Utopian Thinking in Law, Politics, Architecture and Technology

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Utopian Thinking in Law, Politics, Architecture and Technology

Hope in a Hopeless World

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PART I

Utopia and the law: Sketches for a new society

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1. Introduction: A return to utopia

Bart van Klink, Marta Soniewicka and Leon van den Broeke

1. UTOPIA AND ITS CRITICS

More than 500 years ago, in 1516, the British humanist Thomas More published *De Optimo Reipublicae Statu deque Nova Insula Utopia* in Leuven, Belgium (reprinted in More, 2008). In this book, More criticised the evils of contemporary society in Europe and contrasts it with the ideal society fictitiously located on the new island of Utopia, somewhere in the New World. As is well known, 'utopia' is derived from the Ancient Greek prefix *ou* (οὐ), meaning 'not', and *topos* (τόπος), or 'place'. In English it is pronounced 'eutopia', which contains the Ancient Greek prefix *eu* (εὐ), meaning 'good'. Therefore, it can be taken to refer both to a non-existing place or nowhere and to a good place. In Utopia, people have no private property; whatever they need they can acquire from warehouses in which goods are stored. There is no unemployment: everyone who is able to work, men and women alike, has to spend two years at a time farming in the countryside and, in addition, to learn some other trade, such as weaving, carpentry or masonry. People have to work no longer than six hours a day, although many work longer voluntarily. In Utopia, there is no room for privacy: everything has to be done out in the open, so that people are not tempted to do bad deeds. With all its rules and regulations, it provides for a pleasant and peaceful communal life, without much disturbance or excitement.

After the success of More's *Utopia*, many other utopian texts were published, among them: *New Atlantis* by Francis Bacon and *The Isles of Pines* by Henry Neville.[1] In the history of its reception, the notion of utopia has been applied not only to fictional but also to non-fictional texts, written long before and after More published his *Utopia*, mostly in the field of political philoso-

[1] These three texts are collected in the Oxford's edition *Three Early Modern Utopias* (More, Bacon & Neville, 2008).

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phy, such as Plato's *Republic* and the works of Rousseau, Hegel and Marx.[2] Contemporary political philosophers, including Benhabib (1986), Habermas (2010) and Rawls (1999), sometimes acknowledge the utopian dimension of their theories. Up to the present day, utopias are written that, compared with the early modern utopias, less ambitious and all-encompassing than the early modern utopias, as they are written from a specific (feminist, libertarian, ecological or other) perspective. As Manuel and Manuel (1982, p. 803) have observed, '[u]topias are becoming highly specialised. There are political utopias, religious utopias, environmental utopias, sexual utopias, architectural utopias, along with dystopias that portray the future as a living hell.' In common parlance, utopia has become synonymous for a possibly desirable but, in any case, unrealistic and unrealisable vision of a perfect society – a dream, a fantasy or fancy.

Utopian thinking has been severely criticised by liberal philosophers, such as Isaiah Berlin and Sir Karl R. Popper. In political liberalism, utopia is traditionally conceived of as a blueprint for a radical reordering of the existing legal and political order. It engenders a static and harmonic vision of society in perfect balance. No trade-offs have to be made between competing values such as freedom versus safety or environmental protection versus economic growth, as in our world. There is no need for change because everything is as it should be. According to Berlin, politicians who believe in a 'final' or 'ultimate' solution for society's problems will take any measure to reach their goal, whatever the costs.[3] He considers the search for perfection to be a 'recipe for bloodshed' (Berlin, 2013, p. 19). In his view, a perfect society cannot exist, given the differences in values and preferences among people: a state should only aim at preventing extreme suffering and protecting individual freedom.

In an essay written in the aftermath of World War II, Popper also links utopia to violence. In order to achieve its aim of an ideal society, utopia has to prevent the emergence of competing goals by suppressing dissent by all means available. Whatever its good intentions, it will only bring the 'familiar misery of being condemned to live under a tyrannical government' (Popper, 2002, p. 360). According to Popper, Plato offered the first theoretical model for utopian social engineering, which was later put into practice, with fatal consequences, in the totalitarian regimes of the twentieth century. In his reading (see Popper, 1971), *The Republic* paints a picture of a closed society where philosopher-kings rule by brute force, deliberately deceiving the people, allegedly for their own good, by telling them so-called 'noble lies'. Individual

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[2] For an extensive overview of utopian thought in the Western world, see Manuel and Manuel (1982).

[3] Berlin refers to Hitler, Lenin, Trotsky, Mao and Pol Pot, as historical examples.

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freedom, which citizens enjoyed under Athenian democracy, is sacrificed for the common good. For Popper, a piecemeal approach is preferable because it enables democratic action, tolerates dissent and resolves conflict through reason and compromise instead of violence.

2. UTOPIA REVISITED

The liberal critique has undoubtedly contributed to the colloquial, mainly negative understanding of utopia. Despite the criticism, utopia managed to retain its attraction for those not satisfied with the present situation. We are living in desperate times: the Sars-CoV-2 virus is still raging in many parts of the world, environmental disasters occur more and more frequently due to global warming, social and economic inequalities deepen, refugees are seeking in vain a safe place to live, authoritarian populist regimes are on the rise and so on. In this seemingly hopeless world, people continue to look for spaces of hope. In his blog on political utopianism, Walzer (2009) raises the question of whether Berlin's plea for incremental change and limited state interference has sufficient motivational force. Berlin (2013, p. 20) himself acknowledged that his liberal programme may be 'a little dull' and '[n]ot the stuff of which calls to heroic action by inspired leaders are made'. Historically speaking, liberal and democratic regimes have emerged from resistance against authoritarian regimes, carried out by radical movements which were fuelled by utopian aspiration. According to Walzer, the most successful liberal regimes have adopted utopian ideologies. Utopian ideologies can be dangerous and may lead to tyranny and enslavement, as Berlin and others have rightly pointed out. However, as Walzer argues, 'dullness also has its dangers'. For its success and survival, liberalism needs to 'accommodate and deflect utopian aspiration'. Ricœur (1986, p. 283) even goes so far as to claim that a society without utopia is unthinkable: 'We cannot imagine (…) a society without utopia, because this would be a society without goals.' Society would be dead when there is nothing left to strive or fight for.

More recently, in *No is Not Enough*, Naomi Klein welcomes the revival of 'utopian dreaming', which was lacking in social movements around the world for too long (Klein, 2017, p. 254). In her view, this revival could provide an answer to the current rise of populism thriving on anger and resentment. According to Rutger Bregman, author of the international bestseller *Utopia for Realists* (Bregman, 2017), it is utopian visions that have driven humanity forward. In his sketch of an ideal world – characterised as a 'blueprint for

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a liberal paradise'[4] – he makes a case for a 15-hour work week, a universal minimum income and a world with open borders. The French documentary *Demain* (*Tomorrow*, directed by Cyril Dion and Mélanie Lauren, 2015) gives several inspiring examples of utopian experiments in the fields of agriculture, energy, economy, education, and democratic governance. Another example of utopia put into practice is Permatopia, a small community south of Copenhagen, which is built on the principles of permaculture: renewable energy, self-sufficiency, and a circular economy.[5] Practising utopia has also resulted in the development of the Utopia Home – International Empathy Centre in Krakow, Poland. The Utopia Home creates space for art, culture, education and social activism based on an assumption of the power of utopian thinking in promoting creativity and improving the quality of everyday life.[6]

In her latest book *Utopia as Method: The Imaginary Reconstitution of Society* (Levitas, 2013), Ruth Levitas argues for a so-called speculative sociology, that is, a sociology which deals not only with understanding and criticising current societies but also with improving them. For that purpose, she uses the method of utopia, consisting of three different but closely related components or 'modes': first, an *archaeological* mode, which reconstructs the vision of the good society underlying political programmes and social and economic policy proposals; second, an *ontological* mode, which describes what kind of people this vision presupposes and promotes, in other words the subjects and actors of utopia; and, finally, an analytical or *architectural* mode, which consists in the imagination of potential alternative scenarios for the future, taking into account the possible effects these have on the people who might inhabit this imagined society. It is not a free-floating fantasy, but the vision of the good society that has to be worked out concretely in an institutional design: '[U]topia as a method is concerned with the potential institutions of a just, equitable and sustainable society which begins to provide the conditions for grace' (Levitas, 2013, p. xviii). As Levitas (2013, pp. 18–19) argues, utopia does not provide a blueprint for an ideal world:

> Utopian thinking in this sense is not about devising and imposing a blueprint. Rather, it entails holistic thinking about the connections between economic, social, existential and ecological processes in an integrated way. We can then develop alternative possible scenarios for the future and open these up to public debate and

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[4] By Will Hutton in his review of the book in *The Guardian*, 13 March 2017, retrieved 1 December 2021, from https://www.theguardian.com/books/2017/mar/13/utopia-realists-how-we-can-get-there-rutger-bregman-review.

[5] For more information, see: https://www.pbpsa.com/articles/content/permatopia-eco-village-dk, retrieved 1 December 2021.

[6] See the Utopia Home website, retrieved 1 December 2021, from https://domutopii.pl/en/utopia-home/.

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> democratic decision – insisting always on the provisionality, reflexivity and contingency of what we are able to imagine, and in full awareness that utopian speculation is formed always in the double squeeze of what we are able to imagine and what we are able to imagine as possible.

Utopia is, in Kant's words, a regulative idea or *focus imaginarius* that never can be known and realised fully (Kant, 1999, B672). As a speculative and counterfactual account, it presents an image which may strike us at first glance as strange and fully impracticable.

According to Gadamer, utopia does not provide an action programme but an ironic critique of the present. He criticises Popper for interpreting Plato's texts too literally and out of context. In his view, Plato's utopian vision has to be understood against the background of the decline of Greek *polis*. Plato rejected literature because he wanted to warn against the abuse of literary devices by sophists, who tried to manipulate and mislead the audience. Plato's dismissal of literature is thus an attack on sophistry, which serves two different purposes (see also Di Cesare, 2009, p. 151). To begin with, he intends to show the danger of an art that is only meant to please and to cheat without any concern for the truth. Subsequently, with his utopia, Plato aims to design an educational model which can contribute to the restoration of the *polis*. In his view, a good political order requires a good political education. Citizens have to learn to give priority to the common good over their private interests. It is 'not at all the authoritative education by the force of an ideal organization' (Gadamer, 1985b, p. 197; our translation), but it aims at transmitting the experience of justice. In this educational programme, philosophy plays a central role because it promotes self-reflection and care for others. It does not support a totalitarian state, as Popper argues; on the contrary, it helps to prevent and oppose the abuse of power. Utopia in this context refers to a place which goes beyond and outside the *polis* at hand, but which is indispensable for reflecting on the best way to organise it. From the no-place or not-yet-place of utopia, the philosopher gives an instruction, an indication or a 'suggestive image from far away' (Gadamer, 1985a, p. 251; our translation). Utopia's contribution should not be situated at the level of action – it does not offer a blueprint for a perfect society – but rather at the level of critical reflection: it generates ideas of how to organise the *polis* in a just and rightful manner by presenting an image of what seems utterly unrealistic and unrealisable. The point is, as Gadamer (1985b, p. 197; our translation) puts it, 'to bring about, within the image of the impossible, the possible'.

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3. HOPE IN A HOPELESS WORLD

Building on Levitas's notion of utopia as method, this volume explores the role of utopia in law and politics, including alternative forms of social engineering, such as technology and architecture. Taking miscellaneous perspectives of law, political studies, theology, technology, art, literature, and architecture, we address the issue of utopian thinking. The idea of utopia is analysed from a multidisciplinary perspective. It is considered as an imaginative tool which aims at producing alternative future scenarios. Central questions addressed in this volume are:

- What vision of the good society can be found in the fields of law, politics, religion, technology, art, literature, and architecture?
- Why can the vision be considered utopian? Based on what conception of utopia can it be conceived as utopian?
- What concept of humans does this vision presuppose? What are its main subjects and actors?
- What alternative future scenarios do the texts present? In other words, in what ways must contemporary society be changed in order to bring about or advance the desired state of affairs?
- To what social or other problems in contemporary society is the vision offered as a possible solution?
- What are its implications for law and politics?
- To what extent does it constitute a desirable vision? What are its risks or dangers? How is utopia related to ideology?

To understand the concept of utopia, it is worth distinguishing the main functions of utopia which are introduced by Ricœur (1986, p. 270; see Chapters 3 and 6 in this volume) and further discussed by Goodwin and Levitas (Levitas, 2010, pp. 201–2). First, utopia constitutes 'a dialectic nowhere'[7] which enables us to look at the given world from a distance. Second, utopia provides a powerful tool for critiquing social reality by introducing its alternative; yet, 'it is also a refuge against reality' (Ricoeur, 1986, p. 309). Third, utopian thinking is directed toward the better future and explores the possible. Thus, it has also a transformative power of reconstructing reality by imagination.

Utopia as method offers both an instrument for analysing the normative presuppositions and ideals of texts and a tool for developing possible future scenarios. In these desperate times where doom scenarios seem to abound,

[7] As Ricœur (1986, p. 310) puts it: 'This function of utopia is finally the function of the nowhere. To be here, *Dasein*, I must also be able to be nowhere. There is a dialectic of *Dasein* and the nowhere.'

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utopia can fill our imagination with alternatives for the future and thereby give hope. 'And being imagined is the first stage of existence,' as Olga Tokarczuk (2019, p. 23), Nobel Laureate in Literature from Poland, emphasises. Social imagination exercised by utopian thinking contributes to the internalisation of changes (Ricœur, 1986, p. 314) and is a powerful tool for transforming reality, since 'what we dream of is already present in the world', as Rebeca Solnit writes (Solnit, 2016, p. 19).

According to Levitas (2010, p. 221), 'the essential element of utopia is not hope, but desire – the desire for a better way of being'. Yet, the power of utopian thinking to transform social reality depends on hope, which should not be confused with wishful thinking, but rather understood as 'will-full action' (ibid., p. 230). Hope is a forward-looking energy which calls for action and involves people actively in the process of becoming (as Bloch argued, discussed in Solnit, 2016, p. 36). Hope should neither be confused with optimism, nor with a mere expectation or prediction. Hope is rather a special kind of virtue – an attitude of trust in the unknown future, faithfulness in the hour of darkness in the source of inspiration and direct participation in the process of creation of the better world to come (see Chapters 4 and 6 in this volume). As Solnit (2016, p. 16) points out:

> Hope is an embrace of the unknown and the unknowable, an alternative to the certainty of both optimists and pessimists. Optimists think it will all be fine without our involvement; pessimists take the opposite position; both excuse themselves from acting. (…) To hope is to gamble. It's to bet on the future, on your desires, (…). To hope is dangerous, and yet it is the opposite of fear, for to live is to risk.

Having hope does not mean denying the reality with all its atrocities; however, it is a refusal to accept the hopelessness of one's own situation or the world's situation. Just as despair is 'the capitulation before a certain *fatum* laid down by our judgment', hope is its opposite; it results in 'detachment from determinism', as Gabriel Marcel (1951, p. 41) argues. Hope assumes engagement and active response, while despair results in non-engagement and passivity. Both hope and despair should be addressed in terms of 'a fundamental relationship of consciousness to time' (ibid., p. 52). In despair one perceives time as prison, as something closed and still, and thus, one anticipates one's own failure, and by this anticipation one promotes the failure from within – like Kafka's Josef K., who presents himself for judgement and determines his own punishment, believing in its necessity.[8] Hope overcomes despair by providing confidence in

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[8] 'The court does not want anything from you. It receives you when you come and dismisses you when you go' (Kafka, 2009, p. 160). A similar situation occurs in another story of Kafka, where the sight of the gallows in the courtyard of the prison is such a ter-

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the future. Having hope means to live in hope, that is, to embrace the process of becoming, to be open to new experience and possibilities, and to promote the anticipation of the good from within (ibid., p. 35–61). Looking at utopia through the lens of hope provides a deeper understanding of its extraterritoriality and extra-temporality – utopian thinking of ‘no place’ and ‘no time’. Utopia should not be understood as a goal or a place to which you arrive but rather as the journey towards it, as Solnit (2016, p. 132) puts it:

> When activists mistake heaven for some goal at which they must arrive, rather than an idea to navigate Earth by, they burn themselves out, or they set up a totalitarian utopia in which others are burned in the flames. Don’t mistake a lightbulb for the moon, and don’t believe that the moon is useless unless we land on it.

4. CONTENT

This volume consists of 15 chapters, divided into three parts. Part I explores the relationship between utopia and the law. At first sight, this might seem surprising, as law is not associated with utopian thinking, but bound to the status quo, the stabilisation and preservation of the current system of norms. Part II addresses the notion of utopian politics, both from Berlin’s critique of utopianism as a ‘recipe for bloodshed’ (Berlin, 2013, p. 19), and a more positive perspective of redemption for a society in despair. Part III presents utopia in architecture and technology, as utopia is a powerful concept, which is applicable in criticising, redefining and reconstructing social reality by means of imagination. These three parts are a reflection of the main theme and focus of this volume on hope for a hopeless world. In every chapter this notion of hope in relation to the notion of utopia is discussed. A more detailed description of the volume’s content and the individual contributions can be found below.

Part I: Utopia and the Law: Sketches for a New Society

In Part I, the relation between utopia and the law is explored. Usually, law is not associated with something fanciful, like utopian thinking. It appears to be bound to the status quo, as it aims to stabilise and preserve the current system of norms. According to Latour (2013, pp. 242–43), slowness is a fundamental quality of the law. Comparing law and science, he observes: ‘Although one might speak admiringly of “revolutionary science”, “revolutionary laws” have

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rifying spectacle that the main character becomes convinced that it is for him and thus one night hangs himself on it. This story features in the third book of notes, entitled *Die Acht Oktavhefte* and edited and published by Max Brod on 25 January 2018, after Kafka’s death.

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always been as terrifying as courts with emergency powers. All those aspects of law that common sense finds so irritating – its tardiness, its taste for tradition, its occasionally reactionary attitudes – are essential to law's functioning.' Law seems to be essentially conservative: it sticks to established practices and is reluctant to give up what it has acquired in decades of experience. As Přibáň (2007, p. 54) argues, 'law is not primarily a matter of social experimentation'.

However, as the authors in this part show, the law can have a utopian quality, both at the practical level of how law is created, applied and implemented in policies, and at the normative level of the rules it sets and its underlying principles. It may offer us an indication or 'glimpse' of how we can transcend the present situation and can build a better, more equal and fair world. Following our introduction, Lynne Copson discusses in Chapter 2 first the historical development of utopia within social enquiry. She claims that the way knowledge is produced in late modernity has not been favourable to utopianism. Due to the positivist separation between is and ought, utopia was banned from the realm of science (together with normative thought in general). Utopia was seen not only as an impossibly naïve but also as a dangerous idea, since it may lead to authoritarianism. Piecemeal solutions were preferred over radical transformation. Moreover, social science was split into a whole range of subdisciplines, whereas utopian thinking requires a holistic approach which combines insights from various disciplines. Subsequently, Copson proposes an alternative approach which conceives of utopia not as a goal or final destination, but as an open-ended process. Drawing on the work of Levitas, she makes a case for developing utopia as a method of translating abstract expressions of desire into concrete articulations of hope. She applies this method to a specific criminal justice policy concerning knife crime in order to demonstrate the contemporary marginalisation of more radical responses to social problems as well as the potential of the utopian method for transcending this.

In Chapter 3, Bart van Klink discusses the relation between utopia and the rule of law. In political liberalism, as we mentioned in section 1, there exists a traditional deep distrust of utopian thought. It is conceived as a blueprint for a radical reordering of the existing legal and political order. In the liberal critique, utopia is taken quite literally and seriously as a design for a perfect society. As a blueprint, utopia is rejected not only because of *what* it strives for (the happiness of society) but also *how* it attempts to achieve its aims, that is: by means of authoritarian ruling and, most likely, violence. However, this critique fails to see that utopia is a literary genre which makes use of specific rhetorical devices and is open to multiple interpretations. Building on this hermeneutic reading, Van Klink argues that the rule of law can be seen from two different perspectives: as an *ideology* which stabilises the existing power structures in society and as a *utopia* which challenges these power structures. As a utopia, it contains the promise of a life in peace, freedom and equality,

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where the law sets the limits that are needed for a civilised living together. According to Van Klink, the rule of law depends for its survival on its ideological as well as its utopian dimension. To prevent the rule of law being taken too much for granted as a self-evident and fixed idea, it is important to stress its utopian dimension. Conversely, its ideological stabilisation has to ensure that the rule of law does not become a free-floating fantasy.

In Chapter 4, Carinne Elion-Valter addresses the question of how legislation is related to hope and utopian thought. Inspired by utopian ideals of rationality and justice, legislation has been experienced for a long time as a source of hope. By expressing fundamental legal values, it fulfils an important constitutive function for society. Classic liberal rights and legal principles offer a hopeful vision of a 'New Jerusalem' of justice and liberty. However, to a growing extent, modern legislation fails to live up to its expectations. According to Elion-Valter, it has become more and more instrumental: it is mainly focused on realising short-term policy goals related to socio-economic, environmental, health and other welfare state issues without offering hope. To restore faith in legislation and to give hope, Elion-Valter proposes to conceive of modern legislative utopias as *topoi* or 'empty' places to be filled by a societal and democratic debate. In this way, legislation may become a 'living utopia'.

In the final chapter of this part (Chapter 5), Leon van den Broeke investigates how Levitas's notion of utopia as a 'secular form of grace' can be applied to the law. In *Utopia as Method*, Levitas (2013, p. 12) states: 'The longing for *Heimat* and for the fulfilled moment can also be understood as the quest for a (sometimes) secular form of grace.' Van den Broeke connects Levitas's notion of secular grace with the religious notions of grace and sin in the work of the German theologian Paul Tillich (and others), to whom Levitas refers occasionally. Applied to law, grace can be found, according to Van den Broeke, in particular in the principles of fairness and equity in contract or property law. These principles enable parties in a contractual relation to depart from a strict application of the law that would result in blatant injustice. If they disagree about the nature of the common good, they still can demonstrate graciousness or mercy to each other. This secular quest for grace is connected with the longing for *Heimat* and the hope to create a better society by fighting injustice. As Van den Broeke argues, the notion of grace not only offers a critique of a society which leaves no room for grace, but it also gives hope for a hopeless world.

Part II: Utopian Politics: Redemption or a 'Recipe for Bloodshed'?

Whereas Part I focuses on utopia and the law, Part II deals with utopian politics. As discussed above, Berlin considered the search for perfection a 'recipe for bloodshed'. As explained, he feared that politicians who aim at a 'final' or

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'ultimate' solution may take any measure to achieve this goal. Part II not only deals with this liberal criticism but also explores utopian politics as a source of redemption. Could utopia offer hope in a hopeless world? The concept of utopia can be helpful to reach and/or make space for redemption, because it can not only be connected with 'tyranny' and 'misery' (Popper, 2002, p. 360), but also with a just society, grace, and hope in a hopeless world. As Levitas (2013, pp. 18–19) argues, utopia should not be seen as a blueprint for a perfect society, but as an exploration of possible alternative worlds.

In Chapter 6, Marta Soniewicka addresses the politics of hope. She reflects on the notion of utopia as an exercise in social imagination. The notion 'utopia' in the common usage of the term includes such elements as: (1) the improvement of the human condition by human effort and (2) the attainability of a final stage of improvement. Soniewicka criticises the idea of utopia underlying this meaning as she points to the decoy it presents, of transforming a utopia into an ideology. Thus, she rejects the notion of utopia as a final stage of human perfection and turns to the discussion of utopia as method. Following Ricœur and Levitas, she distinguishes three main functions of utopia: escape, critique and reconstruction. She elaborates on this by providing the fascinating idea of practising utopia by the example of social imagination, namely the Polish anti-communist artistic movement. It is called the Orange Alternative and it embodies the idea of prefigurative acts of social change.

In Chapter 7, Jan Willem Sap discusses the question whether a European republic is possible. He conceives of the political order of the European Union as a utopian ideal. Sap elaborates on Immanuel Kant's use of a cosmopolitan language when it comes to his idea of Europe as a federation of independent states as a prototype for the world. Moreover, Sap points to the shadow side of the history of colonialism, but also of the decoy of uniformity against the current requirement of more respect for dialogue and recognition of cultural diversity. Therefore, he asks whether it is possible to present criteria for amending Kant's federal idea. His suggestion is not to consider the Kantian idea of a Europe as a regulative idea, but as a message of hope and peace. This federal Europe respects local diversity that does not conflict with the principles of justice like human rights.

In Chapter 8, Oliver W. Lembcke addresses Giorgio Agamben's vision of messianic politics. Agamben, who is well known for his *Homo sacer* project, offers a 'dark' vision in which law and politics are fatally connected. Is there a moment of utopia encapsulated in this dystopian vision? As Lembcke shows, in Agamben's work there is also another, 'light' concept of politics, 'true politics', free of any 'nomos', law or sovereignty. This concept relates to his idea of a 'coming society'. Lembcke understands Agamben's messianic references, especially to Benjamin's pure violence, as an invitation to reconstruct the different elements of true politics and integrate them into a broader scheme

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of utopian thinking with the help of Levitas's understanding of 'utopia as method'.

In Chapter 9, George Harinck shows that utopian thinking may have a dystopian side by discussing the work of the Reformed Dutch theologian Klaas Schilder (1890–1952). During the First World War, Schilder was a young pastor. His experiences during this war and the next shaped his theological reflections. To many people in the West, the Russian Revolution was an attractive alternative, but not to Schilder. As Harinck explains, utopian ideas of a better society were connected with and inspired by the application of the last book of the Bible, namely the Book of Revelation. This also applies to Schilder, who gave lectures and wrote a book about the Book of Revelation from the perspective of the socialist utopia. However, and in contrast with the conventional view, Schilder interpreted the Apocalypse and the Book of Revelation not as a utopian book. This book of the Bible is complex to read and understand. Its prophecy is not about a world to come, let alone a better world, but about this world, and about the present-day society. Schilder, as a sobering prophet, explained that people are co-workers of God, neither in this sense to bring about or create heaven on earth nor to create a complete utopia. They are called to work every day of their lives in the confines of history. Thus, Schilder emphasised the here and now. There is no escape from history. Dreaming of this, and of other possible worlds, is dangerous escapism. Nevertheless, Schilder's anti-utopian view had utopian traits as well: the ideal society is not in the future, but starts here and now.

Subsequently, in Chapter 10 Maurits Berger discusses the relationship between utopia, politics and religion. Like Harinck, Berger also pays attention to the concept of a worldly utopia from a religious perspective; however, not within Christianity (as in the previous chapter) but within Islam in the interpretation of the Islamic state. For most religions the notion of utopia would be the life beyond this worldly and material life, be it heaven, paradise, Nirvana, or any other elevated state of being. In the case of Islam, however, the twentieth century has also introduced the new concept of a worldly utopia: the Islamic state. Berger describes the evolution of this term from a practical idea to a notion that acquired utopian properties. The Islamic state has always been depicted in idealist terms – justice, equality, benevolent leadership – or as the photo negative of the present world: the Islamic state is not how we live now. The result is the emergence of a utopian vision of 'Islamic state' which is still supported by some Muslims worldwide.

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Part III: Utopia in Architecture and Technology: The Quest for Perfection

Utopia is a powerful concept which can be used in criticising, redefining and reconstructing social reality by means of imagination. In the previous parts we discussed the application of utopian thinking to legal and political institutions which constitute a society. In the last part of the volume, we go further with these considerations by exploring other dimensions of social life in which utopia can be applied as a method of social engineering – architecture, urban planning, consumerism, science, and technology.

Utopia has two important aspects which are worth emphasising – temporal and spatial. As temporal aspects of utopia were already discussed in the previous chapters, now, in Chapters 11 and 12, we turn to the spatial dimension of utopia, in which the authors discuss the application of utopia to urban planning and architecture. The problem of the spatial aspect of utopian imagination is addressed in the chapter by Ernestyna Szpakowska-Loranc (Chapter 11). She poses the question of whether contemporary ideal cities contribute to utopianism as understood by Ruth Levitas and can become a method for creating institutions and influencing society. To answer this question, the author analyses examples of twenty-first-century urban visions which illustrate the ideal city concept. One may distinguish between Apollonian concepts of the ideal city as a blueprint and Dionysian concepts, which are iconoclast. The former concepts are expressed in the state of transition and in the lack of a fixed *topos*. The latter ones abolish the rules of classical utopianism, followed by an evaluation of projects currently being implemented. The overarching conclusion of the study presented in this chapter is that the current tendency in architecture is utopian, although this is not visible at first sight. There are surprisingly many features linking Levitas's utopia as method and contemporary architectural visions. Therefore, the author challenges the frequently made claim that with the fall of the great modernist narratives, urban utopias have been replaced by a pragmatic approach.

In Chapter 12, Danielle Chevalier and Yannis Tzaninis address the question of utopia and space, arguing that utopia is a deeply and intrinsically spatial concept. They discuss the idea of the impact of utopian thinking on urban planning. Utopian imaginations in planning are considered through the concrete spatial dimensions of two examples of Dutch planning, executed within the same geographical context but in different moments in time. The authors compare the New Town Almere in the 1970s with Almere Oosterwold, a part of Almere currently in development. They employ Henri Lefebvre's conception of space as a product and show how utopian thinking has not stopped driving (Dutch) planning between modernism and today. They also demonstrate the nuances of the transition between then and now regarding utopian

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ideals and spatial planning, especially the relationship between the 'spatial' and 'social' elements of this planning. In the conclusion of this chapter, we can read how utopian planning (in Almere) has experienced a pivotal shift, transitioning from blue-printing the spatial to imagining the social. As spatial manifestations of the utopian imaginations disclose the pitfalls and blind spots of these conceptions, they offer a concrete base to recalibrate and develop further imaginations of the possible, dancing between the limits of reality and unbounded ideals.

The remaining chapters in this part address the idea of technology as a tool for practising utopia or achieving utopian aims. According to Georg Picht, we live today in a technocratic utopia – science fiction applied to reality driven by the technological imperative: if something is possible, it should be done (Picht, 1981, p. 162). He calls it 'blind utopia' which is unaware of its own premises, and which does not reflect on its consequences or aims and may bring about self-destruction. In Chapter 13, Marc J. de Vries criticises heavily the idea of technological utopia based on the belief in unlimited progress. He claims that technological developments are driven by promises of a progress towards a better world thanks to new artefacts and systems. The extreme of those promises is the ultimate removal of all boundaries that keep humans from an ideal life in which happiness is complete. This ideal is often expressed by the term 'unlimited'. De Vries argues that it is problematic since the notion of progress can mean different things to different people. Also, the ideal of removing the last barrier raises moral questions. He presents a Christian worldview as an alternative, claiming that it offers a balance between the pursuit of technological progress but with the acceptance of a non-ideal world included. Such a perspective fits well, as De Vries claims, with the way engineers are educated and work, namely, by constantly making trade-offs.

Technological utopias often assume that all problems of the world can be solved with the use of reason. Together with the scientific revolution, people started to believe in their own power to control nature, including human nature. Chapters 14 and 15 address the problem of technological transformation of humanity – the idea of transhumanism. In Chapter 14, Britta van Beers builds on Helmuth Plessner's philosophical anthropology to come to a better understanding of the relation between two contemporary utopias: the humanist utopia of human rights and the transhumanist techno-utopia of human enhancement. According to transhumanist thinkers, transhumanism is the logical extension of humanism. They stress that their school of thought, like humanism, presupposes a rather utopian account of the human based on which individual choice and freedom are to be pursued and protected. For them, human enhancement is not only compatible with, but even commanded by human rights. Based on an analysis of the utopianism involved in humanism and transhumanism, the author argues that this position only holds superfi-

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cially. Upon closer examination, the transhumanist's quest for techno-utopia, even if human rights is taken as a starting point, is likely to pave the way for a world that can hardly be viewed as utopian according to humanist standards. To come to that conclusion, Van Beers offers a comparison between humanism and transhumanism through the lens of Plessner's first and third fundamental law of anthropology: the law that humans are artificial by nature and the law of the utopian standpoint.

The problem of transhumanism is further discussed in the next chapter by Anna Bugajska (Chapter 15). The anthropological crisis in the Western humanities leads to the rise of many idealised visions of a posthuman world, looking to transcend or abandon the notion of 'human'. The chapter's aim is to verify if any of the propositions of 'posthuman' utopia allow for retaining hope for humanity. In the first part of the chapter, the author looks at the utopian proposition of transhumanists, roughly corresponding to evantropia (a biotechnological utopia). In the second part, the author considers the possibility of a non-human utopia, which would most properly be called posthuman. The third part addresses the challenge of an after-human utopia, which can be considered radical environmentalist utopia or even anti-humanist utopia. The conclusions of the chapter gather the insights from the three parts of reflection with reference to the will and the failure to imagine, the importance of hope, and the necessity of utopia as such.

The final chapter of this volume addresses the problem of what it means to be human and how new technologies affect its meaning from a different angle, by discussing the ethical and legal issues arising from the development of robots and artificial intelligence systems (RAIs). In Chapter 16, Zeynep İspir and Şükrü Keleş claim that RAIs play such a significant role in our lives that they are no longer primarily understood as utopian objects operating in an alternative reality. Although RAI technology offers undoubted advantages, rapid – and sometimes unforeseen – advances in this field have made it necessary to take a critical perspective in legal debates. İspir and Keleş compare the actions of RAIs with those of human beings, while bearing in mind the specific nature of the relationship between being an *entity* and being an *agent*. Accordingly, they assert that moral agency in human beings, or the ethical capacity to act alongside other potentialities, should be adopted as a determinant for the feasibility of any value-based social model of utopia in the new technology field. In conclusion, they argue that this capacity is a convenient tool in utopian thought that can be used, as Ruth Levitas suggests, to create a new social model.

As editors, we believe that utopian thinking is needed, in particular now that the times seem so desperate. With this multidisciplinary volume we intend to inspire scholars and citizens worldwide to reflect on the challenge of utopian-

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ism – its attraction as well as its dangers. Our aim is to contribute to the global public debate on social, political and legal issues and we hope that the present volume may bring hope in a hopeless world.

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During our first expert meeting on utopia, Marjolein van Tooren (lecturer Literature and Society, Vrije Universiteit Amsterdam) gave a very interesting lecture on the novel *Monsieur Ibrahim et les fleurs du Coran* (2001) by the Franco-Belgian author Éric-Emmanuel Schmitt. Unfortunately, due to illness she was not able to finish her paper. We are very sorry that she passed away on 18 May 2022.

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2. Finding hope in hopeless times

Lynne Copson

1. INTRODUCTION

Each of the chapters in this volume attests to the importance of hope in contemporary society. Hope – and utopia – are essential for society (and its inhabitants) to function and for tyranny to be resisted (see, in particular, Chapters 3 and 5 of this volume). Yet, at the same time, utopia – and the articulation of hope – finds itself challenged by contemporary contexts and events (see, in particular, Part II, this volume).

Despite its earlier popularity, particularly in the late nineteenth century, for many contemporary scholars utopia is considered either an impossibly naïve idea or an inherently dangerous one. Explicit engagement with utopianism is often side-lined from mainstream social enquiry on account of being either unrealistic, unscientific, or both. This is exacerbated by a contemporary context of knowledge production which typically divorces 'fact from value' (Geoghegan, 2007, p. 70). This is particularly evident in the field of criminal justice theory, policy, and practice, which provides a focus of analysis in this chapter.

The suspicion of utopianism stems from a particular interpretation of utopia as a goal and divisions between utopianism and realism, and utopia and science can be traced to the development of sociology from the nineteenth century onwards. More recently, attempts have been made to salvage utopia within social and political theory by interpreting utopia not as a goal, but as a process through which to critique contemporary society.

Within this context, I draw extensively on the work of Ruth Levitas to argue that, despite the apparent decline of explicit utopianism in late modernity, we can still find expressions of desire and the potential for hope. However, the issue becomes how we can translate expressions of desire into a meaningful transformative politics – what Marta Soniewicka (Chapter 6) terms 'radical hope' – in a climate that actively discourages holistic social dreaming. I follow Levitas (2013) in arguing for the development of a utopian method as a means of translating abstract expressions of desire into an imagined institutional form, contending that this method not only renders explicit holistic visions of

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the good society implicit within articulations of desire – however fleeting – but, crucially, presents a means of finding hope in a seemingly hopeless world.

I base this argument on an analysis of the shifts in understandings of utopia throughout the twentieth and now twenty-first centuries and the implications of these for understanding the role and function of utopia in contemporary society. I explore the context of criminal justice theory, policy, and practice to demonstrate how current approaches to knowledge production side-line more imaginative holistic responses to social problems. After detailing various attempts to reinvigorate utopia by critical theory, postmodernism and the move to 'realistic utopias', I demonstrate through its tentative application to a specific criminal justice policy concerning knife crime, how the method of utopia devised by Levitas presents a more promising route for translating abstract expressions of desire into concrete hope in the context of late modernity.

2. EXPLORING CRIMINAL JUSTICE THEORY, POLICY, AND PRACTICE

The selection of criminal justice theory, policy, and practice as an example through which to explore the potential of utopia as method stems from the emergence of criminology from two distinct traditions: positivistic social science and the philosophy of punishment. These are represented by two distinct strands of criminological enquiry: empirical social science and normative theorising, which reflect a broader schism between fact and value that features throughout this chapter and upon which the argument for developing a utopian method is premised. As such, this focus is intended both to highlight the obstacles to holistic thinking and radical social transformation within the production of knowledge, and present an example of how utopia might be employed as a method to translate abstract expressions of desire within existing theories, policies, or practices into holistic visions of the good society. It is to an exploration of this broader context and the apparent decline of utopia that the following section turns.

3. ARE WE FACING THE DEATH OF UTOPIA?

Utopia gained particular popularity in the late nineteenth century as a form of social commentary concerned with presenting holistic outlines of the good society (Levitas, 2013, Chapter 4). However, explicit commitment to utopianism has since waned and utopia has fallen (at least in some circles) into disrepute such that the term is now often invoked as an insult. Frequently associated with idealism, at best utopia is seen as unbearably naïve, a distraction from real-world issues and politics; at worst inherently dangerous, necessarily authoritarian and to be avoided at all costs. Informing such criticisms, in part,

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is awareness of the enduring legacy of failed attempts to realise meaningful social change throughout the twentieth and twenty-first centuries and the horrors resulting from attempts to impose specific visions of the good society found, for example, in Nazism or Stalinism. Such examples demonstrate a danger that Marta Soniewicka describes (see Chapter 6), whereby utopia is translated into ideology in order to legitimise the exercise of power of one group over another. Within this context, moreover, the holistic visions of ideal societies typical of nineteenth-century utopianism have been resisted, if not actively suppressed (see also, Van Klink, Chapter 3, this volume).

This has been particularly evident in the production of knowledge itself. As Levitas (2013) demonstrates, throughout the twentieth century, discussions of utopia have been increasingly marginalised from mainstream social and political theory and practice, with utopianism often seen to be in tension with both realism and scientific approaches to social enquiry and social reform.

Utopia has been criticised for its lack of realism in terms of realising a radically different society. This reflects a perceived lack of clarity regarding the processes by which holistic visions of seemingly desirable societies can be realised in practice, or fear they can only be achieved through violent imposition at which point they cease to be desirable. As Levitas notes, this is a tension that 'occurs in relation to both abstract theory and practical politics' (2013, p. 132) and, in terms of the latter, 'is expressed in the opposition between pragmatism and utopia' (ibid.). This is the position of Karl Popper. For Popper, utopias are inherently totalising, necessarily seeking the imposition of a particular and subjective ideal society and the elimination of dissenting views in order to do so. Rejecting holistic visions of the good society as a means of social transformation, Popper advocates a focus on tangible, small-scale social problems and the development of specific, targeted solutions or piecemeal reforms in the here and now (Popper, 1986; see also Van Klink, Chapter 3, this volume). This both reflects and reinforces a climate in which the radical, holistic reimagining of the social order associated with utopia has been suppressed in favour of an approach to social and political theory and practice that 'prioritises short-term fixes for problems within the current system' (Levitas, 2013, p. 132), while 'questions of the viability or justice of that system itself, and certainly radical alternatives, are placed outside legitimate political debate' (ibid.).

Related to, but distinct from, the tension between utopia and realism is a further opposition drawn between utopia and science as approaches to social reform, which has further contributed to the suppression of utopia within social and political sciences. This opposition reflects a separation of description and imagination, fact and value, 'is and ought' (Levitas, 2013, p. 65) that has been reinforced by the historical development of sociology. It originates in a particular view of science as rational, dispassionate, value-neutral empirical enquiry from which an evidence-based (and hence realistic) approach to social

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reform is developed. This is an approach concerned with the establishment of 'facts' to which the inherent normativity in the holistic reimagining of the good society typically associated with utopia is considered antithetical (ibid., pp. 88–89). This presumed superiority of scientific methods of knowledge production acts 'as a brake on utopian thinking' (ibid., p. 127), thereby suppressing the articulation of holistic visions of the good society as legitimate forms of knowledge, much less vehicles for realising meaningful social change.

None of this is to discount the fact that technological or scientific utopias exist in terms of holistic visions of the good society which foreground scientific or technical solutions to contemporary social problems (see Kumar, 2003, and Part III, this volume). Rather, the tension between science and utopia outlined relates to the method employed as a basis of social reform. It fundamentally challenges the idea that constructing *any* holistic vision of the good society – irrespective of the specific nature of the solutions to social problems imagined – can lead to an effective or logical route to social reform since it is divorced from rational, evidenced, positivistic scientific research. Such scientific research, in turn, can only bring about change in an incremental, piecemeal fashion, as new evidence is collected and new reforms suggested.

4. THE SUPPRESSION OF UTOPIA

These tensions between utopia and realism and science, as well as the contemporary broader view of utopia as naïve or necessarily authoritarian, can be attributed, in part, to both a particular understanding of utopia as a blueprint or goal and the historical development of sociology. However, the suppression of utopia is also exacerbated by the contemporary climate of knowledge production, especially within the social and political sciences. The following sections explore these issues, before providing an example of how the climate of knowledge production has shaped analyses of social problems in relation to criminal justice theory and practice.

4.1 The Problem of Definition

Since its inception, utopia has been a contested concept (Levitas, 1990). Criticisms regarding the tensions between utopia and either realism or science arguably rely on a particular definition of utopia that identifies it not only as a holistic vision of a good or better society, but as a blueprint or goal for social reform. However, this is not the only interpretation of utopia.

In her detailed exposition of the various ways in which utopia has been conceptualised, Levitas (1990) constructs a typology of definitions according to which utopia is typically understood in terms of either content, form, or function. Unifying diverse uses of the term, she provides a broad definition

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of utopia as 'the expression of the desire for a better way of being' (ibid., p. 8). This definition both 'allows for this desire to be realistic or unrealistic. It allows for the form, function and content to change over time' (ibid.). It also 'allows Utopia to be fragmentary, partial, elusive, episodic' (Levitas, 2007, p. 54), rather than necessarily a holistic outline of society.

Levitas (1990) also identifies three functions such expressions of desire may perform: compensation, critique, or catalyst for social change. As compensation, utopias can provide consolation for the failings of the existing social order, although, in doing so, they typically act conservatively to preserve rather than transform the social order. As critique, utopias offer critical reflection on contemporary society and its practices, opening horizons for imagining the world differently, while, as a catalyst for social change, they translate such critique into transformative action.

By exposing the various ways in which utopia can be defined, as well as the different functions it may have, Levitas fundamentally challenges the assumption that all utopias are necessarily goals to be achieved or (perhaps more dangerous) blueprints to be imposed. This is not to say that such visions of utopias do not exist, but simply to decouple the automatic identification of utopia with a blueprint and, by extension, authoritarianism. The assumption of utopia as a goal, however, and its rejection in favour of 'scientific' approaches to social reform must also be situated in the development of sociology as a distinct field of study concerned with the analysis of society and social problems, as will now be explored.

4.2 Sociology and Utopia

Levitas details how the development of utopianism and its contemporary fate is necessarily intertwined with that of the discipline of sociology, demonstrating various overlaps and intersections between classical works of sociology and nineteenth-century literary utopias (2013, Chapter 4). She highlights how, in the nineteenth century, 'the origins of sociology, socialism and utopia were intertwined' (ibid., p. 67) and it was common for those interested in both exploring the current condition of society and its future possibilities to move between non-fictional sociological analyses and fictional utopias as a means of doing so (ibid., p. 72). H.G. Wells, in particular, typifies this relationship. Perhaps best recognised today as the author of such literary fictions as *The Time Machine*, *The War of the Worlds* and *A Modern Utopia*, Wells also saw himself as a sociologist (ibid., p. 86).

As a sociologist, Wells critiqued the trend for social enquiry, most notably sociology, to emulate the natural sciences in its endeavour to produce empirical, value-neutral positivist enquiry. He viewed social research as necessarily value-laden, arguing that, '[t]here is no such thing in sociology as dispas-

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sionately considering what *is*, without considering what is *intended to be*' (1914, p. 203) and claimed that 'the creation of Utopias – and their exhaustive criticism – is the proper and distinctive method of sociology' (ibid., p. 204).

The tendency of social enquiry to emulate the natural sciences nevertheless increased towards the end of the nineteenth century and continued throughout the twentieth century, resulting in a schism between science and utopia and the subsequent suppression of utopianism within social and political research. Vincent Geoghegan describes this turn towards positivism within social science at the end of the nineteenth century as resulting in 'a broader separation of fact from value' (2007, p. 70), as normative theorising or approaches to social enquiry that foregrounded values were separated from empirical social science that foregrounded facts.

The development of sociology from the late nineteenth century further cemented this separation of science and utopia, in the UK at least. The first Chair of Sociology was awarded to Leonard Hobhouse, an avowed positivist who advanced '[a] scientific sociology [that] can grasp social reality through reformulating existing theoretical ideas on the basis of improved empirical knowledge' (Scott, 2016, p. 353), and this approach subsequently came to dominate the intellectual agenda of sociology in the first half of the twentieth century (Levitas, 2013, pp. 88–89). By establishing this view of 'proper' sociological enquiry as scientific, empirical, and evidence-driven, utopia was further marginalised from the field of legitimate social enquiry, a trend that continues within the contemporary climate of knowledge production.

4.3 Contemporary Knowledge Production

The legacy of this distinction between fact and value within sociology, in particular, is also reflected more generally and continues to shape how knowledge is produced. It is particularly evident when reflecting on the barriers that have been constructed between disciplines, not least those between social sciences and normative political theory.

Within social sciences, positivistic 'science' and 'abstracted empiricism' (Young, 2011) remain lauded as not only superior forms of social enquiry but the only viable approach to social reform. This is reflected in an emphasis on devising piecemeal reforms, concerned with tinkering at the edges of existing society rather than the imagining of radical alternatives. A similar trajectory is noted in relation to law, and specifically the contemporary development of legislation and regulation by Carinne Elion-Valter in Chapter 4 of this volume, reflected by an increasing emphasis on responding to small-scale problems at the expense of exploring more imaginative, hopeful visions of society (see also Van Klink, Chapter 3). As a result of this emphasis on abstract empiricism and piecemeal reforms, social science concentrates on the production of

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facts, but does so at the expense of engaging with fundamentally normative, evaluative questions about the type of society we want to live in. Meanwhile, such questions are typically assigned to the realm of normative political theory. However, if contemporary social science stands accused of focusing on the production of facts or, as Levitas puts it, 'description and explanation' (2013, p. 93) with a view to producing practical reforms within existing social arrangements, normative political theory arguably suffers the opposite fate, focusing on abstract, normative ideals without considering their specific institutional arrangements within contemporary empirical reality (Levitas, 2008, p. 55).

This is evident, for example, in the work of John Rawls (1971), whose *Theory of Justice* has been viewed as an attempt to 'return to the grand tradition of political theory' (Geoghegan, 2007, p. 72) by reconnecting an abstract concept of justice to an account of the institutional arrangements necessary for realising it in practice. However, Geoghegan notes, even in this account, the vision of the good society remains abstract, unable to recognise the 'particularism' of lived reality (ibid., p. 73). For example, Rawls leaves unspecified how his model of redistributive justice should be implemented in terms of actual policies and institutions, including the specific, fine-grain, practical institutional mechanisms through which goods would be collected and redistributed, how frequently and by whom. This is because such issues require empirical knowledge and understanding of the social world to ascertain what is both possible and desirable in a real-world context. The holistic outlines of the good society provided in the conventional literary utopias of the nineteenth century often focus on just such institutional specificity, with a detailed account of the practical organisation of society, including such issues as the division of labour, leisure, law, housing and education. Similarly, as Danielle Chevalier and Yannis Tzaninis also highlight in Chapter 12 of this volume, *topos* or place, as an essential component of the term *utopia*, also implies a particular, spatial content embedded within a social, historical, cultural context. Yet it is these particularities that are typically missing from abstract political theory.

With the disciplinary separation that hinders the translation of normative principles into practical application, so too do the prospects for radical social transformation diminish. This is by no means universal or absolute, and, as discussed later in this chapter, there have been notable efforts to counter this trend. However, as has been demonstrated in this section, it is a trend that has been predicated on longstanding differences in the conceptualisation of both the project of social enquiry and the approach to social reform this division engenders. It is also a trend often bolstered by institutional pressures and funding issues influencing contemporary research agendas to determine what types of knowledge count as 'knowledge' in the first place. Where research funding is subject to state oversight, moreover, it is likely that those types of

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research that reinforce rather than radically challenge the existing social order are supported, as demonstrated by the case of criminology and criminal justice theory, policy, and practice in the following section.

4.4 Criminal Justice Theory, Policy, and Practice: A Case Study

The separation of fact and value is particularly evident in contemporary criminology and criminal justice theory, policy, and practice. For example, Paddy Hillyard and colleagues, (2004) have highlighted the role of government funding in shaping the agenda for particular forms of criminological research in the UK, while Lucia Zedner (2011) has lamented the separation of theorising crime and criminalisation from the development of criminal justice policy and practice, viewing each as inadequate and problematic without the other.

In particular, Zedner highlights the way in which normative theorising about crime and justice are consigned largely to the realms of legal philosophy and criminal law while the politics and practices of the administration of justice are left to criminology, impoverishing each discipline and constructing 'too rigid a boundary between the two' (2011, p. 279). She argues, on the one hand, that without criminological input, legal philosophy risks producing 'a largely artificial account of crime' (ibid., p. 278) which absents institutional specificity and lacks 'a fully grounded, empirically rigorous, and socially rich understanding of the ways in which crime is actually policed and prosecuted' (ibid.). On the other hand, she warns against the 'brand of professional pessimism that inhibits creative thinking about crime' (ibid., p. 272) to which she claims criminology has become hostage. Zedner argues that if criminology is to avoid becoming 'a mere adjunct to policy making' (ibid., p. 272) it must re-engage with normative theorising about crime and criminalisation.

Part of the particular challenges facing contemporary criminology in terms of engaging with bigger, normative questions or transformative change beyond piecemeal reforms stems from its proximity to state power. Criminology has its objects of study – crime and criminal justice – defined by the state. As such, its understandings and analyses of crime are intimately bound up with the existing social order and the interests of the state, as too are the proposed approaches to addressing crime and realising criminal justice. While 'critical criminologists' (a collective term used broadly to describe those criminologists who challenge state definitions of crime) draw attention to the problematic definition of crime and the assumption of this as their primary object of study, instead offering alternative bases upon which to ground their analyses, 'mainstream' criminologists who accept the definition of crime as defined by the state are more likely to receive state support and funding (see Walters, [2007] 2011). This therefore results in a promotion of particular types of knowledge, in this case positivist approaches to crime that focus on developing a 'what

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works', piecemeal approach to criminal justice policy and act as an adjunct to state power.

However, these difficulties can be overstated, and Zedner (2011) points to the ongoing role of such critical criminologists, often protected by tenured university positions, to criticise governments, policies, and practices, and resist dominant approaches to crime theorisation and control. She also singles out penal theory as a notable exception to the trend of disciplinary divisions between empiricism and normativity. As such, it is important to recognise that, despite a climate that encourages a separation of fact and value, these divisions are neither absolute nor inevitable. Accordingly, it can be argued that despite a climate that may appear hostile to utopianism, the decline or death of utopia is overstated. Reflecting this, the following section explores examples suggesting that, while it may have changed, utopianism remains alive and well in late modernity.

5. RECLAIMING UTOPIA IN ANTI-UTOPIAN TIMES

Despite the criticisms made of utopia, both in terms of its realism, scientificity and the potential for totalitarianism, there is a counter-narrative of utopia's development since the nineteenth century. This story shows not the inevitable decline of utopia, but its transmogrification as a tool of social enquiry to avoid the dangers or pitfalls associated with the understanding of utopia as a goal. This is evident, in particular, in the developments of critical theory, postmodernism and, most recently, discussions around 'realistic utopias' explored below.

5.1 Critical Theory

A notable attempt to transcend the distinction between fact and value plaguing social enquiry emerged with critical theory. Rejecting this distinction, or, as he describes it, the polarisation between theory and empiricism, Max Horkheimer ([1972] 2002) introduced critical theory as a response to traditional theory's claims to an objective, value-neutral account of facts, which he rejected. He argued that the production of theory – and indeed of knowledge itself, as well as individual subjectivity – is necessarily shaped by the material conditions of reality and the context of its production. He also criticised the ways which such 'detached knowledge' (ibid., p. 196) and those who produce it, inasmuch as they are products of specific social conditions, necessarily reinforce those conditions.

Critical theory seeks to transcend the separation of theory and empiricism via a dialectical process of self-interpretation exploring the contradictions in

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the lived experiences of humans living within the social order. For example, Horkheimer argues people experience 'the economic categories of work, value and productivity' ([1972] 2002, p. 208) as both legitimate and inevitable within the existing social order, yet also reject them and desire something different. In this way, he claims, 'the critical acceptance of the categories which rule social life contains simultaneously their condemnation' (ibid.) and it is in these contradictions in the lived experiences of individuals that the impulse for social transformation can be found.

While Levitas (2013, p. 99) suggests there are very few contemporary sociologists who would not consider themselves to be engaged in the kind of critical theory described by Horkheimer, she also recognises the 'strong utopian currents' (ibid., p. 98) it contains. This is evidenced not least by critical theory's explicit commitment to social reform, explicitly envisaged as the radical, holistic reconstruction of society to overthrow the established social order and its dominant paradigms of knowledge and piecemeal approach to reform (Horkheimer, [1972] 2002, pp. 218–19).

However, the relationship between critical theory and utopia has often been 'uneasy' (Cooke, 2004, p. 413). In its commitment to radical social transformation, critical theory is also committed to realistic visions of the good society, embedded in the existing social order, reflecting the view that all knowledge is socially produced. At the same time, the identification of lived experience as the impetus of social change results in a refusal to be drawn on the institutional specificity of the imagined alternative since change can only be effected when knowing agents, aware of the contradictions of their existence, bring about a new social order as part of a collective struggle. The specific institutional content of this new order is necessarily shaped by the material conditions, experiences and desires animating this struggle in a particular time and place. Critical theory therefore 'eschew[s] substantive ideas of the "good society"' (ibid., p. 415) in favour of a view of utopia as a process facilitating the 'apprehending another way of being, one that can just be glimpsed from within the dominant social totality, and which forms a necessary condition for collective emancipatory politics' (Garforth, 2009, p. 7).

Following the emergence of critical theory, conceptualisations of utopia as a process have gained wider resonance in late modernity, as reflected in Abensour's (1973) account of utopia as 'the education of desire' (cited in Thompson, 1976, p. 97). This account views the role of utopia as being 'to open a way to aspiration, to "teach desire to desire, to desire better, to desire more, and above all to desire in a different way"' (ibid.). Here, utopia is presented not as a goal to be achieved, but in terms of its affective nature, a process of imagining, such that 'what is most important about utopia is less what is imagined than the act of imagination itself, a process which disrupts the closure of the present' (Levitas, 2000, p. 39). The shift from understanding

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utopia as a goal to viewing it as a process in critical theory, therefore, mirrors a broader shift in the theorisation of utopia since the nineteenth century, also found in feminism and, most recently, postmodernism (Levitas, 2000, p. 38).

5.2 Postmodernism

The construction of holistic visions of the good society and grand narratives typically associated with utopianism as a modernist project of the late nineteenth century is rejected following the postmodern turn, while postmodernism's emphasis on '[t]he "deconstruction of the subject" undermined the possibility of discussing interests beyond the self-defined identity and identification of individuals' (Levitas, 2013, p. 97). Consequently, the idea of utopia in terms of what Lisa Garforth terms 'agential subjectivity', or 'that which can cause an individual, a movement, a society to act in the name of some concrete end or good – to create the better or different society' (2009, p. 11) – such as that found in critical theory – is also undercut. As a result, both Garforth (2009) and Levitas (2000) respectively highlight within postmodernism a reconfiguration of the concept of utopia as a site of resistive practice, with a particular focus on the body as a site of resistance to the established social order. Both also link this to a conceptualisation of utopia as an expression of desire, without a means of translation to hope.

The concept of hope is explored further in this volume by both Carinne Elion-Valter (Chapter 4) and Marta Soniewicka (Chapter 6), among others. However, the distinction between desire and hope drawn by Levitas (2000) and utilised by Garforth (2009) is drawn from Ernst Bloch's distinction between 'abstract' and 'concrete' utopia. For Bloch ([1959] 1986), glimpses of utopia can be found in various aspects of culture, from hallucinations and daydreams, to architecture, medicine, religion and fairy tales as well as conventional literary utopias and the holistic visions of the good society described in detail more typically viewed as social or political utopias (Geoghegan, 1996, p. 5; Garforth, 2009, pp. 8–9). However, so long as such glimpses remain disconnected from a transformative politics, they present purely 'abstract utopias', expressions of desire for a better way of being (following Levitas's broad definition of utopia), but disconnected from the hope that a better way of being can be achieved in practice. It is only through the translation of such expressions of desire into a concrete transformative politics that such expressions of desire find translation into hope, or 'concrete utopia'. For Levitas, therefore, the distinction between desire and hope rests on the ability for expressions of desire for a better way of being to be translated into meaningful social transformation. The problem with the postmodern reconfiguration of utopia constitutes, as she puts it, 'a retreat from hope, at least social hope, to desire' (Levitas, 2013, p. 105).

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This retreat from hope to desire is common to both critical theory and postmodern treatments of utopia in late modernity and the shift from conceptualisations of utopia as a goal to a process. As will be demonstrated, it also poses a challenge for translating desire to hope, and effecting meaningful social change in contemporary society.

5.3 The Problem of Hope

In disrupting the closure of the present in order to foster the education of desire, the conceptualisation of utopia as process itself resists commitment and closure (Levitas, 2000, p. 40). This risks reducing the critical function of utopia to solely that of critique, forsaking its role as a catalyst of social change and denying a meaningful translation of expressions of desire to a transformative politics. At worst, it resigns utopia to the role of 'compensatory fantasy' (Levitas, 2013, p. 125).

While not denying the importance of process in offering spaces of resistance to contemporary society, Levitas nevertheless sees the conceptualisation of utopia as an open-ended process as 'political evasion' (2003, p. 142). She argues for the return of closure to utopian theorising in late modernity in order to translate expressions of desire into concrete hope through which meaningful social transformation can be achieved. As indicated below, this is a position which has found support in recent calls for the development of 'realistic utopias' (see Levitas, 2013, Chapter 7).

5.4 Realistic Utopias

Erik Olin Wright (2010) advances an 'emancipatory social science' based on 'envisioning real utopias'. A key proponent of the calls for 'realistic utopias', Wright's project is animated by the same impulse as previous efforts to reconfigure utopia as a tool of social enquiry: to transcend the separation of fact from value that has plagued the contemporary production of knowledge about the social world, and to resist the tendency towards piecemeal social reform. Specifically, he seeks to reconnect 'the enunciation of abstract principles' (Wright, 2010, p. 21) with a practical consideration of their empirical institutional implications.

However, like the earlier contributions of critical theory, Wright resists engagement with the type of holistic outlining of society historically associated with utopia, thereby limiting the institutional specificity of his own utopianism. While the target of his realistic utopianism is specific practices and institutions found in contemporary society as sites of potential transformation, as Levitas (2013, p. 145) points out, his approach leaves unaddressed the issue of how to connect such specific institutional transformations to

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a broader emancipatory politics. At worst, a consequence of this absence is a return to piecemeal reforms that operate to preserve (and legitimate) rather than radically transform the existing social order, as I have argued in relation to the development of Wright's 'real utopias' in the field of penal abolitionism (Copson, 2016).

The problem with existing efforts to reinvigorate utopianism in late modernity, from critical theory to 'realistic utopias', is an inability to translate abstract expressions of desire for a better way of being into a concrete transformative politics. Stemming from a resistance to the development of holistic visions of the good society as risking authoritarianism that emerged with failed attempts to construct radically different societies in the twentieth century, it is facilitated by the schisms between realism and science, and fact and value that have shaped the production of knowledge. Through its open-endedness and lack of institutional specificity, this approach to utopia also risks consigning utopia to the functions of solely compensation or, at best, critique of the social order without offering a means of translating this critique into meaningful change. In order to avoid this fate and, with it, the prospect that the existing social order becomes viewed as the only or best of all possible worlds, Levitas (2013) maintains that we need to find ways of reintroducing closure to utopia, and thereby translate abstract expressions of desire into concrete articulations of hope. She argues for a shift in understanding of utopia, from goal to method, in order to reinvigorate the types of institutional specificity necessary for preserving utopia's function as a catalyst for social change, while avoiding the dangers of authoritarianism associated with holistic, speculative visions of the good society. The remainder of this chapter explores this method in more detail, before reflecting on how it might be applied to a specific example of a criminal justice policy as a means of translating desire into hope.

6. FINDING HOPE IN HOPELESS TIMES

The definition of utopia as 'the expression of the desire for a better way of being' allows for a broad interpretation of utopia, such that, rather than the decline of utopia in late modernity, we find it continues to survive and even thrive, albeit in new and different ways. However, this definition also risks being so broad as to include potentially everything and does not solve the problem of translating those expressions of desire into representations of concrete hope. Therefore, while this definition may be analytically useful in terms of accommodating various and diverse approaches to utopia, it is equally problematic in terms of aiding the identification and subsequent analyses of substantive holistic visions of the good society commonly associated with social or political utopias – and recognised by Levitas as reflecting the forms of closure necessary for animating social transformation. Levitas (2013)

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therefore introduces the idea of ‘utopia as method’ as a means of addressing this problem.

6.1 The Utopian Method

Devised as a means of transcending the divide between abstract normative political theory and empirical social science, as well as establishing utopia as a legitimate method of social enquiry, utopia as method is presented as offering a means of translating the abstract and partial articulations of desire found in various forms of social and cultural expression, including but not limited to, social and political theories, policies, and practices, into the concrete holistic visions of the good society conventionally associated with social and political utopianism but currently suppressed. The underpinning idea is that this approach can be applied to any and all expressions of desire, though different starting points may yield more or less particular detail and may require bigger or smaller imaginative leaps. This is because such analyses are, necessarily and deliberately, speculative, involving ‘a mixture of evidence, deduction, and imagination, representing as a whole something of which only fragments are actually available’ (Levitas, 2007, p. 61).

Comprising three aspects, *archaeology*, *architecture* and *ontology*, this method provides a means of rendering explicit the implicit holistic visions of the good society underpinning the often partial and fragmented expressions of desire for a better way of being we find within contemporary culture. While the *archaeological* aspect of this method seeks to unearth the normative assumptions animating these expressions of desire, the *architectural* mode considers the practical, institutional frameworks they imply. Meanwhile, the *ontological* dimension reflects upon human nature and the type of selves this good society implies humans are, or would necessitate we become. By considering these various aspects, the aim of this method is to render explicit the possibly competing or contrasting visions of the good society underlying different theories, policies, or practices. This, in turn, allows reflection on both the desirability and practicability of realising these societies, as well as facilitating the type of civic discussion reflected in Jürgen Habermas’s idea of ‘deliberative democracy’, by connecting apparently abstract policies concerning niche areas of social life, to wider discussions concerning the type of society we want to live in, and how this might be realised.

6.2 Applying the Utopian Method to Knife Crime Policy

Given its proximity to state power coupled with the pronounced divisions between fact and value within criminal justice theory, policy, and practice

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previously noted, this is also an area particularly apt for exploration using the utopian method, in order to ascertain its potential as a method of social enquiry.

To take an example from the UK, various policies aimed at tackling knife crime in the twenty-first century reveal the problems inherent in the contemporary approach to tackling social problems and, specifically, the separation between fact and value described. Approaches to tackling knife crime have ranged from measures such as knife amnesties, stop and search policies, increased prison sentences, education and awareness programmes (Eades et al., 2007) to, more recently, a 'public health' approach (Mayor of London, 2017; see also, Copson, 2021). Such criminal justice policies, of which knife crime is but one example, typically divorce problems of knife crime from their location in broader social and political contexts, identifying them as discrete problems in need of targeted reform, rather than connecting them to a broader transformative politics. Based on the 'what works', empirically driven approach that currently dominates criminal justice policymaking that was highlighted previously, they largely absent engagement with bolder normative questions about the contemporary organisation of society, and holistic thinking about both causes and responses to crime, thereby abstracting crime from its context in a wider social order. Even where a broader, interdisciplinary approach is suggested, such as via a 'public health' approach that shifts away from purely criminal justice interventions, focusing instead on 'addressing underlying vulnerabilities reducing risk factors, and strengthening protective factors' (Mayor of London, 2017, p. 44), the primary 'problem' to be solved remains knife crime, with fundamental, normative questions about the organisation of society unexplored.

Every policy approach mentioned above – from increased prison sentences to a public health approach to knife crime – arguably presents an expression of desire for a better society – specifically one in which knife crime is reduced, if not eliminated entirely. The question becomes, however, if each of these approaches is variously committed, at its most stripped back, to establishing a society without knife crime, are they all ultimately committed to the same project of change? Whilst space precludes a detailed analysis of different approaches to knife crime using the utopian method, sketching its application to one such approach – the public health approach to tackling knife crime – can, at least, begin to shed light on the application of the utopian method as a method of social enquiry.

6.3 Archaeology

Taking first the application of the utopian method in archaeological mode, a particular set of normative assumptions regarding the role and function of the state underpinning the public health approach to knife crime policy is

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revealed. As I have discussed elsewhere (Copson, 2021, pp. 334–35), this approach echoes similar approaches that have been adopted in relation to other perceived social problems, such as sex work and drug use, in its view of knife crime as predominantly a health problem, not a criminal justice one. These approaches typically involve ‘bringing together partner agencies to provide a comprehensive package of support around health, education, housing and employment’ (Mayor of London, 2017, p. 43). They imply an understanding of crime as a reflection of social conditions rather than individual pathology and a vision of a much bigger, welfarist state, which exists to support individuals and intervene in their lives where necessary. This stands in contrast to more conventional law and order policies advocating, for example, tougher prison sentences which, alternatively, imply a vision of crime as a result of individual choice and the state as primarily serving to enforce social order and protect individual liberty.

6.4 Ontology

Even through this limited analysis of the archaeological aspects of a public health approach to knife crime, one can begin to see the ontological assumptions informing it. Specifically, underpinning this approach is arguably an awareness of the ways in which individual actions, such as participation in knife crime, are situated in and may be expressions of broader social arrangements. These, in turn, may shape the choices available to individuals and the reasons for participating in knife crime. Rather than viewing such participation as a wanton, free choice (as might be implied by the law and order approach suggested by a policy of tougher prison sentences), the emphasis is on expanding the options and resources available to individuals, reflecting a view of human behaviour as fundamentally shaped by and reflective of the structure and organisation of society itself.

6.5 Architecture

Together, these assumptions around archaeology and ontology feed into institutional implications or *architecture* of the good society that can be speculated as arising from this public health policy for tackling knife crime. By implying an account of knife crime that locates its causes within the broader social arrangements of society and assuming the role of the state as being to support its citizens, a public health approach potentially implies a reimagining of the contemporary architecture of society. By fundamentally relating issues of crime and justice (specifically knife crime) to other areas, such as housing, employment, and health, it raises implicit questions about a range of social

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institutions and suggests a need for these to be reconfigured in order to achieve the good (understood as 'knife-crime-free') society.

While a fuller account would involve a more detailed reconstruction of institutional frameworks and policies to pull out a detailed and holistic vision of society, this, admittedly brief, analysis is intended simply to indicate how the utopian method might begin to be applied, in order to render explicit the imaginary reconstitutions of society implied by various expressions of desire for a better way of being. A fuller account would also require a much more detailed comprehensive delving into the historical development of criminal jurisprudence and penology, as well as situating these debates in their appropriate historical, cultural and policy contexts.

Furthermore, with any fragment or expression of desire, there will be, undoubtedly, many ways of reading the implicit notion of the good society underlying it, dependent on the particular notions emphasised and the particular texts or resources analysed, as well as the normative positions and interests of the reader. Indeed, this reflects the explicitly speculative nature of utopia as method. As such, rather than presenting an exhaustive or unequivocal account, the analysis presented here may be considered but one possible interpretation of the implicit good society underlying a particular knife crime policy. The aim of doing so, however, is to demonstrate how, even amidst the apparent retreat to desire in late modernity, abstract fragments of desire can be translated into concrete visions of hope through the development of the method of utopia devised by Levitas.

7. CONCLUSION

This chapter has argued for the importance of translating expressions of desire into transformative politics in the context of late modernity, presenting the utopian method devised by Ruth Levitas as a means of doing so. It has situated a decline in holistic social planning and retreat from hope to desire in the context of the development of social enquiry since the nineteenth century and, particularly, the separation of fact from value bolstered by the contemporary climate of knowledge production, drawing on the example of criminology and criminal justice theory, policy, and practice in particular, to highlight this phenomenon and the challenges it poses for understanding and responding to social problems. While the apparent decline of utopia in the twentieth century has been overstated, as evidenced by the transmogrification of utopia from goal to process seen in critical theory and postmodernism, as well as the burgeoning interest in 'real utopias', such efforts to salvage utopia as a tool of social enquiry have come at the cost of institutional specificity. Without this, the transformative potential of utopia disappears, and utopia retreats to the role of compensation or critique. The method of utopia is thus presented as a means

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of reinvigorating utopia as a tool of social enquiry, in order to preserve the function of utopia as a catalyst of transformative change.

The chapter has sought to demonstrate how this method can not only transcend the boundaries between empiricism and normativity that dominate and limit contemporary approaches to social enquiry, but, in a context where explicit utopianism is discouraged, if not suppressed, it can encourage the translation of abstract fragments of desire into concrete articulations of hope through the construction of visions of the good society that can then be subjected to evaluation and discussion.

The aim here is not to recreate utopia as a goal, nor to preserve it as a process, but to develop utopia as a method for interrogating both existing social institutions and practices, and connecting them to broader normative political debates about what type of society we want to live in, starting from where we are now. I have provided a brief example of how this might begin to be done in relation to a criminal justice policy around knife crime. The challenge now is to develop this approach further, to see how it might apply in different contexts, to different expressions of desire, and to tease out the holistic visions of the good society underpinning them – to find concrete hope in the fragments of abstract desire.

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3. The rule of law: Between ideology and utopia

Bart van Klink

1. UTOPIA IN TWO READINGS

In political liberalism there is, generally speaking, a deep distrust of utopian thought. According to Berlin, utopias may be a useful tool to explore and expand the 'imaginative horizons of human potentialities'. With the experience of fascism and communism in mind, he argues that politicians who believe in a 'final' or 'ultimate' solution for society's problems will take any measure to reach their goal, whatever the costs. 'For if one really believes that such a solution is possible, then surely no cost would be too high to obtain it: to make mankind just and happy and creative and harmonious for ever – what could be too high a price to pay for that?' (Berlin, 2013, pp. 15–16). Berlin (ibid., p. 19) considers the search for perfection to be a 'recipe for bloodshed'.

At the same time, liberal politics appears to be a rather dull affair. Compared with utopia, it seems to have less inspirational and motivational force. Berlin (ibid., pp. 18–19) acknowledges that what he offers is not, at least not 'prima facie', 'a wildly exciting programme'. His plea for a decent society may be 'a very flat answer, not the kind of thing that the idealistic young would wish, if need be, to fight and suffer for, in the cause of a new and nobler society'. He does not intend to create a perfect society – which he believes cannot exist, given the differences in values and preferences among people; he only aims at preventing the occurrence of extreme suffering and protecting individual freedom. He is hopeful that his liberal view – although 'a little dull' maybe and '[n]ot the stuff of which calls to heroic action by inspired leaders are made' – will prevail in the end: 'Yet if there is some truth in this view, perhaps that is sufficient' (ibid., p. 20).

Perhaps that is sufficient, perhaps not. In his blog on political utopianism, Walzer (2009) raises the question whether 'we can simply renounce excitement and expect people to live by the renunciation', as Berlin proposes. Historically speaking, liberal and democratic regimes have emerged from resistance against authoritarian regimes, carried out by radical movements which were

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fuelled by utopian aspiration. According to Walzer, the most successful liberal regimes have adopted utopian ideologies. Utopian ideologies can be dangerous and may lead to tyranny and enslavement, as Berlin and others have rightfully pointed out. However, as Walzer argues, 'dullness also has its dangers'. For its success and survival, liberalism needs to 'accommodate and deflect utopian aspiration'. Ricœur (1986, p. 283) even goes so far as to claim that a society without utopia is unthinkable: 'We cannot imagine (…) a society without utopia, because this would be a society without goals.' Society would be dead, when there is nothing left to strive or fight for.

