or kings become philosophers. It is no wonder if we are so far from that happiness while philosophers will not think it their duty to assist kings with their counsels.”

“They are not so base-minded,” said he, “but that they would willingly do it; many of them have already done it by their books, if those that are in power would but hearken to their good advice. But Plato judged right, that except kings themselves became philosophers, they who from their childhood are corrupted with false notions would never fall in entirely with the counsels of philosophers, and this he himself found to be true in the person of Dionysius.

“Do not you think that if I were about any king, proposing good laws to him, and endeavoring to root out all the cursed seeds of evil that I found in him, I should either be turned out of his court, or, at least, be laughed at for my pains? For instance, what could I signify if I were about the King of

France, and were called into his cabinet council, where several wise men, in his hearing, were proposing many expedients; as, by what arts and practices Milan may be kept, and Naples, that has so often slipped out of their hands, recovered; how the Venetians, and after them the rest of Italy, may be subdued; and then how Flanders, Brabant, and all Burgundy, and some other kingdoms which he has swallowed already in his designs, may be added to his empire? One proposes a league with the Venetians, to be kept as long as he finds his account in it, and that he ought to communicate counsels with them, and give them some share of the spoil till his success makes him need or fear them less, and then it will be easily taken out of their hands; another proposes the hiring the Germans and the securing the Switzers by pensions; another proposes the gaining the Emperor by money, which is omnipotent with him; another proposes a peace with the King of Arragon, and, in order to cement it, the yielding up the King of Navarre's pretensions; another thinks that the Prince of Castile is to be wrought on by the hope of an alliance, and that some of his courtiers are to be gained to the French faction by pensions. The hardest point of all is, what to do with England; a treaty of peace is to be set on foot, and, if their alliance is not to be depended on, yet it is to be made as firm as possible, and they are to be called friends, but suspected as enemies: therefore the Scots are to be kept in readiness to be let loose upon England on every occasion; and some banished nobleman is to be supported underhand (for by the League it cannot be done avowedly) who has a pretension to the crown, by which means that suspected prince may be kept in awe.

“Now when things are in so great a fermentation, and so many gallant men are joining counsels how to carry on the war, if so mean a man as I

should stand up and wish them to change all their counsels – to let Italy alone and stay at home, since the kingdom of France was indeed greater than could be well governed by one man; that therefore he ought not to think of adding others to it; and if, after this, I should propose to them the resolutions of the Achorians, a people that lie on the south-east of Utopia, who long ago engaged in war in order to add to the dominions of their prince another kingdom, to which he had some pretensions by an ancient alliance: this they conquered, but found that the trouble of keeping it was equal to that by which it was gained; that the conquered people were always either in rebellion or exposed to foreign invasions, while they were obliged to be incessantly at war, either for or against them, and consequently could never disband their army; that in the meantime they were oppressed with taxes, their money went out of the kingdom, their blood was spilt for the glory of their king without procuring the least advantage to the people, who received not the smallest benefit from it even in time of peace; and that, their manners being corrupted by a long war, robbery and murders everywhere abounded, and their laws fell into contempt; while their king, distracted with the care of two kingdoms, was the less able to apply his mind to the interest of either. When they saw this, and that there would be no end to these evils, they by joint counsels made an humble address to their king, desiring him to choose which of the two kingdoms he had the greatest mind to keep, since he could not hold both; for they were too great a people to be governed by a divided king, since no man would willingly have a groom that should be in common between him and another. Upon which the good prince was forced to quit his new kingdom to one of his friends (who was not long after dethroned), and to

be contented with his old one. To this I would add that after all those war-like attempts, the vast confusions, and the consumption both of treasure and of people that must follow them, perhaps upon some misfortune they might be forced to throw up all at last; therefore it seemed much more eligible that the king should improve his ancient kingdom all he could, and make it flourish as much as possible; that he should love his people, and be beloved of them; that he should live among them, govern them gently and let other kingdoms alone, since that which had fallen to his share was big enough, if not too big, for him:—pray, how do you think would such a speech as this be heard?”

“I confess,” said I, “I think not very well.”

“But what,” said he, “if I should sort with another kind of ministers, whose chief contrivances and consultations were by what art the prince’s treasures might be increased? Where one proposes raising the value of specie when the king’s debts are large, and lowering it when his revenues were to come in, that so he might both pay much with a little, and in a little receive a great deal. Another proposes a pretense of a war, that money might be raised in order to carry it on, and that a peace be concluded as soon as that was done; and this with such appearances of religion as might work on the people, and make them impute it to the piety of their prince, and to his tenderness for the lives of his subjects. A third offers some old musty laws that have been antiquated by a long disuse (and which, as they had been forgotten by all the subjects, so they had also been broken by them), and proposes the levying the penalties of these laws, that, as it would bring in a vast treasure, so there might be a very good pretense for it, since it would look like the executing a law and the doing of

justice. A fourth proposes the prohibiting of many things under severe penalties, especially such as were against the interest of the people, and then the dispensing with these prohibitions, upon great compositions, to those who might find their advantage in breaking them. This would serve two ends, both of them acceptable to many; for as those whose avarice led them to transgress would be severely fined, so the selling licenses dear would look as if a prince were tender of his people, and would not easily, or at low rates, dispense with anything that might be against the public good.

“Another proposes that the judges must be made sure, that they may declare always in favor of the prerogative; that they must be often sent for to court, that the king may hear them argue those points in which he is concerned; since, how unjust soever any of his pretensions may be, yet still some one or other of them, either out of contradiction to others, or the pride of singularity, or to make their court, would find out some pretense or other to give the king a fair color to carry the point. For if the judges but differ in opinion, the clearest thing in the world is made by that means disputable, and truth being once brought in question, the king may then take advantage to expound the law for his own profit; while the judges that stand out will be brought over, either through fear or modesty; and they being thus gained, all of them may be sent to the bench to give sentence boldly as the king would have it; for fair pretenses will never be wanting when sentence is to be given in the prince’s favor. It will either be said that equity lies of his side, or some words in the law will be found sounding that way, or some forced sense will be put on them; and, when all other things fail, the king’s undoubted prerogative

will be pretended, as that which is above all law, and to which a religious judge ought to have a special regard.

“Thus all consent to that maxim of Crassus, that a prince cannot have treasure enough, since he must maintain his armies out of it; that a king, even though he would, can do nothing unjustly; that all property is in him, not excepting the very persons of his subjects; and that no man has any other property but that which the king, out of his goodness, thinks fit to leave him. And they think it is the prince’s interest that there be as little of this left as may be, as if it were his advantage that his people should have neither riches nor liberty, since these things make them less easy and willing to submit to a cruel and unjust government. Whereas necessity and poverty blunts them, makes them patient, beats them down, and breaks that height of spirit that might otherwise dispose them to rebel.

“Now what if, after all these propositions were made, I should rise up and assert that such counsels were both unbecoming a king and mischievous to him; and that not only his honor, but his safety, consisted more in his people’s wealth than in his own; if I should show that they choose a king for their own sake, and not for his; that, by his care and endeavors, they may be both easy and safe; and that, therefore, a prince ought to take more care of his people’s happiness than of his own, as a shepherd is to take more care of his flock than of himself?

“It is also certain that they are much mistaken that think the poverty of a nation is a mean of the public safety. Who quarrel more than beggars? Who does more earnestly long for a change than he that is uneasy in his present circumstances? And who run to create confusions with so desperate a boldness as those who, having nothing to lose, hope to gain by them?

If a king should fall under such contempt or envy that he could not keep his subjects in their duty but by oppression and ill usage, and by rendering them poor and miserable, it were certainly better for him to quit his kingdom than to retain it by such methods as make him, while he keeps the name of authority, lose the majesty due to it. Nor is it so becoming the dignity of a king to reign over beggars as over rich and happy subjects.

“And therefore Fabricius, a man of a noble and exalted temper, said ‘he would rather govern rich men than be rich himself; since for one man to abound in wealth and pleasure when all about him are mourning and groaning, is to be a jailer and not a king.’ He is an un-skilful physician that cannot cure one disease without casting his patient into another. So he that can find no other way for correcting the errors of his people but by taking from them the conveniences of life, shows that he knows not what it is to govern a free nation. He himself ought rather to shake off his sloth, or to lay down his pride, for the contempt or hatred that his people have for him takes its rise from the vices in himself. Let him live upon what belongs to him without wronging others, and accommodate his expense to his revenue. Let him punish crimes, and, by his wise conduct, let him endeavor to prevent them, rather than be severe when he has suffered them to be too common. Let him not rashly revive laws that are abrogated by disuse, especially if they have been long forgotten and never wanted. And let him never take any penalty for the breach of them to which a judge would not give way in a private man, but would look on him as a crafty and unjust person for pretending to it.

“To these things I would add that law among the Macarians – a people that live not far from Utopia – by which their king, on the day on which he began

to reign, is tied by an oath, confirmed by solemn sacrifices, never to have at once above a thousand pounds of gold in his treasures, or so much silver as is equal to that in value. This law, they tell us, was made by an excellent king who had more regard to the riches of his country than to his own wealth, and therefore provided against the heaping up of so much treasure as might impoverish the people. He thought that moderate sum might be sufficient for any accident, if either the king had occasion for it against the rebels, or the kingdom against the invasion of an enemy; but that it was not enough to encourage a prince to invade other men's rights – a circumstance that was the chief cause of his making that law. He also thought that it was a good provision for that free circulation of money so necessary for the course of commerce and exchange. And when a king must distribute all those extraordinary accessions that increase treasure beyond the due pitch, it makes him less disposed to oppress his subjects. Such a king as this will be the terror of ill men, and will be beloved by all the good. If, I say, I should talk of these or such-like things to men that had taken their bias another way, how deaf would they be to all I could say!"

"No doubt, very deaf," answered I; "and no wonder, for one is never to offer propositions or advice that we are certain will not be entertained. Discourses so much out of the road could not avail anything, nor have any effect on men whose minds were prepossessed with different sentiments. This philosophical way of speculation is not unpleasant among friends in a free conversation; but there is no room for it in the courts of princes, where great affairs are carried on by authority."

"That is what I was saying," replied he, "that there is no room for philosophy in the courts of princes."

“Yes, there is,” said I, “but not for this speculative philosophy, that makes everything to be alike fitting at all times; but there is another philosophy that is more pliable, that knows its proper scene, accommodates itself to it, and teaches a man with propriety and decency to act that part which has fallen to his share. If, when one of Plautus’ comedies is upon the stage, and a company of servants are acting their parts, you should come out in the garb of a philosopher, and repeat, out of Octavia, a discourse of Seneca’s to Nero, would it not be better for you to say nothing than by mixing things of such different natures to make an impertinent tragicomedy? For you spoil and corrupt the play that is in hand when you mix with it things of an opposite nature, even though they are much better. Therefore go through with the play that is acting the best you can, and do not confound it because another that is pleasanter comes into your thoughts. “It is even so in a commonwealth and in the councils of princes; if ill opinions cannot be quite rooted out, and you cannot cure some received vice according to your wishes, you must not, therefore, abandon the commonwealth, for the same reasons as you should not forsake the ship in a storm because you cannot command the winds. You are not obliged to assault people with discourses that are out of their road, when you see that their received notions must prevent your making an impression upon them: you ought rather to cast about and to manage things with all the dexterity in your power, so that, if you are not able to make them go well, they may be as little ill as possible; for, except all men were good, everything cannot be right, and that is a blessing that I do not at present hope to see.”

“According to your argument,” answered he, “all that I could be able to do would be to preserve myself from being mad while I endeavored to cure

the madness of others; for, if I speak with, I must repeat what I have said to you; and as for lying, whether a philosopher can do it or not I cannot tell: I am sure I cannot do it. But though these discourses may be uneasy and ungrateful to them, I do not see why they should seem foolish or extravagant; indeed, if I should either propose such things as Plato has contrived in his ‘Commonwealth,’ or as the Utopians practice in theirs, though they might seem better, as certainly they are, yet they are so different from our establishment, which is founded on property (there being no such thing among them), that I could not expect that it would have any effect on them.

“But such discourses as mine, which only call past evils to mind and give warning of what may follow, leave nothing in them that is so absurd that they may not be used at any time, for they can only be unpleasant to those who are resolved to run headlong the contrary way; and if we must let alone everything as absurd or extravagant – which, by reason of the wicked lives of many, may seem uncouth – we must, even among Christians, give over pressing the greatest part of those things that Christ hath taught us, though He has commanded us not to conceal them, but to proclaim on the housetops that which He taught in secret. The greatest parts of His precepts are more opposite to the lives of the men of this age than any part of my discourse has been, but the preachers seem to have learned that craft to which you advise me: for they, observing that the world would not willingly suit their lives to the rules that Christ has given, have fitted His doctrine, as if it had been a leaden rule, to their lives, that so, some way or other, they might agree with one another.

“But I see no other effect of this compliance except it be that men become

more secure in their wickedness by it; and this is all the success that I can have in a court, for I must always differ from the rest, and then I shall signify nothing; or, if I agree with them, I shall then only help forward their madness. I do not comprehend what you mean by your ‘casting about,’ or by ‘the bending and handling things so dexterously that, if they go not well, they may go as little ill as may be;’ for in courts they will not bear with a man’s holding his peace or conniving at what others do: a man must barefacedly approve of the worst counsels and consent to the blackest designs, so that he would pass for a spy, or, possibly, for a traitor, that did but coldly approve of such wicked practices; and therefore when a man is engaged in such a society, he will be so far from being able to mend matters by his ‘casting about,’ as you call it, that he will find no occasions of doing any good—the ill company will sooner corrupt him than be the better for him; or if, notwithstanding all their ill company, he still remains steady and innocent, yet their follies and knavery will be imputed to him; and, by mixing counsels with them, he must bear his share of all the blame that belongs wholly to others.

“It was no ill simile by which Plato set forth the unreasonableness of a philosopher’s meddling with government. ‘If a man,’ says he, ‘were to see a great company run out every day into the rain and take delight in being wet – if he knew that it would be to no purpose for him to go and persuade them to return to their houses in order to avoid the storm, and that all that could be expected by his going to speak to them would be that he himself should be as wet as they, it would be best for him to keep within doors, and, since he had not influence enough to correct other people’s folly, to take care to preserve himself.’

“Though, to speak plainly my real sentiments, I must freely own that as long as there is any property, and while money is the standard of all other things, I cannot think that a nation can be governed either justly or happily: not justly, because the best things will fall to the share of the worst men; nor happily, because all things will be divided among a few (and even these are not in all respects happy), the rest being left to be absolutely miserable.

“Therefore, when I reflect on the wise and good constitution of the Utopians, among whom all things are so well governed and with so few laws, where virtue hath its due reward, and yet there is such an equality that every man lives in plenty—when I compare with them so many other nations that are still making new laws, and yet can never bring their constitution to a right regulation; where, notwithstanding every one has his property, yet all the laws that they can invent have not the power either to obtain or preserve it, or even to enable men certainly to distinguish what is their own from what is another’s, of which the many lawsuits that every day break out, and are eternally depending, give too plain a demonstration – when, I say, I balance all these things in my thoughts, I grow more favorable to Plato, and do not wonder that he resolved not to make any laws for such as would not submit to a community of all things; for so wise a man could not but foresee that the setting all upon a level was the only way to make a nation happy; which cannot be obtained so long as there is property, for when every man draws to himself all that he can encompass, by one title or another, it must needs follow that, how plentiful so-ever a nation may be, yet a few dividing the wealth of it among themselves, the rest must fall into indigence. So that there will be two sorts of people

among them, who deserve that their fortunes should be interchanged—the former useless, but wicked and ravenous; and the latter, who by their constant industry serve the public more than themselves, sincere and modest men.

“From whence I am persuaded that till property is taken away, there can be no equitable or just distribution of things, nor can the world be happily governed; for as long as that is maintained, the greatest and the far best part of mankind, will be still oppressed with a load of cares and anxieties. I confess, without taking it quite away, those pressures that lie on a great part of mankind may be made lighter, but they can never be quite removed; for if laws were made to determine at how great an extent in soil, and at how much money, every man must stop – to limit the prince, that he might not grow too great; and to restrain the people, that they might not become too insolent—and that none might factiously aspire to public employments, which ought neither to be sold nor made burdensome by a great expense, since otherwise those that serve in them would be tempted to reimburse themselves by cheats and violence, and it would become necessary to find out rich men for undergoing those employments, which ought rather to be trusted to the wise. These laws, I say, might have such effect as good diet and care might have on a sick man whose recovery is desperate; they might allay and mitigate the disease, but it could never be quite healed, nor the body politic be brought again to a good habit as long as property remains; and it will fall out, as in a complication of diseases, that by applying a remedy to one sore you will provoke another, and that which removes the one ill symptom produces others, while the strengthening one part of the body weakens the rest.”

