The Non-sceptical Oakeshott on the Ideal Regime

ATTILA K. MOLNAR

Ludovika University of Public Service/Szazadveg Foundation

Oakeshott is often portrayed simply as a sceptic, and he was indeed sceptical who take hubristic pride in the power of rationality and of the salvific conception of politics. What was called by him rationalism, was called by Edmund Burke radicalism and metaphysical madness.[1] On the other hand, however, he was quite sincere in his own project to understand human conduct and government, and he was not sceptical about the evaluation of human characters, ways of life, and forms of association.

The evaluative character of his scepticism and pluralism resembles that of Montaigne, who in spite of his scepticism rejected relativism or nihilism, and who appreciated his own way of life and the existing political arrangements. Besides the openly evaluative elements in Oakeshott's thinking, his scepticism was also qualified by the epistemologically and politically important notions of tradition and authority, the two Holy Grails of conservatives.

Oakeshott created several dichotomies assist his understanding of human conduct and associations, like many of his predecessors. Although the meanings of these antonyms and their theoretical positions may be ambiguous or debated, Oakeshott was consistent in valuing one pole of these oppositions. His magisterial late work *On Human Conduct* (OHC) is somewhat evaluative in describing two different kinds of association, which he calls civil association and enterprise association, and the connected categories like *societas*, nomocracy, the politics of scepticism and *universitas*, teleocracy, the politics of faith respectively (Mosley 2010; O'Sullivan 2012). Oakeshott was not sceptical about the value of civil association and the habit connected to it.

Oakeshott referred in various places to the futility of attempts to create an earthly paradise. He argued that "the outcome of trying to make the state a paradise has always been to turn it into a hell" (OHC 319). Later, he named this hell the *Tower of Babel* (Oakeshott 1999). While he appreciated one type of association, the rule of law, he openly criticized the other type, called teleocracy[2] or the managerial state. Obviously he was critical of contemporary enterprise associations like totalitarian states, but he traced them from the same root as the contemporary welfare state and liberal democracy, when he referred to it using such terms as "managed society", "economic democracy", "central planning", "distributive justice", "participation", "equality", "liberalism", "democracy", etc.

Although Oakeshott used a republican vocabulary—e.g. *res publica, cives* –, his idealized civil association was far from republican in nature, because he assigned the key notion of republican thinking, the public good, to enterprise association.

In his answer (Oakeshott 1976, p. 356.)[3] to Sheldon Wolin's criticism (Wolin 1976) he indignantly refuted the charge that his notion of civil association was a form of heavenly city, ideal society or anything of the kind. Indeed, St. Augustine *civitas Dei* is quite different from Oakeshott's civil association (Corey 2006, p. 33.). Still, in spite of the clear differences, Oakeshott's notion of civil association and the personality combined with it involve evaluative aspects. While he openly rejected the hope for *Cuciana (Cockaigne,*

Schlaraffenland, Luikkerland) a dream of consumers, the relationship he describes and the people living in civil society—the *cives*—takes after Arcadia, and is based upon virtues like noble pride and modesty, resembling Tolkien's Hobbiton—a world of piety. He described this mentality by Iustinian's sentence: *honeste vivere, alterum non laedere, suum cuique tribuere* (OHC 176). This modesty and righteousness—pointing to Aquinas' and Plato's phrase: *suum cuique*—does not refer to *Cuciana* in Oakeshott's understanding, still it is rather idealized or utopian habit. In general, it is a world where "the energy of pursuit is prudentially mixed with *nonchaloir* in respect of the outcome" (OHC 71) and where "what the agent chooses to think is related to his understanding and respect for himself, to the integrity of his character" (OHC 73).

