



*Discourses of Law*

# **LAW, LABOUR AND THE HUMANITIES**

## **CONTEMPORARY EUROPEAN PERSPECTIVES**

Edited by  
Tiziano Toracca and Angela Condello

ROUTLEDGE



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# Law, Labour and the Humanities

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The ontology of work and the economics of value underpin the legal institution, with the existence of modern law predicated upon the subject as labourer.

In contemporary Europe, labour is more than a mere economic relationship. Indeed, labour occupies a central position in human existence: since the industrial revolution, it has been the principal criterion of reciprocal recognition and of universal mobilization. This multi-disciplinary volume analyses labour and its depictions in their interaction with the latest legal, socio-economic, political and artistic tendencies. Addressing such issues as deregulation, flexibility, de-industrialization, the pervasive enlargement of markets, digitization and virtual relationships, social polarisation and migratory fluxes, this volume engages with the existential role played by labour in our lives at the conjunction of law and the humanities.

This volume will be of interest to law students, legal philosophers, theoretical philosophers, political philosophers, social and political theorists, labour studies scholars, and literature and film scholars.

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# Law, Labour and the Humanities

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Contemporary European Perspectives

Edited by  
Tiziano Toracca and Angela Condello

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# Introduction: I work, therefore I am?

*Angela Condello and Tiziano Toracca*

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## **I Revisiting the Cartesian consequentiality**

The present volume revisits Descartes' principle according to which our existence depends on some action (in Descartes' case, on thinking). We wanted to stress the focal position occupied by work in the definition of the subjectivity of the contemporary individual. By questioning the supposed Cartesian rationalism of the title – i.e. the deep connection between labour and existence – this book aims at tracing new critical approaches to the complex relationship between existence, identity and social recognition, from a strongly transdisciplinary perspective, bridging legal and humanistic questions and codes. Is it true that we work and therefore we are? What are the different roles played by work, social recognition and income today? What kind of risks does the “ideology of work” entail with respect to new forms of consuming and production?

The many voices represented in this volume originate in and belong to different fields of knowledge and of academic research. Yet, there are keywords and themes that are consistent throughout the volume: precariousness, flexibility, polarization, alienation, fragmentation, freedom, recognition, possibilities and capabilities.

Many contributions refer to the classical and fundamental theories of work elaborated by philosophers, sociologists and political theorists (e.g. Anders, Arendt, Bauman, Gorz, Foucault, Marx, Hegel, Smith) in order to understand the present, and by doing this they rephrase many questions connected to the theme of work and its meaning in respect to social identity.

## **2 Work in Europe, today: a transdisciplinary perspective**

Born of contract, and paradigmatically from the labour contract, the existence of modern law and charters has always been predicated upon the subject as labourer. The ontology of work and the economics of value underpin the legal institution in forms so profound as to frequently escape notice. Work constitutes the social and institutes the person, and thus the changing character and aspects of work urgently need to be depicted (which is what philosophy, literature and cinema do in this volume), their laws adumbrated, in their diverse new spheres.

In contemporary Europe, the site of the present studies, work occupies a central position in human existence: since the first industrial revolution, it has been the principal criterion of reciprocal recognition and of universal mobilization. As it emerges from many of the chapters, in a multi-level governance system such as the European Union, through their profession people still continue to feel recognized by others: they are *because* of their work's activity. Indeed, work is more than a mere economic relationship: it is rather an anthropological phenomenon radically influencing human existence (the rhythm of biological daily life, language, spaces, trajectories, etc.) and the geography of the world (economic areas, landscape, environment, migration flows, etc.).

The volume analyses work in light of the transformation of the conditions of contemporary global and neoliberal economy, focussing on the European identity – specifically, on the latest legal, socio-economic and political trends such as deregulation, flexibility, deindustrialization, pervasive enlargement of markets, digitalization and virtual relationships, social polarization and migratory fluxes. It investigates the contradictions of the relationship between work and identity from both legal and humanistic perspectives, such as the fact that very often labour does not produce any social integration but, on the contrary, hides new and old forms of alienation. Literature and cinema with their capacity to depict the physical life of individuals show these contradictions and invite a reflection on the political unconscious connected to work. Moreover, the volume deals with the connection between the crisis of labour and the new forms of exploitation and slavery – this particular feature is connected to the concept of “mobilization” and to the disappearance of the distinction between the time for work and the time for personal life. Since the industrial revolution, the legal regulation of labour has been crucial because it is the symbolic epicentre of human identity and condition. The existential role played by labour in our lives – even when problematic – suggests, moreover, that the humanities could help in the understanding of *why and how* people need to work. As a matter of fact, the advent of the service economy and the competitive forces of globalization have blurred the distinctions between working time and free time, with increased labour demanded by market forces and household needs. The changes in the economic equilibrium have translated into recurring themes in the public discourse: flexibility, precariousness and work-life balance.