“On the contrary,” answered I, “it seems to me that men cannot live conveniently where all things are common. How can there be any plenty where every man will excuse himself from labor? For as the hope of gain doth not excite him, so the confidence that he has in other men’s industry may make him slothful. If people come to be pinched with want, and yet cannot dispose of anything as their own, what can follow upon this but perpetual sedition and bloodshed, especially when the reverence and authority due to magistrates falls to the ground? for I cannot imagine how that can be kept up among those that are in all things equal to one another.”

“I do not wonder,” said he, “that it appears so to you, since you have no notion, or at least no right one, of such a constitution; but if you had been in Utopia with me, and had seen their laws and rules, as I did, for the space of five years, in which I lived among them, and during which time I was so delighted with them that indeed I should never have left them if it had not been to make the discovery of that new world to the Europeans, you would then confess that you had never seen a people so well constituted as they.”

“You will not easily persuade me,” said Peter, “that any nation in that new world is better governed than those among us; for as our understandings are not worse than theirs, so our government (if I mistake not) being more ancient, a long practice has helped us to find out many conveniences of life, and some happy chances have discovered other things to us which no man’s understanding could ever have invented.”

“As for the antiquity either of their government or of ours,” said he, “you cannot pass a true judgment of it unless you had read their histories; for, if they are to be believed, they had towns among them before these parts were so much as inhabited; and as for those discoveries that have been either hit

on by chance or made by ingenious men, these might have happened there as well as here. I do not deny but we are more ingenious than they are, but they exceed us much in industry and application. They knew little concerning us before our arrival among them. They call us all by a general name of ‘The nations that lie beyond the equinoctial line;’ for their chronicle mentions a shipwreck that was made on their coast twelve hundred years ago, and that some Romans and Egyptians that were in the ship, getting safe ashore, spent the rest of their days amongst them; and such was their ingenuity that from this single opportunity they drew the advantage of learning from those unlooked-for guests, and acquired all the useful arts that were then among the Romans, and which were known to these shipwrecked men; and by the hints that they gave them they themselves found out even some of those arts which they could not fully explain, so happily did they improve that accident of having some of our people cast upon their shore. But if such an accident has at any time brought any from thence into Europe, we have been so far from improving it that we do not so much as remember it, as, in after times perhaps, it will be forgot by our people that I was ever there; for though they, from one such accident, made themselves masters of all the good inventions that were among us, yet I believe it would be long before we should learn or put in practice any of the good institutions that are among them. And this is the true cause of their being better governed and living happier than we, though we come not short of them in point of understanding or outward advantages.”

Upon this I said to him, “I earnestly beg you would describe that island very particularly to us; be not too short, but set out in order all things relating to their soil, their rivers, their towns, their people, their manners,

constitution, laws, and, in a word, all that you imagine we desire to know; and you may well imagine that we desire to know everything concerning them of which we are hitherto ignorant.”

“I will do it very willingly,” said he, “for I have digested the whole matter carefully, but it will take up some time.”

“Let us go, then,” said I, “first and dine, and then we shall have leisure enough.” He consented; we went in and dined, and after dinner came back and sat down in the same place. I ordered my servants to take care that none might come and interrupt us, and both Peter and I desired Raphael to be as good as his word. When he saw that we were very intent upon it he paused a little to recollect himself, and began in this manner:

THE END OF BOOK ONE

4. The Abraxa building site

On the other side of the island there are likewise many harbors; and the coast is so fortified, both by nature and art, that a small number of men can hinder the descent of a great army. But they report (and there remains good marks of it to make it credible) that this was no island at first, but a part of the continent. Utopus, that conquered it (whose name it still carries, for Abraxa was its first name), brought the rude and uncivilized inhabitants into such a good government, and to that measure of politeness, that they now far excel all the rest of mankind. Having soon subdued them, he designed to separate them from the continent, and to bring the sea quite round them. To accomplish this he ordered a deep channel to be dug, fifteen miles long; and that the natives might not think he treated them like slaves, he not only forced the inhabitants, but also his own soldiers, to labor in carrying it on. As he set a vast number of men to work, he, beyond all men's expectations, brought it to a speedy conclusion. And his neighbors, who at first laughed at the folly of the undertaking, no sooner saw it brought to perfection than they were struck with admiration and terror.

5. The country and the cities

There are fifty-four cities in the island, all large and well built, the manners, customs, and laws of which are the same, and they are all contrived as near in the same manner as the ground on which they stand will allow. The nearest lie at least twenty-four miles' distance from one another, and the most remote are not so far distant but that a man can go on foot in one day from it to that which lies next it.

Every city sends three of their wisest senators once a year to Amaurot, to consult about their common concerns; for that is the chief town of the island, being situated near the center of it, so that it is the most convenient place for their assemblies. The jurisdiction of every city extends at

6. The farms

least twenty miles, and, where the towns lie wider, they have much more ground. No town desires to enlarge its bounds, for the people consider themselves rather as tenants than landlords. They have built, over all the country, farmhouses for husbandmen, which are well contrived, and furnished with all things necessary for country labor. Inhabitants are sent, by turns, from the cities to dwell in them; no country family has fewer than forty men and women in it, besides two slaves. There is a master and a mistress set over every family, and over thirty families there is a magistrate. Every year twenty of this family come back to the town after they have stayed two years in the country, and in their stead there are another twenty sent from the town, that they may learn country work from those that have been already one year in the country, as they must teach those that come to them the next from the town. By this means such as dwell in those country farms are never ignorant of agriculture, and so commit no errors which might otherwise be fatal and bring them under a scarcity of corn. But though there is every year such a shifting of the husbandmen to prevent any man being forced against his will to follow that hard course of life too long, yet many among them take such pleasure in it that they desire leave to continue in it many years.

These husbandmen till the ground, breed cattle, hew wood, and convey it to the towns either by land or water, as is most convenient. They breed an infinite multitude of chickens in a very curious manner; for the hens do not sit and hatch them, but a vast number of eggs are laid in a gentle and equal heat in order to be hatched, and they are no sooner out of the shell, and able to stir about, but they seem to consider those that feed them as their mothers, and follow them as other chickens do the hen that hatched them.

They breed very few horses, but those they have are full of mettle, and are kept only for exercising their youth in the art of sitting and riding them; for they do not put them to any work, either of plowing or carriage, in which they employ oxen. For though their horses are stronger, yet they find oxen can hold out longer; and as they are not subject to so many diseases, so they are kept upon a less charge and with less trouble. And even when they are so worn out that they are no more fit for labor, they are good meat at last.

They sow no corn but that which is to be their bread; for they drink either wine, cider or perry, and often water, sometimes boiled with honey or liquorice, with which they abound; and though they know exactly how much corn will serve every town and all that tract of country which belongs to it, yet they sow much more and breed more cattle than are necessary for their consumption, and they give that surplus of which they make no use to their neighbors. When they want anything in the country which it does not produce, they fetch that from the town, without carrying anything in exchange for it. And the magistrates of the town take care to see it given them; for they meet generally in the town once a month, upon a festival day. When the time of harvest comes, the magistrates in the country send to those in the towns and let them know how many hands they will need for reaping the harvest; and the number they call for being sent to them, they commonly despatch it all in one day.

THEIR CITIES, PARTICULARLY OF AMAUROT

He that knows one of their towns knows them all – they are so like one another, except where the situation makes some difference. I shall therefore

7. Amaurot

describe one of them, and none is so proper as Amaurot; for as none is more eminent (all the rest yielding in precedence to this, because it is the seat of their supreme council), so there was none of them better known to me, I having lived five years all together in it.

It lies upon the side of a hill, or, rather, a rising ground. Its figure is almost square, for from the one side of it, which shoots up almost to the top of the hill, it runs down, in a descent for two miles, to the river Anyder; but it is a little broader the other way that runs along by the bank of that river. The Anyder rises about eighty miles above Amaurot, in a small spring at first. But other brooks falling into it, of which two are more considerable than the rest, as it runs by Amaurot it is grown half a mile broad; but, it still grows larger and larger, till, after sixty miles' course below it, it is lost in the ocean. Between the town and the sea, and for some miles above the town, it ebbs and flows every six hours with a strong current. The tide comes up about thirty miles so full that there is nothing but salt water in the river, the fresh water being driven back with its force; and above that, for some miles, the water is brackish; but a little higher, as it runs by the town, it is quite fresh; and when the tide ebbs, it continues fresh all along to the sea. There is a bridge cast over the river, not of timber, but of fair stone, consisting of many stately arches; it lies at that part of the town which is farthest from the sea, so that the ships, without any hindrance, lie all along the side of the town. There is, likewise, another river that runs by it, which, though it is not great, yet it runs pleasantly, for it rises out of the same hill on which the town stands, and so runs down through it and falls into the Anyder.

8. The stone bridge of Amaurot

9. The Anyder fountainhead

The inhabitants have fortified the fountainhead of this river, which

IO. The streets of Amaurot

II. The gardens of Amaurot

springs a little without the towns; that so, if they should happen to be besieged, the enemy might not be able to stop or divert the course of the water, nor poison it; from thence it is carried, in earthen pipes, to the lower streets. And for those places of the town to which the water of that small river cannot be conveyed, they have great cisterns for receiving the rain-water, which supplies the want of the other. The town is compassed with a high and thick wall, in which there are many towers and forts; there is also a broad and deep dry ditch, set thick with thorns, cast round three sides of the town, and the river is instead of a ditch on the fourth side. The streets are very convenient for all carriage, and are well sheltered from the winds. Their buildings are good, and are so uniform that a whole side of a street looks like one house. The streets are twenty feet broad; there lie gardens behind all their houses. These are large, but enclosed with buildings, that on all hands face the streets, so that every house has both a door to the street and a back door to the garden. Their doors have all two leaves, which, as they are easily opened, so they shut of their own accord; and, there being no property among them, every man may freely enter into any house whatsoever. At every ten years' end they shift their houses by lots.

They cultivate their gardens with great care, so that they have both vines, fruits, herbs, and flowers in them; and all is so well ordered and so finely kept that I never saw gardens anywhere that were both so fruitful and so beautiful as theirs. And this humor of ordering their gardens so well is not only kept up by the pleasure they find in it, but also by an emulation between the inhabitants of the several streets, who vie with each other. And there is, indeed, nothing belonging to the whole town that is both more

A. Timothé Beuret, *Streets and houses
of Amaurot*, VetU 2018/2019



B. Simon Cauderan, *Summer leisure in the gardens*, VetU 2018/2019



useful and more pleasant. So that he who founded the town seems to have taken care of nothing more than of their gardens.

They say the whole scheme of the town was designed at first by Utopus, but he left all that belonged to the ornament and improvement of it to be added by those that should come after him, that being too much for one man to bring to perfection. Their records, that contain the history of their town and State, are preserved with an exact care, and run backwards seventeen hundred and sixty years. From these it appears that their houses were at first low and mean, like cottages, made of any sort of timber, and were built with mud walls and thatched with straw.

But now their houses are three stories high, the fronts of them are faced either with stone, plastering, or brick, and between the facings of their walls they throw in their rubbish. Their roofs are flat, and on them they lay a sort of plaster, which costs very little, and yet is so tempered that it is not apt to take fire, and yet resists the weather more than lead. They have great quantities of glass among them, with which they glaze their windows; they use also in their windows a thin linen cloth, that is so oiled or gummed that it both keeps out the wind and gives free admission to the light.

THEIR OFFICIALS

Thirty families choose every year a magistrate, who was anciently called the Syphogrant, but is now called the Philarch; and over every ten Syphogrants, with the families subject to them, there is another magistrate, who was anciently called the Tranibore, but of late the Archphilarch. All the Syphogrants, who are in number two hundred, choose the Prince out

12. The houses of Amaurot

of a list of four who are named by the people of the four divisions of the city; but they take an oath, before they proceed to an election, that they will choose him whom they think most fit for the office: they give him their voices secretly, so that it is not known for whom every one gives his suffrage. The Prince is for life, unless he is removed upon suspicion of some design to enslave the people.

The Tranibors are new chosen every year, but yet they are, for the most part, continued; all their other magistrates are only annual. The Tranibors meet every third day, and oftener if necessary, and consult with the Prince either concerning the affairs of the State in general, or such private differences as may arise sometimes among the people, though that falls out but seldom. There are always two Syphogrants called into the council chamber, and these are changed every day. It is a fundamental rule of their government, that no conclusion can be made in anything that relates to the public till it has been first debated three several days in their council. It is death for any to meet and consult concerning the State, unless it be either in their ordinary council, or in the assembly of the whole body of the people.

These things have been so provided among them that the Prince and the Tranibors may not conspire together to change the government and enslave the people; and therefore when anything of great importance is set on foot, it is sent to the Syphogrants, who, after they have communicated it to the families that belong to their divisions, and have considered it among themselves, make report to the senate; and, upon great occasions, the matter is referred to the council of the whole island. One rule observed in their council is, never to debate a thing on the same day in which

12. The hall of the Prince council

it is first proposed; for that is always referred to the next meeting, that so men may not rashly and in the heat of discourse engage themselves too soon, which might bias them so much that, instead of consulting the good of the public, they might rather study to support their first opinions, and by a perverse and preposterous sort of shame hazard their country rather than endanger their own reputation, or venture the being suspected to have wanted foresight in the expedients that they at first proposed; and therefore, to prevent this, they take care that they may rather be deliberate than sudden in their motions.

THEIR OCCUPATIONS

Agriculture is that which is so universally understood among them that no person, either man or woman, is ignorant of it; they are instructed in it from their childhood, partly by what they learn at school, and partly by practice, they being led out often into the fields about the town, where they not only see others at work but are likewise exercised in it themselves.

Besides agriculture, which is so common to them all, every man has some peculiar trade to which he applies himself; such as the manufacture of wool or flax, masonry, smith's work, or carpenter's work; for there is no sort of trade that is in great esteem among them.

Throughout the island they wear the same sort of clothes, without any other distinction except what is necessary to distinguish the two sexes and the married and unmarried. The fashion never alters, and as it is neither disagreeable nor uneasy, so it is suited to the climate, and calculated both for their summers and winters. Every family makes their own clothes.

All among them, women as well as men, learn one or other of the trades formerly mentioned. Women, for the most part, deal in wool and flax, which suit best with their weakness, leaving the ruder trades to the men. The same trade generally passes down from father to son, inclinations often following descent: but if any man's genius lies another way he is, by adoption, translated into a family that deals in the trade to which he is inclined; and when that is to be done, care is taken, not only by his father, but by the magistrate, that he may be put to a discreet and good man: and if, after a person has learned one trade, he desires to acquire another, that is also allowed, and is managed in the same manner as the former. When he has learned both, he follows that which he likes best, unless the public has more occasion for the other.

The chief, and almost the only, business of the Syphogrants is to take care that no man may live idle, but that every one may follow his trade diligently; yet they do not wear themselves out with perpetual toil from morning to night, as if they were beasts of burden, which as it is indeed a heavy slavery, so it is everywhere the common course of life amongst all mechanics except the Utopians: but they, dividing the day and night into twenty-four hours, appoint six of these for work, three of which are before dinner and three after; they then sup, and at eight o'clock, counting from noon, go to bed and sleep eight hours.

The rest of their time, besides that taken up in work, eating, and sleeping, is left to every man's discretion; yet they are not to abuse that interval to luxury and idleness, but must employ it in some proper exercise, according to their various inclinations, which is, for the most part, reading. It is ordinary to have public lectures every morning before daybreak, at which

none are obliged to appear but those who are marked out for literature; yet a great many, both men and women, of all ranks, go to hear lectures of one sort or other, according to their inclinations: but if others that are not made for contemplation, choose rather to employ themselves at that time in their trades, as many of them do, they are not hindered, but are rather commended, as men that take care to serve their country.

After supper they spend an hour in some diversion, in summer in their gardens, and in winter in the halls where they eat, where they entertain each other either with music or discourse. They do not so much as know dice, or any such foolish and mischievous games. They have, however, two sorts of games not unlike our chess; the one is between several numbers, in which one number, as it were, consumes another; the other resembles a battle between the virtues and the vices, in which the enmity in the vices among themselves, and their agreement against virtue, is not unpleasantly represented; together with the special opposition between the particular virtues and vices; as also the methods by which vice either openly assaults or secretly undermines virtue; and virtue, on the other hand, resists it.