1. INTELLECTUAL ROOTS, OR HINTS?

OHC contains the fundamental themes which had been with Oakeshott nearly as long as he could remember (OHC vii). Roughly speaking, these fundamental themes are individuality and the rule of law, which is allegedly the best environment for individuality to thrive. The civil association seems to be an ideal condition for individuals: "the *civitas peregrina*: an association, not of pilgrims travelling to a common destination, but of adventurers each responding as best he can to the ordeal of consciousness in a world composed of others of his kind, each the inheritor of the imaginative achievements (moral and intellectual) of those who have gone before and joined in a variety of prudential practices, but here partners in a practice of civility" (OHC 243).

Even if individuum is a rather late phenomenon, the rule of law does not seem to be a really new idea. Plato declared that the rule of law is the second best political regime, and Aristotle divided the innumerable types of regime into two basic categories: those based on the rule of law and corrupt regimes characterized by arbitrariness.

Oakeshott's distinction between constitutional shape (the government of one, few or the many) and governing purpose is drawn from Aristotle. The rule of law which Aristotle and Oakeshott referred to also meant a non-instrumental understanding of the political community: the polis or state is not seen as an instrument to achieve any particular substantial aim, apart from ensuring peace and individual and collective freedom.

Just like in Aristotle's model, Oakeshott's main point is that the rule of law, or as it called in the *On Human Conduct*, the civil association, is the best way to guarantee individual liberty and a certain type of civilisation. This civilisation was the Greek culture, for Aristotle, while for Oakeshott it was the Western-Christian culture. This culture, which was connected to a basically free individuality, emerged here. This individual sometimes seems natural, and sometimes is the result of historical development in the West in Oakeshott's works, I will return to the problem of Oakeshott's anthropology later, in the last section of this paper.

One may wonder whether the evaluative tone of Oakeshott's description of civil associations entails a normative foundation of this political association. Even if the civil association is formal and quite different from the pattern of *universitas fidelium*, that is, the church, Oakeshott still seems not to be a Hobbesian legalist, because of the emphasis on *Sittlichkeit* and *Lebenswelt*. That is, a civil association cannot exist without a specific civilization providing the numberless tacit mental habits called morality by Oakeshott. The moral "foundation" of civil association is moral conduct, which seems to be sometimes historical, sometimes ahistorical in his thinking (Oakeshott 1976, p. 365). Although moral conduct is universal, it became especially characteristic in certain places and historical periods in which the rule of law emerged. The two are mutually dependent:

> Generally speaking, then, human conduct discloses two categorially distinct modes of relationship: relationship in doing (transactional or co-operative) for the satisfaction of substantive wants, and relationship in terms of obligation to subscribe to moral conditions in doing… no action,

> want, purpose, or substantive interest can itself be right or wrong, or can be right or wrong in respect of the number of agents who take it to be their common purpose, in respect of their devotion to it, or in respect of the substantive benefits they, or anyone else, derive from pursuing it; it is right or wrong in respect of its subscription to independent moral considerations (Ibid., p. 366).

A moral practice is not a prudential art concerned with the success of the enterprises of agent, it is not instrumental to the achievement of imagined or wished-for satisfaction (OHC 60). According to Oakeshott, moral practice does not attend to effectiveness or success. The distinction between moral and instrumental practice sometimes appears as a distinction between two types of action, but more often as two aspects of action, like Cicero's pairing of *honestum* and *utile* (Cicero 2016). And just as Cicero does not accept the relegation of the moral aspect (*honestum*) in situations of emergency or exception, so too does Oakeshott reject it. These two types—or aspects—of action provides the foundation for two types of political association. In his theory of conduct, Oakeshott adopted Cicero's opposition between *utile* and *honestum*, together with the horizon of meanings associated with *decorum*, the appropriate. More generally, he aligned himself with Cicero, as have many Anglo-Saxon conservatives since Burke. Although Oakeshott employed a republican vocabulary—for example, *res publica* and *cives*—his idealized civil association was not unambiguously republican in character, since he assigned the central concept of republican thought, the common good, to enterprise association.