The central question I address in this chapter is how to conceive of the relation between utopia and the rule of law. The fundamental critique of utopian thought, put forward by Berlin and other liberals, stems from some notion of liberal democracy in which the rule of law plays a central role. The rule of law requires, in short, that democratic government is based on law, that the tasks of law creation, execution and application are attributed to different branches of government, and that there are fundamental rights and freedoms that government has to respect. Does the rule of law completely rule out utopian thought, as Berlin and others claim? Or does it need to incorporate some kind of utopianism, as Walzer and Ricœur argue, in order to keep society alive and to move and motivate citizens? And, if so, how do we prevent the utopian inspiration leading to violence and oppression? These questions have become urgent again with the rise of populism in the Western world. In contrast to the 'Establishment's politics of pragmatism', populism offers a 'politics of redemption', which promises to regain – after some sacrifices – an imagined 'paradise lost' when the people were one and living happily and peacefully together (Albertazzi & McDonnell, 2008, p. 2). How could the rule of law present a persuasive narrative to counter the aims and claims of populist discourse? Can it move beyond a mere recycling of old ideas, which Bauman (2017) in his last book characterises as 'retrotopias', and offer an inspiring and future-oriented utopian vision?

Utopia can be defined, tentatively, as 'the expression of the desire for a better way of being' (Levitas, 2010, p. 9; see also pp. 209 and 221).[1] It offers a fictional, rationally designed plan for an ideal, harmonic community, which is not meant to be implemented and which is critically opposed to the present situation and transferred to far away times or places (Otto, 1996, p. 3 ff.). This initial characterisation will be further developed and refined in two readings. In the first, literal reading, utopia will be characterised and criticised from the viewpoint of classical liberalism, following Berlin, Popper and Oakeshott

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[1] For an extensive discussion of Levitas's conception of utopia, see Chapter 2 by Copson in this volume.

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(section 2). What is utopia according to its critics and why exactly do they reject it entirely? In the second, hermeneutic reading – based on the works of Forst and Ricœur and others – utopia is conceived as a literary genre which makes use of specific rhetorical devices (section 3). It offers a more complex and constructive understanding of utopian thought, which makes it possible to grasp its functions and attraction as well as its risks and dangers. Building on this hermeneutic reading, I will subsequently discuss the relation between utopia and the rule of law (section 4). In my view, the rule of law can be seen both as ideology and utopia. Finally, I will argue that the rule of law for its survival depends on its ideological as well as its utopian dimension (section 5).[2]

2. A LITERAL READING

In common parlance, utopia has become synonymous for a possibly desirable but in any case unrealistic and unrealisable vision of a perfect society – a dream, a fantasy or fancy. The liberal critique has undoubtedly contributed to the colloquial, mainly negative understanding of utopia.[3] In classical liberalism, utopia is conceived as a blueprint for a radical reordering of the existing legal and political order.[4] It engenders a static and harmonic vision of society in perfect balance. No trade-offs have to be made between competing values such as freedom vs. safety or environmental protection vs. economic growth, as in our world. There is no need for change, because everything is as it should be. It is an ideal society, with nothing left to wish for. Who could ask for more?

That exactly is the point of the liberal critique – utopia is asking too much, which can never be realised in our imperfect world. The attempt to establish happiness in society can only lead to disaster. According to Berlin, the utopian search for perfection will most likely lead to violence. No price is too high for someone who believes in the possibility of a final solution. For the greater good of a perfect society where people are living happily and peacefully together, sacrifices have to be made: ‘To make such an omelette, there is surely no limit to the number of eggs that should be broken’ (Berlin, 2013, p. 16).

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[2] An earlier and shorter version of this chapter has been published in Dutch (Van Klink, 2019). I revised and added several parts, in particular on Oakeshott and the rule of law.

[3] A similar negative conception of utopia can be found in the work of Klaas Schilder, see Chapter 9, by Harinck, in this volume. For a discussion of the liberal critique of utopianism, see also Goodwin and Taylor (1982, Chapter 4) and Jacoby (2005, Chapter 2).

[4] Contemporary liberal philosophers, among whom Benhabib (1986), Habermas (2010) and Rawls (1999), sometimes acknowledge the utopian dimension of their theories.

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Berlin considers ultimate harmony to be an illusion. In his view, there is no single highest good but a plurality of greater goods which, in principle and in practice, may conflict with each other. As a consequence, every now and then uneasy choices and compromises have to be made: 'So we must engage in what are called trade-offs – rules, values, principles must yield to each other in varying degrees in specific situations' (ibid., p. 19). Instead of aiming for perfection, one can better try to prevent the worst from happening. A 'precarious', 'necessarily unstable' equilibrium between the values involved has to be established which aims at avoiding 'extremes of suffering' and 'desperate situations' (ibid., pp. 19 and 50). In line with the romantic movement (initiated by Herder and others), he denies that values are universal. According to him, values are relative to a culture, nation or class: '[e]very human society, every people, indeed every age and civilisation, possesses its own unique ideals, standards, way of living and thought and action' (ibid., p. 39). Societies will develop themselves organically, as the underlying culture and value orientations change. In contrast, utopia constitutes an image of static, conflict-free society. From a universalist notion of human nature, it derives a design for an ideal state deemed to be valid for all people, in all times and at all places. Berlin (ibid., p. 45) considers the notion of a single, perfect society to be a 'cardinal mistake'. Moreover, it is 'internally self-contradictory', 'because the Valhalla of the Germans is necessarily different from the ideal of future life of the French, because the paradise of the Muslims is not that of Jews or Christians, because a society in which a Frenchman would attain to harmonious fulfilment is a society which to a German might prove suffocating' (ibid., p. 42).[5] Against the uniformity that utopia forces upon its citizens, Berlin (ibid., p. 48) pleads for a society with an 'open texture', which gives room to diversity and differences of opinion.

Popper also rejects, in the name of an open society, utopia. In his view, utopia is the surest way to disaster: 'Even with the best intentions of making heaven on earth it only succeeds in making it hell – that hell which man alone prepares for his fellow-man' (Popper, 1971, p. 168). Opinions on how the ideal state would look will inevitably differ in society. Neither science nor rational argument can decide upon the ultimate end of political action. So if one wants to enforce one vision of the perfect society, one has to prevent the emergence of other, competing visions by any means – through propaganda, suppression of criticism and the annihilation of opposition or, if need be, through violence. For Popper (2002, p. 360), utopia constitutes a self-defeating kind of rationalism: while it promises to bring happiness for everyone by rational planning,

[5] For conceptions of a Christian and Islamic paradise, see the chapters of, respectively, George Harinck (Chapter 9) and Marc J. de Vries (Chapter 13) in this volume.

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it produces nothing but misery – indeed, the 'familiar misery of being condemned to live under a tyrannical government'. Political action should, in his opinion, not set its stakes too high. Instead of attempting to establish happiness in society – something which cannot be attained by political means anyway – it should aim at the 'elimination of concrete miseries' (Popper, ibid., p. 361). Popper distinguishes two types of social engineering: utopian and piecemeal social engineering.[6] Utopian or holistic social engineering aims at reconstructing the whole of society according to a specific plan or blueprint. The plan is based on some absolute, unalterable dogmas or axioms about what is best for mankind and is immune to experience and new scientific insights. To enforce the plan, the power has to be centralised in a small group of people that suppresses dissent with all means necessary. To avoid the dangers of utopianism, Popper defends a piecemeal approach within a liberal-democratic framework. Piecemeal social engineering starts from the present conditions of the existing society when designing and reconstructing social institutions. Instead of constructing a whole new society from scratch, it focuses on the greatest and most urgent evils and tries to fix them. On the basis of (fallible) scientific knowledge and through democratic discussion, concrete solutions are sought for specific social problems, such as poverty or crime. It is rational social reform in the true sense, in that it is open to criticism; it displays 'an attitude of readiness to listen to critical arguments and to learn from experience' (Popper, 1971, p. 225). According to Popper, a piecemeal approach is preferable because it enables democratic action, tolerates dissent and resolves conflict through reason and compromise instead of violence.

In 1948, Popper sent his paper 'Utopia and Violence' (published in Popper, 2002) to his colleague Oakeshott.[7] In his reply, Oakeshott subscribes to Popper's critique of utopia. However, he dismisses the distinction Popper makes between 'true' and 'false' rationalism. Oakeshott rejects rationalism *in toto* since, in his view, it is based on 'pure' reason disconnected from tradition and current practices in society. Rationalism believes that a moral practice such as the rule of law can only function properly if, by means of reason, a set of moral rules or goals is formulated. As soon as the ends are established, science can help finding the appropriate means to achieve them. By solely relying on technological knowledge, rationalism ignores practical knowledge developed over time through experience. As a result of its constant questioning, it threatens to undermine valuable traditions and practices which are constitutive for

[6] This distinction is elaborated in Popper (1971). For a critical discussion, see Avery (2000).

[7] On the correspondence between Popper and Oakeshott, see Jacobs and Tregenza (2014).

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society.[8] Popper does not decline traditions and practices out of hand, but puts them to the critical test of instrumental usefulness in dealing with the most urgent social evils. Oakeshott accuses Popper of reducing politics to 'a matter of solving problems'. He proposes instead to think of politics in terms of an ongoing conversation which builds on the latent, not always rationally accessible, moral resources embedded in our traditions and practices. With this image, Oakeshott expresses his scepticism toward the possibilities of politics to overcome life's imperfections: 'It is the politics of conversation that can rescue us (and has on occasion rescued us) from the great illusion of all other styles of politics – the illusion of the evanescence of imperfection.'[9]

In various writings, Oakeshott (e.g., 1975 and 1999) defends a strictly non-teleological conception of the rule of law.[10] He conceives of the rule of law as a moral association based on the authority of non-instrumental rules that impose on its associates the obligation to respect the conditions which are prescribed in the law. These conditions are adverbial qualifications to the actions performed by the associates. In other words, the law does not prescribe concrete actions but qualifies only how a self-chosen action has to be carried out. In principle, everything is allowed if it is done *in a lawful manner*. Every citizen is, for instance, free to drive around in their car as long as they respect the traffic rules and do not cause harm or danger to other traffic users. The conditions prescribed in the law do not serve to promote or hinder a 'substantive interest' (Oakeshott, 1999, p. 149). In this sense, the laws belonging to the rule of law are non-instrumental: they do not aim at achieving a common goal or a collective satisfaction. For example, traffic law does not determine where traffic users should go, but only the way in which they have to reach to their self-chosen destination (see Franco, 1990, p. 225). A shared orientation is lacking; the only thing that matters is to maintain a civil and civilised form of living together: '[Civil laws] do not specify a public "interest" (there is none), but a public concern with the manners in which private interest are pursued' (Oakeshott, 1975, p. 254). As soon as the realisation of a certain value is declared to be the collective goal of the association, the rule of law ceases to exist. The state is no longer governed by the rule of law, but turns into its opposite: the state as cooperation or enterprise. In the state as enterprise the members do not associate in their capacity of legal subjects (or *personae*) but as natural persons who have a shared interest or a common need. The govern-

[8] Oakeshott's essays on rationalism are collected in Oakeshott (1991).

[9] The previous two quotes are taken from Oakeshott's reply to Popper, retrieved 1 September 2021, from: http://www.michael-oakeshott-association.com/pdfs/mo_letters_popper.pdf.

[10] In Van Klink and Lembcke (2013), Oakeshott's conception of the rule of law is discussed more extensively.

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ment is a manager who gives orders to their subordinates in order to promote that higher goal. Oakeshott (1991, pp. 9–10) characterises the political style connected to this mode of government as 'rationalistic': human conduct is subjected to a uniform standard of perfection.

According to Oakeshott, Popper's piecemeal approach is rationalistic since it conceives of government as a technique or instrument for achieving a higher goal – the improvement of life conditions in society. Following Popper, the state becomes an enterprise which, building on scientific knowledge and critical democratic discussion, aims at finding concrete solutions for urgent social problems. From Oakeshott's perspective, utopia can be seen as yet another rationalistic attempt to turn the state into an enterprise association. In utopia, people are not free to pursue their ambitions and interests; they are all expected to fight and work for the same cause – prosperity, peace, happiness, or some other higher goal. For the benefit of the common good, the government issues detailed managerial directions that have to be followed strictly. In More's *Utopia*, for instance, there is a common, and not very fanciful, dress code: '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' (More, 2008, p. 73).

The liberal critique of utopia is targeted and can be summarised in five points. To begin with, (i) the idea that society can be constructed according to a rational plan, from a position above or outside society, is rejected. Both Berlin and Oakeshott dismiss entirely any notion of a 'makeable' or 'socially engineered' society. In their view, society is not the product of rational design, but something which flows and develops from the existing culture (Berlin) or from traditions and current practices (Oakeshott). Society changes when the underlying cultural patterns and value preferences change, and not because government dictates it. Popper is not against social engineering *per se*, as long as it is done piecemeal style, that is, on the basis of scientific knowledge and after critical democratic discussion. He criticises utopian social engineering, because it is supposed to be authoritarian and not open to experience, scientific insights and critical discussion. Furthermore, (ii) the liberals do not share utopia's collectivist vision of a society in which people are working together for the benefit of the greater good. According to Berlin and Popper, government has to have a much more modest mission, namely to avoid 'extremes of suffering' (Berlin) or to solve the most urgent social problems (Popper). Oakeshott, more radically, denies that the rule of law is directed to any goal whatsoever: 'In political activity (…) men sail a boundless and bottomless sea' (Oakeshott, 1991, p. 60). In his view, the rule of law is a goal in itself: by governing through law, it maintains a civil association in which people are free – within the limits of the law – to pursue their own goals. Once government sets itself a specific aim, however modestly defined, the rule of law

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loses its non-instrumental character and becomes an enterprise. Utopia is the ultimate enterprise association, leaving no freedom to people since everyone is expected (and, if necessary, forced) to contribute to the common good. As follows, (iii) all three thinkers distrust the holistic nature of the utopian project, that is, its comprehensiveness or all-inclusiveness. Utopia conflates the public and private sphere, which they prefer to keep separate. Instead of aiming for a general make-over of society, one should either focus on solving specific social problems (Popper) or let society develop itself hermeneutically, building on its cultural and moral resources (Berlin and Oakeshott). Subsequently, (iv) the instrumental rationality of utopia is put under attack: since the end justifies the means, government is allowed to resort to violence, oppression and deceit in order to curb dissent. For the sake of peace and happiness, sacrifices need to be made. Finally, (v) the utopian quest for perfect harmony is believed to be a mission impossible. Berlin in particular stresses that inevitability of choice: every now and then trade-offs have to be made between competing values. Hopefully, we will succeed in preventing the worst from happening (Berlin) or gradually improving life conditions in society (Popper), but we will never be able to create a perfect world. According to Oakeshott, the human condition is characterised by radical temporality.[11] So change is inevitable, and there is no final destination we are heading to.

In this liberal and literal reading, utopia starts more and more to look like dystopia, its alleged opposite. One may wonder what constitutes its attractiveness. However, a different reading of utopia is possible.

3. A HERMENEUTIC READING

In the liberal critique, utopia is taken quite literally and seriously as a design for a perfect society. As a blueprint, utopia is rejected not only because of *what* it strives for (happiness in society) but also *how* it attempts to achieve its aims, that is, by means of authoritarian ruling and, most likely, violence. However, this critique fails to see that utopia is fiction and, *as a literary genre*, is open to multiple interpretations and fulfils various functions.

As Forst argues, utopia makes use of two rhetorical devices: hyperbole (or exaggeration) and irony. Through these devices it creates distance, not only towards the current situation but also to its own ideal image. Utopia thus criticises both the existing state of affairs and itself. It is a moderate form of scepticism which also affects its own design for a perfect society. According to Forst (2011, pp. 220–21; my translation), utopia constitutes a 'double normativity'. On the first level, utopia provides access to a better, even ideal

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[11] On this notion, see Van Klink (2018, pp. 38–41).

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world. More's *Utopia* depicts a world in which domination, luxury and private property are abandoned (as Marx would do later too). What characterises this specific political normativity is its radicalism: it defies political reality in which power is distributed unequally and difficult compromises between conflicting values have to be made. On the second level, the first level of normativity becomes the object of reflection and its ideal image is being questioned. In this act of self-reflection, the imperfection of its own design for a perfect society comes to the fore. Therefore, there is no strict distinction between utopia and dystopia: in its figures of speech, utopia offers the key to its own deconstruction. More (2008) has written *Utopia* as a dialogue between the author, called Morus, and Raphael Hythlodaeus, a fictional character who has visited many foreign places (among which Utopia). The name *Hythlodaeus* already indicates that his narrative cannot be taken too seriously; literally, it means a 'dispenser of nonsense', in other words, a fabulist or fantasist. The Latin word 'Morus' can be related to the Ancient Greek adjective 'môros' (μωρός), which means 'foolish'. Many names contain irony, for instance the geographical names given to the locations surrounding Utopia, such as: *Achora* ('Nolandia'), *Macarenses* ('Happiland'), *Alaopolitae* ('Land without citizens'), *Polyleritae* ('Muchnonsense') and the river *Anydrus* ('Nowater'). Rhetorical devices like these make it impossible to grant utopia an ultimate and univocal meaning. While utopia, on the first level of normativity, presents a plan of how in a political community people can happily live together, on the second level, it leaves room for individuality and spontaneity – in other words, for everything that cannot be planned. Due to this double normativity, Forst argues that the utopian is nowhere at home, here nor there. In this sense, utopia is a non-place (*ou-topos*). With critical irony and distance it looks both at the world as it is and to the world we long for, but the utopian aspiration is not fully lost: '[T]he critical irony which is expressed in utopias is the attitude of someone who can let go of what people hold on to, the given as well as the dreams, without betraying the latter' (Forst, 2011, p. 222; my translation).

In a series of lectures on ideology and utopia, Ricœur (1986) explores further utopia's political significance. As he argues, ideology and utopia, though fulfilling different (even sometimes contrary) functions, are closely connected and share many properties. They both are forms of social imagination which have a destructive as well as a productive side. In both cases, the negative, pathological dimension manifests itself before the positive, constructive dimension. To arrive at the constructive dimension, one has to go beyond the superficial meaning of distortion that characterises both forms of imagination. Marx conceives of ideology – which, in his view, includes utopia – as a misrepresentation or distortion of reality. He dismisses ideology, because he considers it to be unrealistic and unscientific. However, in order to be able to speak of a misrepresentation, one has to have some idea of what

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a correct representation would look like, how reality really is or should be. Critique presupposes a point of view from which one can pass a judgement. According to Ricœur, this is the viewpoint of utopia, conceived as the ideal to which we aspire but which we can never fully attain. Every critique thus contains a utopian ideal: '[T]he judgment on an ideology is always the judgment from a utopia' (Ricœur, 1986, p. 173). This also applies to the ideology critique of Marx, who rejected the capitalist, bourgeois society in the name of the communist ideal of a classless and free society.

On three different levels, Ricœur analyses and compares the functions that ideology and utopia fulfil.[12] Where ideology on the first level is a distortion or denial of reality, utopia is a free-floating fantasy, a daydream, an escape from reality. On this level, utopia does not provide any clue how to change and improve the world as it is; it only offers a way to get out of the present situation by what Ricœur (ibid., p. 296) calls the 'magic of thought'. This he considers to be utopia's pathological dimension. It appears that all goals can be realised at the same time, that there are no tensions between them and that no difficult choices have to made. On the second level, ideology gives a legitimation of the political order at hand while utopia, on the contrary, criticises the current power structure. Any political order needs a justification, to keep citizens committed and to build trust in its institutions. Ideology produces this justification but utopia, in its turn, questions it, often in an ironical way. Utopia thus reveals the gap between the claim to legitimacy by the authorities on the one hand and the acceptance of this claim by the citizens on the other. It challenges the powers that be by providing an alternative to state power based on domination (e.g., self-organisation according to anarchist or socialist principles) or an alternative way of exerting state power (e.g., by means of rational and consensus-oriented communication, as Habermas suggests). According to Ricœur (1986, p. 299), utopia offers two options: 'to be ruled by good rulers – either ascetic or ethical – or to be ruled by no rulers'. On the third level, finally, ideology fulfils its most important and most basic function: it contributes to social integration, that is, the identity of society (including the various groups and individuals within it) is maintained and strengthened. On this level, utopia also fulfils its most fundamental function: the exploration of what is possible. It exposes the contingency of the current social order and shows that social institutions such as politics, law, marriage, religion and so on could be organised differently. How things are is not necessarily how they should be. Utopia aims at change and intends to be realised, although it is never fully realisable. As Ricœur argues (see section 1), a society without utopian ideals is a dead society, because there is nothing left to fight and strive for. Utopia breaks open

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[12] These functions are also discussed in Chapter 6 by Soniewicka in this volume.

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the identity that ideology preserves and turns it into a dynamic identity which is open to change. It is a response to the question of what moves and motivates social order and what keeps it alive.

From this perspective, ideology and utopia supplement and correct each other.[13] It is utopia's pitfall to become an escapist fantasy, without any relation to or relevance for our day-to-day world. Ideology can then help to bring it back to reality. Ideology, in its turn, tends to stick too much to present arrangements, to become static and rigid. Through the faculty of imagination, utopia shows that things can be arranged very differently. In this hermeneutic reading, utopia has no univocal meaning – as classical liberalism assumes – but it allows for multiple interpretations. It is not merely an escape from reality (on the first level of Ricœur's analysis); it also criticises current power relations (on the second level) and offers suggestions for changing and amending the existing social order (on the third level). Utopia has to be seen as a work of fiction. That means it is a literary genre in which, by means of stylistic devices, a fictional ideal world is created that serves as a mirror to the existing, far from ideal world. It is an alienation technique which creates distance from the present situation and makes the familiar strange, so that alternatives for the current social order become conceivable. In the 'play of utopia', one has to look for the possible in what seems utterly impossible. By using the devices of irony and hyperbole, as Forst claims, utopia offers the key to its own deconstruction and points to its limits and shortcomings. As in the former literal reading, no fundamental distinction can be made between utopia (as a 'good place') and dystopia (as a 'no good place'). However, there is a crucial difference: while political liberalism exposes utopia as dystopia (the utopian world appears to be far from ideal), the hermeneutic reading reveals that utopia contains both utopian and dystopian elements. It does not constitute a blueprint for a perfect society, but gives an ironic commentary on the existing imperfect society as well as to its own search for perfection, which should not be taken too literally.

4. THE RULE OF LAW: IDEOLOGY OR UTOPIA?

What does the foregoing discussion of utopia imply for the relation between the rule of law and utopian thought? Does the liberal account of the rule of law constitute itself a utopia or an (ideologically motivated) critique of utopia? Building on the hermeneutic reading, I conceive of the rule of law as both a utopia and an ideology. In the basic definition proposed by Tamanaha (2012, p. 232), the rule of law 'means that government officials and citizens

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[13] On the relation between utopia and ideology, see also the Chapter 6 by Soniewicka in this volume.

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are bound by and abide by the law'. According to Oakeshott (1975, p. 203), it is a moral association based on the authority of general, publicly accessible and non-instrumental norms. It meets three formal requirements. First, the associates have to know what the laws are and how they are created. For that purpose, a sovereign legislative power is established that has the exclusive and unconditional competence to enact, amend and annul legislation. The law is not a loose collection of norms but constitutes an internally closed and coherent legal system. It sets conditions to *how* the associates have to carry out their actions; it does not prescribe *what* they have to do. The conditions set in the law do not serve a higher purpose, except for preserving the rule of law as a moral association. In this sense, the law is non-instrumental. Contrary to the state as enterprise, the rule of law has a rather modest aim: to preserve a civilised living-together so that people can live their life according to their own plan. In similar terms, Fuller (1969, p. 221) argues that 'law furnishes a baseline for self-directed action, not a detailed set of instructions for accomplishing specific objectives'. Because the conditions set in the law are inevitably general and indeterminate, there has to be, second, a judiciary power which has the competence to determine whether in individual cases the conditions are satisfied. If not, the court attaches a specific consequence – possibly but not necessarily a sanction – to the violation of the law. It is no arbitrator in a conflict of interests but a guardian of the unity of the legal system. Its verdicts are orders that the associates are obliged to follow. Finally, the rule of law as a moral association presupposes that there is an executive power which has to secure that the court's orders are carried out. This includes what Oakeshott (1999, p. 161) calls the 'custodians of peace', who have the responsibility to detect, prosecute and prevent violations of the law.

In this basic definition, the critical and utopian dimension of the rule of law prevails: the rule of law limits the exercise of power – the legislature may only, as Oakeshott argues, set conditions to self-chosen actions by citizens but not promote a specific cause – whereas in reality legislation often contains detailed prescriptions in order to achieve a preordained goal (as in so-called instrumental legislation).[14] At the same time, liberal theory provides a justification of power exercised in accordance with the given requirements: if issued in the correct way, law has authority and may demand compliance from the norm addressees. Here, the conserving and ideological dimension of the rule of law comes to the fore. Below, I will discuss the rule of law first as utopia and then as ideology and, subsequently, the relation between these two dimensions.

[14] See, for instance, Van Klink (2018).

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4.1 The Rule of Law as Utopia

In his classic work *Ideologie und Utopie*, Mannheim (2015, originally published in 1929) distinguishes four types of utopia: the chiliastic, liberal humanitarian, conservative and socialist-communist utopia. Each type is characterised by a specific time orientation and experience. The *chiliastic* utopia centres around the experience of *kairos*, that is, 'fulfilled time, the moment of time which is invaded by eternity' (as cited in Levitas, 2010, p. 82). It is an ecstatic experience which cannot be brought about actively but just befalls people: suddenly, seemingly out of nowhere, utopia breaks into the present order of things. In this orientation, history is not the product of human intervention but of energies which are liberated by the arrival of a new millennium. The *liberal humanitarian* utopia, on the contrary, posits a goal in the future which can be achieved step by step. In the liberal idea, man is an actor who is capable, through his willpower and faculty of reason, to move history in the right direction. The corresponding orientation in time is progress instead of *kairos* as fulfilled time. Change is brought about, not by a sudden rupture, but through a slow and steady development toward the desired end. There is no final destination: history is always in the making. The *conservative* utopia – which Mannheim conceives as both a 'counter-utopia' and an ideology – springs from a rejection of the liberal utopia. Whereas the liberal humanitarian utopia is directed to the middle class and the chiliastic utopia to the working or lower class, the conservative utopia serves the ruling class. It aims at preserving the past and long-established traditions within it. The past is considered to be an integral part of the present that continues to affect and shape us. Time is experienced as duration ('durée' in the sense of Bergson[15]) instead of progress. Change cannot be brought about by rational planning but has to grow organically from current practices. If the present situation corresponds to the conservative idea, Mannheim considers it an ideology; if not, he deems it to be a utopia.[16] Finally, the *socialist-communist* utopia rejects – in line with the liberal humanitarian utopia but in contrast to the conservative utopia – the present situation. Like the chiliastic utopia, it appeals to the working class and it experiences time as a rupture. The socialist-communist utopia conceives time, not as duration (as in the conservative utopia) or progress (as in the liberal humanitarian utopia), but as a sequence of strategic moments in history. It focuses in particular on crisis situations that contribute to the decline of the

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[15] As explained in Guerlac (2006, p. 96 ff.).

[16] Ricœur (1986, pp. 178–79) rejects Mannheim's notion of reality as a fixed and objective entity, which exists independent from our ideas. According to him, social reality is the product of cultural and symbolic mediation, so reality and ideas are inseparably connected to each other.

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capitalist, bourgeois society and, as a consequence, leads to a more just social order.

Although utopian aspiration is dismissed altogether by Berlin, Popper and Oakeshott, their views on the role of the state and the relation between state and society are closely related to what Mannheim calls the liberal humanitarian utopia. In this utopia, as Ricœur (1986, p. 278) argues, the notion of humanity plays a central role. It seeks to free people from domination and enable them to lead a decent human life. The ideal is, in the words of Oakeshott, to sustain a civil association (or *societas*) based on law. Historically speaking, the rule of law originated from the resistance against abuses of power and acquired but unjustified privileges. To avoid concentration of power, the branches of legislation, administration and the judiciary power have to be separated. This is the core of the classical liberal and formal conception of the rule of law, based on the principles of legality, formal equality and separation of powers. The exercise of state power has to follow from the law that applies to all, ruler and the ruled, alike. In more substantive conceptions, fundamental freedom rights are posited, such as the freedom of expression and the freedom of religion.[17] Later on, other kinds of fundamental or human rights have been recognised as well: in the nineteenth century, political rights which enable citizens to vote and to be elected and thereby to participate in decision-making procedures and, in the twentieth century, social and economic rights, such as the right to education, the right to housing and various labour rights.[18] The rule of law, in the liberal and formal conception, is an attractive ideal since it aims to reduce arbitrariness and abuse in the exercise of governmental power (Selznick, 1969, p. 12). The state is allowed to intervene in society, only if the law permits it. The public sphere is separated strictly from the private sphere, which the state has to stay away from as much as possible. The rule of law enables citizens to live together in an orderly and peaceful way, respecting diversity and pluralism: people may live their lives according to their own plan as long as they respect the limits set by the law. This is what Berlin (2002, pp. 170–78) defines as negative liberty, or the absence of external constraints. The welfare state has a much more ambitious programme. Its objective is to create and sustain, in various social domains (such as education, employment and healthcare), the conditions which enable citizens to fully profit from their freedom. This

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[17] In Oakeshott's formal conception, there are no inalienable and unconditional rights preceding the legal order (for instance, individual rights or human rights). The rule of law, as a civil association, is solely based on legality.

[18] On the various, formal and substantive, conceptions of the rule of law, see Tamanaha (2004, Chapters 7 and 8, respectively).

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is positive liberty, as described by Berlin (ibid., pp. 180–82), which intends to promote self-development and self-determination.[19]

Berlin is opposed to governments that, in the name of positive liberty, restrict the negative liberty of citizens to live their lives as they choose to. In his view, positive liberty often is a pretext for interference and paternalism. His criticism of utopia sprang from his resistance against two political ideologies pervasive in his time: fascism and communism. He rejected utopia, as indicated, for a couple of reasons: it aims to regulate society from top-down, building on a rational plan; it forces people to live, feel and think in the same way; it uses any means to achieve its aims, if necessary violence; and it fails to acknowledge that values can conflict and cannot be realised at the same time. As Ricœur argues, every critique of ideology is based on a utopian ideal from which the ideology can be criticised. Berlin's criticism of utopia thus presupposes itself a utopia. In his case, it is not only the liberal humanitarian utopia but also the conservative utopia. Following the liberal humanitarian utopia, Berlin highly values limitation of governmental power, protection of individual freedom and respect for diversity and value pluralism. His conception of change, however, is connected to the conservative idea of organic growth: according to him, a society cannot be controlled rationally and top-down, but develops itself gradually building on traditions and current practices. The limited task of government is to prevent 'extremes of suffering' in society.

Popper's utopia of piecemeal engineering, which informs his rejection of utopia, fits very well the liberal humanitarian idea. Like Berlin, Popper is in strong favour of limited government, individual freedom and pluralism. He envisages a peaceful society in which the state only takes care of the most urgent social evils. In line with the liberal humanitarian idea, though contrary to Berlin, he puts much faith in the human capacity of reason: through scientific knowledge, society can be improved step by step.[20] In addition to the liberal and formal understanding of the rule of law, Popper stresses the importance of democracy: according to him, political decisions have to be taken with approval of the citizens.[21]

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[19] In the following, I will focus on the classical, liberal and formal, conception in order to demonstrate that even in this minimal sense the rule of law has a utopian dimension. In her contribution to this volume (Chapter 4), Elion-Valter explores the utopian dimension of the rule of law in a more substantive sense.

[20] Similarly, in her chapter (Chapter 2), Copson connects utopia with the solution of concrete social problems. Moreover, she stresses the importance of knowledge and the cooperation between various disciplines.

[21] Although (as indicated above) political rights have been added to later conceptions of the rule of law, a tension remained between the liberal constitutional state and democracy, see for instance Zakaria (2003).

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Oakeshott approves of Popper's rejection of utopia but dismisses his notion of piecemeal engineering. According to Oakeshott, piecemeal engineering turns the political order into an enterprise association (or teleocracy), directed at the gradual elimination of urgent social evils by scientific means. In his view, the rule of law is a civil association (or nomocracy) without any ultimate purpose. What brings associates together in the civil association is not a common goal but loyalty to its laws. Oakeshott's vision of civil association has more in common with Berlin's view, since it combines liberal humanitarian and conservative ideas. On the one hand, it is clear that freedom constitutes a fundamental value, since the law only sets conditions to the self-chosen actions by citizens, but does not prescribe how people have to behave. However, Oakeshott (1999, p. 175) denies that freedom can be actively achieved through civil association: '[A]ll this may be said to denote a certain kind of "freedom" which excludes only the freedom to choose one's obligations. But this "freedom" does not follow as a consequence of this mode of association; it is inherent in its character.' On the other hand, Oakeshott shares Berlin's conservative idea that society cannot be rationally planned or 'engineered' but has to grow from the practices people are engaged in. The utopia here seems to be a liberal or even libertarian society which grants individuals a maximum of freedom to shape their own lives with a minimum of interference from the state. The state only sets limits to the freedom to protect the civil character of the civil association, that is, to keep peace and order.

As a utopian project, the rule of law can fulfil the three functions Ricœur ascribes to utopia in general. The most important and basic function is the exploration of the possible. On this level, the liberal discourse of the rule of law generates suggestions for the design, execution and limitation of governmental power. Historically speaking, the rule of law has been a source of inspiration and catalyst of change, like in the French Revolution and, more recently, the regime changes in Eastern Europe. The aim is to let the exercise of governmental power be guided by rules, although in practice this will not always be accomplished and not completely. In this sense, it is a utopia: it is an ideal which can never be fully achieved. Subsequently, the rule of law fulfils an ideology-critical function by rejecting state actions that are not based on law and thus limiting the power of the state. The rule of law constitutes a powerful weapon against totalitarian regimes and ideologies that – in the name of the people or some higher power – grant themselves unlimited power. Finally, the rule of law can degenerate into a free-floating fantasy, when it is no longer or not fully applicable in the given circumstances. In exceptional situations, it may not be possible to do things 'by the book', for instance in the event of a terrorist attack, a natural disaster or a pandemic. In that case, the executive power has to act rapidly and take all the measures necessary to restore order, even when this means that the current legal system has to be suspended temporarily.

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Judicial review can only take place after the situation has been stabilised and normalised. Order has to be restored first, before the legal order can function properly.[22] Under more normal circumstances the rule of law can also appear illusionary, for example if the state is not able to provide for the basic needs of its citizens. Paradoxically, it is the lack of fantasy that can turn the rule of law into a fantasy, that is, its abstract character and the absence of a shared goal or destination. According to Oakeshott (1999, p. 178), the rule of law has no other goal than to sustain a civilised way of living together: 'The rule of law bakes no bread, it is unable to distribute loaves or fishes (it has none), and it cannot protect itself against external assault, but it remains the most civilized and least burdensome conception of a state yet to be devised.' However, as the rise of populism in Europe and elsewhere shows, many citizens are invoking material and immaterial needs which the rule of law cannot satisfy, or only in a limited way: safety, homogeneity and a fixed identity.

In particular in the last case, when the rule of law threatens to lose touch with reality (as it is experienced by the people), it is important that it manifest itself as ideology.

4.2 The Rule of Law as Ideology

The rule of law appears as utopia, if it inspires to a design or redesign of the legal and political order, it questions the existing distribution and execution of power, or it remains a beautiful but unrealisable dream. If it, on the contrary, helps to sustain the current state of affairs and supports the established power relations, the rule of law manifests itself as ideology. Change is not the aim, but a stabilisation of the existing legal system. The rule of law is not only a descriptive concept to characterise a given legal and political order (as in Kelsen's Pure Theory of Law; see, e.g., Kelsen, 1994); it is also a normative concept, which the state can use as a mark of quality to demonstrate that it is a well-functioning and decent order, respecting fundamental rights, and not a totalitarian, rogue or failed state. Regarding its function, the rule of law as ideology fits well with the conservative idea, as described by Mannheim, since it aims at preserving the status quo. In terms of content, however, it remains connected to the liberal humanitarian idea, because the status quo it aims to protect is the liberal legal order in which governmental power is limited, fundamental rights are respected and diversity and pluralism are cherished. In this sense, the idea promoted by Berlin and Oakeshott that change has to build on current traditions and practices and Popper's piecemeal approach can be

[22] As Schmitt (2005, p. 13) puts it: 'For a legal order to make sense, a normal situation must exist.'

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conceived as a defence against too radical changes in order to protect an open and free society.

As ideology, the rule of law can fulfil the three functions Ricœur has ascribed to ideologies in general. Ideology's most important and basic function is to promote social integration, that is, to secure the identity of a group or community. What unites citizens under the rule of law is the recognition of the law's authority and respect for the legal and political institutions in the state.[23] It constitutes a relatively weak but not necessarily bad connection among them. Citizens do not share a common goal, as opposed to the many other ideologies (and utopias), but have committed themselves to a specific *form* of organising power in which the law authorises the creation and implementation of the rules. There is unity in plurality: within the limits of the law people can live their lives according to their own plan. Subsequently, the rule of law offers a justification for the exercise of power by the state. If it acts in accordance with the requirements of the rule of law, the state is authorised to make rules and to take measures. Power then becomes authority. It is what Weber (2005, pp. 727–29) describes as rational legal authority: officials such as judges, police or politicians do not derive their authority from their appeal or achievements (charismatic authority) or from custom and tradition (traditional authority), but from the law which confers them the competency to act on behalf of the state.

The rule of law shows its pathological dimension, finally, when it ignores or distorts how things are, that is, when it paints a false picture of reality. A government may, for instance, pretend to comply with the rule of law while it is actually undermining it, as happens in Poland and Hungary, where the impartiality of the court is under threat. Alternatively, from the viewpoint of another utopia, the rule of law can be criticised. Building on the socialist-communist utopia, it can for example be argued that the rule of law cannot live up to its own promises since it – under the pretext of formal equality – preserves substantial and substantive inequality in society, so not everyone is capable of enjoying their freedom equally (internal criticism); or that society should be organised on a whole different, non-liberal and non-capitalist, footing (external criticism). The rule of law becomes, in my view, pathological too when it is conceived as a dogma, that is, a set of unchangeable beliefs with absolute authority. In anti-immigration circles, the rule of law is sometimes presented as the culmination of Western civilisation, to which everyone coming from the outside (in particular: Islamic countries) has to adapt when entering our society. In this case, the rule of law is used or abused to enforce another

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[23] Böckenförde (2006, p. 36) speaks in this respect of the 'Ethos der Gesetzlichkeit' (or 'ethos of legality').

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(usually a right conservative) ideology upon society which is at odds with its self-proclaimed open and pluralist character.

5. THE PROMISE OF THE RULE OF LAW

The rule of law as utopia and as ideology do not contradict each other; instead, both forms of imagination complement and correct each other. At present, in most European countries, the rule of law manifests itself mainly in its capacity of ideology. The liberal discourse of the rule of law sustains the current legal and political order and gives it a certain identity. On a positive note, it contributes to the stability of the given order. At the same time, however, as ideology it risks to become a worn-out story, a cliché or dogma without much motivational force. Consequently, it is vulnerable to attacks from other political ideologies. To prevent the rule of law from being taken too much for granted as a self-evident and fixed idea, it is important to stress its utopian dimension. As discussed above, Berlin, Popper and Oakeshott consider utopia incompatible with the rule of law. As representatives of (classical) political liberalism, they reject utopia entirely, out of fear of abuse of power, violence and curtailment of freedom. However, as the hermeneutic reading shows, they take utopia too literally – as, admittedly, many political leaders in history have – focusing on utopia's negative function (i.e., to paint a distorted picture of reality) and ignoring its possible positive functions (i.e., to criticise the current order and to imagine an alternative order).

As utopia, the rule of law contains the promise of a life in peace, freedom and equality, where the law sets the limits that are needed for a civilised living-together. As its effective history shows, the rule of law has no fixed meaning. In subsequent stages, different values were promoted. In the nineteenth century, central values were liberty in the negative sense and formal equality (in the classical liberal conception of the rule of law), followed by calls for democratisation. In the twentieth century, the focus shifted to freedom in the positive sense and material equality (in the social conception). Human rights, such as the right to life, work and education, are included in a more substantive conception of the rule of law (Tamanaha 2004, pp. 102–13). In our information society, equal access to the internet is often seen as a fundamental human right (see for instance Peacock, 2019). These and other values, which in their implementation can conflict with each other, give inspiration to the further development of the rule of law, which knows no ultimate aim or final destination. Conversely, its ideological stabilisation has to secure that the rule of law does not become a free-floating fantasy. For its survival over time, citizens must continue to recognise the rule of law as a desirable and legitimate form of government. However, its limitations have to be acknowledged. In exceptional situations, it may be necessary to suspend the legal system

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(including the separation of power and basic rights) temporarily in order to make a return to the normal situation possible. Moreover, the rule of law is not capable of providing for all human needs, or only in a very limited way, such as the need for safety, homogeneity and a fixed identity. The rule of law offers no blueprint for a perfect society, but it makes it possible to challenge and address the imperfections of existing societies. Against the contemporary populist and authoritarian tendencies, it is essential that we re-evaluate and reappraise the utopian roots of the rule of law.

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4. Legislative hope and utopia

Carinne Elion-Valter

1. INTRODUCTION

We currently live in a regulatory state, managed by a sprawl of rules and legislation, varying from directives, governance codes, old-fashioned rules backed up by sanctions, financial regulations, covenants and communicative incentives. Legislation, once thought of as a unified top–down order ‘guiding the nation’, has changed into a layered order finding its source in several overlapping legislative bodies and organisations (national parliaments, EU, governance code organisations, local regulating bodies). Further, current legislation has become much more instrumental in, what I would like to call, an activist sense. It is for an important part focused on effectively achieving policy goals related to socio-economic, environmental, health and other welfare state concerns. Finally, modern legislation is frequently formulated as a framework law, delegating (‘outsourcing’) further regulation to lower bodies. Therewith, legislation has become much more procedural, focused on control and accountability of the execution of legislation (Westerman, 2018). So, legislation in the form of norms and principles speaking to citizens and guiding their behaviour has been complemented, if not replaced, by legislation stipulating general policy goals directed towards executive bodies.

Due to this complexity, layered character and focus on effective execution, current legislation seems far removed from the utopian ideals that inspired modern parliaments, after the French Revolution and during the nineteenth century. Take for example the post-revolutionary French Assembly, later the *Convention Nationale*, that imagined legislation as a work of enlightened reason, inspired by the hope that it would materialise republican ideals of *liberté* and *égalité* (cf. Berman, 1983, p. 556 ff). Based upon these beliefs, law and legislation had an important symbolic function and even claimed a certain faith: *la loi fait foi* (cf. Legendre, 2001; Supiot, 2009). This legislative idealism and utopianism seems now to have vanished behind issues of complexity and executive problems.

Since the 1970s the negative effects of current complex legislation on legality have led to many initiatives to improve the quality and legality

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(i.e., consistency, understandability and foreseeability) of legislation. These initiatives resulted in drafting codes and guidelines supported by evaluation procedures to analyse results, measure the effectiveness of legislation and to assess risks (cf. Van Gestel, 2018, for an overview). Also, initiatives have been taken to make the legislative procedure and public policy more participatory and responsive, for instance by the implementation of consultation procedures and creating alternative ways of regulation and self-regulation. More or less in line with these insights, governance theory developed the concept of a (public) values-based approach for more effective governance (Koppenjan & Koliba, 2013).

The recently adopted Dutch Environmental Management Act[1] offers an example of these tendencies. Its overall objectives are executive flexibility and legality. It promises insight and oversight in this heavily regulated legal area, thereby serving certainty of law. By a politics of liberalisation of procedures, it hopes to stimulate the smooth execution of housing and infrastructural initiatives, serving environmental and economic policy ends. To further enhance legitimacy and smoothness of execution and diminish the risk of civil resistance and costly court procedures, it stimulates the early involvement of citizens and bets on information by digital technology.

However, as illustrated by the 'management' in the name of this Act, the overall aim of this ambitious draft is still effectiveness of public policy, making participation and the enhancement of legality and legitimacy means to an end that are external to legality and legitimacy itself. Further, although drafting and evaluative measures can be useful to enhance legislative quality and effectiveness, they also underscore the instrumentalism of current legislation and its focus on improving control and prevention of risk. Evaluation also has primarily a backward glance, evaluating legislation against pre-set goals with an eye on step-by-step improvement.

All in all, present legislative policy seems on one hand to have said farewell to inspiring visions of the future. On the other hand, it still aims at meeting specific policy goals, secured by several control mechanisms, thereby offering some kind of hope. But is this legislative hope? The above raises the question of to what extent and in what way (current) legislation can (still) be a source of hope and what role utopian thinking plays with respect to this. This chapter aims to analyse the relationship between legislation and hope and utopia. I will first analyse the relationship between utopia and legislation. What is a utopia? What kind of legislative utopias are there? Since utopias are stories,

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[1] Act of 12 February 2020, Stbl 2020, 17, https://www.government.nl/topics/environment/roles-and-responsibilities-of-central-government/environmental-management-act

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I use a narratological frame. For the legislative utopias I use the typology of utopian mentalities as developed by the German sociologist Karl Mannheim (1893–1947). It offers a framework to understand the temporal orientations of utopias. Following, I will focus on the relationship between hope and utopia. How to understand hope? How is it related to Mannheim's utopian mentalities and their legislative analogues? Applied to current legislation, the outcome will be rather disappointing. Based upon a phenomenological understanding of hope by Gabriel Marcel (1889–1973), I will argue for a more reflexive legislative process.

2. LITERARY UTOPIAS

The core meaning of utopia is a no-place, in the sense of a place which is incongruent with reality, because it is as yet unknown (Hubner, 1988, p. 1433). Using the full potential of their spatial setting, utopias create their own reality and thereby reveal the capacity for renewal of reality by rewriting it. They are products of the human imagination featuring a specific narrative which often has a mythical force. As such, utopias offer a prospective outlook on society and express the desire for a better way of being or living (Levitas, 2013, p. 4). In line with this core meaning of an imagined ideal society, 'utopia' is frequently used in a metaphorical sense with a negative implication designating an illusionary conception of reality, an irrelevant fantasy (Levitas, 2013, p. 5). In a political and sociological sense, utopias represent political visions, or grand narratives with a supposedly happy outcome. Before reviewing several political utopias and their legislative counterparts, I briefly review the main features of literary utopias.

2.1 New Jerusalem and Eden

Literary utopias obey a narratological plot and certain constraints as to time and place (Drouin-Hans, 2011, p. 43 ff). They imagine a future for society thanks to their setting in a place outside reality and the passage of time, presenting this place in stark opposition with 'normal' reality. This setting offers the possibility to imagine another world, which is presented as a better place (other than dystopias featuring an apocalyptic future). These dreams come in many forms, as Davis explains (1981, p. 20 ff). Utopias in the broad sense of an ideal world may appear as *Edens*, be it as lands of plenty (Cockaygne), arcadian escapist Golden Ages of harmony and moderation, millennial dreams of spiritual liberation through the second coming of Jesus and the perfect moral commonwealth engrained in the hearts of good men, or as *New Jerusalems*. The latter ones – Davis presents these as the classic utopias – are construed cures for society's malfunctioning, designs of conditions under which society

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would work better (Davis, 1981, p. 29 ff). Whether dreams or designs, all utopias present themselves as 'happy places where sin and evil do not exist and every contradiction is solved' (Auden, 1956, p. 409 ff), a personal or societal daydream (Servier, 1991, p. x).

Each of these storylines has a different understanding of time, knowledge and subjectivity. Edens are a revelation. Eden is the ideal world of the past, the paradise, the Golden Age. It does not know any contradictions and offers the freedom to do what comes naturally. One is born within Eden and whoever doesn't like it there has to leave forever. Eden is also the land of pure being and absolute uniqueness in which the distinctions between the one and the other and between the past, the present and the future do not exist. Change is a matter of transmutation, making Eden the place of immediately fulfilled desire. Eden is not the place for subjects endowed with reflective thoughts and doubts, but for pure beings freed from all this thinking. Edenesque utopias generally do not make very interesting story stuff. As to law, taken as a normative command focused on change, this is an illogicality in Eden. In short, Eden is a dream of liberation from thinking by excluding disturbing elements and ignoring subjectivity.

In contrast, New Jerusalem is a design for a future world where any contradiction will be solved by working hard. In New Jerusalem one is not born, but one can enter it by being good or by a divine gesture of redemption or grace. New Jerusalem demands action, sometimes aggressive action, be it by means of legislation, force or technology, all blessed by the holy goal the society is destined for. New Jerusalem is thus the country of progress and change which always happens in a forward direction. It offers a prospect sanctified by a greater vision. New Jerusalem therefore recognises the subject and difference but simultaneously negates these by resorting to discipline and rules. It acknowledges morality, but its many rules and prescripts tend to distrust it. So, while Eden revels in naivety, New Jerusalem is packed with paradoxes.

Modern literary utopias dating from the seventeenth, eighteenth and nineteenth centuries, are primarily New Jerusalem stories and in general legislation plays an important role (Rouvillois, 1998, p. 67; Servier, 1991, p. 215; for examples see also Claeys & Tower Sargent, 1999; Davis, 1981, p. 29 ff). Examples of these utopias can be found in the eponymous novel by Thomas More or in Tommaso Campanella (The City of the Sun) or Bacon's New Atlantis. Thanks to rules like 'Every well-built individual will be obliged to marry' (Restif de la Bretonne) or the 'complete abolition of prejudices that have brought about an inequality of rights between the sexes' (Condorcet), this ideal state will be harmonious, just, free from crises, morally high standing, peaceful and happy: a Greenfield Hill where 'The voice of scepter'd Law wide realms obey' (Dwight). The lines closely reflect Jefferson's statement in the US Declaration of Independence that 'all men are created equal (…) endowed

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by their Creator with certain inalienable rights'. Dwight's and Jefferson's words show that behind every New Jerusalem, Eden-like dreams of revealed purity may loom. So, although classic utopias have to be distinguished from millennial, arcadian or Golden Age paradises, they cannot be separated. Behind every prescriptive New Jerusalem lingers an arcadian desire (see Levitas, 2013).

2.2 Foundational, Ideological and Topological Functions of Utopias

What functions do these forward-thrusting translations of societal desires fulfil? For this it is useful to pay attention to the mythical features of utopias. Like myths, utopias have a specific persuasive force based upon their logic of the imaginary and their play with narrative constraints and oppositions (Brunel, 2013, p. xvi; Chevrel & Dumoulié, 2000, p. 10). Due to their reception and retelling, utopias have, like myths, a collective authorial instance which adds to their authoritativeness and gives them a meaning that is frequently taken as true by a specific group (cf. Veyne, 1983, p. 70). Like myths, utopias try to explain, express and explore human experience in a discourse of supernaturalness, this time projected upon the future. With this, utopias have a socio-religious function providing direction to a society (cf. Sellier, 2005, pp. 18–19; Ricoeur, 1997, p. 372).

Although utopias aim to provide a direction, now as a dream, then as design, they never succeed in reality. Their constraints (no places outside of time, working by way of exclusion or forced integration of contraries) stand in the way of realisation. But by being imaginary, utopias function as *topoi*, common places, extended metaphors that, in their no-place negotiate differences and trigger further debate. To a certain extent, utopias are 'empty' places, to be imaginatively filled in an intermittent way, *utopies ponctuelles* (Vuarnet, 1976, p. 7; cf. Ricoeur, 1997, p. 407; see also Van Klink, this volume) that have to be given meaning anew. As such, utopias function as a critical lens for reality, offering a space for its re-evaluation and exploration of renewal. Utopias' nostalgic dreams, their priggish forecasts or meticulous prescriptions are veils inviting to be pierced, to be deconstructed, in order to actively discover the questions they try to answer.

However, utopias may also withstand discussion. Their setting apart, authoritative voice and enchanting imaginary may be taken as a veil that prevents a lucid perception and evaluation of political or social reality (cf. Barthes, 1957, p. 217). The 'empty places' then become statements struck by distortion or fixation (cf. Ricoeur, 1997, p. 408 ff). When read in that way, utopias primarily fulfil an ideological function aimed at legitimising a given societal structure, escaping reinventing this structure. Since the Eden storyline presents itself frequently as a revelation not to be disputed, it has a strong ide-

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ological streak in this sense. However, as Eden looms behind New Jerusalem designs, the same might be true for the latter ones.

Summarising this brief literary exercise, utopias are imaginations of a future society on which nostalgic dreams may be projected. They fulfil foundational, critical and ideological functions (see also Soniewicka, this volume). How are utopias then related to law and legislation? Are there any legislative utopias? For this I have to first explore their political and sociological manifestation, taking anchor in Mannheim's analysis of utopian mentalities.

2.3 Political and Legislative Utopias

Moving now towards the political utopias, the literary storylines of Eden and New Jerusalem can be recognised in the several ideal-typical utopian mentalities as distinguished by Mannheim: the chiliastic, liberal, conservative and social utopia. Due to their temporal orientation, they are related dialectically toward each other (Mannheim, 1954, p. 173 ff). Exploring these several utopian mentalities will facilitate recognising to what extent they are manifest in legislative thought. The distinctions are Mannheim's; the parallels and further remarks are mine.

The chiliastic type features a millenarist ecstatic and spiritual magnification of concrete experience which makes it potentially anarchistic and revolutionary. It does not project its vision on some distant future. It is the utopia of presentness, sanctifying a magnified here and now. The societal imaginations of a paradise or a no-place deemed to be already present demand that their believers withdraw from 'normal' society and refrain from any existing political structure, thereby reflecting Eden's escapism. For an example one might think of pietist movements and potentially theocratic societies. At least the utopian writings of these pietist communities proclaim a life of devotion, withdrawn from the world, and filled with prayer, love for God and the members of the community. Chiliasm certainly offers rules, being primarily practical rules to live by, infused with the moral view underlying them, not generally applicable rules focused on gradual change.

However, the chiliastic attitude calls forth a counter-reaction in the form of a utopia that projects its ideal society not on the now, but onto the future. Other than its chiliastic forebear, it does not revel in practical life rules, but imagines man as free and autonomous. Its model rules consist of foundational values like freedom and equality, guided not by devotion, but by formal and substantive reason, thereby connecting with the legislative tradition of rationality. Mannheim's dialectic suggests a necessary relationship between the (medieval) spiritual mentality and the liberation of man achieved in renaissance and modernity. However, chiliasm might still be present today (see par. 2.4 and 3).

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Due to its abstract and future-oriented stance, this liberal utopia also calls forth reactions, for an important part consisting of attempts to bring this promise of freedom and justice home in a concrete and tangible way. These reactions may on one hand be that of a conservative utopia and on the other hand a socialist utopia.

Out of scepticism regarding the liberal forward thrust and its promises, the conservative utopia does not take abstract principles as guidance, but material circumstances. It follows not a deductive, but an organic logic and seeks its solace in the hope for a revival of some golden age of the past in the present. It is thus the utopia of pastness. A historical parallel can be found in the Romantic movement's praise for natural beauty and individual emotions fed by inward-looking perceptions. For a legislative parallel we can take the late Romantic interest in organically developing law and legislation as representing a nation's will or feelings, such as defended by the German Historical School (although this was also inspired by norms of philological rigor).

Another reaction called forth by the liberal utopia is the socialist (or socialist-communist) utopia. This mentality supports the liberal promise, but focuses on realising the liberal ideals of freedom and equality in the near future and in tangible reality, aiming to bring the future to the present. With this, it combines the focus on the here and now, the chiliastic revolutionary fervour, the concreteness (materialism) of conservatism and the liberal aspiration to freedom. In order to actively realise the promises of freedom for everybody, the socialist mentality will favour detailed legislation as a means to achieve its goals, thereby connecting with the voluntaristic tradition of legislation (Baranger, 2018, p. 38).

Following Mannheim's method of ideal typical mentalities, we could discover yet other utopian mentalities (or combinations of these) today, such as the sustainability or cradle-to-cradle utopia, combining the long-term liberal perspective with the 'chiliastic' focus on harmony with nature (and maybe even the 'conservative' desire for the return of a golden age with inexhaustible sources). Yet another modern utopian mentality could be seen in the belief in technology, combining a 'chiliastic' millenarism and presentness with a 'socialist' instrumentalist focus on practical realisation of human freedom.

2.4 Present Legislative Utopias

The several utopian mentalities are reflected in today's legislation. The liberal utopian thought is present in abstract principles and foundational liberal freedom rights, protecting 'negative freedom'. As witnessed by practice and history, statements of principles and promises may lose in persuasive force if they are not materialised. To realise 'positive liberty', welfare state law

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actively manages today's society by means of detailed legislation, supported by procedures of control and evaluation to prevent risks and failure.

Today's regulatory state particularly reflects Mannheim's 'socialist utopia'. As present-day complex welfare state law may infringe on the promises of the liberal utopia and falls short in materialising its promises to everyone's satisfaction, it calls forth conservative and chiliastic resistance against the quick pace of modern developments praising communitarian unity, naturalist nostalgia or pretend to offer happiness in the here and now (for instance in some kind of New Age fantasies, beliefs in 'natural truths' or a longing for some moral paradise under religious guidance). Other than Mannheim's ideal types, present-day conservatism is activist and modern chiliasm may be hyper individualist. Both mirror the liberalism they react to.

3. UTOPIAN ENCHANTMENTS

How to evaluate these utopian mentalities working in current legislation? For this I would like to draw on the literary analysis of utopias as provided above. In principle, the given political and legislative utopias function as foundational myths explaining and exploring the future. As such they fulfil an important constitutive function for society. They guide action, support the legitimacy of institutions and of legislative policy. The social and liberal utopias stand out as primarily New Jerusalem variants: they value change, try to influence reality, honour a sense of the individual legal subject and speak to conscience as this is the motivation for 'working hard' or contributing to the goal of ultimate freedom. As revelations of a future that is already existing, because tied to history or present in the now, the conservative and chiliastic are of an Eden descent.

However, as the literary explanation showed, these political and legislative utopias may also turn into delusory myths, ideological fairy tales (cf. Van Klink, this volume). The fact that they are not situated in some no-place outside of time, may even strongly seduce them to do so. They are continuously confronted with reality, while their promised future forever recedes before the present. The past from which this future could be known and given a (narrative) form, cannot be brought back. In other words, situated in reality, but without a known past and future, political utopias are inherently unstable. Utopian visions continuously have to change and adapt themselves without knowing how.

Other than their literary counterparts that, being *topoi*, 'empty places' invite discussion and renewal, the political utopias, 'unstable islands amidst a sea of reality' and potential disbelief, have to 'save their souls' and uphold belief. They have to resort to rhetorical strategies that act as enhancements to uphold their persuasive force. With these enhancements utopian thought construes

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reality as if it were an 'island of happiness'. As a consequence, they fixate, get distorted and become to a certain extent illusionary fairy tales (cf. Ricoeur, 1997, p. 409 ff).

As to these enchantments, a political utopia may neglect time and change, for example by holding to its promises as once stated or by pretending that the promised future or the longed-for return of the past are already present on condition of fulfilment of a few simple conditions. The populist dream of unhampered homecoming hinges on the simplistic reasoning of simply saying farewell to rules, regulation, compromise and (international) cooperation. The same might be true for modern regulatory governance: just follow the rules and procedural steps, and smooth functioning lays ahead. Another strategy may be to neglect space by limiting its scope, casting out all that does not fit into the dreamed picture of present, past and future (as might have been the case of nineteenth-century liberal utopia, turning its back to slavery and extreme poverty). A third enchantment may consist of fusing differences into some holistic unity, for example by imagining some kind of pure community of souls or a nationalist dream. In other words, the unbearable fluidity of reality forces New Jerusalems to recede into some Eden desire. The liberal and social utopias may become conservative or chiliastic, pretending an imagined past or present is already there. Again, Eden, with its neglect of time, space and individuality, is never far away from a New Jerusalem.

We can find these nostalgic companions of modern utopian thinking in the Romantic utopian literature that accompanies the modern liberal and socialist utopias. They are generally influenced by aspects of Rousseauistic thought and reflect the pastoral tradition in literary history.[2] Take for example the popular novel by Bernardin de Saint Pierre, *Pierre et Virginie*, set on the island of Mauritius. It praises harmonious nature, naturally good man, harmony, close community and authentic devotion, thereby combining the various modern utopias in one seamless whole. Bad luck and anything else that does not fit in this harmonious picture is blamed on evil society or Providence. Individual subjectivity, difference and moral choice are sacrificed for total unity, underscored by the mythical motive of the twins, represented by the young couple Pierre and Virginie. Bernardin's ideal community illustrates the enchantments that political utopias may resort to in order to uphold their promises, turning into a grimace of the original paradise (Cioran, 1960, p. 109). How is this for legislative utopias?

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[2] Such as *Atala* by Chateaubriand. The Renaissance novel *L'Astrée* (1616) by Honoré d'Urfé is an influential source for this pastoral tradition which goes back to Antiquity.

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3.1 Legislative Enchantments

Pastoral dreams like the example provided above seem far from our present legislation. But is that true? Current legislation, representing a combination of the liberal and socialist utopia, is focused on bringing liberty and equality to everybody in the near present. However, complexity, globalisation and the call for concrete and tangible measures confront this 'utopian' socialist and liberal legislative policy with unruly daily practice and with the fact that the future as imagined cannot be made true. In line with the above, modern legislation may resort to enchantments related to a limitation of time, space and subjectivity in order to uphold the belief in its promises.

First of all, modern legislation focuses on gradual improvement and prioritises effectiveness, efficiency and control (Witteveen, 2014, p. 303 ff), by means of evaluation of results against pre-set goals. With this, current legislative policy attempts to hold a grip on reality. The price for this is a neglect of time and space. The future is nearby, the past is forgotten (any new regulation erases the traces of past legislation) and the present is brought back to what can be empirically assessed. This regulatory policy seems to create happy islands of effectiveness. This is also true for modern legislation attempts to counter the disadvantages of the present regulatory state and its complexity by improving responsiveness, self-regulation and participation. As long as the primary goal is effectiveness, participation, values and responsiveness may be mere 'pastoral' phenomena, veils that hide the system-based reality from view and turn participation in an ideological fairy tale. Further, modern legislation may hamper the constitution of legal subjectivity. It increasingly consists of framework laws stipulating policy goals instead of norms for individual behaviour. More detailed rules are provided by lower legislative bodies, such as the government, ministers, executing bodies. These framework laws and their regulatory offspring not only diminish democratic influence, but also complicate substantive (judicial) reasoning. This, since policy goals cannot be evaluated by the judiciary, while the many detailed norms limit room for interpretation and the correction of unjust consequences of rules. This is serious, since the constitution and protection of legal subjectivity is the core function of legislation. Further, individual subjectivity is endangered by the fact that legislative policy increasingly bets on technology to enhance legislation's effectiveness in steering behaviour. This underscores the threat of a neglect of the temporal, spatial and constitutive dimensions of legislation. So, although modern legislative policy is far from the imagined peaceful island of romantic Edenesque imaginary, it may certainly be tempted to resort to enchantments as used by Bernardin and his romantic – not so very romantic – companions.

The aforementioned Environmental Management Act reflects the various legislative utopias of today and the enchantments it has to resort to. The

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liberal utopian tradition is present in its attempts to enhance the legality and legitimacy of environmental law. The ‘socialist’ utopia and its new offspring of ‘sustainability’ is present in its objective to care for the environment. The conservative utopia might be seen as present in the Act’s appraisal of local community. However, its belief in the power of participatory democracy has a pastoral flavour by hiding the reality of conflicting interests that demand clear and, indeed, costly court procedures to be resolved in an equitable way.

In short, many of Mannheim’s utopian mentalities can be seen as present in today’s legislation, in the form of foundational myths (or in Ricoeur’s sense as explanatory ideologies). His dialectics help to reveal how these mentalities are interrelated and explain the ‘mood swings’ in modern legislative policy. At one moment it favours liberty and principles of the rule of law, at another moment it is activist, focusing on effectiveness and control to avoid the risks of reality. A critical literary analysis shows that even legislative utopias may resort to enchantments to uphold faith, turning them into ideological fairy tales that undermine the constitutive function of law and legislation.

How does this all relate to hope? In what way are these legislative utopias hope-inspiring, or could they be so? In the next section, I will briefly set out some understandings of hope and will apply these to the legislative utopias as provided above.

4. HOPE

What is hope and in what sense could it contribute to legislative legitimacy? ‘Hope’ seems rather easy to define as it belongs to daily experience, at least that is something that we may hope for. However, ‘hope’ has been, and still is, an important topic in philosophical and theological debates. At this place I will analyse three conceptions of hope.

According to what is called the standard account, hope is the desired expectation that a certain event will take place or that a specific statement of facts will be true. Understood as such, hope has to be supplied by a predicate, something that is hoped for, an expectation. For this, two conditions should be fulfilled: a conative and a cognitive. The first is that the object of hope must be desired by the person who hopes. For instance, that a friend may arrive on time, or that the weather will turn out to be beautiful, or that you may go to court to get your legal claim assessed. The second condition is that this object of hope is deemed to be physically possible (Godfrey, 1987, p. 42 ff). If not, the hope will come about as merely an illusionary expectation, wishful thinking. If the expectation was rightly thought to be justified, but is not met, this may lead to disappointment and desperation (Marcel, 1951; see below).

However, sometimes we are still capable of hoping, although we realise that the chances are big that our expectations are not met, due to, for instance,

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serious illness or war-time circumstances. However, we still hope. As this example indicates, hope could also be qualified as a kind of faith or at least a basic confidence, directed towards the future, a prospective outlook without a clear definable predicate. It is an attitude, and for many of the Christian tradition, an attitude that can be trained, a virtue. If unfulfilled, this hope can turn into desperation, a giving up of hope. If hope is betrayed, it can get lost. The latter aspect shows that hope as faith is closely connected with trust, feelings of safety and with truthfulness. If life is deemed to be absurd, because inscrutable and submitted to a fatality that cannot be explained, this despair may take an existential dimension, as is witnessed by, among others, Camus (1985).

For a third sense of hope I refer to the meaning as given by the phenomenological philosopher Gabriël Marcel (1889–1973). Marcel presents hope not so much as prospective, but as reflexive. It is a method of knowing (cf. Miyazaki, 2004, p. 7 ff). In *Homo Viator* Marcel opposes two meanings of hope: on one hand, hope as '*espoir*', which refers to the already mentioned standard account of hope as desired expectation; on the other hand, hope in an absolute sense because it is without predicate, '*espérance*' (Marcel, 1951, p. 29 ff; cf. Godfrey, 1987, p. 42). Like hope as basic confidence or faith, his hope as '*espérance*' does not fit into the computational logic of expectations. Instead of taking hope as a prospection, however, for Marcel hope starts with recognition and looking inwardly, moving away from direct tangible reality. It thereby creates an openness for experience and the possibilities of life itself. By this openness for hope, one is able to challenge 'the evidence upon which men claim to challenge [hope] itself' (Marcel, 1951, p. 67). As Bloch says, '[hope] does not allow failure the last word' (Bloch, 1996, p. 112). This reflexive hope does not deny events as such, but denies the imprisonment by an unreflected interpretation of events. It thus amounts to a 'disenchantment of despair' (thereby resisting Camus' existential despair). By this reflexive stance man offers himself a perspective that is not pure future, nor nostalgic desire, but a 'memory of the future'. The reflexive stance is able to connect past, present and future by taking a distance towards immediate reality. Marcel's conception may be illustrated by the lines that the recently deceased Polish poet Adam Zagajewski wrote after the 9/11 attacks: 'Praise the mutilated world/and the gray feather a thrush lost/and the gentle light that strays and vanishes/and returns' (Zagajewski, 2001).

4.1 Utopian Hope

To what extent do utopias provide hope? The answer depends on how utopias are read. If they are read literally and taken as clear designs to be followed, as some of the literary examples given above seem to suggest, they might provide hope as an expectation of the materialisation of utopia in the real

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world or inspire faith in the ideals these utopias promote, such as the moral commonwealth utopias. However, frustration and even desperation and loss of faith lie around the corner, when the utopian designs or dreams are confronted with reality.

As stated before (par. 2.2), a different way of approaching utopias is to consider them as '*topoi*', empty places, inviting debate about the designs and dreams they offer in answer to questions raised by the current societal order. Read in that way, they contribute to the constitution of society as a critical lens. The hope they offer is comparable with the phenomenological conception of hope offered by Marcel. Utopias open up resistance towards the enchantments that the current social order uses, in order to protect itself against critique. Reading utopias for critical reflection gives them the power of disenchantment, thereby opening up the space for hope. Taken as such, they are *Erdichtungen* (to paraphrase Bloch) for those who are lucid enough to acknowledge man's solitude in this world (Bloch, 2000, p. 176). They translate a longing and offer a way to amazement, demystification and 'existential disclosure' (Bloch, 2000, pp. 191–200). So, it depends for an important part on the reader's posture and the interpretive community in what way and to what extent literary utopias provide hope.

4.2 Legislative Hope and Despair

Are the legislative utopias able to provide hope in the senses as given? Legislation, whether inspired by liberal, socialist or conservative utopian visions, inspires hope understood as faith in the future, on condition that it expresses basic values of justice and rule of law and the prospective outlook that one day justice will be served, although one presently may not have had one's day in court. In other words, by its protective function, legislation reinforces legitimacy and faith in law. Further, legislation of 'socialist' descent may provide hope as desired expectation for tangible social justice. To raise and sustain hope, the promises of legislation as protection of legal values and as a means to secure positive liberty must be realistic and concrete. The 'utopian' dialectic between liberal (positive) freedom and socialist negative freedom makes hope as faith and hope as expectation mutually interdependent.

However, legislation may also lead to disappointment, desperation or even despair. A first factor lies in today's activist legislation's focus on achieving concrete societal goals. Due to many factors, among which the complexity and unpredictability of today's society, and due to inconsistencies within the legal system itself, chances are considerable that these expectations are not met, causing disappointment or frustrated hope. The potential infringement by today's dense legislation of liberal principles or the basic principle of

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legality will aggravate the matter, potentially causing the resignation of hope for justice.

Disappointment and desperation may turn into despair, loss of hope, loss of faith, when some kind of betrayal is experienced and all hope for improvement and a future of justice is lost. This may happen in the first place when legislation is used as a means for other objectives than the utopian legal values of liberty and equal justice that it pretends to serve. This might happen when effectiveness is structurally prioritised over justice and legality or when legislative proposals appear to serve mere political profiling instead of societal ends, as for example in short-term populist proposals. This may also be relevant for today's 'reborn' value-based public policy when it is perceived as exclusively or primarily motivated by considerations of effectiveness tied to systemic interests instead of by an intrinsic adherence to these values themselves. 'Conservative' reactions that might follow would make the situation even worse, since these initiatives are unrealistic in a modern context and may threaten to infringe on legal principles that were part of the liberal and socialist utopia.

A second factor for the loss of faith in law and legislation is of a more structural nature. It is tied to the inherent 'incompatibilities' or aporias of legislation itself, such as the conflict between general and abstract features of legislation on one hand and individual cases on the other, or between the several meanings of justice (distributive justice, justice on merit). Freedom will never be total; one value or principle will clash with another one. Equal justice for all is an impossibility. To prevent desperation due to these aporias, legislation has to be corrected and complemented by case law in which these incompatibilities are made explicit and weighed. It also needs to be amended and improved in a legislative process that acknowledges these inner conflicts. In the case, however, that access to court is denied or citizens are prevented from realising themselves as legal subjects in court, this may also lead to despair, and loss of hope and faith in law and legislation. Denial of access or non-observance of participatory rights prevents citizens to narratively understand and accept their present circumstances and restricts the faith in a future of justice and in the foundational values of legislation and judicial control.

Summarising, legislation is certainly able to raise hope, primarily as expectation and as faith in the promises of legislative utopias. However, modern legislation may disappoint or even lead to despair and loss of faith in legislation and the rule of law.

5. REFLEXIVE LEGISLATION

What then would be needed for legislation to raise hope in the utopian longing for justice? For this the phenomenological perspective on hope offers a per-

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spective. Marcel's understanding of hope departs from a reflexive acknowledgement of a given situation and a wilful resistance towards arguments that hope is useless. Applied to current legislation, hope would resort to reclaiming it by a 'disenchantment' of the despair that is caused by instrumentalist legislation and the enchanting pretentions of control and efficiency that limit the possibilities for the legal and democratic subject to make themselves true in court or in the legislative process. As Soniewicka states (this volume), 'hope directs the will towards the uncertainty of the future which creates the requisite room to act'. Resistance to these enchantments could be offered by a re-evaluation of substantive reasoning and a reflexive legislative process that is able to break through these artificially created paradises of control and effectiveness. Judicial reasoning is potentially able to bridge the gaps between abstract legislation or restrictive regulation on one hand and concrete cases on the other, and between ideals and reality by means of interpretation and substantive argumentation (cf. Wintgens, 2013). A reflexive legislative process is potentially able to do the same and to rephrase and change visions of a long-term future. Both offer the possibility to reclaim legal subjectivity.