Furthermore, the biopolitical turn has translated human rights such as labour rights into the moral ground of modern law. Labour rights and labour policies in the frame of the European Union legitimize the penetration of the world by neoliberal capitalism. The globalization of markets together with the outsourcing, the subcontracting and the increasing function of applied new technologies demand to rethink the professional roles and their social function in the European frame and in a global economy. This volume aims to discuss these issues by starting from common problems and case studies (concerning either law or the humanities). Considering the high social and civil value of labour and considering the transformations produced by the contemporary capitalist economy, labour relations are discussed from a critical point of view.

The transformations of work and the strong impact of economy in the world of labour have thus led us to integrate different approaches – especially those of law and the humanities – in order to create a new and effective perspective of research on this topic. Such a transdisciplinary approach can expose the experience of new mechanisms of marginalization and new forms of subordination hidden behind the invisible curtain of legal machinery, and in particular can add something to the discourse on human dignity as it relates to social identity on the one side (law) and to physical life on the other side (literature and arts).

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Part I

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# Law and Philosophy

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# Migrants, Marx, Descartes, Fichte and Hegel

## On working and being

*Emiliano Acosta*

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### I. Being and working: from causality to substantiality

The identity between being and working, namely the fact that the propositions “I am” and “I work” can be conceived and experienced as two ways of saying the same thing, has nowadays become an obviousness. By obviousness I mean an incontestable truth that as such remains concealed in everyday life, although it is actively present in everything we do, since it constitutes the horizon for our self-understanding as human beings. We *are*, namely we *really* and *essentially* exist, or, in other words, we are recognized by ourselves and by the others as human beings, only if we work. We become, indeed, visible for the others only insofar as we produce and deliver an economic contribution to the system that guarantees the free exercise of our rights.

It seems to us very natural, for instance, that in dealing with the migration crisis of the last few years, we are allowed to distinguish between a good and a bad migration. Migrants, no matter their nationality and cultural, ethnical or religious background, who can be integrated into our economic system serve to illustrate what a good migration should be or even to support the claim about the success of a particular migration policy. The bad ones, we know, are the migrants who do not find a way to productively participate in this mechanism. They represent a problem, since they do not play fair. Indeed: they take without giving or paying back. So, integrating them would result in an imbalance that would put our system (we call it “Europe” or “our identity”) at risk.

This sounds surely a little bit right-wing, and indeed it is a claim we are used to hearing from European right-populist and conservative parties. But on the other side of the ideological spectrum things do not seem to be different. European socialism and other parties situated on the left (including left-populist parties) propose *mutatis mutandis* the same. Their proposal reads as follows: let us positively integrate them by means of giving them the needed tools and skills so that they can become a useful and valuable element in our economies (we say actually “our societies”).

All these voices sing the same tune: other policies that neglect the fundamental role of the economical variable for integration, are naïve, abstract or demagogic, or even a sign of cynicism. The message is clear: without introducing migrants in the productive apparatus of the European Union, integration

is not possible. So, in order to become, and being recognized as, a citizen – or, put in modern terms, a subject – you have to work.

Nevertheless, this last formulation does not accurately express what we are dealing with. Since the relation between work and being is not an issue of causality. The motto “I work, therefore I am (European)”, used as the title of the international conference at Brussels (November 2017) that gave birth to this book, seems to follow the form of hypothetical judgements such as “if you do X, then you become Y”. However, things are in fact more complex; and, paradoxically, the logical relation between being and working is simpler than we suppose. For we have to understand this relation in terms of substantiality rather than causality or even reciprocal effect. Hence, the above quoted motto should actually be formulated in a simple and categorical way such as: *working is being*. So, when we say *no work, no being*, we should not forget that the predicate of working is not a specification of being, such as, for instance, “lying” in the sentence “lying is sinning”. In “working is being”, “working” is not an example of being, but rather has become its substantial description. Being is thus nothing but working, it does not exceed the meaning of working. This is the reason why we could invert the proposition by saying: *being is working* and the meaning would not change at all. Accordingly, there is in the statements “working is being” and “being is working” a total identity between subject and predicate.

## **2. Being and working: from necessity to contingency**

As with every obviousness, the one concerning the identity between working and being appears in our everyday life firstly as an ahistorical and categorical truth. Its current ahistorical and categorical character reveals a necessity that as such refers eventually to a contingent origin. By that, I am not saying there is no necessity in the identity between working and being, but rather that this necessity has a history, namely that this necessity is a historical product that as such contains a moment of contingency in its very beginning.