But the time appointed for labor is to be narrowly examined, otherwise you may imagine that since there are only six hours appointed for work, they may fall under a scarcity of necessary provisions: but it is so far from being true that this time is not sufficient for supplying them with plenty of all things, either necessary or convenient, that it is rather too much; and this you will easily apprehend if you consider how great a part of all other nations is quite idle. First, women generally do little, who are the half of mankind; and if some few women are diligent, their husbands are idle: then consider the great company of idle priests, and of those that are

called religious men; add to these all rich men, chiefly those that have estates in land, who are called noblemen and gentlemen, together with their families, made up of idle persons, that are kept more for show than use; add to these all those strong and lusty beggars that go about pretending some disease in excuse for their begging; and upon the whole account you will find that the number of those by whose labors mankind is supplied is much less than you perhaps imagined.

Then consider how few of those that work are employed in labors that are of real service, for we, who measure all things by money, give rise to many trades that are both vain and superfluous, and serve only to support riot and luxury: for if those who work were employed only in such things as the conveniences of life require, there would be such an abundance of them that the prices of them would so sink that tradesmen could not be maintained by their gains; if all those who labor about useless things were set to more profitable employments, and if all they that languish out their lives in sloth and idleness (every one of whom consumes as much as any two of the men that are at work) were forced to labor, you may easily imagine that a small proportion of time would serve for doing all that is either necessary, profitable, or pleasant to mankind, especially while pleasure is kept within its due bounds.

This appears very plainly in Utopia; for there, in a great city, and in all the territory that lies round it, you can scarce find five hundred, either men or women, by their age and strength capable of labour, that are not engaged in it. Even the Syphogrants, though excused by the law, yet do not excuse themselves, but work, that by their examples they may excite the industry of the rest of the people; the like exemption is allowed to those

who, being recommended to the people by the priests, are, by the secret suffrages of the Syphogrants, privileged from labor, that they may apply themselves wholly to study; and if any of these fall short of those hopes that they seemed at first to give, they are obliged to return to work; and sometimes a mechanic that so employs his leisure hours as to make a considerable advancement in learning is eased from being a tradesman and ranked among their learned men. Out of these they choose their ambassadors, their priests, their Tranibors, and the Prince himself, anciently called their Barzenes, but is called of late their Ademus.

And thus from the great numbers among them that are neither suffered to be idle nor to be employed in any fruitless labor, you may easily make the estimate how much may be done in those few hours in which they are obliged to labor. But, besides all that has been already said, it is to be considered that the needful arts among them are managed with less labor than anywhere else. The building or the repairing of houses among us employ many hands, because often a thriftless heir suffers a house that his father built to fall into decay, so that his successor must, at a great cost, repair that which he might have kept up with a small charge; it frequently happens that the same house which one person built at a vast expense is neglected by another, who thinks he has a more delicate sense of the beauties of architecture, and he, suffering it to fall to ruin, builds another at no less charge. But among the Utopians all things are so regulated that men very seldom build upon a new piece of ground, and are not only very quick in repairing their houses, but show their foresight in preventing their decay, so that their buildings are preserved very long with but very little labor, and thus the builders, to whom that care belongs, are

often without employment, except the hewing of timber and the squaring of stones, that the materials may be in readiness for raising a building very suddenly when there is any occasion for it.

As to their clothes, observe how little work is spent in them; while they are at labor they are clothed with leather and skins, cut carelessly about them, which will last seven years, and when they appear in public they put on an upper garment which hides the other; and these are all of one color, and that is the natural color of the wool. As they need less woollen cloth than is used anywhere else, so that which they make use of is much less costly; they use linen cloth more, but that is prepared with less labor, and they value cloth only by the whiteness of the linen or the cleanness of the wool, without much regard to the fineness of the thread. While in other places four or five upper garments of woollen cloth of different colours, and as many vests of silk, will scarce serve one man, and while those that are nicer think ten too few, every man there is content with one, which very often serves him two years; nor is there anything that can tempt a man to desire more, for if he had them he would neither be the warmer nor would he make one jot the better appearance for it.

And thus, since they are all employed in some useful labor, and since they content themselves with fewer things, it falls out that there is a great abundance of all things among them; so that it frequently happens that, for want of other work, vast numbers are sent out to mend the highways; but when no public undertaking is to be performed, the hours of working are lessened. The magistrates never engage the people in unnecessary labor, since the chief end of the constitution is to regulate labor by the necessities of the public, and to allow the people as much

time as is necessary for the improvement of their minds, in which they think the happiness of life consists.

THEIR SOCIAL RELATIONS

But it is now time to explain to you the mutual intercourse of this people, their commerce, and the rules by which all things are distributed among them.

As their cities are composed of families, so their families are made up of those that are nearly related to one another. Their women, when they grow up, are married out, but all the males, both children and grandchildren, live still in the same house, in great obedience to their common parent, unless age has weakened his understanding, and in that case he that is next to him in age comes in his room; but lest any city should become either too great, or by any accident be dispeopled, provision is made that none of their cities may contain above six thousand families, besides those of the country around it. No family may have less than ten and more than sixteen persons in it, but there can be no determined number for the children under age; this rule is easily observed by removing some of the children of a more fruitful couple to any other family that does not abound so much in them.

By the same rule they supply cities that do not increase so fast from others that breed faster; and if there is any increase over the whole island, then they draw out a number of their citizens out of the several towns and send them over to the neighboring continent, where, if they find that the inhabitants have more soil than they can well cultivate, they fix a colony, taking

the inhabitants into their society if they are willing to live with them; and where they do that of their own accord, they quickly enter into their method of life and conform to their rules, and this proves a happiness to both nations; for, according to their constitution, such care is taken of the soil that it becomes fruitful enough for both, though it might be otherwise too narrow and barren for any one of them.

But if the natives refuse to conform themselves to their laws they drive them out of those bounds which they mark out for themselves, and use force if they resist, for they account it a very just cause of war for a nation to hinder others from possessing a part of that soil of which they make no use, but which is suffered to lie idle and uncultivated, since every man has, by the law of nature, a right to such a waste portion of the earth as is necessary for his subsistence. If an accident has so lessened the number of the inhabitants of any of their towns that it cannot be made up from the other towns of the island without diminishing them too much (which is said to have fallen out but twice since they were first a people, when great numbers were carried off by the plague), the loss is then supplied by recalling as many as are wanted from their colonies, for they will abandon these rather than suffer the towns in the island to sink too low.

But to return to their manner of living in society: the oldest man of every family, as has been already said, is its governor; wives serve their husbands, and children their parents, and always the younger serves the elder.

Every city is divided into four equal parts, and in the middle of each there is a marketplace. What is brought thither, and manufactured by the several families, is carried from thence to houses appointed for that purpose, in which all things of a sort are laid by themselves; and thither every father

16. The marketplaces

17. The market buildings

goes, and takes whatsoever he or his family stand in need of, without either paying for it or leaving anything in exchange. There is no reason for giving a denial to any person, since there is such plenty of everything among them; and there is no danger of a man's asking for more than he needs; they have no inducements to do this, since they are sure they shall always be supplied: it is the fear of want that makes any of the whole race of animals either greedy or ravenous; but, besides fear, there is in man a pride that makes him fancy it a particular glory to excel others in pomp and excess; but by the laws of the Utopians, there is no room for this.

Near these markets there are others for all sorts of provisions, where there are not only herbs, fruits, and bread, but also fish, fowl, and cattle. There are also, outside their towns, places appointed near some running water for killing their beasts and for washing away their filth, which is done by their slaves; for they suffer none of their citizens to kill their cattle, because they think that pity and good-nature, which are among the best of those affections that are born with us, are much impaired by the butchering of animals; nor do they suffer anything that is foul or unclean to be brought within their towns, lest the air should be infected by ill-smells, which might prejudice their health.

In every street there are great halls, that lie at an equal distance from each other, distinguished by particular names. The Syphogrants dwell in those that are set over thirty families, fifteen lying on one side of it, and as many on the other. In these halls they all meet and have their repasts; the stewards of every one of them come to the marketplace at an appointed hour, and according to the number of those that belong to the hall they carry home provisions.

18. The slaughterhouses

19. The great halls

20. The hospitals

But they take more care of their sick than of any others; these are lodged and provided for in public hospitals. They have belonging to every town four hospitals, that are built without their walls, and are so large that they may pass for little towns; by this means, if they had ever such a number of sick persons, they could lodge them conveniently, and at such a distance that such of them as are sick of infectious diseases may be kept so far from the rest that there can be no danger of contagion. The hospitals are furnished and stored with all things that are convenient for the ease and recovery of the sick; and those that are put in them are looked after with such tender and watchful care, and are so constantly attended by their skillful physicians, that as none is sent to them against their will, so there is scarce one in a whole town that, if he should fall ill, would not choose rather to go thither than lie sick at home.

21. The houses for the strangers

After the steward of the hospitals has taken for the sick whatsoever the physician prescribes, then the best things that are left in the market are distributed equally among the halls in proportion to their numbers; only, in the first place, they serve the Prince, the Chief Priest, the Tranibors, the Ambassadors, and strangers, if there are any, which, indeed, falls out but seldom, and for whom there are houses, well furnished, particularly appointed for their reception when they come among them. At the hours of

22. The dining halls

dinner and supper the whole Syphogranty being called together by sound of trumpet, they meet and eat together, except only such as are in the hospitals or lie sick at home. Yet, after the halls are served, no man is hindered to carry provisions home from the marketplace, for they know that none does that but for some good reason; for though any that will may eat at home, yet none does it willingly, since it is both ridiculous and foolish for any to give

23. The nurses rooms

themselves the trouble to make ready an ill dinner at home when there is a much more plentiful one made ready for him so near hand. All the uneasy and sordid services about these halls are performed by their slaves; but the dressing and cooking their meat, and the ordering their tables, belong only to the women, all those of every family taking it by turns.

They sit at three or more tables, according to their number; the men sit towards the wall, and the women sit on the other side, that if any of them should be taken suddenly ill, which is no uncommon case amongst women with child, she may, without disturbing the rest, rise and go to the nurses' room (who are there with the sucking children), where there is always clean water at hand and cradles, in which they may lay the young children if there is occasion for it, and a fire, that they may shift and dress them before it. Every child is nursed by its own mother if death or sickness does not intervene; and in that case the Syphogrants' wives find out a nurse quickly, which is no hard matter, for any one that can do it offers herself cheerfully; for as they are much inclined to that piece of mercy, so the child whom they nurse considers the nurse as its mother. All the children under five years old sit among the nurses; the rest of the younger sort of both sexes, till they are fit for marriage, either serve those that sit at table, or, if they are not strong enough for that, stand by them in great silence and eat what is given them; nor have they any other formality of dining.

In the middle of the first table, which stands across the upper end of the hall, sit the Syphogrant and his wife, for that is the chief and most conspicuous place; next to him sit two of the most ancient, for there go always four to a mess. If there is a temple within the Syphogranty, the Priest and his wife sit with the Syphogrant above all the rest; next them there is a

mixture of old and young, who are so placed that as the young are set near others, so they are mixed with the more ancient; which, they say, was appointed on this account: that the gravity of the old people, and the reverence that is due to them, might restrain the younger from all indecent words and gestures. Dishes are not served up to the whole table at first, but the best are first set before the old, whose seats are distinguished from the young, and, after them, all the rest are served alike. The old men distribute to the younger any curious meats that happen to be set before them, if there is not such an abundance of them that the whole company may be served alike. Thus old men are honored with a particular respect, yet all the rest fare as well as they.

Both dinner and supper are begun with some lecture of morality that is read to them; but it is so short that it is not tedious nor uneasy to them to hear it. From hence the old men take occasion to entertain those about them with some useful and pleasant enlargements; but they do not engross the whole discourse so to themselves during their meals that the younger may not put in for a share; on the contrary, they engage them to talk, that so they may, in that free way of conversation, find out the force of every one's spirit and observe his temper.

They dispatch their dinners quickly, but sit long at supper, because they go to work after the one, and are to sleep after the other, during which they think the stomach carries on the concoction more vigorously. They never sup without music, and there is always fruit served up after meat; while they are at table some burn perfumes and sprinkle about fragrant ointments and sweet waters—in short, they want nothing that may cheer up their spirits; they give themselves a large allowance that way, and indulge

themselves in all such pleasures as are attended with no inconvenience. Thus do those that are in the towns live together; but in the country, where they live at a great distance, every one eats at home, and no family wants any necessary sort of provision, for it is from them that provisions are sent unto those that live in the towns.

THEIR TRAVEL

If any man has a mind to visit his friends that live in some other town, or desires to travel and see the rest of the country, he obtains leave very easily from the Syphogrant and Tranibors, when there is no particular occasion for him at home. Such as travel carry with them a passport from the Prince, which both certifies the license that is granted for traveling, and limits the time of their return. They are furnished with a wagon and a slave, who drives the oxen and looks after them; but, unless there are women in the company, the wagon is sent back at the end of the journey as a needless encumbrance. While they are on the road they carry no provisions with them, yet they want for nothing, but are everywhere treated as if they were at home. If they stay in any place longer than a night, every one follows his proper occupation, and is very well used by those of his own trade.

If any man goes out of the city to which he belongs without leave, and is found rambling without a passport, he is severely treated, he is punished as a fugitive, and sent home disgracefully; and, if he falls again into the like fault, is condemned to slavery. If any man has a mind to travel only over the precinct of his own city, he may freely do it, with his father's permission and his wife's consent; but when he comes into any of the country

houses, if he expects to be entertained by them, he must labor with them and conform to their rules; and if he does this, he may freely go over the whole precinct, being then as useful to the city to which he belongs as if he were still within it.

Thus you see that there are no idle persons among them, nor pretenses of excusing any from labor. There are no taverns, no ale-houses, nor stews among them, nor any other occasions of corrupting each other, of getting into corners, or forming themselves into parties; all men live in full view, so that all are obliged both to perform their ordinary task and to employ themselves well in their spare hours; and it is certain that a people thus ordered must live in great abundance of all things, and these being equally distributed among them, no man can want or be obliged to beg.

In their great council at Amaurot, to which there are three sent from every town once a year, they examine what towns abound in provisions and what are under any scarcity, that so the one may be furnished from the other; and this is done freely, without any sort of exchange; for, according to their plenty or scarcity, they supply or are supplied from one another, so that indeed the whole island is, as it were, one family.

THEIR WEALTH

When they have thus taken care of their whole country, and laid up stores for two years (which they do to prevent the ill consequences of an unfavorable season), they order an exportation of the surplus, both of corn, honey, wool, flax, wood, wax, tallow, leather, and cattle, which they send out, commonly in great quantities, to other nations. They order a seventh

part of all these goods to be freely given to the poor of the countries to which they send them, and sell the rest at moderate rates; and by this exchange they not only bring back those few things that they need at home (for, indeed, they scarce need anything but iron), but likewise a great deal of gold and silver; and by their driving this trade so long, it is not to be imagined how vast a treasure they have got among them, so that now they do not much care whether they sell off their merchandise for money in hand or upon trust.

A great part of their treasure is now in bonds; but in all their contracts no private man stands bound, but the writing runs in the name of the town; and the towns that owe them money raise it from those private hands that owe it to them, lay it up in their public chamber, or enjoy the profit of it till the Utopians call for it; and they choose rather to let the greatest part of it lie in their hands, who make advantage by it, than to call for it themselves; but if they see that any of their other neighbors stand more in need of it, then they call it in and lend it to them.

Whenever they are engaged in war, which is the only occasion in which their treasure can be usefully employed, they make use of it themselves; in great extremities or sudden accidents they employ it in hiring foreign troops, whom they more willingly expose to danger than their own people; they give them great pay, knowing well that this will work even on their enemies; that it will engage them either to betray their own side, or, at least, to desert it; and that it is the best means of raising mutual jealousies among them. For this end they have an incredible treasure; but they do not keep it as a treasure, but in such a manner as I am almost afraid to tell, lest you think it so extravagant as to be hardly credible. This I have

the more reason to apprehend because, if I had not seen it myself, I could not have been easily persuaded to have believed it upon any man's report. It is certain that all things appear incredible to us in proportion as they differ from known customs; but one who can judge aright will not wonder to find that, since their constitution differs so much from ours, their value of gold and silver should be measured by a very different standard; for since they have no use for money among themselves, but keep it as a provision against events which seldom happen, and between which there are generally long intervening intervals, they value it no farther than it deserves – that is, in proportion to its use. So that it is plain they must prefer iron either to gold or silver, for men can no more live without iron than without fire or water; but Nature has marked out no use for the other metals so essential as not easily to be dispensed with. The folly of men has enhanced the value of gold and silver because of their scarcity; whereas, on the contrary, it is their opinion that Nature, as an indulgent parent, has freely given us all the best things in great abundance, such as water and earth, but has laid up and hid from us the things that are vain and useless.