In spite of their similarities, one can easily identify the difference between Aristotle's and Oakeshott's categories. The teleocracy/enterprise association is not arbitrariness, and is not without law. For Oakeshott, the main difference between the two columns of antonyms is not the rule of law as such. For him, what matters far more is whether law is understood instrumentally or in a "moral" sense: whether political association and its laws are conceived as instruments for the pursuit of substantive ends, or are observed for their own sake, independently of their substantive utility. What is far more important for him are whether the law is understood in an instrumental or "moral" sense. The rule of law is a non-instrumental relationship, the law in general is non-instrumental relationship (Oakeshott 1999, p. 137).

A tempting parallel antonym would be St. Augustine's opposition between *civitas Dei* and *civitas terrena*. No doubt, some similarities are evident. For example, these categories refer not only to regimes but also to personal character types, and the *civitas Dei* is obviously idealized, while the *civitas terrena* is rejected by St. Augustine. It is important to recognise, however, that the character of St. Augustine's *civitas Dei* is quite different from Oakeshott's civil association. It seems to me rather odd to connect the civil association to the *Leviathan* while at the same time comparing it to the *civitas Dei*. The former is an unpleasant yet necessary consequence of o man's imperfect nature, while the latter is a state of grace, i.e. liberation from the consequences of original sin. If anything, *civitas terrena* is closer to the view of civil association involving the law, a judicial system, enforcement and worldly magistrates in general. Because of the presence of the effects of original sin, in the *civitas terrena* the rule is based on pure enforcement. The people are assumed to be rebellious, which is just the opposite of the *cives* of civil association described by Oakeshott. According to him, *cives* act morally and dutifully by taking the laws and rules into considerations.

While Oakeshott seldom mentioned Marsilius of Padua, the meaning of the key categories of the OHC—civil association and enterprise association—echoes Marsilius's book, *Defensor Pacis*.

Marsilius wrote in the aftermath of the Investiture controversy, criticising the Pope's jurisdictional claim—based on his knowledge of the true and good. Knowledge of the truth, moreover, is more important than anything else, since it is necessary for salvation. Secular authority, like a church, should serves a substantive end: salvation. A physician and Aristotelian, Marsiglio argued—without any overt scepticism—on behalf of the worldly magistrates (the Emperor) by referring to peace as the utmost value in worldly life (Marsiglio of Padua 1956). In this context, peace did not mean a kind of Platonist or Christian peace of soul, but simply referred to ending wars, which needed a final judge to settle the emerging conflicts between people. Marsilius argued that it was not the promotion of salvation which constituted the main task of worldly magistrates, but keeping the peace. This meant that searching for salvation could be a pri-

vate project, and that the magistrate did not necessarily know the truth, and was unable to help people to attain salvation, but this was not necessary for keeping the peace. This argument was continued by Hobbes' *Leviathan*, in which the truth claim of the Puritans' conscience replaced the truth claim of the Papal seat.

It is worth noting that the contrasts Oakeshott draws are not parallel with those of Hobbes. Oakeshott described two different kinds of government, while Hobbes described the only viable version of the "civil state", the Leviathan, in opposition to civil war, the Behemoth. Hobbes never described an unpleasant type of regime. On the choice between monarchy, aristocracy and democracy, he argued that: "of the three sorts, which is the best is not to be disputed where any one of them is already established; but the present ought always to be preferred, maintained, and accounted best, because it is against both the law of nature and the divine positive law to do anything tending to the subversion thereof" (*Leviathan*). For Hobbes, there was only one version of civil peace and government.

While in the 16th and 17th centuries several regimes of protestant princes emerged, the most successful regimes of the 17th-18th centuries were the absolute monarchies following Marsilius's, Bodin's and Hobbes' arguments for the worldly magistrate. Later, political modernity—through enlightened absolutists, revolutionaries, reformists, progressives, etc.—made substantive—moral, philosophical, social, economic—projects the main task of government. Oakeshott's criticism of enterprise association is a thinly veiled criticism of modern politics.