No doubt, the obviousness of the identity between working and being that confronts us every day is no longer contingent *now*, but rather necessary. We used to experience this necessity as an impossibility: we are compelled to acknowledge that in our present there is no real alternative to that universal truth we ceaselessly affirm with our deeds and omissions, namely that the only really or authentically human way of existence in the world is labour. We know this: as soon as you no longer take part in the productive process, you become invisible, you do not exist as a human being anymore. Of course, you can now react to my last claim by crying out a big “NO” to the system and making out of this negation a life, your *own* life. However, you are then no longer a human, but rather an animal or a god – the two extremes of the inhuman, just as Hobbes rightly observes.<sup>1</sup>

1 Hobbes 1651, p. 93.

So, the necessity of the identification between work and being is firstly experienced as the impossibility of thinking of (humanly) being in other terms. I suggested that there is always contingency at the origins of necessity. Furthermore: that every ahistorical, perennial truth has a history. Certainly, we have forgotten that this identification has not always been present in the history of European or Western culture. And this oblivion indicates that there must have been an event in the history of thinking and comprehending ourselves as human beings and, more specifically, as citizens, that has succeeded in changing human self-understanding.

The establishment of the identity between work and being has been, no doubt, a revolution in thinking, namely a kind of turn in mentality that makes impossible *effectively* return to past forms of talking about and experiencing the human. By “effectively” I mean that the only way of returning to past forms of human dwelling in the world is by means of abstraction. I can now, for instance, reject the totalitarianism of the system (that big “NO” I mentioned before) and exclude myself from its determining power by means of beginning a kind of ascetic life parallel to social mechanisms. But this would be merely *my* truth, a particular one, and I would become a kind of abnormality, admired and tolerated because of being an exception, a living anachronism or even the incarnation of the kind of impossibilities we use to posit as the object of our hope.

When trying to identify that event in the history of thought that would explain this transformation of our self-understanding as human beings, we must not forget that such events do not always correspond with what we commonly call a fact. Events in the history of philosophy comprehend periods sometimes longer than a century and crystallise in very different forms, for example the coining of a word, the subversion of a meaning, a trial, a sentence, a book. Concerning the substantial relation between working and being, it is not too difficult to notice that this event is related to the cultural and economic transformations in Europe that took place in the transit from the middle ages to the modern world. The rise of modern capitalism has its philosophical correlate in the invention of that modern subjectivity that identifies being with action (for instance in Descartes’ *cogito*). Nevertheless, the obviousness of “being = working” exceeds the Cartesian moment. It is rather the result of a process of critical reflection on that productive subjectivity that culminated, two centuries later, in Marx’s reduction of the human being to a proletarian.

A complete account of the history of the identification between work and being goes beyond the limits and the scope of the present chapter. In what follows, I rather limit my examination to three moments of this event in modern philosophy that I consider relevant for understanding both this history and the metaphysical background for something we are living in and, maybe because of this, something that we don’t usually talk about. The three episodes of this history each has a name: Descartes, Fichte and Hegel. They all contributed to or made possible the well-known passage of Engels and Marx’s *Manifesto*, defining proletariat as “a class of labourers who live only so long as they find work, and who find work only so long as their labour increases capital”.<sup>2</sup>

2 Marx & Engels 2010, p. 18.

### 3. Descartes or the primacy of productive being above being-at-rest

The above-mentioned title of the international conference at Brussels “I work, therefore I am (European)” reminds us of the well-known sentence of the French philosopher and pioneer of modern philosophy Rene Descartes: “I think, therefore I am”. One could say that the association of the title of that conference with Descartes’ “*cogito, ergo sum*” is exclusively due to the form of both propositions. I think, however, that the connection goes beyond that anecdote, since Descartes is actually saying almost the same thing, namely that the subject, what he calls *res cogitans*, is nothing but thinking activity. Descartes affirms that, concerning subjectivity, reality or being (*res*) must be conceived exclusively as activity in terms of productivity of certainty. In short: “I produce certainty, therefore I am”. *Being is producing* is the Cartesian forerunner of *being is working*.

According to Descartes famous metaphysical writing on first philosophy, his *Meditationes de prima philosophia* (1654), there are fundamentally two modes of being or, actually, of being real or, better, of being a *real* thing (*res*): *res cogitans* and *res extensa*.<sup>3</sup> This division of reality into two classes, what we used to call Descartes’ ontological dualism, entails, of course, a considerable number of problems. For the purpose of this chapter, I would like to exclusively focus on the basic problem of Descartes’ terminology.