Marcel's conception of hope as disenchantment of despair or resistance to these enchantments would then amount to lucidly acknowledging change: change of the future, as it will turn out differently than imagined; change of the past, a stepping-stone for imagining the future; and change of the present, as it cannot be known for sure without past and future to appreciate and to know it. Second, his 'memory of the future' would entail that the future has to be imagined using the imaginations of the past and present, recognised as *being* imaginations open for debate. This recognition of the imaginary quality of past, present and future would allow to consider utopias, whether legislative or otherwise, as only temporary myths, empty places to be filled every time, again and again, as Vuarnet says, *utopies ponctuelles*, imagined by *rêveurs constants* to restore their foundational, explorative and explanatory function. By resisting the paradises of effectiveness and offering itself an empty space for debate, society offers itself the imagination needed to reconstitute itself in the face of a changing future (cf. Castoriadis, 1975; Lefort, 1986).

Applying Marcel's understanding of hope as a method of knowing and imagining would imply that legislative hope hinges on the re-evaluation of the political, symbolic and constitutive aspects of legislation. It is thus the legislative process itself that might be considered as a political 'utopian' no-place where legal subjects and society imaginatively constitute themselves by translating the past into a future while acknowledging the elusiveness of the near present. Legislative theory might therefore draw this aspect of legislation more into its reflections than has been done so far. In this way, by holding utopia open for rephrasing by a reflexive approach, legislation can still be utopian and inspire hope.

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6. CONCLUSION

Based upon Mannheim's dialectic of utopian mentalities, legislation comes forward as inspired by several utopian mentalities, primarily the liberal and socialist one, although conservatism is present too. Legislation explains, explores and expresses basic values of law and normatively orders society, thereby fulfilling an important constitutive function for society and offering hope. Classic liberal rights and principles of law offer a hopeful vision of a 'New Jerusalem' of justice and liberty. However, the instrumentalism of modern legislation and its focus on enchanting criteria of effectiveness and so on, may infringe liberal principles and betray legislative hope and faith in law, causing despair.

To reclaim faith in law and legislation as a source of hope, the modern legislative utopias might better be read as *topoi* or 'empty' places, to be filled by a societal and democratic debate. Legislative hope first and foremost resides in the reappraisal of the societal and political dimension of legislation and of judicial judgement. In such a way legislation might realise itself as a 'living utopia'.

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5. A secular form of grace: A place for utopia in law

Leon van den Broeke

1. INTRODUCTION

In her book *Utopia as Method*, Ruth Levitas (2013, p. 12) states: 'The longing for *Heimat* and for the fulfilled moment can also be understood as the quest for a (sometimes) secular form of grace.' As a theologian who works in the field of religion, law and society, this 'secular form of grace' caught my attention. With '*Heimat*' and 'fulfilled moment' Levitas means that people are alienated and seek a shelter. See also Chapter 2 in this volume by Lynne Copson on the profound work on the concept of utopia by Levitas. In a secularized version of the spiritual quest, people try to find out who they are, why they exist and how they connect with each other. This can be understood as utopia, 'the expression of the desire for a better way of being' (Levitas, 2013, p. 12). Moreover, she (2013, p. 12) understands *Heimat* as 'the expression of a desire for a settled resolution of this alienated condition'. To her the 'fulfilled moment' is 'the fleeting glimpse of what such a condition might be' (2013, p. 12). From the perspective of utopia, it connects with Levitas's (2013, p. 12) perception that 'if utopia is understood as the expression of the desire for a better way of being then perhaps a (sometimes) secularized version of the spiritual quest to understand who we are, why we are here and how we connect with each other'. Levitas also uses other theological concepts, such as the Kingdom of Heaven, transcendence and immanence, and the cosmology of the already-not-yet and/ or the ontology of not-yet-being, which connects with the New Testament apostle Paul's double notion of the Kingdom of Heaven that is nearby and at the same time is not yet completely realized. Yet, my contribution focuses on the notion of grace as it is important for Levitas (2010, p. 101 ff).[1]

My contribution includes both divine and secular grace, and both grace as a gift and as an assignment, not only for individuals, but (also) for the common

[1] For example, Romans 8:23.

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good. It aims to find an answer to the question of how the notion of (religious) grace is applied in a secular context, in particular in the principles of fairness and equity in law, as expressions of longing for a better world and contributing to the common good (cf. Nussbaum, 1993, pp. 83–125). It is tempting for me to relate utopia to eschatology, but in this contribution, I am focusing on law. This chapter looks as follows. It elaborates on what Levitas means with the understanding of the religious notion of grace in a secular context (section 2), and this notion, both from the Jewish (Tanakh) and from the Christian (New Testament) perspectives (section 3). This includes the notion of sin, as the religious understanding of grace cannot ignore the notion of sin. Moreover, this section contains the theological elaboration of both grace and sin by Paul Tillich, on whom Levitas relies in her work, but it also includes the thoughts of Abraham Kuyper and Dana Freibach-Heifetz about the theological notion of grace in a secular context. This is followed by a section on the application of secular grace in the principles of fairness and equity in (corporate) law (section 4). Sjoerd Bakker wrote his doctoral dissertation about this topic. Although his dissertation does not include the word 'grace' or 'graciousness', as such, his view on the application of fairness and equity in (contract) law can be considered as an expression of grace and/or graciousness. Section 5 aims at relating the notions of grace, law and utopia, more specifically fairness and equity. In section 6, an answer to the research question will be provided.

2. SECULARIZATION OF GRACE

This section is about the understanding of what Levitas means with the understanding of the religious notion of grace in a secular context. As said above, the notion of grace is important for Levitas. However, it is absent in her previous book *The Concept of Utopia* (2010). She (2013, p. 12) takes a stance that the religious notion of grace also has secular dimensions and that grace is the root of graciousness: 'We may act with good or bad grace.' She (2013, p. 12) continues with a small overview of the Roman Catholic and the Protestant understanding of grace: 'Grace is freely given by God to fallen humanity, independent of human action, will or desert.' Levitas considers that '[t]he power of grace lies both in its intrinsic reference to emotional depth and its otherness', although the notion of grace is also applied in her second ('Riffs on Blue') and third chapter ('Echoes of Elsewhere'), so in the whole first part of her book: 'In Chapters 2 and 3 below, where utopia is used as a hermeneutic method in the exploration of colour and music, grace is a recurrent theme' (2013, p. 14). With the concept of depth, Levitas (2013, p. 14) points 'to that which is "ultimate, infinite, unconditional" or "the state of being ultimately concerned" (…) the "awareness of the Unconditioned", an ontological awareness that is

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"immediate, and not mediated by inferential processes"' (cf. Tillich, 1964, pp. 7–8).

To Levitas, utopia is a quest for secular 'redemption'. This means that the first meaning of grace should be applied in this contribution: secularized grace as an inner drive for a better world disconnected from the transcendent source, in the understanding of Levitas for whom utopia is a quest for secular redemption. Nevertheless, the twofold understanding of grace cannot be separated. According to the first-mentioned way, grace is not just a gift, not just an inner drive, but also an assignment, an expression of otherness. Tillich (1949, p. 163) observes that sometimes 'we perceive the power of grace in our relation to others and to ourselves'. Levitas is not always clear on her position with view to divine and secular grace and to grace and graciousness, nor to the question whether it is about a religious notion in a secular context or a secular notion which originates from religion and was translated into secular terms.

Levitas considers grace as the root of graciousness, and she relies on Tillich and his method of correlation. She seems to consider such a translation from the religious notion of grace to the secular context as not impossible. Tillich's theology includes the notion of correlational method, because there is this correlation between religion and culture. Where the work of Karl Barth was centralized around his so-called kerygmatic theology (the Word of God as norm for the proclamation), Tillich added his focus on apologetic or responding theology. His (1951, pp. vii and 60) method of correlation starts by raising ontological questions from the dimension of existential philosophy and trying to look for answers in Christian revelation, however in an unconventional way (cf. Levitas, 2013, p. 13). To Tillich (1951, p. 8) it was a way to unite message and situation: 'It correlates questions and answers, situation and message, human existence and divine manifestation.'

In general, at least from a theological point of view, grace is understood in two ways: one, grace as a gift of God – love which directs people to the good and enables redemption; it cannot be earned, but is freely given; and two, grace as benevolence and/or mercy – being good to people, acting not too harshly. This key notion of grace can be hard to apply in daily life. For example, the Dutch journalist Tommy Wieringa (2020, p. 2) about the 'tribunes of the movement for righteousness in which Stalinist self-accusation is required' and apologies do not meet the standards anymore. However, this type of self-accusation is no guarantee for grace. His point of concern is that because of today's uncompromising morals, there is in our society no benevolence, no space for mercy.

Abraham Kuyper elaborated on the notion of grace for the world, on spaces for mercy. He not only focused on particular grace, but also on common grace, as will be explained later in this chapter. It is not so much the question of whether religious terms *should* be translated into secular terms, but whether

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they *can* be translated in this way, as Levitas does, following the correlational method of Tillich. Although divine and secular grace seem to be incompatible, and although there is no adequate substitute for the terms sin and grace that carry appropriate gravity and intensity, as Tillich states, the gap is possibly less big.

3. GRACE AND SIN

This section provides a profound theological elaboration of sin and grace. One cannot talk about grace and overlook sin. They are connected with each other. The doctrine of grace is one of the *loci* of dogmatics and needs to be understood against the backdrop of the soteriology (Greek: σωτηρ̀, sootèr, saviour), the doctrine of salvation of people, because of the sin (in dogmatics: *harmatiology*, the study of sin) in the world. It is hard to grasp the nature of grace without paying attention to the notion of sin, as they go hand in hand (cf. Berkhof, 1985, p. 421).

3.1 Sin

Talking about grace has no meaning when the notion of sin is excluded or neglected. Thomas Aquinas stated that sin is the antithesis of grace (cf. McDermott, 1991, p. 117). It is an obstacle to earn grace. Nonetheless, one can earn further grace. Grace is a decision, an act, a gift, freely given by God to fallen mankind. The Roman Catholic Church makes a distinction between *habitual* and *actual grace*. Habitual grace is 'the permanent disposition to live and act in keeping with God's call', whereas actual grace refers to God's interventions, 'whether at the beginning of conversion or in the course of the work of sanctification' (Catechism of the Catholic Church, n.d., section 2000).

Horst George Pöhlmann (1985, p. 252) states that justification becomes 'applicatrice', application in the doctrine of the grace of the Holy Spirit.[2] Justification is not the effect (of human beings), but the affection of God; it starts with this divine affection. The grace of God through Jesus Christ is realized *extra nos*, outside us, but *pro nobis*, for our benefit. It also becomes clear from Paul's doctrine of justification.

Tillich (1949, pp. 155–56) considers that sin means separation 'of a man from himself, and separation of all men from the Ground of Being'. It is not an act of wrongdoing. In the words of Levitas (2013, p. 13): 'For Tillich, grace is emphatically not a matter of belief or of moral progress.' As grace is the

[2] 'Die "*justification*" wird in der Lehre von der "gratia Spiritus S. applicatrice" (=sich hinwendende Gnade des Hl. Geistes).'

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opposite of sin, he considers, it ‘occurs in spite of separation and estrangement. Grace is the *re*union of life with life, the *re*conciliation of the self with itself’ (Tillich, 1949, p. 156). Hendrikus Berkhof seems to affirm that talking or writing about, of reflecting upon grace includes sin, and moreover remorse. According to him there is no grace without remorse. Knowing grace and knowing sin walk hand in hand. ‘They presuppose each other and strengthen each other’ (Berkhof, 1985, p. 421).

3.2 The Concept of Grace

The Hebrew word for grace is *chèsèd* (חֶסֶד) (Jenni & Westermann, 1984, pp. 600–621). Indeed, it means grace, faithfulness or mercy. The verb *chanan* (חָנַן) means to demonstrate grace or to do someone a favour (Jenni & Westermann, 1984, pp. 587–97). It appears 79 times in 19 Old Testament Bible books. The New Testament or Greek word for grace is *charis* (χάρις), which means thankfulness, benefit or benevolence (Coenen, 1970, pp. 590–98). It appears 155 times in 23 New Testament Bible books. It relates to the verbs *charizomai* (χαριζομαι), which means to be merciful, and *charitoo* (χαριτόω), meaning to bestow on freely.

Herman Bavinck (1967, p. 578) noticed four perspectives of the notion of grace. First, he mentioned the *benevolentia Dei*, the undeserved favour. Second, *beneficia*, *dona gratis data*, all kind of physical and spiritual generosity. Three, grace which someone exhibits. Four, *gratias agere*, the gratitude towards someone for something. It demonstrates the richness of the concept of grace (cf. Bavinck, 1967, p. 584). Grace has a divine connotation. God grants his grace to humankind. Moreover, people grant one another grace. An old ecclesiastical saying goes: *gratia gratis datur*, grace is granted, for free (cf. Meijers, 2012, p. 6). No reciprocation is expected, *no quid pro quo*, otherwise it is no longer grace. Johannes Calvijn ([1956], pp. 226–27, Chapter III.11.1) stated in the doctrine of the *duplex gratia*: believers receive grace in Jesus Christ and are sanctified by the Holy Spirit. Pöhlmann (1985, p. 249) states that grace is the affection (*Affekt*) of God and at the same time it concerns the effect (*Effekt*) among people. Grace is both a favour (in German: *Gunst*) and a gift (in German: *Gabe*) (cf. Pöhlmann, 1985, p. 249). Moreover, it is up to people whether they want to accept or decline God’s present of grace. Divine grace does not exclude people as subjects but includes them in the way they cooperate with God to be merciful, and as renewed people, start a (re)new(ed) life because of vocation, regeneration, conversion, penitence, and confession, *unio mystica*, and renovation (cf. Pöhlmann, 1985, p. 253; Tillich, 1965, pp. 53 and 55).

Grace is not an automatism (cf. Berkhof, 1985, p. 129), and not easy to require, not cheap (cf. Pöhlmann, 1985, p. 256). The German theologian

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Dietrich Bonhoeffer (2018, n.p.) stated: ‘Billige Gnade ist der Todfeind unserer Kirche’, cheap grace is the arch enemy of the church. However, *teure Gnade*, expensive grace, is like a treasure hidden in the field. The Dutch Reformed systematic theologians Gijsbert van den Brink and Kees van der Kooi (2017, p. 686) state: ‘Concrete renewal of life is induced by the gift of forgiveness and acquittal and proceeds, as it were, as our spontaneous reaction.’ Grace is not only focused on individuals (individual grace) but is also cosmological in nature (cosmological grace): the cosmological-oriented soteriology. In sum, the Christian adagium is *sola gratia non sine homine* (cf. Pöhlmann, 1985, p. 263), grace is both vertical (divine gift) and horizontal (the acceptance of and partnership in grace). Christian grace is both a gift (from God) and an assignment (to human beings).

As said above, Levitas relies on the theologian Tillich and also on Ernst Bloch. There is too little space to elaborate on the thoughts of Bloch in this contribution. The reason why Levitas (2013, p. 13) relies on Tillich – although she considered that the dimension of grace as ‘the defence against death’ is incompatible ‘with a secular understanding as it depends on belief in a divine giver and thus a divine being’ – is that Tillich provided ‘a very different account’.

Also, with view to this correlational method, the notion of grace comes in as Tillich (1951, p. 61) states: ‘God’s wrath and God’s grace are not contrasts in the “heart” of God (Luther), in the depth of his being; but they are contrasts in the divine-human relationship. The divine-human relation is a correlation.’ Tillich considered:

> In the light of this grace we perceive the power of grace in our relation to others and to ourselves. We experience the grace of being able to look frankly into the eyes of another, the miraculous grace of reunion of life with life. We experience the grace of understanding each other’s words. (…) We experience the grace of being able to the life of another, even if it be hostile and harmful to us, for, through grace, we know that it belongs to the same Ground to which we belong, and by which we have been accepted. (…) For life belongs to life. And in the light of this grace we perceive the power of grace in our relation to ourselves. We experience moments in which we accept ourselves, because we feel that we have been accepted by that which is greater than we (Tillich, 1949, p. 164).

Grace is an important theological concept: ‘The divine love in relation to the unjust creature is grace’ (Tillich, 1951, p. 185). The nature of grace is that it unites two elements: (1) the overcoming of guilt, the forgiveness of sins; and (2) the overcoming of estrangement, regeneration, or ‘entering into the new being’ (Tillich, 1964, p. 142).

To Tillich, theology is not only an academic field or something for faith communities who lock themselves in their ivory towers, but it has (to have) societal

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implications. This means that the 'radical implication' of the Kingdom (of God) is not merely transcendent but demands social transformation. However, Tillich was aware of the limitations of human beings in their intention to (re) construct society. They fail in their search for this (re)construction of society. That people need grace was, according to Tillich (1949, p. 163), the unexpected experience of 'a wave of light [that] breaks into our darkness'. Grace is necessary when it also comes to morality: 'Morality can be maintained only through that which is given and not through that which is demanded; in religious terms, through grace and not through law' (Tillich, 1964, p. 142). Moralism also has consequences for both grace and law, because 'Moralism of law makes pharisees or agnius, or it produces in the majority of people an indifference which lowers the moral imperative to conventional behavior. Moralism necessarily ends in the quest for grace' (Tillich, 1964, p. 142). Levitas (2013, p. 12) picked up this notion of 'the quest for grace' in her *Utopia as Method*.

As said before, there might be a gap between the notions of divine and secular grace, although Levitas seems to try to connect both when transferring the concept of grace to the secular. Kuyper considered that there might be little or no gap, as besides the notion of particular grace, he put the notion of common grace. Kuyper goes back to God's covenant with Noah, in the biblical book of Genesis. Despite the nature and existence of sin, there is still much in people that is true, good and lovely. Kuyper, relying on John Calvin (Johannes Calvijn), considered that sin implies both guilt and turpitude, but particular grace nullifies them. Common grace is different. It does not forgive the trespasses of people, moreover it does not nullify the turpitude of humankind. Despite Kuyper's view that many people remain unconverted, God shows his grace to the whole world. Common grace is granted to both wicked people and good people. Common grace is God's gift for a fallen world. Sources of this common grace are mildness or gentleness (*liberalitas*) and benevolence (*benevolentia*). It contributes to the public good (*publicum bonum*) in science, art, the state, in householdings, etc.

A contemporary scholar who reflects on the notion of secular grace is Dana Freibach-Heifetz. She discusses grace not only through a religious, but also a secular perspective. She provides a definition, based on the religious grace and its results, which can be understood as: good. To her (2017, p. 61) this good in secular grace is 'granted mutually (when the reception is also conceived of as a gift). Giving to the other rises in secular grace from activism to power, and not as a sacrifice and renunciation (on my interest for the other out of passivity and surrender).' In this context, Freibach-Heifetz (2017, p. 61) raises the question of the relationship between secular grace and morality and sees a parallel 'between Christian grace and divine, ethical-religious law'. She (2017, p. 61) elaborates on the definition of secular grace by putting it as 'an expression of self-realization and the choice of it as a way of life' and 'to act according to

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the model of the Good Samaritan'. This model demonstrates that secular grace, and especially through the lens of Freibach-Heifetz (2017, p. 61), 'is on the individual plane of human life'. Nevertheless, this 'does not make morality redundant in the general social context'. She provides an interesting and important perspective. The model of the biblical Good Samaritan magnifies the necessity of doing good towards a single person. Freibach-Heifetz (2017, p. 62) does not understand secular grace as 'an obligatory ideal or even as the best possible one'. Nevertheless, its nature of ethical meaning connects with the notion of the good. This occurs when equal partners meet out of free choice and is focused on the needs, wishes, and points of view of the other (cf. Freibach-Heifetz, 2017, p. 70). Freibach-Heifetz (2017, p. 64) concludes with emphasis: 'Secular grace gives and takes out of genuine freedom.' This connects with the realm of contract and/or property law and its application of the principles of fairness and equity, although it might be the question of whether parties in this realm really act from genuine freedom as they are bound to the aforementioned principles. Freibach-Heifetz (2017, p. 160) connects secular grace even to secular salvation and to utopia. In a profound way secular grace is possible in 'a social, community and utopian existence in this world'.

4. FAIRNESS AND EQUITY

After having discussed the above on religious and secular grace, in this section grace is related to the principles of fairness and equity in law. See for an analysis of the relationship between legislation, hope and utopia the chapter by Carinne Elion-Valter in this volume. Grace can be related to several subdisciplines in law, such as immigration law, corporate law, law and intellectual property, international law, criminal law, and tort law (cf. Cochran & Calo, 2017). Moreover, it is also applied in canon law or church polity and becomes clear, for example, from the title of the book by Hans Dombois: *Das Recht der Gnade* (The right to grace) (1969–1983; cf. Sebott, 2009, pp. 43–50).[3] In his introduction, Dombois referred to Barth (1980, pp. 598–99), who stated:

> Was kann also sein Recht über und auf den Menschen, indem es, in de minneren Recht seiner Gottheit begründet, hochstes und strenges Recht is, anderes sein als das Recht seiner Gnade – und was dessen Ausübung und Anwendung in seien Gerechtigkeit anderes als in seinem Kern und Wesen der Vollzug seiner Gnade?

[3] Sebott's Chapter 3 deals with 'Gerechtigkeit und Gnade' (Justice and Grace), including paragraphs on the legal structure of grace and the theological meaning of this legal structure of grace, pp. 43–50.

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Moreover, the notion of equity is not limited to secular law, but is also included in, for example, Reformed church polity (cf. Schüle, 1926, pp. 73–77)[4] and in Roman Catholic canon law by the principle of *aequitas canonica*, the canonical equity (cf. De Wall & Muckel, 2009, p. 156):

> If a custom or an express prescript of universal or particular law is lacking in a certain matter, a case, unless it is penal, must be resolved in light of laws issued in similar matters, general principles of law applied with canonical equity, the jurisprudence and practice of the Roman Curia, and the common and constant opinion of learned persons (Code of Canon Law, n.d., canon 19).

It is tempting to elaborate on this, but in this section, I will limit myself to contract law, because the application of fairness and equity arises when two or more parties deal with each other in daily life. First, I will include a little background about equity, in Greek επιεικεια (*epieikeia*), connected to Latin *aequitas* or *clementia*: it dates back to Aristotle, who made it the opposite of '*akribodikaios*', being strict, to be determined (cf. Aristotle, 1926). According to Aristotle (1926, p. 315 (1141)):

> Justice and equity are therefore the same thing, and both are good, though equity is the better. The source of the difficulty is that equity, though just, is not legal justice, but a rectification of legal justice. The reason for this is that law is always a general statement, yet there are cases which it is not possible to cover in a general statement.

Martha Nussbaum provides this definition of *epieikeia*: 'a gentle art of particular perception, a temper of mind that refuses to demand retribution without understanding the whole story' (Nussbaum, 1993, p. 92). Aristotle had more congeniality with equity than Plato (1926a; 1926b). The latter was of the opinion that the ideal ruler is familiar with the shortcomings of the laws. Equity is the second-best solution for the clash between, on the one hand, the ideal of justice and, on the other hand, reality. As law does not provide fairness in every single case, the notion of equity is necessary as an instrument of correction of the law (cf. Maye, 2006, p. 62).[5]

Equity is not limited to Antiquity. It has been prominent in Anglo Saxon law, among others in special courts of equity (cf. D'Amato & Presser, 2014) and, as James Gordley (2001, p. 315) demonstrates, in the Uniform Commercial

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[4] Cf. 'Die Billigkeit im reformierten Kirchenrecht' Schüle, 1926, pp. 73–77.

[5] 'Das positive Recht als eine bestimmte Art des Gerechten ist aufgrund seiner allgemeinen Bestimmungen nicht in der Lage, "die Fülle dessen, was das Leben bringt"', in jedem Einzelfall gerecht zu treffen. Die Aufgabe der Billigkeit ist daher die "Berichtigung des Gesetzes da, wo es infolge seiner allgemeinen Fassung lückenhaft ist", Maye, 2006, p. 62.

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Code, which allows 'a court relief in law or equity when a contract to sell goods is severely unfair'. Martin Hogg (2011, p. 441ff) writes a section about 'Forbearance in equity: The promissory estoppel in English law'. He points to the influence of (Roman Catholic) canon law on civil law when it comes to equity (in the Courts of Chancery). This is understandable as many chancellors before St Thomas More and drafters of equity were ecclesiastical lawyers (cf. Hogg, 2011, p. 82). Gordley (2008, p. 108) explains that 'Since laws are framed generally, circumstances can always arise in which the lawmaker himself would not wish the law to be followed.'

Outside the Anglo Saxon context, equity is also present in Dutch positive contract law. Sjoerd Bakker (2012) investigated three doctrines within contract law in which fairness and equity are prominent: contractual legality (Chapter 2), the explanation of (commercial) contracts (Chapter 3) and the problematic doctrine of *imprévision*, hardship (Chapter 4), after which he investigated the official application of fairness and equity. With *imprévision* is meant the legal rule for change of or unforeseen circumstances as it is formulated in articles 6:258 and 6:260 in the Dutch Civil Code.[6]

In the traditional perspective on the doctrine of *imprévision*, the focus is on the judge, as becomes clear from the above-mentioned articles 6:258 and 6:260 of the Dutch Civil Code. On the basis of the principles of fairness and equity, it is the judge who intervenes in a contractual relationship between two parties within the scope of their limited authorities. Bakker points to the fact that these principles need primarily be applied as standards of behaviour towards both parties. This matches with the ideas of the famous Dutch jurist Paul Scholten (1949, p. 33; cf. Maris & Jacobse, 2011, pp. 121 and 136), who stated that the verdict of the judge(s) should not only fit in the juridical system, but ought to be also acceptable when it comes to the content of it. From this perspective Maurits Barendrecht (1992, pp. 20–22) points out the tendency towards a better fairness law. Equity has become much bigger in the legal practice (cf. De Jongh, 2011, pp. 1–13). It is not only about an adding, limiting, correcting function of law, but also about regulating behaviour of parties.

Bakker (2012, p. 8) makes a distinction between fairness and equity. He is of the opinion that fairness is deeply rooted in society and essential for the success of society, and that equity is the sequel, the appendix, of fairness. Fairness is 'in short, the ultimate communal norm, which at the same time forms society and standardizes it' (cf. Bakker, 2012, p. 145).[7] It is connected with reasoning and rationality (cf. Bakker, 2012, p. 99). Bakker points to

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6 See the Appendix at the end of this chapter.
7 Translation Leon van den Broeke.

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article 6:2 of the Dutch Civil Code to demonstrate that equity is not only a tool for the judge, but for every debtor and creditor.[8]

The above-mentioned article states that both debtor and creditor are obliged to behave in compliance with the requirements of fairness and equity. So, both notions do not form a tautology, but are complementary. Both parties, debtor and creditor, are obliged as fair human beings to apply equity in case a general rule would lead to injustice for one of the parties. Such an application could include an extension or a limitation of the general rule or a combination of both extension and limitation. Equity is possible when both parties agree not to apply a rule or to add additional agreement(s) to the rule, or a combination of both (article 6:248 of the Dutch Code). This application, this possibility is, in nature, compulsory law. It is an intervention in the regular order or law system, as the general rule by virtue of law, common practice or a juridical act cannot be applied as this will not be acceptable. Both fairness and equity are standards of behaviour. In two court cases in 1957 the Dutch High Court affirmed this.[9] In the second court case the High Court decided that fairness and equity mean that parties need to determine their behaviour by justified interests of the other party.[10] This judgment still rules after more than 60 years in contract law.

This application of the principles of fairness and equity, or reasonableness and fairness, corresponds with another general article in the Dutch Civil Code, namely article 3:12:

> At determining what the principle of 'reasonableness and fairness' demands in a specific situation, one has to take into account the general accepted legal principles, the fundamental conceptions of law in the Netherlands and the relevant social and personal interests which are involved in the given situation (Dutch Civil Code, n.d., article 3.12).

To Bakker, the application of the principles of fairness and equity is part of the legal framework. It is included in the legal system, but that does not provide an explicit relationship to grace, unless it is an implicit, unmentioned legal expression of grace and/or graciousness.

5. GRACE AND LAW

This section elaborates on and aims to connect the notions of grace and law. From a religious perspective, the notion of grace implicates divine interven-

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[8] See Appendix at the end of this chapter.

[9] HR 21 June 1957, NJ 1959, 91 (Thurkow/Thurkow), and HR 15 November 1957, NJ 1958, 67 (Baris/Riezenkamp).

[10] HR 15 November 1957, NJ 1958, 67 (Baris/Riezenkamp).

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tion. Undeserved and unexpected human beings receive grace, unlike their sins in an imperfect world. This affection of God for his people has or ought to have effect on the lifestyle of people and how they get along with each other. It is intriguing to see whether and, if so, how the secular notion of grace which originates from religion is translated into secular terms.

It seems that this is possible to deviate from the rules on the basis of the principles of fairness and equity. In this way, injustice is prohibited or diminished and/or justice is promoted. Although it can be considered a problem of the interpretation of the law, namely literary or beyond a literary interpretation, this exemption can be called a secular form of grace.

Applied to the field of grace and law, the question arises whether grace is something which comes from outside of us or is immanent. We see two approaches. One, the state of exception can break into the normal state of affairs. By disestablishing the law, it is possible to restore the disrupted order. This can be considered to be an expression or application of grace. By disestablishing law, it will be possible to restore the disrupted order. Another approach is that righteousness is both obeying the rule and breaking the rule. It implicates that fairness and equity are within the legal system. Application of this standard of behaviour means that every time the application of (unwritten) objective law is made, as it is not the personal opinion of the judge, the objective right rooted the compulsory obligation of parties that in certain circumstances the contract will be extended or limited to avoid injustice and/or do what is right.

It might seem that such (Dutch) juridical rules on contract law are far removed from the notion of fairness and equity as expressions of grace and graciousness. It might be important to point to Johann Franz Buddeus, who demonstrated that equality between parties in contract law is an expression of Christian graciousness or mercy as a way to promote the position of the other party (cf. Buddeus, 1727, p. 544; Astorri, 2019, p. 166). This contribution is about grace that also includes the notion of mercy, which is or can be present also in other sections of law, apart from contract law. Recently Jeffrie G. Murphy (2020, pp. 5–17) and Albert W. Alschuler (2020, pp. 18–32) made this clear by focusing on mercy in the context of punishment, forgiveness, justice and equality. Penal law was not included in this contribution, but it gives an opening for further research.

6. CONCLUSION

Religious concepts of time and *topos* can be related to the secular context. It requires a better theological understanding of such religious concepts, but also the consideration of how they can be translated and applied in a secular context. This is not easy, as becomes clear from the translation of the divine

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notion of grace to a secular context, let alone that it is hard to find alternatives for the traditional word 'grace'. In general, such religious concepts entail both a critique on the current society and a longing for the lost paradise. This also applies to the notion of grace.

This contribution started with Levitas's view on grace and utopia, and more specifically the secular meaning or application of grace, so outside the religious dimension. To pick up on what Levitas meant and to elaborate on the connection between grace and utopia, I refer to her (2013, pp. xii–xiii) argument that she demonstrates the analogy between utopia, as 'the expression of the desire for a better way of being or of living, and as such is braided through human culture', and 'the quest for grace which is both existential and relational'. Nonetheless, she is aware of the fact of 'the most culturally prevalent understanding', which is quite different, whereas the quest for grace, both existential and relational, is genuine, either in a religious or in a secular context. In the religious context the relational side not only covers the relation between two persons or parties, but also between God and a person or a group. With view to Bloch, Levitas (2013, p. 12) argued: 'The longing for *Heimat* and for the fulfilled moment can also be understood as the quest for a (sometimes) secular form of grace.' She (2013, p. 12) continues: 'Its secular forms are predominantly active: it is the root of gracefulness and graciousness; we may act with good or bad grace.' She does not elaborate on the notion of 'bad grace'. Related to the application of grace in the field of law, one could add that 'bad grace' is the absence of the application of fairness and moreover the non-attendance of equity, as both principles (fairness and equity) can be considered as the application of secular grace in or in relationship with law, as is argued for above.

This longing for *Heimat*, the secular quest for grace, this search to (ful) fil existential and relational emptiness, with view to law, can be considered utopian, to a good, or even better society, by doing or at least striving to combat injustice and to apply and do justice. This is a desired vision which has benefits (avoiding injustice and doing right), but the shortcoming is that the world in which it is applied is and remains imperfect and the longing for *Heimat* can only partially be fulfilled. Levitas combines grace with utopia and her insights formed the motive for this chapter. She relates utopia as longing for a better life with the search for existential and relational grace.

Freibach-Heifetz (2017, p. 160) seems to second her as she expresses that secular grace is not an abstract, but in a profound way possible in 'a social, community and utopian existence in this world'. She not only points to the general societal context of secular grace, but also to the individual level of people who encounter, out of free will with the aim to be or become a Good Samaritan, to do good to the other, and to meet unexpectedly a Good Samaritan

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in the other. This may be applied by doing lawful good for finite humans (cf. Meyer, 2017, pp. 57–74).

It relates to Abraham Kuyper's view that grace is not limited to particular grace – divine grace for the elect – but that common grace is an important expression of grace for a fallen, imperfect, world. Common grace is expressed in mildness or gentleness and benevolence, which contribute to the public good in science, art, the state, in householdings, etc.

Moreover, the application of fairness and/or equity in relation to grace and law covers contract or property law. Sjoerd Bakker, as a far echo from Johann Franz Buddeus, demonstrates that graciousness and/or mercy is present in the legal system, more specific in contract law. It is relational in nature. As the application of fairness in law is not always applied, equity is a necessary instrument to correct the law (cf. Maye, 2006, p. 62).[11] It is not only an instrument for judges, but, moreover, parties in the field of contract law are held responsible for demonstrating a standard of behaviour which applies to fairness and equity in relationship to their contract. These principles of fairness and equity could be extended in other fields of law, not only in the legal system, but also in daily legal life. It is not about drawing a romantic picture, as in daily (legal) life things easily go wrong, even with an almost perfect legal system, because people are imperfect. As Carinne Elion-Valter states in this volume: 'legislation may also lead to disappointment, desperation or even despair' and: 'Disappointment and desperation may turn into despair, loss of hope, loss of faith, when some kind of betrayal is experienced and all hope for improvement and a future of justice is lost' (Elion-Valter, Chapter 4, this volume). By parties in the realm of contract or property law demonstrating graciousness, and/or mercy – more specifically the principles of fairness and equity – the old juridical adage *summum ius summa iniuria*, rigorous law is often rigorous injustice, is corrected. If it would not be corrected, if law would be without grace, it would remain rigorous and create injustice. People who are alienated try to find out about their identity and that of the other party, how they encounter and why they ever exist. By focusing on the secular form of grace in law, the divine notion might be lost, especially if, like in the work of Bakker, the word 'grace', 'graciousness' and/or 'mercy' is absent. However, although not all secular forms of grace are an exemption which comes from the outside, as a crack of light that breaks in our darkness, when people act as Good Samaritans, as Freibach-Heifetz pointed out, they can be an immanent

[11] 'Das positive Recht als eine bestimmte Art des Gerechten ist aufgrund seiner allgemeinen Bestimmungen nicht in der Lage, "die Fülle dessen, was das Leben bringt"', in jedem Einzelfall gerecht zu treffen. Die Aufgabe der Billigkeit ist daher die "Berichtigung des Gesetzes da, wo es infolge seiner allgemeinen Fassung lückenhaft ist" (Maye, 2006, p. 62).

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expression of divine grace in a secular context. It connects with Tillich's view that people perceive the power of grace in their relationships with others and themselves. Sometimes, unexpectedly, people experience a moment of grace, being part of something which is greater than they, maybe even an experience of granted fairness and/or equity.

This secular quest for grace is connected with the longing for *Heimat*, with the goal and for the benefit of a good or even a better society. If people or parties disagree about the nature of the common good, they still can demonstrate graciousness. The notion of grace is not only a critique of a society wherein the notion of grace is excluded, but it also provides hope for a hopeless world.

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APPENDIX (DUTCH CIVIL CODE)

Article 3:15 Extension of Applicability

The Articles 3:11 up to and including 3:14 are also applicable outside the field of property law as far as the nature of the legal relationship doesn't oppose to this.

Article 6:258 Unforeseen Circumstances

1. Upon a right of action (legal claim) of one of the parties to an agreement, the court may change the legal effects of that agreement or it may dissolve this agreement in full or in part if there are unforeseen circumstances of such a nature that the opposite party, according to standards of reasonableness and fairness, may not expect an unchanged continuation of the agreement. The court may change or dissolve the agreement with retroactive effect.
2. The court shall not change or dissolve the agreement as far as the unforeseen circumstances, in view of the nature of the agreement or of common opinion, should remain for account of the party who appeals to these circumstances.
3. For the purpose of this Article, a person to whom a right or obligation from the agreement has passed, is equated with an original party to that agreement.

Article 6:260 Further Rules for the Application of Articles 6:258 and 6:259

1. When the court has changed or dissolved an agreement on the basis of Article 6:258 or 6:259, it may set additional conditions in its judgment.
2. If the court changes or partially dissolves the agreement on the basis of Article 6:258 or 6:259, it may order that one or more parties may rescind the agreement entirely by means of a written notification within a period to be set in its judgment. In that event the change or partial dissolvement (dissolution) of the agreement shall not take effect before this period has expired.
3. When an agreement has been changed or entirely or partially dissolved on the basis of Article 6:258 or 6:259, then also the judgment which ordered this change or dissolvement may be registered in the public registers, provided that it has become final and binding or that it immediately enforceable.
4. When a person is summoned to appear in court in relation to a right of action (legal claim) based on Article 6:258 or 6:259 and the accompanying writ of summons is served on him at his elected domicile in the Netherlands as meant in Article 6:252, paragraph 2, then also his legal successors, who have not registered themselves in the public registers as new creditor, will have been summoned by means of this writ. Article 3:29, paragraph 2 and 3, second, third and fourth sentence, of the Civil Code apply accordingly.
5. Other legal facts that change or end a registered agreement may be registered as well in the public registers, as far as they are based on a court judgment that has become final and binding or that is immediately enforceable.

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Article 6:2 Reasonableness and Fairness within the Relationship between the Creditor and Debtor

1. The creditor and debtor must behave themselves towards each other in accordance with the standards of reasonableness and fairness.
2. A rule in force between a creditor and his debtor by virtue of law, common practice or a juridical act does not apply as far as this would be unacceptable, in the circumstances, by standards of reasonableness and fairness.

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PART II

Utopian politics: Redemption or a ‘recipe for bloodshed’?

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6. The politics of hope: Utopia as an exercise in social imagination[1]

Marta Soniewicka

If I could wish for something, I would wish for neither wealth nor power, but the passion of possibility; I would wish only for an eye which, eternally young, eternally burns with the longing to see possibility.
Søren Kierkegaard (*The Moment*)[2]

1. THE NEED FOR RADICAL HOPE IN A HOPELESS WORLD

The world had been immersed in a serious crisis long before the COVID-19 pandemic struck. We could claim that the crisis started with the terrorist attacks of 9/11, which revealed that history had not ended, contrary to the utopian vision of the global victory of liberalism famously claimed by Francis Fukuyama (1989). We could also invoke the economic recession of 2008, the Russian invasion of Ukraine in 2014 and the refugee crisis of 2015. To make the picture of the crisis more complete, we could also mention the world's growing ecological problems, as well as social unrest resulting in populism, mass demonstrations and deep political divisions in liberal societies.

The COVID-19 pandemic seems to have accelerated an already existing crisis and channelled deep-rooted social frustrations. Our societies were not only logistically unprepared to face the pandemic, but first and foremost they were not morally prepared, as Michael Sandel insightfully notes in the introduction to his latest book (Sandel, 2020). Sandel invokes the example of his own country – the USA – which is deeply divided in economic, political, and cultural terms. Yet his words could be perfectly applied to the current situation in Poland, where decades of internal political struggles fed by 'the toxic mix of hubris and resentment' (ibid., p. 3) have brought about a deep mistrust in government and the loss of a sense of community. Instead of solidarity based

[1] The writing of this chapter was funded by the National Science Centre, Poland, according to Decision no. 2017/27/B/HS5/01053.

[2] Quoted in Bloch's *The Principle of Hope* (Bloch, 1986, p. 1057).

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on trust and sympathy, which could bring our societies back together, the pandemic made our sense of alienation become stronger than before. It seems that the times of crisis strongly question utopian thinking and reveal its failures. Yet, in this chapter I pose the question of whether utopian thinking could encourage hope for rebuilding a new sense of our communities.

The current instability and uncertainty of our times reveals the deep transformations that our societies have undergone. Living in the crisis means that 'the sense of purpose and meaning that has been bequeathed to us by our culture has collapsed' (Lear, 2006, p. 104) and that we lack the requisite conceptual resources to understand what is happening to us and our world. We can say that 'sadly, future is no longer what it was'[3] and we do not know what will come next. Future is the category of expectation, anxiety and hope. Hope anticipates a possibly good future which does not yet exist, and by this anticipation it affects the world to be. Yet, to the times of crisis we must respond with *radical hope*. By radical hope I mean, after Jonathan Lear, trusting in the future goodness which is radically new and therefore escapes our concepts and understanding:

> What makes this hope radical is that it is directed toward a future goodness that transcends the current ability to understand what it is. Radical hope anticipates a good for which those who have the hope as yet lack the appropriate concepts with which to understand it (Lear, 2006, p. 103).

Practising hope as a form of anticipating a good future requires a vivid imagination. Therefore, we should exercise our social and political imagination in such a way that it both feeds and is fed by hope.

In this chapter I ponder how utopian thinking could be used as an exercise of imagination in opening up the requisite space for the new possibilities to emerge. To address this issue, I will start with a brief analysis of the concept of utopia and its discontents, namely the danger of transforming utopia into a totalitarian ideology (section 2). To make this objection to utopian thinking clear, I will explain the relationship between utopia and ideology, emphasizing their reference to power (section 3). Then I will move to a brief analysis of a different meaning of utopia – utopia as method introduced by Levitas, emphasizing the three main functions of utopia which may be useful for the prefiguration of a social change in our imagination (section 4). In my further considerations I will elucidate the role of the imagination in the process of social transformation, and I will illustrate the idea of practising utopia by the example of an artistic movement called the Orange Alternative (section 5). In

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[3] The title of the album by Leyland Kirby (2009).

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the last section (section 6) I will return to the aforementioned phenomenon of hope, addressing the question of its relation to utopia.

2. THE CONCEPT OF UTOPIA

Ruth Levitas analyses a variety of miscellaneous concepts of utopia and, inspired by Ernst Bloch, claims for 'the more open definition of utopia as the expression of desire for a better way of living and of being' (Levitas, 2013, p. 4; see also Levitas, 1990). The concept can be applied to a literary genre, a way of thinking, mentality, philosophical attitude, human sensitivity, social and political activity, artistic or architectural enterprise, etc. Yet such a broad definition of utopia, which covers 'all human projects of something better than what is', becomes difficult to apply (Kołakowski, 1990, p. 198). Thus, Leszek Kołakowski suggests a more restricted definition of utopia that is based on the common usage[4] of the notion, which includes such elements as: (1) improvement of human condition by human effort and (2) attainability of a final stage of improvement. Utopian thinking is most vividly present in the social context. The final stage of utopia can be characterized as perfect justice (perfect fraternity and equality among people) which can be achieved in our world by human agency. Utopia rests upon such premises as: (a) the idea that the roots of evil and all human misery are hidden in social structures (institutions); and (b) thus that suffering and evil can be eventually eradicated from our world by changing the social conditions of human life.

These assumptions are at odds with a Christian perspective, according to which evil is in human nature and as expressed by the doctrine of Original Sin,[5] and therefore can never be eradicated from our world by human efforts alone. No matter how comfortable and technologically advanced our societies become, evil and suffering are permanent parts of the world. In other words, the starting point of Christian thinking is in human vulnerability, and the finite nature of life (see De Vries' chapter in this volume). It does not mean that the world remains hopeless in the Christian approach – only that God's grace can make good out of evil and will eventually bring redemption to the world (see

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[4] In this analysis I refer to the essay by Leszek Kołakowski, which was published in 1990. In this essay, Kołakowski addresses the 'current usage' of the term 'utopia'. Following the suggestion of the reviewer, and given the date of the publication, I changed the phrase 'current usage' into 'common usage'. In my opinion, the analysis provided by Kołakowski accurately points out the main general characteristics of utopian thinking, which are up to date although not always taken for granted.

[5] Awareness of the corruption of human nature has a transformative sense in Christianity – it allows for a change of heart and it is why humility is such a great Christian virtue, and pride such a great sin (cf. Arendt, 1998; Kołakowski, 2001).

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Van den Broeke's chapter in this volume). A utopian approach, on the other hand, emphasizes the human capacity to find an adequate technique to transform the world of misery into a world of perfect harmony.

It is no coincidence that the author who coined the term 'utopia', Thomas More, was a priest – a martyr and saint of the Catholic Church. The idea of utopia is the translation of the Christian idea of the Kingdom of God into secular terms. Utopian thinking was aimed at balancing the apocalyptic vision of the world, one rooted in Christianity and which had dominated thinking in the Middle Ages, with the utopian notion of bringing heaven to Earth (Cioran, 2015, p. 160; cf. the chapter by Harinck in this volume). As Emil Cioran puts it:

> When Christ promised that the 'kingdom of God' was neither 'here' nor 'there,' but within us, he doomed in advance the utopian constructions for which any 'kingdom' is necessarily exterior, with no relation to our inmost self or our individual salvation. So deeply have utopias marked us, that it is from outside, from the course of events or from the progress of collectivities that we await our deliverance. (…) Unable to find 'the kingdom of God' within themselves, or rather too cunning to want to seek it there, Christians placed it in the course of events – in becoming: they perverted a teaching in order to ensure its success (ibid., pp. 150–51).

Utopian thinking is connected with a belief in progress, instrumental reason as a tool of perfecting humanity, and the possibility of understanding the meaning of history, something which appeared in the 18th century. There are two utopian doctrines which arose in the 18th century from a secular belief in progress: historicism (the belief in the progress of History, e.g. the Hegelian idea of history as 'God's sojourn on earth') and scientism (the belief in the progress of Science). Both lines of thought are, as Kołakowski notes, the descendants of the Enlightenment's legacy. The former places History in God's place as the judge of human existence, the latter substitutes God with the predictability of Nature and its immutable laws, thus giving the conclusion that it draws an appearance of certainty (Kołakowski, 2005). A providential approach to history is still present in the current times, in particular in imperial or postimperial countries where politicians frequently claim that they are 'on the right side of history'.[6] A utopian aspect of scientism is currently best visible in a popular trend called transhumanism (see the chapter by Bugajska, and the chapter by Van Beers in this volume).

With the Enlightenment the idea of rational planning of the future appeared and utopia was used as one of the instruments to achieve this goal. It is worth

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[6] This argument was used by presidents of the USA, as Sandel notes (Sandel, 2020, pp. 112–30). This kind of utopia would hardly arise in Eastern or Central Europe, where countries experienced the 'fatality of history' (cf. Eliade, 1959, p. 152).

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stressing that Thomas More never considered his vision to be something to be applied to the real world; he knew perfectly that it could not be realized. Yet the utopian thinkers of the 19th and 20th centuries were not that reasonable. One may name here both the proponents of the scientific worldview, such as Auguste Comte, who inspired the establishment of the 'positivist church', as well as the French and Russian revolutionaries who aimed at creating perfect fraternity and the eradication of classes in their societies (Picht, 1981). They created utopias which they wanted to apply in reality – these utopias were translated into ideologies and turned out to be extremely dangerous. I will further address this problem in the next section by making use of communist ideology as an illustration. The technocratic utopia in which we currently live, according to Georg Picht (ibid., pp. 43–208), will be addressed in other chapters of this volume (see the chapter by De Vries, and the chapter by İspir & Sükrü in this volume).

Utopias can be easily refuted (see for instance: Dahrendorf, 1958; Gray, 2008). They are usually constructed in a simplifying manner, which unifies human experience and provides universal harmony. Perfect harmony is unattainable in our world because human creativity and freedom will always result in conflicting desires and an increase in human needs. The ultimate satisfaction of human needs would mean perpetual stagnation. Therefore, utopias require the rejection of a variety of human life forms and the reduction of human beings to universal, exchangeable, identical beings – a uniform specimen:

> Utopia is (…) [h]ostile to anomaly, to deformity, to irregularity, it tends to the affirmation of the homogeneous, of the typical, of repetition and orthodoxy. But life is rupture, heresy, derogation from the norms of matter (Cioran, 2015, p. 142).

This is exactly what makes living in utopia intolerable – a dream of perfect order involves homogeneity, prevents development and variety – therefore human life is to be extinguished. In other words, utopias are antihuman by definition (Kołakowski, 1990, p. 213; see also: Carey, 2000; cf. the chapter by Bugajska in this volume). A utopia which neglects human nature results in 'fraternity by coercion and equality imposed by the enlightened' (Kołakowski, 1990, p. 210), which is self-contradictory on the one hand, and the best way to totalitarian despotism on the other.

The most fundamental objection to the idea of utopia is that it can be easily transformed into dangerous totalitarian ideologies (cf. Popper, 1945, 1986). Most political ideologies were utopias in the beginning. Ideologies, including liberal and conservative ones, are to some extent secular imitations of religions, as Picht (1981, p. 167) points out, 'the byproduct and, in a sense, the vulgar expression of messianic or utopian visions', as Cioran (2015, p. 153) adds. Thus, let me turn to a brief analysis of the relation between utopia and

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ideology to make the distinction between them clearer (see also the chapter by Van Klink in this volume).

3. UTOPIA AND IDEOLOGY: THE PROBLEM OF POWER AND TRUTH

According to Paul Ricœur (1986), utopia should be distinguished from ideology since both are two opposite sides of social imagination.[7] Ideology confirms and preserves the current social and political world order aimed at providing its legitimization, while utopia shatters and challenges the world in which one lives in order to change it. Moreover, ideology belongs to the mainstream, while utopia is produced by minorities. Last but not least, ideologies are backward-looking, while utopias are usually forward-looking. Utopias provide an anticipation of what will be (utopia of not-yet), and of what should be. Sometimes utopias also provide a kind of re-return to 'the lost paradise', expressing a longing for what has been lost (the utopia of not-anymore) (ibid., p. 308).

Yet utopia and ideology also have something in common. Both ideology and utopia are mainly concerned with the problem of authority – the problem of power and its distribution, replacement, and transfer. Ideology provides legitimization to power. Utopia, on the other hand, is aimed at challenging power in all kinds of social relations, 'from sexuality to money, property, the states, and even religion' (ibid., p. 299). There are two ways of dealing with the problem of power by means of the strategy of utopia: (1) replacing a power-based relationship with an alternative of cooperation and egalitarian relationships (the de-institutionalization of power relationships); (2) transferring power from one form of institution to another (the re-institutionalization of a power relationship in a better way). The former may lead to anarchy, the latter to tyranny.

The most dangerous are political doctrines in which the distinction between utopia and ideology disappears, like communism. Communism applied in practice can be described as a failed utopia which in fact did not challenge the idea of dominance itself, but rather the fact of who is in power and who dominates whom and by what means (Walzer, 1985, p. 13). In other words, communist ideology used utopia as a tool to transfer power from one group to another and to legitimize that transfer.

As Cioran (2015, p. 159) says, 'If utopia was illusion hypostatized, communism, going still further' was 'illusion decreed, imposed: a challenge to the omnipresence of evil, an obligatory optimism'. The main danger of this kind of utopian ideology is that it is a system of thought that is put in action with no

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[7] These ideas come from Paul Ricœur's interpretation of Karl Mannheim's works.

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respect for reality, which makes it doomed to failure, as was mentioned in the previous section. Yet usually the defenders of applied utopias present failure as success, using new words for old injustice, which was vividly exposed in George Orwell's famous dystopia, *1984*. The paradox of this kind of utopian ideology is aptly mocked by the old Soviet joke:

> It's 1937. Two old Bolsheviks are sitting in a jail cell. One says to the other, 'It looks like we're not going to live to see communism, but surely our children will!' The other: 'Yes, our poor children!' (Alexievich, 2016, p. 385).

Utopian ideology creates a fictional world of meanings, language and state of mind based on a lie which was profoundly described by Czesław Miłosz (1990). To elucidate how this strategy works in practice, let me invoke Vaclav Havel's famous example of the grocery store owner who places the slogan in his shop window: 'Workers of the world, unite!' (Havel, 1978). This slogan does not express what it verbally says. It expresses the subordination of the owner of the shop to the government and to its ideology. Although it means almost the same as, 'I, the greengrocer XY, am afraid and therefore unquestioningly obedient,' as Havel writes, the owner would feel much more embarrassed and humiliated if he had to put such a note in the window of his shop (ibid.). The ideology provides an alibi for him, it is a façade which covers both the low motives of the citizens' obedience as well as the low foundations on which the power of the government is built. The owner is excused by the ideology and can always say: 'What's wrong with the workers of the world uniting?' (ibid.).

In utopian ideology, such slogans are placed everywhere in order to constitute 'the panorama of everyday life', as Havel argues (ibid.). The life dominated by this kind of ideology is based on pretending: the government 'pretends to pretend nothing' and citizens pretend that they do not see that everybody is pretending (ibid.). Individuals, as Havel points out, 'need not accept the lie. It is enough for them to have accepted their life with it and in it. For by this very fact, individuals confirm the system, fulfil the system, make the system, are the system' (ibid.). According to Havel, the one who breaks the rules is the most dangerous for the system, since '[b]y breaking the rules of the game, he has disrupted the game as such. He has exposed it as a mere game. He has shattered the world of appearances…' (ibid.). Thus, in a system based on ideology, there is no place for opposition, and the rebellious are called 'dissidents' – those who dissent with the system as such. Dissidents do not call for the reform of a system, but reject it by refusing to follow its rules and revealing their inherent absurdity. To be a dissident is not a political choice, as Havel emphasizes, but a moral one, since this is not about the political programme, but about 'a problem of life itself' (ibid.). Thus, the choice to become a dis-

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sident is rooted in 'the elementary need of human beings to live, to a certain extent at least, in harmony with themselves', which Havel describes as 'an attempt to live within the truth' (ibid.).

4. UTOPIA AS METHOD: THE FUNCTION OF UTOPIA RECONSIDERED

Levitas defends utopia, claiming that all the objections, including the aforementioned arguments, are directed against a certain kind of utopia which she calls 'utopia as a blueprint'. In her opinion, 'Utopia has been misunderstood as a goal and travestied as totalitarian' (Levitas, 2013, p. 217). She argues for a much broader understating of utopia which:

> …facilitates genuinely holistic thinking about possible futures, combined with reflexivity, provisionality and democratic engagement with the principles and practices of those futures. And it requires us to think about our conceptions of human needs and human flourishing in those possible futures. The core of utopia is the desire for being otherwise, individually and collectively, subjectively and objectively. Its expressions explore and bring to debate the potential contents and contexts of human flourishing. It is thus better understood as a method than a goal – a method elaborated here as the Imaginary Reconstitution of Society (ibid., p. xi).

Although her concept of utopia is so broad that it may cover almost all sorts of idealistic thinking, it has some features which can be identified in the common usage of the notion as described above. She claims that utopian thinking includes: (1) a holistic approach; (2) the idea of human flourishing guaranteed by the institutions of a just, equitable, and sustainable society; (3) a promise of fulfilment (a promise of what is missing) based on the experience of loss and longing and (4) transformation of human nature enabled by the transformation of social conditions and institutions. The only aspect of the abovementioned concept of utopia which she openly rejects is the premise of the attainability of a final stage. Following H.G. Wells, she claims that utopia does not necessarily include a vision of a static perfect future, and she emphasizes that utopia does not have to be considered as a goal. Yet the utopian idea of human happiness guaranteed by the construction of just social institutions that would transform human nature is rooted in the same Promethean spirit that gives rise to the aforementioned objections. Due to human vulnerability and imperfection, we have to take into account the eventual failure of human projects. The idea of 'institutionally guaranteed friendship', as Kołakowski (1990) emphasizes, is a dangerous fantasy, since the things we most value in our life, such as friendship, love, beauty, or joy, cannot be institutionally imposed without losing their meaning to us.

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Yet the opposite sceptical attitude that remains hopeless about humanity may be no less pernicious, as Kołakowski claims:

> The victory of utopian dreams would lead us to a totalitarian nightmare and the utter downfall of civilization, whereas the unchallenged domination of the skeptical spirit would condemn us to a hopeless stagnation, to an immobility that a slight accident could easily convert into catastrophic chaos. Ultimately, we have to live between two irreconcilable claims, each of them having its cultural justification (ibid., p. 217).

In other words, Kołakowski claims that we need both utopian and sceptical thinking. This approach provides, in my opinion, a third way between the politics of faith (based on the belief in human power to control and change all aspects of the social and political life) and the politics of scepticism (based on the belief in the limits and necessary constraints of human power in perfecting the social and political world) which were introduced by Michael Oakeshott (2009; cf. the chapter by Van Klink in this volume).

According to Kołakowski (1990, p. 205), utopian thinking is useful as long as we treat utopias as regulative ideas which direct us toward an unattainable goal. Yet, in such an interpretation it would be difficult to distinguish utopias from all sorts of ideals that have a regulative character. Thus, following Ricœur, I would rather suggest that utopias can play a significant role as a special kind of tool to exercise social and political imagination. This is also something that Levitas suggests when she emphasizes that utopias express the deepest desires of humans – the human longing for happiness and fulfilment – and therefore one of its functions is 'the education of desire' (Levitas, 2013, p. xvii). Expressing human desires for a better world in the form of a utopia, creates an openness in our consciousness towards future change which, according to Levitas, 'creates a space that enables us to imagine wanting something else, something qualitatively different' (ibid., p. 113). In other words, it can contribute to a shift in human consciousness and our drives, enabling people to change the world (cf. ibid., p. 16).

As Ricœur (1986, p. 270) accurately points out, a utopia is a special kind of imaginative social activity which has both a destructive dimension – the contestation of the present reality – and a constructive dimension – the construction of social reality. He distinguishes three main functions of utopia: (1) escape, (2) critique, and (3) reconstruction, which I will shortly analyse (see also Van Klink's chapter in this volume).

First, a utopia aims at creating an alternative world in the imagination and therefore it may provide an escape from reality. If the only function of utopia is escape, it results in a pathology of utopia according to Ricœur, since this kind of utopia assumes an inability to live in reality combined with an inability of action and change. Instead of acting, which is impossible, we escape in our

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imagination – through literature, music, art (cf. Levitas, 2013, pp. 40–61). This kind of utopia provides us with consolation in the imagined world. Although Ricœur is sceptical about this function of utopia, I would defend its role as an imaginative tool of escape into the inner world. The significance of this kind of escape was clearly discernible in totalitarian regimes, where opposing them was often impossible under the threat of death or torture. In such situations, hiding oneself in the most inner place, untouched by the tyranny of the rulers, and furnished with great music, literature, or art, not only gave people consolation, but it was also the act of resistance to the totalitarian regime. It was the only way to set limits on the power of the regime – creating boundaries which the authorities were not able to cross. Therefore, dissidents in totalitarian regimes called this kind of escape an 'inner immigration'. Astounding examples of this kind of resistance can be found in the memories of the survivors of gulags and concentration camps, like Aleksander Wat (2003), who experienced spiritual liberation by listening to Beethoven's music in a Soviet prison, Józef Czapski (2018), who delivered passionate lectures on Proust to raise people's morale and to prevent his own despair in a Soviet prison camp, or Primo Levi (2003), who recited a canto of Dante's *Inferno*, challenging the dehumanization in Auschwitz with poetry. Another extremely moving picture of such an escape from totalitarian reality comes from the novel by Madelaine Thien, *Do Not Say We Have Nothing*, which describes the struggle of Chinese intellectuals during the Cultural Revolution, who hid their true selves in forbidden classical music and literature which only existed in their minds and memories (Thien, 2016).[8]

Second, utopia aims at a critique of the current social world by the creation of alternative perspectives. 'And it is by its force of negation' – as Cioran (2015, p. 156) emphasizes – 'that utopia seduces, much more than by its positive formulas.' Utopian thinking enables us to look at ourselves from a distance, from the outside, from nowhere. Utopia means 'what is nowhere' – it does not exist in a real place, only in our imagination. And our imagination plays a pivotal role in rethinking the nature of our social life. Utopia is 'a vehicle of irony' undermining reality – it says something crazy and something real at the same time (Ricœur, 1986, p. 303). As Ricœur summarizes, a utopia is:

> A place which exists in no real place, a ghost city; a river with no water; a prince with no people, and so on. What must be emphasized is the benefit of this special extraterritoriality. From this 'no place' an exterior glance is cast on our reality, which suddenly looks strange, nothing more being taken for granted. The field of the

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[8] This also resembles the case of Anna Achmatova, who created poems in her mind and asked her friends to keep them in their memory since writing them down was too dangerous (Karpeles, 2018).

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> possible is now open beyond that of the actual; it is a field, therefore, for alternative ways of living (ibid., p. 16).

Utopia 'shatters the obvious', the order which is taken for granted. Yet, a critical utopia, as Picht (1981, p. 202) emphasizes, is a utopia which not only criticizes the current social order, but also remains self-critical and involves the distinction between utopia and reality.

Third, by exploring the new possibilities in imagination, a utopia may not only be 'an arm of critique' (Ricœur, 1986, p. 300), but also a way of reconstruction of social reality in our imagination. It may 'contribute to the interiorization of changes' (ibid., p. 314) and open us to new possibilities which previously seemed unthinkable, introducing an idea to live in a different way which seemed impossible to us. Cioran (2015, p. 28) calls utopia a madness, yet he claims that, in the long run, life without such madness is suffocating and threatened with petrification. This passion for the impossible which is at heart of each utopia is so important since it may inspire action, as Cioran claims:

> For we act only under the fascination of the impossible: which is to say that a society incapable of generating – and of dedicating itself to – a utopia is threatened with sclerosis and collapse. Wisdom – fascinated by nothing – recommends an existing, a given happiness, which man rejects, and by this very rejection becomes a historical animal, that is, a devotee of imagined happiness (ibid., pp. 134–35).

A utopia is a special kind of myth. Myths create conceptual resources which help us understand what has happened to us – who are we, where we belong to (cf. Kołakowski, 1972). A utopia enables us to understand what we strive for. Yet utopia as a myth should not be confused with a plan for the future, it must remain a myth of no time and no space, and only then will it be really helpful.

To sum up, all of the aforementioned functions of utopia – escape, critique, reconstruction – may overlap with each other and constitute a prefiguration of a social change in our imagination. By prefiguration I mean, after Davina Cooper, imagining an 'alternative world' and acting *as if* it already existed (Cooper, 2020; see also Cooper, 2014). Acting *as if* invokes the distinction between the imaginary and the real, yet it also challenges what is. Following this idea, I argue in this chapter that if you want to live in a better society, you have to: (1) hope that it is possible; (2) imagine such a society and your life in it; (3) start living the way you imagined (cf. Solnit, 2016, p. 29). Small changes matter and they constitute the social transformations which all begin in imagination (ibid., p. 35). Thus, let me now turn to exploring the role of imagination in shaping reality (section 5) and the relationship between utopia and hope (section 6).

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5. THE ROLE OF UTOPIA IN SOCIAL IMAGINATION: PREFIGURATION OF CHANGE (THE ORANGE ALTERNATIVE)

If you were to ask Polish people of my parents' generation about the future, most if not all of those born in the 1950s and 1960s would say that they had never thought that the Soviet Union would collapse during their lifetimes. Yet it happened in a peaceful way and – much more than that – Poland joined both NATO and the European Union and achieved an economic level of prosperity not experienced in our country since the 17th century. When we look at the social transformations, we usually focus on their final triggers and the big moments of visible change, like mass demonstrations, rebellions, elections, the signing of treaties, powerful people shaking hands. We rarely notice the long-term groundwork, as Rebecca Solnit rightly emphasizes, done by scholars, philosophers, teachers, writers, intellectuals, social activists and mere citizens, who laid the foundations for the transformation (ibid., p. 18). Our parents did not believe they would live to see the collapse of the Soviet Union because they felt powerless in the face of the power of the regime. Yet as Havel wrote in the aforementioned essay, powerless people have a tremendous and underestimated strength which lies in their imagination and hope. As Solnit points out: 'Violence is the power of the state; imagination and nonviolence the power of civil society' (ibid., p. 65). The role of the imagination in our social life is so significant because it gives birth to ideas, and they are more powerful than any army. They are so powerful because they are able to change people's hearts and minds, which is the core of any significant transformation.

'Social imagination is constitutive of social reality', as Ricœur points out, because social life has a symbolic structure (Ricœur, 1986, p. 8). It is akin to a social dream that people share. All social institutions exist and have effects simply because *people act as if they physically existed*, as John Searle (2010) notes. Concepts such as money, norms, nations, fundamental rights, etc., belong to social imaginaries. A social imaginary is, as Charles Taylor (2004, p. 23) defines, our 'common understanding that makes possible common practices and a widely shared sense of legitimacy'. Thus, taking the symbolic structure of our social life seriously, we have to agree with Levitas that the political imagination of an institutional alternative is a precondition for social change (Levitas, 2013, p. 139). We have different tools to exercise our social imagination, including art, literature, music, and utopia is one of them. Utopia exercises the idea of possibility that is essential for our self-understanding and for understanding the world in which we live, and in which we want to live. Utopian thinking enables us to practise what is possible in the symbolic order,

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to question the actual reality and to experience distance from the current social world.

Let me invoke an illustration of the kind of utopian practice which embodies the idea of prefigurative acts of social change: Pomarańczowa Alternatywa (The Orange Alternative) (see Marasli, 2017).[9] The Orange Alternative (OA) was created as an anti-communist artistic movement in Poland in the 1980s. The colour orange in the name of the movement refers to the Dutch counter-culture anarchist movement Provo from the 1960s, which inspired the founders of the OA, although both movements had different goals. The OA movement not only spread throughout Poland, but also inspired similar movements in Hungary, Czechoslovakia and much later in Ukraine (the so-called Orange Revolution movement). The OA was aimed at contesting the communist regime by the use of humour and absurdity, involving such techniques of protest as 'street theatre', 'carnival resistance', 'guerrilla communication', 'tactic frivolity', 'the snow clouds', etc. The movement was not based on membership but on participation (Misztal, 1992, p. 67). It was not a fixed organization but a spontaneous, 'completely unpredictable, floating and flexible' (ibid., p. 64) movement which engaged thousands of passers-by, as well as the public authorities, in particular the militia. The actions of the OA are considered to have been one of the largest examples of the happening phenomenon to have taken place on the streets of Poland (Bos & t'Hart, 2008, pp. 141–47).

This picturesque opposition to the authoritarian regime created slogans that paraphrased official propaganda, as well as the slogans of the Solidarity movement, in a funny and mocking way. One of the most famous actions consisted in painting dwarf-graffiti on spots which were produced by the militia in the process of covering up the anti-communist slogans on the walls in Polish cities. As one of the leaders of the movement, Waldemar Major Fydrych, claimed, the militia participated in this artistic manifesto, which he called 'dialectic painting': 'The Thesis is the Anti-Regime Slogan. The Anti-thesis is the Spot and the Synthesis is the Dwarf.'[10] Other famous happenings include the parade of Santa Clauses chained to one another in 1987 – when they were surrounded by the militia and arrested, the crowd shouted, 'No way! They are taking the Santas!'[11] The action resulted in the detention of all Santa Clauses in the city, including the 'legal' ones that had been hired by department stores. Another happening was called the 'Revolution of Dwarves' (1988), which

[9] Information about the Orange Alternative is available at: http://www.orangealternativemuseum.pl/#homepage.

[10] Orange Alternative, entry on Wikipedia: https://en.wikipedia.org/wiki/Orange_Alternative.

[11] Museum of the Orange Alternative: http://www.orangealternativemuseum.pl/#santa-claus.

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involved more than 10,000 people wearing red hats and playing a game of hide-and-seek with the militia. As the *New York Times* put it: ‘Solzhenitsyn destroyed communism morally, Kołakowski philosophically and the Orange Alternative aesthetically.’[12] Although the primary aim of the movement was to challenge the authoritarian regime, it continued its activity under the Solidarity-led government.

The OA was not a political movement, but social, cultural and artistic activity that went beyond state–society dichotomy, creating an alternative social space of communication and free expression:

> When leading oppositionist Adam Michnik proclaims that Solidarity was a movement which had its own utopia characterized by the ten commandments and the Bible, and that this was the sole utopia worth believing in, the ‘Alternative’ criticized the left, the right and the sacred (Misztal, 1992, p. 61).

The OA aimed at unifying different social forces into the communal experience of togetherness. Thus, the OA cannot be reduced to performing a mocking role – the movement constituted social participation and opened up a space for new meanings in the post-totalitarian period (ibid., p. 57). The movement had an impact on society and individuals by creating a social alternative to ‘the state-licensed reality’. Let me briefly analyse the three aforementioned functions of utopia with reference to the OA, namely: escape, critique, and reconstruction.

5.1 Escape

The movement delivered a kind of consolation for Polish citizens frustrated by the economic-political crisis and an escape from the grey reality of Poland under martial law. The happenings had a therapeutic function and helped people overcome their apathy by means of their participation in joyful play. In the happenings ‘the grim past, grey present and hopeless future’ were transformed into the comical pure nonsense: ‘while nothing serious can make sense of social reality, its transformation into a large-scale street cabaret at least helps people cope with day-to-day life’ (ibid., p. 72).

5.2 Critique

The OA challenged the power of the authoritarian regime with the powerful tool of laughter. When laughter triumphs over fear, it may become a liberating

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[12] Orange Alternative, entry on Wikipedia: https://en.wikipedia.org/wiki/Orange_Alternative.

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force, revealing the truth and degrading power, as vividly described by Mikhail Bakhtin in his analysis of the role of the clown in the Middle Ages (Bakhtin, 1984, pp. 92–93).[13] Laughter is irresistible since it cannot be defeated by arguments or power and therefore is the most powerful weapon of critique.

5.3 Reconstruction

The movement encouraged people to participate in large-scale street happenings to overcome their fear of repression: 'the key idea of the Orange Alternative was to socialize the people to the situation of protest to make of the protest episodes the element of every day street life' (Misztal, 1992, p. 62). The movement constructed a social space in which people regained their sense of freedom and sense of community. Therefore, the OA was able to contribute to the process of rebuilding society, which had been deeply eroded by years of authoritarian rule, and prepared the foundations for building democracy, something which cannot be imposed or declared in a society, but only born from within – from the heart of the society and its common practices. As Solnit argues, 'By acting as if they were free, the people of Eastern Europe became free' (Solnit, 2016, p. 79).

To sum up, the activity of the OA can be considered an example of practising utopia as a method of the prefiguration of change because it shattered the contested reality, liberated people by means of laughter and opened up new possibilities for social participation. It also transformed the public space by regaining the streets for the citizens and transforming militiamen into artefacts. As we can read in their Manifesto of Socialist Surrealism:

> Imagination means a world without limits. (…) Apparently, no force in life can dampen the unpredictable worlds of imagination. It permeates everything yet it does not use any real force. Imagination lives in us as long as it remains free (Museum of the Orange Alternative).[14]

6. THE POLITICS OF HOPE

Immanuel Kant (2003, A805–B833) summarizes the enquiries of philosophy in three fundamental questions: '1. What can I know? 2. What ought I to do? 3. What may I hope?' The first question belongs to the domain of knowledge, the second one to the domain of ethics. The third one is concerned with happiness.

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[13] As Bakhtin claimed, the medieval clown was the herald of truth expressed in laughter.

[14] Museum of the Orange Alternative: http://www.orangealternativemuseum.pl/#manifesto-of-socialist-surrealism.

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Hope is a crucial phenomenon of the human spirit which enables us to act. Action requires the ability to-will and not-to-will that something happens (cf. Cioran, 1970; St Augustine, 1998; cf. Elion-Valter's chapter in this volume). Hope directs the will towards the uncertainty of the future, which creates the requisite room to act. Facing uncertainty gives you the ability to change something, since '[w]hen you recognize uncertainty, you recognize that you may be able to influence the outcomes – you alone or you in concert with a few dozen or several million others,' as Solnit (2016, p. 16) claims. Havel was still in a prison when he expressed his devotion to the power of hope in the following words:

> Hope is not prognostication. It is an orientation of the spirit, an orientation of the heart; it transcends the world that is immediately experienced, and is anchored somewhere beyond its horizons. Hope, in this deep and powerful sense, is not the same as joy that things are going well, or willingness to invest in enterprises that are obviously headed for early success, but, rather, an ability to work for something because it is good, not just because it stands a chance to succeed (Havel, ibid., p. 46).

Hope should not be confused with the kind of naïve optimism that denies the atrocities of reality, as Solnit vividly points out with her metaphor: 'hope is not like a lottery ticket you can sit on the sofa and clutch, feeling lucky; (…) hope is an axe you break down doors with in an emergency' (ibid, p. 35). In other words, hope is a phenomenon that calls for action and active involvement, although it does not guarantee success (Unger, 1984, p. 245). It provides us with the desire for change and the ability to respond to the challenges of our own lives with action. Hope can be also understood as a form of trust in an unknown good that will come into existence when we strive for it.

The strong connection between hope and utopia was claimed by Bloch, who supported utopian thinking as a way of encouraging hope in his magnum opus *The Principle of Hope* (Bloch, 1986). It inspired Levitas, who claims that a utopia has the capacity to embody hope (Levitas, 2013, p. 108). To understand the relationship between hope and utopia, let me briefly introduce two great ancient stories of wandering which are deeply rooted in our culture. One of them comes from the Ancient Greek tradition – the Odyssey; the other one from the Jewish tradition – the Book of Genesis and the Book of Exodus.