In general, it may be concluded that humans tend to bifurcate, to understand the world in terms of opposites. Accordingly, Oakeshott's commentators cannot resist the temptation of connecting his antonyms to those of his noble predecessors. Searching for the intellectual ancestors of the notion of civil association, it may be argued that the meanings of Oakeshott's categories are, in fact, rather *sui generis* (Smith 1996).

In Oakeshott's concept of civil association, the *cives* are referred to "solely in terms of their common recognition of the rules which constitute a practice of civility" (OHC 128). The civil association is a moral relationship due to its formal and non-substantive character, and the rules or laws are taken into consideration because of their authority, and not because of their hoped-for substantive results. The civil association is a "unity-in-authority" (Bhuta 2015, p. 21). Civil association contains not only morality but ruling and authority and compulsion, too (OHC 142; 1999, p. 160).

The notion of authority in general does not fulfil the moral-political requirements of modernist political thinking, that is, it is not founded on reasoning or particular arguments, i.e. consent. However, this does not make this order more vulnerable than a reasoned one. On the contrary, it is the modernists' requirement for reasoned justification makes their order fragile. The laws have authority because they are laws. That is all. As Montaigne described the rule of law, the law is not obeyed out of a desire to achieve some substantive outcome. This, according to Oakeshott, is moral action: "Now laws remain respected not because they are just but because they are laws. That is the mystical basis of their authority. They have no other" (Montaigne 1991, p. 1216).

Authority has a pre-theoretical legitimacy, as with Weber's *Herrschaft*. Civil association is based on moral conduct; it is a moral relationship, even if its aim is not to fulfil overt moral requirements.

2. THE METHODOLOGICAL STATUS OF CIVIL AND ENTERPRISE ASSOCIATION

If "all knowledge is elusive, never complete, always imperfect" as Oakeshott wrote, how should we interpret Oakeshott's typification of associations? In general, Oakeshott seems to open consciously a wide range for the interpretation of his thought, writing that "a philosophical essay leaves much to the reader, often saying too little for fear of saying too much" (OHC vii).

There are many different interpretations of the methodological meaning of the civil and the enterprise association. This uncertainty arises mainly because Oakeshott's view on it changed and was ambiguous. He politely acknowledged criticism directed at his ambiguities, writing somewhat regretfully that: "when

I look back upon the path my footprints make in the snow I wish that it might have been less rambling" (OHC viii).

Consistency or inconsistency poses a problem for anyone who wrote more than one work during his life. Moreover, it seems to me that Oakeshott's view on the methodological status of his antonyms changed over time, or at least that Oakeshott was rather ambiguous about it. The task of understanding can be rendered more difficult if the author used metaphors, especially the favourite metaphor of philosophers, that of the cave. The introductory part of the first chapter of the OHC is built on Plato's cave metaphor, although there are numerous diversions from Plato in the text. In Plato's case the philosopher—becoming irrelevant for the cave dwellers—speaks about the reality of ideas, but Oakeshott addresses the myth or shadow of the cave-dwellers, discussing their presuppositions of government, called "conditional understanding" (OHC 9; Frohnen 1990). He declared that his aim is not to dismiss but to understand the "shadows" or myths of the cave-dwellers, rather than seeking ideas about the sunshine. Obviously, Oakeshott was sceptical about Plato's understanding of the philosopher's task, while Plato was not concerned with understanding the shadows in the cave.

However, Oakeshott was not really interested in the hermeneutic tradition; for him, understanding, in accordance with his nominalist interpretation of associations, meant the investigation of the tacit presuppositions and unreflected mental habits of individual actors in understanding human conduct. By understanding, he did not mean the search for "meaning."

Our methodological dilemma concerns whether the model of civil and enterprise associations and the other antonyms is supposed to be real—as far as any institution, like government, can be "real" in the nominalist imaginary used by Oakeshott—or is it a working fiction, a myth or a hermeneutical device like an ideal type?