If these metals were laid up in any tower in the kingdom it would raise a jealousy of the Prince and Senate, and give birth to that foolish mistrust into which the people are apt to fall – a jealousy of their intending to sacrifice the interest of the public to their own private advantage. If they should work it into vessels, or any sort of plate, they fear that the people might grow too fond of it, and so be unwilling to let the plate be run down, if a war made it necessary, to employ it in paying their soldiers. To prevent all these inconveniences they have fallen upon an expedient which,

as it agrees with their other policy, so is it very different from ours, and will scarce gain belief among us who value gold so much, and lay it up so carefully. They eat and drink out of vessels of earth or glass, which make an agreeable appearance, though formed of brittle materials; while they make their chamber pots and close-stools of gold and silver, and that not only in their public halls but in their private houses. Of the same metals they likewise make chains and fetters for their slaves, to some of which, as a badge of infamy, they hang an earring of gold, and make others wear a chain or a coronet of the same metal; and thus they take care by all possible means to render gold and silver of no esteem; and from hence it is that while other nations part with their gold and silver as unwillingly as if one tore out their bowels, those of Utopia would look on their giving in all they possess of those metals (when there were any use for them) but as the parting with a trifle, or as we would esteem the loss of a penny!

They find pearls on their coasts, and diamonds and carbuncles on their rocks; they do not look after them, but, if they find them by chance, they polish them, and with them they adorn their children, who are delighted with them, and glory in them during their childhood; but when they grow to years, and see that none but children use such baubles, they of their own accord, without being bid by their parents, lay them aside, and would be as much ashamed to use them afterwards as children among us, when they come to years, are of their puppets and other toys.

I never saw a clearer instance of the opposite impressions that different customs make on people than I observed in the ambassadors of the Anemolians, who came to Amaurot when I was there. As they came to treat of affairs of great consequence, the deputies from several towns met

together to wait for their coming. The ambassadors of the nations that lie near Utopia, knowing their customs, and that fine clothes are in no esteem among them, that silk is despised, and gold is a badge of infamy, used to come very modestly clothed; but the Anemolians, lying more remote, and having had little commerce with them, understanding that they were coarsely clothed, and all in the same manner, took it for granted that they had none of those fine things among them of which they made no use; and they, being a vainglorious rather than a wise people, resolved to set themselves out with so much pomp that they should look like gods, and strike the eyes of the poor Utopians with their splendor.

Thus three ambassadors made their entry with a hundred attendants, all clad in garments of different colors, and the greater part in silk; the ambassadors themselves, who were of the nobility of their country, were in cloth-of-gold, and adorned with massy chains, earrings and rings of gold; their caps were covered with bracelets set full of pearls and other gems – in a word, they were set out with all those things that among the Utopians were either the badges of slavery, the marks of infamy, or the playthings of children. It was not unpleasant to see, on the one side, how they looked big, when they compared their rich habits with the plain clothes of the Utopians, who were come out in great numbers to see them make their entry; and, on the other, to observe how much they were mistaken in the impression which they hoped this pomp would have made on them. It appeared so ridiculous a show to all that had never stirred out of their country, and had not seen the customs of other nations, that though they paid some reverence to those that were the most meanly clad, as if they had been the ambassadors, yet when they saw the ambassadors themselves so

full of gold and chains, they looked upon them as slaves, and forbore to treat them with reverence.

You might have seen the children who were grown big enough to despise their playthings, and who had thrown away their jewels, call to their mothers, push them gently, and cry out, “See that great fool, that wears pearls and gems as if he were yet a child!” While their mothers very innocently replied, “Hold your peace! This, I believe, is one of the ambassadors’ fools.” Others censured the fashion of their chains, and observed, “That they were of no use, for they were too slight to bind their slaves, who could easily break them; and, besides, hung so loose about them that they thought it easy to throw them away, and so get from them.”

But after the ambassadors had stayed a day among them, and saw so vast a quantity of gold in their houses (which was as much despised by them as it was esteemed in other nations), and beheld more gold and silver in the chains and fetters of one slave than all their ornaments amounted to, their plumes fell, and they were ashamed of all that glory for which they had formed valued themselves, and accordingly laid it aside – a resolution that they immediately took when, on their engaging in some free discourse with the Utopians, they discovered their sense of such things and their other customs.

The Utopians wonder how any man should be so much taken with the glaring doubtful luster of a jewel or a stone, that can look up to a star or to the sun himself; or how any should value himself because his cloth is made of a finer thread; for, how fine soever that thread may be, it was once no better than the fleece of a sheep, and that sheep, was a sheep still, for all its wearing it. They wonder much to hear that gold, which in itself is so

useless a thing, should be everywhere so much esteemed that even man, for whom it was made, and by whom it has its value, should yet be thought of less value than this metal; that a blockhead, who has no more sense than a log of wood, and is as bad as he is foolish, should have many wise and good men to serve him, only because he has a great heap of that metal; and that if it should happen that by some accident or trick of law (which, sometimes produces as great changes as chance itself) all this wealth should pass from the master to the meanest varlet of his whole family, he himself would very soon become one of his servants, as if he were a thing that belonged to his wealth, and so were bound to follow its fortune! But they much more admire and detest the folly of those who, when they see a rich man, though they neither owe him anything, nor are in any sort dependent on his bounty, yet, merely because he is rich, give him little less than divine honors, even though they know him to be so covetous and base-minded that, notwithstanding all his wealth, he will not part with one farthing of it to them as long as he lives!

THEIR PHILOSOPHIES

These and such like notions have that people imbibed, partly from their education, being bred in a country whose customs and laws are opposite to all such foolish maxims, and partly from their learning and studies—for though there are but few in any town that are so wholly excused from labor as to give themselves entirely up to their studies (these being only such persons as discover from their childhood an extraordinary capacity and disposition for letters), yet their children and a great part of the

nation, both men and women, are taught to spend those hours in which they are not obliged to work in reading; and this they do through the whole progress of life. They have all their learning in their own tongue, which is both a copious and pleasant language, and in which a man can fully express his mind; it runs over a great tract of many countries, but it is not equally pure in all places.

They had never so much as heard of the names of any of those philosophers that are so famous in these parts of the world, before we went among them; and yet they had made the same discoveries as the Greeks, both in music, logic, arithmetic, and geometry. But as they are almost in everything equal to the ancient philosophers, so they far exceed our modern logicians for they have never yet fallen upon the barbarous niceties that our youth are forced to learn in those trifling logical schools that are among us. They are so far from minding chimeras and fantastical images made in the mind that none of them could comprehend what we meant when we talked to them of a man in the abstract as common to all men in particular (so that though we spoke of him as a thing that we could point at with our fingers, yet none of them could perceive him) and yet distinct from every one, as if he were some monstrous Colossus or giant; yet, for all this ignorance of these empty notions, they knew astronomy, and were perfectly acquainted with the motions of the heavenly bodies; and have many instruments, well contrived and divided, by which they very accurately compute the course and positions of the sun, moon, and stars. But for the cheat of divining by the stars, by their oppositions or conjunctions, it has not so much as entered into their thoughts. They have a particular sagacity, founded upon much observation, in judging of the weather, by which

they know when they may look for rain, wind, or other alterations in the air; but as to the philosophy of these things, the cause of the saltness of the sea, of its ebbing and flowing, and of the original and nature both of the heavens and the earth, they dispute of them partly as our ancient philosophers have done, and partly upon some new hypothesis, in which, as they differ from them, so they do not in all things agree among themselves.

As to moral philosophy, they have the same disputes among them as we have here. They examine what are properly good, both for the body and the mind; and whether any outward thing can be called truly good, or if that term belong only to the endowments of the soul. They inquire, likewise, into the nature of virtue and pleasure. But their chief dispute is concerning the happiness of a man, and wherein it consists – whether in some one thing or in a great many. They seem, indeed, more inclinable to that opinion that places, if not the whole, yet the chief part, of a man's happiness in pleasure; and, what may seem more strange, they make use of arguments even from religion, notwithstanding its severity and roughness, for the support of that opinion so indulgent to pleasure; for they never dispute concerning happiness without fetching some arguments from the principles of religion as well as from natural reason, since without the former they reckon that all our inquiries after happiness must be but conjectural and defective.

These are their religious principles: That the soul of man is immortal, and that God of His goodness has designed that it should be happy; and that He has, therefore, appointed rewards for good and virtuous actions, and punishments for vice, to be distributed after this life. Though these principles of religion are conveyed down among them by tradition, they think that even reason itself determines a man to believe and

acknowledge them; and freely confess that if these were taken away, no man would be so insensible as not to seek after pleasure by all possible means, lawful or unlawful, using only this caution – that a lesser pleasure might not stand in the way of a greater, and that no pleasure ought to be pursued that should draw a great deal of pain after it; for they think it the maddest thing in the world to pursue virtue, that is a sour and difficult thing, and not only to renounce the pleasures of life, but willingly to undergo much pain and trouble, if a man has no prospect of a reward. And what reward can there be for one that has passed his whole life, not only without pleasure, but in pain, if there is nothing to be expected after death? Yet they do not place happiness in all sorts of pleasures, but only in those that in themselves are good and honest.

There is a party among them who place happiness in bare virtue; others think that our natures are conducted by virtue to happiness, as that which is the chief good of man. They define virtue thus—that it is a living according to Nature, and think that we are made by God for that end; they believe that a man then follows the dictates of Nature when he pursues or avoids things according to the direction of reason. They say that the first dictate of reason is the kindling in us a love and reverence for the Divine Majesty, to whom we owe both all that we have and, all that we can ever hope for. In the next place, reason directs us to keep our minds as free from passion and as cheerful as we can, and that we should consider ourselves as bound by the ties of good-nature and humanity to use our utmost endeavors to help forward the happiness of all other persons; for there never was any man such a morose and severe pursuer of virtue, such an enemy to pleasure, that though he set hard rules for men to undergo, much pain, many

watchings, and other rigors, yet did not at the same time advise them to do all they could in order to relieve and ease the miserable, and who did not represent gentleness and good-nature as amiable dispositions. And from thence they infer that if a man ought to advance the welfare and comfort of the rest of mankind (there being no virtue more proper and peculiar to our nature than to ease the miseries of others, to free from trouble and anxiety, in furnishing them with the comforts of life, in which pleasure consists) Nature much more vigorously leads them to do all this for himself. A life of pleasure is either a real evil, and in that case we ought not to assist others in their pursuit of it, but, on the contrary, to keep them from it all we can, as from that which is most hurtful and deadly; or if it is a good thing, so that we not only may but ought to help others to it, why, then, ought not a man to begin with himself? Since no man can be more bound to look after the good of another than after his own; for Nature cannot direct us to be good and kind to others, and yet at the same time to be unmerciful and cruel to ourselves. Thus as they define virtue to be living according to Nature, so they imagine that Nature prompts all people on to seek after pleasure as the end of all they do.

They also observe that in order to our supporting the pleasures of life, Nature inclines us to enter into society; for there is no man so much raised above the rest of mankind as to be the only favorite of Nature, who, on the contrary, seems to have placed on a level all those that belong to the same species. Upon this they infer that no man ought to seek his own conveniences so eagerly as to prejudice others; and therefore they think that not only all agreements between private persons ought to be observed, but likewise that all those laws ought to be kept which either a good prince has

published in due form, or to which a people that is neither oppressed with tyranny nor circumvented by fraud has consented, for distributing those conveniences of life which afford us all our pleasures. They think it is an evidence of true wisdom for a man to pursue his own advantage as far as the laws allow it, they account it piety to prefer the public good to one's private concerns, but they think it unjust for a man to seek for pleasure by snatching another man's pleasures from him; and, on the contrary, they think it a sign of a gentle and good soul for a man to dispense with his own advantage for the good of others, and that by this means a good man finds as much pleasure one way as he parts with another; for as he may expect the like from others when he may come to need it, so, if that should fail him, yet the sense of a good action, and the reflections that he makes on the love and gratitude of those whom he has so obliged, gives the mind more pleasure than the body could have found in that from which it had restrained itself. They are also persuaded that God will make up the loss of those small pleasures with a vast and endless joy, of which religion easily convinces a good soul.

Thus, upon an inquiry into the whole matter, they reckon that all our actions, and even all our virtues, terminate in pleasure, as in our chief end and greatest happiness; and they call every motion or state, either of body or mind, in which Nature teaches us to delight, a pleasure. Thus they cautiously limit pleasure only to those appetites to which Nature leads us; for they say that Nature leads us only to those delights to which reason, as well as sense, carries us, and by which we neither injure any other person nor lose the possession of greater pleasures, and of such as draw no troubles after them. But they look upon those delights which men by a foolish, though

common, mistake call pleasure, as if they could change as easily the nature of things as the use of words, as things that greatly obstruct their real happiness, instead of advancing it, because they so entirely possess the minds of those that are once captivated by them with a false notion of pleasure that there is no room left for pleasures of a truer or purer kind.

There are many things that in themselves have nothing that is truly delightful; on the contrary, they have a good deal of bitterness in them; and yet, from our perverse appetites after forbidden objects, are not only ranked among the pleasures, but are made even the greatest designs, of life. Among those who pursue these sophisticated pleasures they reckon such as I mentioned before, who think themselves really the better for having fine clothes; in which they think they are doubly mistaken, both in the opinion they have of their clothes, and in that they have of themselves. For if you consider the use of clothes, why should a fine thread be thought better than a coarse one? And yet these men, as if they had some real advantages beyond others, and did not owe them wholly to their mistakes, look big, seem to fancy themselves to be more valuable, and imagine that a respect is due to them for the sake of a rich garment, to which they would not have pretended if they had been more meanly clothed, and even resent it as an affront if that respect is not paid them.

It is also a great folly to be taken with outward marks of respect, which signify nothing; for what true or real pleasure can one man find in another's standing bare or making legs to him? Will the bending another man's knees give ease to yours? And will the head's being bare cure the madness of yours? And yet it is wonderful to see how this false notion of pleasure bewitches many who delight themselves with the fancy of their

nobility, and are pleased with this conceit – that they are descended from ancestors who have been held for some successions rich, and who have had great possessions; for this is all that makes nobility at present. Yet they do not think themselves a whit the less noble, though their immediate parents have left none of this wealth to them, or though they themselves have squandered it away.

The Utopians have no better opinion of those who are much taken with gems and precious stones, and who account it a degree of happiness next to a divine one if they can purchase one that is very extraordinary, especially if it be of that sort of stones that is then in greatest request, for the same sort is not at all times universally of the same value, nor will men buy it unless it be dismounted and taken out of the gold. The jeweler is then made to give good security, and required solemnly to swear that the stone is true, that, by such an exact caution, a false one might not be bought instead of a true; though, if you were to examine it, your eye could find no difference between the counterfeit and that which is true; so that they are all one to you, as much as if you were blind. Or can it be thought that they who heap up a useless mass of wealth, not for any use that it is to bring them, but merely to please themselves with the contemplation of it, enjoy any true pleasure in it? The delight they find is only a false shadow of joy. Those are no better whose error is somewhat different from the former, and who hide it out of their fear of losing it; for what other name can fit the hiding it in the earth, or, rather, the restoring it to it again, it being thus cut off from being useful either to its owner or to the rest of mankind? And yet the owner, having hid it carefully, is glad, because he thinks he is now sure of it. If it should be stole, the owner, though he

might live perhaps ten years after the theft, of which he knew nothing, would find no difference between his having or losing it, for both ways it was equally useless to him.

Among those foolish pursuers of pleasure they reckon all that delight in hunting, in fowling, or gaming, of whose madness they have only heard, for they have no such things among them. But they have asked us, “What sort of pleasure is it that men can find in throwing the dice?” (for if there were any pleasure in it, they think the doing it so often should give one a surfeit of it); “and what pleasure can one find in hearing the barking and howling of dogs, which seem rather odious than pleasant sounds?” Nor can they comprehend the pleasure of seeing dogs run after a hare, more than of seeing one dog run after another; for if the seeing them run is that which gives the pleasure, you have the same entertainment to the eye on both these occasions, since that is the same in both cases. But if the pleasure lies in seeing the hare killed and torn by the dogs, this ought rather to stir pity, that a weak, harmless, and fearful hare should be devoured by strong, fierce, and cruel dogs. Therefore all this business of hunting is, among the Utopians, turned over to their butchers, and those, as has been already said, are all slaves, and they look on hunting as one of the basest parts of a butcher’s work, for they account it both more profitable and more decent to kill those beasts that are more necessary and useful to mankind, whereas the killing and tearing of so small and miserable an animal can only attract the huntsman with a false show of pleasure, from which he can reap but small advantage. They look on the desire of the bloodshed, even of beasts, as a mark of a mind that is already corrupted with cruelty, or that at least, by too frequent returns of so brutal a pleasure, must degenerate into it.