The Greek hero Odysseus set sail for Ithaca after the Trojan War, yet his journey home was full of challenges and obstacles and took him a very long time. The Biblical fathers – Abraham and Moses – left their homes and went away into the unknown, guided by God.[15] While Odysseus's journey aims

[15] 'The Lord had said unto Abram, get thee out of thy country, and from thy kindred, and from thy father's house, unto a land that I will shew thee' (Gen. 12:1). Cf. Ex. 6:2–4.

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at a return to a known place which he had once inhabited and abandoned, Abraham and Moses cannot return to the place of their origin since this place is not their home anymore – their home is placed in the future. The journey of the Israelites is aimed at arrival rather than return, it is future-oriented, unfamiliar and unexpected. In the former tradition, home is something that has been lost and must be regained; in the latter – home is something that is promised and that must be achieved and built anew (cf. Levinas, 1986, p. 348).

Both movements are driven by different inner desires. Odysseus, who wants to return home, is driven by *nostalgia* – a longing for the past. The term 'nostalgia' comes from the Greek words 'nostos' (return) and 'algos' (suffering), 'so nostalgia is the suffering caused by an unappeased yearning to return', as Milan Kundera (2002, pp. 5–6) notes. The biblical story, on the other hand, represents the inner courage of moving forward, leaving the past behind, exploring the unknown and building the future by our own means. Thus, the wandering of Abraham and Moses is driven by *hope* – a longing for the future. These two modes of spiritual desires are central for our inner development and transformation, and they can also be translated into the political realm.

According to Cioran, utopian thinking is mostly driven by the spirit of nostalgia, since the idea of an earthly paradise derives from 'a nostalgia reversed, falsified, and vitiated, straining toward the future, obnubilated by "progress," a temporal rejoinder, a jeering metamorphosis of the original paradise' (Cioran, 2015, p. 146). In a utopia, the future is treated as a panacea for all the failures of the present and past and identified with 'a timeless history', which is a contradiction in itself (ibid., pp. 146–47). A similar point was made by Ricœur, who claimed that utopia is futuristic only to some extent, and it can conceive a return to the roots as well (Ricœur, 1986, p. 308).

Utopia is the longing for *Heimat*, as Bloch writes, which is 'a quest for wholeness, for being at home in the world' (Levitas, 2013, p. 12). Yet Bloch rejects the idea of utopia as driven by nostalgia (Wegner, 2002, pp. 19–20). A nostalgic utopia rests on an assumption of 'ahistorical essence' of the human condition that was 'lost' and must be found again. Bloch, on the other hand, assumes that history is a process of permanent change, one in which the human condition is also being transformed. Thus, according to Bloch, a utopia is directed into a future which may bring something radically new and unexpected and therefore it becomes an expression of hope.

In my opinion, utopia in the common usage of the term, which aims at the creation of an earthly paradise, is driven either by nostalgia or embodies the Promethean spirit. Prometheus was the one who brought the gift of fire to humanity, the price of which was that people had to pay with suffering since he also 'brought blind hope to settle in their hearts' (Aeschylus, 2012, v. 275, p. 14). Blind hope means an illusion of the attainability of a perfect world, which brings about its opposition and total disaster.

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Yet utopia as a method for exercising the social imagination is driven rather by hope than nostalgia and therefore can open up our minds to new possibilities and provide us with new sources of energy for social change. Exercise in the social imagination is necessary to awaken our passion for the possible: the unexpected and unknown. Radical hope, as was mentioned in the Introduction, is also necessary to respond with trust to the future of the world, notwithstanding our current inability to foresee and fully understand what it might become. A utopia can be understood as a method of expressing our desires for a better world, but it should be combined with a self-critical approach that takes into account human vulnerability and imperfection, and distinguishes the real from the imagined. This method can be used in the politics of hope, which I understand as an attempt to overcome the dichotomy between the politics of faith and the politics of scepticism. The politics of hope means the courage to leave the inhabited land and set out towards the mystery of the land to be. It is an openness to the world to come and trust in making this world our home again and again.

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7. The utopian ideals of the political order of the European Union: Is a European republic possible?

Jan Willem Sap

1. INTRODUCTION

The European ideal is not new. It is an old idea that can be traced back as far as Charlemagne. But for centuries it has also been linked to the concept of a federal Europe. This idea, first supported by pioneers and visionaries, was picked up by industrial organisations who argued for competitiveness within the common market. After the fall of the Berlin Wall (1989), Europe was increasingly brought as a sort of utopia, an ever-closer union with the aim to promote peace for the healing of Europe (Rifkin, 2004, pp. 19–20, 398–400; Den Boer, 2007, pp. 153–59, 209–12). The word 'utopia' as presented by Thomas More in his book *Utopia* (1516) is used for an imaginary idyllic state where every aspect of life and society is perfect. It is a phantasm and a literary style by authors who want to criticise their own society by using a fictional country, directed to reform the existing order. The concept of Utopia is a clever technique to consider if other ways of living are possible in the future (Todd & Wheeler, 1979). Over the years the word 'Europe' became about the pursuit of peace, coordinating peaceful relations between the nation states. 'Europe set out what was universal, and required States to act in the light of it, Europe became, therefore, about acting in the name of humanity, science or progress' (Chalmers et al., 2019, p. 6).

One market, one currency, one democracy; everybody enjoying equal rights before the same laws; one person, one vote; no taxation without representation. That is what democracy should be all about, with decisions made as transparently as possible and most in line with the wishes of citizens as possible. However, in the European Union this is not currently the case. Opposition against the system has been building up. Some British politicians have been underlining that membership of the Union to them was not attractive anymore (Power, 2009). Within Vote Leave were cabinet members and prominent

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supporters. Leaving the EU would mean taking back control. Therefore, Brexit was not a complete surprise. It was also the result of populist politics. But is taking back control really possible in an era of globalisation? Naturally, thanks to international cooperation, a lot has been achieved since the Second World War, but what has happened to the calling for a 'United States of Europe', so timely addressed by Winston Churchill in a speech on 19 September 1946 at the University of Zurich? Is further integration of Europe still the aim? Because of all the different languages in Europe, the European Union cannot become a melting pot such as the United States of America. According to French President Emmanuel Macron, it is the responsibility of the institutions and citizens of the European Union to keep bringing the European idea to life, to make it better and stronger, and not to stop at the form that historic circumstances have shaped it into at this point in time. The form may change, but the idea remains (Macron, 2017). The lack of identification with the European political project among European populations is a problem. Kølvraa argues that political myths entail narration of communal origins and utopian horizons of the communal future. The disenchantment with the political project might be partly due to the fact that its original utopian horizon, peace in Europe, seems to have been achieved (Kølvraa, 2016), except in Ukraine.

Over the centuries a lot of power was consolidated in the nation state and its bureaucracy. So Europe was identified with the coordination of peaceful relations between these nations states. The associations with peaceful coexistence morphed into Europe being identified with what human beings had in common. Doing business with someone in another state can help building up friendly relationships and fair trade. Searching for perfection always carries the risk of neglecting human reality and becoming tyrannical. The same is true for forcing people to accept a specific ideal of Europe by violence (French Revolution, Napoleon, fascism). Nevertheless, utopian ideals are necessary to inspire people and organisations: these ideals can function as goals and they can motivate people to explore new possibilities and make new actions. The creation of an alternative and better world in our imagination, the integration of Europe, can help to look at our world from a distance and, for instance, motivate us to develop special relationships with neighbouring countries.

One of the most influential sketches of the European ideal was written by the great German philosopher Immanuel Kant, a visionary who concentrated on the conditions humanity would have to fulfil to achieve 'perpetual peace'. By insisting on perpetual peace, Kant managed to link morality and public legal justice. According to Kant, persons should be treated as ends in themselves, not as means to arbitrary ends. Kant wanted morality to shape politics, but not becoming the motive of politics, because politics cannot hope for good will (Riley, 1987, pp. 265–67). International politics is always influenced by competing economic and military powers, in a way frustrating and sometimes

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hopeless. That's why politics ought to bend the knee to morality. Kant's cosmopolitanism can be seen interpreted as a utopian message of hope for the world. Ruth Levitas sees utopia as a reflexive method for conceiving a better future in difficult times (Levitas, 2013, p. xi).

Kant's work sounds utopian and liberal, but the Kantian idea appears to have an arrogant twist to it as well. Eurocentrism sometimes forgets about the history of intolerance and racism. There was a time when Europe with its high standards and strive for perfection thought of itself as the world, the rest to be discovered and colonised. The European ideal and civilisation even tried to define the universe (Wolf, 2010). High ideals needed to be grounded on earth, and after the Second World War politicians with great passion managed to start the long process of European integration we now know as the European Union. Kant's idea of federalism is still relevant and should eventually envelop all nations, but we are now more aware of the fact that capitalism forces a uniformity on peoples that can destroy local customs. In what way can the federal idea of Kant, the association of Europe with noble ideas, still be fruitful for the European Union as a republic?

After this introduction, the second section contains the main characteristics of the Kantian idea of Europe. In the third section we notice that his theory about perpetual peace, progress and liberal ideas did not prevent colonialism. The fourth section presents criteria against which the federal idea of Kant might be amended, following a critical Enlightenment attitude on cultural imperialism. Kant's work has a strong universal message, but if we place it facing the later imperialism of Napoleon, there are defensive cultural elements that can be linked to the tradition of the Reformation and German culture, accessed in the fifth section. The sixth section of the chapter pays attention to the longing for a European republic. Peace as a moral end can be approached in a legal way by establishing a European structure that can bring rational citizens to power to maintain peace and democracy in Europe. The seventh section draws conclusions in relation to the necessity that the variation in local customs and ways are tolerated by the institutions of the European Union.

2. THE KANTIAN IDEA OF EUROPE

Since the eighteenth century the Kantian idea of Europe has been relevant for over 200 years. Immanuel Kant was born in 1724 in Königsberg (Kaliningrad), East Prussia. After working as a private tutor, he became philosophy professor in Königsberg in 1770. After he had published several other philosophical works, he wrote essays like *Idea for a Universal History from a Cosmopolitan Perspective* (1784) and *An Answer to the Question: What is Enlightenment?* (1784). As a consequence of the French Revolution, Kant became more interested in political theory and practice. In 1795 he published *Zum Ewigen*

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Frieden, translated in *Toward Perpetual Peace: A Philosophical Sketch*. Kant died in Königsberg in 1804.

The central idea for Kant was to tame the status of international anarchy in which the states lived by making this anarchy subject to law instead of the threat of war. Just like Thomas Hobbes, Kant started his theory with states being in a condition of war, and as a solution, he defended the need of a constitutionalising of peace. States were a sort of lawless savages. Peace had to be established on a different basis than a balance of power. Kant anticipated the ever-widening pacification of a liberal pacific union. He also explained why liberal states are not pacifistic in their relations with non-liberal states, meaning that the state of war with non-republics would remain, for instance absolute monarchies and nowadays dictatorships. The aim of Kant's theory is to establish the grounds on which a moral politician can adopt a strategy of peace as a practical duty (Doyle, 2006, pp. 202–206). According to James Tully, this Kantian idea of Europe has five main characteristics (Tully, 2002, pp. 331–32):

1. The European destination is a federation of sovereign, independent states that all have a 'republican' constitution with formal equality of citizens under the law, the separation of powers (the division of responsibilities into distinct branches of government, a legislature, an executive and a judiciary, to prevent concentration of power by checks and balances) and representative government.
2. Certain values hold the federation together: the cosmopolitan right of universal hospitality and the spirit of trade.
3. The federation of the European states is the model for the rest of the world.
4. The federation should be seen as the consequence of a set of historical processes and stages of world development, including the spread of commerce and the rule of law by European wars of imperial expansion.
5. Through this federal idea, the older idea of Europe as the centre of world empires dies. The effect is the transition from the idea of empire to the idea of federation, using economic power rather than war to force other nations to comply (Pagden, 1995, pp. 120–25).

Regarding the second characteristic, it was the French politician and author Benjamin Constant (1767–1830) who stressed that the economic and political processes of modernisation would lead to uniformity. Constant defended the additional value that local customs and ways should be tolerated within the independent states of the federation to prevent the dangers of uniformity (Constant, 1988, pp. 73–78, 149–56).

Crucial is that Immanuel Kant defended the idea of a federation as a replacement of the old idea of an empire. He criticised the spread of European ideas by warfare and expansion. He wanted to build a federation on the remains of the European imperial idea, the older and incompatible idea of Europe as the centre of world empires, related to European imperialism and based on war and

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conquest. Over the years this idea of federal Europe grew into a regulative ideal and subsequently came to function as a normative standard. Many people used this standard to organise and evaluate forms of political association. It showed how Europe could be seen and a normative standard was set to compare and relate Europe to itself and to the rest of the world. For instance, James Madison argued that the American federation of the 13 states in 1787 was modelled on the 'continental' idea of federation, but that the Americans added an 'Atlantic' element of active republican citizenship, in the sense of freedom and civic responsibility to serve the public good through participation at state and federal levels (Greenwood Onuf, 1998). Tully argues that the Kantian idea influenced America's goal of decolonisation, independent state-building and the League of Nations. The desire of a new era of peace and the special peace among liberal states was strongly proclaimed in President Woodrow Wilson's War Message of 2 April 1917 before entering into the war to end the war (Wilson, 1924, p. 378):

> Our object now, as then, is to vindicate the principles of peace and justice in the life of the world as against selfish and autocratic power and to set up amongst the really free and self-governed people of the world such a concert of purpose and of action as will henceforth ensure the observance of those principles.

Many years later, before as well as after the United Nations was established, the Kantian idea kept on playing a normative role (Tully, 2002, pp. 333–34). Led by President Franklin D. Roosevelt, the citizens of the United States of America believed in cosmopolitan governance when they decided to fight and defeat the Nazis. The Kantian idea of federalism helped the project of European integration after the Second World War. Later this idea played a role in the process of turning Greece, Spain and Portugal into democratic states under the rule of law, and in the process of the enlargement of the European Union with Eastern Europe in 2004, 2007 and 2013.

3. THE IMPERIALIST ATTITUDE

Without denying the relevance of the Kantian idea, it is possible to critically analyse how (some aspects of) this Kantian idea of Europe played a regulative role in political thought and action. According to Tully, the idea should be seen as a critical ideal amongst others and not as a regulative ideal in the sense of a taken-for-granted normative standard. One way to do this is to look at the five factors mentioned above. Tully pays specific attention to the fifth characteristic about the transition of the imperialistic attitude towards the federalist attitude. This would change the way states would relate to each other. Tully explains this change in 'European self-understanding' developed differently:

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European imperialism did not decline, and federalism did not develop. Instead, imperialism went into a *second* phase from 1800 until after the Second World War. In 1914 Western powers were in control of 85 per cent of the world through colonies, protectorates, dominions, etc. In 1800 this was only 55 per cent (Said, 1993, p. 8). The Western metropolis in 1914 dominated the world; Europe could be seen as the centre of a cosmopolitan federation.

Therefore, one could defend that Kant's idea promoted a form of postcolonial state-building and international organisation towards the end of phase two of imperialism. Kant accepted the older imperial foundations, bound by common commercial interests, and did permit resistance to it. Indigenous peoples had no laws and were contrary to a civilised constitution. Tully asks if the Kantian idea had a role, in the sense of changing the self-understanding of Europeans, in the ongoing imperial power during this phase, because the text was not critical of certain aspects of underlying forms of economic and constitutional imperialism. Taking a critical attitude from the Enlightenment, Kant could have used his own federal idea to question forms of colonialism, domination, the existing economic order and cultural imperialism (Tully, 2002, p. 336). Imperialism is over in our time; it ended with the dismantling of the colonial powers after the Second World War. Yet the way the West relates to the rest of the world (in a cultural sense) is not so different than it was during imperialism. Jean Bricmont (2006, p. 73) states:

> Just imagine a mafia godfather who, as he grows old, decides to defend law and order and starts attacking his lesser colleagues in crime, preaching brotherly love and the sanctity of human life – all this while holding on to his ill-gotten gains and the income they provide. Who would fail to denounce such flagrant hypocrisy? And yet, strangely enough, scarcely anyone seems to see the parallel with the West's self-anointed role as defender of human rights, although the similarities are considerable.

Therefore, imperialism is not a closed chapter in history, but rather an ongoing process. Although the European Union likes to think of itself as just being active in economic diplomacy, there is a 'new urgency' to understand ideas that carry imperialistic notions. Tully argues that the Kantian idea of Europe can be seen in this light. As an example, he mentions the problems that arose in democratising or Westernising postcolonial states and Eastern Europe after 1989. Through ideas and institutions, entrepreneurs, political leaders and soldiers brought forth a form of imperial power. The colonised people have been forced into a cultural identity by the colonisers. Whatever the decolonised countries do, they can never be equal to Europe. A new identity had to be found, discovered and invented. If you become independent but use the institutions and ways of the coloniser, you get cultural dependency. This means that the Kantian idea of free states and federation is not culturally neutral, but can

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be used by politicians and judges in the process of an assimilating European identity (Tully, 2002, p. 339). Makau Mutua describes a seemingly incurable virus: 'the impulse to universalise Eurocentric norms and values by repudiating, demonising, and "othering" that which is different and non-European' (Mutua, 2001, p. 210).

These struggles do not only take place in former colonies through wars of succession (e.g., Soviet-Union after 1989, Vietnam, Algeria), but also within constitutional states. Groups (immigrations, refugees, multicultural citizens) fight for cultural recognition and their own way of life, for instance the Black Lives Matter demonstrations (2020). Through politics, shared institutions, and federations, they will prefer a focus on the cultural plurality of the population. And why not? There is nothing wrong with starting state-building from below, just as the political leaders and peoples of the 'cantons' organised federalism in Switzerland, a state with 'sovereign' cantons and four different languages (Sap, 2014, p. 35). To express the differences and respect each culture as their own, instead of pretending they are part of the dominant culture's identity while 'masquerading' as universal and difference-blind (Taylor, 1994, p. 44). There will always be differences between cultural groups. It is this diversity that makes a society attractive. A better functioning union, closely connected to the citizens, can be possible if Europe would give a bigger cultural role to the regions. This idea had already been presented to Helmut Kohl (1930–2017), the chancellor of (West) Germany (1982–1998), before the Maastricht Treaty (1992) was signed: a 'Europe of the Regions'. Do we really need governments of nation states to run large industries and companies? The Dutch government is giving aid to KLM (Royal Dutch Airlines), the smaller part of Air France-KLM, with a risk for the Dutch taxpayer of 3.16 billion euros. One of the vital questions in parliament was: is KLM in the kernel a healthy company? The vague answer of the Dutch government was: 'KLM was a healthy company in a very competitive sector, so the profit margins are low.' It is very risky for a government to sit on the chair of an entrepreneur (Tamminga, 2020). The main idea of the internal market of the European Union is an area without internal frontiers, preventing state aid in an open market and ensuring fair competition between undertakings.

Only after the Second World War there has been a critical stance on imperialism. It is defendable to challenge the idea that federalist states are (culturally) impartial or neutral. Thus, the regulative ideals of Kant that have impact on the way we perceive the world today should also be critically looked upon. Because even an idea of tolerance can be intolerant towards certain things. The three main aspects of the Kantian idea that have been subject to criticism are: (1) the conception of cultures; (2) the relation of cultures to constitutions and federations; and (3) the procedures that render a constitution impartial and legitimate.

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Tully (2002) also considers the fourth characteristic of the Kantian idea: that the federation should be seen through the lens of historical events and stages. The federation is the consequence, a culmination of the history of rule of European law through wars and imperial expansion and the spread of commerce. According to Tully this is an 'umbrella idea'; it ties together all the other ideas and implicates that history is linear, that history is a process that improves over time. All societies are on hierarchically arranged levels of historical development, with European societies approaching republican constitutions at the highest level, as well as the universal standard for the societies on a lower political and economic level. This is a rather controversial idea, high and low cultures, because it ties together with European arrogance and can justify (bad) actions like a colonial war, for instance by the Dutch government in Indonesia (1945–1949) (Sap, 2020, pp. 197–214). It is not easy to demonstrate that a process gets better or worse. For Kant, the history of the world was set in stages, and we were approaching the highest state. Fukuyama had similar ideas towards the end of the twentieth century, derived from the Hegelian synthesis. According to Kant, and most certainly many similar-minded Europeans, other countries in the world had not yet reached the stage that Europe had reached. Progress became something that annihilates older/native traditions and culture.

Kant states that wars, unsociability, antagonisms and problems drive men to do greater things, to attempt things and through that leave the lawless state of savagery and enter into a federation of peoples. Otherwise men would just be happy, simple and peaceful sheep. This is called the course of improvement. This happened in Europe, stressed Kant, because of certain national characteristics of Europeans, characteristics that other people did not possess. This assumption by Kant can legitimise European dominance and its consequences and can be dangerous. In this sense Kant's worldview is imperial in three ways:

1. It ranks all non-European cultures as inferior compared with presumed direction of European civilisation towards *the* universal culture.
2. It legitimates European imperialism, not in a sense of being right but in the sense that it coincides with nature and history and the precondition of an eventual just order, both national and international.
3. It is imposed on non-European peoples as their cultural self-understanding in the course of European imperialism and federalism.

In the international debate about racism, the question if Kant, the famous German philosopher, was a racist brought about a scandal in the German newspapers and was also brought as an important new fact in a Dutch paper (Eijsvogel, 2020). In the period before *Towards Perpetual Peace* was written, Kant described the 'yellow', 'negro' and 'copper-red' races as having

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serious deficits to 'whites' and lacking the capacity to govern themselves. He defended colonial rule by the 'whites' and the exploitation of non-white slaves. For Kant, not all men were equal, and he was against voting rights for women. We have to consider the *Zeitgeist*, but it is true that forms of cultural disrespect such as racism, sexism, a priori ranking of citizens' cultures as superior or inferior are forms of oppression and injustice (Tully, 2002, p. 346).

Because of the danger of imperialism, decolonised people should invent their own form of identity. A former student of Kant, J.G. von Herder (1744–1803), criticised the ideas of Kant early on and stressed that cultural pluralism is more important than cosmopolitanism. Von Herder attacked two presumptions: the notion that all cultures can be ranked relative to a European norm and that they all develop (once they come into contact with the more civilised nations) toward the highest level. Von Herder stressed equal respect for all cultures. The differences between Kant's idea and the cultural plurality idea are: (1) respect for cultures versus superiority over cultures; and (2) citizens can also bear more cultural identities, not just one (plurality); culture is closely related to identity (plurality); feeling superior over others undermines the conditions of self-respect required for free and equal citizenship according to the pluralist.

4. KANT'S IDEA AMENDED

According to Kant, the constitution of every free and independent nation state should be more or less the same. If the constitution is republican, this means that it treats each citizen as equal. This also counts for a monarchy where the king or queen has a symbolic function and the state is a democracy under the rule of law. To be equal before the law, every individual should be treated in the same way. This is Kant's impartial equality. It is striking that the emphasis here is on freedom, no duties only rights. Also remarkable is that not much attention is paid to the economic situation of the citizens. The daily struggle for income is probably a greater concern for many (poor) citizens, for instance in Eastern Europe, than abstract principles. Besides impartial equality there is also an assumption that equality also respects differences in cultures. Impartial equality requires blindness for differences. The criticism goes further and states that a mould is not a neutral mould, but a mould of the dominant culture and the mould forces other cultures to be something they are not. Charles Taylor (1994, p. 43) states: 'Consequently, the supposedly fair and difference-blind society is not only inhuman (by suppressing identities) but also, in a subtle and unconsciousness way, itself highly discriminatory.'

Difference-blind impartiality develops into forcing a dominant culture upon other cultures. One solution is that the constitution must be difference-aware or diversity-aware, i.e., it must accord due recognition and respect to the cultural differences of all citizens. Article 27 of the International Covenant on

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Civil and Political Rights states: ‘In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.’ This respect for differences is also an important element in the debate about religious education (Sap, 2019, pp. 77–88). A second solution is that different cultures have different institutions of self-government, which can conflict with Kant’s idea of everyone adhering to one ‘common’ legislation. It is the federalisation of the federation. Tully states that an example that exposes the limitations of Kantian constitutionalism and federalism is the European Union. Citizens are dependent on more than one source of legislation (local, regional, provincial, national, federal). It is also problematic that the principle of one (wo)man, one vote is not the case in the European Parliament, because the citizens of small member states are much better represented than the citizens of large member states, and this can lead to a lack of respect for the work of the European Parliament in the large member states (Germany). Another example is the unfair treatment of indigenous people in former European colonies. They are treated as savages unable to take care of themselves and seen as inferior to other civilians.

Should the native Americans, almost destroyed by the European settlers, be treated the same way as the rest of the American citizens? That would be unfair. Indian tribes should have room for some sort of sovereignty in their own sphere, in their Indian reservations with their own laws. According to Tully, it can be said that the laws of the federation of the five Iroquois nations is a better concept for global federalism than the Kantian idea, precisely because that federation of the Iroquois nations respects and recognises cultural diversity (Tully, 2002, p. 353). Treating everybody equally without taking into account what has happened to the native Americans in the past would mean a denial of their identity. The same can be said for the necessity of showing positive treatment and respect for the posterity of slaves, because in a way weak family structures can still be seen as an effect of the selling of slaves on the slave markets, even in the nineteenth century, destroying family life.

I draw on the critical work of Tully to argue that the dream of Kant can still be relevant today, as a realistic utopia. Through a critical Enlightenment attitude on cultural imperialism, Tully shows that it is possible to view Kant’s ideas differently. Kant’s concepts of constitutions and federations should be amended, specifically the ideas that equality always entails difference-blind treatment and that there must be one place of authority in a constitutional association (Tully, 2002, p. 353). All cultures and differences deserve respect. Dialogue among different cultures is important for a solution – learning from each other and broadening and fusing horizons. Had Kant done this he would have had new insights on the people he deemed as lesser, about barbarism

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and people who are still at the hunter-and-gatherer stage, but also on his own idea of Europe. Dialogue or multilogue could have become part of his idea of Europe: cross- or intercultural dialogue as part of enlightenment or as a citizen's duty.

A cultural difference is worthy of respect and some form of recognition if it can be shown to be reasonable. It is reasonable if through the exchange of public reasoning among free and equal citizens, the cultural difference in question can generally be explained to citizens, meaning that the constitution should rest on the agreement of the sovereign people through processes of deliberation. Identity-related cultural differences receive some form of recognition if they are reasonable, for instance the use of the Frisian language in schools in the Dutch Province of Friesland. Forms of cultural disrespect, the assimilating of minority cultures, undermine the conditions of self-respect required for free and equal citizenship (Tully, 2002, p. 347). This means we have to look differently at democracy and at constitutionalism. It could lead to the obligation to reject a conception of citizenship that is 'worked out ahead of time' based on 'supposedly universal principles and then arguing that any identities with non-political aspects which are incompatible with this notion of citizenship are unreasonable', according to Anthony Simon Laden (1996, pp. 338–39). One should not start from a conception of citizenship, but from an ideal of society ordered by a shared political will formed through a process of reasonable political deliberation (Laden, 1996, pp. 338–39). This means that constitutional reforms should not be organised top–down but should profit from democratic deliberation in the society and in parliament. A problem with this is that many citizens are primarily focusing on gaining an income to survive; they are not interested enough in their democracy under the rule of law and the exchange of public reasons.

In this book, Bart van Klink conceives the rule of law as both a utopia and an ideology, while Elion-Valter stresses that utopias are potentially ideological fairy tales. Whenever treated as a universal idea, Kant's idea of Europe is utopia and ideology; it is under criticism because it continues some form of cultural imperialism. When critically looking at his idea, it can be reinterpreted. Tully looked critically at the Kantian idea in a specific way. Stressing the importance of dialogue and recognition of cultural diversity, Tully made the Kantian idea more cosmopolitan. Cultural differences can be worthy of respect and recognition, if it can be shown to be reasonable in public dialogue, made good to citizens generally (Habermas, 1995, pp. 109–31; Rawls, 1995, pp. 132–80). Over the past 200 years scholars have reflected on Kant's work. Using a 200-year-old idea as a regulative or normative ideal in politics, without critically analysing its implications and unforeseen consequences, can keep cultural imperialism alive. It can prohibit Europe from integrating and connecting in an open way with the world. On the other hand, it is also possible to

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look at the Kantian idea of Europe not as imperialistic, but more as a typical German way of saving the treasures of German cultural inspiration. Although the starting point for his philosophy of history is purely theoretical, Kant's work is sometimes interpreted as not so much consisting of a theory about facts but more on the ground of religious faith on a priori duties and ends – basically an expression of moral-religious hope (Wood, 2006, pp. 244–45).

5. EVERYONE A BEARER OF THE TORCH

To understand the background of the Kantian ideal of Europe, we have to pay some attention to religion. In 1751 the philosopher Voltaire (1694–1778) described Europe as 'a kind of great republic, divided into several states, some monarchical, the others mixed but all corresponding with one another. They all have the same religious foundation, even if it is divided into several confessions. They all have the same principles of public law and politics unknown in other parts of the world' (Voltaire, 1751, Chapter 2, p. 6). Broadcasting to a defeated Germany in 1945, the poet T.S. Eliot (1888–1965) reminded his audience that despite the war and the closing of Europe's mental frontiers because of the excess of nationalism, 'it is in Christianity that our arts have developed; it is in Christianity that the laws of Europe – until recently – have been rooted… An individual European may not believe the Christian Faith is true; and yet what he says, and makes, and does, will depend on the Christian heritage for its meaning' (Davies, 1996, p. 9; Power, 2009).

A pivotal development in the history of Christianity was the sixteenth-century protestant Reformation. It was Martin Luther (1483–1546), a former monk who married a runaway nun, who had defended the idea that everyone is a priest. When you send inspiration, the Word of God, into the valley of tears, where men live blinded by their sins and in despair, all the chains of the oppressed will cease to be. It is the preceding voice of God that will restore Creation, it is the Truth that will set you free. All our misunderstanding cannot resist the pure Gospel, *die reine Lehre* (Rosenstock-Huessy, 1969, p. 411). Protestants supported the assertion of justification and the living authority of *sola Scriptura* (Quere, 1992, p. 228). The sixteenth-century protestant Reformation in Germany (1517) can be seen as one of the most important revolutions in Europe, also because it made an end to the *corpus christianum*.

The Gospel, translated and explained in the language of the people, preceded the political reality. The pulpit was a prophetic voice, sowing the future. It was from the pulpit of the university, the 'Katheder' (chair), that students were trained to become active in the government and work for the public good. 'Luther changed the Church from a neighbour in space to a prophet in time… the "Katheder" of a German university was surrounded with the halo of a sacrament', stated Rosenstock-Huessy (1969, p. 412). The

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state in German regions has been inspired again and again by these prophecies. Universities in Germany became the keepers of the nation's conscience. The theologians dominated first; after the Thirty Years War, the law professor took up the leading role as trying to define the European Conscience. Inaugurated by Immanuel Kant, the political leadership of the university migrated from law to philosophy. Rosenstock-Huessy states (1969, p. 414):

> Philosophy became the external and more general application of Christian principles to the universe. That is the key to the attitude of many German philosophers. By 'Weltanschauung' they meant the re-phrasing of theology in the language of the layman. They expanded the Lutheran mission of 'Every Christian a priest' into the philosophical principle of 'Every man a bearer of the torch'.

Because of the unique birth of the Reformation in 1517 in Germany, the German idealists wanted to defend a certain system of values made possible by this European revolution. They sacrificed the letter of theology to save the spirit of the Reformation for an enlightened world (Rosenstock-Huessy, 1969, p. 415). The Lutheran gospel of the living spirit, as preached by the clergymen, would remain.

When the French Revolution proclaimed the new gospel of a European civilisation of free and equal brothers, many philosophers in Germany looked for a way to save the treasures of German inspiration against the invasion of the crude French enlightenment, the invasion by French soldiers. The Germans defended their system in the basis of the moral backbone of hundreds of educated governments in all their regions, towns and villages. The long process in which the spirit had cultivated in Germany was named 'Kultur', and they demanded it should stay intact against the French 'civilisation'. Kant used cosmopolitan language. With his work *Towards Perpetual Peace*, he too was standing for the universe.

Because in principle there ought to be no war, Kant defended the command that states have to leave the state of nature and they have to enter a union of states in favour of reasonable international law. According to Kant, the law is based on the command that everyone has to enter the civil situation where everyone can assure his property against others. A problem with the observance of this unconditional command is that Kant saw no room for the right of resistance by subjects or the lesser magistrates, as is the case in Calvinistic political theory, because he interpreted such a right as resisting against the law itself. With this, Kant relied on the 'volonté générale', like Jean-Jacques Rousseau in his *Du Contrat Social* (1762), and Kant combined that with the interests of the state (Rousseau, 1978; Woldring, 1993, pp. 139–40). Based on the republican inspiration from the city-state of Geneva, there was no real distinction between state and society. In Geneva the working class was much

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better educated than in the rest of Europe, so that made democracy a bit easier. Kant failed to separate the idea of (reasonable and natural) law from the law made by the sovereign (Van Eikema Hommes, 1972, pp. 151–52).

Nevertheless, Kant's federalist idea can be used in a very fruitful way without having to accept his eighteenth-century views about the will of the sovereign as being the law or about higher and lower cultures. There is still discussion about the question of whether the Kantian idea is really cosmopolitan or that it only has cosmopolitan intent. From the perspective of diversity, it is attractive to interpret the Kantian idea as an example of patriotism dressed in the cosmopolitan coat of permanent reformation against threatening imperialism from abroad, i.e., the soldiers of Robespierre or Napoleon. The function of utopia can be seen as a catalyst of transformative change (Copson in this volume). The Kantian idea of Europe is still fruitful if we see Europe as an identity that expresses itself in a specific ethos of the public sector (Klop, 1993, p. 367). Based on this inspiration there is room for doubt, critical reflection and reformation, as Jürgen Habermas, inspired by the federal idea of Europe, has shown in his essay about the European constitution (Habermas, 2012).

6. THE LONGING FOR A EUROPEAN REPUBLIC

Notwithstanding the creation of the European Union, almost 30 years after the negotiating of the Maastricht Treaty (1992) the political union has still not been realised. Neoliberalism has been hollowing out the welfare states. The euro crisis, the Greek crisis, the refugee crisis and Brexit made the citizens lose their connection with the political project of the Union. There is the danger of the political body falling apart. Sometimes Brussels gives the impression of sinking in a marsh of technocracy. The European Union seems to have difficulties to function in the right way and seems in need of a new transnational foundation of the body politic. Out of frustration, the thinker and activist Ulrike Guérot wrote the book *Why Europe Should Become a Republic! A Political Utopia* (2019). According to Ulrike Guérot, people want two things from Europe: protection and identity. According to her it is strange that the nation states still determine how we, the citizens of the Union, elect, pay taxes and decide what rights we have. She regrets the strong position of the European Council at the cost of the European Commission and European Parliament. She even declared that the European Union as a 'federation of nation states' is dead (Vogtmann, 2016).

When people unite for a political project of citizens, the fitting word, according to Guérot, should be 'republic'. The word republic sounds more impressive than 'federation of nation states'. This ideal of the European Republic could possibly satisfy the need of the people for a collective sense of identity. The European Council and the Council appear to be the big institutional problems,

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because politicians will always want to play the national card. Would it not it be more democratic if the will of the European Parliament had the biggest say in the rules of the European Union? Even French President Emmanuel Macron, in a speech on 26 September 2017, one of the big players in the European Council, prefers to not just speak about integration anymore. He wants to speak about European unity, sovereignty and democracy. In his view European sovereignty, what we always connect to the nation state only, would be the best answer to the questions and doubts of citizens (Macron, 2017).

In the background there is this longing for a European republic, meant to better safeguard the European ideal for the future in these difficult times. The European Union has many more identities than the nation states in a federal United States of Europe (Van Helmond, 2015, pp. 169–209). We can name distinctive regions like Bretagne, Sicily, Rhineland, Bavaria, etc. A huge problem is the differences in size of the EU member states and these regions, some with small and some with large populations. What could help is to create 25 regions of 8 to 15 million people – this is an optimal size for a political system. Everybody would know someone who works for the government. It would be an invitation for the citizens of the member states and the Union to participate more in the governance of the European federation, showing more civic responsibility. Following that line of thinking, the European Union could create, besides the directly chosen European Parliament, a senate with two senators per region. The European republic would not replace the constitutional, regional, cultural and local identities of the peoples; it could act as a roof. About 50 regions would then be represented in the Senate, and a House of Representatives for the whole (all the citizens with equal voting rights).

7. CONCLUSION

After *Toward Perpetual Peace* was published, it still took many years for European federalism to develop. The Kantian theory about perpetual peace, progress and liberal ideas embodied the danger of keeping European imperialism alive. European imperialism dominated more than ever during a period that lasted from 1800 until 1945. The nation states fought many wars against each other. Citizens in Europe did not want to be part of an empire and dependent on one common source of legislation. Learning from James Tully's critical attitude toward the Kantian idea of Europe, we have to interpret the Kantian idea not as a regulative idea. However, we can interpret elements of it as inspiring, and see it as a message of hope and peace for a federal Europe of independent states with room for local customs that do not conflict with principles of justice like human rights. This is better than the imperial idea as associated with Napoleon. The federal idea of Kant, the association of Europe with noble ideas like the cosmopolitan right of universal hospitality and the spirit of trade, needs

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the addition of the toleration of local customs within independent states. And the federation has the obligation to protect this diversity. Of course, the desire to prevent too much uniformity can conflict with the concept of the internal market, and this desire for uniformity coming from 'Brussels', the capital of the European Union, is probably one of the reasons for the tensions with member states like Hungary and Poland, and also earlier the United Kingdom. Of course, the position of the member states of the European Union is different because of the signed treaties. But the dualist argument that international law, through direct effect and independent judges, could undermine democratic decision-making in the state is still relevant (Klabbers, 2017, p. 323). This is especially the case for populist politicians who believe that only they are the will of the people – chosen leaders who place political friends in the constitutional court, eliminate critical journalists and critical leaders of the opposition in parliament. These politicians do not seem to care a bit about pluralism in society and have to stop violating the rule of law and human rights.

Even if one doubts if the Kantian idea, with its stages of development, should be seen as a utopia or prototype for the world, one cannot deny its normative role in the establishment and governance of the United Nations and the European Union. It is international law that makes it possible for states to exist. The European Union evolved into a huge market and an influential soft power that seeks to promote democracy and the rule of law in the European Union and neighbouring countries. Elements of the Kantian idea of Europe remain necessary to prevent the political body of the European Union falling apart. The aim for a European republic can be based on a federation that has respect not just for the nation states, but also for the regions, the cities and the citizens. Europe is an ideal and the reality will never be perfect. But adding cultural diversity to the Kantian idea of Europe, that does not conflict with human rights, could bring the citizens closer to the European republic.

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8. 'The coming community': Agamben's vision of messianic politics

Oliver W. Lembcke

1. INTRODUCTION

The pandemic has posed a challenge to intellectuals. It is hard to criticize the government if parts of the public too quickly take such a critique as a denial of the real danger of Covid as an act of 'COV-idiocy'. Few have ventured forth, and a few half-heartedly. Even to the usually opinion-strong Žižek, little original fell: 'The human being is much less sovereign than he thinks. He carries on what he is told' (Žižek, 2020). Well. It is not surprising that one voice, in particular, got through with such competition, especially since it only had to repeat what it had already made heard repeatedly before. As dangerous as the situation may be for a soon-to-be 80-year-old Italian, the current pandemic must seem like the authentication of his theses during his lifetime – about 'naked life' and the general state of exception into which politics has forced us.

A broad public knows Agamben through his study *Homo Sacer: Sovereign Power and Bare Life* (1998). In this writing, as in other texts which are part of the *homo sacer* project,[1] Agamben outlines a comprehensive and radical critique of society. This critique is deliberately blind to social evolution and compares modern mass society with ancient communities in Rome or Greece; likewise, it wants to know nothing of supposed systemic differences between democracy and dictatorship, liberalism and extremism, the rule of law and lawlessness. Law, in general, is toxic. Agamben pays special attention to it since law best expresses the dialectic of promise and betrayal that, in Agamben's eyes, has accompanied politics from the beginning and made it such a hostile complex of biopolitics. This complex not only feeds on crises; it is the crisis of life itself, which is daily at stake in dependence vis-à-vis politics.

[1] See his anthology *The Omnibus Homo Sacer* (2017).

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Against this background, it is hardly surprising that Agamben immediately had a booklet ready to describe the current crisis (Agamben, 2021).[2] The following sections trace this logic and pursue the crucial question of this contribution: whether Agamben's philosophy also opens a perspective that leads us out of the misery of biopolitics. Put differently: Is there a moment of utopia encapsulated in his dystopian vision? To answer this question, we need to start, first, with the concept of biopolitics. Where does the hell of biopolitics come from in the first place? How could it come about that we all – indiscriminately – have become *homines sacri*? Agamben's answers lead us into the dark realm of politics. Politics becomes biopolitics through its connection with the law (2). Yet, this fatal connection between politics and law seems to imply that hope arises to the extent that it is possible to break this connection. Can we hope for such a rupture? According to Agamben, yes – and we need to understand how, the second step of this analysis. It contains a different conception of politics, one that borrows heavily from the idea of messianism (3). In general, Agamben's writings are considered rather vague or 'opaque', as he would say. In the practical dimension of his philosophy ('what can we do to arrive at a different, better politics?'), his indications are highly sparse. In a third step, we try to follow these hints and reconstruct them in a broader scheme of utopian thinking that seems close to Levitas's *Utopia as Method* (2013) (4). In sum, these steps help us answer the overarching question of whether Agamben sees hope in this world of biopolitical power.

2. WHY DO WE HAVE TO SUFFER?

According to Agamben, the interplay of inclusion and exclusion is the hallmark of every ruling power. It gives law the logic of sovereignty from which the (legal) figure of the *homo sacer* arises. *Homo sacer* is that mysterious figure of archaic Roman law whose existence Sextus Pompeius Festus refers to an incomplete treatise (Agamben, 1998, p. 61). Someone is called 'sacred', accused of a crime by the people, and is therefore considered immoral or impure. Thus, *sacer* does not mean 'holy'. Instead, it means being separated from the rest of the community and, consequently, excluded from the law. A person separated from the law may not be sacrificed and is no longer part of the religious order (*ius divinum*); this person is also no longer part of the secular legal order (*ius humanum*). Hence, *homo sacer* is outlawed, with the consequence that anyone with impunity may kill the separated individual. In this perspective, the *sacratio* marks a double exclusion from the law

[2] So Agamben continues the project *Homo sacer* – a project that, according to its logic, probably cannot be ended at all, but only abandoned.

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(Agamben, 1998, pp. 69 ff.): Suppose another person kills the *homo sacer*; he commits neither a murder nor a sacrilege. An outlaw's life is nothing more than mere life – a bare life.[3]

2.1 Bare Life

In Agamben's reading, the original meaning of the term *sacer* (or *sacratio*) does not lie in the religious realm but in the politico-juridical context, namely, in the structural connection between *sacratio* and sovereignty (Fitzpatrick, 2005). Agamben's point is that the sanctity of life, which is nowadays an argument to constrain sovereign power, derives its original meaning from submission to sovereign rule. According to Agamben, it is necessary to understand the core characteristic of sovereignty that refers to the supreme political power, which ultimately decides over life and death. Agamben, however, claims that the concept of sovereignty goes beyond that. For him, sovereignty is a form of potentiality and a structure of omnipotence. Consequential decisions do not reveal the real power of sovereignty. Instead, it is the power to decide everything without having to choose. The *homo sacer* serves as a paradigm for this form of control. Abandoned by the law, the separated individual lives a life in which everything – in the name of the law – is possible. It is not potentiality as such.

It is a form of potentiality that results in a relationship between the sovereign power on the one side and the bare life of the *homo sacer* on the other side. Law – the real enemy in Agamben's drama – connects both sides. Why? Because the law is nothing more than the form of this asymmetrical relation. Since its origin, '*nomos*' or the law does not have meaning nor purpose other than the force that maintains the power relation. Its only purpose is to hold the bare life in its ban simultaneously abandoning it (Agamben, 1998, p. 28). Not a part, but also not apart from the community – that is the fate of every *homo sacer*.

The term 'ban', introduced by Jean-Luc Nancy, is essential for Agamben to conceptualize the relationship between *sacratio* and sovereignty. Three elements are crucial in this context:[4] first, the ban creates an asymmetry in that the law sets the individual free, but the individual cannot leave the realm of the law. The *homo sacer* does not bear any rights, but the law justifies any harm against him or her. Second, the term ban expresses this peculiar normativity,

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[3] The following passages on the elements of the *homo sacer* project draw from earlier studies: see Lembcke, 2018 and Lembcke, 2016.

[4] Here and in the following sections that reconstruct Agamben's main thrust of argument, I draw from an earlier and much longer text of mine (see Lembcke, 2018), which has been shortened and refined.

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the validity of the force of law that does not have any meaning other than force (Agamben, 1998, pp. 45–52), establishing a relationship with no other content than the relationship itself. The third is the paradox of the marginal existence of the *homo sacer*, whose existence is an integral part of the legal system and at the same time excluded as bare life. One of the astonishing elements within Agamben's theoretical architecture is that this paradoxical structure is something that the *homo sacer* and sovereign share (ibid., pp. 70 ff.), for the sovereign power too is, at the same time, outside and inside the judicial order (ibid., p. 25; Agamben, 2005a, p. 195). From the perspective of sovereignty, there is, on the one hand, nothing outside the law (Agamben, 1998, p. 27); on the other hand, the sovereign himself stands above the legal order and is *legibus solutus* – in the tradition of Bodin and Hobbes – and is therefore not bound by the law. Thus, the ban establishes the relationship between the two borderline figures of the legal order. The sovereign sustains the order, and the *homo sacer* is subjected to the legal order.[5]

Beyond this form of relationship, the ban also illustrates the mode of this relationship that operates with the mechanism of 'inclusive exclusion' (ibid., p. 22). Following Carl Schmitt's logic of sovereignty, Agamben sees the exception as the source of the law's validity. According to Schmitt, (political) normalcy does not put (legal) normativity to the test. Only the exceptional cases challenge the law; the legal exceptions help integrate these cases into the legal system by excluding them from the general rule – a mechanism that allows the law to exist without abandoning its relationship to the factual circumstances.[6] Agamben shares Schmitt's analysis and concludes that the norm remains valid by withdrawing from the exception and leaving the field to it. This exceptional validity applies on a small scale to the law's application and on a large scale to the legislation itself. In both cases, the law becomes a zone of indistinction between norms and facts. This is the situation of *homo sacer* as a figure of archaic Roman law – and Agamben would add that, in *longue durée*, all humans (have) become *homines sacri* in the world of biopolitics.

2.2 The Rise of Biopolitics

Foucault (1978) has introduced the concept of biopolitics. Agamben refers to Foucault but uses the idea in a somewhat different way. Contrary to Foucault,

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[5] In this sense, Agamben notes that 'the sovereign is the one with respect to whom all men are potentially homines sacri, and homo sacer is the one with respect to whom all men act as sovereigns' (1998, p. 71).

[6] Against this background, Schmitt states, 'the exception proves everything' and claims that the rule's 'existence … derives only from the exception' (Schmitt, 2005, p. 15).

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Agamben does not see the beginning of biopolitics as a phenomenon of modernity. Whereas Foucault explicitly points to the veritable discursive explosion in the systems of order in the 17th and 18th centuries (Foucault, 1978), Agamben does not understand biopolitics as the product of a transformation of power techniques and knowledge. Instead, the relationship between law and politics arises from the original structure of the state of exception, in which the ban connects the sovereign with the bare life.

Nevertheless, Agamben refers to Foucault's studies when he describes the modern state as the biopolitical space *par excellence*, which developed in the 20th century (e.g., Agamben, 1998, pp. 6 ff.). Both the acceleration and radicalization of this development are ultimately due to societal needs that foster the process of making the biological dimension of human life the main subject of politics (ibid., p. 93). Two reasons are of particular importance in this context: numerous studies, beginning with Foucault's studies on this subject (Foucault, 2008), point out that security determines political thinking to a very significant extent. It had already become the paradigm of governance in the 18th century. From Agamben's point of view, security policy is a perfect example of the growing importance of the state of exception as a biopolitics paradigm (Agamben, 2005a). Because this policy field favors measures at the administrative level over legislative action, thereby expanding the zone of indistinction between norms and facts. For Agamben, a case in point is the Covid-19 crisis, as mentioned at the beginning of this chapter. The worldwide reactions do not only underline the biopolitical priority of life protection over freedom but also the rise of government's power within liberal democracies, turning them into a state of exception by an ongoing sequence of lockdowns, including quarantines, economic shutdowns, and numerous measures of controlling and regulating ordinary forms of social life.

For Agamben, the administration's power to operate at will is evident in the many ways in which it undermines the distinction between the public and private spheres. The dissolution of the two spheres is also a consequence of the desire for a pleasant life fostering the process of politicizing the bare life (Agamben, 1998, p. 12). Since the 20th century, we can discern two ideologies favoring such politicization, which in Agamben's view differs in their style and method, but not in their purpose. Totalitarianism has tried to create a new kind of human being who can live in a natural community with others according to their needs through control and discipline techniques. In contrast, capitalism does not aim at producing new people but at producing new goods. And the free-market ideology, with its logic of an accelerated production, transforms society into a 'spectacle', as Agamben notes regarding Debord (1977), in which no other form of life is possible than an eccentric way of commercial life doomed to a permanent exchange of increasingly fancy goods. In both cases, the systemic forces challenge the public and private sphere's sepa-

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ration, although different. The totalitarian state violently penetrates the private sphere, whereas the democracy's spectacle society obliviously undermines the prerequisites of independence from each other.

2.3 State of Exception

The similarity of the two types of political systems' objectives is a crucial reason why both can transform into their apparent opposites without a significant transition. In both cases, politics is mainly concerned with determining 'which form of organization would be best suited to assuring the care, control and use of bare life' (Agamben, 1998, p. 101). Agamben has reserved the concept of a state of exception for this zone to absorb the *homines sacri* potentially anytime. In contrast to Schmitt, Agamben does not portray the state of exception as a difference between politics and law. Schmitt believes that politics in the form of the sovereign can restore order to a normal situation. For this purpose, the sovereign can suspend the legal order partially or entirely, with the effect that he separates the political order and the legal order for some time (Schmitt, 2005, p. 12). It is an unprecedented act initiated by an extraordinary political actor (Agamben, 2005a, p. 216). Agamben defines sovereignty, as we have seen, as a form of potentiality structured by '*nomos*' that keeps the bare life in a ban, including it and suspending it at the same time (1998, p. 27). Thus, the state of exception is just an expression of the destructive relationship between law and politics, a consistent result of biopolitics, which transgresses historical epochs and political systems alike.[7]

In a state of exception, people can remain legal entities and enjoy their fundamental freedoms. However, if the law is at the service of biopolitics, it will not protect the individual from becoming the object of exclusion. This kind of abandonment is a possible fate for everyone who lives under the rule of law – then as now. It connects the *homo sacer* as a figure of archaic Roman law with challenges of the legal community of the early 21st century: the stateless, refugees, or ultra-comatose. For this reason, Agamben (1998, p. 137) sees the detention camp as 'nomos of modernity' – but for him, the detention camp is never far away from daily life. On the contrary, when the state of exception becomes the rule, it opens the space for the *homo sacer* and the other inmates (ibid., p. 139).

Hannah Arendt's insight that the detention camps express the totalitarian rule because everything can happen in such regimes (1973, p. 437) serves

[7] Agamben speaks 'of an inner solidarity between democracy and totalitarianism' – even at the cost of 'leveling of the enormous differences that characterize their history and their rivalry' (1998, p. 12).

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Agamben as a starting point for his argument. In his study *Remnants of Auschwitz*, he introduces the figure of the Muselmann, who presents what remains from the survival of bare life itself. It is a vegetative life, an individual who has become dull from total exhaustion, wandering around the camp like a stray dog, not dead yet, but in any case, too weak to end his own life. This figure, despised and shunned by the other inmates because they are horrified by what they see (Agamben, 1999, pp. 871–875), displays the cipher of biopolitical power: it shall be unspeakable what was possible.[8] Yet, the Muselmann, who cannot speak about what happened because this individual is, literally, without words, reveals as a witness that the secret of biopolitics is ultimately empty – it is simply a mode of exclusion with the purpose of exclusion.

3. WHAT CAN WE HOPE FOR?

As noted, Agamben's writings contain another concept of politics besides biopolitics. A politics that can convey hope, a light version that cuts out the dark area of biopolitics. Biopolitics is related to the state and is subject to the logic of sovereignty – the fatal manifestation of politics. Since the law has infected politics, it has been in the world as a lawmaking force, forcing people under the law's yoke and turning them into *homines sacri*. The other concept of politics connects with the idea of a *coming community* (2007) and is decidedly law-free – the proper understanding of politics (Kioupkiolis, 2017). However, how can we think about politics outside the logic of sovereignty?

Agamben suggests that cure can come from a radical detachment that liberates politics from the law, bringing Agamben close to anarchism (Loick, 2011). Moreover, freed from any alleged meaningful purpose, politics can become a form of pure means. Such a purification of the political is, of course, a messianic state (Cimino, 2016), very much inspired by Benjamin's idea of divine violence with the idea that this form of violence has the power of a total rupture without being violent (Haverkamp, 2005). Following Benjamin, Agamben envisions a real state of exception in which sovereignty becomes meaningless.

According to Agamben, true politics does not operate with dichotomies like a friend–foe distinction (Schmitt, 1976). Schmitt has based his concept of the political not on content or purpose but on the interplay of inclusion (friends) and exclusion (enemies), which means a specific mode of conflict, contestation, and confrontation. Agamben shares the idea that the political is a mode of interaction. The dichotomous character of Schmitt's concept yet leads in his

[8] See Mills (2005) on Agamben's attempt to reconstruct the dual structure of testimonies.

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eyes to the use of individual ways of life (a form of life) in the name of another authority (sovereignty), which Agamben tries to overcome. Moreover, in his view, true politics' characteristics are not a divisive logic but a unifying one. For this reason, he argues that we should understand politics as pure *means without end* (Agamben, 2000).

Agamben's rejection of ends refers to Kant and his critique of the Aristotelian tradition with the notion of eudaemonia at its center. Sure, people are seekers of happiness, like the Greeks rightly acknowledged as the 'inventors' of politics. However, according to Kant, this does not provide any yardsticks for a political order oriented toward the ideal of liberal self-determination. Aligning politics solely to bliss ultimately justifies any autocratic paternalism according to the policy performance. It is, therefore, the demand of reason, Kant said, to frame politics by legal principles and subjected it to a process of constitutional reform dedicated to the principles of the rule of law (Kant, 2003). According to Kant, politics should be civilized through juridification; and only within the limits of law is everyone a seeker of their happiness. For Agamben, however, the process of juridification has fatal consequences, for the law cannot help but separate life from the form of life (Hunter, 2017).

For this reason, there is no alternative to the 'renouncing of law', as Agamben proclaims toward the end of his study *The Highest Poverty* (2013, p. 975). Even without pursuing a specific purpose, the law gains its sense only by referring to life. However, in the realm of law, life is primarily nothing more than bare life (in contrast to the dead). Hence, the concept of true politics needs to move away from any form of power connected to either lawmaking or law enforcement.

Once emancipated from the force of law, politics can become something different, namely pure means. What he has in mind, Agamben illustrates with the example of the Franciscan Order, whose guiding principle he defines as 'the attempt to realize a human life and practice absolutely outside the determinations of law' (Agamben, 2013, p. 976). What he is hinting at seems to be another form of the state of exception, one that is not norm-oriented at all.[9] Only then, he believes, is enough space for everyone to seek their happiness. In search of happiness, life itself becomes then political. It may come as a surprise that Agamben approvingly refers to Marsilius of Padua and his *Defensor Pacis* in this context (Agamben, 2000, pp. 4, 114 ff.), as Aristotle's philosophy has had a strong influence on Marsilius's thinking. However, his intention is

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[9] '[T]he task at hand is not to bring the state of exception back its spatially and temporally defined boundaries to the reaffirm the importance of a norm and rights that are themselves ultimately grounded in it, confirmed. From the real state of exception in which we live, it is not possible to return to the state of law [...]' (Agamben, 2005a, p. 241).

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not a re-entry to the Aristotelian polis. Instead, he understands the individual form-of-life as political life, simply because everyone's happiness is always at stake in their living (ibid., p. 4).

4. WHAT CAN WE DO?

Following Benjamin (1999), who noted that the profane order must entail the idea of happiness, Agamben is less concerned with a political counterproposal than with the possibilities of a good life in the existing situation (Agamben, 2000, pp. 138 ff.). He shares with Benjamin that such a life exists in this world (ibid., pp. 114 ff.) and, as a starting point, refers to the human being as a 'being of potential' (Agamben, 2016, p. 1214). The inexhaustibility of life drives the search for happiness and makes it possible in the first place. The life that is stripped of its potential is bare. Once separated from its form, bare life is simply factual or actual – it only lives. Biopolitics' logic contaminates politics that reduces life to bare life; politics that maintains the human beings as beings of potential is true politics. It is characterized by potential opposition, the always-existing alternative to the existing power, and a reminder of singularity that resists all attempts at destiny. At first sight, this proximity between the bare life under the spell of sovereignty and political life, which in the zone of indistinction may escape the grip of sovereignty (Agamben, 1998, pp. 126, 153 ff.), could be irritating. It fits, however, into Agamben's view that true politics is essentially still to be invented (ibid., pp. 12, 152). In this respect, at least, the following points may be helpful for a better understanding of the practical dimension implied by Agamben's concept of politics beyond biopolitics.

4.1 Utopian Thinking

First, it is a messianic concept of politics, inspired by Benjamin's eighth thesis *On the Concept of History*. Agamben aims at a redeeming transformation of the state of exception to which the *homo sacer* is subject to a 'real' state of exception. In this actual state of exception, the perishable 'idleness' is then opposed by the liberating 'standstill' of the anthropological machine that produces the biopolitical power with the effect of banning the *homo sacer* (Agamben, 2003, pp. 48, 88, 91). This rapprochement between the two extremes results from understanding life itself from the extremes – from disaster to salvation. The interrelationship between both categories underlines Benjamin's influence on messianic thinking.[10] Thinking that does not seek destruction, but believes

[10] For historic examples of messianic thinking see Harinck in this volume.

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in a subtle shift, makes all the difference. Agamben refers to this messianic idea when he writes: 'Everything will be as it is now, just a little different' (Agamben, 2007, p. 53).

Second, and again following Benjamin, Agamben's alternative to the sovereign's power is 'pure violence', understood as the divine power that has the capacity for redemption, which only reveals itself in the redeeming moment. However, everyone can make a difference anytime, anywhere, namely in how the individual resists the lawmaking power by thinking of alternative options – something Agamben deals at length with in his reading of Paulus in *Time that Remains*. This capacity for a difference matters to Agamben the most because it prevents the individual from being consumed by biopolitics' sovereign power. What 'remains' is a rest of singularity – as an exception. Only if the exception is still possible in a state of exception does the individual live in a 'real' state of exception. The individual is then the remnant that never merges into something more significant – and only as the remnant is the individual the real political subject (Leitgeb & Vismann, 2001, p. 21).

Third, according to Agamben, the fundamental ability of such a political life is thinking. It prevents the realization of life through reality because it reflects life in the different ways of life and constitutes political life. Thinking experiences itself in its potentiality, a self-awareness that lies in the reflexive structure of thinking. It seems that Agamben echoes in some ways here Mannheim's notion of utopia.[11] Moreover, Agamben understands thinking as a human potential (Agamben, 2016, p. 1219), because language communicates this potential with the effect that potentially all people can share their experience of thinking and, at the same, at least time, its communicability.[12] The commonality is expressed in the communicability of the message, a multiplicity united in the capacity of human intellectuality but not in the intersections of what is actually communicated.

Finally, Agamben refers to the practice of pure mediality, in which the means and their relevance for the form of life become visible (Agamben, 2000, pp. 16 ff.). The focus on the means helps overcome the false alternative between ends and means that leads all too often to pseudo-rationality, which has a corruptive effect on true politics and its aim for happiness. The idea of mediality is close to Arendt's notion of performativity, a core concept of Arendt's understanding of the political. In that sense, performativity resists a purposeful definition

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[11] According to Mannheim, utopia's relation to reality is characterized by its potential power to open new and alternative paths (a power that shows its impact in retrospective), whereas ideology's impact on reality is the maintenance of the status quo (Mannheim, 1995, pp. 169, 174). For more on Mannheim see Van Klink in this volume.

[12] A challenge to Agamben's view of thinking is the contribution on AI by İspir and Keleş in this volume.

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of the political because political action expresses its meaning itself. But in contrast to Arendt, Agamben does not use action as a guiding concept in his understanding of true politics (Agamben, 2000, p. 12). For him, it is not acting that matters in politics, but thinking – a thinking that understands its failure in action as political life until the arrival of pure violence (ibid., pp. 86 ff.).

Several notions that have been used to characterize Agamben's vision of true politics indicate already that this vision has a utopian ring: messianic hope for the advent of pure violence is strongly connected with his remarks about the coming society. Likewise, the idea of the real state of exception in which everything will be the same except a nuance that makes all the difference sounds utopian; and so does the idea of a rest that resists and remains in the face of the concentrated power of biopolitics. These elements are, of course, part of Agamben's attempt to prevent the impression that his narrative of the coming dystopia is, in fact, the inevitable fate that we are going to face and cannot contain. However, these bits and pieces do not appear to be only by-products of Agamben's main concern with the dark side of the moon. Although fragments, they seem to fit into a broader scheme at the core of his philosophical thinking. Whereas the elements of his coming society are rather enigmatic, his messianic hope works as an operation to disclose not only the limits of his (and our) own imagination of the future but also a thinking process that goes beyond these lines at which we stop in imagining changes in our world made of biopolitics.

As noted, Agamben sees this thinking process as an inherent moment of political life; and with Frederic Jameson's concept of utopia, we can understand the connection between utopian and political thinking because 'a revival of futurity and of the positing of alternative futures', he says, 'is not in itself a political program nor even a political practice, but it is hard to see how any durable or effective political action could come into being without it' (Jameson, 2009, p. 434). In this sense, we could say that Agamben's idea of the coming society is political because it expresses utopian thinking. Moreover, this view of utopia is close to Ruth Levitas's concept of 'utopia as method'.[13] In her article on 'The Imaginary Reconstitution of Society', Levitas describes her method as a 'constructive mode', emphasizing 'the beginning of a process, not a statement of closure', in which utopia serves as an 'aspiration or goal' (Levitas, 2007, p. 64). In this sense, much of Agamben's philosophizing about the dark times in which we must live as *homines sacri* could be seen as accompanied by a searching movement in which he scans the iron cage of biopolitics

[13] In this context see Soniewicka's discussion of Levitas's concept of utopia in this volume.

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to discover ever possible breaking points. An example of this kind of utopia as a method is offered in his study *The Kingdom and the Glory*.

4.2 Imagine an Impotent Sovereign

At first glance, this study is puzzling since the powerlessness of sovereignty does not seem to fit Agamben's concept of sovereignty. Yet, his answer is the distinction between reign and government, put simply: the difference between an active part of the power that runs the business and a passive position of the authority in whose name the ruling is exercised. The following phrase expresses this kind of labor division: 'Le roi règne, mais il ne gouverne pas' – the king reigns, but does not govern (Agamben, 2011a, pp. 380, 433, 436, 438). This sentence, derived from this Holy Grail's search legend, expresses the wounded king's fate (*roi mehaignié*). His impotence symbolizes the inability to ward off his kingdom's decay and the necessity to leave the chance of his reign to others (ibid., pp. 432 ff.).

Already in *Homo Sacer*, Agamben emphasized – in contrast to Carl Schmitt – the passivity of sovereignty, which is expressed mainly in a structure and not in decisions (Lembcke, 2007). In addition, sovereignty is part of a hidden division of labor that Agamben tries to illustrate by a complementary reading of the Holy Trinity and its *oikonomia* in *The Kingdom and the Glory* (Agamben, 2011a, pp. 387 ff.). These doctrines answer how the almighty Creator God can transcend the world and active will in the world. The key is to distinguish the divine being from its concretions (the hypostases Father, Son, and Holy Spirit) and their manifestations in the form of words, deeds, and appearances (ibid., pp. 419–431). Based on this Trinitarian distinction between unity and diversity, it is possible to understand effectiveness as an expression of specific existence. God's omnipotence is thus revealed in the fact that the work in the world takes place within the framework of His world plan, in which every event fits in in a way that is incomprehensible but wonderful to humans – that is, in a nutshell, the basic structure of the teaching of the divine *providentia* (Providence). In this way, God's existence preserves the unity of the world as it is and as it could. Acting in His name can never exhaust the possibilities, and yet, at the same time, God remains the reason for the course of things, which illustrates His greatness. According to Agamben's argument, the providential doctrine also oils the wheelwork of the 'government machine', which takes over the leadership of people and things in the name of God. Based on this self-referential logic, it becomes a machine (ibid., pp. 470 ff.) in that it acquires the sovereignty of interpretation over being and becoming. In doing so, it prepares the ground for the glorification of the omnipotence of the Creator.

For Agamben, this administration of divine power in *oikonomia* is the blueprint for the political order's organization. Already in the dynastic version of

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sovereignty (ibid., p. 623), whose personal embodiment the monarch claims to be, a comprehensive institutional and informal arrangement of offices and functions typically serves to relieve the ruler of his immediate governmental tasks. In the democratic version of popular sovereignty, this administration of power is boosted by the concept of power-sharing, with the effect that ultimately only the symbolic presence (and factual impotence) of popular sovereignty remains. In a sense, the sovereign is 'deprived of power' through the separation of powers, administrative governance, and the dualistic representation of sovereignty. Only the technicians of power, the organizers and coordinators within the government machine who operate de facto, are capable of acting – under the rule of law but hardly bound by it (ibid., pp. 622 ff.). For them, the only thing that matters is glory, simply because every ruling of their governance and ultimately their existence depends upon glory. No wonder the Christian theology has something to say about their role, at least, in Agamben's interpretation. He draws a comparison between the modern bureaucracy and the polymorphism of angels (ibid., pp. 502–20). Angels mediate between the transcendence of divine allness and the immanence of its work. In this way, they establish a lasting connection between the hereafter and the here and now, and found a communication channel that serves for nothing other than praising the Lord. In this divine mission, the angels are the expression and organ of an activity that could not otherwise be visited (ibid., pp. 587 ff.). Without them, God would remain what he is – a *deus absconditus*.

According to Agamben, the (growing) need for the glorification of sovereignty can be explained against the background of this 'angelic' study. Generally speaking, it results from the power – and impotence – of sovereignty. The active government machine stands out but which in turn remains dependent on public acceptance of sovereignty to be able to (uninterruptedly) continue its bustle. In modern mass society, in Agamben's view, the function of glorification is taken over by the media. Their business is producing a political consensus, above all through the permanent exhibition of acclamation. Prima facie more independent than the angels toward their Lord, the media develop a system-stabilizing character, as the glorification typically first and foremost focuses on the democratic form of the rule itself, which thereby becomes a 'glorious democracy' (ibid., p. 607). In their name, attention and recognition are given, success is paid homage to, or ultimate condemnation is uttered.

The media are the guardians of the 'doxological' side of sovereignty (Agamben, 2011a, p. 604) since they administer the power of opinion.[14] Yet,

[14] The power of opinion is Plato's horror of political order. For Agamben it means ultimately that a human being is the only 'living being whose language puts his life in question' (2011b, p. 353).

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as 'government by consent', this model claims a legitimate superiority over other competing political order models since modern times. According to Agamben, it does so successfully, although it only rests on acclamation instead of consent (ibid., p. 606). But this kind of difference is not revealed because of the 'linguistic machine' that the media has at hand and which it uses for administrative purposes with significant effect by excluding dissent and fabricating the consensus for the government machine.

5. THE END

Agamben refers to a way of thinking that does not express itself in specific contents but arises from the experience of self-reflexivity. Such a way of thinking results from the fact that the person can transcend all sociality and yet can only live and develop him- or herself in the mode of sociality. It has the potential for rupture, like Arendt's concept of natality, and is intricately linked to Agamben's notion of the 'remnant' (2005b, pp. 865 ff.). In line with this hope for the 'rest' is Agamben's hope that language will prove its inexhaustibility toward politics (Agamben, 2007, p. 72). Thinking as a utopian method becomes the medium of subversive politics in which the individual can speak out against dominant policies' language. Moreover, as a form of subversion, it enables protest the rhetoric of such policies that covet power in an apolitical gesture and marks the greed for power in its silent but violent attempts of stylizing its greediness as political expertise. For Agamben, this is an ill-fated attempt to fill the emptiness of politics with a substance that only evokes (false) identities, which he opposes.

In sum, Agamben's writings contain two concepts of politics that are anything but equivalent: one concept refers to the dark side of politics, contaminated with law, based on the logic of biopolitics, and driven by the destructive power of sovereignty; this is the disastrous manifestation of politics. The other concept refers to 'true' politics that stays away from any form of control connected to either lawmaking or law enforcement. This vision of true politics is associated with his idea of a *coming community* (2007), consisting of singularities, of thinking bodies, of the 'rest' that identifies itself as different from 'all'. It seems that almost everything is vague and unclear about this community.

However, in the light of Levitas's idea of *Utopia as Method*, it becomes clear that Agamben's utopian element is the thinking process itself. It is less hope and more the capacity to see alternatives. Thus, we should not understand Agamben's coming community as an eschatological happening. It does not have to come, and it is certainly not the end of the time. Instead, it is the time of the end; it is time we can experience ourselves thinking about the Messiah; a time that remains in the advent of the Messiah, as Agamben notes in *The Time that Remains*. So, in the future, true politics is a utopia that can happen

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here and now and seems to be remarkably close to the religious experience of individuals to live in pure immanence, or as Agamben would say: 'to live in the Messiah' (Agamben, 2005b, p. 26).

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9. The allure of utopia: Klaas Schilder's stress on the relevance of *hic et nunc*

George Harinck

1. INTRODUCTION

There has been no moment in modern Western history when Utopia seemed to be more within reach, than at the outbreak of the Russian Revolution in 1917 and its subsequent effects worldwide. Empires collapsed, dynasties lost their throne, private land was confiscated, colonial rule lost its self-evidence, and the proletariat experienced its finest hour. To many contemporaries the Soviet Republic was Utopia realized. The new society in Russia was a wake-up call: the societal order of the Western world might be of old age but was not a given, and could be overthrown. It promised the possibility of the abolition of the dominance of the church and the upper class in society, of daily labour, of private property, and of the beginning of a new moral order, a democratization of education and culture, and the emancipation of women, to name a few perspectives. In short, the Russian Revolution and the new Soviet society that emerged represented in several ways the alternative and ideal world Thomas More had described in his book *Utopia* (1516), exactly four centuries before the Revolution broke out.

The Russian Revolution proved that a totally reversed society could be realized. But this hopeful news also nourished the fear for such a change. Property, peace and stable societies all seemed to be in danger if the revolutionary fever reached the countries of Western Europe. The First World War and its culmination in the Russian Revolution not only seemed to announce a new era, but also the end of a culture. In his famous book *Der Untergang des Abendlandes* from 1918, Oswald Spengler predicted the decline of Western civilization. He saw the First World War not as a 'momentary constellation of casual facts', but as 'the type of a historical change of phase occurring within a great historical organism of definable compass at the point preordained for it hundreds of years ago' (Spengler, 1926, pp. 46–47).

At this dramatic moment in history the question arose of where certainty could be found when the pillars of civilization crumbled. Clergymen rubbed

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their hands in anticipation: this would mean full churches once more. In the first few months of the war, the countries involved in the war had indeed seen a ‘return to the altars’ (McLeod, 2000, pp. 275–84). As the war continued, however, the numbers no longer attending church increased dramatically. Christianity was not remote from this cultural watershed but was part of it in the broadest sense: Christian morality was pronounced bankrupt; it was the Christian world view that was subsiding. Bolshevism, fascism, and national socialism made use of the religious void in European culture and replaced Christian religion by secular religion.

To many startled Christians, it was not More’s *Utopia* that guided their thoughts in these turbulent times, but the last book of the Bible, the Apocalypse of John. Though the Apocalypse ended with the New Jerusalem descending from heaven, as opposed to earthly cities like Rome, where peace and justice would reign as was the case in More’s *Utopia*, most visions of this book pictured the dramatic way towards this end. To many, the immediate future spelled war, hunger, death, pollution, persecution and all the woes John had watched in his visions. In the light of war and revolution, the Apocalypse was read as an anti-optimistic account of the course of history, and the present war and revolution were only ‘the beginning of sorrows’, as the Dutch orator Gerard Wisse (1918, p. 18) said in a very popular speech on the Apocalypse he gave in many places in the Netherlands. Present historiography stresses the fact that the European nations in 1914 stumbled into war like sleepwalkers, unaware of the consequences of their policies. Their conflicts turned out to be the *Urkatastrophe* of the twentieth century. The First World War did not really end with the armistice of 11 November 1918, but was continued, especially in middle and southern Europe, and developed almost seamlessly into the Second World War (cf. Clark, 2012; Negel & Pinggéra, 2016; Gerwarth, 2016).