In some places, for example, in his *Lectures in the History of Political Thought* (2004a, p. 471) he wrote about this antonym as different kinds of *either-or* thoughts or beliefs about government. In so far as people understand the world in categories, their beliefs are real because the effect of these beliefs is real. This is even true if these beliefs are shadows on the wall or myths. Hence, any working fiction can be regarded as a part of reality. It may fit the nominalist and sceptical worldview to understand all the elements of historical reality—the state, warfare, enlightened absolutism, nation state, welfare state, communism, etc.—as simply the history of shadows, that is, of beliefs, presuppositions and biases.

However, even if this were so, can the people make a choice between these two sets of beliefs concerning the proper role of government (Corey 2006, p. 177) or, for historical and prudential reasons—like emergency situations, wars, etc.—is it wiser to search for a balance or a middle way between the opposites? But in Oakeshott's case there is no sign that he would have regarded balancing or finding a middle way between the two extremes as desirable, following Lord Halifax.

Or are these two types of association hermeneutical devices? Thus, when attempting to understanding the human condition, one is always between the two poles. The government, it can be argued, is always in between two opposites, sometimes closer to the pole of civil associations and sometimes to that of the enterprise association as it responds to the various challenges it faces, while the civil association itself can be found in its pure forms but rarely, solely under peaceful and stabile conditions. It is "preeminently suitable for a complex but relatively static condition of society" (Oakeshott 1996, p. 107). In any other condition, when it faces challenges from within or without, the form of government may shift towards that of the enterprise association. In general, one cannot find the ideal of Oakeshott as a "trimmer",[4] but in practice this activity is somehow presupposed by him. Although civil and enterprise associations seem to be ahistorical types, mainly in the *On Human Conduct*, in history one may find shifting balances between them, the last one of which, the teleocracy has become dominant mainly in modern times (Oakeshott 2004a, p. 473).

It seems that if there are challenges which make effectiveness all important—evidently, in case of wars, etc.—and morality, or indeed individual freedom, less important, and, in such situations, the association becomes more of a teleocracy/enterprise association. Oakeshott was not, however, interested in such

emergency situations, when the proper conduct is not modesty and the appropriacy of the rule of law is questioned even by its advocates (see Aquinas).

On several occasions, however, these antonyms seem to be simple hermeneutical instruments, or ideal types. Indeed, Oakeshott called them "ideal characters" in *On Human Conduct* (OHC 4, 108-9, 175, 180.). The utility of the ideal type as a hermeneutical device is evident if one recalls Weber's ideal type of the "rational bureaucracy" or the "Protestant ethic". These are hermeneutic devices, rather than "representations of the real", created by Weber to understand historical phenomena. Beside their hermeneutic role, these are also evaluative in nature. Weberian ideal types are abstractions, not real types, like geometrical forms (the pattern for ideas for Plato). As Oakeshott wrote: It is "ideal not in the sense of being a wished for perfect condition of things but in being abstracted from the contingencies and ambiguities of actual goings-on in the world" (OHC p. 109). Reality can be understood with the help of ideal types: comparing reality to ideal types, both similarities and differences may help us in understanding it. An example of such thinking can be found in our perception of the tyre: it is not actually circle, and the perfect circle cannot be found anywhere in reality, but the ideal type of the circle can help us in understanding a tyre: its deviation from the shape of a circle may help focus our attention on its production process as well as on its use by a particular car and its driver, while its similarity to a circle may help us in understanding why tyres are used for vehicles.

The interpretation of Oakeshott's antonyms, especially the civil and enterprise associations as ideal types, might be intellectually convenient and satisfying, and such a reading would make these categories waterproof against any empirical criticism, just like Weber's ideal types are. However, Oakeshott was not a "user friendly" thinker. The first critics of the *On Human Conduct*, Sheldon Wolin (1976) and Hanna Pitkin (1976), and many commentators since interpreted Oakeshott's civil and enterprise associations as ideal types, but Oakeshott himself refuted them in rather mocking terms. Indeed, he stated categorically that "It is no more an ideal type than the kitchen sink" (Oakeshott 1976, p. 356). He refuted the idea that he was concerned only with "ideal types" of association which were "totally remote from anything that has ever existed, thought to exist, or thought to be desirable" (Ibid., p. 360). His reaction suggests that he understood the "ideal type" as something idealized. Even if there are numerous hints in Oakeshott's works about the desirability of the nomocracy/civil association and other connected categories, Oakeshott rejected the explicit evaluation of these categories.