The use of the term *res* in his distinction between two ways of *being a real thing* gives us the impression that above both classes of being there is, or there must be, a general concept encompassing them, namely that there is, or must be, something such as a *res* without any specification at all. In other words: a *res* that can be either *cogitans* or *extensa*. However, one of the most interesting things of Descartes’ dichotomous division of reality is that the predicate or the specific difference of *res* in both main concepts subverts the meaning of the *genus proximum*. Indeed, the term *res* does not mean the same when applied to thinking and extension. Both specifications of beings make it impossible to talk about *being* in general. This impossibility of reducing both *res*-modes to a higher and all-encompassing one represents the core of Descartes’ ontological dualism.

Descartes’ dualism and the solipsism problem inherent to his ontology are precisely due to the fact that there is no common reality-ness between *res cogitans* and *res extensa*. The latter refers to a fixed reality, a being-at-rest that is necessarily the object of a subject that, on the contrary, is characterized by the impossibility of being an object, since it is the activity that produces objectivity. Consequently, “*cogito, ergo sum*” must not be understood as a syllogism nor as a concept, but rather as the immediate and self-evident certainty that makes objectivizing thinking possible.

Descartes’ conception of *res cogitans* emancipates thinking from the realm of objective reality, gives essential autonomy to the subject and, consequently, elevates it to the range of an absolute entity. Furthermore, the being of *res cogitans*

3 Descartes 1654, pp. 11–13.

cannot, unlike the being of what is not spontaneously active, be destroyed by Descartes' radical scepticism, his well-known methodological doubt. So, Descartes' *Meditationes* represents the invention of subjectivity as indestructible action.

Subjectivity as restless activity is, paradoxically, the outcome of Descartes' search for an "Archimedean point" that should be "firm and immobile".<sup>4</sup> Descartes' redefinition of being as acting or producing means that fixity or being as mere presence cannot longer guarantee that stability and security that the human being of modern times was looking for despairingly.

Descartes' subjectivity is, as already said, production essentially emancipated from the object, an activity without a *conditioning* object since it represents the foundation of objectivity in general. At this moment, we should not forget that the main activity of Descartes' *res cogitans* is not mere thinking, but thinking in terms of doubting. Indeed, his discovery of the indestructible character of *res cogitans* happens only when this activity is considered as doubting.<sup>5</sup> *Cogito* mainly conceived as *I doubt* has only a negative relation to its object. According to Descartes, everything can be the object of this destroying and producing subjectivity.

Nevertheless, there is a relevant difference in both specific activities of subjectivity. Whereas everything except the activity as doubting can be destroyed, production is an activity that can be found in the constitution of both Cartesian modes of being. Both *res extensa* and *res cogitans* must be produced in order to become a reality. Of course, both modes of being differ in the fact that in the production of *res cogitans* we find the same *res* on both sides of the relation, since in this case we are dealing with a self-reflective operation. However, in terms of visibility – what Descartes calls *being perceived as a clear and distinct idea*<sup>6</sup> – both modes of being do not differ from each other, since both have to participate in the productive process in order to be real, be it as *res cogitans* or *res extensa*. Production makes things visible, i.e. makes things real. And this statement includes subjectivity as well. Descartes says it clearly: I exist *as long as* I think.<sup>7</sup>

In Descartes' conception of *res cogitans* and *res extensa* we witness the first steps of the invention of the identity between being and work. Nevertheless, there is still no direct link to labour as such. This is certainly due to the fact that Descartes does not consider corporeality as inherent to subjectivity. He cannot establish a necessary connection between *res cogitans* and the human. According to Descartes, the humanity of the subject, its being a human being, is also an object with extension that as such can be destroyed by his methodological doubt.<sup>8</sup> In the next section, we will see that Fichte, unlike Descartes, departs from the idea of the human being as indissoluble unity of thinking activity and body.

4 Descartes 1654, p. 9.

5 Ibidem.

6 Descartes 1654, p. 21.

7 Descartes 1654, pp. 9–10.

8 Descartes 1654, p. 11.



#### 4. Fichte or the citizen as labourer

No doubt, if we search for an almost identical correlate for the Cartesian couple *res cogitans* and *res extensa* in Fichte's philosophy, we will find it formulated in the famous duo of I (*Ich*) and Not-I (*Nicht-Ich*).<sup>9</sup> However, if what we want to identify and analyse in Fichte's philosophy is his contribution to the construction of the necessity behind the identity between being and working, then we have to move from the realm of first philosophy, what Fichte calls his *doctrine of knowledge* (*Wissenschaftslehre*), to the realm of philosophy of law. Indeed: the relevance of Fichte in the history of that identity lies in the fact that he includes in the Cartesian idea of subjectivity – specifically defined as autonomous productivity – the corporeality of the subject and, consequently, the dimensions of law and intersubjectivity as essential moments in the constitution of the modern subject.