In this contribution I will analyse the way the theologian Klaas Schilder (1890–1952) as a young Protestant minister in the Netherlands dealt extensively with what he called the allure of utopia. He confronted the utopian dream of socialism with a Christian anti-utopian vision, which he derived from the Apocalypse. His publications offer a creative example of the way Christian intellectuals tried to deal with the new situation of a collapsing culture rooted in Christianity and the presentation of alternatives, like the Russian Revolution and socialism. Especially his book *De Openbaring van Johannes en het sociale leven* [*The Revelation of St. John and the Social Question*] from 1924 stands out as an extensive analysis of the relation of Christianity and socialism in the interbellum era. Why was he so allergic for utopian notions in socialism, and where did his anti-utopian alternative lead to? First his Dutch context will be described, followed by his view of the socialist utopian dream in its historical setting. In 1924 Schilder published a book on the Apocalypse and society. I analyse his rejection of the utopian dream in this book, and how he focused

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on the here and now instead. Then I describe how his view was received, after which I will contextualize his view and draw some conclusions about his anti-utopian stance.

2. THE NETHERLANDS

The traumatic experience of the Great War did not pass by the neutral countries, like the Netherlands, a predominantly Christian country of 6.9 million inhabitants in 1920, 55 per cent Protestants and 36 per cent Catholics, and with a Social-Democratic Party that won 22 per cent of the votes in general elections in the early 1920s. More's *Utopia* had been published in a Dutch translation for the first time in modern history, in 1903, and again in 1915.[1] What should Christians do in these expectant times? Enne Koops (2004, pp. 66–83), who analysed 250 Protestant sermons of the 1910s, concluded that the Protestant sentiment changed from optimistic to pessimistic. The future did not attract the rank and file of Christians: the enthronement of Satan was at hand, or the age of Nietzsche's blond beast (cf. Hepp, 1919; Wielenga, 1921). The remedy presented in sermons and lectures was often like the one Wisse offered: in all woes keep the faith, and be prepared for Christ's return and final victory at the end of times.

In 1915 the Dutch Protestant theologian and politician Herman Bavinck did not offer a religious remedy, but an analysis of the utopian longing, made on request of the Dutch government. He stated that society 'trembles on its foundations, and is above all things in need of principles and forms whereby it can live, develop and be guided' (1915, p. 52). In the Netherlands Bavinck distinguished three religious-inspired and non-revolutionary directions in which 'the many searchers after the unpromised yet greatly-longed-for land move': a group that was 'determined to strive in word and deed for social righteousness, to soften class differences and work together for the betterment of society'. This aim was stimulated and supported by socialism, and several Christians joined this movement. A second group sought to compensate Christianity with occult science, in spiritualism, Christian Science, or theosophy. They criticized materialism. Especially theosophy was *en vogue*, claiming 'there is not only a visible and "diesseitige", but also an invisible and "jenseitige" world, and that these can be comprehended in one system'.[2] The third group sought rest in a philosophic system, and derived a world and life view from it. They are hopeful for the future and imagine a kingdom of

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1 The previous Dutch translation – Thomas More, *De utopie* (Antwerpen: Hans de Laet, 1553; reprinted in 1562) – dated from the sixteenth century.

2 Bavinck (1915).

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truth, of liberty and of love. All groups acknowledged that the world needed a change, and at their horizon was a utopia, where all the deficiencies of the present society would be overcome.

In this state of mind the Netherlands got news of the Russian Revolution of 1917. Now there was not only the possibility of musing about or working towards a 'longed-for land': utopia all of a sudden was present, real and tangible. The options for change became realistic possibilities. As the Dutch poet and socialist Henriette Roland Holst wrote a year after the revolution: 'Revolutionaries recognize and welcome in this child [i.e. the revolution] the long expected Messiah, who comes to redeem tortured humanity.'[3] In 1918 revolution broke out in Germany and forced the emperor to abdicate and go into exile (in the Netherlands), and revolution was in the air in the first five years after the end of the war in Austria, Hungary, Bavaria, Italy and Andalusia. Was this the revolutionary moment that had been announced in the Netherlands (and elsewhere) over the years by a rising tide of strikes, and by the growth of the socialist movement?[4] A new society was on its way.

3. THE INTERBELLUM CONTEXT

Schilder was a follower of the theologian, journalist and politician Abraham Kuyper (1837–1920), leader of an orthodox-Protestant civil rights movement. Kuyper ([1889], p. 13) had always stressed the close relation between religion and social life, had defended the rights and the dignity of the working class, and supported them in their struggle for a 'human existence'. He was successful in mobilizing orthodox Christians, and the adherence of Christian workers to Kuyper's movement in church, school, state, and society was so strong that the socialist movement failed to bring them in their movement. Kuyper (cf. 1891a, pp. 16, 21, 31) agreed with the socialist criticism of societal structures, but he rejected their revolutionary solution, and warned for socialism as the opposite of Christianity. Anti-Christian forces like socialism culminated in their aim to establish an '*Anti-Christian* world power'.[5] Socialism, and liberalism, for that matter, were labelled as anti-Christian, because they originated in the French Revolution, 'which on principle broke with all religion (…), detaching life not merely from the Church but also from God's ordinances' (Kuyper, [1899], pp. 21, 239). P.A. Diepenhorst (1879-1953), kuyperian and since 1904

3 'Wij echter, revolutionairen, herkennen en begroeten in dit kind den lang verwachten Messias, die komt de gefolterde menschheid te verlossen' (Brandon et al., 2017).

4 'Als uw machtige arm het wil…' (Kuijpers & Schrage, 1992).

5 'En dat deze tegenstand ten leste zijn toppunt zal bereiken in een ontzettende *antichristelijke wereldmacht*, die, als Christus ze niet brak, heel deze wereld voor eeuwig aan haar God en haar bestemming ontscheuren zou' (Kuyper, 1891b).

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professor of economics at Vrije Universiteit Amsterdam, devoted several publications and lectures to the fundamental difference between Christianity and Socialism in the early decades of the twentieth century (Diepenhorst, 1907, 1910).

Society was like a well-designed building. There were flaws that had to be repaired, and Kuyper gave socialism credit for its sensitivity for social injustice. He too was in favour of social reform, but the design of society, the godly ordinances, had to be restored, not to be superseded. Kuyper belonged to the conservative political tradition of Edmund Burke, Alexis de Tocqueville and Guillaume Groen van Prinsterer, and was not so much oriented on the future as on history (cf. Harinck, 2003, pp. 37–50). According to Kuyper, Christianity had an all-encompassing worldview, and after the First World War the followers of Kuyper recognized the same all-encompassing ambition in these new ideologies. These ideologies were qualified by Kuyperians as revolutions against Christianity.

When Kuyper died in 1920, Hendrikus Colijn (1869–1944) became his political successor. In a political meeting in 1921 he addressed the uncertainty of the times. The political struggle, he said, is in essence a religious struggle and what we need in the first place in a spiritual conflict is a solid foundation and an unshakable conviction. 'It seems,' he continued, 'that some of us have lost both. There is doubt, where once certainty was found. This is a great danger for our party. Where doubt reigns, love, enthusiasm, and devotion will not flourish. If we want to regain the enthusiasm of former days, we have to unite and uphold our principles' (cf. Colijn, 1951, p. 236). His (1934) message was: stick to your convictions and you will be safe in these turbulent times: *saevis tranquillus in undis*, as was the title of one of his books.

With totalitarian regimes and utopian dreams on the rise, the stress on reformed principles and their life-encompassing character seemed to be an adequate response to this new challenge. The Kuyperians did not offer a specific argument to oppose Bolshevism, fascism, and national socialism, nor did they oppose certain aspects in their antagonists' political programmes. They just rejected their opponents all over on an ideology-based argument. In politics this was translated in a view of the state as the defender of law and order over the revolutionary tendencies.[6] Colijn posited the 'beginselen' or principles of Protestantism over the principles of Bolshevism, fascism and national socialism. Fascism, for example, was qualified by Colijn in 1926 as a 'worldview which in its deeper grounds is hostile to the Christian view of the relation between Christianity and the world'. The issue was not if fascism would confront Christianity, for 'it was *certain* that such a moment *will* come' (*Voor*

[6] 'Wankelen noch weifelen' (Colijn, 1933).

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het gemeenebest, 1938, pp. 51, 56). This antagonistic approach was similar to what happened in Islam in times of crisis in the mid-twentieth century: amidst democratic, fascist, and socialist models, these Protestants tried to carve out their own path (see Berger's chapter in this volume).

4. LECTURING ON SOCIALISM

This was the polarized context of war and rumours of war and conflicting ideologies in which Schilder matured. He was from poor descent, raised by a mother who was a widow, and had experienced the social struggle to survive (cf. Ridderbos, 1989, pp. 95–127). At the eve of the First World War he was installed as a Protestant minister. It is clear from his sermons and lectures that he experienced the Great War apocalyptically, as the beginning of the end. He was not distressed about this development, as if he lost a world in which he had felt at home. To him it was no surprise if culture and the world would collapse: 'Our world is tired. *No wonder*: it relies on its own strength' (Van der Schee, 2004, p. 18). In 1916 he accepted a call from the church of Vlaardingen, close to the main Dutch harbour town Rotterdam. There he was confronted with socialism. This ideology was not restricted any longer to small groups of dropouts at the fringes of society; it had become a mass movement that was stimulated by the Russian Revolution to expel the ruling class. Capitalism was about to collapse, and therefore, the message of the Social Democratic leader Pieter Jelles Troelstra was: 'Seize this moment'.[7] Rotterdam was a 'red' city – in the national elections 1918 almost 50 per cent voted for a socialist party – and in November of that year an attempt to a national revolution started in this city (cf. Scheffer, 1968).

According to historian Frits Boterman (2021, p. 30), the search for a new world is 'the main characteristic of the era between the two world wars'. The sense of a deep crisis and of high expectations were closely knit. The dream of a new society was also discussed in workers' (fishermen) town Vlaardingen, where social conditions were flimsy. On 1 May 1917, the native Social Democrat Koos Vorrink, who would become the national party president, gave a speech in town (cf. Van der Schee, 2004, p. 11). And two days later Schilder lectured in Vlaardingen on 'The Revelation of St. John and the Social Question'.[8] The audience he addressed in his lecture were Protestants, members of the *Christelijke Vereenigingsbond*. He argued that social issues were not the topic of socialism only. The Bible addressed those issues often, especially in the Apocalypse of John. According to him the message of the

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7 Troelstra in a manifesto of November (1918).
8 Announced in *Goedkoope Vlaardingsche Courant*, 28 April 1917.

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Apocalypse was, in short: no utopia awaits us. In the future, as pictured in this book of the Bible in various vivid scenes and images, things will not get better, but worse.[9]

In the next church he served, in the small provincial town of Gorinchem, Schilder again addressed the utopian theme. On 23 March 1921, he lectured on Bolshevism; the text was not published until 1990 (*De Reformatie*, 1990). After an exposition on the rise of this movement in nineteenth-century intellectual and political history, he focused on Bolshevist ideas, especially its aversion of church and religion (Sebestyen, 2017, pp. 472–75). Schilder referred to Dutch Bolshevist sympathizers,[10] and warned that the Netherlands was not immune to these ideas. He presented Bolshevism as a branch of socialism, be it that Bolshevism wanted to abolish the state as well: no institutional body should rule society, nothing should rule but the common social interest, aiming at a classless society.

In his evaluation Schilder was cautious. He said he knew about horrible and shocking stories of Bolshevist rule, but a Christian should also in this case avoid false witness. He did not reject everything Bolshevist, like Kuyper had appreciated socialism. Schilder distinguished between excesses and principles, and between the Russian and the German situation, tried to give an impression of the new society Bolshevists envisioned, and said it was too early to draw final conclusions yet. According to him, the Bolshevist longing for a united and fair society resonated Scripture's longing for justice and peace, its description of the life of the first Christian community where everything was shared, and the longing for the lost paradise of Eden.

He had two types of critique of Bolshevism. The first was immanent. He rejected its optimism regarding creating a new society and its belief in a new humanity. 'Poor worriers, who think, after so many centuries of opposite experience, to reach eternal peace in such a short time with one mighty act' (Schilder, 1990, p. 554). The Bolshevists have the weakness that they reproach Christianity: that the full revelation of their perfect society is farther away and takes longer than its present form in Russia, it is a jump into the dark, a chimera,

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[9] 'De Openbaring van Johannes en de Sociale Kwestie', *Nieuwe Vlaardingsche Courant*, 5 May 1917, included in Schilder, *Verzamelde werken 1917–1919*, 443–444.

[10] Schilder referred to A.W.Ph. van den Bergh van Eysinga, Bart de Ligt, Herman Gorter, Henriette Roland Holst, W. van Ravesteyn and D. Wijnkoop. See: Herman Noordegraaf, 'Nu daagt het in het Oosten. De Bond van Christen-Socialisten en de Russische revolutie (1917–1921)', *Documentatieblad voor de Nederlandse Kerkgeschiedenis na 1800* 43, nr. 93 (2020) 135–157: 'Het hartstochtelijk verlangen naar een andere samenleving en het geloof in de komst daarvan leidden tot een vreugdevolle begroeting [by the Bond van Christen-Socialisten] van de Russische revolutie' (156).

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a levelling of the old situation. His second type of criticism was transcendent: that Bolshevism is based on a historical materialism that rules out God. There seems to be no evil anymore, everything can be restored: 'homo homini lupus, says Scripture. Homo homini angelus, Bolshevism dreams.'[11] Bolshevism sees man as endowed with social instincts, Christianity says social instincts have been distorted by sin, and although sin can be restrained, perfection will not be reached, for brutal man is 'the regular guest of history'.[12] Thomas More created an imaginary utopia, Schilder said, but he was not able to present it as a fully perfect society. In his *Utopia* hard work still had to be done, be it by slaves. The Bolshevists would set the labourer free and abolish partisanship. But the free workman is mainly idle, and parties and rivalries are all over in Russia. The Bolshevist belief is optimistic, but its dictatorship reveals pessimism. 'Such people won't reform the world'.[13] Schilder rejected utopian ideals as 'childish expectations of a coming world, where everything will be beautiful, beautiful and good and peaceful'.[14] The dream of offering one's life as service to the community is arcadian, but not realistic. According to the prophet Isaiah, the heralds of a new century are criminals; Schilder remarked: 'The Bible – it is horrifying but honest – does not belief anything of this.'[15]

On 28 December 1923 Schilder lectured in Delft, where he had ministered since 1922, on the same theme, this time with the title 'Johannes versus Marx'.[16] It was clear now that socialism was one of Schilder's preoccupations. As such he was in tune with modern developments. More and more intellectuals got interested in political and social topics (Boterman, 2021, pp. 25–26, 83). Again, he paid attention to the expectation of many, that better times were ahead. Karl Marx had proclaimed this bright future, but opposite to this perspective Schilder presented John's Apocalypse.[17] When Schilder in November 1924 published a book of meditations on the Apocalypse, related to his various lectures under the title *De Openbaring van Johannes en het sociale leven* [*The Revelation of St. John and the Social Question*], it was recommended as a timely book, especially for Christian labourers.[18] The book was

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[11] Schilder, *Bolsjewisme*, 555.

[12] Ibid.

[13] Schilder, *Bolsjewisme*, 556.

[14] K. Schilder, *De Openbaring van Johannes en het sociale leven* (Delft: W.D. Meinema, [1924]) 97: 'kinderlijke verwachtingen eener komende wereld, waarin het alles schoon zal zijn, schoon en goed en vredig.'

[15] Schilder, *De Openbaring*, 101: 'De Bijbel – het is verschrikkelijk, maar het is eerlijk – de Bijbel gelooft er niets van.'

[16] *Nieuwe Vlaardingsche Courant*, 21 December 1923.

[17] 'Johannes tegenover Marx', *Nieuwe Vlaardingsche Courant*, 1 January 1924.

[18] Advertisement in *De Standaard*, 24 and 29 November, 3 December 1924.

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received well, ‘towering above its environment’,[19] and Schilder was praised as ‘a modern man who understands the world crisis we are in’.[20] In 1926 a second, extended edition of the book was published.

5. UTOPIA AND PROPHECY

The topic of the future and the Second Coming of Christ was popular in the aftermath of the First World War. In the 1920s and 1930s Dutch newspapers abounded with references to Thomas More and to utopia,[21] and there was a *hausse* of books and articles on this theme, most of them showing unease about the topical situation. In Schilder’s Protestant circles books on the last book of the Bible were published frequently (Sillevis Smitt, 1904; Los, 1918; Hepp, 1919; Greijdanus, 1925; De Moor, 1926; Buskes, 1933). Most of these were encouraging, with a stress on the new heaven and the new earth that was awaiting them. Schilder’s book was different. It was not so much focused on the future – no surprise for someone from a conservative political tradition – as it was on present-day issues. He did not point to the New Jerusalem, but to the Apocalypse’s story about dead bodies lying in the streets of the great city, as he wrote provocatively in 1931.[22] His focus on the social question led to a different angle for understanding the Apocalypse: ‘The Revelation of St. John can teach us, that the question of man and society is relevant. That it is as relevant as the question of the relation of God and the human soul. No more and no less.’[23]

Especially Schilder’s encounters with socialism showed his creativity. Challenged by socialism in ‘times of revolution and, a period of change and storm’,[24] he reflected in his book on the idea of a new society, of utopia. After having analysed utopian ideas and perspectives in his lectures, he now focused on a Christian view on utopia. He liked to work with contrasts (Griffioen,

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[19] Advertisement for the second edition, *De Standaard*, 22 March 1926.

[20] ‘Wereldopbouw uit wereldruïnen’, *De Standaard*, 13 December 1924: ‘Als man van zijn tijd doorvoelt de schrijver de wereldcrisis, waarin wij leven’.

[21] See: www.delpher.nl. The only decade in the twentieth century in which newspapers had more references to utopia was the 1980s.

[22] K. Schilder, ‘Pinksterfeest “in het huisje” en “bij het bleekje”’, *De Reformatie*, 22 May 1931: ‘En er kwam een apokalyps, maar die gaf geen utopie in uitzicht, doch lei onbegraven lijken op de breede straat van de groote stad, en wees een Antichrist.’

[23] Schilder, *De Openbaring*, 39: ‘De Openbaring van Johannes kan ons leeren, dat ook het vraagstuk van mensch en maatschappij zijn belang heeft. Dat het evenveel beteekenis heeft, als de vraag van de verhouding tusschen God en de menschenziel. Niet meer en niet minder.’

[24] Ibid., 70: ‘in tijden van revolutie en van oproer, in perioden van omkeer en van storm.’

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1990, p. 41). He distinguished between those who oriented themselves on Moscow, the socialists, and those who looked to Jerusalem for orientation, the Christians, and presented their view: 'Let those who expect prophecy and light from Moscow, pay attention to what has come from the circle of those who went out from Jerusalem into the whole world with the word of the man Jesus Christ.'[25]

Schilder explained that the Apocalypse is prophetic, but not utopian. The prophecy of this book is not about a world to come, let alone a better world, but about this world, and about present-day society. According to him, the imagery in the Apocalypse of the four horses – famously depicted by Albrecht Dürer – is as close to our present world as possible. The red horse stands for war, the black one for death, and the grey horse for hunger, all items in the daily news of the 1910s and 1920s – think of the First World War, killing 17 million people, and the Spanish flu of 1918–1920, killing more than 50 million people worldwide (Spinney, 2017). This world is full of conflict and suffering – war, death, and hunger – and its representation in the Apocalypse is as realistic as can be. There is nothing utopian about the book of Revelation; it is much more oriented on our society than readers ever realized, claimed Schilder: it is about 'selling and buying, boycott and protection, scarcity and distribution, economic destruction and pollution of the natural resources, about accumulation of capital and salesmen – in the latter days even more so than ever before.'[26] Schilder stressed the oppressive reality in this book, in which war, hunger, death, and natural disaster alternate or coincide scene after scene, but are never absent. There is a tiresome repetition in the book, as if the Apocalypse wants to instil in the reader that there is no escape from this treadmill of history. People may dream about utopia, but the Apocalypse is a reality check. There has never been something like a utopia, and there will never be something like that. A society is not a construct, but woven by humans, and man will stay the same, 'no one gets egoism down'.[27] We can only talk about utopia, wrote Schilder, because it is not real, and at every move man tries to make towards this dreamland, history will grasp him by the shoulder in order to keep his steps in pace with ugly reality. There is no escape from history, and the timber of humanity stays crooked.

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[25] Schilder, *De Openbaring*, 17: 'Wie dan van Moskou wacht de profetie en het licht, die lette ook eens op wat uit dien kring komt, die van Jeruzalem is uitgegaan tot de heele wereld met het woord van den mensch Jezus Christus.'

[26] Ibid., 31: 'koopen en verkoopen, boycot en protectie, schaarschte en distributie, economische destructie en verderving van de bronnen van bestaan, het grootkapitaal en het lot der kooplieden – er zal nooit meer over te doen zijn, dan juist in de laatste dagen'.

[27] Ibid., 124: 'egoïsme krijgt niemand er onder'.

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6. THE RELEVANCE OF HISTORY

Schilder painted history and the *condition humaine* in dark colours, but before we conclude that he is pessimistic, we have to realize he wrote his book in the decade novels like Erich Maria Remarque's *Im Westen nichts neues* (1929) were published. This book was welcomed as 'the Bible of the common soldier'. It expressed the disillusion of the post-war world: 'the amalgamation of prayer and desperation, dream and chaos, wish and desolation' (Ekstein, 1990, pp. 286, 294). This gloomy view has set the tone of Schilder's book, and while his view of the course of history is far from utopian, it is hopeful. In order to understand this, we need to understand the Christian worldview. The renowned Dutch historian Johan Huizinga wrote in 1929 that Christianity's view of history is a break with the cyclical view of history: of the rise, decline, and fall of empires, or the rise from barbarism and violence to justice and rationalism, turning into anarchy again, in an everlasting circular process. This view was common in old eastern cultures, among the Stoics in Greece, but also in Machiavelli's and Vico's works, and returned in Spengler's *Untergang*. Christianity offered an alternative view of history, a linear one, and made history relevant as the place where salvation was realized. Christianity let room for a simple and regulated development from a beginning towards an end. In this historical process there is no escape halfway, nor a utopia at the end. But in the process grace can be received, and is the result of divine intervention (see Van den Broeke's chapter in this volume on the relation of grace, law and utopia). And the end of times is likewise. It is not the outcome of the historical process, but an interference from outside, from God (Huizinga, 1950, p. 115). Schilder's hope was not vested in the historical process, but in the Second Coming of Christ.

Socialism offered a utopia as a result of history, but this solace was false, it was – to refer to Marx – opium for the people. As Schilder had pointed out in his 1921 lecture, socialism chased after a *fata morgana.* There has been no social system in history that fitted the community as a whole; there were always drop-outs, groups that were excluded and trampled, and rulers that accumulated their wealth at the cost of lower classes. Harmony in society is out of reach; there will never be a morality shared by all. Every utopia is an absolutizing of one aspect, like equality, peace, or freedom. The Apocalypse shows nothing else history had not shown already: that a society contrasting ours is a chimera. Socialism's allure of utopia is not just a mistaken understanding of history; it will turn hope into its reverse, as Schilder said about the visionary thinker Friedrich Nietzsche: his dream 'wins the hearts of the world. And then the facts overwhelm: instead of the beauty and the divine, the beast and terror take over' (Schilder, 1924, p. 203). In the end, utopian dreams are a threat

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to society. Schilder wrote this in the wild years after the First World War. It resonates later in the considerations of social thinkers like Isaiah Berlin (1990, p. 19), who in 1988, referring to the French, Russian, and Nazi Revolution, called the pursuit of a perfect society 'a recipe for bloodshed'. Berlin had seen what Schilder predicted.

7. AUSTERE, BUT ACTIVE

Schilder stressed in his book that Christianity has a sobering message in times of revolution: life is a struggle and will stay a struggle, dreaming of other possible worlds is dangerous escapism. His warning concerned also Christian utopian thinking, like the Protestant movement Darbyism, preaching a rapture of the church before tribulation would come – still a popular idea in American evangelicalism. In 1919 Schilder ([1918]), p. 35) had published a pamphlet on Darbyism's teachings on the course of history, and rejected this idea of a rapture: it was a sample of 'exegetic dilettantism', for Scripture does not speak about this. He criticized Darbyism for its focus on the new world to come: 'The Christian art of living lies neither in avoiding nor in sanctifying life in the world. Fleeing the world is not the command, as a matter of fact this would be a denial of Christ's kingship, who gives his disciples their task in the world.'[28] His sober advice was: 'Take the annoyance out of the church, but never take the church away from the annoyance.'[29]

Where did this austere realism lead Schilder in an era where radical utopian leaders like Adolf Hitler claimed: 'In history something had to be undone and it had to start all over again, as if what had been eradicated had never existed' (Herzberg, [1956], pp. 33–35)? Did he tend to fatalism, resentment, or to a reduction of life to the prayer: give us today our daily bread, in the sense Bertolt Brecht (Weil & Brecht, 1928) called this the basic need: '*Erst kommt das Fressen, dann kommt die Moral*'? Key to his view of society and social life was his belief that not utopians will conquer this world, but the first, white horse: Jesus Christ. The grand scheme of John's Apocalypse made him situate the history of the world in a cosmic frame, with man as an active part in the drama of history. The situation of the world was very serious, but not without hope, and man was called to contribute to God's goal to bring this world to its

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[28] Schilder, Darbisten, 36: '(…) christelijke levenskunst niet ligt in "*m*ijding", doch in "*w*ijding" van het wereldleven. Wereld*ontvluchting* is niet de eisch; feitelijk is ze verloochening van Christus' koningschap, dat ook in het wereldleven zijn volgelingen hun taak aanwijst.'

[29] Ibid., 40: 'Men neme dan de ergernissen weg uit de kerk; maar nooit de kerk uit de ergernissen!'

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consummation, and not escape from his calling in any kind of utopia. In 1931 he (2022, p. 250) criticized utopian ideas in a meditation on Pentecost:

> Does the way to heaven not lead us straight through the earth and can I serve God otherwise than in the actual reality of my house and my bleachfield? Don't let anyone distribute a travel guide with this arrangement: misery, deliverance, glorification (*gloria, victoria, utopia*). Rather, let him hold soberly to this: misery, deliverance, thankfulness.

People were co-workers of God, not to bring heaven on earth and create an entire utopia, but to work day by day within the confines of history, doing what is just and right in and for society, 'mow your lawn and clean your little house with love for Yahweh' (Schilder, 2022, p. 251), and shying away of 'every attempt to renew the face of the earth'.[30]

This was not a programme for social change, and one might wonder whether Schilder had concrete societal goals at all, but we have to realize that in the Netherlands the answer to the social, political and cultural crisis was not political, but religious in the first place. By 1930 only 14 per cent of the population was non-religious. The debate on the way forward was not political; it was a debate of worldviews (cf. Boterman, 2021, pp. 76–77). In this 'ideological era' Schilder's analysis was not out of tune. And his anti-utopian stance does not mean he had no counterfactual account that guided him. Reactions to his opinions on utopia outside of the Protestant circles he belonged to have not been found, but to a younger generation of Dutch Protestants, Schilder's modest but active approach to the dramatic interbellum situation was encouraging. Life in times of economic crisis and international tensions could be miserable, idle, and grey. In contrast, the act of God's revelation plugs people in in a cosmic work of construction. Life is either acting now, or a kind of spineless existence. It is a choice everyone had to make: 'God is not a tyrant. He gives everyone what he wants. He does not put a burden on anyone, only the burden of one's own choice. He only kills what is dead. He only ruins the house that is divided against itself and cannot exist any longer.'[31]

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[30] Schilder, *De Openbaring*, 238: 'Werktuigen Gods te zijn, dàt besef heeft Calvijn en de zijnen afgestompt en schuw-hooghartig doen staan tegenover elke poging tot reformatie, die het aangezicht der aarde zou willen vernieuwen.' Cf. J. Veenhof, 'Medewerkers van God. K. Schilder over plaats en taak van de mens in het handelen van God', in: W.F. de Gaay Fortman a.o. (eds.), *'Achter den tijd.' Opstellen aangeboden aan dr. G. Puchinger ter gelegenheid van zijn vijfenzestigste verjaardag* (Haarlem: Aca-Media, 1986) 139–154.

[31] Schilder, *De Openbaring*, 203: 'God is geen tyran: Hij geeft ieder, wat hij wil. Hij legt niemand eenigen last op, dan alleen den last der eigen keuze. Hij doodt alleen

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The act is magnified. Christ, to quote Schilder's disciple, theologian Kees Veenhof (1902–1983) (1941c, p. 146) 'goes forward, urges on. There is in and around the ruler of heaven and earth not a moment of stagnation.' Anyone who gets involved in Christ's activity is switched on, as Veenhof (1941b, p. 300) says. The perfect is not out of reach, back in history, or in the future. The gap between the imperfect and the perfect can be bridged, in principle. The movement Schilder generated in Dutch Protestant circles stressed that religion is not about the soul; it is about action and labour. This dynamism by which Christians are absorbed is about vigour here and now, not about a utopia out of reach. To quote Veenhof once more: by becoming Christians 'we enter a happening, a series of acts of perfect harmony, in which even the smallest thing has its own place. Nothing is redundant, nothing accidental.'[32] The real life is not to be expected, it is *hic et nunc.*

8. CONCLUSION

Schilder lived in a time of revolutions and utopian alternatives. Unlike many of his fellow Christians, he researched the utopian alternative presented by socialism, and criticized it as way too optimistic about the possibility of social change and way too positive about human nature. The conservative cultural tradition he had been raised in made him stress the relevance of history and of this world. The Christian answer he formulated was based on an idiomatic reading of the Apocalypse with modern social issues in mind. The response to his view proved that an anti-utopian message did not have to be a renunciation of excitement, as Michael Walzer (2009) puts it. But was it really anti-utopian, or should we say the *hic et nunc* religion he advocated was a utopian twist to the Kuyperian tradition? With his stress on the absolute norm in the concrete historical situation, he advocated a utopia, not in the future, but here and now. He attracted and invigorated a younger generation of Protestants, who disliked their bourgeois life and tried to overcome their passivity and sense of loss in the post-war years by his dynamic view of history and his call to Christian action.

wat dood is. Hij ruïneert slechts het huis, dat tegen zichzelf verdeeld was en niet meer kon bestaan.'

[32] C. Veenhof, 'Christus' wegbereider, de priester Johannes,' in: ibid., 34. Cf. Schilder, *De Openbaring*, 209: 'Dat is de heerlijkheid der Schrift. Niets gaat verloren. Geen enkele dag bouwt voor niets. Elke dag heeft genoeg aan zijn eigen kwaad en elke morgen heeft genoeg aan den dag van gister en aan wat hij gebouwd heeft. Alles helpt mee. Ook de tijden van afbraak. Allen helpen mee. Ook de brekers, de omverwerpers. Allen.'

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His criticism of utopian ideals was not typical of Christianity, but was related to several other contemporary Protestant social thinkers in the Netherlands, like the philosopher Herman Dooyeweerd, while there are also similarities with the late twentieth-century political and social theorist Isaiah Berlin. Schilder and Dooyeweerd had a theological or ontological approach, Berlin a political and social one. Against the utopian ideals and alternatives of their days, they both advocated plurality and diversity, either as a theological reality, or as a social and historical phenomenon. Their views have three characteristics in common. One is a denial of autonomy and a critique of monism. Man is God's creature and has a vulnerability that requires social bonding, while Berlin in his 'Two Concepts of Liberty' stressed that the individual is not something one can detach from one's relationship to a larger society. This relatedness is the foundation of societies. Second, Schilder and Dooyeweerd perceived society not as a given, a holistic and monist system we are added to, but woven by humans and in need of permanent maintenance, day by day. Likewise, in Berlin's view, a utopian society is 'by very definition static and unchanging, beyond social tension' (Jinkins, 2004, p. 137; cf. Berlin, 2003, p. 23). They favour a differentiation in responsibilities that is averse of any utopian ideal. And lastly, according to the Protestant view, society functions in a concrete normative reality that is at odds with utopian ideals, which always will absolutize an aspect of reality, and neglect its integrality (cf. Kuiper, 1999). In Berlin's (1969, p. 143) case, the demand 'to be liberated from (…) the status of political or social dependence (…) is simply recognition (of their class or nation, or colour or race) as an independent source of human activity, (…) and not to be ruled, educated, guided, with however light a hand, as beings not quite fully human, and therefore not quite fully free.' In the special case of Schilder, this integrality got a utopian twist: the ideal society starts here and now.

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10. The Islamic state

Maurits Berger

1. INTRODUCTION

This chapter is based on a three-decade study of what is generally known as 'political Islam' and 'sharia' in the modern period. My academic goals were always in the domain of the practical: what is it that people aspire to in terms of state and law, how do they construe it, how do they propagate it? But during my research I grew aware that these aspirations and actions of Muslims had an undercurrent of hope and wishful thinking: they were hoping, thinking, writing, and sometimes even actively pursuing a society that was a better place than where they were living now. This desire was encapsulated by the notion of 'Islamic state'. Can these Islamic state projects then perhaps be considered utopian? On the one hand we are looking at a twentieth-century phenomenon of pragmatic state-building that, although set in a framework of Islamic thought, is indebted to modern notions and ideologies of governance. On the other hand, these pragmatic and modern projects are also infused with what we may call utopian thinking.

To come to a clearer understanding of this I will explore the developments of the notion of 'Islamic state' from its first inception in the 1940s until the rise of ISIL in 2014. But rather than applying theories of utopia on these Islamic state projects, I prefer to see what kind of utopian notion emerges from those projects. In order to do so, however, we must of course first establish whether it is justified to speak of 'utopia' in the first place with regard to these projects. Here, Ruth Levitas's notion of utopia as the Imaginary Reconstitution of Society comes in useful (Levitas, 2013). She defines utopia as essentially 'the desire for being otherwise' (Levitas, 2013, p. xi) and then develops a methodological approach based on three modes: the image of a good society (the 'archaeological mode'), the image of good people (the 'ontological mode') and the image of scenarios for a good future (the 'architectural mode') (Levitas, 2013, p. 153). We will see that all three modes are reflected in the Islamic state projects. But we will also see that there are some peculiarities that are quite specific to the Islamic approach in these utopian projects. To reach that point

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I suggest we first let the various Muslim thinkers explain their visions in their own words, and then come to an analysis of the utopian nature of these visions.

2. THE THEOLOGICAL AND PHILOSOPHICAL VISIONS OF A BETTER PLACE IN ISLAM

The notion that we in this chapter refer to as 'utopia', and which we have defined as the 'desire for being otherwise', either as a people or society or future, has little resonance in Islamic theological or philosophical thought.[1] In theology we find of course the notion of the Afterlife (*al-Akhira*), which in Islam has acquired tangible proportions in its descriptions of Paradise (*al-Jannah*, literally 'the garden'). This paradise is much more than a garden: from the various scriptural and human descriptions we learn about large rivers, walls and buildings made of precious stones, and tall dunes of musk, but also fabulous tents, pavilions, and palaces, not to mention the extravagant luxury enjoyed by its inhabitants, including embroidered couches and cushions, multicoloured brocaded garments, translucent cups of silver and gold (Lange, 2016, p. 16). In all this abundance men appear to be more richly bestowed with pleasures than women (Smith & Haddad, 1975).

Two observations are important for our discussion. First, this Paradise is located in a place that is not on earth and that can only be reached through death. So, while it may have a utopian attraction for people in that it is a beacon of hope and salvation during their earthly life and may even prompt some of them to hasten the ending of that earthly life so that they arrive sooner in this blissful place, this is not the kind of utopia we mean to explore in this chapter. Second, the descriptions of this place almost exclusively relate to the pleasing of human senses. We will see later that such ideas and concepts of earthly utopias are described in an entirely different manner, as they clearly serve different purposes.[2]

While Islamic theology contains little that may be called utopia, Islamic philosophy has at times entertained this concept. Three thinkers are known for ideas that are close to our notion of utopia. Two of them are Ibn Tufayl (d. 1185 AD) and Ibn Nafis (d. 1288 AD). Both have written a short treatise with a similar plot: the growing up and development of a human being who was born on an uninhabited island (Ibn Nafis, 1968; Ibn Tufayl, 2009). The utopian character of these two stories is not the living conditions of this island, but the

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[1] Not surprising, then, that the notion of utopia in Islam has received little academic attention, see e.g.: Simon (1963) and Sargent (2010).

[2] Just like utopian views inspired by Christianity oftentimes lead to completely different viewpoints than those espoused by Islamic thinkers – see for examples of such Christian views the contributions in this volume by Van den Broecke and Harinck.

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intellectual and spiritual development of the main character: the authors want to demonstrate how mankind through the superiority of his capacity of reasoning can attain intellectual and spiritual growth and reach ultimate wellbeing.[3]

Long before these two authors, one of the grand philosophers of Islamic times, Ibn al-Farabi (d. 950 AD) wrote his *The Virtuous City* (Farabi, 1985). This treatise is one of its kind in Islamic thought and more relevant to our discussion than the previous two. Farabi starts off with man's ultimate goal in life, namely *sa'ada*, which can be translated as happiness or felicity. This is a state which Farabi claims to be the prerequisite for a successful access to the afterlife. But rather than dwelling on a description of this afterlife, as so many theologians did at the time, Farabi focuses on the conditions required to reach this afterlife. To do so, man needs to be in a state of felicity, Farabi claims, but man cannot do this on his own, as the human being is a social and political being who cannot live in isolation. Therefore, cooperation with other people is necessary, as only through collective effort can everyone acquire the needs to rid oneself of vice and to perfect the virtues. This collective activity can only successfully take place in a 'virtuous city', which is the place on earth that fulfils all the conditions to attain everyone's state of ultimate felicity.

The basis of this virtuous state, Farabi insists, is justice, which he defines as 'proportionate equality, everybody fulfilling the task which he is able to fulfil thanks to his natural endowment and occupying the rank which he deserves according to his performance' (Farabi, 1985, p. 434). Any lack of justice will create a disturbance of equality which, Farabi believes, will lead to a state of vice. In addition to the necessity of social cooperation and justice, there is a third and perhaps most crucial condition for the virtuous society to be successful, Farabi stipulates: its ruler. And this person should not only be a theoretical philosopher but a lawgiver and a practising politician as well. Here we see the influence of Plato's *Republic*.[4]

Can Farabi's *virtuous city* be considered a utopia in our meaning of the word? One would say so, because as it is an earthly place where people can become better persons. The state of felicity that mankind can reach in that place is not a God-given state of bliss but needs human effort (Lauri, 2013, p. 32). I would argue, however, that Farabi's virtuous city fails to meet our concept of utopia because his city is not an end goal, but merely a passage to the ultimate utopia which is the afterlife.

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[3] One author also pointed at two other utopian themes, although much less clear from the texts of the treatises: the vices and virtues of society; and transcendence, in the particular meaning of the ability to transform man and society to a higher and better plane (Lauri, 2013, pp. 37–38).

[4] Farabi belongs to the group of Muslim philosophers who were much influenced and inspired by Greek philosophy, see, e.g., Adamson (2016) and Fakhry (2004).

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3. PAKISTAN'S 'HOMELAND'

The mentioned treatises and discussions were the products of philosophers who lived during a period which became known as the 'Golden Age' of Islam or the Islamic 'Age of Enlightenment', between the tenth and thirteenth century AD. After that, there are to my knowledge no thoughts or descriptions of any utopian dream or place on earth. Nor seem these early Islamic philosophers to have been of any influence on modern thought about the Islamic state.

The notion 'Islamic state' was first introduced in the twentieth century. The term itself was coined in 1941 by the Pakistani Muslim thinker Abu Ala Mawdudi (1903–1979). He did so in the context of the movement of Muslims in British India who were intent on creating a separate land for themselves after India's independence. How this new country was going to be shaped was not yet clear, but the motivation for it was: the Muslims wanted to be disengaged from the Hindu majority that they feared was going to impose its will once independence from Great Britain was achieved. The endeavour of these Muslims therefore was to create something of a religious homeland (Jalal, 2014), not unlike the homeland aspired by the European Jews in Palestine during that same period.

With the risk of oversimplification, we might make the generalization that for most of these Muslims in British India during the 1920s and 1930s, religion was an identity more than a religious praxis. In other words, one identified with being Muslim but that was not necessarily the same as being a devout Muslim. This identification process can be partly attributed to divide-and-rule politics of the British, partly to the response to Hindu nationalism, and partly to dynamics of self-identification (Van der Veer, 1994; Robinson, 1998; Metcalf, 2004).

The idea of a homeland gradually evolved into the more concrete project of a separate nation state. As this was a state specially destined for Muslims, it was often referred to as 'Islamic'. And indeed, once Pakistan was officially pronounced in 1949, it was formally named the 'Islamic Republic of Pakistan'. But it must be emphasized that the 'Islamic' in the name referred at the time to its inhabitants and much less so to the character or structure of the state itself. In the first decades of its existence, the Islamic Republic of Pakistan was quite secular, as shows in various rulings by the Constitutional Court in cases regarding religion (Mahmud, 1995).

This, now, was what bothered people like Mawdudi, who had hoped for a state that was not only Islamic in name and population, but also in character. The question, however, was what that character should look like, as Islamic scripture and theology did not provide blueprints of such a state (as will be

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discussed in more detail below). Mawdudi was the first to undertake the endeavour of drafting such a blueprint.

4. MAWDUDI'S 'ISLAMIC STATE'

The history of Islam is rife with movements, rulers, warriors and thinkers who aspired to a more 'Islamic' way of life. Mawdudi was a product of this thinking, but he took it one step further: he envisaged a more all-encompassing concept of a state form suitable specifically for Muslim society. For this he introduced the term 'Islamic state'. This was not a concept from Islamic theology or law – which is not surprising, as the notion of 'state' evolved only long after Islamic doctrine had been formed[5] – but a product of Mawdudi's own thinking that was more telling of the times he lived in than of his knowledge of Islamic theology.

From Mawdudi's writings, in particular his *The Islamic Law and Constitution* (1941) and *Islamic Way of Life* (1948), emerges the image of someone who is taking part in the Western debates of the time on what is the best form of government. His early writings show that Mawdudi was aware of the state models proposed by democrats, socialists and fascists. Later, he insists that Muslims want to 'carve out their own path in a world that is torn between secularism, nationalism and communism' (Mawdudi, 1941, p. 10). The result is a new state form that Mawdudi claims is more authentic to Muslims. But closer reading of Mawdudi's outline of that state shows that his model for an Islamic state contains elements of democratic, fascist and socialist models of governance, poured over by a gravy of Islamic ingredients. The result is not entirely coherent, as critics have repeatedly indicated (Nasr, 1996; Jackson, 2011), but the message was powerful, and the tone was set for the coming decades.

The aim of the Islamic state, Mawdudi says, is justice (Mawdudi, 1941, p. 4; 1947, p. 12; 1948, pp. 86*ff*). This is reminiscent of Farabi's aim of his 'virtuous city', which was also justice, but in Farabi's city justice was a means to an end (namely that through a just society man could reach the 'ultimate felicity' which was needed for a successful passage to the afterlife), while for Mawdudi justice was a goal in itself. He was not always entirely clear in what he meant by justice, as he explained it with equally broad terms like virtue, honesty, equity, and the absence of oppression and tyranny. But the overall image that arises is that he envisages a state form that serves as a better alternative to existing state forms.

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[5] 'There never was an Islamic state' (Hallaq, 2013, p. 48).

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The question then arises if we are dealing with a utopia. I think not. Mawdudi's discussions and descriptions of his Islamic state regard the political and legal aspects thereof. It is a state that wants to be better than other state forms, but it is not more than that: a political project of state-building. Still, the setting in which Mawdudi's visions are situated, namely in the country of Pakistan, which had been designated as a religious homeland for Muslims from British India, may give the impression of a more utopian character of this state. So does his use of Islamic terminology and reference to Islamic scripture. In order to comprehend the status of this Islamic terminology, we need to briefly address two concepts that play a key role in the thinking of Mawdudi and of those coming after him: the Islamic concepts of state, and of justice.

5. ISLAMIC CONCEPTS OF STATE

Before we discuss these concepts, we first need to take a look at the larger context of Islamic theology. The centre of any Islamic theological discussion is the Quran, which, unlike the stories of the Bible or the Veda, reads as a text delivered by an entity who addresses the audience. According to Islam, this entity is God Himself, who in the relative short time span of 22 years conveyed His Revelation, or His cosmological vision of mankind. This vision was not so much descriptive but prescriptive: in order for mankind to reach fulfilment, and to reach Heaven as a reward, certain rules and rituals had to be followed.

However, while the Quran might set certain conditions for living the earthly life to reach the afterlife, it does not provide a full blueprint for the life on earth. God had left very few instructions how Muslims could or should rule one another, except in general terms, like: 'Rule the people according to the precepts of God and not according to their idle desires' (Quran 5:49) or 'Obey the prophet' (Quran 4:59). In the light of this absence of clear rules, it became theological doctrine that it was up to the people to find their own ways of government (Tamadonfar, 1989, p. 40; Hallaq, 2013, pp. 50–51). In practice this meant that Muslims had the freedom to form their own systems of government, and so they did: in the first centuries of Islam these were the 'caliphates', which were not unlike other kingdoms and empires of those days, followed from the late nineteenth century onwards by modern state forms like a republic.[6] While the choice of government was free, the rules of the state had to be those as ordained by God (known as the *sharia*). But since these rules only covered a small part of the rules needed to govern a state, the worldly power (the *sultan*) had the freedom to promulgate all additional rules, provided that they were in the spirit of the *sharia*. This latter practice was called *siyasa* and

[6] Most Muslim-majority states today call themselves 'republic'.

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these rules effectively constituted the overall majority of state rules (Vikør, 2005, pp. 69–70).

But then, with the arrival of the twentieth century, there was a growing discontent among Muslims worldwide about the deplorable situation of their societies and about the nature of their governments and laws. Some of this discontent had to do with the fact that most of these Muslim-majority societies were under colonial rule. Some discontent also had to do with the confrontation with modernism. Whatever the exact reason, the result was an increasing call for a return to Islam as an authentic source for constructing a society by and for Muslims. The main problem of this endeavour, however, is that Islam provides very few rules and indications for how this society should look like. Only the starting point was clear: it was up to the people to find their own ways of government, but the rules they were to apply were those as ordained by God. This explains why Mawdudi and later thinkers took liberties with the structuring of that state, and put great emphasis on the adherence to *sharia* as a rule of law.[7] In their discussion on the legal structure, they sufficed with merely referring to the '*sharia*', which they usually neglected to define.

6. JUSTICE AND OPPRESSION

So far, we discussed the practicalities of constructing a state. In our search for any utopian visions, however, an important question is: what goal should that state serve? Mawdudi was the first to introduce the notion 'justice' as the main aim of an Islamic state (Mawdudi, 1948, pp. 86*ff*). Justice (*adl* or *adala*), or social justice as it is more often called, is a pivotal concept in Islamic theology: not love, as in Christianity, but justice is the cornerstone for a 'good' society on earth (Hasan, 1971; Khadduri, 1984). Mawdudi, possibly influenced by the modern ideologies of his time, rephrased this term into 'social justice'. This was picked up and amplified by the Egyptian thinker Sayyid al-Qutb (1906–1966), in his seminal *Social Justice in Islam* (1949). Qutb described Islamic social justice as social solidarity, equality, and fair division of wealth. His writings would influence thinkers as far as Iran and Indonesia.[8]

Thinkers like Mawdudi and Qutb, and those who would succeed them, started off with a simple premise: justice was enshrined in and guaranteed by the divine law, *sharia*, so the implementation of that law should by itself be

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[7] See the chapter by Bart van Klink in this volume, which argues that the rule of law as such can be construed as a utopia, or at least is not contradictory to utopia.

[8] In particular Mohammed Baqir al-Sadr (1935–1980) in Iran and Abdul Malik Karim Amrullah (1908–1981) in Indonesia.

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sufficient to implement justice.[9] But in the thinking of Mawdudi and Qutb we may also discern the possible influence of the *Zeitgeist* of their time, in particular the elements of socialism (Calvert, 2009, p. 162). This is not surprising, as socialism enjoyed enormous popularity among the many countries that were in the process of obtaining their independence from colonial rule during the 1940s and 1950s. It was not just an ideological flirtation: there were ample reasons to call for social justice as defined by Qutb given the deplorable state of most inhabitants of Muslim majority countries at the time who were suffering from poverty, famine, feudal systems, inequality and abuse of power.[10]

In addition to this social-economic situation, the political situation also grew worse halfway through the twentieth century. After the initial euphoria of being independent, the national governments of many Muslim-majority countries proved to be quite a disappointment. Most of the new regimes had established autocratic rule based on secular and socialist programmes.[11] The people's discontent with their rule was of varied nature. To some, the new direction their country was taking was too far away from what they considered their authentic Islamic identity. For others, the regimes were too oppressive. But the majority was disgruntled with the economic crisis, unemployment, bad government, and corruption.

For this reason, the Islamic thinkers' call for social justice evolved from the 1950s onwards into a call to fight oppression (Rahemtulla, 2017).[12] Sayyid Qutb would become one of the main voices of this rebellious anger: 12 years after his *Social Justice* he wrote *Milestones* (1961), which was a manifest for revolt against the oppressive state, phrased in its own logic of Islamic terminology. Sayyid Qutb never spoke of an 'Islamic state', however: he framed the situation of his contemporaries in terms of the life of the prophet. Mohammed who also had lived in a situation of persecution and oppression, Qutb pointed out, and he had then taken his followers to Medina to establish their own society of Muslim believers, and from there had waged battle with the unbelievers in Mecca (Qutb, 1966, pp. 19–21). This comparison was not made with the intention to return to that situation of pristine Islam, but to use it

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[9] Carinne Elion-Valter discusses in this volume how legislation is inspired by, among others, the ideal of justice, and how legislation and law therefore are a source of hope.

[10] This image arises from the many country studies of various Muslim countries, and is summarized by Marshall Hodgson (1974, pp. 281–84).

[11] Nazih Ayubi prefers to call these regimes 'populist-corporatist' (1999, pp. 196*ff*).

[12] It is interesting to note that 'oppression' did not feature as a battle cry during colonial times.

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as a guiding principle in devising a strategy to address the situation in present times.[13]

Where Mawdudi had been struggling with a state (Pakistan) that had declared itself Islamic but, according to Mawdudi, was not Islamic enough, Sayyid Qutb was fighting a state (Egypt) that had declared itself socialist and secular, but according to Qutb was not Islamic at all. For his criticism Qutb ended up in jail, where he and the other Islamist inmates suffered torture and other mistreatments (Calvert, 2009, pp. 202, 206). It was in jail that he wrote his *Milestones*, which was not so much about building an ideal Islamic state, but about dismantling the non-Islamic state he was living in. In his writing, Qutb used a term that resonated with the discontent of many of his contemporaries, and in Islamic parlance was an immediate second after the term 'justice': oppression (*zulm*). Islamic theology is rife with discussion on whether it is permitted for Muslims to rise against their ruler when he is oppressive. In early Islam, the majority of theologians argued that obedience to the dictator was mandatory to every Muslim. That doctrine was the result of ten years of civil strife (*fitna*) among Muslims following the death of the prophet. This traumatic experience led the theologians to adhere to the saying: 'better sixty days of oppression (*zulm*) than one day of civil strife (*fitna*)' (Ibn Taymiyya, 2000).

This doctrine was being brushed aside in the course of the second half of the twentieth century. Mawdudi already made reference to the notions of oppression and tyranny, as we have seen, but merely as concepts that were anathema to the Islamic state. It was Sayyid al-Qutb, and later Khomeini, who turned these notions into Islamic battle cries in their opposition to the regimes of their countries and in their wish to establish a better society.[14] Justice and oppression became thus two sides of the same coin of the Islamic state: one represented what the state ought to be, the other what it should not be. One is the aspiration, represented by Mawdudi, and the other is the opposition, represented by Qutb. Khomeini was the one who would combine the two.

7. KHOMEINI'S 'REIGN OF THE SCHOLAR'

Khomeini (1902–1989) was the first to establish a state constructed on the principles of Islam. He did not do so from the inside out, as was Mawdudi's objective in the case of Pakistan, but by overthrowing the existing state of Iran. The

[13] In the words of Nazih Ayubi: 'The Islamic militants are not angry because the aeroplane has replaced the camel; they are angry because they could not get on to the aeroplane' (1991, pp. 176–77).

[14] See for a discussion of 'the need for radical hope in a hopeless world' the contribution by Marta Soniewicka in this volume.

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regime of the shah, the very secular approach to society, the Western-oriented lifestyle of the ruling elite, and the ever-more repressive secret service – they had created strong opposition among the population. Khomeini gradually emerged as the leader of this opposition, and in his anti-government rhetoric the notion of 'oppression' (*zulm*) was one of the keywords. Oppression is also a notion that carries more weight in the Shiite tradition than in the Sunni tradition, which added to the inflammatory nature of Khomeini's speeches (Sachedina, 1981; Kramer, 2019; Zonis & Brumberg, 2019).

Once the shah was overthrown, an Islamic state was built. Like Mawdudi's approach, this state was a composite of various modern and Islamic elements (Martin, 2003). For starters, the new Iran was called an 'Islamic republic', and there were elaborate election systems for parliament, municipalities, and various other state bodies, even though concepts like 'republic' or 'elections' are not to be found in Islamic theology or law. On the other hand, primacy was given to Islamic law (*sharia*), and to guarantee that all laws and state policies were in accordance with *sharia*, a council of scholars was established to oversee this. They and their supreme leader constituted the 'reign of the scholar' (*vilayet-e-faqih*).

The world was now confronted with the situation that an Islamic state, after four decades of thinking and dreaming, was finally being realized. And more were to follow, as we will see later. Similarities with other revolutions come to mind, like those of America, France, and Russia. There, also, visions of society that one may call utopian were effectuated. While the resulting states themselves are usually not discussed in terms of utopia, they can serve as a measure stick of the utopian dream that had preceded it. In the case of Iran, the aspiration was to establish a state that would guarantee social justice and rule out oppression. But in the logic of Khomeini, such a promise was not to be measured by the wellbeing of the people, but by the implementation of *sharia*. Islam is here comparable with other ideologies that make a similar promise: the mere implementation of a preconceived system should create a society that served the people. But in its implementation, this Islamic state turned out to be no more than yet another political project of state-building.

8. ISLAMIC UTOPIA AS STATE OR SOCIETY

Let us pause here for a moment and take stock of the developments that we have sketched in broad brushstrokes so far. The aspirations for an Islamic state concur with the broad definition of utopia as 'the desire for being otherwise'. On the other hand, the projects as devised by various thinkers are mostly very practical schemes of state-building or, in the case of Qutb, means to undo states that are not considered Islamic. Just as one does not discuss the constructs of liberal, socialist, democratic, or other state forms in terms of utopia,

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that notion seems to have little relevance in the case of Islamic state. Unless, of course, we qualify these Islamic state projects as 'realistic utopias' (Levitas, 2013, p. 127), that is, visions that do not remain in the sphere of unreachable dreams but can be imagined to be actually realized.

Rather than getting entangled into an intricate discussion on theories of utopia, I want to draw the attention to a specific feature of the Islamic state projects that puts them squarely in the realm of utopia. Not the thinking or realization of Islamic states is decisive in considering it in utopian terms, but the dreaming, hoping, and desiring for it. To explain this, we have to retrace our steps.

The situation for most Muslims in the twentieth century was one of destitute lives, autocratic regimes, corruption, and lack of transparency and rule of law. Also, after decades of secularism and socialism, the Muslim world witnessed an increasing religiosity from the 1970s onwards. With this religiosity came an increasing expectation that Islam was to provide a better solution for living conditions on earth. The notion of an 'Islamic state', which was a dormant theory for several decades after its conceptualization by Mawdudi, caught on with a larger public after the 1970s. Their enthusiasm was fuelled with the implementation of several such projects, starting with the Iranian revolution in 1979. Similar endeavours never came to a complete overhaul of the state structure as Khomeini imposed in Iran, but the implementation of stricter forms of *sharia* in Pakistan in 1979 and Sudan in 1983 – in both cases enforced after military coups – was enough to change the character of these societies. Egypt made a similar move in 1980, albeit not by imposing a new set of *sharia* laws, but by decreeing that all future laws should be in compliance with *sharia*. These *sharia* projects may have created a new morality that adhered to stricter Islamic values, but apart from that seem to have done little to make people happier or improve their lives. Such life improvement or happiness is of course hard to ascertain, but if we look at the Human Development Index, for years these countries keep ranking low on that list (United Nations Development Programme, 1990).

Hope was then vested not in the implementation of *sharia*, but on the actions of people, as was shown by the popularity of civil organizations with Islamic programmes. In the 1990s, their popularity increased throughout the Muslim world. Some organizations thrived on populism, but many became popular because they 'delivered': they were grassroots organizations that actually fulfilled the promise of a better life by improving living conditions of common people. These Islamic organizations set up cheap and good health clinics, food banks, micro finance schemes, charity work, homework assistance (Mandaville, 2020, pp. 123–26). All this was done either as an Islamic duty or, more so, based on models considered typical for Islam. These organizations stepped in where the governments were not functioning (Mandaville, 2020,

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p. 126). The leaders of these organizations were not only known for their piety but, more importantly, for their honesty and transparency. The 'clean hands' approach was a welcome relief compared with what the governments and their officials had to offer. The credibility of the Islamic message grew by example.

Was this then the fulfilment of the Islamic promise of an ideal life, not top–down by reforming states but bottom–up by reforming societies? For a while that seemed to be the case, but everything grew muddy once these organizations entered politics. The AK Parti in Turkey, Hizbullah in Lebanon and Hamas in Palestine are typical examples of organizations that had gained popularity by 'delivering' to the social needs of the people in the 1990s and doing so with 'clean hands', but once they got in the seat of power they became tainted by it. The same had already happened in Iran, where resentment among the population grew, not so much against Islam as such, but against the leaders who were accused of misusing Islam (Axworthy, 2019, pp. 417–18).

This development is noteworthy for our discussion on utopia. One might expect that all the failures of the various Islamic projects, whether they are related to *sharia* or to the state, and whether they are implemented top–down (Islamic state) or bottom–up (Islamic society), would be sufficient to make people lose faith in the promise and the dream of an Islamic state. The opposite was the case. The belief in Islam as a solution for a better life only seemed to grow stronger, as was shown by various surveys (Esposito & Mogahed, 2008; PEW, 2013). And this brings us to the notion of utopia. The belief in an 'Islamic state' as the model for the ultimately just and good society is not related to a concrete project of state reform, so it seems, but to a dreamlike project 'out there' that one is expectantly waiting for to happen at some moment in time. That is the utopia of the Islamic state. And this utopia is strongly felt and widely shared by many Muslims.

9. STATE OR SOCIETY AS ISLAMIC UTOPIA

This belief in Islam as the source of a better life can also be found in the power of terminology like 'Islam', '*sharia*' and 'Islamic state'. For most pious Muslims these terms have none of the pejorative meanings they may have for so many others. To the contrary, for these Muslims, such terms are inherently positive, as they represent something that is essentially good. The fact that few Muslims can concretely describe what these terms mean does not seem to bother them. To understand this apparent contradiction of strongly believing in something without being able to clarify what it is one believes, I often make the comparison with the term 'justice'. This is a term that most people will see as positive, and many people will be willing to fight for it and perhaps even die for it, but few people will be able to clearly describe what they mean by it. The fact that justice is considered something good is apparently sufficient. This

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mechanism seems to be in play with terms like 'Islam', '*sharia*' and 'Islamic state'.

By consequence, one may also observe an inflation in this terminology. For instance, the mere addition of the adjective 'Islamic' is a way to indicate that the product or process at hand is somehow 'good': lifestyle, food, marriage, culture, politics, economics. Calling it 'Islamic' is as if one has branded it with a quality mark. The case of economics is an interesting example. The notions of 'Islamic finance' and 'Islamic economics' were developed in the 1970s and then soared in popularity in the financial markets of the Gulf and Western countries. They arguably represent an Islamic way of doing business, running a corporate firm, and playing the financial market, but critics have repeatedly asked how this 'Islamic' finance is any different from regular finance (e.g., Kuran, 2004). According to these critics, the product has never changed but is merely cosmetically adapted and relabelled with the name 'Islam'. The same can be said about the slogan 'Islam is the solution!' that was used by so many Islamic organizations. It may have been a powerful rally cry to mobilize people but remained empty when no solutions were provided.

Still, this inflation in word and deed did not seem to bother too many Muslims. Their faith in these terms is still strong. So is their belief in a utopian ideal of an 'Islamic state' or 'Islamic society'. I personally noted that when interviewing people in the late 1990s and early 2000s about the notion of the Islamic state. I always used three questions. The first was: would you favour an Islamic state? The answer was almost unanimously a resounding yes. The next question was: what exactly is this Islamic state, what does it look like? The answer was usually silence. Some people would refer me to the theologians. My third question, then, was if there was a country at present that would serve them as an example for the Islamic state they would like to have. The answer was yet again unanimous, but then negative: no. Countries with clear Islamic signatures, like Saudi Arabia, Iran, Pakistan, Malaysia, were all rejected as examples of an Islamic state, just as countries ruled by Islamic political parties such as Turkey or Indonesia. When pressing this matter further and repeating the question, 'But what is then this Islamic state you aspire to?', the answer would be: 'not this'. The dream of an Islamic state was thus defined as a photo negative of the present situation: the Islamic state is 'not this'. This, indeed, meets our definition of a utopia.

But then, in 2014, this utopian aspiration for an 'Islamic state' was challenged by an organization called the Islamic State of Iraq and the Levant (ISIL), which declared the establishment of an Islamic state in the region that straddles eastern Syria and western Iraq.

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10. ISIL'S WARRIOR STATE

ISIL poses a problem for analysis as it had features that may be called both utopian and dystopian, and some features that have no relation with either. It was first and foremost a militant state, not unlike Nazi Germany, where people, radiant with a newfound pride and vigour and masculinity, set out to shape a totalitarian society on their own terms. I deliberately make the comparison with Nazi Germany to underscore that this was not just a fanatical rebel group roaming the desert between Iraq and Syria, but a well-organized and well-administered society, with ministries, chains of command, bureaucracies. This society, however, also presented itself as an Islamic state. And it did so in three ways: as a promise, a state structure, and as the fulfilment of a prophecy. Each of these elements contains utopian and dystopian elements and therefore need further elaboration.

The announcement in August 2014 by ISIL that it had established an Islamic state, also called caliphate, sent shockwaves through the Muslim world. An important part of that shock was anticipation: was it really going to happen, was this dream of an Islamic state finally going to be fulfilled? ISIL tapped into the longing among Muslims across the world for a long-awaited fulfilment of a perfect society. ISIL fuelled this image with a propaganda campaign showing videos stressing the law and order they had established (as opposed to the Iraqi and Syrian oppressive bureaucracies and intelligence agencies that had controlled the livelihood of the ordinary people for decades), and inviting Muslims from the West to come to this place specially created for Muslims (reminiscent of the 'homeland' for British Indian Muslims), where they would be 'free from humiliation'.[15] This promise of an Islamic home had lingered for nearly seven decades (since Mawdudi) and had gained the potential of a full-fledged utopian dream that now was about to come true. Or so it seemed. It is perhaps the long-lingering anticipation among Muslims for the establishment of an 'Islamic state' that may explain why some Muslims remained in a state of denial for so long about ISIL's ruthless oppression and its atrocities. Excuses were made – the Western press was blamed for painting its usually bad picture of Islam, the violence was justified as collateral damage inherent to any state formation – to postpone the conclusion that something was happening that had little to do with the utopian notion of an 'Islamic state'.

The way this newly established state was structured, however, had little to do with the notion of a utopia. To the contrary, the state's organization was

[15] This is the recurring song line in the ISIS video 'Greetings from the Land of Khilafa' (2014), which is not available anymore on the Internet, but the author has a downloaded version.

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more resemblant of the bureaucratic structures established in the previous decades by the Baath regimes in Syria and Iraq: copies of pages from arrest books by ISIL policemen, smuggled out of ISIL territory and sent to me by a *Al Jazeera* journalist, were not unlike those used by the Iraqi and Syrian secret police.[16] The Islamic nature of ISIL's state was to be found mainly in the application of Islamic law, which, in ISIL's practice, was strict and violent. This application was roundly and unanimously condemned by more than a hundred Muslim theologians[17] – such a large unanimity was unique in the history of Islamic theology – but to no avail: many young Muslims still felt a need to leave their countries and take part in this new project. This appeal of ISIL has puzzled many observers, and much research has been conducted in its possible causes (ICCT, 2016, pp. 53–55). The appeal of ISIL's 'Islamic state' was clearly more than a state-like edifice that is theologically sound or practically suitable to people's needs and desires. To explain this appeal that went beyond the practical and the ideological, the notion of utopia could be helpful: people left everything behind to pursue a vision that was not clearly defined but was of utopian proportions. Not the state itself, but the fulfilment of its promise, was what got people into motion.

This pursuit of a promise ties in with the third, and perhaps most confusing, element of ISIL: in addition to the very worldly matters of building a functioning state and expanding and maintaining it by force, ISIL also propagated apocalyptic visions of a 'final battle' to herald the end of times and the coming of the Last Day (Schmid, 2015, p. 14). This is reminiscent of Farabi's *virtual city* as a preparatory phase to reach the ultimate felicity of the afterlife, although ISIL's preparatory phase is of a more violent nature, with ample references to the apocalyptic eschatology of Islam. ISIL's visions were based partly on Islamic scripture and partly on prophecies and folklore, and struck a chord with believing Muslims as some of these prophecies seemed to be fulfilled by ISIL's actions (like the taking of Dabiq, a small place in northern Syria where, according to the prophecies, the Muslims will defeat 'Rome', i.e., the Christian West[18]). The confusing aspect of these prophecies was that ISIL, on the one hand, was determinedly building the full infrastructure of a state, which indicates the intention to be a state of permanent nature, while at the same time it was disseminating messages that it was preparing for a final battle that was to destroy the world as we know it.

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[16] Copies are in the possession of the author.

[17] See www.lettertobaghdadi.com.

[18] Mentioned, among others, in a speech by the self-proclaimed ISIL 'caliph' Al-Baghadi and on ISIL twitter feed 14 September 2014 – all of these sources were removed shortly after they appeared on the Internet.

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ISIL is a typical example of a utopia that turns into a dystopia (Levitas, 2013, p. 112). The question that is still in the open is whether the dystopian nightmare that ISIL turned out to be will erode the naïve utopian dreaming about an Islamic state that has been so prevailing in the Muslim world since the 1970s.

11. CONCLUSION

The central question posed in this chapter is whether Islamic state projects that have been developed since the 1940s can be considered examples of utopian thinking. Regarding the projects themselves, I am hesitant to answer in the affirmative, mainly because these projects were quite pragmatic and realistic, and not as dreamy and far-fetched as one might expect from utopian projects (although it could also be argued that these projects could qualify as 'realistic utopias'). But if we were to consider these Islamic state projects as utopias, they were in reality more of the 'archaeological' mode (with a focus on improving the state system) while they themselves propagated to be of the 'ontological' mode (where the focus is on improvement of people). In this sense, the Islamic state projects are not unlike communist state projects.

While one might debate the utopian nature of the Islamic state projects, the *appeal* of such projects among the Muslims is definitely utopian. This shows in the fact that the implementation of several of the Islamic state projects have led to disappointment among Muslims but not to dismissal of the idea as such. To the contrary: it seems that the ideal of a 'better' (often phrased as 'Islamic') state or society is still very popular. This ideal is described either in general terms – justice, equality, benevolent leadership – or as the photo negative of the present world: the Islamic state is defined as the opposite of today's society in Muslim countries. To many Muslims, the establishment of a 'true' Islamic state is a promise that still needs to be fulfilled. Unlike communism in the 1990s, no downfall or dysfunctional Islamic state project has yet caused the demise of the ideal as such.

Another question that arises from these considerations is the nature of the Islamic state projects: is there something typically 'Islamic' about these utopian projects? Three distinctive Islamic features can be discerned in the Islamic state projects, all of which receive little attention in utopian theory. First, these projects claim to realize divine providence and in doing so allude to the expectations that any religion raises to a better life. The exceptional situation of the 'Islamic state', however, is that it is firmly embedded in the worldly life of the here and now and has little if anything to do with the after-life. But neither should it be conceived as a 'Heaven on Earth'. Heaven has its own particular dominion within Islamic thought. The Islamic state projects are

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attempts to give form to the instructions that God has given for the ways that Muslims should live their lives on earth.

A second feature of this utopia that is typically Islamic is its reference to an ideal past. The assumption made by all modern Muslim thinkers is that the ideal Islamic society had already existed in the early decades of Islam. The Islamic state projects are therefore not only about what should be, but also about a revival of what has been. The idea of 'we have done it once, we can do it again', albeit illusive, is very potent.

The third role of Islam in the utopia of an Islamic state is that it provides several notions – justice, oppression, equity – that are strongly rooted in Islamic theological discourse and therefore give purpose and resonance when used in the project of Islamic state-building. But here, also, there is an exceptional situation: this terminology is used in the context of the twentieth century. This terminology has therefore been permeated by modern concepts like nationalism (homeland), socialism (social justice) and the state.

We may conclude that the notion of an 'Islamic state' can very well be studied through the prism of utopian theory, but at the same time takes a *sui generis* position in today's thinking about utopia.

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PART III

Utopia in architecture and technology: The quest for perfection

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11. An ideal city vs 21st-century pragmatism

Ernestyna Szpakowska-Loranc

1. INTRODUCTION: FROM UTOPIA TO PRAGMATISM

The claim that the concept of utopia in architecture reflects the notion of ideal and thus the concept of the ideal city continues to appear in the academic literature, for example in the monograph by Ruth Eaton, although other authors, for example Nathaniel Coleman and David Harvey, doubt that the realised visions of ideal cities would be happy places (Harvey, 2000; Eaton, 2002; Coleman, 2005). While theoreticians point to the ambiguity of the two terms, urban planners, philosophers and sociologists concur that the issues of utopia and the ideal city are irrevocably linked; Helen Rosenau and Bronislaw Baczko, among others, confirm this view (Rosenau, 1974; Baczko, 1989). The intention of the ideal city designers has been not only to create an ordered, beautiful space, but to transform the whole society through the construction of the built world. Furthermore, just as utopias have changed from Thomas More's book to our times, the present-day ideal cities have evolved from their Renaissance precedents.

Much like a utopia that has been called into question since the fall of the great narratives, modernism is considered to be the last epoch of grandiose urban visions (Pinder, 2002).[1] Even though the devastation of World War II paradoxically provided the opportunity to build modernist utopias, as Racoń-Leja observes (2014), late modernism created mostly anti-utopias – surrealist, sarcastic depictions criticising totalitarian orders, while postmodern urban planning was considered to be dystopian from the beginning (Coleman, 2005; Sorkin, 2014).

As Nan Ellin states, after 1990 with the introduction of concepts such as ecology and limitation into city planning, and the emphasis on lightness,

[1] Lynne Copson evokes this claim to discuss it (see Copson in this volume).

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transparency, and connections, urban planners focused on plurality and interdependence instead of the transcendent ideal (Ellin, 1999). At the beginning of the 21st century, utopias were seemingly replaced by a pragmatic approach. The problem of urban overcrowding re-emerged, while new technologies and factors, such as the threat of natural disasters, food and water shortages, appeared in the debate.

Ruth Levitas shows that in the 21st century, utopian thinking is yet somewhere below the surface in sociology, and I believe that it still forms the basis of architectural visions of progress. For Levitas, 'utopia as method' becomes a tool to assess actions, contexts, and circumstances (Levitas, 2013a; 2013b). Conducted through the search for minute solutions and their recombination, it reveals the voices of utopian agents, presenting the construction of new local bottom–up orders. The method constitutes three modes: archaeological, ontological and architectural. The last means to present alternative social institutions, but according to Levitas, architecture is used here only as a metaphor (Levitas, 2013b, p. 213). In reality, the discipline's utopian models differ significantly as they aim to present ready images of physical infrastructure seeking to be implemented. Meanwhile, the sociologist invites writers and readers to imagine the projected world and its inhabitants. Their visions give less information and act as 'provisional hypotheses' (Levitas, 2013b, p. 198).

In this chapter, I investigate contemporary urban visions that I classify as ideal cities. The aim of the research is to check whether Levitas is right and architectural utopianism remains outside the scope of the method presented by her. Otherwise, creating new alternatives without specifying the exact details could be tracked in 21st-century architectural utopias. Speculations and judgements in the designs would allow the architects to engage in the scenario-building activities without the risk of being accused of fascist inclinations. Hence, architecture could eventually seek 'hope in a hopeless world'.

To verify the association between 'utopia as method' and the 21st-century utopian urban planning, I will discuss examples of the visions of the future city at various stages of their realisation: artistic projections, concept stage designs or currently implemented cities as well as research projects concerning new urban ideas (based on the definition which I formulate in section 2 upon referenced meanings of the term). I seek various features of utopias in them determined by Mannheim, Bauman, Szacki and Jacoby. Thus, I characterise the new models emerging in the 21st century, those continuing historical traditions, or creatively transforming or breaking them.

I present the examples in three groups ordered from the closest to the classical precedents (section 3), through those in a state of transition expressed in the lack of a *topos* fixed in one place (section 4), to those which are open, dynamic and vague – abolishing the strict rules of classical utopianism (section 5). I seek elements of Levitas's method in them. I follow these analyses by

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presenting currently implemented projects (section 6) to evaluate their utopian outcomes. Finally, I compare ideal cities with non-utopias, summarise new topics around them, point out those that have disappeared and give modern urban utopias a historical perspective (section 7).

As I argue, both types of architectural utopianism expressed in contemporary ideal cities overlap with 'utopia as a method' made explicit by Levitas, namely its architectural mode. The first group (described in section 3) meets the main criteria of a utopia according to the common meaning of the term by drawing accurate images of reality, and thus continuing the tradition of blueprint urban utopias. Nevertheless, I show that they simultaneously break this classical convention, introducing into urban planning new modes of utopianism – and only with the disappearance of some of their features.