It is likely that he did not know the hermeneutical meaning of the ideal type, while Wolin used the category of ideal type in this sense. Therefore, in spite of Oakeshott's rejection of Wolin's interpretation of Oakeshott's categories, I suggest that this interpretation is perhaps the most meaningful, if one use the ideal type in the sense of a hermeneutical device.

3. HUMAN NATURE AND HISTORICISM

Ever since Plato's time, political reflections have combined the character of a regime and its anthropology. Thus, the ideal state has its ideal man, democracy has a democratic man, or Cicero's *res publica* consists of *cives* while St. Augustine's two cities are populated by their particular citizens, and so on. It has been a common presupposition in Western culture that there is strong mutual interconnection between the character of the citizens of a place or regime and their political order, which is why the conflicts about the people's education have been so passionate.

Those authors who were important for Oakeshott, such as St. Augustine and Hobbes, employed a well-known and emphatic anthropology, explaining the source of conflicts and suggesting the worldly magistrate as the possible solution for these conflicts.

In the thinking of St. Augustine and Hobbes, the source of conflicts, which made some form of authority necessary is clear and well defined, i.e. original sin or its consequences (like pride or ROMA—*radix malorum omnium avaritia*), Aristotle in contrast identified a rather long list of sources of conflicts, including vanity, desire for profit, the arrogance of office holders, mistrust, elections, the eminence of

someone or of a group, concern about injustice or punishment, the shift of the balance of power in the politeia, the enemies of the politeia, ethnic differences and biases. While it was obvious for Oakeshott that there are innumerable conflicts, it seems to me that he was not especially interested in the sources of "the confusion and anarchical tendencies of current thought and conduct". What is more, he declared openly that he did not believe in the existence of human nature.[5] Instead, people's conduct can be interpreted in terms of their *ideas*, because they answer to challenges which they understand in a certain way in situations similarly understood.

At first glance, Oakeshott *seems to be a historicist,* that is, he is interested in the history of myths or shadows. He believed that man "has a 'history', but not 'nature" (OHC 41). Ideas are learnt (OHC 37, 41) "agents as historic persons composed of acquire beliefs, understandings, sentiments, imaginings, aptitudes, arts, skills" (OHC 59). In spite of such historicist hints, what is more or less inescapable if one is interested in the history of ideas in the wider sense, Oakeshott's reaction to modernity had a premodern origin. He used premodern notions when reflecting upon modernity. For example, the modern myth—contrasting or reconciling welfarism and consumerism—also has a premodern origin. (See Cocaigne, a land flowing with milk and honey, or Exodus 3:8). As noted above, the dichotomies Oakeshott sets up, are connected to premodern authors and Oakeshott frequently understood them ahistorically. He notes that:

> a disposition to cultivate the 'freedom' inherent in agency, to enjoy individuality, and added to this the disposition readily to concede virtue to this exercise of personal autonomy acquired in self-understanding. And we are concerned with them because this is an historic disposition notable not only in the moeurs of modern Europe but also reflected in the character attributed to states and the offices attributed to governments (OHC 239).

Despite Oakeshott's historicist pronouncements, his thought tacitly ascribed a timeless meaning and value to a range of premodern authors; likewise, he treated the paired categories that facilitate the understanding of action and political association as universal and ahistorical.

However, at the beginning of the OHC, where he openly refuted the notion of "human nature" (OHC 41), he nevertheless conducts an analysis of human conduct, as Hannah Arendt did with scholastic casuistry. I would suggest that here, as elsewhere, one can find an implicitly presupposed human nature in Oakeshott. He can thus be said to have had an implicitly non-historicist anthropology.