Unlike Descartes, Fichte does not consider the human character of the subject – its corporeality and its necessarily being involved in relations with other bodily subjectivities – as something secondary, but on the contrary as the very essence of real subjectivity. According to Fichte, it is the experience of material and moral resistances that individual self-consciousness originates. Hence, a subjectivity without a body is nothing but an unreal being, an *ens rationis* according to the Kantian table of nothing.<sup>10</sup>

According to Fichte, the human being is not the I of his *doctrine of knowledge*, but a rational and free individuality that due to its material corporeality is essentially determined and conditioned by rights and intersubjectivity.<sup>11</sup> Therefore, individual human existence is not merely a free being but rather a *social and political* free being. According to Fichte, without the social and the political dimensions, the rational individual cannot develop its essence or, in other words, manifest and exercise its freedom. And without reflecting on its own experience of concretised freedom, the human being cannot recognize itself nor be recognized as such. This is the argument behind Fichte's conviction that the human being is only a human being when he or she lives in the state – i.e. in the politically structured intersubjectivity.<sup>12</sup> Accordingly, the citizen represents in Fichte's philosophy of law the higher or completed form of subjectivity.

Fichte's conception of citizenship as a substantial predicate of the human being refers to his (at that moment) revolutionary insight that self-conscious activity depends on recognition and, therefore, on intersubjectivity.<sup>13</sup> So, the human being becomes a subject through the activity of other subjectivities: subjectivity is a product of intersubjectivity and not vice-versa.

There are mainly two forms of recognition in Fichte's philosophy of law as explained in his *Foundations of Natural Law according to the Principles of the*

9 Fichte 1802, p. 13.

10 Kant 1787, p. 348.

11 Fichte 1970, p. 392.

12 Fichte 1796, p. 129, see also Gaudio 2010.

13 Fichte 1796, p. 19.

*Doctrine of Science* (1796/97). The first one concerns a kind of intersubjectivity that is not as such or primarily regulated by the state and positive laws. Fichte calls it “education” (*Erziehung*)<sup>14</sup> and it basically consists of parental love and other similar intersubjective relations by means of which a human being is integrated in a not politically structured community. Under this recognition dynamics we are recognized as *mere* human beings. This recognition, however, represents a first stage in the constitution of subjectivity, since it does not determine individual subjectivity as citizen. This last determination is the outcome of the Fichtean second form of recognition, which is a political one and takes place in the realm of civil society, i.e. in the domain of intersubjectivity regulated by positive law and under the controlling and coercive power of the state. In this case, we are recognized by the state as citizens (subject of rights and therefore of duties as well).

The first mode of recognition is related to what we use to call the private sphere of modern societies. In this type of intersubjective relation, there is no third actor, recognition happens in the reciprocal activity of free beings without any kind of mediation. The second form of recognition is situated in the so-called public sphere and it consists of the relation between citizens mediated and facilitated by a third actor, which Fichte exclusively identifies with the state. For the purpose of the current investigation, we focus on the political recognition, since it is in this form of recognition where Fichte discovers the necessity behind the link between being and working in the constitution of free subjectivities.

When dealing with the origin of the state by means of a social contract, Fichte realises that without the presupposition of a conflict among the individuals who will be involved in this contract, we cannot find an argument for the necessity of the existence of that political institution. For it is the conflict of interests among free human beings that then leads to the idea that order and individual freedoms can only be guaranteed and protected by a third person: the state, understood as the political institution that, being the only political actor with coercive and controlling power, can force everyone to act according to the demands of the social contract and/or the laws regulating political and social inter-subjectivity.

As with other modern philosophers dealing with a theory of social contract, Fichte observes that this conflict of interests is based on a divergence about property. The state as the political actor that possesses the monopoly of violence reveals itself as the best instrument for arbitrating in social conflicts. Up to this moment, Fichte’s political thinking does not seem to have anything revolutionary or original. His originality appears only when we analyse his idea of property and its connection with freedom, work and political recognition.

According to Fichte’s concept of a rational state, namely of a state deduced from the idea that we are free beings, political authority and the legal structuring of civil society must be founded in a civil contract signed without compulsion. Otherwise, the state is not legitimately established, since it does not represent the will of the sovereign, i.e. the sum of the individual wills incarnated in a collective

14 Fichte 1796, p. 32.

subjectivity that Fichte calls the community (*Gemeine*) or the people (*Volk*). In this regard, the main tasks and competences of the rational state must provide for a solution to the fundamental conflicts and problems of the individuals involved in the social contract. Otherwise, they will not consent to enter into this political association.