The second group (described in section 5) are contemporary visions of ideal urban structures that go beyond the detailed characterisation of the space (i.e., architectural forms, their modes of use, building technologies and infrastructure) and merely indicate the direction of transformations. They are research projects or speculations, and according to Levitas utopias demand speculations, judgement and suspension. I demonstrate that these visions strive to create a better society, utopianism that has changed since modernism and now mirrors the evolution of the 21st-century society. Certain ideal cities are placed between these two groups. These are rather blueprint visions, but devoid of a strictly characterised space – utopias with no *topos*. They form the third category (described in section 4).

2. NEW FACES OF UTOPIA AND IDEAL CITIES

While new ideal cities meet the criteria of utopian visions, both notions were ambiguous from the beginning, and they also have different meanings in the first half of the 21st century. Numerous typologies of utopia created by philosophers and sociologists indicate the transformation of phenomena.

In traditional terms, the concept of utopia in architecture and urban planning did not depart far from the dictionary meaning of the notion. It was understood as the habitat of an ideal society, defined by the dichotomy of eutopia and outopia. Hence, according to Lewis Mumford (1922, p. 11), utopia is 'a world by itself, divided into ideal commonwealths, with all its communities clustered into proud cities, aiming bravely at the good life'. Zygmunt Bauman (2003, p. 12) defined it a little differently, emphasising its fairytale nature, as the vision 'that stands out for reality, adumbrating a fully and truly different, alternative world'.

Subsequent definitions broaden this field of the notion. Karl Mannheim (2008) emphasised disagreement with reality and thought, and Basset and Baussant (2018) emphasised actions oriented towards objects that do not exist.

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These definitions justify a search for contemporary ideal cities and an analysis of architectural discourse in terms of meeting the guidelines for utopia. Szacki, in turn, confirmed the fact that utopian society can be presented in architectural designs: 'what constitutes a utopia is not so much a specific literary form as a way of thinking that manifests itself most fully in that form but by no means exhausts itself in it' (1980, p. 13).

The ideal cities are defined as the architectural embodiment of a classic utopia attempted to be realised (Rowe & Koetter, 1984). Theoreticians link utopian thinking in these projects with a discussion about subordination of the individual good to the common interest or, conversely, the assumption of free expression of all men (Rosenau, 1974). Thus, ideal cities have become an educational instrument of social criticism. According to one group of researchers, they offered a hypothetical ideal rather than a feasible one in the future, while according to another one, historical visions were projects strictly prepared for realisation (Rowe & Koetter, 1984; Zarębska, 1984).

As there is no one, clear-cut definition of the ideal city,[2] in this chapter I use this term to define a holistic vision of an urban organism 'in cruda radice' – a unit with a perfect organisation of space, corresponding to the organisation of its inhabitants' lives as closely as possible to the political, economic and social ideals of their creator and his times. The examples analysed here have been selected according to these criteria.

New terms that emerged in the theory of utopia at the turn of the 21st century show its dichotomies. The classic blueprint visions illustrating built structures, institutions and social norms in detail are continuously disappearing in favour of iconoclast utopias. These were defined by Jacoby as dreams of a superior society, but devoid of detailed design, based on 'modern seduction of images' (Jacoby, 2005, p. XVII). The fact that 'the triumph of freedom and spontaneity' replaced striving for ordered 'harmony based on principles' was earlier stated by Szacki (1980, p. 192). A shift towards self-expression liberating the individual from repressive society appeared.

Szacki defines the two models as classical Apollonian and Dionysian utopias. The latter, oriented towards emotions and mysticism, is currently replacing the former. This typology resembles that of Mannheim (2008),

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[2] In history, this notion has been defined as a symbol of the most perfect organisation of space, an idealised image of the existing city (Mumford, 1922), a religious or secular concept in which 'social consciousness of the needs of the population is allied with a harmonious concept of artistic unity' (Rosenau, 1974, p. 13). The determinant of the historic ideal city was also its form and regular, geometric arrangement, the staticity of an invariable unit with a polygonal outline, surrounded by star-shaped fortifications (Whittick, 1974). The features of strict limitation and invariability have been gradually disappearing over the years (Szpakowska, 2011).

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who linked different models of the utopian consciousness to either reason or emotion. They constitute respectively reliable, rational visions, i.e., the idea of progress and normative liberal-humanitarian consciousness or mystical rootedness in the present, the emotional and escapist irrational creation of orgiastic chiliasm. Dionysian chiliasm requires a storm of life, a new free world, and therefore the sociologist quotes Bakunin: 'The urge for destruction is also a creative urge' (Mannheim, 2008, p. 256).

The utopian consciousnesses determined by Mannheim shows the division between prospective and retrospective thinking that was also indicated by Szacki (1980) and Basset and Baussant (2018). The nostalgic reference to ancient times[3] clashes with a futurological approach, which is not necessarily connected with the development of technology or science fiction. Prospective and retrospective utopianism sometimes merge, as exemplified by retro-futuristic or steampunk visions (Brzeziński, 2018). The definition of time may be imprecise, but it is distinctly separated from the times when the vision is created.

The next dividing line drawn by Szacki runs on the border between escapist and heroic utopias, i.e., intellectual games merely illustrating good and evil and acts of practical negation. The escapist utopias (of place, time, eternal order) do not offer a programme of action presented in heroic ones (of convent and politics), applying a chosen part of utopia in life. This demarcation line is less clear in the visual arts than in literature, but also visible.

According to Bauman (2003), contemporary utopia has lost its two characteristic features: territoriality and finality. Territoriality tied space to power. A proper spatial arrangement enabled society to be controlled (as in historic ideal cities). In turn, finality allowed one to achieve the state of a perfect society, a routine without any unforeseen cases. Bauman's concept of utopia with no *topos* reflects the nomadic reality of the late 20th century. Continuous and fast journeys, multiculturalism, hybridity and liquidity of space have changed the model of society and its ideal space. Designing it at the epoch of the cult of individuality, constant change and happiness as a private affair became difficult.

Finally, the mode of 'utopia as architecture' in Levitas's method (2013a; 2013b) negates through presenting proposals of alternative realities – fiction commonly bound between book covers. It is, however, not a blueprint vision but one that invites imagination – rather a hypothesis than a real project. According to Levitas, this method already works in reality, incorporating feelings and desires into general knowledge. Since these visions cease to be the

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[3] The myth of the 'lost paradise' and a belief in the concept of the natural state as a starting point for humanity appears often in the history of utopian ideas.

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objective and become a way of thinking and generating knowledge, it allows one to disenchant totalitarian inclinations.

3. BLUEPRINT, THAT IS, APOLLONIAN UTOPIAS

The new concepts of ideal cities presented in this section are still blueprints, but they also somehow disrupt traditional norms. They use concepts of utopia and the ideal city perversely, deliberately questioning their basics. As Levitas notes, utopian making of the future should be collective improvisation, and the best architects see the value of adapting their original vision to actual terms of its implementation. This is clear in the examples, as well as social values listed by Levitas: equality, society oriented to human needs, sustainability, public control of assets (Levitas, 2013b, pp. 214, 215).

Contemporary urban planning also presents utopian orderly visions of cities but with a twist. One example is Pig City, designed by MVRDV in 2001. The vertical farm in the Netherlands – a repetitive model solution inhabited by the animals – took as its origin the humanisation of the meat production process. The architects calculated the area of grain necessary for the production of organic pork (75 per cent of the Dutch land would be dedicated to pigs then) and proposed keeping animals in groups of natural sizes, providing more space, better nutrition and healthcare, entertainment and supervision (MVRDV, n.d.). The towers connected to the slaughterhouse and the meat warehouse shorten the distribution chain, preventing the spread of diseases. Therefore, the utopia reduces unnecessary consumption that was proclaimed by Levitas, although the ideal solution in this case would be a complete cessation of pig meat.

Just like Da Vinci's Renaissance ideal cities, this vision was created in response to epidemics and with a focus on ecology. Presented as model replicable structures with a regular layout on a square plan, Pig City resembles the plan of, e.g., the religious City of Zion. Its residents are served by the equipment placed on the jibs and so the full mechanisation introduced here borders on futurology. Rationalism, a social organisation requiring invariable prerequisites, evokes here the utopia of the eternal order, defined as a vision of the ideal, illustrating such principia as God, Reason, Nature and Goodness (Szacki, 1980). Though the MVRDV's project is hypothetically located in the Netherlands,[4] it could easily exist outside time and space, to oppose reality and search for an eternal, absolute anchorage, positive in times of crisis and confusion.

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[4] Danielle Chevalier and Yannis Tzaninis analyse another MVRDV utopian spatial initiative, Freeland, the development strategy for Almere Oosterwold, this time located in a real place (see Chevalier and Tzaninis in this volume).

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While very few contemporary ideal cities were designed as delineated model units with a geometric order similar to the classical ideal city prototype,[5] study projects developed by the DOGMA office are such. By this means, Vittorio Aureli and Martino Tattara analyse the relationship between architecture, society and politics. Their most radical project is Stop City (Figure 11.1), a city square surrounded with eight giant structures – *Immeubles Cites* – self-sufficient blocks 500m long and high with multiple functional programmes (DOGMA, n.d.). The space between them is filled with forest.

The architects respond to contemporary political realities by designing forms that are not entirely interpretable, thus becoming similar to a hypothesis, as Levitas stated. The blocks around the perimeter have no designed elevations, represent no style or aesthetic principles. DOGMA proposed architecture without attributes: style, extravagant look, new forms. Aureli and Tattara see non-figurative flexibility as the best way to manage a city in response to the contemporary political realities of informal behaviour and bottom–up initiatives. The most accurate answer for the ideal city is, therefore, freedom of form, departing from the classic model of the blueprint utopia, but simultaneously strictly limited, i.e., structurally framed.

The project has clear references to Non-Stop City, a hyper-realistic vision of capitalist homogeneous urbanisation from the 1970s designed by Archizoom – the city without form and boundaries (Van der Ley & Richter, 2008). In contrast to the space where every aspect of living becomes a factor of production, DOGMA presented the concept of limit as the main principle of the city. Physical boundaries establishing it and conceptual clarity of non-figurative architectural language are supposed to stimulate the social consciousness of the inhabitants to exceed the compulsion of productivity here. This is architecture limiting growth and increasing development. DOGMA suggested a new communitarian life that is in line with enabling people to develop the capacities of Levitas.

4. FLYING AND FLOATING CITIES

These examples represent a state between the Apollonian and the Dionysian utopia: clearly outlined, but not steady. The most classic visions of an utterly happy place somewhere in an almost inaccessible corner of the world (like More's Utopia) are no longer possible on land in the 21st century, since Renaissance Europe developed leaving no room for new cities. The geographical horizons expanded and utopias relocated, while at the same time, the

[5] Such were, e.g., Filarete's Sforzind and Durer's square ideal city.

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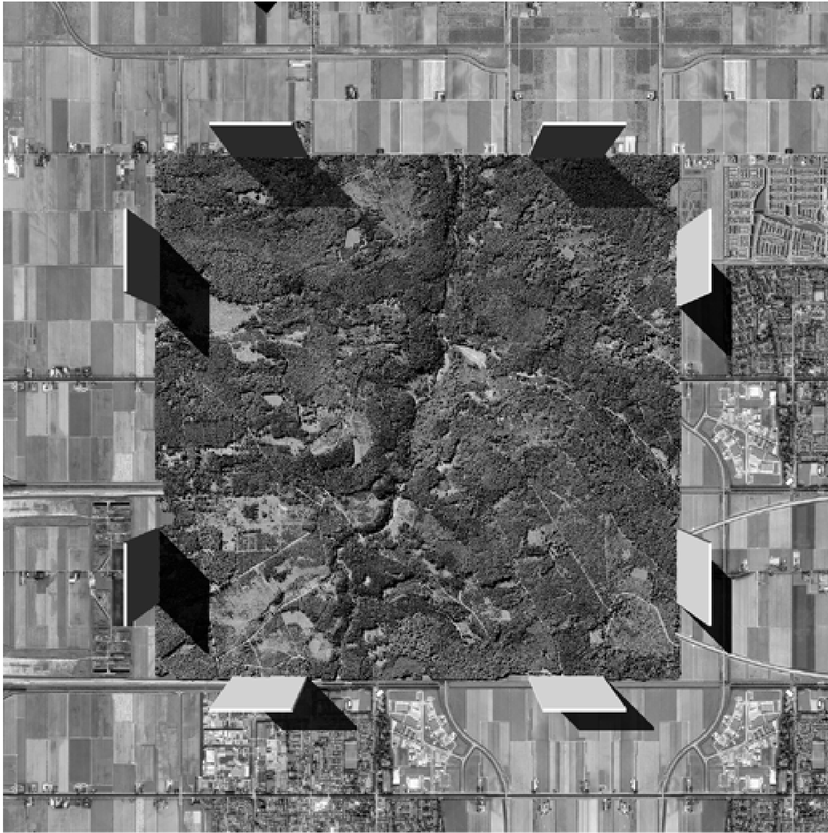

Source: Photo courtesy of DOGMA.

Figure 11.1 Stop City, by DOGMA (2007–2008)

isolated utopia was a classic of the genre, enabling critique of the well-known reality of the old continent.

Contemporary visions of ideal cities are thus often located in the ocean or airspace and utopia ceases to be static. All these cities are supposed to be sustainable responses to the global climate crisis that is affecting the inhabitants of the most vulnerable areas, as well as excessive consumption of food and energy. These disaster-proof and food self-sufficient, zero-carbon, energy-balanced structures take into account agroecology and a utopian level of technology. The dichotomy of utopia versus science is challenged in architecture, and flying and floating cities prove this. In the disciplinary discourse,

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smart cities are also considered to be contemporary utopias with an increasingly visible ideological trait (Grossi & Pianezzi, 2017).

The idea of auto-sufficient floating cities has been developed by various architects[6] in response to coastal communities' vulnerability to sea-level rise. Their elements may look like irrelevant fantasies, but some floating cities have a more realistic foundation. They confirm the fact that the features of utopia in architecture reflect the characteristics of the discipline – merging art, technology and socioeconomic reality. The Oceanix City project (Figure 11.2) designed by the Bjarke Ingels Group et al.[7] in 2019 responds to UN-predicted water-related threats to cities.

This floating city is designed as one divided into urban units of a size allowing for comfortable foot and bike transport.[8] The units can be copied and connected. In these solutions, the project resembles Howard's Garden City multiplied to infinity, but made of clustered, floating, hexagonal platforms. With buildings of a maximum seven storeys constructed from locally produced bamboo (a light structural material stronger than steel), Oceanix City has a fully sustainable programme including electric shared transport, scientific-agro-ecology facilities, zero waste energy and food. Platforms on biorock reefs enable habitat regeneration and 3D ocean farming underneath (BIG, n.d.).

Ingels presented a blueprint vision of a community living and working in one space, some elements of which were already used in historic ideal cities, such as a farm in the middle of the district or a traditional typology of cultural venues: Agora, Athletic Hub, Cultural, Spiritual, Health and Learning Centres (Oceanix, n.d.). However – which would be in line with the ideal societal reality proclaimed by Levitas – the Oceanix economy doesn't appear to be the goal of community life but the means – economic relations supporting the society BIG wants. Pictures of buildings and urban spaces fused with greenery and ocean animals, people working happily in gardens, convey an idea of

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[6] Vincent Callebaut is one of the best known. His high-tech climate refugee camps (e.g., Lillypads or Aequorea) with a mixed-use programme and scientific-agro-ecology technology simultaneously present retro aesthetics and utopian elements, e.g., masks that extract oxygen molecules from the ocean to breathe underwater, material mixing garbage from the ocean with algae (algoplast), or inventing an AIDS cure (Vincent Callebaut Architectures, n.d.).

[7] The project's collaborators are MIT Center for Ocean Engineering, Mobility in Chain, Sherwood Design Engineers, the Center for Zero Waste Design, Transsolar KlimaEngineering, Dickson Despommier, the Global Coral Reef Alliance, Studio Other Spaces (Olafur Eliasson and Sebastian Behmann).

[8] BIG developed this project around active mobility with the help of shared mobility (respective 60% and 20% of its resident's mode share) which points to the 15-minute city concept.

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human capacities converted to useful creativity and pleasure. Units created on shore and living space leased at the ocean are supposed to be affordable, which would implement international material equality, as the first city is planned for climate refugees. The project is a part of UN-Habitat's New Urban Agenda. The plan of implementation of Oceanix is in progress.

Source: OCEANIX/BIG-Bjarke Ingels Group is licensed under CC BY. https://oceanix.org/.

Figure 11.2 Oceanix City (aerial view)

The problem of overpopulation of the earth as a major contributor to environmental pollution and the excessive consumption of resources it is to be responded to in architecture by moving people into the airspace. Heaven and Earth designed by Wei Zhao in 2012 is an example of a flying utopia based on traditional Chinese shan shui art, i.e., symbolic landscape ink paintings. The project of a doughnut-shaped structure held in the air by magnetic energy (currently used for high-speed train maglev technology) aims to produce organic food (including products delivered to the earth) and to recycle all consumed goods, thus achieving energy sufficiency. The rotation of the bottom plate of the structure is to generate power to live on the land and to flight between the disc and the earth. On the surface of the disc, Zhao planned a lot of green areas, forested hills, buildings with a developed centre (architectural spaces inside) and a lake (Floating City, n.d.). Her vision achieves Levitas's goals: reducing unnecessary consumption and care for the planet for future generations.

Heaven and Earth is an example presenting futurism combined with the forms of retro architecture, and thus a prospective utopia taking on a retro-

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spective character. Nostalgic romanticism – the pre-industrial idyll – as a view of the world for some creators becomes the value of contemporary utopia and thus leads to retro-futuristic ideal cities (Basset & Baussant, 2018). Bauman sought such a retrotopia in social issues, introducing this notion to the already analysed phenomenon of negation of utopia, planting a vision of an ideal homeland in the past. However, Bauman's drawing from the tradition of utopian thought has deeply contemporary 'features of the replacement of the "ultimate perfection" idea with the assumption of the non-finality and endemic dynamism of the order it promotes, allowing thereby for the possibility (as well as desirability) of an indefinite succession of further changes that such an idea a priori de-legitimizes and precludes' (Bauman, 2017, p. 11).

5. ICONOCLASTIC, THAT IS, DIONYSIAN UTOPIAS

Deprived of the state of finality and territoriality in postmodern fluid reality, the 21st-century ideal cities become utopias without a *topos*. The openness and dynamism attributed to contemporary society is a problem for a classic utopia which, by definition, seeks a happy ending and thus a permanent ideal. Since theoreticians generally regard the utopia of normative order as a dystopian reality, iconoclastic ideal cities that value individualism, proclaiming the triumph of freedom and spontaneity, while at the same time being understated, have a deep raison d'être.

Nic Clear's architectural utopia of Gold Mine city of the future (year 2163) may be construed as Dionysian because of constant transformations of the city space lacking overall architectural plan and presented as 'dynamic, sentient identity' (Clear, 2020, p. 59). Expert systems organise the city logistics, while inhabitants shape their space through interactive interfaces, introducing an element of randomness. In the amalgam of built structures and new artificial landscape, Clear envisioned multisensory spaces, virtual and augmented reality combined with physical space. This is hybrid urban planning in which the architect took ideas from technological research, science fiction literature (especially a series of books by Iain Banks) and gave them political perspective; it fuses humans, natural and built environment with machine intelligence.

Gold Mine, presented since 2014 in a series of publications, exhibitions and lectures, is to be a post-scarcity and post-singularity[9] city located on Canvey

[9] In post-singularity architecture, machine intelligence self-replicates, exceeding human intelligence and introducing full automation.

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Island on the Thames.[10] Clear has ambitions of creating a better future open to alternative models of living. The moment of post-singularity allows for providing universal basic income, proclaimed by Levitas as one of the principles of utopia as architecture mode. Machine intelligence is to copy human brain functions and *Homo ludens* society is to solve problems through computer games or puzzle operations. It resembles societal ideas foreseen by Levitas: play as an inevitable effect of doing nothing without having to work and marketable skills replaced by pleasure and useful human creativity (Levitas, 2013b, p. 199).

Clear combines the architectural vision with a social fantasy. Constantly immersed in virtual reality and equipped with electronic implants, the inhabitants are to 'live long, healthy and productive lives' (Clear, 2014, p. 133). Crime has been virtually eliminated because all anti-social impulses are being turned into productive ones. Clear, as one of few architects, deals in his vision with children needs, that is, in line with the utopian social values described by Levitas. Learning through play, they speak at least 12 languages. The new model of education is connected with material equality. Clear displaced demo-cracy with collabo-cracy, introducing collaboration in place of a competitive hierarchical basis. The city is planned as managed by a company producing open source computer games owned by its inhabitants. The only thing that brings the Gold Mine closer to the 21st-century, more classic utopias is ecological postulates – self-sufficiency, green energy, 'no waste' idea referring not only to physical but also human resources.

Operating since 2004 and run by Carlo Ratti, the MIT Senseable City Laboratory also uses interdisciplinary tools in urban planning, drawing methodology from different fields of knowledge. Ratti was hailed as the 'urban philosopher' (Burry, 2020, p. 35) and the research projects of this group can be defined as political utopias – the most active of all utopias, transforming society as a whole (Szacki, 1980). The more so that the Lab has a social mission: fighting racism and other forms of discrimination, creating inclusive space and increasing social participation.

With the visible utopian vision of reducing inequalities, its non-standard activities go beyond traditional science. It aims to gain knowledge about cities, monitors various factors and uses non-standard scientific methods, such as tracking the trash, studying the intensity of SMS texts during cultural events and movement of football players on the pitch, Tha lab also designs interactive buildings and furniture, creates computer simulations of alternative activities such as displaying inscriptions and images in the night sky using drones with

[10] Clear chose this area because of its industrial and utopian traditions, as well as post-technological topography. He believes that when the global sea level rises, Canvey Island will be an island like classic utopias.

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LED lights. One of the projects is the vision of a 'cloud' – a light structure over London that simultaneously displays and collects data, and that can only be reached by the power of one's muscles, while simultaneously generating energy. This direction of urbanism is fostered by the advancement in technology and miniaturisation of devices.

Just like the political utopia, Senseable City is starting a dispute about the shape of society anew. In his utopia devoid of *topos*, not a blueprint, but an iconoclastic vision, Ratti sees architects as constructors of common space in a dialectical manner – stimulating it without imposing. Modern technological development enables him to realise the idea of Corbusier's machine-à-habiter (Domus, 2017). His comments convey the vision of a science fiction utopia:

> We will become cyborgs: living beings enhanced by technology that is increasingly symbiotic with our body. … As the great American designer and inventor Richard Buckminster Fuller described it: utopia or oblivion. Oblivion if architects are not able to rise to the challenge of the changes underway. Utopia if they succeed in becoming the creators of transformation in the 'artificial world', starting with our cities (Domus, 2017).

6. UTOPIAS UNDER CONSTRUCTION

The question of whether a utopian project may be realisable and remain utopian was easy to answer. The visions of ideal cities that have been realised so far do not have a good press. Even throughout history, they encountered problems; the Mannerist Palma Nova remained scarcely inhabited until the beginning of the 19th century, and Karlsruhe was never fully completed according to the original design. Certain ideal cities are currently under construction or being prepared for it and on their basis we can try to assess the potential for implementing contemporary utopias.

Although, according to Levitas, a utopian city should not be built by corporations, because this excludes its truly social functioning, currently built ideal towns are mostly financed by corporate funds. The example of Masdar, a town in the Abu Dhabi desert under construction since 2006, designed by Foster and Partners, is the best known. Masdar, Abu Dhabi Future Energy Company, has been involved in its implementation since 2006. A highly energy-efficient city built based on the technology developed by the Massachusetts Institute of Technology, with air-conditioned streets and buildings producing energy, was to cost $22 billion and be inhabited by 50,000 residents by 2016.

The costs of the investment have decreased, but the deadline for completion was extended to 2020 in 2013. According to the estimates, the city has about 300 permanent residents at present, and the plans had been implemented in about 5 per cent by 2015 (Celiński, 2018). The research facilities were opened in the city focused on innovation and development, and ecological transport

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utilising autonomous electric cars was introduced, which seemed a very utopian factor in the conceptual design. The plan was therefore realised only in a small part, but Masdar can be described as a 'relative utopia'[11] that can be realised through technological advancement.

A less successfully realised example is Nanhui New City in the Chinese province of Pudong (Figure 11.3), a place referred to as a 'ghost town' today. The German GMP studio designed the city around an artificially created lake from scratch and based it on European examples of ideal cities such as Lingang (Von Gerkan et al., 2005). As in the case of Masdar, the viability of the investment is not a problem, but nobody wanted to move into the city. The problem was partially solved in 2014 when new university campuses for 100,000 students were opened there (Schepard, 2016). Young people have made up the majority of the residents, thus limiting diversity and creating monoculturalism.

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Source: Wikimedia Commons.

Figure 11.3 Nanhui New City, Dishui Lake from above

[11] The notion of Mannheim (2008).

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In discussion about contemporary utopias, Michel Foucault's theory cannot be ignored. Foucault contrasted utopias, i.e. places without real space, with 'other places' or 'counter-places', which he called heterotopias (Foucault, 2005). They are effectively reflected utopias, real places that are simultaneously represented, challenged and reversed within the culture. Heterotopia juxtaposes numerous incompatible spaces in one place. Since, according to Foucault, all cultures produce heterotopia, ours produces junkspace (Xiaofan, 2016). This notion, invented by Rem Koolhaas (2006), means a non-place resulting from excessive production, consumption and megalomania of the architectural profession – a waste of modernisation.

Such a seamless, permanently disjointed patchwork is the World Islands in Dubai (Figure 11.4): 300 artificial resort islands pretending to be a world map that have been developed since 2003 in the Arabian Sea: private and estate homes, resorts, community islands. Most of them are still undeveloped, the rest being a festival of artificiality and grandiosity (e.g., 'Disneylanded' space designed on the basis of Portofino and the Cote d'Azur). This infantile utopia creating a vision of luxury in a completely fake world has fortunately not been fully realised. It is a picture of megalomania and gullibility in the name of comfort and pleasure, oriented towards material consumption and thus breaking the principles of 'utopia as architecture' mode.

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Figure 11.4 The World Islands from the air, in construction

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The still uninhabited structures of Nanhui give the impression of being abandoned; Masdar is being implemented, but very slowly. Some other projects encounter problems even before they start being constructed.[12] Perhaps the realised utopia turns into a totalitarian vision, as predicted by philosophers, and the inhabitants unwittingly defend themselves against the threat of living in a fully designed environment – an idea from a single person? Perhaps people need a city space made up of overlapping historical layers? Thus, a real ideal city would be an absolute utopia rather than a relative one, and its realisations would only be shadows on the wall of a platonic cave.

7. DISCUSSION

The topics raised in the visions of the ideal city have changed over the centuries. In 21st-century cities, it is mainly sustainable development and societal equality. A new factor is the self-sufficiency of food production. Such a problem was not known in pre-capitalist Europe, and nowadays, vertical and urban farms, and aeropods are at the forefront of the issues conditioned by the impending climate disaster. The idea of a green city, already present in 20th-century utopias, has also expanded to include buildings creating energy and upcycling – materials from rubbish or their conglomerates for 3D printing. One can argue that in the face of the upcoming climate catastrophe, creating visions of new cities is no solution. However, as I believe, it can be construed as planning for the future or a voice in the discussion about the new world according to Levitas's method. If humanity does not take such action, its fate will be sealed. Perhaps the moment has come when utopian thinking is the only possible way of acting, and the method of planning, which until now has been understood as pure science fiction cultivated for pleasure, has become a useful tool, gaining a scientific foundation along the way.

Taking environmental or social issues as the most important goals, contemporary visions of ideal cities rarely refer directly to the political system or religion, which was present in most utopian projects of the past. The authors of historic ideal cities have often addressed political issues, designing for the benefit of a particular regime, and sometimes on behalf of a monarch. Examples include Sforzinda, Karlsruhe, and 19th-century cities of utopian socialism (Choay, 1965). It is, however, difficult to reflect democracy as an idea in the urban space without evoking associations with absolutism. L'Enfant's Washington and A World City of Communications by Hèbrard and Andersen can be mentioned as one of a few examples of democratic ideal cities

[12] The first city on the water was to be built off the coast of French Polynesia by a joint venture, Blue Frontiers, but the project was abandoned for political reasons.

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(Sonne, 2004). Of the authors of the characterised utopias, only Nic Clear presents a certain political model, replacing demo-cracy with collabo-cracy, and DOGMA creates a vision of a post-capitalist city.

Political systems were reflected in the historic city space, as was religion: through the central place for the most important buildings, landmarks, the network of streets and the closures or openings of space. The number of historic ideal cities conditioned by religion (e.g., Andreae's Christianapolis, Zion City) is disappearing with the increasing secularisation of society. As Coleman wrote, after the Second World War, 'with ideology under a dark cloud and in disarray, self-interested liberalism and capitalism can finally, and conclusively, replace religion and other social visions with the worship of technology, progress and profit' (Coleman, 2005, pp. 235–36). Today, ecology, freedom and the cult of the individual are crowding out urban theology. The 21st-century ideal city is also approaching heterotopia, which excludes religious or political order. Iconoclast utopias tend to provide a space for deviation instead.

While some of the above examples present practical ideas for the future (creating a better society and looking for a spatial framework for it), others appear to have adopted the form of whimsical and often flippant concepts. However, behind a façade of fiction and sometimes mocking convention, serious, socio-spatial reformative theories are hidden, yet unattainable at the moment of their creation. The law of contrast between utopia and the rest of the world, formulated by Szacki, states that the ideas governing a utopian vision can be the same as in the surrounding reality (Szacki, 1980, p. 65). However, according to Szacki, there is the difference between utopian visions that lies in the way they are presented:

> There is no single Utopia because there is no homogeneous humanity and no homogeneous societies. After all, the journey to a better world is a permanent and universal state, and so utopia is constantly changing its location. If it were to stop somewhere for good, its existence would end. There would be only 'topias' (real societies) left on earth so reconciled with their fate that they would be unable to improve it (Szacki, 1980, p. 74).

Levitas and Sargent (2006) confirm the hypothesis that the absence of utopia means no proactive thinking, and Rem Koolhaas (2004), the chief critic and scandalmonger of contemporary architecture, has recognised that the work of an architect without references to utopia has no real value. Therefore, it can be concluded that urban planning and architecture in general need utopia, as limited horizons do not allow for the creation of innovative solutions. Since the Renaissance, ideal cities have been projects of the perfect space, which, together with the Renaissance rationalism and the rituals of social life performed in this space, were to lead to an ideal community. Admittedly, Levitas in her theory treats architecture as a metaphor, but she lists as its features

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paradigms governing the latest urban planning, and thus ideal cities: ecological and social sustainability, human-oriented forms of economy, care for weaker individuals, equality, inclusiveness (Levitas, 2013b).

Perhaps, though, the most valuable metaphor in the 21st-century ideal cities is one of the utopias as 'talking images', which is particularly useful in urban planning. Certain ideas are most easily conveyed employing images, especially if they relate to an ideal space, followed by an ideal system, social relations and the absolute happiness of the inhabitants. Perhaps there is an even simpler explanation – an illustration of a system that a layperson can embrace more easily as a picture with pleasant colours and attractive forms, without wasting their energy on delving into the text. Thus, the answer to the question of whether utopia is a pipe dream, an ideal, an experiment or an alternative is that in architecture it is a description of the ideal city – an experiment that wants to be an alternative and, additionally, must refute the allegations that it is a pipe dream. In these actions, recognition of architectural utopia as a method would help, inviting emotions and dialogue into the realm of imagining alternative ways of life.

8. CONCLUSION

In the chapter, I characterised urban visions of contemporary utopias. Whereas iconoclastic, Dionysian utopias create new alternatives without specifying exact details – by speculating, judging and figuring out the absent presence – Apollonian utopias present blueprint visions. As the first group directly meets the guidelines of Levitas, the latter also follows the lead. The new concepts of blueprint ideal cities simultaneously question the basics of utopias by presenting the social values listed by Levitas. With flying and floating cities in between the two groups (clearly outlined, but not steady), the characterised evolution of the concept leads to the conclusion that architectural utopianism is actually in the scope of Ruth Levitas's method.

These visions and projects, in striving for perfection, present solutions impossible to implement at the current stage of technological development and social awareness. Perhaps someday they will be built and thus unrealistic utopias will become eutopias – good places to live in. If one assumes that utopian and pragmatic theories in architecture differ mainly in the likelihood of realisation, the analysis showed that there are few other differences between them. All have a scientific basis and a speculative dimension. One factor is characteristic of blueprint utopias: their authors present visions of a complete society in which city space improves reality, as was the case in the Renaissance ideal cities.

The overarching conclusion of the study is that the current tendency in architecture is utopian, although this is not visible at first sight. Given its

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scientific background, and expanding global financial opportunities, it is not the kind of utopianism of 'free-floating fantasies', but rather a vision of future waiting to be realised. As horizons of technology expand, more and more high-tech projects can be realised. At the same time, architectural utopias have pragmatic motives and there are surprisingly many features – presented in this chapter – linking Levitas's utopia as method and contemporary architectural visions. Therefore, if urban planners deprive their visions of the detailed character, architectural pragmatism and utopianism can be merged into one stream in ideal cities, broadening the concept.

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12. Planning utopia

Danielle Chevalier and Yannis Tzaninis

1. INTRODUCTION: UTOPIA AND PLANNING

Utopia, an assemblage of a myriad of aspirations, inspirations and imaginings, is deeply and intrinsically spatial. Stemming from the Greek word *topos*, literally meaning 'place', utopia is commonly imagined spatially in some shape or form. The term utopia originates from the early 16th century, when Thomas More used it as the title of a small booklet and More's original wordplay gave a dual spatial suggestion: *ou-topos* (no place) or *eu-topos* (good place) (see also Van Klink in this volume for more elaboration on the concept of utopia). From the very beginning, for almost every instance of utopian visions and projects there has been an implicit or explicit association to space.

In this chapter we consider the spatiality of utopia as it is given concrete form, and expand on the concrete spatial dimension of utopian imagination through a planning lens. This investigation into the interplay between the concrete and the imagined leads us to intriguing insights on the inclusionary and exclusionary dynamics of utopian planning, and lessons that can be learned for future endeavours. We juxtapose Dutch spatial planning in two moments in time, the 'utopian' plan for new town Almere in the 1970s and the 'utopian' plan for Almere Oosterwold currently in execution. We focus on these two examples of realized utopia-like manifestations in two consecutive historical moments to examine the tension between utopian thinking and the manifested spaces (see Szpakowska-Loranc in this volume regarding 'real' utopias in planning). We employ a relational approach, grounded on the history and geography of Dutch utopian planning to comprehend the spatial production of utopias. Utopian spatial arrangements are entrenched in the social processes producing them, and this becomes especially clear from a temporal angle. Our aim in this chapter is to reflect and learn from the history and practice of existing, real-life spatial planning in order to help deal with the 'double squeeze of what we are able to imagine and what we are able to imagine as possible' (Levitas, 2013b, p. 19). Our chapter focuses on the utopian thinking and social engineering that culminated in the end of high modernism and compares it with contemporary thinking on how utopias can be planned in terms of space.

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Just as utopian thinking is intrinsically linked to spatial configurations, spatial planning is conversely intrinsically linked to imaginations of a future, and often specifically a better future. Planning inherently means anticipating the future and having an image of that future, based on both explicit and implicit assumptions (Ganjavie, 2012). Translating utopian imaginations into concrete spatial configurations stands at the core of planning. The specific content of the utopian image that planning builds on is in turn contextually embedded in social, economic and political dynamics within which the practice of planning operates (Hatuka & D'Hooghe, 2007). Consequently, looking at planning offers a window for looking at society – both the social, economic and political reality it deals with and social, economic and political ideals it holds. This is eminently the case in the Dutch planning context and its traditional investment in the idea that society is '*maakbaar*', that is to say 'make-able', i.e., engineer-able. This idea extends from the physical engineering of one's own territory, such as claiming land from the sea through large-scale water works, to the social engineering of the society that inhabits the conquered and domesticated land. In the words of Salewski (2010), the 'makeability' of society, both physically and socially, is a core narrative in the Netherlands' national mythology. With all this in mind, we ask: 'How has the planning of utopian space in Almere evolved between 1970 and today?' Upon answering this question, we consider what possible insights our findings can provide about the spatialization of utopia overall, and how our observations can be potentially useful for scholars looking at similar dynamics.

The layout of the chapter is as follows. The next section expands on our theoretical frame. We approach space as a process and product in the Lefebvrian tradition, and take our lead from Lefebvre (1991) to discuss utopian imaginations in the spatial domain of planning. We use Levitas's (2013b) approach to utopia as method to compare our two case studies of the planning of 1970s new town Almere versus contemporary Almere Oosterwold. Then two sections consecutively delve into these two case studies. In the subsequent discussion we compare the two case studies and consider what the comparison can tell us about the different ways in which utopia is spatialized, and then conclude with our main findings.

2. THEORY: UTOPIAN SPACE

We engage with these questions through tools developed and provided by the spatial scholar Lefebvre and the utopian scholar Levitas. Lefebvre's thinking on space gives us the ability to analyse utopian tendencies in spatialization; Levitas's thinking on utopia offers us the frame to compare new town Almere with Almere Oosterwold.

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In his greatly influential work *Production of Space* (1991), Lefebvre argues that space defines, and is defined by, social, political and economic activity. The relationship is not unilinear as space is produced by the society it accommodates and in turn it produces the society that takes places within its constellation. This iterative relationship is reflected on the several layers that determine our spatial universe: the global political economy, national production processes, everyday life at the neighbourhood level. For Lefebvre none of these layers exist independently or neutrally; for him, 'the order of the (social) relations of production on a global scale and therefore the order of their reproduction, brutally invades the local relations of production' (1976, p. 18). This invasion of the global production of space on the local level 'by occupying space, by producing space' has been imperative to the survival of capitalism in order for it to 'grow' and 'resolve its internal contradictions' (Lefebvre, 1976, p. 21). The spatial contradictions of capitalism are succinctly described as the inherent and destructive tension between capital needing a fixed space at one moment in order to function, while needing mobility at another moment in order to open new possibilities for accumulation in new spaces (Harvey, 2001).

Addressing these spatial contradictions was Lefebvre's resolute vision for a better future. He firmly connected urbanization with capitalism, and argued that we need to face the urban inequalities and alienation that capitalism causes. Thus, space should not be commodified. Rather, as a seashell organically forming itself around the creature it accommodates and protects, space should come about in response to the needs and desires of those inhabiting it (see also Merrifield, 2006). Lefebvre encased this necessity for space to accommodate those who use it as the need to claim the right to the city. This evocative phrase, 'right to the city', still resonates not just in academia but also in the streets and public spaces of cities all over the world. As Harvey (2008, p. 24) explains:

> To claim the right to the city (…) is to claim some kind of shaping power over the processes of urbanization, over the ways in which our cities are made and re-made and to do so in a fundamental and radical way.

Hence the realm where emancipatory change is necessary and possible is (urban) space and the city. Lefebvre in fact launched his thoughts on the right to the city in 1968, at the height of global protests and social movements, as well as when New Town modernist planning was thriving in Western Europe.

It has been key for Lefebvre to seek change through addressing wider social conditions, and that change needs the imagining of a utopian future. Lefebvre's understanding of utopian space though is that it should remain always open against authoritarian acts of enclosing it (Coleman, 2013). When Lefebvre does suggest a concrete space of some kind, he refers to space created

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by the people who live within it, liberated from the 'specialists' (planners, architects, urbanists), while grounded to the present: 'Lefebvre's model of utopian-Marxism proffered positive engagement with the present rather than uncompromising revolutionary rejection of it as the way to transform society' (Coleman, 2013, p. 356). As capitalism tends to 'close' and atomize society by dividing and separating, art from life, work from play, thus Lefebvre's utopia seeks to reunite the divided elements. That is how Lefebvre arrives at the conceptualization of everyday life as an imaginable utopianism, resisting the imposed alienations of capitalism.

If nothing else, it should be clear that Lefebvre was not a detached academic. His work was heavily influenced by his political ideas, and his political ideas were strongly embedded in the times and context in which he lived. In said times and context, in the Netherlands, the New Town of Almere came about. We build on Lefebvre and use his conceptual frame on the interplay between the spatial and the social, to analyse planned space and what it represents. Moreover, we employ his vison and spatial perspective on a better future to reflect on the two concrete spatial projects under our consideration. As we will see, at first glance the new town Almere epitomizes the kind of planning Lefebvre so severely critiques, while Almere Oosterwold seems to line up better with his ideas on how the production of space should be organized. However, we suggest the superficial glance does not suffice here and we thus enter a more fundamental investigation into the utopian imaginations underlying these spatial configurations.

Lefebvre argues that to understand space we must consider its symbolic meaning both in how it is located in history and how it is articulated for the future. Moreover, crucially, we must take into account the people actually inhabiting the space and making their everyday life in it. To investigate these strands in tandem, we turn to Levitas, who considers three aspects in understanding the utopian imagination: an archaeological mode, an ontological mode and an architectural mode (Levitas, 2013b). The archaeological mode 'involves unearthing the image of a good society that is embedded in particular political programmes' and critically analysing this. The ontological mode 'is concerned with the agents and subjects that make up society as it is imagined'. The architectural mode then looks forward, 'society imagined otherwise, not just in abstract terms' (Levitas, 2013b, p. 44), but in concrete terms (Levitas, 2013a, p. 197). With regard to planning, the latter mode refers to how utopian imaginations are concretely translated into spatial structures. We use these three modes as a framework to unravel the way in which the planning developments of new town Almere and Almere Oosterwold connect to their societal context, set out against a temporal line.

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3. NEW TOWN ALMERE

The story of new towns in the Netherlands starts more than a hundred years ago. In 1918 the 'Southern Sea' Act (*Zuiderzee*) was signed and it kicked off the Southern Sea project (Figure 12.1), a major undertaking aimed at reclaiming land from the artificial lake IJsselmeer in order to create new land, mainly for agriculture and secondarily for living. One of these reclaimed pieces of land, where Almere and other new towns are located, is Flevoland,[1] east of Amsterdam (see Figures 12.2 and 12.3). The planning of Flevoland's new towns was parallel to deep social, economic and political processes in the Netherlands. By the late 19th century, Amsterdam's increased international trade and industrialization started attracting a large working-class population. As a result, the Dutch capital's population grew by almost 200,000 in the inter-war period (Bontje & Sleutjes, 2007), and although this increase was partly due to outer municipalities being annexed, the rising working-class presence in the city was evident (Terhorst & Van de Ven, 1997). Growing industrialization in the post-World War II period, as well as the Dutch economy's integration into the world market, led to the pinnacle of Fordism in the Netherlands: mass production and mass employment. Increased labour demand, almost full employment, the development of the welfare state and mass consumption, all led to significant growth in Amsterdam, its population reaching an all-time high around 1960 (Terhorst & Van de Ven, 1997). As capitalist economies globally went into recession, though, in the late 1970s, the impact was strongly felt in the Dutch capital: half the jobs within Amsterdam's historical centre disappeared by 1985 (Terhorst & Van de Ven, 2003). It was also around those times when modernist planners started branding the urban as a 'hopelessly dysfunctional, chaotic and ugly mess' (Uitermark, 2009, p. 351), and many city governments started looking progressively outwards to new, open land for development. The conception for Almere, and other suburban new towns and satellite settlements, emerged within this anti-urban, modernist context.

Almere has been one of several *groeikernen* ('growth cores') in the Netherlands – settlements exactly designed in the 1970s as planned communities in city peripheries to counter urban expansion. The town was designed top–down and built (sea)bottom–up: land was literally 'extracted' from the sea, creating Flevoland, a province that consists of two main territories, the Noordoostpolder (Northeast polder) and the Flevopolder, where Almere is located.

Typical post-World War II, North American suburbia resembled an individualist escape from urbanity by both the working class (Gans, 1967) and the

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1 The biggest artificial island in the world, 970 km^2.

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Source: Wikimedia Commons, 18 March 2005 – ‘Zuiderzeewerken’, Dedalus.

Figure 12.1 Southern Sea Works (reclaimed land in green) 1920–1997

bourgeoisie (Fishman, 1989). However, a different type of post-World War II suburbs, the so-called new towns, emerged first in the UK and quickly became popular across Europe and beyond. In the post-World War II Netherlands, ideas of social engineering were popular, and both the Social Democrats and the New Left were articulating visions of ‘creating’ a better society and a ‘new man’ (Duyvendak, 1999). Such an aspiration was envisioned through selecting people who would live in new towns like Almere, and this ‘Flevoland-feeling’ was based on the idea of new land being instrumental for change (Ibid.,

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Source: Wikimedia Commons, 27 April 2009 – 'Flevoland seen from the plane', Teofilo.

Figure 12.2 Southwest Flevoland and Almere

p. 75). Almere in particular was initially planned as a suburban alternative to accommodate former residents of Amsterdam. Central in the planning of these communities were the concepts of forum and agora, with the aim to mix 'recreation, culture and a democratic atmosphere' (Wakeman, 2016, p. 293). The space to develop such communities was commonly sought in urban peripheries and suburban expanses, manifesting as Ebenezer Howard-inspired, 'Garden-City'-like new towns, aimed to counter urbanization (Heraud, 1968). They were the manifestation of top–down, fully planned space with the socially engineered utopian framework aimed to accommodate certain people (the suburbanites) who were expected to have a certain (suburban) way of life. As new towns were emerging throughout the world, Dutch planners were drawing their own blueprints for such towns in the Netherlands. The plans were drawn with similarly egalitarian, utopian, consumerist and functionalist visions, and Dutch new towns like Almere started being built throughout the country. These settlements became rather popular from the 1960s due to the increasing anti-urban trend by the Dutch state, looking to depopulate the densified cities, and among many Dutch urbanites who sought more and better living space (Tzaninis, 2015). Considerable emigration emerged from

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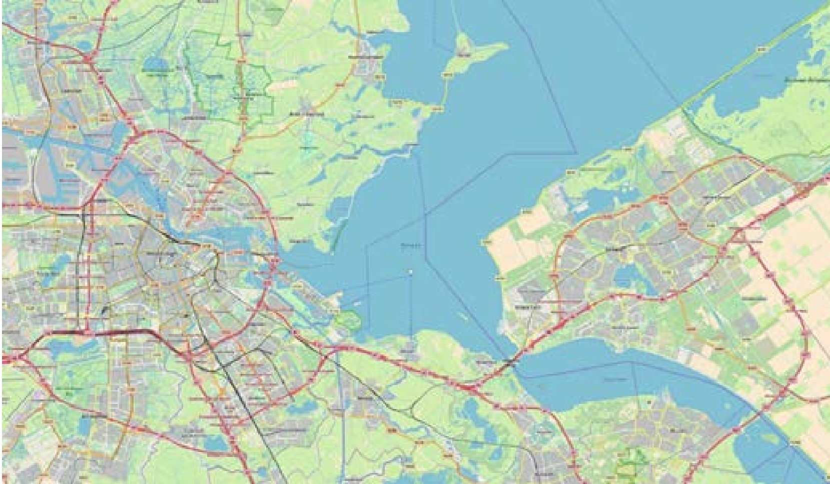

Source: OpenStreetMap contributors, 11/2017. Retrieved from http://www.openstreetmap.org/.

Figure 12.3 Amsterdam metropolitan area map

the Randstad's biggest cities – many people were moving to the surrounding suburbs, new towns and satellite settlements. Suburban migration continued also during the 1980s, especially in the case of Amsterdam (Musterd et al., 1991): the Dutch capital's population decreased by 200,000 residents and suburbanization was booming. Most of the former residents from Amsterdam were moving to settlements in the inner suburban ring, and especially to new towns in the Flevoland province, like Almere (Musterd et al., 2006).

The new town was planned to accommodate former residents of Amsterdam who sought an alternative place to live instead of the urbanizing capital (Jantzen & Vetner, 2008). Almere's motto has been 'it is possible in Almere' ('het kan in Almere'), largely reflecting the basic conception of its original planning that emphasized a kind of utopian aspirationalism. In most respects Almere became a satellite of Amsterdam, retaining the characteristics of new towns, namely the design for decongestion and 'concentrated deconcentration' (Bontje, 2003), meaning that growth was to be controlled through the development of several centres. By discouraging suburban sprawl, such a 'poly-nuclear' settlement was introduced to offer its residents small-scale communities separated by green belts (Constandse, 1989). The archetypical native 'Almeerder' has been framed as a 'pioneer', a categorization that refers to the early inhabitants of Almere until the late 1970s (Tzaninis, 2015). These early inhabitants describe their Almere pioneering in relation to improved 'neighbourhood environments, housing conditions and a potential place for

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community-building', within a context that strongly manifested as an 'idealistic, antiurban narrative, focusing on social interactions between homogeneous groups' (Tzaninis, 2015, p. 562).

The imaginings of Almere have also been originally conceived and motivated by very real urban processes. Among several issues of the original 'Discussienota'[2] (Ministry of Transport, Public Works & Water Management, 1974a) concerning the development of Almere until 1985, the first element of the new town was its demographic growth, expected to reach between 125,000 and 250,000 residents by the year 2000. The town's spatial planning was to be 'multi-nuclear' and to have an explicit purpose: Almere was supposed to contribute directly to solving the 'regional problems' of northern Randstad. These problems were mentioned as 'segregation' of households in terms of age, size and income. Hence the role of Almere was determined as a facilitator of a 'balanced demographic composition' against the 'disintegration' due to urbanization of the 'old land' (Ibid.). Other issues to be countered through the Almere plan were traffic congestion, housing dilapidation and degradation of nature areas. Meanwhile the new town was imagined as a place for 'promoting and stimulating residents, institutions and companies' (Ministry of Transport, Public Works & Water Management, 1974b).

Tzaninis (2015) shows that the imaginations that have formed Almere as a place have been contingent on wide, global socio-economic processes. The early inhabitants in the new town in the 1970s aspired for gardens and bigger homes with a pioneering drive, while they perceived the city as overcrowded and lacking good facilities (Ibid.). People in 'leading positions' were considered to be at the forefront of Almere's placemaking, and this idealism was echoing the utopianist, communitarianist post-World War II decades in western social democracies. Even though the town's spaces were (physically) new and prepared, Almere was symbolically and socially unfinished, so the newcomers were 'social' pioneers, producing the place Almere.

In recent years, Almere's changes have caused a certain fear to emerge that the 'urban' is arriving too quickly. The changes in the town have been nostalgically lamented by earlier inhabitants, whereas recent inhabitants seem more mixed, and many have been keen on the emerging urbanization of the new town (Tzaninis, 2015). Overall, there has been a diachronical shift of the aspirations, housing-relocation trajectories and experiences between the older and the newer residents of Almere. In any case, Almere has acquired infamy in the Netherlands and it is a favourite 'punching bag' for urbanists; it was voted

[2] A report of discussions in the Ministry of Transport, Public Works and Water Management about Almere's development.

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as the ‘ugliest city in the Netherlands’ in 2008,[3] it is considered a stronghold of the xenophobic right, while it is also stigmatized for its ethnic minority population. Yet, this symbolic stratification of spaces, placing Amsterdam in the higher ‘tiers’, is more representative of contemporary socio-economic processes and cultures than it is of processes in Almere. In fact, Almere’s electoral results are much more pluralistic lately (Tzaninis & Boterman, 2018), and the xenophobic parties have lost considerable ground. Meanwhile, Almere has among the lowest school and residential segregation levels in the Netherlands regarding ethnic background and education levels, much lower than Amsterdam (Boterman, 2019). Consequently, the current Dutch planning culture has its new obsessions (i.e., ‘doughnut economics’, smart cities, DIY urbanism, etc.), and notably absent from those, at least explicitly, is suburbia as utopia, leaving Almere in an odd position, struggling with its identity and purpose.

4. ALMERE OOSTERWOLD

Some 30 years after welcoming her first inhabitants, the municipality Almere embarked on a new utopian planning adventure, the neighbourhood of Oosterwold (RRAAM, 2012, p. 50). Oosterwold embodied both a continuance and a radical break with the planning vision that had sustained Almere’s development as described in the previous section. On the one hand, it perpetuated the pioneering spirit that sets out to create a new settlement on new land. On the other hand, the process proposed to bring about this new settlement expressed a radical break with how Almere had been planned to that moment. In a nutshell: *planning* was taken out of the plan.

Almere had been an exemplary new town, in the sense that it had been blueprinted to the smallest detail, to the point of which tree was to be planted where (Duivesteijn, 2012, p. 2). Space was thought through and designed at the design table, by the ‘scientists, planners, urbanists, technocratic subdividers and social engineers’ against which Lefebvre fulminates (1991, p. 38). It is space that has been developed top–down, on knowledge and power, and it is imposed on those who reside in it (Chevalier, 2015, p. 125). Oosterwold, in stark contrast, was launched on the idea of complete freedom for residents to shape their environment. The Dutch architectural firm MVRDV, self-describing on their website as ‘a global operating architecture and urbanism practice’ with the mission to ‘enable cities and landscapes to develop towards a better future’, formulated the development strategy (MRVD). The project was initially titled ‘Freeland’ and it pertains to an area of 43 square kilometres (or 10,625 acres)

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[3] In a non-scientific poll by the national newspaper *de Volkskrant* (29/02/2008).

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located east of Almere, originally an open agricultural landscape. Oosterwold is to be developed by its inhabitants, with a minimal role for government. The crux is that inhabitants not only develop their own plot, but also organize all the amenities that factor in a living environment, including energy, sewage and roads (MRVD, 2011). In some countries this would not be considered remarkable, and MRVD head architect Winy Maas has often heard the comparison made to informal settlements, i.e., 'slums' (Geluk, 2018). In the decidedly top–down structured planning tradition of the Netherlands, however, Oosterwold constitutes a 'groundbreaking' experiment (Loos, 2020).

Despite its ground-breaking nature, the spatial initiative of Oosterwold towards a better future embeds well in the socio-political and temporal context in which it figures. At a local level it is a comprehensible materialization of Almere's slogans that 'people make the city' and 'anything is possible in Almere'. At the same time, this very concrete example of a radical turn in planning governance also reflects a larger, national dynamic. In a polished communication clip, municipal Almere firmly broadcasts Oosterwold as substantializing the vision and intent of new national Environmental and Planning Act (henceforth 'New Act') (Almere, 2020). Constituting 'one of the largest post-WWII legislative transformations in the Netherlands' (Arnoldussen & Chevalier, 2019), this new Act is presented by government as a main gamechanger, transforming the traditional Dutch model of planning from plan-led, top–down governance to a new form of inviting and facilitating bottom–up, property-led private initiative. It puts individual and private initiatives centre-stage in the development, use and management of the built environment, and highlights citizen participation and responsibility. What these abstract phrases entail is neatly illustrated by the case of Oosterwold, with regard to its underlying image of a good society, the kind of people it presupposes and promotes, and the imagined alternative future it propagates.

Oosterwold is presented as a radical and highly desirable alternative to the over-regulated urban planning that leaves little room for individual creativity and innovation. Stepping away from governmental dictate, it is designed by its residents and intended to grow organically into a green urban landscape. The outcome is imagined in characteristics: unexpected and surprising, exciting, diverse, interactive and lively. It is not formulated in actual physical shapes, there is no visualized *telos* (MRVD, 2012). Residents are stated to have near complete freedom in designing their environment; the freedom is limited in that it must not harm others, and, crucially, goes hand in hand with responsibilities. Residents are not merely allowed to decide themselves; they *have* to decide and organize everything themselves. Six ambitions reflect the utopian image encompassed in the project; Oosterwold develops organically, offers room for initiative, is a continuous green landscape, has urban farming as green carrier, is sustainable and self-sufficient, and is financially stable (RRAAM, 2012,

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pp. 82–84). These ambitions convey the social, environmental and ecological visions for a better future and relate how spatial configurations are envisaged to create this utopian ideal.

The materialization of these ambitions is assigned to private initiative. The actors that will realize this future are active, entrepreneurial and creative citizens – citizens capable of organizing their own plot, including the production of renewable energy, the processing of their waste and dirty water, and their part in the realization of urban farming. Moreover, they are willing and able to forge alliances with others in order to organize collective responsibilities such as a street network. The imagination is that by accommodating the energy and creativity of citizens to formulate their own goals and solutions, a rich assemblage of original and innovative ideas will lead to space that truly accommodates its inhabitants. The visionary statement for 2030 specifies: 'Oosterwold is for people with a pioneering spirit, who also see setbacks as a challenge to overcome themselves' (RRAAM, 2012, p. 76). In other words, Oosterwold is designated for people who have the social, cultural and specifically also the economic capital to meet these demands.

Oosterwold is part of the strategy of the municipality Almere to meet its challenge assigned by the Dutch government to grow substantially, and contribute to strengthen the quality of the northern Randstad and increase the international competitive position of the Metropolitan Region of Amsterdam (RRAAM, 2012, p. 50). The strategy is not only focused on greenery, the connection between the urban and the rural and ecological sustainability. It also expressly focused, albeit in different documents catering for a different public, on attracting more middle class and upper class, or in any case a higher-educated populace. Though ground prices are low[4] and it is argued Oosterwold is also attractive to those with less means, citizens must nevertheless have the ability and willingness to invest in property ownership, either in individual undertakings or in collective enterprises.

The future that is thus imagined, is imagined in abstract terms, not in concrete spatial forms. The original development strategy formulated for Oosterwold suggests that by liberating urban planning, 'new planning arises, beyond today's imagination' (MRVD, 2011). The municipality of Almere proclaims that the uncertainty of the future is the starting point of the project Oosterwold (Almere 2.0, n.d.). Instead of blueprinting an end result at the design table, a planning frame is constructed to offer citizens the opportunity to

[4] Certainly in comparison with other areas in Almere and the Netherlands. Prices are determined per year, for the 2020 rates see: https://mailchi.mp/46588a81b867/nieuwsbrief-nieuwe-grondprijzen-oosterwold-2020. Though still lower than usual, ground prices have doubled in the years 2016–2020: https://www.nul20.nl/grondprijzen-almere-oosterwold-bijna-verdubbeld.

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respond to and act on the challenges as they arise. The imagined better future is not a static end shot, but a versatile and dynamic planning constellation accommodating a resilient society that will be able to deal with the foreseen and unforeseen challenges that lie ahead.

As good as it all sounds, a more in-depth inspection brings to the surface multiple downsides and dangers to the articulated images of a better future. Central is the move to put private initiative centre stage. Private parties can consist of individuals and citizen collectives, and in the marketing of Oosterwold photogenic examples are put to the fore. Private parties can also consist of market parties though, ranging from small local entrepreneurs to large investment companies connected to global capital. Despite their diversity, private parties have one common characteristic: their interest is private. The common good, however, is 'more than the sum of private interests' (Boogaard, 2019, p. 20). Moreover, in a property-led development, more property means having a larger share and a larger say in the collective enterprise organizing collective responsibilities. Power to the private initiative, then, doesn't augment the democratic content of collective processes, but quite the opposite – it undermines it.

As stated above, the kind of actors envisaged by Oosterwold are people with the economic, social and cultural capital to undertake such a venture. Not everyone has such capital (Uitermark, 2014). In Oosterwold social housing is factored in, but has to date not been realized. The propagated diversity is not inclusive, but dominated by a well-educated creative class, developing a 'Garden of Eden of politically correct hipster pastorialism' (Vanstiphout, 2014). In the wider frame of the New Act, larger concerns loom on the built environment becoming a business model, connected to global capital flows and disconnected from functional and cultural needs of those who have the actual 'right to the city'. The transition from top–down, government-dictated planning to bottom–up, organically developed planning thus is not the transition from welfare state to a resilient society, but from welfare state to a neoliberal marketplace (Tasan-Kok, 2019).

5. DISCUSSION: COMPARING NEW TOWN ALMERE AND ALMERE OOSTERWOLD

In this chapter we engage with the spatial aspect of utopia with a planning lens, against the backdrop of Dutch planning processes. We use a relational, historical and geographical approach to compare two concrete spatializations of utopian imaginations, set in the same locus, but in different temporalities. Led by the question of how the planning of utopian space in Almere has evolved between 1970 and today, we contrast the planning of the new town Almere and the conception of Almere Oosterwold. For our comparison we

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employ Lefebvre's conception of space as product and producer of the social processes it accommodates, as well as his conception of utopian space and how it can be realized. Using Levitas's (2013b) 'utopia as method' elements of the archaeological, ontological and architectural modes, we operationalize our comparison between the two cases. We find that an intriguing and important shift is taking place in the interplay between the spatial and the social, with spatial blueprinting being replaced by social imagining. We also argue that spatializations of utopia offer a window on its blind spots, and thus a firm foundation for further imaginations.

Levitas's archaeological mode 'involves unearthing the image of a good society that is embedded in particular political programmes' (2013b, p. 44). Critically analysing the underlying political agenda of the two cases offers a fruitful demonstration on how different they are. While new town Almere was set up top–down from the beginning as a welfare state, socially engineered milieu for potentially socially mobile Dutch households, Almere Oosterwold is a contemporary example of DIY urbanism for a type of privileged, idealist and highly educated middle class. As Fordism was peaking in the 1960s and 1970s in the Netherlands, social democracy and the welfare state were widespread, and they were manifesting spatially as planned new towns like Almere. Yet, 'Fordism was over before the Fordist city was completed' (Terhorst & Van de Ven, 1997, p. 299) and many new towns, including Almere, found themselves in an awkward situation from the 1980s onwards. As the Dutch visions of planning shifted, new ideas of utopian-like places emerged, even within Almere. Oosterwold has been embedded in a rather neoliberal framework, with political aspirations for resilience and sustainability, and 'active, responsible' citizens. The difference between the two visions is quite stark: from the original new town Almere of concrete spatial forms and space proscribed top–down, to Almere Oosterwold of planning frames and space developed bottom–up.

This subsequently invites a closer look at 'the agents and subjects that make up society as it is imagined', in what Levitas defines as the ontological viewpoint (2013b, p. 44). At face value, at least when thinking in terms of contemporary planning mentalities, the two spatial manifestations of ideals may appear as two contrasting stories: one of failure (old Almere) and one of remedy (Almere Oosterwold). Nonetheless, even though Dutch planners and citizens love to hate new town Almere, it is one of the most egalitarian, least segregated, growing cities in the Netherlands (Boterman, 2019). New town Almere may as well be understood as an inclusive place and closer to a utopian space than many other, celebrated cities that have become exclusive (e.g., Amsterdam). Instead, Almere Oosterwold was originally set up as a response to certain demands and challenges of our times, supporting resilient society, more power to the people and responding to questions of sustainability. Be that as it may, like other current DIY urbanist spatial projects (cf. Spataro, 2016),

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Almere Oosterwold is mainly involving middle- and upper-class segments of Dutch society, while generally adhering to a rather de-politicized bottom–up urbanism. This transition of a welfare-state space to neoliberal space illustrates how utopian rhetoric can become a smokescreen for relinquishing the common good, accommodating only those with the capital to benefit. In the case of Oosterwold, it is only accommodating for those capable of deciding and doing it all themselves. Moreover, Oosterwold is demonstrating the tension between interests of private citizens and the realization of public services, ranging from access to roads to garbage collection to schools. Leaving the organization of such public services to private initiative has resulted in many of such services not being effectuated well or even not at all.[5]

The third tier to Levitas's analytical frame is the architectural mode, looking ahead at how 'society (is) imagined otherwise' (2013b, p. 44). Analysing how utopian imaginations are concretely translated into spatial structures, a shift is evident: the 1960s' and 1970s' meticulous and detailed spatial planning, aiming to accommodate the pioneering of an (unfinished) social project, transformed into contemporary ideas of Dutch planning culture, such as green cities and DIY urbanism. These current ideas generally do not directly engage with suburbanization, and they resemble social constellations that need to be facilitated to realize an emerging DIY spatial configuration.

6. CONCLUSION: THE TEMPORALITY OF UTOPIAN IMAGINATIONS

Our comparison of Almere's evolution between 1970 and today provides a springboard to think about the spatialization of utopia in general. We discern two main issues. First, regarding the interplay between the social and the spatial, planning has traditionally taken the spatial as starting point – organizing space in a certain way to accommodate the social utopia imagined. The way in which this interplay between the spatial and the social happens, however, can also be turned around, taking the social as a departure point, the latter producing a spatial configuration. In our comparison, we see how utopian planning made a transition from blueprinting the spatial to imagining the social: whereas in new town Almere the spatial agora was blueprinted to

[5] To note, public interest can outrank the (Oosterwold) ideals: a clear example is the governance of water management, which in Oosterwold is intrinsically linked to the surrounding polders, and the Dutch government has been quick to take back complete control of this public service. Notably, water management is commonly argued to stand at the basis of Dutch governance culture: only through widespread and firm cooperation is it possible to keep space and people safe from the sea, and the Dutch polder model is often hailed as utopian (Tasan-Kok, 2019).

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inspire and accommodate community life; Almere Oosterwold conversely puts the stakes on community life to format and organize the spatial agora. In other words, instead of space proscribing the social, the social proscribes the space. This is a pivotal shift, as it is also a shift from a top–down to a bottom–up dynamic of deciding how space should be given form in order to accommodate the social. For Dutch planners and their strong tradition of top–down, social engineering through spatial planning, this is a truly new modus operandi. The new modus engages with Lefebvre's (1991) proposition that space should come about organically, in response to the needs and dynamics of the social it accommodates. At the same time, we saw that the shift from top–down to bottom–up decidedly limits the breadth of the social accommodated. Space becomes more accommodating for those that inhabit it, but inhabiting this accommodating space becomes very exclusionary. Only self-reliant citizens with the necessary social and economic capital are served in this constellation.

This in turn leads to the second issue, namely the flipside of utopian imaginations. We argued in the introduction that the specific content of the utopian image that planning builds on is contextually embedded in social, economic and political dynamics within which the practice of planning operates (Hatuka & D'Hooghe, 2007). Consequently, we argued that looking at planning offers a window for looking at society – both the social, economic and political reality it deals with and the social, economic and political ideals it holds. The close inspection of our two cases demonstrates that the window is not just on ideals and the reality in operation, but that looking at realized planning manifestations also offers a window with a clear and concrete view on the pitfalls and blind spots of the utopian imagination at a given time. The original Almere shows how wider socio-economic processes may affect a place's evolution against the spatial planning. The case of Oosterwold demonstrates the blind spot of DIY urbanism for the neoliberal constellation in which it operates. Relinquishing top–down planning might indeed allow private initiative to flourish, but private interests are generally not interested in serving the public.[6] In such cases, planning runs the danger of failing to accomplish responding to demands and challenges of the times, like supporting a really sustainable, democratic, egalitarian society. Disclosing these pitfalls and blind spots offers a concrete base to develop further imaginations of the possible, dancing between the limits of reality and unbounded ideals.

The question of utopia is and has always been essentially a spatial question. At the same time, as a concept directly linked to imagination, the way in which

[6] Oosterwold has undercut the danger of space commercialization by deflecting for-profit parties from buying and developing plots, but nationally it is proving less simple to deflect global finance bringing in heavy investment.

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utopia is envisioned is reflective of society in all its multi-layered complexity. As an outcome of these mechanisms, not only is every utopia implicitly spatial; its planning in space is also very much a reflection of its time. In other words, the question of utopia is also essentially a temporal question. The spatial planning lens offers a view on the temporalities of utopia and the imaginations it sustains.

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13. Technological utopias: Promises of the unlimited

Marc J. de Vries

1. INTRODUCTION

In this chapter some aspects related to utopias in which technology plays a vital role will be discussed. In particular the notion of unlimitedness as the removal of all barriers that frustrate progress will be critiqued. We will first see how this notion of unlimitedness relates to other notions, such as promises, progress and control. Unlimitedness as the removal of the very last limit that separates us from an ideal situation in which our well-being is complete, is a sort of 'end of the road' promise of technology and, in that sense, it is a characteristic of utopias in which technology is important. Next, we will see how this ideal is proclaimed in concrete areas such as health and communication. Next, we will see that the notion of progress that should be the 'road to utopia' is ambiguous. Then we will also critique the claim of control possibilities that drives the realisation of technological utopias. Then we will look for a worldview in which utopian thinking can be a place but in a more balanced way than in the absolute striving for an ideal world that needs complete control. We will finally see how that perspective fits well with the way engineers think. Whereas many sciences are purely descriptive, engineering sciences (and other 'applied sciences' like medical sciences), however, are normative sciences, as they do not only deal with reality as it is, but also with reality as we would like it to be. In that sense, engineering science can be said to be the 'science of hope'.

2. PROMISES, UNLIMITEDNESS, CONTROL AND UTOPIAS IN TECHNOLOGY

Technological developments are accompanied with promises (Van Lente, 1993). Not only are promises used to acquire funding for technological developments, but the idea that a certain new technology is 'promising' is what drives the engineers and designers to continue working on it. A striking example of this is the development of the Stirling hot air engine at Philips

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Research (De Vries, 2005). This work started in the late 1930s and was driven by the promise that a hot air engine would solve the problem of the energy need for radio transmitters and receivers in developing countries in places where electricity was not available. The work continued during World War II and led to substantial improvement of the engine's power and efficiency. Soon, however, the battery became the main source for transportable radios and the Stirling engine became obsolete for this application. The engineers, however, found the thermodynamic principle so elegant that they looked for a new application and found it in the need for an energy source for satellites, for which low-maintenance requirements were important. This idea, too, was abandoned because simpler energy sources were preferred. The next effort to use the hot air engine was cars. First Philips worked with General Motors and later with Ford to develop the Stirling engine as an environmentally friendly car engine. In the end the costs for the engine remained too high compared with the fossil fuel engine, and at that point finally Philips decided to abandon the work on the Stirling engine. One of the engineers, Roelof Meijer, however, moved to the USA and continued the work in a new company founded by himself. In the Netherlands, others started working on another new application, namely an energy source for central heating boilers. This continuous shifting from one possible application to the next was driven by the promise that only one more step would lead to a breakthrough of the engine. In the words of one of the product division directors at Philips: 'The Stirling Engine is very promising and will always remain so.' This example illustrates the power of promises in technological developments as a motivation for engineers.

Promises also can be used to promote the social support for a technological development, either in an early phase when money is needed but also later when the technology is introduced and implemented in society. An example of this is nanotechnology. This technology was surrounded by many promises, for instance by Eric Drexler, founder of the Foresight Institute. Nanotechnology would lead to 'general assemblers', nanoscale structures that build any larger structure by putting together atoms like bricks in children's construction sets. Materials with any desired property as well as machines with any desired function would result from nanotechnology developments. Although it is hard to 'prove' what influence these promises had on funding, it is not unlikely that they did play a role in the initiation of large government-funded projects in the USA under the Clinton administration. One of the words that features regularly in the promises of nanotechnology is 'unlimited'. Nanotechnology is promised to bring 'unlimited' applications. The falling away of limitations apparently is seen as an attractive feature of nanotechnology. Promises of unlimitedness are used as a vehicle to stimulate belief in a new technology. It will be shown that this promise of unlimitedness is present in various domains of technology and therefore pervades the notion of technological utopias.

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There are several other technological application domains in which the falling away of limitations is claimed to be one of the fruits of new developments. One domain in which particularly we find the word 'unlimited' used is media and communication. 'Unlimited data', 'unlimited internet', 'unlimited calls', are some examples of texts that can be found in telecom advertisements. The idea behind this is that limits are an annoyance for telecom users. The best deal is one in which there are no limits to my use of telecom services. The range of domains in which this promise can be found seems to be unlimited itself. 'Unlimited mileage' with car rental. 'Unlimited car washes' at the garage. Unlimited eating, mostly phrased as 'All you can eat', in restaurants. 'Unlimited haircuts' at the barbers. 'Unlimited classes' at the gym. And so on, and so on. Living in a world without limitations is suggested to be desirable for everyone and for every aspect of life.

The ultimate limit in life is death. Whatever can be provided unlimitedly, our use of it will find its limit when we die. But even the removal of this ultimate limit is seen as a challenge for technology. Lots of documentaries have titles like 'eternal life' or 'immortal'. In transhumanism, this ideal in particular is the focus of technological expectations (Ross, 2020). This is discussed in Van Beers' and Bugajska's chapters in the present volume. Removing the ultimate limit to life is one of the promises made in relation to nanotechnology. By regularly repairing degenerated brain tissue, brain death can be postponed 'ad libitum'. Other ways to prevent death are cryogenics: storing the body with minimal life function to preserve it for a time as long as is desired. The idea of transplanting neural signals into a machine, thus preserving the mental identity of a person, already featured in the classic science fiction movie *Metropolis* and has been realised in Elon Musk's Neuralink (Stockmeier, 2019).

The ideal of eternal life brings all these technological promises into the realm of utopian thinking. The considerations above suggest that one of the features of a utopia is that no barrier is absolute and that progress towards utopia means the pushing forward of one barrier after another. According to the promises of unlimitedness, this should lead to a world without diseases, with infinite possibilities of transportation and communication, and ultimately without death. The theme of technological utopias has been discussed particularly by the Dutch philosopher Hans Achterhuis.[1] He distinguishes between social and technological utopias. In social utopias, the means for exerting control over society are social in nature (using authority, power and the like), while in technological utopias the means for control are technological.[2] I will

[1] His work is discussed in the final chapter of Verkerk et al. (2016) on the notion of 'trust' in technological developments.