Thus though the rabble of mankind look upon these, and on innumerable other things of the same nature, as pleasures, the Utopians, on the contrary, observing that there is nothing in them truly pleasant, conclude that they are not to be reckoned among pleasures; for though these things may create some tickling in the senses (which seems to be a true notion of pleasure), yet they imagine that this does not arise from the thing itself, but from a depraved custom, which may so vitiate a man's taste that bitter things may pass for sweet, as women with child think pitch or tallow taste sweeter than honey; but as a man's sense, when corrupted either by a disease or some ill habit, does not change the nature of other things, so neither can it change the nature of pleasure.

They reckon up several sorts of pleasures, which they call true ones; some belong to the body, and others to the mind. The pleasures of the mind lie in knowledge, and in that delight which the contemplation of truth carries with it; to which they add the joyful reflections on a well spent life, and the assured hopes of a future happiness. They divide the pleasures of the body into two sorts – the one is that which gives our senses some real delight, and is performed either by recruiting Nature and supplying those parts which feed the internal heat of life by eating and drinking, or when Nature is eased of any surcharge that oppresses it, when we are relieved from sudden pain, or that which arises from satisfying the appetite which Nature has wisely given to lead us to the propagation of the species. There is another kind of pleasure that arises neither from our receiving what the body requires, nor its being relieved when overcharged, and yet, by a secret unseen virtue, affects the senses, raises the passions, and strikes the mind with generous impressions – this is, the pleasure that

arises from music. Another kind of bodily pleasure is that which results from an undisturbed and vigorous constitution of body, when life and active spirits seem to actuate every part. This lively health, when entirely free from all mixture of pain, of itself gives an inward pleasure, independent of all external objects of delight; and though this pleasure does not so powerfully affect us, nor act so strongly on the senses as some of the others, yet it may be esteemed as the greatest of all pleasures; and almost all the Utopians reckon it the foundation and basis of all the other joys of life, since this alone makes the state of life easy and desirable, and when this is wanting, a man is really capable of no other pleasure. They look upon freedom from pain, if it does not rise from perfect health, to be a state of stupidity rather than of pleasure. This subject has been very narrowly canvassed among them, and it has been debated whether a firm and entire health could be called a pleasure or not.

Some have thought that there was no pleasure but what was “excited” by some sensible motion in the body. But this opinion has been long ago excluded from among them; so that now they almost universally agree that health is the greatest of all bodily pleasures; and that as there is a pain in sickness which is as opposite in its nature to pleasure as sickness itself is to health, so they hold that health is accompanied with pleasure. And if any should say that sickness is not really pain, but that it only carries pain along with it, they look upon that as a fetch of subtlety that does not much alter the matter. It is all one, in their opinion, whether it be said that health is in itself a pleasure, or that it begets a pleasure, as fire gives heat, so it be granted that all those whose health is entire have a true pleasure in the enjoyment of it. And they reason thus: “What is the pleasure of

eating, but that a man's health, which had been weakened, does, with the assistance of food, drive away hunger, and so recruiting itself, recovers its former vigor? And being thus refreshed it finds a pleasure in that conflict; and if the conflict is pleasure, the victory must yet breed a greater pleasure, except we fancy that it becomes stupid as soon as it has obtained that which it pursued, and so neither knows nor rejoices in its own welfare." If it is said that health cannot be felt, they absolutely deny it; for what man is in health, that does not perceive it when he is awake? Is there any man that is so dull and stupid as not to acknowledge that he feels a delight in health? And what is delight but another name for pleasure?

But, of all pleasures, they esteem those to be most valuable that lie in the mind, the chief of which arise out of true virtue and the witness of a good conscience. They account health the chief pleasure that belongs to the body; for they think that the pleasure of eating and drinking, and all the other delights of sense, are only so far desirable as they give or maintain health; but they are not pleasant in themselves otherwise than as they resist those impressions that our natural infirmities are still making upon us. For as a wise man desires rather to avoid diseases than to take physic, and to be freed from pain rather than to find ease by remedies, so it is more desirable not to need this sort of pleasure than to be obliged to indulge it.

If any man imagines that there is a real happiness in these enjoyments, he must then confess that he would be the happiest of all men if he were to lead his life in perpetual hunger, thirst, and itching, and, by consequence, in perpetual eating, drinking, and scratching himself; which any one may easily see would be not only a base, but a miserable, state of a life. These are, indeed, the lowest of pleasures, and the least pure, for we can never

relish them but when they are mixed with the contrary pains. The pain of hunger must give us the pleasure of eating, and here the pain out-balances the pleasure. And as the pain is more vehement, so it lasts much longer; for as it begins before the pleasure, so it does not cease but with the pleasure that extinguishes it, and both expire together. They think, therefore, none of those pleasures are to be valued any further than as they are necessary; yet they rejoice in them, and with due gratitude acknowledge the tenderness of the great Author of Nature, who has planted in us appetites, by which those things that are necessary for our preservation are likewise made pleasant to us. For how miserable a thing would life be if those daily diseases of hunger and thirst were to be carried off by such bitter drugs as we must use for those diseases that return seldomer upon us! And thus these pleasant, as well as proper, gifts of Nature maintain the strength and the sprightliness of our bodies.

They also entertain themselves with the other delights let in at their eyes, their ears, and their nostrils as the pleasant relishes and seasoning of life, which Nature seems to have marked out peculiarly for man, since no other sort of animals contemplates the figure and beauty of the universe, nor is delighted with smells any further than as they distinguish meats by them; nor do they apprehend the concords or discords of sound. Yet, in all pleasures whatsoever, they take care that a lesser joy does not hinder a greater, and that pleasure may never breed pain, which they think always follows dishonest pleasures. But they think it madness for a man to wear out the beauty of his face or the force of his natural strength, to corrupt the sprightliness of his body by sloth and laziness, or to waste it by fasting; that it is madness to weaken the strength of his constitution and reject the oth-

er delights of life, unless by renouncing his own satisfaction he can either serve the public or promote the happiness of others, for which he expects a greater recompense from God. So that they look on such a course of life as the mark of a mind that is both cruel to itself and ungrateful to the Author of Nature, as if we would not be beholden to Him for His favors, and therefore rejects all His blessings; as one who should afflict himself for the empty shadow of virtue, or for no better end than to render himself capable of bearing those misfortunes which possibly will never happen.

This is their notion of virtue and of pleasure: they think that no man's reason can carry him to a truer idea of them unless some discovery from heaven should inspire him with sublimer notions. I have not now the leisure to examine whether they think right or wrong in this matter; nor do I judge it necessary, for I have only undertaken to give you an account of their constitution, but not to defend all their principles. I am sure that whatever may be said of their notions, there is not in the whole world either a better people or a happier government. Their bodies are vigorous and lively; and though they are but of a middle stature, and have neither the fruitfulest soil nor the purest air in the world; yet they fortify themselves so well, by their temperate course of life, against the unhealthiness of their air, and by their industry they so cultivate their soil, that there is nowhere to be seen a greater increase, both of corn and cattle, nor are there anywhere healthier men and freer from diseases; for one may there see reduced to practice not only all the art that the husbandman employs in manuring and improving an ill soil, but whole woods plucked up by the roots, and in other places new ones planted, where there were none before. Their principal motive for this

is the convenience of carriage, that their timber may be either near their towns or growing on the banks of the sea, or of some rivers, so as to be floated to them; for it is a harder work to carry wood at any distance over land than corn. The people are industrious, apt to learn, as well as cheerful and pleasant, and none can endure more labor when it is necessary; but, except in that case, they love their ease.

THEIR LEARNING

They are unwearied pursuers of knowledge; for when we had given them some hints of the learning and discipline of the Greeks, concerning whom we only instructed them (for we know that there was nothing among the Romans, except their historians and their poets, that they would value much), it was strange to see how eagerly they were set on learning that language: we began to read a little of it to them, rather in compliance with their importunity than out of any hopes of their reaping from it any great advantage: but, after a very short trial, we found they made such progress, that we saw our labor was like to be more successful than we could have expected: they learned to write their characters and to pronounce their language so exactly, had so quick an apprehension, they remembered it so faithfully, and became so ready and correct in the use of it, that it would have looked like a miracle if the greater part of those whom we taught had not been men both of extraordinary capacity and of a fit age for instruction: they were, for the greatest part, chosen from among their learned men by their chief council, though some studied it of their own accord. In three years' time they became masters of

the whole language, so that they read the best of the Greek authors very exactly. I am, indeed, apt to think that they learned that language the more easily from its having some relation to their own. I believe that they were a colony of the Greeks; for though their language comes nearer the Persian, yet they retain many names, both for their towns and magistrates, that are of Greek derivation.

I happened to carry a great many books with me, instead of merchandise, when I sailed my fourth voyage; for I was so far from thinking of soon coming back, that I rather thought never to have returned at all, and I gave them all my books, among which were many of Plato's and some of Aristotle's works: I had also Theophrastus on Plants, which, to my great regret, was imperfect; for having laid it carelessly by, while we were at sea, a monkey had seized upon it, and in many places torn out the leaves. They have no books of grammar but Lascares, for I did not carry Theodorus with me; nor have they any dictionaries but Hesichius and Dioscerides. They esteem Plutarch highly, and were much taken with Lucian's wit and with his pleasant way of writing. As for the poets, they have Aristophanes, Homer, Euripides, and Sophocles of Aldus's edition; and for historians, Thucydides, Herodotus, and Herodian.

One of my companions, Thricius Apinatus, happened to carry with him some of Hippocrates's works and Galen's Microtechné, which they hold in great estimation; for though there is no nation in the world that needs physic so little as they do, yet there is not any that honors it so much; they reckon the knowledge of it one of the pleasantest and most profitable parts of philosophy, by which, as they search into the secrets of nature, so they not only find this study highly agreeable, but think that

such inquiries are very acceptable to the Author of nature; and imagine, that as He, like the inventors of curious engines amongst mankind, has exposed this great machine of the universe to the view of the only creatures capable of contemplating it, so an exact and curious observer, who admires His workmanship, is much more acceptable to Him than one of the herd, who, like a beast incapable of reason, looks on this glorious scene with the eyes of a dull and unconcerned spectator.

The minds of the Utopians, when fenced with a love for learning, are very ingenious in discovering all such arts as are necessary to carry it to perfection. Two things they owe to us, the manufacture of paper and the art of printing; yet they are not so entirely indebted to us for these discoveries but that a great part of the invention was their own. We showed them some books printed by Aldus, we explained to them the way of making paper and the mystery of printing; but, as we had never practiced these arts, we described them in a crude and superficial manner. They seized the hints we gave them; and though at first they could not arrive at perfection, yet by making many essays they at last found out and corrected all their errors and conquered every difficulty. Before this they only wrote on parchment, on reeds, or on the barks of trees; but now they have established the manufactures of paper and set up printing presses, so that, if they had but a good number of Greek authors, they would be quickly supplied with many copies of them: at present, though they have no more than those I have mentioned, yet, by several impressions, they have multiplied them into many thousands.

If any man was to go among them that had some extraordinary talent, or that by much traveling had observed the customs of many nations

(which made us to be so well received), he would receive a hearty welcome, for they are very desirous to know the state of the whole world. Very few go among them on the account of traffic; for what can a man carry to them but iron, or gold, or silver? Which merchants desire rather to export than import to a strange country: and as for their exportation, they think it better to manage that themselves than to leave it to foreigners, for by this means, as they understand the state of the neighboring countries better, so they keep up the art of navigation which cannot be maintained but by much practice.

THEIR SLAVES

They do not make slaves of prisoners of war, except those that are taken in battle, nor of the sons of their slaves, nor of those of other nations: the slaves among them are only such as are condemned to that state of life for the commission of some crime, or, which is more common, such as their merchants find condemned to die in those parts to which they trade, whom they sometimes redeem at low rates, and in other places have them for nothing. They are kept at perpetual labor, and are always chained, but with this difference, that their own natives are treated much worse than others: they are considered as more profligate than the rest, and since they could not be restrained by the advantages of so excellent an education, are judged worthy of harder usage. Another sort of slaves are the poor of the neighboring countries, who offer of their own accord to come and serve them: they treat these better, and use them in all other respects as well as their own countrymen, except their imposing more labor upon

them, which is no hard task to those that have been accustomed to it; and if any of these have a mind to go back to their own country, which, indeed, falls out but seldom, as they do not force them to stay, so they do not send them away empty-handed.

THEIR DEATH

I have already told you with what care they look after their sick, so that nothing is left undone that can contribute either to their case or health; and for those who are taken with fixed and incurable diseases, they use all possible ways to cherish them and to make their lives as comfortable as possible. They visit them often and take great pains to make their time pass off easily; but when any is taken with a torturing and lingering pain, so that there is no hope either of recovery or ease, the priests and magistrates come and exhort them, that, since they are now unable to go on with the business of life, are become a burden to themselves and to all about them, and they have really outlived themselves, they should no longer nourish such a rooted distemper, but choose rather to die since they cannot live but in much misery; being assured that if they thus deliver themselves from torture, or are willing that others should do it, they shall be happy after death: since, by their acting thus, they lose none of the pleasures, but only the troubles of life, they think they behave not only reasonably but in a manner consistent with religion and piety; because they follow the advice given them by their priests, who are the expounders of the will of God. Such as are wrought on by these persuasions either starve themselves of their own accord, or take opium, and by that means die without pain.

But no man is forced on this way of ending his life; and if they cannot be persuaded to it, this does not induce them to fail in their attendance and care of them: but as they believe that a voluntary death, when it is chosen upon such an authority, is very honorable, so if any man takes away his own life without the approbation of the priests and the senate, they give him none of the honors of a decent funeral, but throw his body into a ditch.

THEIR MARRIAGE

Their women are not married before eighteen nor their men before two-and-twenty, and if any of them run into forbidden embraces before marriage they are severely punished, and the privilege of marriage is denied them unless they can obtain a special warrant from the Prince. Such disorders cast a great reproach upon the master and mistress of the family in which they happen, for it is supposed that they have failed in their duty. The reason of punishing this so severely is, because they think that if they were not strictly restrained from all vagrant appetites, very few would engage in a state in which they venture the quiet of their whole lives, by being confined to one person, and are obliged to endure all the inconveniences with which it is accompanied.

In choosing their wives they use a method that would appear to us very absurd and ridiculous, but it is constantly observed among them, and is accounted perfectly consistent with wisdom. Before marriage some grave matron presents the bride, naked, whether she is a virgin or a widow, to the bridegroom, and after that some grave man presents the bridegroom, naked, to the bride. We, indeed, both laughed at this, and

condemned it as very indecent. But they, on the other hand, wondered at the folly of the men of all other nations, who, if they are but to buy a horse of a small value, are so cautious that they will see every part of him, and take off both his saddle and all his other tackle, that there may be no secret ulcer hid under any of them, and that yet in the choice of a wife, on which depends the happiness or unhappiness of the rest of his life, a man should venture upon trust, and only see about a handsbreadth of the face, all the rest of the body being covered, under which may lie hid what may be contagious as well as loathsome. All men are not so wise as to choose a woman only for her good qualities, and even wise men consider the body as that which adds not a little to the mind, and it is certain there may be some such deformity covered with clothes as may totally alienate a man from his wife, when it is too late to part with her; if such a thing is discovered after marriage a man has no remedy but patience; they, therefore, think it is reasonable that there should be good provision made against such mischievous frauds.

There was so much the more reason for them to make a regulation in this matter, because they are the only people of those parts that neither allow of polygamy nor of divorces, except in the case of adultery or insufferable perverseness, for in these cases the Senate dissolves the marriage and grants the injured person leave to marry again; but the guilty are made infamous and are never allowed the privilege of a second marriage. None are suffered to put away their wives against their wills, from any great calamity that may have fallen on their persons, for they look on it as the height of cruelty and treachery to abandon either of the married persons when they need most the tender care of their consort,

and that chiefly in the case of old age, which, as it carries many diseases along with it, so it is a disease of itself.

But it frequently falls out that when a married couple do not well agree, they, by mutual consent, separate, and find out other persons with whom they hope they may live more happily; yet this is not done without obtaining leave of the Senate, which never admits of a divorce but upon a strict inquiry made, both by the senators and their wives, into the grounds upon which it is desired, and even when they are satisfied concerning the reasons of it they go on but slowly, for they imagine that too great easiness in granting leave for new marriages would very much shake the kindness of married people.