These conflicts and problems are related to freedom, since, according to Fichte, individuals have to be mainly understood as free wills. So, the principal right that a social contract must include is the right for free exercise of individual freedom. According to Fichte, this fundamental right is not a declaration of the absolute freedom of man – since this is a metaphysical issue rather than an issue of philosophy of law – but a particular conception of the right of property that necessarily leads to the idea of the state duty of guaranteeing that all citizens can work. This guarantee, namely the recognition of citizens' right to work conceived as the state obligation of giving every citizen the means for self-subsistence, is according to Fichte “an axiom of all rational state constitutions”.<sup>15</sup>

Let us now analyse the link between freedom, property and work in Fichte's philosophy of law. Fichte considers that the freedom of the citizen depends on his or her subsistence. Subsistence depends on property. So, in order to be effectively free, you have to own *something*. Property, however, is, for Fichte, not a thing, but productive activity aiming at self-subsistence. Accordingly, you only own what you produce by means of your work. So, in Fichte's state you are not allowed to own things that are not reached by your work activity. Therefore, in order to guarantee citizens' exercise of freedom, the state has to guarantee each citizen the monopoly of the *use* of a part of the territory of the state so that he or she can work on it and consequently develop his or her own freedom, without being disturbed by other citizens. Fichte's displacement of the meaning of property from an object to an action of the subject establishes the necessary link between property, work and freedom. Since without the possibility of producing the means of subsistence, namely without property and work, there is no effective civil freedom.

The state duty to guarantee individual freedoms by means of guaranteeing everyone the right to live on what they produce or earn with their jobs, represents, however, only one side of the coin. That fundamental right of the citizens to an existence worthy of human dignity is accordingly not the other side of the mentioned state duty. Fichte opposes this state duty and this citizen right with a second duty and a second right: the state right to require everyone who wants to be recognized as a citizen to work and the citizen's duty to work in order to be recognized as such.

This relation between state duty and right and citizen duty and right exceeds the limits of a naïve political philosophy, since what is at stake here is actually the very concept of the humanity of the human being. This ontologization of politics should not surprise us, for it is a necessary consequence of both Fichte's idea of citizenship as a substantial predicate of the human and his premise that freedom

15 Fichte 1796, p. 30.

primarily reveals itself in, and depends on, working. Hence, what Fichte is actually saying is not merely that the state is not obliged to recognize you as a citizen if you do not work, but rather that if you do not work, the state *cannot* recognize you as a citizen, because without working – being productive – you cannot show the state that you are a free being. If you are not productive, you are nothing but a being-at-rest. You are certainly released from duties and rights, but at the same time you become politically invisible, which in Fichte's ontological conception of the political implies that you no longer exist as a free being, since political recognition constitutes accomplished subjectivity. As long as no state recognizes you as a citizen, you are a political and ontological nothing or, in the best case, a living petition for being integrated in humanity. Put in Fichtean obscure and controversial terms: you are a cosmopolitan, a kind of pariah that neither states nor laws can recognize as a citizen.<sup>16</sup>

Fichte's concept of political recognition translates the Cartesian identification between being and productivity constituting the very notion of subjectivity into a chain of economic, legal, moral and ontological implications that can be formulated as follows: no work, no property; no property, no freedom; no freedom, no existence as a member of the sovereign and consequently as a citizen, too; no citizenship, no existence as a real human being or as a free being recognized as such.

## 5. Hegel

The last stop of our inquiry into the history of the necessity behind the formula “being = working” is Hegel's *Phenomenology of the Spirit* (1807), more specifically the famous dialectics of master (*Herr*) and vassal (*Knecht*) in the section A of the fourth chapter of this work that corresponds with the figure of the spirit as self-consciousness.<sup>17</sup>

Just like Fichte and unlike Descartes, Hegel considers that intersubjectivity in terms of reciprocal recognition produces individual self-consciousness. True self-consciousness is recognized self-consciousness.<sup>18</sup> It represents as such for Hegel the moment of the opening of the human being to the world and to the others. It is, however, self-reflection, but unlike Descartes and following Fichte's discovery, it is self-reflection necessarily mediated, namely it is not obtained by means of destructive doubt of the external world in general. Nevertheless, Hegel, unlike Fichte, includes in the concept of intersubjectivity the elements of oppression, fear and impossible enjoyment.