[2] Like medical technologies as means for controlling health.

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come back to the relevance of this distinction for assessing utopias later. For now, it suffices to state that technological utopias according to Achterhuis are intimately related to the ideal of having control over reality, ultimately even total control. I will also use the term ‘technological utopia’ in a less strict sense than Achterhuis, namely as utopias in which technology plays a vital role. Social elements can play an equally important role in such utopias, and this is a motive for not using the distinction as a strict dichotomy in this chapter.

This is just a selection of domains in which technology gives rise to utopian thinking. In Loranc’s contribution to this volume, architecture is discussed as an example of another domain, and the chapter by Chevalier and Tzaninis deals with city planning. The selection discussed above, however, suffices to introduce the key concepts for reflecting on technological utopias: promises, the elimination of limitations, and the ideal of control. We will now look somewhat deeper into the different domains of technological utopias and investigate the role of worldviews for assessing them.

3. DOMAINS OF A TECHNOLOGICAL UTOPIA

Perhaps the most interesting domain of utopian unlimitedness is health. The term ‘unlimited’ features in the title of a book by James Peter Cima: *Achieving Unlimited Health* (Cima, 2015). At first sight it is not obvious what the term means, but from the book we can deduce that Cima means to promote health that is never disturbed by any degradation of the body and therefore will remain for the full lifetime. The reason for mentioning this book is not that it was very influential, but it nicely illustrates the quest for unlimitedness as an ideal in a utopian health ideal. The subtitle of the book is ‘Take control of your life immediately’, which contains another keyword mentioned in the introduction above: control. The focus of the book is diet rather than medication. That makes sense because one has more immediate control over one’s diet than over the medication one takes and even less over the surgery one undergoes. It does not, however, mean that technology is not important in this utopian image. Healthy food is also the outcome of technology, no less than equipment for diagnosis or treatment. In the foreword, the author mentions the claim made by biologists that the human body has the potential to live for up to 200 years. He blames the medical world for focusing on treating illness rather than promoting health. Some illustrative quotes at the end of the book include: ‘16. There is nothing that can stop you except you.’ ‘19. I thank God that I am the ever-renewing, ever-unfolding, and ever-expanding growth, seeking expression of infinite intelligence, power, energy and health.’ In Chapter 7 the question is raised about why achieving unlimited health is important. The answer is: ‘the purpose of life is survival.’ In other words: staying alive is the aim of life in itself. Point 19 (quoted above) connects this with other health-related

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unlimitedness: infinite intelligence, power and energy. One step further is not just to improve health, but through technology to give humans more physical capabilities than they normally have. That is what the term 'human enhancement' refers to (Berthout, 2007).

Another interesting example of the use of the word 'unlimited' is in a video advertisement campaign by Nike called 'Unlimited You'. The rhetoric used in this campaign was analysed by Widjaja. The message of this campaign was that the sports shoes sold by this company allow the user to reach extreme results by keeping up high endurance, never giving up, optimism, confidence, and transcendence. The structure of the commercial reveals the idea of pushing boundaries as key to the success of the user. The first half of the commercial verbally expresses hope and optimism, but the second half contains non-verbal expressions of persons involved in extreme sports activities that are even potentially harmful but are practices as they show that 'each person has unlimited possibilities that reside within, by picturing the confidence in each athlete; believing that each of them will be able to pass through the challenge' (Widjaja, 2017). Each level of success that is reached serves as a challenge to reach the next level. Here, too, there is an intrinsic motive, as in Cima's book. Like the aim of survival is survival for Cima, here the aim of reaching a level is reaching the next level. It is like the pot of gold at the end of the rainbow: each metre we move forward brings us one metre further from the target.

In Cima's book on unlimited health the connection was made to unlimited intelligence. This has become a theme not only for reflections on health but also in the field of artificial intelligence. This is also the topic of the chapter in this volume by İspir and Keleş. SAP markets its products, among others, under the motto of: Robotic Process Automation: The Dawn of Unlimited Intelligence.[3] They make claims like: 'Robotic process automation today will lead to bot-enhanced minds tomorrow. Eventually there may be no separation between individual and shared intelligence,' or: 'Employees gain access to a limitless supply of knowledge and learning.' So-called 'bots' are promoted as extensions of the mind, which makes the mind capable of having unlimited intelligence. Of course, the term 'intelligence' is used here in a sense that is quite close to 'data'. But the idea is that having unlimited access to data will make us more and more smart, particularly when we extend our human mind with artificial means. The idea of the extended mind was explored philosophically by Andy Clark and David Chalmers (1998). The idea of unlimited extension of the mind does not feature in their considerations. That came up

[3] See at https://insights.sap.com/robotic-process-automation-dawn-unlimited-intelligence/.

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later when artificial intelligence, also absent in Clark and Chalmers' classic 1998 article, was connected with the notion of mind extension.

Infinite Reality is the title of a book on virtual worlds by Jim Blascovitch and Jeremy Bailenson, two prominent researchers in virtual reality (Blascovitch & Bailenson, 2012). Although the book is now outdated in its description of technology, the title still indicates well the ambitions of virtual worlds: creating endless possibilities for controlling virtual lives in a computer simulation. The avatar we create to represent ourselves in the virtual world can be flexible in almost every respect. We can be male or female, have any colour of hair and eyes, every desired posture and height. Thus, we overcome all sorts of limitations in real life, where we cannot change gender (at least not with a mouse click), eye colour, and most other features that are set by our genes. Although virtual worlds are mostly seen as games, there are many practical applications in design (architecture, for instance), training (pilot, firefighter) and even for social experiments.

Thus, we see that terms like 'unlimited' and 'endless' are used in the rhetoric surrounding a wide range of technological domains. We also notice that this rhetoric can draw attention away from the question of purpose and aim.

4. THE PROBLEMATIC NOTION OF 'PROGRESS'

The notions of promises of unlimitedness, control over reality and utopian thinking all assume that we know what makes progress. After all, the constant pushing forward of boundaries and limitations by controlling reality is associated with the idea of progress, going from good to better (to best in the utopian ideal). If it is not clear what progress is, it is also unclear what the ultimate good or utopia is.

The question as to what progress is seems almost an obsolete one. We all think we know what progress is. Progress is going from illness to health, from poor to rich, from shorter living to longer living, from knowing less to knowing more. All these seem beyond questioning. But is that really the case? One example can illustrate how our ideas about progress can change radically in the course of time.

The following example is from David Blackbourn's book, *The Conquest of Nature: Water, Landscape and the Making of Modern Germany* (2006), and it is quoted here from Jan Boersema's farewell lecture when he became a professor emeritus at the Vrije Universiteit Amsterdam (Boersema, 2012). It is the story of a German engineer, Johan Gottfried Tulla (1770–1828), who was annoyed by the fact that the river Rhine meandered through the landscape in a chaotic and uncontrolled manner, in his words, as a snake curling through the German landscape. Of course, the term 'snake' has a negative connotation (for instance, because of the snake used by Satan to lure Adam and Eve into

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sin in Paradise (Genesis 3)). Tulla took upon himself the task of 'taming' this river by straightening its course into a canal that shortened the route from Basel to Bingen by 75 kilometres. Thus, one of the greatest European ecosystems completely disappeared in less than 40 years. In those days the operation was definitely seen as progress, whereas today many people would consider it a great loss and decline in terms of sustainability. The current popularity of bio- and eco-products indicates that the idea of the artificial being preferable over the natural because of the controllability of the artificial has now been exchanged for the valuing of natural, or 'bio', products over artificial products. In all this, of course, it is clear that 'natural' can only be relative. Even the most 'natural' product has somehow been affected by human intervention, if only to get it to our shop. But the idea is that the less the original natural resource has been 'tampered' with, the more preferable the product is.

Another issue that makes the notion of progress less obvious than thought is the question as to what is done with the new possibilities provided. Is it progress when someone gets stronger and uses the new power for maltreating other people? Is it progress when someone gets smarter and uses the new intellectual power to mislead other people in very clever ways? Is it progress when someone gets rich and uses the new financial space to develop products that can become a threat to public well-being? Is it progress when people live longer but use the time gained to make war and survive others who do not (yet) have the extra lifetime? Or in general: is it progress if people appear to be unable to keep purpose in life for such a long time? Heidegger already suggested that boredom might be caused by living long and, according to Turner, this will also have negative effects on moral behaviour (Turner, 2007). All these examples show that progress cannot be taken in an absolute sense. Whether or not becoming stronger, richer or whatever is progress depends on the goal for which the new possibilities are used.

The fact that the purpose of the new resources is often left undebated is an example of what the American philosopher Albert Borgmann relates to the 'disengagement' that comes along with our current strong reliance on technology. He uses this notion to critique the idea of progress through technology. Although Borgmann himself does not make the connection between disengagement and utopian thinking, this notion does have implications for that. Borgmann's main claim is that the omnipresence of technological devices has made our relations much more indirect (which brings along the disengagement of humans from reality) and the ease of use has made us forget the question for which purpose we use the device. It is there, and therefore we use it. For some time, there was an advertisement in Dutch public transport shelters with texts like these: 'I want to clear out all of Internet, because it is possible,' 'I want to download recipes until I weigh an ounce, because it is possible.' The 'because it is possible' indicates exactly what Borgmann identified as the

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device paradigm: the device is there for use and I use it without asking myself why. Note that the advertisement texts clearly refer to 'unlimited' Internet use. The loss of sense can be seen in the shallowness of much of communication by mobile phones and social media. The mere term 'twitter' already indicates the lack of depth in this medium. People use their mobile phones not because they really have a message to pass on, but just to casually call or text. Particularly on public transport, where people tend to speak on the phone with a loud voice, one can easily overhear the conversation and be struck by the lack of real purpose of the call, other than just 'killing some time'.

Borgmann sees the disengagement that results from this inconsiderate technology use as a great loss of quality in our experience of reality that we give up to get the commodity the devices provide. This is definitely not progress for him. The microwave oven enables us to have a complete meal in just a few minutes, but it does not give us the rich experience of cooking a meal starting with the basic ingredients. The result is also a uniformity of taste: each time the microwave meal tastes the same, whereas my self-cooked meal can be varied as I like. Borgmann's suggested way out is performing 'focal activities', like cooking our own meal, playing sports rather than watching games on TV, playing an instrument rather than listening to a CD, etc. That seems to 'repair' the disengagement problem, but it is not clear how it gets back the 'why' question necessarily, neither is it clear why it would prevent utopian thinking (but the latter, as was remarked earlier, was not Borgmann's concern).

Some people hold the – contestable – opinion that there is a hidden purpose behind our use of devices, namely the lust for lust (Kool & Agrawal, 2016). Seeking pleasure is the ultimate purpose of life in hedonism. This becomes particularly problematic when it turns into hedonistic egoism. Individuality is often mentioned as one of the characteristics of our current society. In combination with the ever-increasing technological opportunities for pleasure, hedonistic egoism is not an imaginary threat for society (Hauerwas, 1985). An example that can illustrate this is our protection of privacy. This has become urgent because of the striving towards 'unlimited information' about people (as pictured in the famous novel *1984* by George Orwell). There is a striking inconsequence in that people have no problems giving away all sorts of personal data if that is needed to get a little refund for a jar of peanut butter, but they heavily protest against the use of surveillance cameras or other technological means by national security organisations. When it comes to personal benefits, privacy is given up easily, but when the 'common good' is at stake, there is a lot of protest against gaining personal information.

Another critique on progress driven by utopian ideals was raised by Dutch philosopher Hans Achterhuis. His distinction between technological and social utopias has been mentioned already. According to Achterhuis, both have their own 'logic': the technological utopia is ruled by a 'consumer logic' that

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focuses on the (endless) promises of technology, while the social utopia is ruled by the logic of 'real' human needs[4] to be addressed by government rather than industry (Achterhuis, 2004). The first type of utopia is particularly vulnerable for losing sight of the question of purpose and sense (note the similarity with Borgmann's device paradigm). Achterhuis also claims that this brings along the danger of an increasing preparedness to cross moral boundaries for the sake of realising the technological utopia. The utopia of permanent and complete health drives the development of new medicine and technologies to such an extent that experimenting on humans becomes a necessary step towards the realisation of that ideal for which no real moral boundaries can be permitted to stand in the way. Although it can be questioned if any utopia is either a strict technological one or a social one (in most cases the utopia will have elements of both), Achterhuis's critique on what he calls a 'technological' utopia seems to make sense. The purpose of this chapter is not to defend the dichotomy sketched by Achterhuis anyway, but to build upon this critique.

5. UTOPIAS AND THE LIMITS OF CONTROL

All technological developments have unexpected side effects. That is why in the ethics of technology often the precaution principle is used: if there are uncertainties (risks) regarding the possible effects of a new technology, it is morally good to be holding back in the application of that technology. This, however, does not sit well with a utopian ideal that strives for unlimited pushing forwards of boundaries. The risks that come along with new technologies are likely to increase the further boundaries are pushed forward. A modest application will cause minor risks, while an extensive application of technology will cause more major risks. Control becomes more difficult the more extensive the application is. This can cause the utopia that is strived for to turn into a dystopia. That phenomenon is a manifestation of what Horkheimer and Adorno (2002) called the 'Dialectic of Enlightenment'. The ideal of total freedom by technology has turned into the dystopia of (the feeling of) being governed by technology. The ideal of the 'conquest' of nature (see the previous section) has turned into an endangering of our natural environment that has become almost uncontrollable. Here are some more examples.

The ideal of unlimited access to information for many people leads to information overload. Dedicated education is necessary to learn how to deal with the massive amount of information that reaches us daily. Even then, people can get confused and have difficulties distinguishing between what is relevant and

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[4] That is, those needs that are not just for luxury but conditional for human and social well-being.

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what is not. The popularity of conspiracy theories in times of crisis is at least partially due to this.[5] There is almost unlimited availability of such theories as well as of scientific information, and many people feel buried under all this information.

The unlimited possibilities to change one's avatar in a virtual world (change of sex, eye and hair colour, height, race, etc.) seem to be a utopia, but for some people this turns into a complete dystopia because it creates personality distortions even when used in a therapeutic context (or perhaps even because of that context). The so-called 'controlled environment' for this therapeutic use of virtual worlds in its effects appears to be much less controlled than foreseen (Turkle, 1995). Also, the idea that one has unlimited contact with other people has led to a lack of real contacts outside the virtual world. Sherry Turkle nicely described this as 'being alone together' (Turkle, 2012). A similar example is the notion of a 'friend' on Facebook. The mere fact that one can 'un-friend' a 'friend' with the click of a mouse indicates how shallow this 'friendship' is compared with reality, in which real friendship is built up with effort and not easily undone. The idea of controlling one's community of friends is in fact only imaginary as it means virtually nothing to have a thousand friends on Facebook.

In the field of sustainability we also find examples of unlimitedness in the claims that are made. In the cradle to cradle movement, initiated by William McDonough and Michael Braungart, the slogan used is: waste is food. In a 2007 documentary broadcasted by the Dutch VPRO, Braungart makes a remarkable statement by calling on industries to produce waste, because that is all food. This expresses his optimism that recycling can be so efficient that waste is no longer a problem but even a desirable resource. A perfect closing of the circle would entail an eternal availability of resources. What Braungart seems to ignore is the second law of thermodynamics, according to which there is loss of quality in every energy transformation. Physically it is simply impossible to fully close the circle and hence not all waste is food of the same quality as in a previous cycle. Degeneration prevents this. Perhaps the most well-known claim of unlimitedness is hidden in the very definition of sustainability in the Brundtland report, *Our Common Future* (World Commission on Environment and Development, 1987). The report states: 'Humanity has the ability to make development sustainable to ensure that it meets the needs of the present without compromising the ability of future generations to meet their own needs.' This seems to imply that every next generation has the same possibilities to meet their needs. That does not mean that the same resources will

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[5] Like the Covid-19 crisis that started in 2020; see Douglas (2021) for examples and analyses.

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be available, but the unlimitedness is here in time. Although the Brundtland report does not have the cybernetics ideology that featured in the earlier *Limits to Growth* report by the Club of Rome (Meadows et al., 1972), the word 'control' features no less than 142 times in a 247-page text. In practice, this is probably the most problematic issue in the pursuit of sustainable development: the lack of possibilities to control policy (at all levels, but particularly national and international level). Treaties signed in Johannesburg, Rio de Janeiro and numerous other places all suffer from the lack of commitment to carry out the measures that are implied; there is no possible control over this (and this would probably be undesirable) and there are almost no legal means to force governments to fulfil the promises made in these treatments.

A summary of the line of thought so far is this: technological developments are stimulated by promises of a better world. The ultimate promise is the undoing of all limitation that keeps us from perfect happiness. That would be the technological utopia, that is, the ideal world brought about by technology. Control over reality is needed to realise the promises. Total control would be needed to realise the ultimate promise of unlimited happiness. Such a control, however, is neither realistic nor desirable. Several examples of different socio-technological domains have been provided as illustrations of this. This perspective of technological utopia therefore needs an alternative. In the next section we will explore what a Christian perspective could mean for utopian thinking.

6. CHRISTIAN (NON-HEDONISTIC) PERSPECTIVE

In this final section a Christian perspective on the ideal of overcoming all limitations in a utopian perspective is presented to see if it offers any clues as to how to deal with this aspect of utopian thinking. The purpose of this chapter is not to defend a Christian perspective but to explore what such a perspective can mean for discussions on utopian thinking. As notions of perfection and progress play an important role in such a position, it seems legitimate to see what meaning it can have for our discussion on utopias and unlimitedness. The Christian perspective used here is not presented as 'the' Christian perspective, but as one of the possible Christian perspectives. It was chosen because it seems most promising to get the best out of utopian thinking but avoids some of the pitfalls. It draws from the Bible, but that book allows for different interpretations. As a consequence, there can be more than one Christian perspective on utopia that claims to be rooted in the Bible. The interpretation that is offered here is in line with a traditional view on the Bible as inspired by God and with historical information, though not of a scientific nature. A 'literal' interpretation is not promoted, but a 'factual' (i.e., the content refers to facts but the way they are presented can be metaphorical or otherwise not to be read in a literal

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sense). The stories in the Bible may bear the personal marks of authors, but they do refer to actual things that happened. This particular type of Christian perspective, which will be used here, can be called 'Calvinistic', or 'classic reformed'. I will argue that this perspective contains elements of both striving for improvement but also of knowing how to deal with the non-ideal nature of reality. I will use references to one of the most influential works by John Calvin, a 16th-century church reformer, namely *The Institutes* (final version: 1559; English translation by H. Beveridge, 1845). This book is representative for the Christian perspective chosen here as it has had influences on many creeds in the protestant tradition. I will not discuss the arguments that are used to defend this position (that is done, for instance, in Fesko, 2019), but confine the discussion to showing how it can offer a perspective on reality that keeps efforts to improve the world in balance with an awareness that it is neither possible nor desirable to try to bring about an ideal world, as well as not by technology.

The story of humans in the Bible begins in Paradise. The text suggests that originally there was a state that God qualified as 'good' ('tov' in Hebrew). Although this is contested by many contemporary theologians, the text also suggests that humans did not yet die (Calvin, 1559, Book 1, chapter 16). Later texts, particularly the letters of the apostle Paul, in that respect take the Genesis account to be factual in the sense that only after a moment in history humans chose to disobey God's command and only then death entered the human existence. Paul also suggests that humans were not created immortal. They had the potential to die, but were not dying, just like a vase can be fragile but not breaking or broken. Had humans not sinned, no one would have noticed their mortality, just like the fragility of the vase remains unnoticed as long as it is treated with care.

The origin of humans' quest for perfection and eternal life may well be grounded in the fact that they were created for an everlasting life without suffering and death (Calvin, 1559, Book 3, chapter 25). This could be part of what is called the 'image of God' in which humans were created, according to the Genesis account (Calvin, 1559, Book 2, chapter 2). This term has given rise to many theological discussions. It expresses the unique position of humans in creation, but it is not easy to understand its exact meaning. The term 'image' suggests that humans had certain characteristics that God also possessed (although perhaps not in the same way as God). The knowledge of what it is to live in a world without evil and its consequences might well be part of that 'image'. After humans disobeyed God's command in Paradise, they started dying and lost at least part of their being in the image of God. But one could argue that this awareness of perfection still lingered on in their consciousness, now not as a reality but as an ideal to be strived for. This could be an explanation for the fact that throughout the ages, humans have imagined ideal

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worlds and the possibility of an everlasting life. David Noble and John Gray see the origin of the derailed and overshot development and implementation of technology in the Christian notion of Paradise and 'imago Dei' (image of God). Both of them, however, refer to minority groups in Christianity (like the anabaptists who wanted to transform the city of Münster, Germany, into a new Jerusalem) and the Rosicrucian (an esoteric movement that started in the 17th century) to support this claim (Noble, 1999; Gray, 2008). They completely ignore the fact that in mainstream Christianity the notion of sin and evil is seen as a fundamental barrier for bringing back Paradise by human efforts (Calvin, 1559, Book 2, chapter 3). Apart from this awareness of their original nature, humans also still had their rational and creative capabilities after having fallen into sin, and God's call to use those is repeated later (in Genesis 9). Consequently, humans were still called to develop culture and unfold the potentials of the Creation (Calvin, 1559, Book 1, chapter 17).

The Genesis account continues by telling a story that illustrates how overcoming ultimate limitations becomes a focus in human cultural efforts. This is the famous story of the Tower of Babel. It can be found in chapter 11 of Genesis. There are some striking elements in this story that directly relate to the issue of pushing boundaries and reaching an ultimate goal. The tower was meant to reach to Heaven, the place of God's presence. Even if this was only rhetoric for the people building the tower, it expresses a desire to reach an ultimate place at a distance that cannot even be estimated. It is remarkable how God, according to the Genesis account, prevents this goal from being reached. Rather than causing an earthquake or having lightning strike the tower, God confuses the people's language. A side remark: the story in that respect can still be used today to illustrate the importance of communication in technological developments. But what would have happened had God not interfered? There is an intriguing quote in the text that is perhaps the most unknown element in the whole story. When God comes down (ironically, this is said twice to indicate that God had to come down pretty deep to see what was going on down there), he predicts that this is only the beginning of humans' ambitions and that from now on nothing will be impossible for them. God, being the Creator of the humans, knows them as no one does, and states that there will be no end to their ambitions and that they will not stop until they are realised. In this case He prevents that realisation, but there is no indication that He will always do so.

The question is, however, if this striving for the removal of every possible boundary or limitation is in humans' own interest, given the fact that now they do not live in Paradise anymore and are not just mortal but dying. In Genesis 3 it is stated that reaching the 'tree of life' is prevented by God by expelling humans from Paradise. One of the possible interpretations of this is that God prevents humans to live on forever in their state of mortality as it is

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only through death that they leave behind all effects of sin and get eternal life (Jesus in John 5, verse 24, Paul in Philippians 1 verse 23 and 1 Thessalonians 4). Again, in Paul's epistles, we find notions that indicate that through the work of Jesus Christ, the everlasting life becomes the ultimate perspective for those that surrendered to Him and are freed from their guilt and inability to do the real good. But it is only through the crisis of the end of times that this new heaven and new earth will come and not through human efforts. In the time before this ultimate crisis, humans still have to live with imperfection and limitations (Calvin, 1559, Book 2, chapter 18).

Another question is this: is it in line with God's ideas about creation that humans keep pushing boundaries? Are there perhaps fundamental boundaries in creation that humans should not, or perhaps even cannot, overcome? Here the Bible does not seem to give any concrete examples of such boundaries. The Genesis account tells that it is God who creates life, but it does not explicitly state that humans cannot do that (as is now tried in synthetic biology). Likewise, he created humans 'in His image', which for many theologians means primarily that they are gifted with intelligence and creativity, but whether or not humans can create beings with (artificial) intelligence is also not clear (at least it is not forbidden explicitly, unless of course with evil purposes). The idea of forbidden boundary-crossing does feature in Greek mythology. In that literature the term 'hubris' is used for human overconfidence in disturbing the order that Zeus installed after having defeated the chaos gods (Ferry, 2015b). Two examples are particularly technology-related: Prometheus and Icarus. Prometheus stole fire from Hephaistos' oven and gave it to the humans, who used it to do things that disturbed Zeus's order (Ferry, 2015a). Interestingly, Zeus has created humans because the order he had installed led to boredom with the gods and the humans served as a sort of puppet theatre to entertain the gods. But when the humans really provided excitement, it went too far in Zeus's eyes. Icarus tried to overcome an aspect of the order by trying to do what was not meant to be done by humans but by birds: flying. Like Prometheus, he was punished for his 'hubris'. In the Bible we do not find such examples of humans being punished for trespassing creational boundaries. In that book human responsibility is emphasised: not so much what can be done, but what should be done. Even if there are no absolute boundaries, is it good for humans to cross them?

Holding back from pushing boundaries and learning to live with limitations is something that we find expressed in an interesting way in Paul's letter to the Galatians in chapter 5, when he describes the 'fruit of the Spirit'. He uses the word 'fruit' as a singular, but mentions seven elements, the final of which is: self-control. In the Dutch Statenvertaling, the term 'matigheid' is used, which contains the notion of 'maat houden', that is: keeping (or acknowledging) boundaries. What Paul writes is that what the Spirit teaches the Christians is to

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respect limitations that are related to their human condition, to know when to stop. Some of these limitations are related to the fact that we are creatures with limited capabilities that we have to acknowledge (for instance, we cannot eat whatever we would like to, given the limited space in our stomach). Other limitations are more prescriptive, such as the commandment not to want to have whatever someone else has (the tenth commandment in Exodus 20, verse 17). Considering limitations is good for humans, even in general, can be illustrated in many ways. To start a bit 'tongue in cheek': 'Unlimited tapas' may sound ideal, but those who try to make the most of it are prone to find out at night that the promised utopia has turned into a dystopia for their stomach. 'Matigheid' then becomes as practical as 'knowing when to eat the last tapas'. More serious examples were described in the previous section. Evidently pushing forward boundaries with no end does not do us good in our current state of sin and imperfection (if at all, we were made to live without limitations, even in the original state of goodness).

The quest for pushing forward the ultimate limit of death with technological means for life extension, like repairing brain tissue by nanotechnology (Vidu et al., 2014), can also be questioned when it comes to the idea that this is an ideal to be pursued now. Not only will substantial extension of the human lifespan create new challenges to the provision and other life necessities, but the idea that we still have endless time available could well paralyse us in our efforts to act. Why postpone to tomorrow if you can also postpone to the day after tomorrow, or the day after that, and etc.? The awareness that our life has an end can now drive us to do things because we know our time is limited. Without that awareness, we may well lose that motivation. In the Bible this is expressed as 'redeeming the time'.[6]

At the same time we see that sometimes an element of the new heaven and earth is realised now. Jesus performed miracles (mostly healings) as tokens of a new reality in which suffering, diseases and death will be no more. An example of this is the resurrection of Lazarus by Jesus, as described in John 11. Jesus shows that He has victory over death, but the final victory is yet to come, as Lazarus does not have eternal life yet at that moment. This notion of 'tokens' of the ultimate future can provide a perspective for all efforts to fight these effects of sin with the gifts that God gave humans (and that He did not take from them after they became disobedient). Using technology in the wake of Jesus performing His healings is different from striving for the realisation of a utopia as a goal in its own right. The effects of human effort are then seen as a deposit of the new reality that only God can bring in its fullness. This new

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[6] Paul in Ephesians 5, where he mentions the times being 'evil', but meaning also that time is limited.

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reality is the ultimate result of redemption brought about by Jesus, of which the first effect is that humans begin to seek to live according to God's laws as the expression of His original good intention with creation (Calvin, 1559, Book 1, chapter 15).

The promise of the coming of a new heaven and a new earth where humans will again be truly good, and then even without the possibility of disobeying again (and consequently, without mortality as the potential to die), can be a motive for Christians to abstain from trying to get everything out of their current life. For then the best is yet to come and therefore there is no need to try to compulsively use as much of this existence as possible. This could have motivated Christians to live in an exemplary, sustainable way, but unfortunately that is often not the case, and Christians are no less tempted to get the best out of this current life than non-Christians are. At the same time, they know that living for God does not wait until the afterlife but should also be practised in their current life.

7. FINAL REMARKS

In this chapter the promise of an endless pushing forward of boundaries in human existence by use of technology has been presented in a critical way. A Christian perspective as described in the previous section contains a positive appreciation for utopian thinking because it reveals something of our origin as beings that were meant to live in a 'good' world, without death and evil. Limits are not necessarily evil as we are not likely to be created for unlimited eating, knowing, and other acts that would do us no good when performed without knowing when to stop. We were, however, created for living eternally, and this quest still lingers on in our current existence after the first sin in Paradise. The Biblical perspective of a new world to come can provide a motive to abstain from the striving for unlimited use of resources and possibilities, and thus create a strong basis for sustainable life. This basis can also be provided outside the context of Christianity, or religion in general, but Christian faith does contain a solid basis because the notions of current imperfection versus coming perfection are at the heart of this faith and not in the periphery. It certainly promotes a healthy balance between responsibility for the current world (in the sense of a sustainable lifestyle) and the relaxation that comes with the awareness that 'the best is yet to come'.

Is the Christian perspective as described in the previous section the only one that offers a more balanced view on technological developments than strict utopian thinking? Elements of it are certainly also present in other perspectives. In a humanist perspective, for instance, there is an awareness of the unique position of humans in our world. But its outspoken positive view on humans brings along that it has less attention for the role of evil in humans. The

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Christian perspective that was described in this chapter, however, offers both a ground and motive for striving towards improvement of our human condition and an awareness of the inherent limitations of human capacity to do this in our current condition, after Eden.

Does that mean that there is no place for utopian thinking in this approach? No, that is not implied. To the contrary, the ideal of loving God with '*all* your heart and with *all* your soul and with *all* your strength and with *all* your mind' (the 'great commandment' as phrased in utopian terms ('unlimited love') by Jesus in Luke 10, verse 27) is provided as an exhortation for people to strive in that direction. Thus, utopian thinking can function as a source of inspiration or even a method (Levitas, 2013) rather than the actual striving for a perfect world. Imagining a good world can help to see where improvements can be made, without claiming that all differences between our current world and the ideal world can be eliminated, either by technology or by creating new social structures. As we saw, the Christian perspective that was sketched does include the realisation of elements of the world to come already now. Ratner suggests utopian thinking as a tool for product designers and mentions utopian science fiction as a source of inspiration (Ratner, 2007). There are well-known examples of how that can work (the communicator used by Captain Kirk in *Star Trek: The Original Series* was clearly one source of inspiration for the designers of mobile phones) (Cusveller et al., 2011). Perhaps engineers, better than anyone else, know that the perfect product does not exist. That is why designers learn how to make trade-offs. At a more strategic level, utopia as method closely resembles the scenario technique that is used in many technological developments (for instance for analysing options for a sustainable future; Hjerpe & Linner, 2009). Usually more than one scenario is developed and none of them is meant to be realised. Each scenario serves as an analytical tool to see where improvements can be made, or to see how different measures work out differently. One scenario can be the ideal world, but that may not even be the preferred one. It can help develop a realistic and therefore more desirable scenario.

Engineers know by experience that a design always emerges in a process of constantly making trade-offs. That is what they learn in their education: the best design is not the one that is ideal but the one that deals best with the non-ideal nature of reality. Yet, the design is made to be at least an improvement of the existing situation. In that sense, engineering sciences are 'sciences of hope' – and as Copson argues in her contribution to this volume, articulations of hope are what abstract expressions of desire need to be transformed into – but in a realistic way with an awareness of the limitations of natural and human possibilities. Engineers know that the 'art' of their profession is not to get rid of limitations, but to deal with them in a clever way. What the Christian

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perspective as sketched earlier does in fact is provide a worldview type of framework for what they do (De Vries, 2021).

This way of thinking about engineering as a 'science of hope' is not in conflict with the notion of 'the best being yet to come'. Here, too, the described Christian perspective can contribute to a 'wise' use of the notion of utopia. The current world is worth investing in, even for those who know that it is not their final destination. Reading about the new heaven and new earth can make clear where the current heaven and earth fall short, and humans are called to take care of them in modesty and responsibility.

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14. A better way of being? Human rights, transhumanism and 'the utopian standpoint of man'

Britta van Beers

1. INTRODUCTION: OUTOPIAN CREATURES WITH EUTOPIAN LONGINGS

In the field of utopian studies, the longing for utopia is generally regarded as typical for the human condition. In this vein, Frank and Fritzie Manuel conclude their classic work *Utopian Thought in the Western World* with the observation that 'Western civilization may not be able to survive long without utopian fantasies any more than individuals can exist without dreaming' (Manuel & Manuel, 1979, p. 814). They even go as far as to compare 'a utopian's release of imaginative energies' with the rapid eye movements that occur while dreaming (ibid.). Similarly, Ruth Levitas, following Ernst Bloch, suggests that utopia, understood as 'the expression of desire for a better way of being', is bound up with being human, as 'we live always beyond ourselves, in a quest for something better' (Levitas, 2003, p. 4).

These contemplations on human nature and the utopian propensity bring to mind Helmuth Plessner's philosophical anthropology. In his 1928 magnum opus *Die Stufen des Organischen und der Mensch* (Plessner, 2016), recently translated as *Levels of Organic Life and the Human* (Plessner, 2019), Plessner formulates three 'fundamental laws of anthropology' to offer a philosophical answer to the question as to what defines us as humans. The third of these is the law of the *utopian standpoint* ('das Gesetz der Utopischen Standorts', Plessner, 2016, p. 419). According to this law, human existence can be understood as 'ein Stehen in Nirgendwo' (Plessner, 2016, p. 424), 'a standing in nowhere'. Unlike animals, human beings cannot just live and be, experiencing the world from a given centre ('centric position'), but are forced to lead a life and also

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relate to this centre ('excentric position').[1] Because of his excentric position, 'the human is no longer in the here/now', Plessner writes, 'but "behind" it, behind himself, without place, in nothingness, absorbed in nothingness, in a space- and timelike nowhere-never' (Plessner, 2019, p. 271). Accordingly, within the concept of the utopian standpoint, the *ou-topos* side of utopia, 'no-place', comes to the fore. Humans are *outopian* creatures in the sense that that they are marked by a 'constitutive homelessness':

> As an excentric being without equilibrium, standing out of place and time in nothingness, constitutively homeless, he must 'become something' and create his own equilibrium (Plessner, 2019, p. 288).

One of Plessner's central claims is that to come to grips with their homelessness, to 'become something', humans rely on culture and technology. As such, culture and technology can be viewed as an 'ontic necessity' for humans:

> Man […] wants to compensate for the lack that constitutes his life form. […] In this fundamental need or nakedness, we find the motive for everything that is specifically human: the focus on the *irrealis* and the use of artificial means, the ultimate foundation of the technical artefact and that which it serves: culture (translation by De Mul, 2014, p. 18).

Plessner brings this thought to expression with his first and probably best-known law of anthropology: the law that humans are *artificial by nature*. Human beings are artificial by nature, not only because they need artificial tools and technical artefacts to get by in life, but also because technology and culture, ultimately, enable them to become what they are:

> As an excentrally organized being, the human must *make himself into what he already is*. Since the human is forced by his type of existence to lead the life that he lives, to fashion what he is – because he *is* only insofar as he performs – he needs a complement of a non-natural, nonorganic kind. Therefore, because of his form of existence, he is by nature *artificial* (Plessner, 2019, pp. 287–88).

It is against this background that utopian longing, understood here as a longing for *eu-topos*, good-place, can also be understood. According to this line of thinking, the outopian nature of human beings, or their 'utopian standpoint',

[1] In Plessner's words: 'Man not only lives and experiences his life, but he also experiences his experience of life' ('er lebt und erlebt nicht nur, aber er erlebt sein Erleben', Plessner, p. 364, translated by De Mul, 2014, p. 16).

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gives rise to their eutopian dreams. Here, the *irrealis* is the imagined place of utopia. In Plessner's words:

> The idea of paradise, of the state of innocence and the Golden Age, which every human generation has known […] points to what the human lacks and to his knowledge of this lack, by virtue of which he stands above the animal (Plessner, 2019, p. 287).

In this chapter, I build on the understanding of humans as outopian creatures with a eutopian 'desire for a better way of being' (Levitas, 2007, p. 27) to come to a better understanding of the relation between two contemporary utopias: the humanist utopia of human rights and the transhumanist techno-utopia of human enhancement. According to transhumanist thinkers, transhumanism is the logical extension of humanism. They stress that their school of thought, like humanism, presupposes a rather utopian account of the human based on which individual choice and freedom are to be pursued and protected. For them, human enhancement is not only compatible with, but even commanded by, human rights.

Based on an analysis of the utopianism involved in humanism and transhumanism, I argue that this position only holds superficially. Upon closer examination, the transhumanist's quest for techno-utopia, even if he uses human rights as a starting point, is likely to pave the way for a world that can hardly be viewed as utopian according to humanist standards. To come to that conclusion, I offer a comparison between humanism and transhumanism through the lens of Plessner's first and third fundamental law of anthropology: the law that humans are artificial by nature and the law of the utopian standpoint.

2. FROM HUMAN RIGHTS TO HUMAN ENHANCEMENT?

The human rights tradition is an overtly utopian one, with its humanist belief in the inherent dignity of human beings and their inalienable rights, its highly aspirational norms, and its insistence on the possibility of a better world. Both the utopian hopes and the dystopian fears that underpin human rights discourse are well illustrated by the opening words of the preamble of the Universal Declaration of Human Rights (1948):

> Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world; Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and

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> freedom from fear and want has been proclaimed as the highest aspiration of the common people, […].

Some argue that 'the barbarous acts which have outraged the conscience of mankind' demonstrate that the belief in human rights and human dignity is utopian in the derogatory meaning of the word, that is, a product of 'unrealistic idealism' (as Levitas, 2017, p. 6, describes this interpretation). In this vein, Jeremy Bentham (1843, p. 489) famously dismisses the belief in natural rights as 'nonsense upon stilts'. Alisdair MacIntyre (1981, p. 67), in turn, compares the belief in human rights with a belief in unicorns and witches.

Indeed, the existence of human rights cannot be understood in empirical terms or be defended as based on a fact-based view of human nature. However, it is undeniable that human rights discourse has become so engrained in western culture and society, that its reality, on a normative and symbolic level, can hardly be denied. The counterfactual ideal of human rights can be seen as a 'humanising fiction' (Labrusse-Riou, 2006, p. 167), opening up a normative, institutional space in which human beings can flourish and relate to each other. Thus, the 'homme rêvé' (Delmas-Marty, 1999; Pessers, 2016) or 'dreamt human' of human rights is much more than merely a figment of the imagination.

Similarly, human dignity is criticised every now and again for its ambiguities and inner tensions. Admittedly, it is commonly recognised that human dignity can be interpreted as both a rights-supporting and rights-constraining concept (McCrudden, 2013, p. IX). For some authors, this is reason enough to regard dignity as 'a squishy, subjective notion, hardly up to the heavyweight moral demands assigned to it' (Pinker, 2008) or even as 'a useless concept' (title of Macklin, 2003). However, dignity's inner tensions also account for its conceptual richness. In a way, the ambivalence of human dignity is a reflection of the idea that humanity cannot be reduced to a single defining trait or characteristic. Legal scholar Alain Supiot describes the fundamental duality of this concept and its dogmatic roots in the following striking terms in his book *Homo Juridicus* (Supiot, 2005, p. 13):

> As an individual, each one of us is unique, but also similar to others; as a subject, each one of us is sovereign, but also subjected to the law; as a person, each one of us is spirit, but also matter. The secularization of Western institutions did not eradicate this anthropological configuration, and the three attributes emerge again, each with its double value, in declarations of human rights. The reference to God has disappeared from the law of persons, but what has not disappeared is that, logically, all human beings must be referred to an authority that vouches for their identity and symbolizes that they are not to be treated like a thing.

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In addition, dignity's inner tensions allow the legal meaning of human dignity and human rights to evolve over time through a process that legal scholars refer to as 'evolutionary interpretation'. In this manner, the European Court on Human Rights refers to the European Convention of Human Rights as a 'living instrument' that 'must be interpreted in the light of present-day conditions'.[2] As such, it brings into practice the thought that humanity is not a given, but rather an assignment. This accords well with Plessner's philosophical anthropology. As Plessner (1970, p. 10) writes:

> Whatever is to be reckoned among the specific endowments of human nature does not lie in the back of human freedom but in its domain, which every single individual must always take possession of anew if he would be a man.

While the atrocities of the 20th century led to the post-war renaissance of human rights and human dignity, those same events are generally believed to have contributed to a decline in techno-utopian ways of thinking. The Enlightenment ideal of emancipation through scientific progress lost much of its shine in the aftermath of the crimes that were committed in the name of the (pseudo-)science of eugenics. The Manuels, in their aforementioned 1978 book *Utopian Thought in the Western World*, suggest that this techno-utopian silence continued well into the 1970s, the period in which they were undertaking their study. Indeed, they explicitly lament the absence of utopian thought in the light of scientific developments that were already taking place at the time of their writing (Manuel & Manuel, 1978, p. 811):

> Just when magnificent new scientific powers have become available to us, we are faced with a paucity of invention in utopian modalities. […] What distresses a critical historian today is the discrepancy between the piling up of technological and scientific instrumentalities for making all things possible, and the pitiable poverty of goals. We witness the multiplication of ways to get to space colonies, to manipulate the genetic bank of species man, and simultaneously the weakness of thought, fantasy, wish, utopia.

To say that the techno-utopian gap has been filled in the decades following the publication of the Manuels' book would be an understatement. Techno-utopianism seems omnipresent in today's technology-driven society. 'Big tech' companies such as Facebook, Amazon and Google are quite explicit about their utopian dreams. Moreover, they know how to market and package

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[2] ECtHR 25 April 1978, *Tyrer v. United Kingdom*.

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these. A good example is the following section, aptly entitled *Designing for the Future*, from a recent Facebook announcement:

> Imagine a world where all the knowledge, fun, and utility of today's smartphones were instantly accessible and completely hands-free. Where you could spend quality time with the people who matter most in your life, whenever you want, no matter where in the world you happen to be. And where you could connect with others in a meaningful way, regardless of external distractions, geographic constraints, and even physical disabilities and limitations.[3]

According to this Facebook article, what would be needed to make this dream come true is the realisation of so-called *brain–computer interfaces*, that is, technologies that allow human thoughts to be directly transferred to computers and vice versa. This would make it possible for people to 'type simply by imagining what they wanted to say – all without ever saying a word or typing a single keystroke'. In the long run, it would also enable people to read each other's minds.

In the remainder of the post, we can read about the Facebook research that is supposed to make this technology possible. Drawing inspiration from science fiction writers (William Gibson and Neal Stephenson), the Facebook researchers are trying to decode human brain activity and to make sense of the sea of neuro-data that is available to them. For that purpose, they rely on complex algorithms and machine learning.

Facebook is not alone in this pursuit. Neuralink, owned by Tesla and SpaceX CEO Elon Musk, is in the same business. In August 2020, Musk presented a device that he describes himself as 'a Fitbit in your skull'. For now, this AI brain implant is still a work in progress. Nevertheless, Musk, likewise inspired by science fiction writers (especially Iain Banks), already dreams of the day that Neuralink's brain implants will not only be used to treat diseases such as paralysis and depression, but also to enhance human capabilities. He believes that a merger of humans with artificial intelligence is needed if we do not want to lose our competitive advantage to artificial intelligence.[4] Indeed, Musk's utopian endeavours through Neuralink can be understood as the result

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[3] Facebook blogpost, 'Imagining a new interface: Hands-free communication without saying a word', 30 March 2020, see https://tech.fb.com/imagining-a-new-interface-hands-free-communication-without-saying-a-word/.

[4] For an analysis of developments in the field of artificial intelligence from the perspective of utopia, see the chapter by İspir and Keleş in this volume.

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of Musk's dystopian fear[5] that artificial intelligence will overtake the human race.[6]

Other striking examples of today's techno-utopianism are the endeavours in Silicon Valley to extend the human life-span as part of the quest to make humans immortal;[7] and the attempts at genetically modifying human offspring to enable humanity to take evolution into its own hands. As to the latter, the first two genetically modified babies have already been born in China in 2018.[8] Their birth suggests that today's techno-utopian dreams are more than just products of feverish imagination. Indeed, huge amounts of money are being poured into human enhancement projects of this kind. That does not make the underlying ambitions any less utopian. Many of these techno-scientists and entrepreneurs have grand visions of possible futures and openly refer to science fiction as their main source of inspiration (Van Beers, 2017).

The utopianism fuelling many of these initiatives can be labelled *transhumanist*. Should the Manuels have written their study of utopian thought in present times, surely, they would have devoted a chapter to transhumanism. Philosopher Nick Bostrom, director of the Oxford Institute for Humanity and one of today's leading transhumanists, is open about the utopian ambitions of the transhumanist project. In a 2008 article, aptly entitled 'Letter from Utopia', he even writes to the reader as if he were a citizen of Utopia, a world in which all transhumanist dreams have come true, telling the reader 'how marvelous' (Bostrom, 2008, p. 1) his life is over there and urging the reader to make this techno-utopia, including its trans- and posthuman inhabitants, a reality.

Bostrom defines transhumanism as a movement that 'holds that current human nature is improvable through the use of applied science and other rational methods, which may make it possible to increase human health-span, extend our intellectual and physical capacities, and give us increased control over our own mental states and moods' (Bostrom, 2005, pp. 202–203).

Although the rise of transhumanism is quite a recent development – the World Transhumanist Association was founded in 1998 – traces of transhu-

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5 A. Regalado, 'Elon Musk's Neuralink is neuroscience theater', *MIT Technology Review*, 30 August 2020, see https://www.technologyreview.com/2020/08/30/1007786/elon-musks-neuralink-demo-update-neuroscience-theater/.

6 A. Cuthbertson, 'Elon Musk claims AI will overtake humans in less than 5 years', *Independent*, 27 July 2020, see https://www.independent.co.uk/life-style/gadgets-and-tech/news/elon-musk-artificial-intelligence-ai-singularity-a9640196.html.

7 A. Gabbat, 'Is Silicon Valley's quest for immortality a fate worse than death?' *Guardian*, 23 February 2019, see https://www.theguardian.com/technology/2019/feb/22/silicon-valley-immortality-blood-infusion-gene-therapy.

8 A. Regalado, 'Exclusive: Chinese scientists are creating CRISPR babies', *MIT Technology Review*, 25 November 2018, see https://www.technologyreview.com/2018/11/25/138962/exclusive-chinese-scientists-are-creating-crispr-babies/.

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manism can be found much earlier. It is commonly held that the term was coined by evolutionary biologist Julian Huxley, whose brother Aldous Huxley authored one of the great dystopian novels of the 20th century, *Brave New World* (Bostrom, 2011). Huxley equally presents transhumanism as a utopian belief in his 1957 essay *Transhumanism*:

> The human species can, if it wishes, transcend itself not just sporadically, an individual here in one way, an individual there in another way, but in its entirety, as humanity. We need a name for this new belief. Perhaps transhumanism will serve: man remaining man, but transcending himself, by realizing new possibilities of and for his human nature. 'I believe in transhumanism': once there are enough people who can truly say that, the human species will be on the threshold of a new kind of existence, as different from ours as ours is from that of Pekin man. It will at last be consciously fulfilling its real destiny (Huxley, 1957, p. 17).

According to Huxley, this transcendence can take shape through both social and technological means. In contrast, today's transhumanism is characterised by its focus on technology as the main means of human salvation.

At first sight, it seems obvious to view transhumanism as 'an outgrowth of secular humanism and the Enlightenment', as Bostrom (2005, p. 202) does. Like humanism, it is a secular system of belief dedicated to the promotion and protection of human freedom, emancipation and ingenuity. From this perspective, transhumanism can be regarded as humanism with a technological edge, or 'humanism-plus', in line with the name *Humanity+* with which the World Transhumanist Association rebranded itself in 2008.[9]

Moreover, transhumanists commonly present their movement as a human rights movement, with its own Bill of Rights – the Transhumanist Declaration[10] – and its own human rights cause – the claim that human enhancement should be recognised as a human right. According to Bostrom, such a right to human enhancement entails, first, a right to morphological freedom, that is, the right to decide how to shape oneself through technological means, for example through cyborg technologies or genetic modification; and, second, a right to reproductive freedom, by which Bostrom means the right 'to decide which reproductive technologies to use when having children' (Bostrom, 2005, p. 203), such as genetic selection or modification of offspring.

This also means that transhumanists are in favour of what is commonly known as 'liberal eugenics': they regard efforts at improving human nature, for example through genetic optimisation of one's offspring, as laudable, as long as they are based on the autonomous decisions of the aspiring genetic

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[9] See www.humanityplus.org.

[10] The most recent version can be found here: https://humanityplus.org/philosophy/transhumanist-declaration/.

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designers or prospective parents. Accordingly, the transhumanist ambitions to improve the human species can be distinguished from the state eugenics of the past, such as practised in the US, Canada, Sweden and other states during the heyday of the eugenics movement in the first half of the 20th century, which was brought to a halt after the horrific eugenic practices in Nazi Germany.

The question remains, however, as to whether or to what extent also strictly 'liberal eugenics' can be defended from a human rights perspective. Human rights documents, such as the Council of Europe's Convention on Human Rights and Biomedicine (1997) and UNESCO's Declaration on the Human Genome and Human Rights (1997), ban and restrict the use of reproductive technologies, especially when used for human enhancement purposes, such as the genetic modification or sex-based selection of offspring, regardless of the reproductive preferences of the prospective parents (Van Beers, 2017). Similarly, several liberal philosophers, including Jürgen Habermas (2005) and Francis Fukuyama (2002), regard the use of these reproductive technologies for non-therapeutic purposes as conflicting with human rights and human autonomy.

This suggests that Bostrom's thought that transhumanism is at its core in line with human rights is not as straightforward as it may seem. In the remainder of this chapter, I take a closer look at the humanist utopia of human rights and the transhumanist utopia of human enhancement through the lens of Plessner's first and third anthropological law (the designation of man as artificial by nature and man's utopian standpoint) in order to map both the affinities and the discrepancies between both utopias.

3. ARTIFICIAL BY NATURE

Humanists and transhumanists conjure a highly utopian image of the human. As such, the imagined, artificial creatures who populate the humanist utopia of human rights and the transhumanist utopia of human enhancement both seem to reflect Plessner's thought that human beings are artificial by nature. In this section I argue that the connection with Plessner's first anthropological law goes deeper than the mere level of imagery. Human rights discourse and human enhancement technologies can be viewed, each in their own way, as so-called *anthropotechnologies* through which humans hope to create 'better ways of being' and to 'make themselves into what they are'. At the same time, humanists and transhumanists employ a radically different concept of the artificial, the *irrealis*. This difference is, as I shall argue, at the root of a fundamental friction between humanist and transhumanist anthropotechnologies, which cannot be overcome by labelling human enhancement as a human right or labelling transhumanism as humanism-plus.

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In the context of human rights, the utopian view of humanity prominently comes to the fore in the emblematic words of Article 1 of the Universal Declaration of Human Rights:

> All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

This subject of human rights, 'endowed with reason and conscience', and bearer of 'dignity and rights', is far removed from everyday, tangible reality. The human rights depiction of humanity can hardly be called an accurate description of existing human beings. As legal philosopher Dorien Pessers (2016, p. 202) writes about Article 1:

> Not a human being is born, but an ideal human being: free, equal, dignified and in the possession of human rights. Of course, this 'birth' has little to do with real life. On the contrary, on a global scale the opposite tends to be case. Nevertheless, the legal birth of an ideal man is of great symbolic importance. French legal scholars speak of the *homme rêvé* of the human rights as a *fiction protective*. The utopic dream of the legal community in which all humans are included as legal subjects, represents a 'counterfactual anticipation': man is born as an *homme situé*, but the fact that he from the outset is received into a legal community that anticipates another reality, referring to a life in freedom, equality and dignity, offers him the protection of dialectic, critical legal principles.

The high degree of idealism that is involved in this human right understanding of human beings is no secret. As discussed, the Preamble of the Universal Declaration refers to the 'barbarous acts which have outraged the conscience of mankind' as one of the main reasons why this human rights declaration was created in the first place. Given this historical context, the birth of this legal subject is quite an astounding event, the product of an enormous symbolic effort that bears testimony to the utopian hope for a better world and 'a better way of being'.

From this perspective, human rights discourse can be regarded as a humanist *anthropotechnology*, to use German philosopher Peter Sloterdijk's striking term (Sloterdijk, 2009, p. 23). That is, human rights can be said to produce or manufacture a specific kind of human being, the *homme rêvé* of human rights, in an attempt to keep barbarism at bay. As Sloterdijk writes in his much-discussed essay *Rules for the Human Zoo* (2009, p. 15) about the humanist effort:

> Humanism as a word and as a movement always has a goal, a purpose, a rationale: it is the commitment to save men from barbarism. It is clear that exactly those times which have experienced the barbarizing potential that is released in power struggles

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> between peoples are the times in which the demand for humanism is loudest and most strident. […] The label of humanism reminds us (with apparent innocuousness) of the constant battle for humanity that reveals itself as a contest between bestializing and taming tendencies.

Sloterdijk regards literature and education as the main technologies with which the classic humanist tradition has sought to civilise humanity, to 'tame' and 'domesticate' humans, in his provocative words. However, it makes sense, as Pessers convincingly argues, to view the law, and particularly law's concept of the person, as an important humanist anthropotechnology as well (Pessers, 2016, p. 205). Indeed, Sloterdijk's words on humanism's struggle to 'save men from barbarism' seem particularly meaningful in the context of post-war human rights declarations and conventions, with their references to 'the barbarous acts' of the past and their idealist image of the human.

The most direct expression of the highly utopian view of humanity underlying human rights discourse is the legal principle of human dignity. It is because of our supposed inherent dignity, this mysterious intangible quality with which we are all endowed, that we are equally protected by human rights and recognised as legal subjects in the first place. However, no hard evidence can be offered for the existence of human dignity, nor of its subject. Moreover, insights from both cognitive and life sciences suggest that the human qualities that are presupposed by human dignity, such as human reason, freedom, autonomy and equality, are not reflected on an empirical level. In that sense, the concept of human dignity is, at heart, a counterfactual one (Van Beers, 2009; Pessers, 2016).

This counterfacticity does not necessarily make the human rights image of the human less powerful. Indeed, as human rights scholar Mireille Delmas-Marty writes, the secular belief in human rights can be defended as 'a revolt against the laws of nature, a refusal to stay confined within the limits of the biological conception of man' (author's translation of Delmas-Marty, 1999, p. 107). Moreover, if it can be said, in line with Plessner's first anthropological law, that humanity is an assignment or a promise rather than a factual given, then human dignity and human rights can be regarded as an important factor in the never-ending process of humanisation.

The counterfactual depiction of the human that underpins human rights discourse raises the question as to how the humanist anthropotechnology of human rights relates to the transhumanist technologies of human enhancement. According to Sloterdijk (2009, pp. 23–24), the ambition to improve human nature through technological interventions can be largely understood along the same lines as classic, humanist attempts at saving men from barbarism through culture and education. To him, both reading and breeding anthropotechnologies are part of the process of human self-domestication. As such,

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breeding technologies should, according to Sloterdijk, not be banned, but regulated through ‘a codex of anthropotechnologies’ (Sloterdijk, 2009, p. 24). Such a codex would enable society to actively confront the options offered by reproductive and genetic technologies, such as the possibility of ‘a genetic reform of the characteristics of the human species’ (Sloterdijk, 2009, p. 24).

Sloterdijk has doubts whether the outcome of this process will be a positive one. In his words, ‘any great success in taming would be surprising in the face of an unparalleled wave of social developments that seems to be irresistibly eroding inhibitions’ (Sloterdijk, 2009, p. 24). Given his lack of techno-optimism and -utopianism, Sloterdijk is far from a transhumanist thinker.

Still, his view that both reading and breeding can be viewed as anthropotechnologies that serve the self-domestication of humankind, is shared by transhumanist thinkers. For example, a well-known transhumanist line of thinking is that genetically selecting or modifying one’s offspring is not substantially different from trying to make the most of your child through education. Pro-enhancement philosopher John Harris (2007, p. 2) puts it like this:

> If the goal of enhanced intelligence, increased powers and capacities, and better health is something that we might strive to produce through education, […] why should we not produce these goals, if we can do it safely, through enhancement technologies or procedures?

Similarly, Harris (2007, p. 14) argues that writing can be viewed as ‘one of the most significant enhancement technologies’. What to think about this portrayal of human enhancement technologies as fitting in the humanist ideal of *Bildung*? Clearly, there are some important similarities between humanism and transhumanism. First, transhumanists, like humanists, rely on an artificialist concept of human nature. According to Bostrom, the artificial nature of the humanist concept of dignity accords well with the transhumanist belief that human nature can be improved through technological means. He even describes the transhumanist’s ideal in terms of dignity, albeit ‘posthuman dignity’ (Bostrom, 2005, p. 213):

> Transhumanists […] see human and posthuman dignity as compatible and complementary. They insist that dignity, in its modern sense consists in what we are and what we have the potential to become, not in our pedigree or our causal origin. What we are is not a function solely of our DNA but also of our technological and social context. Human nature in this broader sense is dynamic, partially human-made, and improvable.

Second, transhumanists, like humanists, seek to civilise humans and to create a better world through their anthropotechnologies. A striking example is the

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position taken by transhumanist philosopher Julian Savulescu, who argues in his book *Unfit for the Future* that human enhancement (in the form of so-called ‘moral enhancement’) is needed to be able to grapple with humankind’s destructive inclinations and to protect human civilisation (Savulescu, 2012). Similarly, the aforementioned Huxley (1957, p. 16) regards transhumanism as a way to escape from the Hobbesian state of nature:

> Up till now human life has generally been, as Hobbes described it, ‘nasty, brutish and short’; the great majority of human beings (if they have not already died young) have been afflicted with misery in one form or another […] They have attempted to lighten their misery by means of their hopes and ideals. The trouble has been that the hopes have generally been unjustified, the ideals have generally failed to correspond with reality. The zestful but scientific exploration of possibilities and of the techniques for realizing them will make our hopes rational, and will set our ideals within the framework of reality, by showing how much of them are indeed realizable.

However, Huxley’s reference to Hobbes also gives reason to question the view that transhumanism is merely humanism by other means. Evidently, Huxley’s transhumanist proposals to overcome the state of nature form a radical departure from Hobbes’ political philosophy. In Hobbes’ political theory, the state of nature, in which man is a wolf to man (*homo homini lupus est*), can be overcome through political and legal means. Through the drafting and signing of the social contract, state power is constituted, personified in ‘the sovereign’, who Hobbes describes as ‘our Artificiall Man the Common-wealth’. In that constitutive process, not only the ‘Artificiall Man’ of the sovereign is created, but also the ‘artificial man’ of the sovereign’s subjects: the wolves become legal subjects, obeying to the rule of law, thereby bringing the state of nature to an end (Van Beers, 2009, pp. 60–61). This echoes Pessers’ earlier discussed idea that the birth of the legal subject is an event of great symbolic importance.

In contrast, the transhumanist way to transform the wolves of the state of nature into the civilised men of the state of civil society is not through symbolic, but technological means. Instead of subjecting individuals to the rule of law, thereby making them legally accountable for their behaviour, transhumanists hope to transform human nature on a physiological level, through, for example, genetic or neurological engineering. As legal philosopher Lon L. Fuller describes the difference between anthropotechnologies of this kind and more traditional, legal ones: ‘Instead of telling men to be good, we condition them to be good’ (Fuller, 1969, p. 162).

The question is to what extent such a view of the human, as an animal that needs to be domesticated, tamed, conditioned and bred, can still be regarded as a humanist one. This question will be examined in further detail in the next section. A possible response to this doubt is that technological inventions and interventions offer humans ‘more effective means of self-taming’ (Sloterdijk,

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2009, p. 24) than humanist, symbolic inventions and interventions. After all, as Sloterdijk (2009, p. 20) writes:

> What can tame man, when the role of humanism as the school for humanity has collapsed? What can tame men, when their previous attempts at self-taming have led primarily to power struggles? What can tame men, when, after all previous experiments to grow the species up, it remains unclear what it is to be a grown-up? Or is it simply no longer possible to pose the question of the constraint and formation of mankind by theories of civilizing and upbringing?

However, once the transition is made from humanist to transhumanist anthropotechnologies, the utopian quest for 'a better way of being' is fundamentally altered. A radical divide remains between the transhumanist's utopian ambition to improve human nature through technological means and the humanist's utopian belief in 'the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want' (preamble of Universal Declaration of Human Rights), just like there is a radical divide between the birth of the subject of human rights and the birth of the first genetically modified babies in China.

To explain this vital difference, the Belgian transhumanist philosopher Gilbert Hottois distinguishes between the 'transcendence symbolique' that is pursued through, for example, religions and human rights discourse, on the one hand; and the 'transcendence opératoire' that is pursued by transhumanism, on the other hand (Hottois, 1999, p. 179).[11] As Hottois sees it, the day that a 'transcendence opératoire' of human nature would be realised, is the day that we would have created our own gods on a material level. Historian Yuval Harari refers to this new man as *Homo Deus* in his popular book on current technological developments of the same title (Harari, 2016).

In other words, while the artificial human being of human rights is at its core a counterfactual, symbolic entity, a humanising fiction that is founded on the thought that 'man is the animal that must recognize itself as human to be human' (Agamben, 2004, p. 26), the artificial human being that transhumanists hope to bring into the world through human enhancement technologies would be a factual, material being. The gap between *Sein* and *Sollen* would thus be closed, and the 'constitutive homelessness of man' would come to an end. This also means that Plessner's anthropological law of 'man's utopian standpoint' is given a fundamentally different meaning in the context of transhumanism.

[11] See De Vries' chapter in this volume for further reflection on the difference between these two types of transcendence.

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4. THE UTOPIAN STANDPOINT

Within the transhumanist literature, utopia is presented as a destiny that could be realised on a factual and material level. In this vein, Huxley (1957, p. 16) writes about the transhumanist goal of making 'our hopes rational' and setting 'our ideals within the framework of reality'. Bostrom (2008, p. 6) takes it one step further by calling on the readers of his 'Letter from Utopia' to make techno-utopia a reality, thereby fulfilling their transhuman destinies:

> If you could visit me here for but a day, you would henceforth call this place your home. This is the place where you belong. Ever since one hairy creature picked up two flints and began knocking them together to make a tool, this has been the direction of your unknown aspiration. Like Odysseus you must journey, and never cease to journey, until you arrive upon this shore.

With these words, Bostrom suggests that, because man is artificial by nature, and has since time immemorial made use of tools and artefacts, transhumanism is man's final destiny. However, it can be highly doubted whether the transhumanist philosophy is truly in line with Plessner's philosophical anthropology. Evidently, the thought of homecoming that Bostrom invokes in these sentences is at odds with Plessner's idea of man's constitutive homelessness. Given their utopian standpoint, it is in the nature of human beings to be without a steady basis. For Plessner, promises of a home, for example through technology or religion, cannot but remain promises, never to be truly realised.

In addition, it could be said that transhumanists, in their search for a home, are likely to lose their way along their quest, or even forget what home represented to them in the first place when they commenced their search. After all, if everything goes according to plan, during this journey they will be radically transformed and may, ultimately, even transcend themselves. Still, transhumanists hold on to the possibility of 'man remaining man, while transcending himself' (Huxley, 1957, p. 17).

Similarly, one of the intriguing premises of the transhumanist, dynamic view of human nature is the idea that while the human, as a result of human enhancement technologies, may change over time and even transform into the posthuman, the transhumanist project will continue to be guided by humanist values. Transhumanists thus maintain, as Bostrom writes, 'that we can legitimately reform ourselves and our natures in accordance with humane values and personal aspirations' (Bostrom, 2005, p. 205), also in the long run, when we have entered a posthuman state of being.

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Both the futility and the tragedy of the transhumanists' quest for a home are captured well in Plessner's following reflections (Plessner, 2019, p. 316):

> The excentric form of […] existence drives the human to cultivation and creates needs that can only be satisfied by a system of artificial objects, which it stamps with the mark of transience. Human beings attain what they want all the time. And as they attain it, the invisible human within them has already gone beyond them. The reality of world history testifies to [this] constitutive rootlessness.

Also, for more practical reasons, transhumanists are likely to lose track of humanist values along the way. The reason is that, in order to realise human enhancement technologies, human nature needs to become transparent, predictable and manipulable. In practice, these goals can only be achieved through the aggregation and analysis of huge amounts of data, better known as 'big data'. In such contexts, the human emerges not so much as an *in-dividual*, that is an indivisible unity, but rather as a *dividual* (Harari, 2016, pp. 103 and 291): an entity that can be divided in neurones (cognitive sciences), genes (life sciences) and atoms (nanosciences), which, in their turn, can be translated into bits and bytes (information sciences). From this *dataist* perspective, human beings appear no longer as 'free and equal' human beings that 'are endowed with reason and conscience', to use the words of the Universal Declaration of Human Rights, but instead primarily as data processors, of which the functioning can be predicted and reduced to algorithms. Moreover, the focus on data, which translates literally as *givens*, is at odds with the previously discussed human rights idea that humanity is not a given, but rather an assignment.

This raises the question as to what will be left of the humanist belief in human dignity, and the human rights that are built on it.[12] According to Harari, the growing reliance on big data will give rise, eventually, to a new religion that will replace humanism: dataism. He considers this development to be the result of a self-destructive dynamic of humanism (Harari, 2016, p. 65):

> The rise of humanism also contains the seeds of its downfall. While the attempt to upgrade into gods takes humanism to its logical conclusion, it simultaneously exposes humanism's inherent flaws.

In other words, while it may seem logical in the short run to view transhumanism as the next step of humanism, the transition to transhumanism will in the long run bring with it the dissolution of humanism and human dignity in a sea of big data.

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[12] In her contribution to this volume, Bugajska offers further reflection on the relation between transhumanism and humanism through an analysis of posthuman thought.

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Even if Harari's thoughts are quite speculative, the first signs of this self-destructive tendency can be detected at present. As discussed in section 2, 'big tech' companies such as Google, Facebook and Amazon are already trying to realise transhumanist utopias. These powerful companies are in the perfect position to do so: the big data that are needed for the development of transhumanist anthropotechnologies are being aggregated on a massive scale in the context of the digital services that these 'tech giants' offer.

The collection of these personal data is mostly presented as necessary for the functioning and improvement of the digital services in question. Yet it is a well-known fact that these data are also being used to predict, nudge and manipulate human decision-making and behaviour. The much-discussed 2018 Facebook-Cambridge Analytica data scandal,[13] in which Facebook data were bought and used in an attempt to influence the users' electoral choices during the US presidential elections in 2016, offers a glimpse of futures to come.

The underlying business model is commonly known as *surveillance capitalism*.

In her elaborate study *The Age of Surveillance Capitalism* (2019), Shoshana Zuboff offers a meticulous dissection of this phenomenon. What makes surveillance capitalism unprecedented, Zuboff argues, is that it gives rise to a new form of power: *instrumentarianism*. She explains the genesis and meaning of instrumentarian power in the following terms (Zuboff, 2019, p. 8):

> Eventually, surveillance capitalists discovered that the most-predictive behavioral data come from intervening in the state of play in order to nudge, coax, tune, and herd behavior toward profitable outcomes. Competitive pressures produced this shift, in which automated machine processes not only *know* our behavior but also *shape* our behavior at scale. With this reorientation of knowledge to power, it is no longer enough to automate information flows about us; the goal is to *automate us*. […] In this way, surveillance power births a new species of power that I call *instrumentarianism*. Instrumentarian power knows and shapes human behavior toward others' ends.

Consequently, Zuboff warns that surveillance capitalism 'will thrive at the expense of human nature and will threaten to cost us our humanity' (Zuboff, 2019, pp. 11–12). And so, the circle is completed: the transhumanist pursuit of human enhancement is likely to bring along the development of technologies that rely on a dataist view of human beings. This gives rise to instrumentarian power, which in turn threatens to undermine or bring along the very end of the humanist belief in human freedom and human dignity.

[13] C. Cadwalladr and E. Graham-Harrison, 'Revealed: 50 million Facebook profiles harvested for Cambridge Analytica in major data breach', *Guardian*, 17 March 2018.

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Transhumanists may counter this grim view by stating that surveillance is not necessarily part of the package of enhancement technologies that they are pursuing. Yet, it does not seem a very realistic option to separate human enhancement technologies from dataist visions of human nature. Moreover, given the current dominance of big tech in the collection of big data, it will be hard to disentangle dataism from surveillance capitalism. Indeed, as discussed in section 2, many transhumanist techno-utopian dreams are presently being promoted and pursued by big tech companies.

Interestingly, Zuboff refers to the surveillance capitalist's techno-utopia as a *utopia of certainty* (title of Chapter 14 of Zuboff, 2019). Certainty is the magic word, as social relations and human behaviours become predictable, calculable and hence manipulable in the context of surveillance capitalism. Of course, all of this comes with a capitalist twist. 'The application of instrumentarian power to societal optimization', Zuboff writes, is taking place 'for the sake of market objectives' (Zuboff, 2019, p. 399). Indeed, promises of societal optimisation through technological means are already shining through many of Silicon Valley's communications, such as Facebook's 2020 message that brain–machine interfaces will bring a better world where we can all connect with each other without any barriers once we become able to read each other's minds.

The utopia of certainty can also be recognised in Bostrom's transhumanist vision of the future. For obvious reasons, he does not present surveillance as a transhumanist goal in itself. However, based on his more dystopian viewpoints and his concerns about existential risks for humanity, Bostrom suggests that one of the best ways to prepare for possible major catastrophes caused by mankind is to develop 'a well-intentioned surveillance project' (Bostrom, 2019, p. 470). This would enable 'intrusive surveillance and real-time interception in advance', resulting in 'extremely effective preventive policing' (Bostrom, 2019, p. 469).

To those who see this as a rather frightening scenario, Bostrom replies that the development of such an intrusive surveillance system does not equal its use. Moreover, he argues that it 'may be the only way to achieve a general ability to stabilize our civilization against emerging technological vulnerabilities' (Bostrom, 2019, p. 470).

5. CONCLUSION: HUMAN RIGHTS AS 'DIESSEITS DER UTOPIE'

Perhaps this is the great appeal of transhumanism: the idea that it is possible to have your cake and eat it too in combining religion and science, faith and rationality, idealism and realism. At the same time, this can also be regarded as one of transhumanism's major weaknesses. If the coming of a 'new man'

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is a real possibility, sacrifices may have to be made in order to realise man's 'real destiny' (Huxley, 1957, p. 17). In this chapter I have suggested that one of the sacrifices being made will be the humanist belief in human dignity and human freedom.

To arrive at this conclusion, I have argued that viewing transhumanist utopianism merely as an outgrowth of humanist utopianism obscures a fundamental tension between these two utopias. Despite the affinities between humanism and transhumanism, a closer look at the utopias on which these movements are built indicates that there is a radical divide between the transhumanist's utopian ambition to improve human nature through technological means and the humanist's utopian belief in 'the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want' (preamble of Universal Declaration of Human Rights). An examination of both schools of thought through the lens of Plessner's first and third anthropological law (the designation of man as artificial by nature and man's utopian standpoint) suggests that the difference between the two is not so much a difference in degree, but rather a difference in kind.

The transhumanist's claim that human enhancement is a human right may, at first sight, seem in line with the philosophy of human rights. What is thereby being overlooked, however, is that the propagated right to human enhancement presupposes a specific technological, cultural and material context in which these enhancement technologies can come into existence in the first place (Hunyadi, 2019, p. 62). This context is already becoming visible: the dataist and instrumentarian practices of surveillance capitalism, in which human freedom and human dignity are sacrificed for a 'utopia of certainty'.

It could be said that in order to reach utopia, some sacrifices may have to be made. However, the sacrifice in question is enormous. According to Huxley (1957, p. 16), the process toward the realisation of transhumanist ideals:

> will begin by being unpleasant, and end by being beneficent. It will begin by destroying the ideas and the institutions that stand in the way of our realizing our possibilities (or even deny that the possibilities are there to be realized) and will go on by at least making a start with the actual construction of true human destiny.

These sentences bring to mind many of the reasons for which utopianism is often feared. Moreover, once transhumanist anthropotechnologies take over from humanist ones, not only the institutions standing in the way of transhumanism will be destroyed, but, ultimately, also *Homo Institutionalis* himself (Hunyadi, 2015, p. 87): the legal subject, bearer of human rights and dignity, accountable for his actions. As such, transhumanism brings with it a domination of *Homo Faber* over *Homo Institutionalis.* Plessner appears to have foreseen this when he urges humans, despite their utopian longings, to

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remain 'diesseits der Utopie' (Plessner, 1974). The utopian dream is to remain a dream. Attempts at realising eutopia on a factual level would be a denial of not only the counterfactual nature of eutopia, but also of humankind's outopian standplace.