They punish severely those that defile the marriage bed; if both parties are married they are divorced, and the injured persons may marry one another, or whom they please, but the adulterer and the adulteress are condemned to slavery, yet if either of the injured persons cannot shake off the love of the married person they may live with them still in that state, but they must follow them to that labor to which the slaves are condemned, and sometimes the repentance of the condemned, together with the unshaken kindness of the innocent and injured person, has prevailed so far with the Prince that he has taken off the sentence; but those that relapse after they are once pardoned are punished with death.

THEIR LAWS AND PUNISHMENTS

Their law does not determine the punishment for other crimes, but that is left to the Senate, to temper it according to the circumstances of the fact.

Husbands have power to correct their wives and parents to chastise their children, unless the fault is so great that a public punishment is thought necessary for striking terror into others. For the most part slavery is the punishment even of the greatest crimes, for as that is no less terrible to the criminals themselves than death, so they think the preserving them in a state of servitude is more for the interest of the commonwealth than killing them, since, as their labor is a greater benefit to the public than their death could be, so the sight of their misery is a more lasting terror to other men than that which would be given by their death. If their slaves rebel, and will not bear their yoke and submit to the labor that is enjoined them, they are treated as wild beasts that cannot be kept in order, neither by a prison nor by their chains, and are at last put to death. But those who bear their punishment patiently, and are so much wrought on by that pressure that lies so hard on them, that it appears they are really more troubled for the crimes they have committed than for the miseries they suffer, are not out of hope, but that, at last, either the Prince will, by his prerogative, or the people, by their intercession, restore them again to their liberty, or, at least, very much mitigate their slavery.

He that tempts a married woman to adultery is no less severely punished than he that commits it, for they believe that a deliberate design to commit a crime is equal to the fact itself, since its not taking effect does not make the person that miscarried in his attempt at all the less guilty.

They take great pleasure in fools, and as it is thought a base and unbecoming thing to use them ill, so they do not think it amiss for people to divert themselves with their folly; and, in their opinion, this is a great advantage to the fools themselves; for if men were so sullen and severe as

not at all to please themselves with their ridiculous behavior and foolish sayings, which is all that they can do to recommend themselves to others, it could not be expected that they would be so well provided for nor so tenderly used as they must otherwise be.

If any man should reproach another for his being misshaped or imperfect in any part of his body, it would not at all be thought a reflection on the person so treated, but it would be accounted scandalous in him that had upbraided another with what he could not help.

It is thought a sign of a sluggish and sordid mind not to preserve carefully one's natural beauty; but it is likewise infamous among them to use paint. They all see that no beauty recommends a wife so much to her husband as the probity of her life and her obedience; for as some few are caught and held only by beauty, so all are attracted by the other excellences which charm all the world.

As they fright men from committing crimes by punishments, so they invite them to the love of virtue by public honors; therefore they erect statues to the memories of such worthy men as have deserved well of their country, and set these in their marketplaces, both to perpetuate the remembrance of their actions and to be an incitement to their posterity to follow their example.

If any man aspires to any office he is sure never to compass it. They all live easily together, for none of the magistrates are either insolent or cruel to the people; they affect rather to be called fathers, and, by being really so, they well deserve the name; and the people pay them all the marks of honor the more freely because none are exacted from them.

The Prince himself has no distinction, either of garments or of a crown;

but is only distinguished by a sheaf of corn carried before him; as the High Priest is also known by his being preceded by a person carrying a wax light. They have but few laws, and such is their constitution that they need not many. They very much condemn other nations whose laws, together with the commentaries on them, swell up to so many volumes; for they think it an unreasonable thing to oblige men to obey a body of laws that are both of such a bulk, and so dark as not to be read and understood by every one of the subjects.

They have no lawyers among them, for they consider them as a sort of people whose profession it is to disguise matters and to wrest the laws, and, therefore, they think it is much better that every man should plead his own cause, and trust it to the judge, as in other places the client trusts it to a counselor; by this means they both cut off many delays and find out truth more certainly; for after the parties have laid open the merits of the cause, without those artifices which lawyers are apt to suggest, the judge examines the whole matter, and supports the simplicity of such well meaning persons, whom otherwise crafty men would be sure to run down; and thus they avoid those evils which appear very remarkably among all those nations that labor under a vast load of laws.

Every one of them is skilled in their law; for, as it is a very short study, so the plainest meaning of which words are capable is always the sense of their laws; and they argue thus: all laws are promulgated for this end, that every man may know his duty; and, therefore, the plainest and most obvious sense of the words is that which ought to be put upon them, since a more refined exposition cannot be easily comprehended, and would only serve to make the laws become useless to the greater part of mankind, and

24. The commemorative statues

especially to those who need most the direction of them; for it is all one not to make a law at all or to couch it in such terms that, without a quick apprehension and much study, a man cannot find out the true meaning of it, since the generality of mankind are both so dull, and so much employed in their several trades, that they have neither the leisure nor the capacity requisite for such an inquiry.

THEIR FOREIGN POLICIES

Some of their neighbors, who are masters of their own liberties (having long ago, by the assistance of the Utopians, shaken off the yoke of tyranny, and being much taken with those virtues which they observe among them), have come to desire that they would send magistrates to govern them, some changing them every year, and others every five years; at the end of their government they bring them back to Utopia, with great expressions of honor and esteem, and carry away others to govern in their stead. In this they seem to have fallen upon a very good expedient for their own happiness and safety; for since the good or ill condition of a nation depends so much upon their magistrates, they could not have made a better choice than by pitching on men whom no advantages can bias; for wealth is of no use to them, since they must so soon go back to their own country, and they, being strangers among them, are not engaged in any of their heats or animosities; and it is certain that when public judicatories are swayed, either by avarice or partial affections, there must follow a dissolution of justice, the chief sinew of society. The Utopians call those nations that come and ask magistrates from them

Neighbors; but those to whom they have been of more particular service, Friends; and as all other nations are perpetually either making leagues or breaking them, they never enter into an alliance with any state. They think leagues are useless things, and believe that if the common ties of humanity do not knit men together, the faith of promises will have no great effect; and they are the more confirmed in this by what they see among the nations round about them, who are no strict observers of leagues and treaties.

We know how religiously they are observed in Europe, more particularly where the Christian doctrine is received, among whom they are sacred and inviolable! Which is partly owing to the justice and goodness of the princes themselves, and partly to the reverence they pay to the popes, who, as they are the most religious observers of their own promises, so they exhort all other princes to perform theirs, and, when fainter methods do not prevail, they compel them to it by the severity of the pastoral censure, and think that it would be the most indecent thing possible if men who are particularly distinguished by the title of “The Faithful” should not religiously keep the faith of their treaties.

But in that new found world, which is not more distant from us in situation than the people are in their manners and course of life, there is no trusting to leagues, even though they were made with all the pomp of the most sacred ceremonies; on the contrary, they are on this account the sooner broken, some slight pretense being found in the words of the treaties, which are purposely couched in such ambiguous terms that they can never be so strictly bound but they will always find some loophole to escape at, and thus they break both their leagues and their faith; and this is done with such impudence, that those very men who value themselves on

having suggested these expedients to their princes would, with a haughty scorn, declaim against such craft; or, to speak plainer, such fraud and deceit, if they found private men make use of it in their bargains, and would readily say that they deserved to be hanged.

By this means it is that all sort of justice passes in the world for a low-spirited and vulgar virtue, far below the dignity of royal greatness – or at least there are set up two sorts of justice; the one is mean and creeps on the ground, and, therefore, becomes none but the lower part of mankind, and so must be kept in severely by many restraints, that it may not break out beyond the bounds that are set to it; the other is the peculiar virtue of princes, which, as it is more majestic than that which becomes the rabble, so takes a freer compass, and thus lawful and unlawful are only measured by pleasure and interest. These practices of the princes that lie about Utopia, who make so little account of their faith, seem to be the reasons that determine them to engage in no confederacy. Perhaps they would change their mind if they lived among us; but yet, though treaties were more religiously observed, they would still dislike the custom of making them, since the world has taken up a false maxim upon it, as if there were no tie of nature uniting one nation to another, only separated perhaps by a mountain or a river, and that all were born in a state of hostility, and so might lawfully do all that mischief to their neighbors against which there is no provision made by treaties; and that when treaties are made they do not cut off the enmity or restrain the license of preying upon each other, if, by the unskillfulness of wording them, there are not effectual provisions made against them; they, on the other hand, judge that no man is to be esteemed our enemy

that has never injured us, and that the partnership of human nature is instead of a league; and that kindness and good nature unite men more effectually and with greater strength than any agreements whatsoever, since thereby the engagements of men's hearts become stronger than the bond and obligation of words.

THEIR MILITARY DISCIPLINE

They detest war as a very brutal thing, and which, to the reproach of human nature, is more practiced by men than by any sort of beasts. They, in opposition to the sentiments of almost all other nations, think that there is nothing more inglorious than that glory that is gained by war; and therefore, though they accustom themselves daily to military exercises and the discipline of war, in which not only their men, but their women likewise, are trained up, that, in cases of necessity, they may not be quite useless, yet they do not rashly engage in war, unless it be either to defend themselves or their friends from any unjust aggressors, or, out of good nature or in compassion, assist an oppressed nation in shaking off the yoke of tyranny. They, indeed, help their friends not only in defensive but also in offensive wars; but they never do that unless they had been consulted before the breach was made, and, being satisfied with the grounds on which they went, they had found that all demands of reparation were rejected, so that a war was unavoidable.

This they think to be not only just when one neighbor makes an inroad on another by public order, and carries away the spoils, but when the merchants of one country are oppressed in another, either under pretense

of some unjust laws, or by the perverse wresting of good ones. This they count a juster cause of war than the other, because those injuries are done under some color of laws.

This was the only ground of that war in which they engaged with the Nephelogetes against the Aleopolitanes, a little before our time; for the merchants of the former having, as they thought, met with great injustice among the latter, which (whether it was in itself right or wrong) drew on a terrible war, in which many of their neighbors were engaged; and their keenness in carrying it on being supported by their strength in maintaining it, it not only shook some very flourishing states and very much afflicted others, but, after a series of much mischief ended in the entire conquest and slavery of the Aleopolitanes, who, though before the war they were in all respects much superior to the Nephelogetes, were yet subdued; but, though the Utopians had assisted them in the war, yet they pretended to no share of the spoil.

But, though they so vigorously assist their friends in obtaining reparation for the injuries they have received in affairs of this nature, yet, if any such frauds were committed against themselves, provided no violence was done to their persons, they would only, on their being refused satisfaction, forbear trading with such a people. This is not because they consider their neighbors more than their own citizens; but, since their neighbors trade every one upon his own stock, fraud is a more sensible injury to them than it is to the Utopians, among whom the public, in such a case, only suffers, as they expect no thing in return for the merchandise they export but that in which they so much abound, and is of little use to them, the loss does not much affect them. They think, therefore, it would

be too severe to revenge a loss attended with so little inconvenience, either to their lives or their subsistence, with the death of many persons; but if any of their people are either killed or wounded wrongfully, whether it be done by public authority, or only by private men, as soon as they hear of it they send ambassadors, and demand that the guilty persons may be delivered up to them, and if that is denied, they declare war; but if it be complied with, the offenders are condemned either to death or slavery. They would be both troubled and ashamed of a bloody victory over their enemies; and think it would be as foolish a purchase as to buy the most valuable goods at too high a rate. And in no victory do they glory so much as in that which is gained by dexterity and good conduct without bloodshed. In such cases they appoint public triumphs, and erect trophies to the honor of those who have succeeded; for then do they reckon that a man acts suitably to his nature, when he conquers his enemy in such a way as that no other creature but a man could be capable of, and that is by the strength of his understanding. Bears, lions, boars, wolves, and dogs, and all other animals, employ their bodily force one against another, in which, as many of them are superior to men, both in strength and fierceness, so they are all subdued by his reason and understanding. The only design of the Utopians in war is to obtain that by force which, if it had been granted them in time, would have prevented the war; or, if that cannot be done, to take so severe a revenge on those that have injured them that they may be terrified from doing the like for the time to come. By these ends they measure all their designs, and manage them so, that it is visible that the appetite of fame or vainglory does not work so much on there as a just care of their own security.

As soon as they declare war, they take care to have a great many placards, that are marked with their common seal, affixed in the most conspicuous places of their enemies' country. This is carried secretly, and done in many places all at once. In these they promise great rewards to such as shall kill the prince, and lesser in proportion to such as shall kill any other persons who are those on whom, next to the prince himself, they cast the chief balance of the war. And they double the sum to him that, instead of killing the person so marked out, shall take him alive, and put him in their hands. They offer not only indemnity, but rewards, to such of the persons themselves that are so marked, if they will act against their countrymen. By this means those that are named in their proclamations become not only distrustful of their fellow-citizens, but are jealous of one another, and are much distracted by fear and danger; for it has often fallen out that many of them, and even the prince himself, have been betrayed, by those in whom they have trusted most; for the rewards that the Utopians offer are so immeasurably great, that there is no sort of crime to which men cannot be drawn by them. They consider the risk that those run who undertake such services, and offer a recompense proportioned to the danger—not only a vast deal of gold, but great revenues in lands, that lie among other nations that are their friends, where they may go and enjoy them very securely; and they observe the promises they make of their kind most religiously.

They very much approve of this way of corrupting their enemies, though it appears to others to be base and cruel; but they look on it as a wise course, to make an end of what would be otherwise a long war, without so much as hazarding one battle to decide it. They think it likewise an act

of mercy and love to mankind to prevent the great slaughter of those that must otherwise be killed in the progress of the war, both on their own side and on that of their enemies, by the death of a few that are most guilty; and that in so doing they are kind even to their enemies, and pity them no less than their own people, as knowing that the greater part of them do not engage in the war of their own accord, but are driven into it by the passions of their prince.

If this method does not succeed with them, then they sow seeds of contention among their enemies, and animate the prince's brother, or some of the nobility, to aspire to the crown. If they cannot disunite them by domestic broils, then they engage their neighbors against them, and make them set on foot some old pretensions, which are never wanting to princes when they have occasion for them. These they plentifully supply with money, though but very sparingly with any auxiliary troops; for they are so tender of their own people that they would not willingly exchange one of them, even with the prince of their enemies' country.

But as they keep their gold and silver only for such an occasion, so, when that offers itself, they easily part with it; since it would be no convenience to them, though they should reserve nothing of it to themselves. For besides the wealth that they have among them at home, they have a vast treasure abroad; many nations round about them being deep in their debt: so that they hire soldiers from all places for carrying on their wars; but chiefly from the Zapolets, who live five hundred miles east of Utopia. They are a rude, wild, and fierce nation, who delight in the woods and rocks, among which they were born and bred up. They are hardened both against heat, cold, and labor, and know nothing of the delicacies of life.

They do not apply themselves to agriculture, nor do they care either for their houses or their clothes: cattle is all that they look after; and for the greatest part they live either by hunting or upon rapine; and are made, as it were, only for war.

They watch all opportunities of engaging in it, and very readily embrace such as are offered them. Great numbers of them will frequently go out, and offer themselves for a very low pay, to serve any that will employ them: they know none of the arts of life, but those that lead to the taking it away; they serve those that hire them, both with much courage and great fidelity; but will not engage to serve for any determined time, and agree upon such terms, that the next day they may go over to the enemies of those whom they serve if they offer them a greater encouragement; and will, perhaps, return to them the day after that upon a higher advance of their pay. There are few wars in which they make not a considerable part of the armies of both sides: so it often falls out that they who are related, and were hired in the same country, and so have lived long and familiarly together, forgetting both their relations and former friendship, kill one another upon no other consideration than that of being hired to it for a little money by princes of different interests; and such a regard have they for money that they are easily wrought on by the difference of one penny a day to change sides. So entirely does their avarice influence them; and yet this money, which they value so highly, is of little use to them; for what they purchase thus with their blood they quickly waste on luxury, which among them is but of a poor and miserable form.

This nation serves the Utopians against all people whatsoever, for they pay higher than any other. The Utopians hold this for a maxim, that as

they seek out the best sort of men for their own use at home, so they make use of this worst sort of men for the consumption of war; and therefore they hire them with the offers of vast rewards to expose themselves to all sorts of hazards, out of which the greater part never returns to claim their promises; yet they make them good most religiously to such as escape. This animates them to adventure again, whenever there is occasion for it; for the Utopians are not at all troubled how many of these happen to be killed, and reckon it a service done to mankind if they could be a means to deliver the world from such a lewd and vicious sort of people, that seem to have run together, as to the drain of human nature.