According to Hegel, subjectivity is not recognized as such *exclusively* by means of labour. Certainly, Hegel ascribes to labour an emancipative power, but the discovery of this power in human work activity is according to Hegel not a beginning but rather a consequence of two negative experiences: the failing of the

16 Fichte 1797, pp. 267–268, see also Acosta 2018.

17 Hegel 1979, pp. 145–155.

18 Hegel 1979, p. 146.

individual in the attempt to remain absolute free and its capitulation against a stronger and more courageous contender: death, the absolute master.<sup>19</sup>

Etymologically, the term emancipation implies that the emancipated subject has been a slave (*mancipium*). If emancipation is what constitutes the truth of human self-consciousness, then every human being as such is a slave or, better, a vassal – a more adequate translation of the German *Knecht*. In Hegel's dialectics of master and vassal, there is a first description of recognition, in which both extremes of the relation of recognition, master and vassal, are represented by human beings.<sup>20</sup> But this is merely a provisory situation of recognition in Hegel's argument, the moment of inequality.<sup>21</sup> Since the real master is not the object of a particular, circumstantial fear, namely of that fear that obliges individuals to accept the oppression of *specific* political, cultural and economic powers. The real master is rather the object of the real and essential fear, the fear of death. This is the fear that makes equality among humans a reality. Hegel describes this fear as "the beginning of wisdom",<sup>22</sup> since it helps individuals to comprehend what finitude is about, to know themselves as mortals and to understand what makes them equals.

Death as the absolute master establishes the reign of real and effective equality as the basis for accomplished and not asymmetric recognition. This equality is founded in the recognition of human finitude and mortality. According to Hegel, it is not, however, the fact that we will die that makes us equals, but rather the fact that we have to work in order to exist as recognized rational and free beings. The fear of death is the coercive power behind the unavoidable human duty to work.

As mortals, we can never absolutely release ourselves from the chains of the objects nor enjoy in the same manner as the master, since his enjoyment is without any mediation of finitude at all.<sup>23</sup> Such an enjoyment when experienced by the mortal is not real but imaginary. Our existence consists of being inevitably attached to the objects. According to Hegel, this situation of dependence appears originally as the result of a compulsive acceptance of the oppressive power of a circumstantial master. However, at the end of the day we should understand that this coercion is self-imposed as an answer to our fundamental fear. The mortal works in order to subsist. So, whereas for Fichte the equivalence between citizen and labourer is eventually a free decision of the political community, for Hegel this equivalence has been decided by the absolute master.

Nevertheless, Hegel, like Fichte, proposes a positive interpretation of being as working. We are all certainly vassal, but because of this we have the possibility of emancipation. This emancipation does not correspond with absolute freedom, it is rather a kind of liberation within the limits of finitude; freedom in the world of objects. It is not emancipation from working, but emancipation from the passivity

19 Hegel 1979, p. 152.

20 Hegel 1979, p. 149.

21 Hegel 1979, p. 146.

22 Hegel 1979, p. 152.

23 Hegel 1979, p. 150.

in our dealing with the objects: emancipation by means of creative productivity. Unlike the master, unlike death, human beings can creatively handle objects and so, by means of labour, they can transform the earth into a world and fill the void of meaning – this strange feeling of not knowing whom we actually are working for – with culture products such as arts, religion and ideology.<sup>24</sup> This is the reason why the vassal and not the master represents a progress in the history of what Hegel calls spirit. This is the reason why he affirms that “the truth of autonomous consciousness is therefore the servant-consciousness”.<sup>25</sup>

## 6. Concluding remarks

In the three analysed moments of the event that I briefly formulate with the statement “being is working and working is being”, we can observe how the necessity of the identity between being and working grows in the philosophical understanding of the human between the 17th and the 19th centuries. The absolutely autonomous and free Cartesian productive activity that distinguished the *res cogitans* from *res extensa* develops into labour as a productive activity legally, culturally and materially conditioned. Just as the Cartesian doubt, labour distinguishes the human from the non-human. Just as the Cartesian doubt, work activity is not a specification of being in general, but the substantial predicate of the human being. As human beings, we cannot not work.

Defending, on the contrary, a nostalgic view of the human as something more than “a class of labourers who live only so long as they find work, and who find work only so long as their labour increases capital”<sup>26</sup> is certainly a personal choice that deserves respect and (why not) arouses admiration. However, such an attitude towards my own finitude should not be anything but my individual truth, a fantasy that shows its limitations when confronted to the universality and necessity of the truth expressed by the identity between working and being.