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15. The posthuman: Around the vanishing point of utopia[1]

Anna Bugajska

Here is a world and a glorious world, and it is for me to take hold of it, to have to do with it, here and now, and behold! I can only think that I am burnt and scarred.
H.G. Wells (*A Modern Utopia*)

1. INTRODUCTION: THE POSTHUMAN – A MODERN[2] UTOPIAN?

In the eighth chapter of Wells's *A Modern Utopia* (1905), the narrator meets his double: a utopian self, who reflects what Ruth Levitas in *Utopia as Method* (2013) calls the ontological mode of utopian thinking: 'concerned precisely with the subjects and agents of utopia, the selves interpellated within it, that utopia encourages or allows' (Levitas, 2013, p. xvii). While the narrator surveys the perfection of this imagined world, and considers its many aspects, he also wonders who will be the beings inhabiting it. This reflection is dispersed throughout the whole book, but the most telling and poignant seems to be the moment when he faces himself, which leads him to the pessimistic conclusion that serves as a starting point for the present chapter. The 'glorious world' seems to be there for the taking, but the human that witnesses it feels himself unable to grasp or even to think about it or have anything to do with it. Wells's reflection comes still before the great anthropological crisis, best seen after the critical period of the two World Wars; however, this quote astutely captures the sentiments of present-day societies, and the challenges faced by the contemporary utopians. We could collectively call these dreamers 'botanists', after one of Wells's characters: people whose mind is turned towards

[1] Some of the ideas presented in this chapter were developed on the basis of my earlier article, 'The future of utopia in the posthuman world' (Bugajska, 2021).

[2] 'Modern' throughout the chapter utilizes the ambiguity of the term in the English language and in the original 'modern utopia' by Wells, where it can take the meaning of both modernist and contemporary. Relating to the present-day anthropological crisis, it could be replaced by 'contemporary'; 'modern', however, signals here the continuity in utopian dilemmas.

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naturalist and physicalist perspectives, glorifying Nature and seeking in her the salvation from the sorry state humanity finds itself in. They are also those who would perceive humans as malleable with the help of technology to fit into the 'glorious world', or as completely removable from the picture. The 'scarred and burnt' human created in the end a 'scarred and burnt' world, and the only radical solution to redress the harms and overcome the dystopia seems to be passing from human to posthuman or transhuman, and, if that fails, moving on beyond human, to the 'realist magic' of conscious objects and non-human people.

In this chapter I am going to look at the above-sketched propositions to overcome the anthropological crisis from the point of view of utopian studies. As is widely known, utopias are dreamt up by humans and for humans: in the face of the disappearance of the agent thinking up a utopia, there will be no utopian self, no utopian double, no 'better race'. If so, we can speak about a profound challenge, shaking the very foundations of utopia. If there is no hope for humanity, can there be a utopia, a space of hope? If humans are modified out of recognition, how will the utopian vision change? And if humans cease to exist, will utopia die with them? These questions tease the imagination to its limits and make one think of what Frederic Jameson calls a 'vanishing point' (Jameson, 1998, p. 75): the 'blind spot' around which utopias seem to be organized, making us stretch the cognitive powers and faculties to reach the implied *ou* part of the 'good place'. This stretching becomes more and more desperate as the present seems to be perceived as dystopian. The unreachability of the target leads us, as the global society, to imagine more and more fantastic means to bring it to materiality, despite the lingering consciousness that this hope has no 'material referent' (Levitas, 2013, p. 124). Utopia, thus, can be considered not only as a social blueprint, aiming at the institution of a better world, but also as an exercise in rational imagination centred around a certain good, and imbued with hope, understood as a desire for this good accompanied by an act of will.

We could call the fantastic visions of a radically transformed and better world 'posthuman', drawing under this general term many different strands of the same idea: that today's humans are 'unfit for the future' (Savulescu & Persson, 2012), and they should either transcend their condition or perish. Obviously, this broad definition can be questioned as too inclusive; and, indeed, in the below discussion more details will be provided that will demonstrate sometimes stark differences in the goals and philosophical underpinnings of separate realizations of the posthuman world, which will clarify the distinctions between 'posthuman' and 'transhuman'. Defining 'posthuman' has to remain in relation to the definition of 'human'; however, as has been pointed out in the scholarly debate (Birnbacher, 2008, pp. 99–100), the latter notion can be understood dynamically, and many different variables have to

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be taken into account, e.g., we can speak of essentialist criterion, genealogical criterion and genomic criterion. This is, obviously, a non-exhaustive list (see, e.g., Bugajska & Misseri, 2020, pp. 12–17). Whatever criteria are adopted, they rely on the present-day knowledge and understanding, and in the future what today we call 'posthuman' could be subsumed under the term 'human'. Likely, for future generations, the specifics of the term 'posthuman' will be different.

The main aim of the chapter will be to check if any of the propositions of 'posthuman' utopia allow for retaining hope for humanity, which seems to lie at the heart of utopia, and if not, then if utopia without humans can indeed be treated as an example of utopia, not dystopia. In the first part I am going to look at the utopian proposition of transhumanists, roughly corresponding to evantropia: a biotechnological utopia described by Lucas E. Misseri and myself over the course of the last five years. Here the posthumans would signify enhanced humans, ever fitter to live in the new world, and ever more capable to institute it. In the second part I will consider the possibility of a non-human utopia, which would most properly be called posthuman in the light of the publications of, e.g., David Roden and Rosi Braidotti. These posthumans would involve non-humans, and their forming 'assemblages' with what we now call humans. Thus, it would be a connectivist, inclusive vision. The third part will address the challenge of an after-human utopia, which can be considered radical environmentalist utopia or even anti-humanist[3] utopia, if it is not a contradiction in terms. In the end I am going to come back to Wells and Jameson, and address some of the points that emerge from the reflection: the will and the failure to imagine, the necessity of utopia, and the importance of hope beyond the 'vanishing point'.

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[3] Humanism and anti-humanism are very broad terms, encompassing a range of different phenomena. It is important to realize that in the contemporary critique of humanism within some strands of posthumanism, it is only the simplified model of Enlightenment humanism, with the Cartesian mind–body dualism, that is taken into account. However, humanism can be just as well referred to humane behaviour, or to the Renaissance humanists, with their turn to the Antiquity (Plato, Neoplatonists) and the holistic appreciation of human experience. Anti-humanism can be identified as an approach developing from the 19th century and is frequently referred to the Nietzschean 'tiredness with man'; still, it is also often related to the postmodernism of Foucault, and even to contemporary anti-natalism. Those theorists that defend posthumanism usually draw attention to the fact that there is a distinction between anti-human and anti-humanist propositions. In the present chapter, humanism would be considered a view that defends the importance of the human beings, and anti-humanism would be understood to consider humans as replaceable (Miernowski, 2016; Bugajska, 2019; Ferrando, 2019; Bugajska & Misseri, 2020).

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2. TRANSHUMAN UTOPIA

Transhumanism[4] has been called by Pilsch (2017, p. 24) a 'goldmine for the radical thought of the present', and, indeed, its utopian potential has been recognized. In 2016 an Argentinian ethicist, Misseri, proposed to call the mixture of ideas around human enhancement, conceptualized among others by Anders Sandberg, Max More and Nick Bostrom, 'evantropia', from Greek *eu anthropos* ('a good human'), which would repose on the naturalistic anthropology and on the attempt to improve on the human condition to achieve 'posthuman' condition on the way of technological enhancement. While transhumanists themselves, notably Max More, protested against associations with utopia, considering its bad press in common understanding, the utopian dimensions and continuity with the old utopian imaginations, especially technological and medical ones, have been pointed out, e.g., by Michael Hauskeller (2012, 2014, 2016). In gist, this evantropia would be constructed in the body, rather than in a place or in a specific time, and would answer the very individualized needs of each participant in this system, under the principle of morphological freedom, which is defined in *The Transhumanist Reader* (More & Vita-More, 2013, p. 54) very broadly as the right to enhancement in all the spheres of human existence. However, Anders Sandberg discussed it as the right to subject one's body to such modifications that would fulfil one's own wishes or desires (More & Vita-More, 2013, pp. 56–64; Sandberg, 2015), deriving it from the self-ownership right.

This individualization is already a challenge for utopian thinking, as this thinking naturally tends to be collectivist. Pilsch claims that this shift from a good state to good individual is the result of the failure of the state as such. However, evantropia is not simply the call to institute enhancement anarchism: it is actually proposing a system in which technological alteration of humanity in its physical, emotional, cognitive and moral dimensions would yield a perfect society. Indeed, evantropia is a term taken from a biopolitical utopia of the beginning of the 20th century (Misseri, 2016; Bugajska, 2019), which was developed as a social plan, i.e., communal. It results in tensions in the original concept on the level between the private and the public, and the individual and the communal – tensions familiar from much of the current biopolitical problems (to mention personalized medicine issues).

To add to the above, we should not forget the numerous voices of concern raised against transhumanism. To name but a few of its critics, Fukuyama,

[4] For a detailed discussion of the background of transhumanism and its links with human rights discourse, as well as its relationship to Enlightenment humanism, see the chapter of Britta van Beers in the present volume.

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Kass and Sandel presented it as a very dangerous idea, which may lead to the destruction of the present society without constructing a new and better one, and moderate commentators (e.g., Nicolas Agar) pointed out the necessity to create limits to the enhancement ideas. Misseri stressed that evantropia, like any utopia, has its nightmarish counterpart (dysantropia), which may end up in human extinction. For this reason, the limit to human enhancement should be human dignity, understood in the double sense: in terms of distributive justice and in terms of intrinsic value constituting the basis of human rights (Bugajska & Misseri, 2020).

Whatever the difficulties and internal contradictions of evantropia, at the very least it is centred on the human beings. Its problems are definitely unclear definitions of what it means to be human and what is the desired good to be obtained. It can be understood, though, as a humanist variant of the general posthuman utopia, as it is considered in this chapter, not only in the sense of the continuation of the Enlightened humanism, so frequently criticized for its anthropological vision, but reaching further past, to the Renaissance humanism, which had a much more holistic perspective of the human being (Miernowski, 2016; Bugajska, 2019). Despite the many concerns, there is no evidence that technological enhancement would deprive the humans of their 'humanness', or that there will be no continuity between human and transhuman. Certainly, though, and importantly for utopia, one could ask at least two questions. First, would an immortal, happy, and perfectly good person still desire anything else? Second, how would such a radical change to the human cognitive system impact thinking about utopia?

Clearly, two approaches to utopia are here challenged. The first question challenges conceiving of utopia as desire; however, it seems to be confusing it with a certain want. The fact of being sated and healthy does not normally quit from a person the ability to imagine and to desire fulfilment on other levels of this person's existence. It has been demonstrated that humans have very different needs and it is very difficult to exhaust them, and even given conditions for their fulfilment, they may either not be fully realized or may be replaced by new ones. Such a world is described by Scott Westerfeld in his *Succession* series (2003), in which immortal people are far from establishing a static utopia and are devoted to the exploration of the outer space and implementing ever novel technologies. In a somewhat more moderate key, Robert A. Heinlein in *Beyond This Horizon* (1948) reflects on what can be desired in such a perfect world. Although Hamilton Felix is the ultimate result of human enhancement, he puts to doubt the necessity of survival solely on the biological level and seeks the meaning of life 'beyond the horizon' of physicality. The intuitions from fiction find their counterpart in the claims of transhumanists

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themselves: extropia,[5] of which writes Max More (More & Vita-More, 2013, pp. 5, 14), presents continuous growth and development, and not a static complacency of paradise obtained.

The second question is much more complicated as it invites us to speculate on the ways in which the human mind and especially cognitive faculties can be enhanced (Bostrom & Sandberg, 2006). While it is sought to manipulate memory – its capacity and content – and computing power of the brain, imagination as such is conspicuously absent from the enhancement plan. This can be a little bit alarming, as it suggests such a reductionist approach to the human cognitive sphere that would impair the very tool of creating utopias. As written by numerous authors, among others, Baczko and Levitas, utopia is basically an imagination or an exercise in imagination. The worrying element of the transhumanist plan is that it may leave people either without this tool or with a somehow inadequate version of it. However, it is likely that it is simply that, for different reasons, transhumanists prefer not to use the word 'imagination' as charged with associations not fitting their plan. They do, though, speak of creativity, which is usually understood more as a skill; nevertheless, however it is called, it is difficult to conceptualize precise enhancement of imagination as mental faculty.

Still, considering the radical change humans would be submitted to on the way to transhuman posthumanity, aiming at the enhancement of human beyond the natural capacities of a human organism, it is conceivable that the imagination of a better world will be transformed. In what way will it be transformed is very difficult to answer, not knowing the direction of the changes or their impact on the rest of the mental faculties (if only on those). It is here that the 'vanishing point' of posthuman utopia appears, and makes the imagination stretch to impossibility: the unclear notion of good, of human, and the unknown consequences of the total enhancement project, do not allow to satisfactorily answer the question that the ultra-humanist plan of evantropia will not actually be the end of utopia as such.

3. NON-HUMAN UTOPIA

The actual posthuman utopia in the sense that it is presented mostly by critical posthumanism and the feminist critique shies away from all associations with the H+ (transhumanist) movement, which originated in the USA in the 1960s,

[5] A thorough discussion of the principles of unlimitedness and beyondness can be made with reference to the Extropian Principles formulated by Max More in 1993 (see, e.g., Bugajska, 2019, pp. 43–46). See also the exploration of the topic by Marc de Vries in the present volume.

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and promotes human enhancement through technology. Although such transhumanists as Bostrom use the word 'posthuman' to describe the desired goal of enhancement, and – similarly to critical posthumanism – are vague as to the existence of specifically human features, still they tend to centre on the fitness of humans, the survival of humans, and the separation of humans from Nature via technology. As Max More proclaims in his *Letter to Mother Nature* (More & Vita-More, 2013, pp. 449–50), Nature has done a measly job in designing humanity, and thus its ambitious offspring will employ technological means to amend the state of things. This dissatisfaction with the biological makeup of humanity leads to the separation from whatever is natural. Whereas it is true that some proponents of evantropia do suggest that the enhancement take into account the human impact on the natural environment (Liao, 2013), a much more familiar vision would be an ecomodernist one, with people closed off from the natural environment in cities, which is appalling to the contemporary ecologists; and it would as well lead to the trust in the power of human reason, and separating it from emotions and the body, which terrifies many of the opponents of Enlightened humanism. Thus, what is proposed is another type of posthumanism: one that takes into account the non-human participants in the Earth community, understood as a collective of humans, animals, plants, and other living beings, one that acknowledges bodiliness, and that reposes on empathy and care, extended towards all of the members of that community (Braidotti, 2013; Haraway, 2016; Morton, 2017). The highest value, rather than *bios*, is *zoe*, an indeterminate life-force (Braidotti, 2013; Roden, 2015; Ferrando, 2019), as '[t]he anthropocentric choice of privileging *bios* is related to hierarchical assumptions which are deconstructed within the comprehensive approach of Philosophical Posthumanism': an approach that is still being conceptualized and originates from Cultural Posthumanism, Heidegger's 'Letter on Humanism' and 'radical deconstruction of the "human"' (Ferrando, 2019, pp. 2, 110). *Zoe*, instead, is found to be common to all types of being, not only human (Ferrando, 2019, p. 110).

Posthumanism rarely owns up to its utopian character, and still, one can see it as a certain imagination of a better world. First, it proposes a radical change to the current world, and, to that: a change for the better. Second, it is inclusive and connectivist: it takes into account many more participants in the system than a rather exclusivist evantropia (cf. Misseri, 2020, for a broader definition of the term). Third, it is egalitarian: reposing on the principle of flat ontology, it accords equal value to everyone, and it looks to the extension of the notion of personhood beyond human. However, the idea of all-encompassing community is here complicated. For a community to appear, the distinction between its members and non-members should be drafted. The utopia in the sociological sense, therefore, is challenged. Even if we could speak about community with non-human people, whether animals, plants or objects, it would have to

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be at least partially exclusive. In the history of utopia, it is usually imagined as an enclosed territory with borders, which reflects this division between 'us' and 'them'. What is more, the question of what is human and what is the place and role of humans in this utopia, poses to it a great challenge. The problem the posthuman utopia faces is that it denies the importance of human for the good of the whole system; thus, it tends to be anti-humanistic. It can lead to all sorts of abuse, and even provoke the human race to commit specicide on themselves, to atone for the harms done to the whole system (as visible in the creeds proclaimed by the Church of Euthanasia or Voluntary Human Extinction Movement). Pepperell states in 'Posthuman Manifesto' (2005): 'In the Posthuman era many beliefs become redundant – not least the belief in Human Being.' And, quoting Foucault's interview 'L'homme est-il mort?' (1966), Miernowski sums it up: 'Where "it speaks", Man exists no more' (Miernowski, 2016, p. xvi).

However, Francesca Ferrando (2019) defends posthumanism, sustaining that '[d]ifferent from Antihumanism, Posthumanism, although not recognizing any onto-epistemological primacy to the human, actually resumes the possibility for human agency in a deconstructive and relational form' (Ferrando, 2019, p. 52). Thus, she would rather describe it as non-anthropocentric than anti-humanist, which terms do not exactly overlap, and definitely take an edge off the critique of posthumanism, situating it rather in the contemporary environmentalist discourse. Further, David Roden proposes to consider people in two categories: wide humans and narrow humans. Narrow humans are those understood in the traditional sense, as separate beings, and wide humans are systems with human components, which we might consider as assemblages of different interconnected objects, like toothbrushes, clothes, plants, domestic animals, etc. Such a system can be called human as long as it does not emancipate itself from its human component and does not gain autonomy: then it would be called functional autonomous system (FSA) (Roden, 2015, pp. 110–12).

Of course, such interrelations can be imagined as more complex: the FSA could have further relations with humans, without forming part of a human-centred system, or objects and people can enter in semi-autonomous relations, provided that both parts can be considered autonomous. Referring again to Westerfeld's *Succession* series, we can mention the interaction between the smart home and its owner; however, much better examples are provided by Shaviro (2014) in his book on speculative realism and speculative psychology of objects. The Aleutians from Gwyneth Jones's 'The Universe of Things' that he mentions are a great representation of interconnectivity and the flow of life in the whole universe. Timothy Morton (2017), in his turn, strongly relies on Philip Pullman's vision of unpardonable severing of the natural bond between human and its daemon, transferring it to the relation between

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the human and non-human. Conclusively, a utopian world would be one in which the bond between different elements of the assemblage have never been severed or would be restored.

Such a utopia is ridiculed by Peter Wolfendale in his chapter 'Speculative Dystopia', part of his book *Object-Oriented Philosophy: The Noumenon's New Clothes*:

> The first APA conference panel composed entirely of inanimate objects is held in 2023, to much applause. The ensuing audience discussion unanimously agrees that the contribution of a small half-eaten pot of jam—whose unknown organic composition, ruptured purplish surface, and burgeoning film of green-grey mould present a haze of interacting ecological qualities that perfectly infuse their collective musings on the ethical implications of the ever-worsening environmental crisis—is the highlight of the whole event. The practice quickly becomes a fixture of humanities conferences, though the funding never comes through for object-only meetings. In 2026, a small number of American philosophy departments expand their commitment to interdisciplinary education by insisting that, alongside studying a human language such as German or Spanish, each graduate student must specialise in a nonhuman substance (e.g., graphite, silk, or nematode worms), whose features they learn to commune with and cultivate through a series of immersive practical and theoretical studies. This too becomes popular, and is the de facto standard within a decade, with some PhD students taking out whole semesters to mine tin, perfect their custard recipes, or wallow in their own filth, preceded by a thorough methodological survey of the area and followed by a detailed research report. (Wolfendale, 2019, p. 329).

This echoes the caustic satire of the 'Eighth Voyage' from Stanisław Lem's *The Star Diaries* (1976), where Ijon Tichy, an interstellar traveller, is a delegate to the United Planets as a representative of humanity and is judged as worthy or not of admission by a body of jellies, coils, pseudopodia and other non-humanoids. Facing their assembly, he learns that the human race should never have arisen, is showered with damning evidence against it, and is removed from the meeting, and killed. Whereas Tichy wakes up to find out that it was all a dream, he does not manage to entirely shake off the impression.

The 'vanishing point' of the posthuman utopia appears thus at least in two moments: one, obviously, in which humanity ceases to exist, and we lose from sight any possible shape of the glorious world, and the second one, in which the intrusion of unknown subjectivities of non-human people complicates the imagination of new utopian worlds. The exercise in imagination leads beyond human modes of perception and conceiving in an even more radical way than the evantropian one. Here, the continuity between the human and posthuman can be broken, although it is neither sought nor desired. The possibility of the future utopia remains open as much as we are willing to accept the philo-

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sophical underpinnings of critical posthumanism and of speculative realism;[6] at least, as much as we are ready to accommodate for the speculative turn in philosophy. And while this type of posthumanism is non-anthropocentric, some of its resolutions can be clearly anti-humanist in the way leading to human extinction.

4. AFTER-HUMAN UTOPIA

As can be seen, the visions stemming from the anti-humanist outlook rarely can produce a utopia: even if we consider the land of the talking horses from *Gulliver's Travels* (1726) as an example of posthuman utopianism, Artur Blaim (2018, p. 23) claims that within the early modern imagination as such one cannot talk about anti-anthropocentric assumptions in the sense promoted by some radical strands of contemporary posthumanism and that is related to *zoe*. From more contemporary examples, Ballard's *The Crystal World* (1966) has been interpreted as utopian; however, not in the sense of creating community but in the sense of employing suggestive symbolism. In the novel a spreading crystallization touches both humans and non-humans, and, while clearly a terrifying phenomenon, it is described as resulting in the creation of a harmonious, bright and perfect world. It brings to agreement all the elements of ecosystem in an ideal crystal form. The symbol of diamond embodies both the highest desirable value and the anti-anthropocentric turn, 'at the beginning of the novel hidden underground and exploited, at its end literally coming to the surface and taking over the dominant position. The diamond and the human who exploited it literally become one, merging with each other in the process of crystallisation' (Klonowska, 2018, p. 84).

Vincent Geoghegan (2013) would probably classify all of the above instances of posthuman utopianism as anti-humanist, but he does make a distinction between a self-critical outlook and a self-loathing one. And within the after-human utopia a similar distinction can be drawn: between more peaceful consideration of humans as simply non-existent and the calls to wilful

[6] Speculative realism is a movement associated with such thinkers as Levi Bryant, Graham Harman and Quentin Meillassoux, and is an umbrella term encompassing the strands of contemporary materialism that challenge anthropocentric assumptions. Thence, the interest in objects, their possible psychology and relations between them, but also in the ideas relating to panpsychism and to extinction (transcendental nihilism). A special kind of speculative realism is object-oriented ontology (OOO), which tries to combine phenomenology with metaphysics, and is distinguished by three main ideas: 'withdrawal, flat ontology and vicarious causation.' In other words, it assumes that no object can be fully known, that all objects are equal (have the same ontological status) and that they interact with one another in an aesthetic realm, via sensual and emotional experience (Wolfendale, 2018, pp. 296–99).

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extinction. The imagination of the world in which humanity is unnecessary or clearly nocive seem to infallibly generate such a powerful existential anxiety that the imaginative power breaks down in its attempts to think up the society of anything else but humans.

Nevertheless, even an extremely anti-humanist vision, implying the extinction of humanity as unnecessary, has provoked certain utopian imaginations, or at least questions about the permanence of utopian thinking in the world without humans. This issue has been already identified in the previous section as being at the centre of some radical ecotopias, but more frequently the imaginations of the world without people, as in the History Channel's *Life After People* (2009–10) or Weisman's *World Without Us* (2007), are rather to provoke nostalgia for the lost unity with the world and serve more in capacity of cautionary tales than as actual expressions of the desired state of things (Geoghegan, 2013; Jendrysik, 2011). However, Jendrysik (2011, p. 51) suggests that 'utopian energy cannot resist favouring certain outcomes or wishing certain species well, where certain human values are clearly evident', so at the very least the human values are projected into the after-human future. As to the question if there will be anyone to take up these values and carry them on, the hope is placed in evolutionary processes. As recently claimed by Arsuaga (Hernández Velasco, 2019), there is no reason why other species would not evolve and become humanized,[7] thus taking over the baton from the human beings in the utopian relay race. In this way, from the scientific angle, it completes the reflection of Bloch on utopia and the 'lower life':

> …not even hares could arise through mere adaptation to the environment, to say nothing of lions, if it were merely impressions of the milieu that assembled, and not potential victors over them. Rather there is a free, open, human-seeking quality in the progression from algae to fern to conifer to deciduous tree, in the migration from the water into the air, or certainly in the strange delarvation of worm as reptile as bird as mammal, in the struggle for skeleton and brain. Tentatively, and led by a strange presentiment, not yet implanted, burning like a flame over every separate living creature, there takes place here a testing, retaining, rejecting, reusing, erring, reverting, succeeding, a delegating to reflex, a leap toward a new formation quite familiar to us. There is an impulse toward the brightness, but still beneath larves and within the persistent constraints of the genus itself, to which animals are in thrall; only in man himself can the movement toward the light, proper to all creatures, become so conscious, or be carried out. (Bloch, 2000, pp. 233–34).

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[7] In this context it is worth mentioning the effort to 'uplift' animals or 'translate' the languages of animals and plants with the help of technology (Zoolingua, n.d.; Dvorsky, 2008; Poupyrev, 2019). While it does not form part of an after-human utopia, it demonstrates the belief in the continuity between humans and non-humans that could be the basis for thinking of the survival of utopia after humans go extinct.

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Thus, it is still an organic and anthropocentric perception, and a view trying to smuggle human into the otherwise after-human world, not trying to acknowledge its radical Otherness. In her book *The Death of the Posthuman* (2014), Clare Colebrook goes beyond that and asks questions about the possibilities of imagining, reading and perceiving a world after the extinction of any beings that would by our standards be able to imagine, read and perceive. She writes:

> In the era of extinction we can go beyond a self-willing self-annihilation in which consciousness destroys itself to leave nothing but its own pure non-being; we can begin to imagine imaging for other inhuman worlds. That is to say: rather than thinking of the post-human, where we destroy all our own self-fixities and become pure process, we can look positively to the inhuman and other imaging or reading processes (Colebrook, 2015).

The Australian cultural theorist brings up *Robinson Crusoe* to make a comparison of other, after-human reader to the protagonist of Defoe's novel, who one day finds a footprint in the sand on his desert island. Here the mysterious signs are left by the extinct human race: so, it is humanity that is metaphorized as Man Friday. In contradistinction to the latter, though, it never appears in the narrative of the future; there is only a (carbon) footprint in the sands of time, in geological structures that retain the signs of the past life, which can be read much as we read the past from the trees' grains and geological layers. Thus, we could be read by after-humans – maybe – or maybe Earth itself, in its mysterious speculative ontology. This comparison offers an intertextual imagination: a rare chance to look at ourselves by the speculative eyes of stones, brooks, mosses, encountering our footprints, and, implicitly, asks the question: can a society of Robinson-objects rebuild the world? Defoe's answer from the past is no. Robinson needs Friday, as much as Friday needs Robinson. Only the coexistence of subject and object, man and the world, can promise survival. The nature of this, apparently, necessary relationship is still negotiated.

The experience of powerful defamiliarization provoked by the after-human narratives, and the demands they put on the speculative thinking, again lead to the 'vanishing point'; however, in this case the vanishing is very real and requires assenting to the 'utopia of death'. It does not seem possible to stretch imagination that far, completely beyond human faculties, especially considering that the generalized life-force of *zoe* does not offer more than the life of a particular species, and this is usually protected by the strong survival instinct that frequently overruns any altruistic behaviours (although, of course, such altruism has generated a lot of interest and has been studied extensively). The best that humans are able to do is usually to deploy some human values on the non-human world, in a utopian *non omnis moriar*, in this way perpetuating their hope. Or, they are asking, like Weisman, '[i]s it possible that, instead of heaving a huge biological sigh of relief, the world without us would miss

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us?' (Weisman, 2007, p. 5), counting on some form of bond and continuity on the level of memory and emotions, unable to embrace a wholly anti-humanist vision. In Jacek Dukaj's post-apocalyptic novel, *The Old Axolotl* (2015), taking place after a disaster in which all protein-based life is destroyed, human consciousness is perpetuated, and the human memories and sensations surviving in the shapes of sex robots or military drones look with nostalgia on the human world left behind. It can be said, therefore, that an after-human utopia, a complex and controversial phenomenon, collapses on itself.

5. CONCLUSION: THE FAILURE TO IMAGINE

The posthuman utopias testify to the anthropological crisis, but at the same time open us up to further exploration of and deeper insight into the notions that we, as humans, have at our disposal. The above-presented visions demonstrate some of their internal contradictions and paradoxes, and they exude profound pessimism as to human beings. Therefore, the answer to the main question of the chapter, whether the posthuman utopia retains hope for humanity, would be largely negative. Even the transhumanist utopia, which seems to be the most promising one, is ambiguous as far as imagination and hope, avoiding clear statements about their importance. Coming back to Wells's *A Modern Utopia*, we seem to be unable to imagine a utopia because we are 'burned and scarred', and deprived of hope. And although there is a will to imagine better worlds, it meets with failure. If so many of posthuman utopias are unsustainable as far as speculative and imaginative powers of contemporary humans, what may be the point to reflect upon them? Should they not be rejected as a futile thought experiment or mental exercise? And if there is no hope for utopia in the posthuman world, maybe it is not at all necessary? I would like to sketch the possible answers to these questions in the following, concluding paragraphs.

In *Utopia as Method* Ruth Levitas writes about the failure of imagination that seems to be inscribed to a greater or lesser degree in the experience of utopian thinking and speculating (2013, p. 121). It serves numerous functions: from provoking deeper reflection on the limitations of human cognitive powers, through the realization of imperfections, to the experience of a higher order of things, difficult or impossible to conceptualize, at least at the present stage. The paradoxes and 'blank spots' form the nexus of utopian imagination: the centre of vitality that seems to generate and give rise to our dreams of a better place. It seems that utopia is doubly elusive: not only because it is an imaginary construct suffering from the difficulties stemming from the liminal nature of imagination itself, but also because it partially lies beyond the imaginary horizon. Thus, the question about utopia, posthuman or human, is forever an open question that shies away from the answer and closure.

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While the value of reflecting on the posthuman utopias seems clear, it is not at all easy to defend why utopia should survive the anthropological crisis, assuming that humans will not survive and that our anthropocentric thinking is projected on the issues raised by posthuman and post-apocalyptic possible realities. In part, the answer may lie in section 3 of the present chapter, referring to the possibility of utopia in the after-human world. Considering utopian thinking as the will to transform the world and make it a better place, it seems desirable in itself; however, it may yet again be a simple projection of human desires and hopes onto the non-human world. In this sense, asking if utopian thinking should survive or if it is necessary is a question if the notion of good is necessary and if the said good is desirable, that is: should it provoke a movement towards it. Thus, it is not so much about the actual capacity to generate utopias – it is imaginable that some kinds and definitions of good could exist after human – but about the willingness to direct oneself towards it. If ever there should arise a society of conscious non-human objects, extremely modified transhumans or other beings with hardly any or no continuity with present-day humans, they would probably generate a utopian model to pursue and organize themselves around it. It also concerns an individual member of the posthuman world, whose goals would probably be directed towards some good, be it only a vanishing point on the verge of precognition: a barely definable intuition rather than observable, measurable gain. And imagination of this good can provoke action and movement towards it. Thus, we can repeat after Jameson (2005, p. 416) that utopia is not only a representation: rather an imperative, enabling the rise of the future societies.

It can be observed that utopia appears both possible and necessary from any vaguely humanist point of view. Only the self-loathing narratives seem not to leave hope for utopia, and they are in the minority. However, a number of questions become unanswered. What are the conditions for the modern utopians? Do they need to be humans? What level of continuity should they have? And is it enough that the human legacy is perpetuated to find some hope?

When Wells's narrator visited utopia, he found its members to be humans – at least in the sense of clear continuity and mutual recognizability. These features seem to establish the limits for the utopian imagination and allow for the reflection on adequate philosophical and social response (Bugajska & Misseri, 2020, p. 27). Thus, the question is not so much if the inhabitants of the new utopia are human, but if they share enough common ground with the party that observes or dreams up this utopia to be able to form a bond. However, the present-day imaginations frequently question the need of the observer for the existence of the better world to come. In other words, the question asked is: is there a better world that we cannot conceive of? The dormant, inscrutable utopia of Ballard's crystals or, the possible utopia of aliens from the United Planets from Lem's story, challenge the epistemological assumption that what-

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ever I cannot dream of, does not exist. Rather, they suggest the existence of the 'vanishing points', the limit of imagination, and beyond this point the usual associations, analogies, arguments and ways of understanding reality do not carry any weight (cf. Hume, 1960, p. 32; Hume, 2007, p. 53). Thus, the modern utopians perhaps do not need to be humans and do not need to think like us, but we cannot be asked to acknowledge their existence within the imaginative construct of utopia.

Another question whatsoever is the perpetuation of hope in the posthuman utopia. Through its connection to what is unknown and uncertain, hope seems to reach out to the realms lying beyond the 'vanishing point', thus bridging the gap between the human and the posthuman. What is more, as could be seen in the above discussion, much of those texts that pretend to any utopian character retain hope for humanity, in the sense of species survival. Still, the question remains if hope, not as optimism but as a desire and belief in the possibility of something, and an effort of will geared towards it, is an intrinsically human feature, as it is frequently considered in philosophy. Here, the stances differ, and the answers will be different depending on the chosen approach. If we choose to support non-anthropocentric speculative psychology, there will be no reason to deny the possibility of hope to other types of being. However, as would surely respond the proponents of the anthropocentric approach, neither will there be reason to affirm the existence of such a hope. They would underline that we can conceive of human desires and human imaginations, and thus, if we cannot conceive of these smaller elements as non-human, how can we conceive of a more complex concept, like hope? What is more, it would necessitate proving the existence of creative imagination within the non-human realm. The reflection on hope in the posthuman world, thus, does not only entail the considerations within the field of risk analysis, but also within psychology and theology.

What is important to notice, though, is that although imagination and hope are closely connected, the failure to imagine does not imply the failure to hope. And it is this element of utopian thinking that allows to perpetuate it into the posthuman world. Of course, the assumption here would be humanistic: as shown above, both hope and creative imagination are most frequently considered as proper to humans, and – as such – they would tend to be centred around and produce anthropocentric, rather than anti-anthropocentric, visions. As Wells's utopian narrator notices, utopias and dystopias are dreamworlds of separate individuals. Ironically, he underlines the inadequacy of all those human dreamers, which ultimately causes the bursting of the perfect bubble. He himself feels unprepared for the glorious world, because of his scars, and at the same time he observes that the botanist's world can be characterized with 'total inadequacy of imagination and will, spiritual anaemia, dull respectability, gross sentimentality, a cultivated pettiness of heart' (Wells, 2009, p. 404).

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It seems that it is partially this failure of anthropocentric and humanistic imagination that makes the contemporary thinkers look to the non-anthropocentric and non-human modes of thinking, speculating and imagining, and to seek hope in the deployment of those processes on the unknown psychologies of Others. In a sense, it is an exercise in looking into the utopian mirror to find the double that would tell us more about ourselves, and – maybe – allow us to find ourselves again, just like the modern utopian returns from his dream more aware, lucid and able to confront the world around him.

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16. Being an agent in a robot and artificial intelligence age: Potentiality or dystopia?[1]

Zeynep İspir and Şükrü Keleş

1. INTRODUCTION

All notions of utopia rest on the assumption that 'the world could and should be other than it is' (Levitas, 2000, p. 26). However, there are various reasons for reflecting on utopia more profoundly. One of these is its utility as a critical analytical tool. According to Ruth Levitas (ibid., p. 26), understanding the utopian aspirations of a given society can make it possible to understand that society itself. Over the last decade, advanced technologies have gained a position in human life whose importance is difficult to overestimate. This situation reflects a transformation of society and contemporary culture, which is revealed in the way many people have modified their way of thinking about future fictions. The debates showing the existence of utopia in contemporary culture suggest that technology can find a place for itself in utopian studies.[2] Each period of history is notable for unique innovations with far-reaching consequences, so the effect of advanced technology is not a new phenomenon in the intellectual world of human beings. Nevertheless, it is undoubtedly the case that new technology has never impacted human beings as powerfully as it does today.

Utopia may be regarded as a literary fiction that might be so useful for comprehending and explaining society that it could deepen our understanding of human beings as well. For example, in 1942, when Isaac Asimov first defined the laws that robots should obey in the *Three Laws of Robotics*, he signalled the beginning of a new era for humanity. In retrospect, that new era almost

[1] The authors would like to thank Philip Palmer for his constructive criticism of the chapter and English language editing.

[2] For some examples, see Levitas (2007, pp. 289–306) and also see Soniewicka's and Van Klink's chapters in this volume.

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appears like a fictionalised version of the present day, a time when robots are extensively used in a myriad of areas and display diversified and artificial intelligence. Looking back to the 1940s from the vantage point of 2022, it is safe to say that today was once yesterday's utopia. Consequently, although we are using today's ideational tools to design the utopia of tomorrow, our actions are actually part of an ongoing process begun many years ago, when humanity first began fictionalising an alternative future.

According to Asimov's three laws, a robot (i) 'may not injure a human being or, through inaction, allow a human being to come to harm'; (ii) 'must obey the orders given by human beings, except where such orders would conflict with the First Law'; (iii) 'must protect its own existence as long as such protection does not conflict with the First or Second Law' (Asimov, 1942). These laws have been adopted by scholars fictionalising a utopian future, many of whom have proposed new sets of laws that take account of the latest technological advancements and transformations in social structure.

When RAIs (robots and artificial intelligence) are collectively regarded as an entity and scrutinised in ethical and legal terms, it becomes clear that Asimov's laws need to be treated as a product of human thinking at the time of their creation. According to Asimov's First Law, a robot must act for the good of human beings and subordinate itself to their will. Logically, in the present-day reality, a human being's action may be accepted, rejected, criticised or transformed by other humans, or an alternative action may be proposed where necessary. Such a line of reasoning may be too restrictive when we are dealing with the actions of a different existence or entity, or when we are seeking to fictionalise a utopian society more able to meet our contemporary needs and desires than today's society. In this day and age, it is clear that robots taking part in the industrial production process or providing services at home or in daily life (self-driving cars, artificial intelligence judges, the soft robotics used in state-of-the-art medical technology, and so on) have transcended their original designation as utopian objects and attained a real place in human life. These novel robots are tools that serve human beings, but they can also be designed in a way that grants them a measure of autonomy or even enables them to make decisions. Such technological advancements clearly have obvious benefits, but they also raise ethical issues and pose legal dilemmas.

Viewing utopia as an alternative scenario for the future provides us with a tantalising yet challenging opportunity to reflect upon its possible subjects, notably, humans, and other existences, entities, things – or, indeed, RAIs. This opportunity is challenging because it is not clear where one should start when talking about the place/position of the human in a utopian fiction portraying a hopeful future, while throughout the history of humankind no consensus has ever been achieved upon the whatness of the human being. Then again, does it really make sense to base our reflections on RAIs on the concept of the

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human? In fact, our responses to such issues are inextricably bound up with our ethical perspective, and utopia is undoubtedly a helpful notion for thinking about present or future human beings' ethical responsibilities (Levitas, 2017, p. 3). A utopia portraying a hopeful future can therefore be regarded as an ideal. According to Levitas, by adopting a utopian approach, we are not limiting ourselves to imagining what an alternative society might look like, because that approach also allows us to imagine how it feels to live in it (ibid., p. 3). Indeed, it is important for a person to vividly imagine taking any action that is to be performed in reality (Savulescu, 1994, pp. 191–222). This offers a possible avenue for investigating the concept of *person* in relation to new technologies in utopia.

One of the major problems at this stage of technological advancement is finding a reliable method of comparing the actions of RAIs with those of humans. Up to the present, ethical action has been evaluated as a possibility only available to human beings, a viewpoint that confers an important role on the person who has actively or inactively actualised an action and the components of that action. However, the time has come for that stance to be reconsidered in light of the increasingly active participation of RAIs as actors in our lives. One of the prerequisites for something to be regarded as a living existence or entity is for it to act in certain intentional ways. Admittedly, it is possible, on occasion, for a human to create value through inaction. However, the inaction of a robot is assumed to be the equivalent of non-living as ethics are deemed to exist as long as there is an action. In this chapter, we adopt the assumption that an entity is a being that acts or has the capacity to act and base our understanding and discussion of agency on this premise.

In today's social structure, RAI technologies can be viewed as human-made artificial actors that operate or work in a number of areas, such as education, healthcare, law, care services and the defence industries. Consequently, the meaning of the concept of agency has had to expand in scope to accommodate new technologies such as RAIs. Realistically, it is not possible to interpret the operation of these technological advancements for other purposes than they were intended without subjecting that more expansive understanding of agency to ethical assessment. Now is the right time to ponder the position of human agency vis-à-vis artificial actors that might be considered as a danger someday, especially as the human being is not only a potential future victim of these dangers but also has the potential to modify and transform them. From this perspective, the *ethical agency* of the entity in action deserves consideration. In this chapter, we aim to specifically address how the moral agency of human beings affects their relationship with new technologies.

It is possible to assess the aims, limits and outcomes of human actions through ethical evaluation. This is equally valid for the assessment of the processes through which technological advancements are incorporated into

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human life. Ethical reasoning begins with the recognition of an ethical problem. First, the ethical problem is defined and different options for action are planned for its solution. After the most appropriate one has been actualised, the results of the selected action are evaluated by the responsible agent. Such a kind of justification takes place also in the area of law when the need arises to find a sufficient reason for one's claim (Beauchamp & Childress, 2001, p. 385). Therefore, the place of RAIs in the utopian thought of a society might also be evaluated in terms of ethics and law, taken in combination. Studies on RAIs generally make some attempt to specify the primary issues that need to be addressed. In this chapter, we intend to specifically address the following two main points: (1) the ultimate goal of research on advanced technologies and (2) the criterion (or criteria) that would determine when each successive phase has been reached on the path towards the achievement of such goal.

In this study, the position of RAIs in an alternative scenario for the future will be opened for discussion. We only have the space here to evaluate the positive–negative or desirable–undesirable outcomes of technological advancements and dilemmas in a technology-dominated utopia or dystopia within the discipline of ethics, though these outcomes will undoubtedly have consequences for other fields. These outcomes will also form the basis for a discussion about the social, political and legal arrangements that would potentially be made in cases when robots overrode their programmed instructions and took actions that were undesirable for humankind. The objective of this study is to attempt to foresee how continued expansion in the use or realm of existence of RAIs could affect societies of the future and to open a discussion about the potential advantages and disadvantages of living with these entities. The variable outcomes of new RAI projects are frequently addressed in ethical assessments, but this discussion will also demonstrate how critically important it is for such assessments to evaluate what motivated such projects in the first place and what their creators' initial aims for them were.

Utopia is regarded as a catalyst for change (Levitas, 2005, p. 5). According to Levitas, utopia is 'the desire for a better way of being or of living' (ibid., p. 5). This is an understanding of utopia in which RAIs might have a role to play. It is essential that we start thinking more effectively now about how we should be approaching the ethical and legal assessment of RAIs that could well strike fear into human beings at some point in the future. Otherwise, it may be too late, and RAI technology will also have to be evaluated within the context of a dystopic future. In the final reckoning, the debate on the possible relationship between advanced technologies and the whatness of the human being is as critical for today's society as it is for that of the future. The answers to the questions addressed in this study will contribute to the debate on what is awaiting us, whether that be a utopia that is not as utopic as we would wish yet could still be utilised as a methodological tool as Levitas seeks to

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do (see Levitas, 2013), or conversely, a dystopia that we would like to avoid at all costs. Consequently, the main question of this chapter is formulated as follows: Is it possible to use some specific aspects of the moral agency of human beings for RAI studies? The primary focus of this question is on the relationship between the ethical agency of human beings and RAI technology. Guided by the implications of this question, we will first examine the relationship between new technologies and the concept of utopia. Then, we will try to reveal the role played by the moral agency of human beings in this relationship. The following section will be devoted to the general and specific purposes of possible restrictions that could potentially be placed on the scope of RAI technology in the future. Finally, we will put forward the notion that these purposes might profitably be linked to Levitas's view that utopia should be serving a more just and human-rights-based society.

2. NEW TECHNOLOGIES AND 'UTOPIA'

RAIs, with their wide range of applications, have become part of our lives. Artificial intelligence affects the processing and use of big data, machine learning, our relations with others, and our ways of thinking, remembering and even reasoning (Boddington, 2017, p. 2). The influence of RAIs has become so far-reaching that we share our lives today with robots used in many lines of work, some of which are considered dangerous or harmful for humans. For example, they can control self-driving cars or help with household chores; in the field of medicine, they are used for diagnostic processes, analyses of data obtained from vast patient populations, surgical operations and therapies assisting with autism; robotic pets are being developed to accompany and provide mental stimulation to people with dementia, and soft robotic limbs are being developed for elderly or disabled people; sometimes, robots are designed to provide companionship to meet our emotional needs, work as tutors in certain areas, play a role in criminal justice systems or serve the defence industry as elements in autonomous weapons systems and the like (Boddington, 2017, p. 2; Xie et al., 2017, p. 5; Tasioulas, 2019, p. 50). Ongoing discussions are providing more sophisticated examples that, in some cases, are making us question the boundaries of legal personhood. These include the following: robot priests that are making us reconsider the rituals inherent to the phenomenon of religious faith (see Atkinson, 2017), robots who have been given citizenship (see Hanson Robotics, 2021) and robots recognised as party to a marriage (see Miyazaki, 2020).

The high-technology devices mentioned in the examples above are associated with potential risks despite the benefits and productivity they provide. However, today's technology is also offering people an opportunity to design a sort of better version of themselves to live alongside them and make their

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lives easier. Such developments are so compatible with the 'development, enhancement, advancement' mottos of the recent epoch that it is possible to evaluate advanced technology studies through the prism of the idea of utopia (see Bugajska in this volume). In fact, several RAI-linked concerns are even on the agenda of humanity. One of the most popular discussions in this area revolves around the unpredictability of robot actions, which are seen to represent a kind of autonomy not subject to the control or intervention of human decision-makers.[3] Other concerns include the problem of the unemployment likely to be brought about in the near future by the increased use of robots in the industrial sector, robot rights considerations and the possibility of robots gaining enough power to destroy humankind (Lichocki et al., 2011, p. 39). Some unwelcome consequences of the use of artificial intelligence are just as disquieting. Several examples could be cited, including the liability law debates arising from damages caused by autonomous vehicles, the risk of discrimination based on various prejudices resulting from the use of artificial intelligence in trials and related unfair legal practices, other inequality problems that might be manifested when the final decision is solely based on the actions of a prebuilt algorithm and the potential human rights violations caused by the actions of AI-supported autonomous defence vehicles.

Is it possible to see our relationship with new technologies as a potential capable of creating a hopeful future rather than a dystopian scenario involving 'robophobia' (Woods, 2020)?[4] Devices can undertake work and activities that have been, until quite recently, thought of as human-specific, and this is giving rise to discussions about the distinctive features of being a human and the relation between this and the aims of leading-edge technology. Such discussions could hold the key to formulating a response to the above question.

Jürgen Habermas – taking developments in biology and biotechnology as his primary point of departure – explains that today we are developing 'a new type of intervention' *via* the expansion of familiar possibilities of action:

> …What hitherto was 'given' as organic nature, and could at most be 'bred', now shifts to the realm of artifacts and their production. To the degree that even the

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[3] For an introductory explanation of different types of 'machine learning' in relation to this concept of autonomy, see Tasioulas (2019, pp. 51–52).

[4] In his blog post, Woods dwells on humanity's bias towards robots and non-human decision-makers. According to him, we are much more intolerant towards accidents and mistakes caused by robots than those resulting from human actions. Correspondingly, most studies show that people prefer human beings whose performance is worse than robots. As Woods puts it, 'algorithms are already better than people at a huge array of tasks. Yet we reject them for not being perfect.' This view takes 'robophobia' to be a 'decision-making bias' that impedes the decision-making processes we use to determine which policies are for the good of humanity.

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> human organism is drawn into this sphere of intervention, Helmuth Plessner's[5] phenomenological distinction between 'being a body' and 'having a body' becomes surprisingly current: the boundary between the nature that we 'are' and the organic endowments we 'give' to ourselves disappears. As a result, a new kind of self-transformation, one that reaches into the depth of the organic substrate, emerges for the intervening subject. The self-understanding of this subject now determines how one wants to use the opportunities opened up with this new scope for decision – to proceed *autonomously* according to the standards governing the normative deliberations that enter into democratic will formation, or to proceed *arbitrarily* according to subjective preferences whose satisfaction depends on the market. In putting the question this way, I am not taking the attitude of a cultural critic opposed to welcome advances of scientific knowledge. Rather, I am simply asking whether, and if so how, the implementation of these achievements affects our self-understanding as responsible agents (Habermas, 2006, p. 12).

This assessment is mostly related to intervention into the human genome using the methods provided by advanced technology. However, this perspective might also be used for ethical evaluations of RAI technology as a field that 'obliterates the boundary between persons and things' (Habermas, 2006, p. 13), as the results of some genetic studies are tending to do. Habermas goes on to point out that 'the new technologies make a public discourse on the right understanding of cultural forms of life in general an urgent matter' (ibid., p. 15). This public discourse might be affected by potential responses to the question of 'what is to be a human being?' In this respect, when we justify the normative obligations of the agency of this being that is building today and the future, we might focus on some distinctive features of human beings, such as their capacity for reason and emotions and the fact that they are autonomous and free, take responsibility and have rights and duties.

This idea is also reflected in debates in the field of bioethics that question the characteristics of being a human. According to the view of personhood based on the cognitive capacities of a human being, a human might be regarded as a person to the extent that they have self-awareness and self-control, can strike a balance between rationality and feeling, remember the past, think about the future, communicate with and show concern for others, and so on (Fletcher, 1998, pp. 36–41).[6] Applying these assumptions to modern technology, what RAIs have is intelligence and, albeit in a limited manner, the ability to make 'autonomous' decisions, making them closer to being a person. However, it is not possible to ignore the impact of human beings on the creation of RAIs: directly regarding robots or artificial intelligences as agents is problematic,

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[5] For an elaborative discussion on Plessner's account in relation to transhumanism, see Britta van Beers' chapter in this volume.

[6] For a list of these indicators, see Fletcher (1998, pp. 36–41).

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because it is essential for agents to act and it is notable that RAIs need support/assistance from the outside to complete their actions. For this reason, it seems implausible to attribute a moral status and responsibility to a robot or an artificial intelligence that cannot act autonomously. Such an entity without a moral status and responsibility cannot reveal values, which can be actualised, as far as we know, only by human beings.

Throughout the history of humanity, the whatness of human beings and the kind of values brought to life by this species have been the focus of extensive reflection. If we, as members of humanity, are still unsure about the whatness of our own species, where do we start to build an ethical relationship with another entity? If utopia can be viewed as a 'hope in a hopeless world', we should proceed with establishing the meaning-content of certain concepts, making compromises where necessary. We think that *agency* is one such concept.

3. MORAL AGENCY IN THE FACE OF THE BROADENING OF THE MEANING OF AGENCY

The meaning of agency is generally explained in relation to the capacity to act, and therefore with 'action' (Himma, 2009, pp. 19–20). Agency is further conceptualised through reference to its two main constituents. One of these is the concept of *intentionality*, which denotes the purposefulness of the agent, and the other one is the concept of *causality*, which denotes the relation between this purpose and the actualised action (Himma, 2009; Schlosser, 2019).[7] However, this explanation of the concept of agency has been criticised as insufficient in itself, since it is possible to explain agency without referring to intentionality or the capacity to perform an action (Schlosser, 2019). These criticisms, along with advances and discussions in the realms of psychology, neuroscience, social sciences and anthropology, among others, have brought about agency conceptualisations of various types, such as mental, epistemic, shared, collective, relational and artificial agencies (ibid.). Clearly, the meaning of the concept of agency has been extended and diversified, and there is ongoing debate on still more new types of agency that diverge from the concept of natural agency, in particular, the artificial agency of human-manufactured sophisticated robots. It has also been propounded that the ramifications of certain biotechnological advancements mean it is no longer convenient to explain the boundaries between agencies by only refer-

[7] Himma points out the standard conceptualisation of agency as follows: 'X is an agent if and only if X can instantiate intentional mental states capable of directly causing a performance' (Himma, 2009, p. 21).

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ring to biological existence and that one entity might be alive both in an artificial and biological manner, having natural and artificial agencies at the same time (Himma, 2009, p. 21). It would appear that we no longer have any option but to discuss whether there is any need to possess the kind of ethical human agency that has traditionally been the primary focus of ethical evaluations in this extensive area of research.

It is the relationship between the concept of morality/moral status and the agent, or actualiser of an action, that enables us to discuss the value of that action. It is possible to look at explanations of the concept of agency from different ethical perspectives. Whereas consequentialist ethical accounts focus on the result of an action without undertaking further investigations into the subject of that action or on the concept of agency, other ethical theories (such as deontological ethics or virtue ethics) give central importance to the concept of agency in ethical evaluation (Boddington, 2017, p. 24). Further important consequences in the realm of RAI ethics could arise from analysis related to the concept of agency and attempts to define a role for this concept in the field of ethics.

Moral theories and ethical approaches also focus on different aspects of agency in the field of bioethics. Within the scope of this discussion, it is important to distinguish between an action performed autonomously by RAIs and one completed by RAIs under the direction of certain programs. According to utilitarianism (consequence-based theory), in the event that RAIs are entities that have the capacity to act autonomously, their actions are interpreted as being 'right or wrong according to the balance of their good and bad consequences' (Beauchamp & Childress, 2001, p. 340). From this point of view, it makes little difference whether the action is to be performed by human beings or by RAIs. By contrast, a pivotal point of Kantian ethics (obligation-based theory) emphasises the need to focus on the purpose of an action rather than foregrounding its consequences. Immanuel Kant explains the grounds of morality and its obligatory 'maxim' in relation to reason. According to this ethical view, 'the moral worth of an individual's action depends exclusively on the moral acceptability of the rule of obligation (or maxim) on which the person acts' (Beauchamp & Childress, 2001, p. 349). Also, in Kantian ethics, acting necessarily *for the sake of* duty instead of acting solely *in accordance with duty* is a sort of litmus test for the morality of an action (Kant, 2006, p. 10 ff.). However, it is difficult enough to determine the purpose or intention grounded in each action performed by human beings, let alone for RAIs. In addition, according to virtue ethics, the most important thing is to establish whether RAIs internalise the virtue-based moral motivations of the action being performed. Only when this criterion is met is it possible to conceive of a 'virtuous RAI' that internalises and actualises virtues that are agreed upon and accepted by humanity as valuable. The intellectual gap in these ethical theories

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and approaches is caused by the fact that RAIs, much like Asimov's robots, are constructed as entities subject to humans. The realisation of desired actions by RAIs would only be possible if they were able to internalise the values and virtues of human beings and act in accordance with categorical moral 'maxims' or for the sake of humanity. Such a situation does not seem possible at the moment (Abney, 2012, p. 51). What if we could talk about a future where RAIs act without human beings?[8]

As stated above, the importance of these differences in ethical theories and approaches is most apparent in situations where the ethical motivations of devices like RAIs cannot be transparently ascertained, especially when they are acting completely independently or in situations where they are acting with human beings yet directly determining the result of a specific action. The question is whether it is sufficient to look at the results of the action in such situations or not (Boddington, 2017, p. 24). There are several unanswered questions on the issue, the most pressing of which relate to: the legal and criminal responsibility of self-driving machines in case of accident; fairness and justifiability concerns over the use of artificial intelligence in legal decision-making processes; and the consequences of the utilisation of robotic technology in medicine. Such debates urge us to interrogate the adequacy of new technologies, including advanced algorithms with the ability to make rapid and diverse connections, to make proper and justifiable ethical choices.

In the report of the UNESCO World Commission on the Ethics of Scientific Knowledge and Technology (COMEST), which addresses the utilisation of artificial intelligence forms in the field of robots, robots are characterised in terms of four features: mobility, interactivity, communication and autonomy (UNESCO, 2017). Even though it is not possible to frame the concept of agency in human beings in a *numerus clausus* way,[9] as is done for robots in the report, it is necessary to specify some constituents that can be related to human beings as moral agents. Therefore, in this chapter, the concept of agency is taken to determine the specialties, potentialities and responsibilities of the subject of agency. Responsibilities are essential, not only in terms of ethics and law, but also in terms of policymaking on our relationship with advanced technologies. In this regard, if there is an agency particular to human beings, we should discuss its components – or the distinctive features of human

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[8] Humanity has already started to talk about this case in relation to machine learning processes.

[9] A similar reservation is expressed regarding the field of 'artificial intelligence (AI)', for which it is hard to give a legal definition due to the profusion of different explanations (see Schuett, 2021, p. 4). Schuett offers a risk-based approach to policymakers instead of using a definition of AI due to the lack of the essential components needed for a legal definition of this term.

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beings – and whether they impact the relationship between humanity and new technologies. Explaining these characteristics by exclusively referring to some cognitive capacities that the human species has in common with other entities (i.e., with RAIs), such as reasoning, making connections, and deductions, would not provide a full picture. It therefore makes sense to consider the 'moral agency of the human being' as well.

Being a moral agent is commonly understood in terms of the possession of the ability to meet the requirements of moral responsibilities in general. In other words, the concept of moral agency may be defined in terms of the possession of rights and duties, a willingness to be held responsible for one's actions, and the capacity to act purposively – in short, the possession of self-consciousness (Himma, 2009, pp. 21, 24, 27; Gunkel, 2018, pp. 87–99).[10] These features bring to mind the potentiality of human beings to act ethically, which grants them a special position among other entities, and reminds us that it is the dignity of human beings that enables them to act under the guidance of values. The distinctive features of human moral agency that generate advanced technologies include the following values: purposive action, free will, autonomy and responsibility, the evaluation of certain actions and situations, and the creation and protection of values. The question of whether moral agency might also be attributed to artificial entities that have been designed to have these features has been a focus of much discussion. This is the juncture at which equating RAIs with human beings and attributing moral agency to these artefacts naturally leads to debates on anthropomorphism. John Tasioulas calls attention to the need for caution when using 'terms like intelligence, decision, autonomy in relation to artificial intelligence' and he also references *Life 3.0* by Max Tegmark:

> …These terms must not obscure the fact that a vast chasm still separates RAIs and human beings. AI systems process information as a means of recognizing patterns and relations among symbols that enable certain problems to be solved. But they cannot (as yet) *understand* in any meaningful sense what these symbols stand for in the real world (Tegmark, 2017, Ch 3). Moreover, even if RAIs can be successful in achieving complex goals – like recognizing a face in a crowd or translating a document from one natural language into another – they lack anything like the human capacity to deliberate about what their ultimate goals ought to be. For some philosophers, this power of rational autonomy is the source of the special dignity

[10] There is also a distinction between the status of moral agents and moral patients. According to this, all moral agents are also moral patients but not the other way round (e.g., adults are moral agents while infants are moral patients). This distinction seems important because of the ongoing discussions about 'machine moral patiency' taking place within the context of robot ethics. See Gunkel (2018, pp. 87–99) for this debate and also for a discussion on the ownership of rights, especially for social robots.

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> that inheres in human beings and differentiates them from non-human animals. No RAIs known to us, or that are realistically foreseeable, are anywhere near exhibiting such rational autonomy (Tasioulas, 2019, p. 52).

There is much discussion on how the responsible party may be determined in the event of a harmful action being caused by RAIs. Such discussions have sparked debates on moral agency within the framework of advanced technology. The responsibility of the manufacturer, end user, insurer or technician tends to be on the agenda of the legal literature on the issue. As stated by Nick Belay, the proposed solutions can vary greatly in their approach (Belay, 2015, pp. 119–30). Taking the example of self-driving cars, a uniform code preparation has been suggested for all self-driving cars based on the principles of 'consistent behaviour' and 'limited liability' to ensure consistency when determining the identity of the responsible party. Otherwise, there might be different criteria for the algorithms operating in these cars, for example, the concept of 'adjustable ethics' may be applied, which primarily employs the personal ethics of each user to determine the content of algorithms for each self-driving car. It has also been suggested that confusion could be prevented when multiple algorithms are operating simultaneously by creating a regulation that takes for granted that all self-driving cars are going to place the 'interests of their passengers' above all else. According to this view, the idea of self-preservation is considered 'ethically neutral and socially acceptable' as well as being consistent with the principles of current tort law. In addition, a 'reasonableness standard' is regarded as a convenient tool for bringing limited liability into the equation in the event of adverse conditions. As Belay has also stated, there is a transition period for these new technological tools (see Belay, 2015, pp. 119–30),[11] so their extensive use might be facilitated by taking the responsibility of the transition risks associated with these technologies away from individuals and manufacturers. Nevertheless, moral agency debates should not only be treated in this narrow sense, as such discussions would be effective at all phases of studies on RAIs – from the preparation stage to the termination of all processes, if that proves to be necessary – and also on policymaking about the future of such tools. This could guide the precautionary strategies that attempt to foresee prospective problems. It would therefore be reductionist to only discuss the role of law within the context of liability law regulations regarding new technologies. Legal activities might play an active

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[11] For the details of all these arguments, see Belay (2015, pp. 119–30). However, it might be inconvenient to specify only one 'guide-principle' directed at legal argumentation – such as applying one common ethical principle when configuring software – because that would seem to be incompatible with the nature of ethical evaluation that uses a 'case by case method' to reach a just and fair solution for each certain problem.

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role in understanding and transforming society. When structuring a legal policy in the RAI field, incorporating a value-preserving ethical perspective into norm-setting and implementation processes should be necessary. There should be no need to focus solely and exclusively on prospective damages and consequences.

The broadening of the meaning of agency and the evaluation of different types of agency potentialities – with the same normative premises – have also led to discussions. In fact, there are differences among the various conceptualisations of agency. Entities with moral agency, for example, seem to have the ability, at least for the moment, to determine the usage of entities with artificial agency, via some of their potentialities. This could be addressed in relation to the fact that RAI technology should be seen as a means of adding value to life.[12] Consequently, it is inevitable that thought should be given to establishing some criteria for limiting the utilisation of relevant advanced technological means.

The potentiality of human beings to act in an ethical way through moral agency not only plays an active role during the process of specifying the aims of each research project in this area, but also affects thinking on potential limitations that may need to be imposed after the present and foreseeable consequences of the utilisation of RAIs have been taken into account. In what follows, we will investigate the need for such restrictions.

4. ON THE NECESSITY OF THE LIMITATION OF RAI TECHNOLOGY

The utilisation of advanced technologies in various fields is projecting human beings into the future and strengthening their capacity to act. Robots used in the field of healthcare that improve quality of life by strengthening human beings' capacities could be cited as an example of this process, although some negative effects on people using these technologies have also been reported.[13,14] Social robots, which are designed to develop interpersonal relationships, undoubtedly have their benefits, but are also considered to have negative psychological

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[12] In this regard, it is also possible to use the term 'object-like entities', in a way that has a different meaning from 'being a subject' when applied to these tools. For the usage of the term, see Martins (2017, p. 234).

[13] For further debates in different contexts, such as the danger of violation of personal autonomy, objectification of human beings as an undesirable outcome, the risk of subordinating the importance of communication with other people, isolating the user and making people dependent on these tools, see Zardiashvili and Fosch-Villaronga (2020, pp. 130–32).

[14] For risks and problems concerning the utilisation of robots in the fields of healthcare, rehabilitation and robotic surgery, see Bekey (2012, pp. 22–25).

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effects on users (see Scheutz, 2012, pp. 205–21). Furthermore, robots that provide time, input and personnel cost advantages are currently causing unemployment because they are reducing the need for a human workforce (see Bekey, 2012). Although the technical features of artificial intelligence, for example, its use of sophisticated software, seem to ensure some advantages – such as improved efficiency in data/case collection and analysis – its limitedness and disadvantages become apparent when it is used in the judicial area, as discussed above.[15] Threats that put data security and even democratic participation processes at risk as a result of misuse by governments or global companies might also be added to this list (see Tasioulas, 2019, p. 74). While its use in such domains is controversial, some scholars try to dispel fears about RAIs by asserting that artificial intelligence may help us make better moral decisions (Boddington, 2017, p. 5). Similarly, many people want to take advantage of the comfort that artificial intelligence may provide, while others feel uncomfortable in the face of new technologies (ibid.).

4.1 Criteria for General Limitations on RAI Technology

In this section, we will discuss how to determine what restrictions may be imposed on RAI technologies. Prespecified criteria for making such decisions are yet to be firmly established, so we will attempt to propound what we consider to be feasible – or not, as the case may be. First, we will examine general criteria for such restrictions. We define 'general criterion' in narrow terms as 'the main aim(s) of these activities'. Such a definition will also suffice as a reference point for striking a balance between limitations that are justified, because they counter possible threats caused by new technology, and extreme delimitative measures that would seem to be unwarranted in many cases. As stated above, RAIs have numerous advantages, but are also associated with risks that could negatively impact the good of humanity. A specific decision in this area that seems plausible at first sight may cause unintended consequences if it is actioned in the absence of any restrictions (this argument is known as the 'slippery slope' in ethical discussions; see Van der Burg, 1991, pp. 42–65). Clearly, such situations create ethical dilemmas. In the case of RAIs, considering the general and specific aims of human activities within this domain should make it easier to discuss what a conventional ethical boundary should entail.

First, the notion of the 'protection of the value(s) of a human being' may be used to structure the general aim of activities/limitations in the field of new technologies. It is important for society to prioritise aims that protect and encourage the potentialities of humans and other living beings, such as the

[15] For an analysis of the issue, see Sourdin (2018, pp. 1114–33).

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actualisation of basic rights in relation to certain activities. Adopting such an approach would ensure that such achievements of humanity as human rights,[16] freedom and justice would become characteristics of a 'utopian future'. The second determinant factor for the general aim mentioned above may be described as 'foregrounding ethical concerns' through all phases of research projects in RAI, from the beginning to the end. To put it more explicitly: to realise this general aim, it would be vital to act in accordance with certain virtues and basic universal principles that guarantee certain benefits to humanity and other living beings, and to follow a plan that adopts natural resources and human beings *as an end, never simply as a means*, in the Kantian sense, in all processes and consequences of studies on RAIs.

4.2 Specific Limitations: The Main Purposes of Each Activity

In addition to the above-mentioned general aim of new technological advancements, it is necessary to refer to the specific aims of a variety of tools in new technology whose development is difficult to keep track of day by day. For example, the purpose of a surgical operation robot would probably be different from the purpose of a robot employed in household chores. When we focus on the 'specific aims of these activities', we may notice, for each case, different reasons for their limitation. It is important to take into account these specific aims, not only to prevent partial or total failure to accomplish the activities in question, but also to design appropriate anti-monopolisation policies by considering the aims of these technologies from the perspective of the good of humanity.

4.3 Current Regulative Attempts to Create Ethical Guidance on RAI

Apart from being the main objective of RAI studies, the determination of general and specific aims for the setting of certain limitations has been called for by policymakers and lawyers in anticipation of potential future objections against such restrictions (see Buruk et al., 2020, pp. 387–99; see also Ekmekci & Arda, 2020). However, the debate on limitations on RAI is still incomplete. Another unanswered question concerns what functional criterion could provide relevant objectives for limitations as well as ethical guidance (see Tasioulas,

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[16] For an example of the theoretical and practical dimensions of these human rights accounts, see Kuçuradi (2013).

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2019, pp. 49–83; Zardiashvili & Fosch-Villaronga, 2020, pp. 121–43).[17] It may be difficult to present limited numbers of criteria due to the diversification and momentum of the advancements in the new technology field. Nevertheless, the experience we have gained so far as humanity would indicate that, at the very least, the following criteria for limitations may help us to set ethical, social and legal regulations in the RAI field:

1. Acting in accordance with the principles of predictability and caution (analysis of possible risks; considering present and foreseeable consequences; taking technical, ethical and legal issues into account when putting forward the advantages and disadvantages of various approaches);
2. Determining rights and responsibilities;
3. Pursuing a balance between importance and functionality in research studies;
4. Ensuring adherence to basic principles such as openness and transparency (in relation to scientific studies and subsequent legal processes);
5. Providing a politico-legal infrastructure and designing public policies on new technologies that stipulate a fair sharing (in accessing such useful resources and tools).

As mentioned above, the COMEST Report of UNESCO presents a kind of framework for this issue. It offers a technology-based ethical framework that lists the following as relevant ethical principles and values: the concept of human dignity, value of autonomy, value of privacy, the ‘do not harm’ principle, principle of responsibility, value of beneficence and value of justice (UNESCO, 2017). Another example of such an effort has been put forth by the Council of Europe in relation to artificial intelligence and law. In 2018, the European Commission for the Efficiency of Justice (CEPEJ) declared the European Ethical Charter on the Use of Artificial Intelligence in Judicial Systems and Their Environment, which emphasises five main principles for the use of artificial intelligence in judicial systems, notably: the principle of respect for fundamental rights; the principle of non-discrimination; the principle of quality and security; the principle of transparency, impartiality and fairness; and the principle of ‘under user control’ (European Commission, 2018).

[17] Tasioulas discusses the ethical dimension of RAIs within the framework of the following headings: ‘functionality, inherent significance, rights and responsibilities, side-effects and threats.’ Accordingly, it could be said that he is attempting to present these themes as a kind of criterion-setting tools for RAI studies (see Tasioulas, 2019, pp. 49–83). In another study, ‘human dignity’ is proposed as a measuring concept in the realm of RAIs that is usually guided by such factors as security, data security, ethics of technology (see Zardiashvili & Fosch-Villaronga, 2020, pp. 121–43).

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It should not be overlooked that such attempts to prepare an ethical code for specific professions have their own limitations. Consequently, such ethical guidance could play a limited role and only guide ethical evaluation on a case-by-case basis and to a limited extent (Kuçuradi, 2016).[18] Even so, these initiatives are remarkable because they make it possible to discuss the ethical dimension of a debate – especially in the field of law, where, for example, they could prove to be a valuable addition to compensation/liability debates.

As already presented in several examples above, concerns about the future of RAIs are on the current agenda of humanity as an inevitable result of probable uncontrolled, unplanned and value-free strategies in the field of science and technology. We wonder if it is possible to reverse such dystopian thought, thereby transforming it into a utopian model for our non-fictional world. After all, some scholars have attempted to invoke utopia's ability to construct a 'good society' for all of us. In the next and final section, we use Levitas's utopian model to exemplify how such a society could be built.

5. BUILDING A UTOPIAN SOCIETY IN A NON-FICTIONAL WORLD

Utopia and dystopia fictions depict either a bright future or a dark, avoidable future projection in terms of social structures. Is it conceivable for humanity to use this terminology in another way to build today's world? Levitas seems to respond to this question positively in her three-layer 'methodology of utopia' (Levitas, 2013, pp. 153–220) comprising 'utopia as archaeology, utopia as ontology and utopia as architecture', which she asserts will contribute to the development of social structures.

In Levitas's methodology, the archaeological dimension is presented as 'the images of the good society that are embedded in political programs and social and economic policies' (ibid., p. 153). This archaeological dimension of utopia could be linked to the aims of all studies related to the development of advanced technologies, and in particular those whose aim is to specify

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[18] İoanna Kuçuradi expresses this point as follows: 'The systems of written universal norms of morality are important for the deduction of law and increase the probability of protecting human dignity in public life on national and international levels in cases in which we don't afford sufficient knowledge on the individual cases in which we have to act. They don't, nevertheless, guarantee the protection of human dignity. Because norms are not sufficient for ethical decision and action, since every situation in which we have to act is unique and since we can act in accordance with a norm but nevertheless not ethically – as Kant also had pointed out with his distinction between acting "out of duty" and "in accordance with duty"' (Kuçuradi, 2016, p. 72).

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the purpose of settled criteria when certain legal restrictions are required in accordance with ethics.

The second dimension of utopia is addressed in an ontological framework and expressed as follows:

> …[utopia as ontology] addresses the question of what kind of *people* particular societies develop and encourage. What is understood as human flourishing, what capabilities are valued, encouraged and genuinely enabled, or blocked and suppressed, by specific existing or potential social arrangements: we are concerned here with the historical and social determination of human nature… (Levitas, 2013, p. 153).

As mentioned in the sections above, certain determinant attributes of human beings can be used to identify the structure and future of RAI studies. Following this reasoning, the manner in which the human being is conceptualised and the specification of the constituent components of human agency (such as responsibility, virtue, potentiality of protection of values, etc.) could be considered in relation to the ontological dimension of Levitas's vision of utopia.

Finally, this methodology presents the architectural dimension of its utopia by means of the idea of imagining 'potential alternative scenarios for the future, acknowledging the assumptions about and consequences for the people who might inhabit them' (Levitas, 2013, p. 153). This dimension could be related to another point made in this chapter, namely that there is a need to consider foreseeable results within the context of both the aims of RAI studies and characteristics of human beings when the development of advanced technologies creates the potential for a utopian society.

The reasons for imposing limitations and the suggested criteria for specifying them may also determine whether we are constructing a 'utopia' or a 'dystopia'. In this view, presenting an example of a hopeful new world alternative could be tantamount to 'acting on the basis of justified ethical reasoning for creating laws and resolving disputes' about advanced technology. From this point of view, actualising the moral agency of human beings, which is grounded ethically in valuable purposes, can be associated with Levitas's vision of utopia as a source of hope in society.

6. INSIGHTS

Humanity is on the threshold of a new type of relationship with RAIs that has never been experienced before. Naturally, the ethical dimensions of this relationship are of some concern, so due consideration should be given to their inclusion in the social arrangements for the common good, and especially in law. Seeing as law is potentially a transformative social tool rather than an instrument that is only designed for practical purposes, if we manage to

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develop a legal perspective on RAI advancements grounded in basic rights, value-based premises and criteria, we could benefit from such a transformative institution. Some time or other, we will either try to understand the language developed by RAIs among themselves or we will ignore it and ban them. As things stand, if we can harness the intellectual achievements being made by humanity today, the former way of thinking seems more virtuous.

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