Next to these, they are served in their wars with those upon whose account they undertake them, and with the auxiliary troops of their other friends, to whom they join a few of their own people, and send some man of eminent and approved virtue to command in chief. There are two sent with him, who, during his command, are but private men, but the first is to succeed him if he should happen to be either killed or taken; and, in case of the like misfortune to him, the third comes in his place; and thus they provide against all events, that such accidents as may befall their generals may not endanger their armies.

When they draw out troops of their own people, they take such out of every city as freely offer themselves, for none are forced to go against their wills, since they think that if any man is pressed that wants courage, he will not only act faintly, but by his cowardice dishearten others. But if an invasion is made on their country, they make use of such men, if they have good bodies, though they are not brave; and either put them aboard their ships, or place them on the walls of their towns, that being

so posted, they may find no opportunity of flying away; and thus either shame, the heat of action, or the impossibility of flying, bears down their cowardice; they often make a virtue of necessity, and behave themselves well, because nothing else is left them.

But as they force no man to go into any foreign war against his will, so they do not hinder those women who are willing to go along with their husbands; on the contrary, they encourage and praise them, and they stand often next their husbands in the front of the army. They also place together those who are related, parents, and children, kindred, and those that are mutually allied, near one another; that those whom nature has inspired with the greatest zeal for assisting one another may be the nearest and readiest to do it; and it is matter of great reproach if husband or wife survive one another, or if a child survives his parent, and therefore when they come to be engaged in action, they continue to fight to the last man.

If their enemies stand before them; and as they use all prudent methods to avoid the endangering their own men, and if it is possible let all the action and danger fall upon the troops that they hire, so if it becomes necessary for themselves to engage, they then charge with as much courage as they avoided it before with prudence: nor is it a fierce charge at first, but it increases by degrees; and as they continue in action, they grow more obstinate, and press harder upon the enemy, insomuch that they will much sooner die than give ground; for the certainty that their children will be well looked after when they are dead frees them from all that anxiety concerning them which often masters men of great courage; and thus they are animated by a noble and invincible resolution. Their skill in military affairs increases their courage: and the wise sentiments which, according to the

laws of their country, are instilled into them in their education, give additional vigor to their minds: for as they do not undervalue life so as prodigally to throw it away, they are not so indecently fond of it as to preserve it by base and unbecoming methods.

In the greatest heat of action the bravest of their youth, who have devoted themselves to that service, single out the general of their enemies, set on him either openly or by ambush; pursue him everywhere, and when spent and wearied out, are relieved by others, who never give over the pursuit, either attacking him with close weapons when they can get near him, or with those which wound at a distance, when others get in between them. So that, unless he secures himself by flight, they seldom fail at last to kill or to take him prisoner.

When they have obtained a victory, they kill as few as possible, and are much more bent on taking many prisoners than on killing those that fly before them. Nor do they ever let their men so loose in the pursuit of their enemies as not to retain an entire body still in order; so that if they have been forced to engage the last of their battalions before they could gain the day, they will rather let their enemies all escape than pursue them when their own army is in disorder; remembering well what has often fallen out to themselves, that when the main body of their army has been quite defeated and broken, when their enemies, imagining the victory obtained, have let themselves loose into an irregular pursuit, a few of them that lay for a reserve, waiting a fit opportunity, have fallen on them in their chase, and when straggling in disorder, and apprehensive of no danger, but counting the day their own, have turned the whole action, and, wresting out of their hands a victory that seemed certain

and undoubted, while the vanquished have suddenly become victorious. It is hard to tell whether they are more dexterous in laying or avoiding ambushes. They sometimes seem to fly when it is far from their thoughts; and when they intend to give ground, they do it so that it is very hard to find out their design. If they see they are ill posted, or are like to be overpowered by numbers, they then either march off in the night with great silence, or by some stratagem delude their enemies. If they retire in the daytime, they do it in such order that it is no less dangerous to fall upon them in a retreat than in a march. They fortify their camps with a deep and large trench; and throw up the earth that is dug out of it for a wall; nor do they employ only their slaves in this, but the whole army works at it, except those that are then upon the guard; so that when so many hands are at work, a great line and a strong fortification is finished in so short a time that it is scarce credible.

Their armor is very strong for defense, and yet is not so heavy as to make them uneasy in their marches; they can even swim with it. All that are trained up to war practice swimming. Both horse and foot make great use of arrows, and are very expert. They have no swords, but fight with a pole-axe that is both sharp and heavy, by which they thrust or strike down an enemy. They are very good at finding out warlike machines, and disguise them so well that the enemy does not perceive them till he feels the use of them; so that he cannot prepare such a defense as would render them useless; the chief consideration had in the making them is that they may be easily carried and managed.

If they agree to a truce, they observe it so religiously that no provocations will make them break it. They never lay their enemies' country waste nor

burn their corn, and even in their marches they take all possible care that neither horse nor foot may tread it down, for they do not know but that they may have use for it themselves. They hurt no man whom they find disarmed, unless he is a spy. When a town is surrendered to them, they take it into their protection; and when they carry a place by storm they never plunder it, but put those only to the sword that oppose the rendering of it up, and make the rest of the garrison slaves, but for the other inhabitants, they do them no hurt; and if any of them had advised a surrender, they give them good rewards out of the estates of those that they condemn, and distribute the rest among their auxiliary troops, but they themselves take no share of the spoil.

When a war is ended, they do not oblige their friends to reimburse their expenses; but they obtain them of the conquered, either in money, which they keep for the next occasion, or in lands, out of which a constant revenue is to be paid them; by many increases the revenue which they draw out from several countries on such occasions is now risen to above 700,000 ducats a year. They send some of their own people to receive these revenues, who have orders to live magnificently and like princes, by which means they consume much of it upon the place; and either bring over the rest to Utopia or lend it to that nation in which it lies. This they most commonly do, unless some great occasion, which falls out but very seldom, should oblige them to call for it all. It is out of these lands that they assign rewards to such as they encourage to adventure on desperate attempts. If any prince that engages in war with them is making preparations for invading their country, they prevent him, and make his country the seat of the war; for they do not willingly suffer any war to break in upon their island; and if that should hap-

pen, they would only defend themselves by their own people; but would not call for auxiliary troops to their assistance.

THEIR RELIGIONS

There are several sorts of religions, not only in different parts of the island, but even in every town; some worshiping the sun, others the moon or one of the planets. Some worship such men as have been eminent in former times for virtue or glory, not only as ordinary deities, but as the supreme god. Yet the greater and wiser sort of them worship none of these, but adore one eternal, invisible, infinite, and incomprehensible Deity; as a Being that is far above all our apprehensions, that is spread over the whole universe, not by His bulk, but by His power and virtue; Him they call the Father of All, and acknowledge that the beginnings, the increase, the progress, the vicissitudes, and the end of all things come only from Him; nor do they offer divine honors to any but to Him alone.

And, indeed, though they differ concerning other things, yet all agree in this: that they think there is one Supreme Being that made and governs the world, whom they call, in the language of their country, Mithras. They differ in this: that one thinks the god whom he worships is this Supreme Being, and another thinks that his idol is that god; but they all agree in one principle, that whoever is this Supreme Being, He is also that great essence to whose glory and majesty all honors are ascribed by the consent of all nations.

By degrees they fall off from the various superstitions that are among them, and grow up to that one religion that is the best and most in request;

and there is no doubt to be made, but that all the others had vanished long ago, if some of those who advised them to lay aside their superstitions had not met with some unhappy accidents, which, being considered as inflicted by heaven, made them afraid that the god whose worship had like to have been abandoned had interposed and revenged themselves on those who despised their authority.

After they had heard from us an account of the doctrine, the course of life, and the miracles of Christ, and of the wonderful constancy of so many martyrs, whose blood, so willingly offered up by them, was the chief occasion of spreading their religion over a vast number of nations, it is not to be imagined how inclined they were to receive it. I shall not determine whether this proceeded from any secret inspiration of God, or whether it was because it seemed so favorable to that community of goods, which is an opinion so particular as well as so dear to them; since they perceived that Christ and His followers lived by that rule, and that it was still kept up in some communities among the sincerest sort of Christians. From whichever of these motives it might be, true it is, that many of them came over to our religion, and were initiated into it by baptism. But as two of our number were dead, so none of the four that survived were in priests' orders, we, therefore, could only baptize them, so that, to our great regret, they could not partake of the other sacraments, that can only be administered by priests, but they are instructed concerning them and long most vehemently for them. They have had great disputes among themselves, whether one chosen by them to be a priest would not be thereby qualified to do all the things that belong to that character, even though he had no authority derived from the Pope,

and they seemed to be resolved to choose some for that employment, but they had not done it when I left them.

Those among them that have not received our religion do not fright any from it, and use none ill that goes over to it, so that all the while I was there one man was only punished on this occasion. He being newly baptized did, notwithstanding all that we could say to the contrary, dispute publicly concerning the Christian religion, with more zeal than discretion, and with so much heat, that he not only preferred our worship to theirs, but condemned all their rites as profane, and cried out against all that adhered to them as impious and sacrilegious persons, that were to be damned to everlasting burnings. Upon his having frequently preached in this manner he was seized, and after trial he was condemned to banishment, not for having disparaged their religion, but for his inflaming the people to sedition; for this is one of their most ancient laws, that no man ought to be punished for his religion.

At the first constitution of their government, Utopus having understood that before his coming among them the old inhabitants had been engaged in great quarrels concerning religion, by which they were so divided among themselves, that he found it an easy thing to conquer them, since, instead of uniting their forces against him, every different party in religion fought by themselves. After he had subdued them he made a law that every man might be of what religion he pleased, and might endeavor to draw others to it by the force of argument and by amicable and modest ways, but without bitterness against those of other opinions; but that he ought to use no other force but that of persuasion, and was neither to mix with it reproaches nor violence; and such as did

otherwise were to be condemned to banishment or slavery.

This law was made by Utopus, not only for preserving the public peace, which he saw suffered much by daily contentions and irreconcilable heats, but because he thought the interest of religion itself required it. He judged it not fit to determine anything rashly; and seemed to doubt whether those different forms of religion might not all come from God, who might inspire man in a different manner, and be pleased with this variety; he therefore thought it indecent and foolish for any man to threaten and terrify another to make him believe what did not appear to him to be true. And supposing that only one religion was really true, and the rest false, he imagined that the native force of truth would at last break forth and shine bright, if supported only by the strength of argument, and attended to with a gentle and unprejudiced mind; while, on the other hand, if such debates were carried on with violence and tumults, as the most wicked are always the most obstinate, so the best and most holy religion might be choked with superstition, as corn is with briars and thorns; he therefore left men wholly to their liberty, that they might be free to believe as they should see cause; only he made a solemn and severe law against such as should so far degenerate from the dignity of human nature, as to think that our souls died with our bodies, or that the world was governed by chance, without a wise overruling Providence: for they all formerly believed that there was a state of rewards and punishments to the good and bad after this life; and they now look on those that think otherwise as scarce fit to be counted men, since they degrade so noble a being as the soul, and reckon it no better than a beast's.

Thus they are far from looking on such men as fit for human society, or to be citizens of a well ordered commonwealth; since a man of such principles must needs, as oft as he dares do it, despise all their laws and customs: for there is no doubt to be made, that a man who is afraid of nothing but the law, and apprehends nothing after death, will not scruple to break through all the laws of his country, either by fraud or force, when by this means he may satisfy his appetites. They never raise any that hold these maxims, either to honors or offices, nor employ them in any public trust, but despise them, as men of base and sordid minds. Yet they do not punish them, because they lay this down as a maxim, that a man cannot make himself believe anything he pleases; nor do they drive any to dissemble their thoughts by threatenings, so that men are not tempted to lie or disguise their opinions; which being a sort of fraud, is abhorred by the Utopians: they take care indeed to prevent their disputing in defense of these opinions, especially before the common people: but they suffer, and even encourage them to dispute concerning them in private with their priest, and other grave men, being confident that they will be cured of those mad opinions by having reason laid before them. There are many among them that run far to the other extreme, though it is neither thought an ill nor unreasonable opinion, and therefore is not at all discouraged. They think that the souls of beasts are immortal, though far inferior to the dignity of the human soul, and not capable of so great a happiness.

They are almost all of them very firmly persuaded that good men will be infinitely happy in another state: so that though they are compassionate to all that are sick, yet they lament no man's death, except they see him loath to part with life; for they look on this as a very ill presage, as if the

25. The commemorative pillars

soul, conscious to itself of guilt, and quite hopeless, was afraid to leave the body, from some secret hints of approaching misery. They think that such a man's appearance before God cannot be acceptable to Him, who being called on, does not go out cheerfully, but is backward and unwilling, and is as it were dragged to it. They are struck with horror when they see any die in this manner, and carry them out in silence and with sorrow, and praying God that He would be merciful to the errors of the departed soul, they lay the body in the ground: but when any die cheerfully, and full of hope, they do not mourn for them, but sing hymns when they carry out their bodies, and commending their souls very earnestly to God: their whole behavior is then rather grave than sad, they burn the body, and set up a pillar where the pile was made, with an inscription to the honor of the deceased. When they come from the funeral, they discourse of his good life, and worthy actions, but speak of nothing oftener and with more pleasure than of his serenity at the hour of death.

They think such respect paid to the memory of good men is both the greatest incitement to engage others to follow their example, and the most acceptable worship that can be offered them; for they believe that though by the imperfection of human sight they are invisible to us, yet they are present among us, and hear those discourses that pass concerning themselves. They believe it inconsistent with the happiness of departed souls not to be at liberty to be where they will: and do not imagine them capable of the ingratitude of not desiring to see those friends with whom they lived on earth in the strictest bonds of love and kindness: besides, they are persuaded that good men, after death, have these affections; and all other good dispositions increased rather than diminished,

and therefore conclude that they are still among the living, and observe all they say or do. From hence they engage in all their affairs with the greater confidence of success, as trusting to their protection; while this opinion of the presence of their ancestors is a restraint that prevents their engaging in ill designs.

They despise and laugh at auguries, and the other vain and superstitious ways of divination, so much observed among other nations; but have great reverence for such miracles as cannot flow from any of the powers of nature, and look on them as effects and indications of the presence of the Supreme Being, of which they say many instances have occurred among them; and that sometimes their public prayers, which upon great and dangerous occasions they have solemnly put up to God, with assured confidence of being heard, have been answered in a miraculous manner. They think the contemplating God in His works, and the adoring Him for them, is a very acceptable piece of worship to Him.

There are many among them that upon a motive of religion neglect learning, and apply themselves to no sort of study; nor do they allow themselves any leisure time, but are perpetually employed, believing that by the good things that a man does he secures to himself that happiness that comes after death. Some of these visit the sick; others mend highways, cleanse ditches, repair bridges, or dig turf, gravel, or stone. Others fell and cleave timber, and bring wood, corn, and other necessities, on carts, into their towns; nor do these only serve the public, but they serve even private men, more than the slaves themselves do: for if there is anywhere a rough, hard, and sordid piece of work to be done, from which many are frightened by the labor and loathsomeness of it, if not the despair of accomplishing it,

C. Miriam Egger, *Cemeteries of Utopia*,
VetU 2018/2019



they cheerfully, and of their own accord, take that to their share; and by that means, as they ease others very much, so they afflict themselves, and spend their whole life in hard labor: and yet they do not value themselves upon this, nor lessen other people's credit to raise their own; but by their stooping to such servile employments they are so far from being despised, that they are so much the more esteemed by the whole nation.

Of these there are two sorts: some live unmarried and chaste, and abstain from eating any sort of flesh; and thus weaning themselves from all the pleasures of the present life, which they account hurtful, they pursue, even by the hardest and painfullest methods possible, that blessedness which they hope for hereafter; and the nearer they approach to it, they are the more cheerful and earnest in their endeavors after it. Another sort of them is less willing to put themselves to much toil, and therefore prefer a married state to a single one; and as they do not deny themselves the pleasure of it, so they think the begetting of children is a debt which they owe to human nature, and to their country; nor do they avoid any pleasure that does not hinder labor; and therefore eat flesh so much the more willingly, as they find that by this means they are the more able to work: the Utopians look upon these as the wiser sect, but they esteem the others as the most holy. They would indeed laugh at any man who, from the principles of reason, would prefer an unmarried state to a married, or a life of labor to an easy life: but they reverence and admire such as do it from the motives of religion. There is nothing in which they are more cautious than in giving their opinion positively concerning any sort of religion. The men that lead those severe lives are called in the language of their country *Buthrescas*, which answers to those we call Religious Orders.