Unlike Aristotle’s economical distinction between, on the one hand, the ones who have to work in order to exist – artisans, physicians – and, on the other, the ones who need leisure for their subsistence – priests, scientists and philosophers<sup>27</sup> – we, (post-)modern subjects, *we all* have to work in order to exist. For us, there is no difference between physical and intellectual work. Not only migrants, but also European kings and queens as well as their families have to work. And because of this, even they, including the Pope, have the right to retirement. We usually do not think about such issues. We constantly forget that we live in a world where a Pope instead of being murdered or of merely resigning, can retire and become *emeritus*. This would have been a scandal in other times. But, nowadays, we all have become labourers.

24 Hegel 1979, pp. 153–154.

25 Hegel 1979, p. 151.

26 Marx & Engels 2010, p. 18.

27 Aristotle 1957, 981b.

## Bibliography

- Acosta, E. (2018) "Revisiting Kant and Fichte's Conceptions of Cosmopolitanism". *Revista de Estud(i)os sobre Fichte* [online], 16 (inv(i)erno). URL: <http://journals.openedition.org/ref/805>
- Aristotle (1957) *Metaphysica. Recognovit brevique anotatione critica instruxit W. Jaeger*. Oxford: Clarendon Press.
- Descartes, R. (1654) *Meditationes de prima philosophia*. Amstelodami: apud Ludovicum Elzevirium.
- Fichte, J. G. (1796) *Grundlage des Naturrechts nach Principien der Wissenschaftslehre*. Jena und Leipzig: bei Christian Gabler.
- Fichte, J. G. (1797) *Grundlage des Naturrechts nach Principien der Wissenschaftslehre. Zweiter Teil oder Angewandtes Naturrechts*. Jena und Leipzig: bei Christian Gabler.
- Fichte, J. G. (1802) *Grundlage der gesammten Wissenschaftslehre. Neue unveränderte Aufgabe*. Tübingen: Cotta.
- Fichte, J. G. (1970) *Briefwechsel 1793–1795. Hrg. v. R. Lauth und H. Jacob*. Stuttgart-Bad Cannstatt: Frommann-Holzboog Verlag.
- Gaudio, M. (2010) "El estado natural del hombre es el Estado". *Revista de Estud(i)os sobre Fichte* [online], 1 (verano/verão). URL: <http://journals.openedition.org/ref/324>
- Hegel, G.W.F. (1979) *Phänomenologie des Geistes* in: *Werke in 20 Bänden*. Frankfurt am Main: Suhrkamp, vol. 3.
- Hobbes, Th. (1651) *Leviathan*. London, printed for A. Crooke at the Green Dragon in St. Pauls Church-yard.
- Kant, I. (1787) *Kritik der reinen Vernunft. Zweyten hin und wieder verbesserten Auflage*. Toga: Hartknoch.
- Marx, K. & Engels, Fr. (2010) *Manifesto of the Communist Party*. [online] Transl. by S. Moore in cooperation with Fr. Engels, and corrected by A. Blunden. Marxists Internet Archive. URL: <https://www.marxists.org/archive/marx/works/download/pdf/Manifesto.pdf>

# Work, pensions and transgenerational justice

*Tiziana Andina*

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### **I. Labor market 4.0**

We have been promised happiness, freedom and emancipation: things that humans, at least in theory, aspire to. Freedom from invasive physical constraints (which would also create emancipation) and freedom from many manual arduous jobs that would be replaced by machines and artificial intelligence. Technological development would facilitate mobility and speed, freeing us from having to perform the most strenuous and exhausting tasks. Lastly, artificial intelligence would work hand in hand with natural intelligence, and humans would think more and work less. The overall vision or, in any case, the positive narrative of this project, sees technological development as a fundamental tool to achieve the net improvement of people's quality of life. And yet, as history shows, things didn't quite go as expected.

The promise of happiness offered by technological development, for instance, was kept only to a small extent because, as often happens, things have taken an unexpected turn. Consider wealth, for example: if it is true that new wealth has been produced, it is equally true that its redistribution has been minimal and certainly not sufficient. Moreover, in a world that is largely globalized and extremely sophisticated in terms of technology, complexity ends up being the element that characterizes the social structure and dynamic in decisive ways. Culture and education are probably the only really useful tools to effectively navigate in contexts of this kind. Now, it's not a bad thing if human beings must invest in their culture in order to really be able to dominate the complexity that surrounds them. Likewise, it's not a bad thing if the less sophisticated jobs are gradually outsourced to machines in societies 4.0. After all, machines do not get tired, they are subject to less "wear and tear" than human beings, they do not protest for low wages, they generally do not get sick and are rarely replaced. In other words, they are highly performing and economically advantageous objects: they do not get tired, they can work non-stop, they are not subject to irritability or mood swings and they die differently from human beings.

In this situation two things have progressively emerged: firstly, that human beings often resist their improvement due to their natural disposition or because