Their priests are men of eminent piety, and therefore they are but few, for there are only thirteen in every town, one for every temple; but when they go to war, seven of these go out with their forces, and seven others are chosen to supply their room in their absence; but these enter again upon their employments when they return; and those who served in their absence, attend upon the high priest, till vacancies fall by death; for there is one set over the rest. They are chosen by the people as the other magistrates are, by suffrages given in secret, for preventing of factions: and when they are chosen, they are consecrated by the college of priests.

The care of all sacred things, the worship of God, and an inspection into the manners of the people, are committed to them. It is a reproach to a man to be sent for by any of them, or for them to speak to him in secret, for that always gives some suspicion: all that is incumbent on them is only to exhort and admonish the people; for the power of correcting and punishing ill men belongs wholly to the Prince, and to the other magistrates: the severest thing that the priest does is the excluding those that are desperately wicked from joining in their worship: there is not any sort of punishment more dreaded by them than this, for as it loads them with infamy, so it fills them with secret horrors, such is their reverence to their religion; nor will their bodies be long exempted from their share of trouble; for if they do not very quickly satisfy the priests of the truth of their repentance, they are seized on by the Senate, and punished for their impiety.

The education of youth belongs to the priests, yet they do not take so much care of instructing them in letters, as in forming their minds and manners aright; they use all possible methods to infuse, very early, into the tender and flexible minds of children, such opinions as are both good in themselves

and will be useful to their country, for when deep impressions of these things are made at that age, they follow men through the whole course of their lives, and conduce much to preserve the peace of the government, which suffers by nothing more than by vices that rise out of ill opinions.

The wives of their priests are the most extraordinary women of the whole country; sometimes the women themselves are made priests, though that falls out but seldom, nor are any but ancient widows chosen into that order. None of the magistrates have greater honor paid them than is paid the priests; and if they should happen to commit any crime, they would not be questioned for it; their punishment is left to God, and to their own consciences; for they do not think it lawful to lay hands on any man, how wicked soever he is, that has been in a peculiar manner dedicated to God; nor do they find any great inconvenience in this, both because they have so few priests, and because these are chosen with much caution, so that it must be a very unusual thing to find one who, merely out of regard to his virtue, and for his being esteemed a singularly good man, was raised up to so great a dignity, degenerate into corruption and vice; and if such a thing should fall out, for man is a changeable creature, yet, there being few priests, and these having no authority but what rises out of the respect that is paid them, nothing of great consequence to the public can proceed from the indemnity that the priests enjoy.

They have, indeed, very few of them, lest greater numbers sharing in the same honor might make the dignity of that order, which they esteem so highly, to sink in its reputation; they also think it difficult to find out many of such an exalted pitch of goodness as to be equal to that dignity, which demands the exercise of more than ordinary virtues. Nor are the priests

in greater veneration among them than they are among their neighboring nations, as you may imagine by that which I think gives occasion for it. When the Utopians engage in battle, the priests who accompany them to the war, apparelled in their sacred vestments, kneel down during the action (in a place not far from the field), and, lifting up their hands to heaven, pray, first for peace, and then for victory to their own side, and particularly that it may be gained without the effusion of much blood on either side; and when the victory turns to their side, they run in among their own men to restrain their fury; and if any of their enemies see them or call to them, they are preserved by that means; and such as can come so near them as to touch their garments have not only their lives, but their fortunes secured to them; it is upon this account that all the nations round about consider them so much, and treat them with such reverence, that they have been often no less able to preserve their own people from the fury of their enemies than to save their enemies from their rage; for it has sometimes fallen out, that when their armies have been in disorder and forced to fly, so that their enemies were running upon the slaughter and spoil, the priests by interposing have separated them from one another, and stopped the effusion of more blood; so that, by their mediation, a peace has been concluded on very reasonable terms; nor is there any nation about them so fierce, cruel, or barbarous, as not to look upon their persons as sacred and inviolable. The first and the last day of the month, and of the year, is a festival; they measure their months by the course of the moon, and their years by the course of the sun: the first days are called in their language the Cyne-mernes, and the last the Trapemernes, which answers in our language, to the festival that begins or ends the season.

They have magnificent temples, that are not only nobly built, but extremely spacious, which is the more necessary as they have so few of them; they are a little dark within, which proceeds not from any error in the architecture, but is done with design; for their priests think that too much light dissipates the thoughts, and that a more moderate degree of it both recollects the mind and raises devotion.

Though there are many different forms of religion among them, yet all these, how various soever, agree in the main point, which is the worshipping the Divine Essence; and, therefore, there is nothing to be seen or heard in their temples in which the several persuasions among them may not agree; for every sect performs those rites that are peculiar to it in their private houses, nor is there anything in the public worship that contradicts the particular ways of those different sects. There are no images for God in their temples, so that every one may represent Him to his thoughts according to the way of his religion; nor do they call this one God by any other name but that of Mithras, which is the common name by which they all express the Divine Essence, whatsoever otherwise they think it to be; nor are there any prayers among them but such as every one of them may use without prejudice to his own opinion.

They meet in their temples on the evening of the festival that concludes a season, and not having yet broke their fast, they thank God for their good success during that year or month which is then at an end; and the next day, being that which begins the new season, they meet early in their temples, to pray for the happy progress of all their affairs during that period upon which they then enter. In the festival which concludes the period, before they go to the temple, both wives and children fall

on their knees before their husbands or parents and confess everything in which they have either erred or failed in their duty, and beg pardon for it. Thus all little discontents in families are removed, that they may offer up their devotions with a pure and serene mind; for they hold it a great impiety to enter upon them with disturbed thoughts, or with a consciousness of their bearing hatred or anger in their hearts to any person whatsoever; and think that they should become liable to severe punishments if they presumed to offer sacrifices without cleansing their hearts, and reconciling all their differences.

In the temples the two sexes are separated, the men go to the right hand, and the women to the left; and the males and females all place themselves before the head and master or mistress of the family to which they belong, so that those who have the government of them at home may see their deportment in public. And they intermingle them so, that the younger and the older may be set by one another; for if the younger sort were all set together, they would, perhaps, trifle away that time too much in which they ought to beget in themselves that religious dread of the Supreme Being which is the greatest and almost the only incitement to virtue.

They offer up no living creature in sacrifice, nor do they think it suitable to the Divine Being, from whose bounty it is that these creatures have derived their lives, to take pleasure in their deaths, or the offering up their blood. They burn incense and other sweet odors, and have a great number of wax lights during their worship, not out of any imagination that such oblations can add anything to the divine nature (which even prayers cannot do), but as it is a harmless and pure way of worshiping God; so they think those sweet savors and lights, together with some other ceremonies, by a

secret and unaccountable virtue, elevate men's souls, and inflame them with greater energy and cheerfulness during the divine worship.

All the people appear in the temples in white garments; but the priest's vestments are parti-colored, and both the work and colors are wonderful. They are made of no rich materials, for they are neither embroidered nor set with precious stones; but are composed of the plumes of several birds, laid together with so much art, and so neatly, that the true value of them is far beyond the costliest materials. They say, that in the ordering and placing those plumes some dark mysteries are represented, which pass down among their priests in a secret tradition concerning them; and that they are as hieroglyphics, putting them in mind of the blessing that they have received from God, and of their duties, both to Him and to their neighbors. As soon as the priest appears in those ornaments, they all fall prostrate on the ground, with so much reverence and so deep a silence, that such as look on cannot but be struck with it, as if it were the effect of the appearance of a deity. After they have been for some time in this posture, they all stand up, upon a sign given by the priest, and sing hymns to the honor of God, some musical instruments playing all the while. These are quite of another form than those used among us; but, as many of them are much sweeter than ours, so others are made use of by us. Yet in one thing they very much exceed us: all their music, both vocal and instrumental, is adapted to imitate and express the passions, and is so happily suited to every occasion, that, whether the subject of the hymn be cheerful, or formed to soothe or trouble the mind, or to express grief or remorse, the music takes the impression of whatever is represented, affects and kindles the passions, and works the sentiments deep into the hearts of the hearers.

When this is done, both priests and people offer up very solemn prayers to God in a set form of words; and these are so composed, that whatsoever is pronounced by the whole assembly may be likewise applied by every man in particular to his own condition. In these they acknowledge God to be the author and governor of the world, and the fountain of all the good they receive, and therefore offer up to him their thanksgiving; and, in particular, bless him for His goodness in ordering it so, that they are born under the happiest government in the world, and are of a religion which they hope is the truest of all others; but, if they are mistaken, and if there is either a better government, or a religion more acceptable to God, they implore His goodness to let them know it, vowing that they resolve to follow him whithersoever he leads them; but if their government is the best, and their religion the truest, then they pray that He may fortify them in it, and bring all the world both to the same rules of life, and to the same opinions concerning Himself, unless, according to the unsearchableness of His mind, He is pleased with a variety of religions.

Then they pray that God may give them an easy passage at last to Himself, not presuming to set limits to Him, how early or late it should be; but, if it may be wished for without derogating from His supreme authority, they desire to be quickly delivered, and to be taken to Himself, though by the most terrible kind of death, rather than to be detained long from seeing Him by the most prosperous course of life. When this prayer is ended, they all fall down again upon the ground; and, after a little while, they rise up, go home to dinner, and spend the rest of the day in diversion or military exercises.

THEIR TRUE COMMONWEALTH

Thus have I described to you, as particularly as I could, the constitution of that commonwealth, which I do not only think the best in the world, but indeed the only commonwealth that truly deserves that name.

In all other places it is visible that, while people talk of a commonwealth, every man only seeks his own wealth; but there, where no man has any property, all men zealously pursue the good of the public, and, indeed, it is no wonder to see men act so differently, for in other commonwealths every man knows that, unless he provides for himself, how flourishing soever the commonwealth may be, he must die of hunger, so that he sees the necessity of preferring his own concerns to the public; but in Utopia, where every man has a right to everything, they all know that if care is taken to keep the public stores full no private man can want anything; for among them there is no unequal distribution, so that no man is poor, none in necessity, and though no man has any thing, yet they are all rich.

For what can make a man so rich as to lead a serene and cheerful life, free from anxieties; neither apprehending want himself, nor vexed with the endless complaints of his wife? He is not afraid of the misery of his children, nor is he contriving how to raise a portion for his daughters; but is secure in this, that both he and his wife, his children and grandchildren, to as many generations as he can fancy, will all live both plentifully and happily; since, among them, there is no less care taken of those who were once engaged in labor, but grow afterwards unable to follow it, than there is, elsewhere, of these that continue still employed. I would gladly hear any man compare the justice that is among them with

that of all other nations; among whom, may I perish, if I see anything that looks either like justice or equity; for what justice is there in this: that a nobleman, a goldsmith, a banker, or any other man, that either does nothing at all, or, at best, is employed in things that are of no use to the public, should live in great luxury and splendor upon what is so ill acquired, and a mean man, a carter, a smith, or a plowman, that works harder even than the beasts themselves, and is employed in labors so necessary, that no commonwealth could hold out a year without them, can only earn so poor a livelihood and must lead so miserable a life, that the condition of the beasts is much better than theirs? For as the beasts do not work so constantly, so they feed almost as well, and with more pleasure, and have no anxiety about what is to come, while these men are depressed by a barren and fruitless employment, and tormented with the apprehensions of want in their old age; since that which they get by their daily labor does but maintain them at present, and is consumed as fast as it comes in, there is no surplus left to lay up for old age.

Is not that government both unjust and ungrateful, that is so prodigal of its favors to those that are called gentlemen, or goldsmiths, or such others who are idle, or live either by flattery or by contriving the arts of vain pleasure, and, on the other hand, takes no care of those of a meaner sort, such as plowmen, colliers, and smiths, without whom it could not subsist? But after the public has reaped all the advantage of their service, and they come to be oppressed with age, sickness, and want, all their labors and the good they have done is forgotten, and all the recompense given them is that they are left to die in great misery. The richer sort are often endeavoring to bring the hire of laborers lower, not only by their fraudulent practices, but

by the laws which they procure to be made to that effect, so that though it is a thing most unjust in itself to give such small rewards to those who deserve so well of the public, yet they have given those hardships the name and color of justice, by procuring laws to be made for regulating them.

Therefore I must say that, as I hope for mercy, I can have no other notion of all the other governments that I see or know, than that they are a conspiracy of the rich, who, on pretense of managing the public, only pursue their private ends, and devise all the ways and arts they can find out; first, that they may, without danger, preserve all that they have so ill-acquired, and then, that they may engage the poor to toil and labor for them at as low rates as possible, and oppress them as much as they please; and if they can but prevail to get these contrivances established by the show of public authority, which is considered as the representative of the whole people, then they are accounted laws.

Yet these wicked men, after they have, by a most insatiable covetousness, divided that among themselves with which all the rest might have been well supplied, are far from that happiness that is enjoyed among the Utopians; for the use as well as the desire of money being extinguished, much anxiety and great occasions of mischief is cut off with it, and who does not see that the frauds, thefts, robberies, quarrels, tumults, contentions, seditions, murders, treacheries, and witchcrafts, which are, indeed, rather punished than restrained by the severities of law, would all fall off, if money were not any more valued by the world? Men's fears, solitudes, cares, labors, and watchings would all perish in the same moment with the value of money; even poverty itself, for the relief of which money seems most necessary, would fall. But, in order to the apprehending this aright, take one instance:

Consider any year, that has been so unfruitful that many thousands have died of hunger; and yet if, at the end of that year, a survey was made of the granaries of all the rich men that have hoarded up the corn, it would be found that there was enough among them to have prevented all that consumption of men that perished in misery; and that, if it had been distributed among them, none would have felt the terrible effects of that scarcity: so easy a thing would it be to supply all the necessities of life, if that blessed thing called money, which is pretended to be invented for procuring them was not really the only thing that obstructed their being procured!

I do not doubt but rich men are sensible of this, and that they well know how much a greater happiness it is to want nothing necessary, than to abound in many superfluities; and to be rescued out of so much misery, than to abound with so much wealth: and I cannot think but the sense of every man's interest, added to the authority of Christ's commands, who, as He was infinitely wise, knew what was best, and was not less good in discovering it to us, would have drawn all the world over to the laws of the Utopians, if pride, that plague of human nature, that source of so much misery, did not hinder it; for this vice does not measure happiness so much by its own conveniences, as by the miseries of others; and would not be satisfied with being thought a goddess, if none were left that were miserable, over whom she might insult. Pride thinks its own happiness shines the brighter, by comparing it with the misfortunes of other persons; that by displaying its own wealth they may feel their poverty the more sensibly. This is that infernal serpent that creeps into the breasts of mortals, and possesses them too much to be easily drawn out.

Therefore, I am glad that the Utopians have fallen upon this form of

government, in which I wish that all the world could be so wise as to imitate them; for they have, indeed, laid down such a scheme and foundation of policy, that as men live happily under it, so it is like to be of great continuance; for they having rooted out of the minds of their people all the seeds, both of ambition and faction, there is no danger of any commotions at home; which alone has been the ruin of many states that seemed otherwise to be well secured; but as long as they live in peace at home, and are governed by such good laws, the envy of all their neighboring princes, who have often, though in vain, attempted their ruin, will never be able to put their state into any commotion or disorder.

When Raphael had thus made an end of speaking, though many things occurred to me, both concerning the manners and laws of that people, that seemed very absurd, as well in their way of making war, as in their notions of religion and divine matters – together with several other particulars, but chiefly what seemed the foundation of all the rest, their living in common, without the use of money, by which all nobility, magnificence, splendor, and majesty, which, according to the common opinion, are the true ornaments of a nation, would be quite taken away – yet since I perceived that Raphael was weary, and was not sure whether he could easily bear contradiction, remembering that he had taken notice of some, who seemed to think they were bound in honor to support the credit of their own wisdom, by finding out something to censure in all other men's inventions, besides their own, I only commended their constitution, and the account he had given of it in general.

And so, taking him by the hand, I carried him to supper, and told him I

would find out some other time for examining this subject more particularly, and for discoursing more copiously upon it. And, indeed, I shall be glad to embrace an opportunity of doing it. In the meanwhile, though it must be confessed that he is both a very learned man and a person who has obtained a great knowledge of the world, I cannot perfectly agree to everything he has related. However, there are many things in the commonwealth of Utopia that I rather wish, than hope, to see followed in our governments.

THE END OF BOOK TWO

THE END OF THE AFTERNOON DISCOURSE
OF RAPHAEL HYTHLODAY ON THE LAWS AND INSTITUTIONS
OF THE ISLAND OF UTOPIA,
HITHERTO KNOWN BUT TO FEW, AS REPORTED BY THE
MOST DISTINGUISHED AND MOST LEARNED MAN,
MR. THOMAS MORE,
CITIZEN AND UNDERSHERIFF OF LONDON

FINIS