In our intellectual tradition the problem of coming to an understanding of action has a long past in both moral and legal practice, just as it has in Greek philosophical and Jewish religious thinking. Focusing on the motivational aspects of action, different authors emphasized different aspects. St. Agustine, Hobbes, the Scottish moral philosophers and others emphasized *human nature* while the Scholastic tracts on religion and politics—mainly after the battles of Reformation, and increasingly after the Enlightenment—and casuistry added the importance of *ideas*, while several authors in the 20th century—such as the French Annales school, Michael Polányi, etc.—emphasized *implicit knowledge* or *mental habit*. For Oakeshott, understanding meant reflection on non-conscious presupposition, that is, drawing upon implicit or practical knowledge. As we know well, he criticized the thinking of his age because of its rationalist overemphasis on ideas at the expense of practical knowledge. In the everyday Lebenswelt, however, the differences between them are not clear-cut.

Oakeshott's anthropology is idealist in the sense that human beings understand themselves, their world and its challenges in terms of ideas and tacit presupposition. To the extent that ideas and tacit presuppositions change over the course of history, Oakeshott can be called a historicist. On the other, he had an implicit anthropology which distinguished his thought from true historicism. With regard to the contrasts Oakeshott drew, one can find this ambiguity or oscillation between historicism and ahistoricism.

One should be somewhat wary when considering human nature in Oakeshott's thinking. First of all, he used Schopenhauer's famous metaphor of the colony of porcupines in his essay "Talking Politics":

> There was once, so Schopenhauer tells us, a colony of porcupines. They were wont to huddle together on a cold winter's day and, thus wrapped in communal warmth, escape being frozen. But plagued with the pricks of each other's quills, they drew apart. And every time the desire for warmth brought them together again, the same calamity overtook them. Thus, they remained, distracted between two misfortunes, able neither to tolerate nor to do without one another, until they discovered that when they stood at a certain distance from one another they could both delight in one another's individuality and enjoy one another's company (RP 460).

From this metaphor it is clear that humans, like porcupines, have a nature, and because of that they mutually need each other, while not being able to satisfy their common needs because of their "spikes". Thus, there is a human nature which both makes humans associate and makes them keep their distance from each other at the same time. This, then, is indeed a human nature. Oakeshott and Schopenhauer continued the Hobbesian spirit: human beings are condemned to live together with those who are their competitors, their adversaries, and who can harm them in countless ways.

There seem to be three elements in Oakeshott's implicit anthropology. First, the human is "intelligent agent" (1999, p. 130) and second, he is free, and finally, he is searching for satisfaction, but he is insatiable. We have already seen that human beings interpret their situations and the challenges that confront them and act accordingly; they are not "celestial bodies" obedient to impersonal forces, as Comte, Marx, and their present-day disciples would have us believe:

> What "intelligence" means here is the ability and the propensity not merely to accept what the world happens to offer in satisfaction of needs but to seek for what it does not immediately offer, to adapt, to use, to appropriate, and to invent: it is the propensity to choose and to determine for ourselves what our relationship to the world shall be. And in this process, needs are replaced by wants. Indeed, to be "intelligent" means to be a creature not merely of needs that must be satisfied, but of wants that are imagined, chosen, and pursued. Needs are limited and are related to some notion of bare existence. Wants are inexhaustible because they are related to no fixed condition of things. Human beings, then, are distinguished as creatures of wants (Oakeshott 2004b, pp. 303-304).

The Hobbesian elements in Oakeshott's mind are widely discussed by his commentators, but Elizabeth Corey turned our attention in her seminal work towards Oakeshott Christian pessimist anthropology. (Because of his anthropology he cannot be unproblematically integrated into the liberal canon, and, maybe, that is why his anthropology seems to be missing from the commentaries on his work).

Although Oakeshott considered Hobbes' *Leviathan* to be a myth, that is, a shadow for the cave dwellers, he could not escape from this Augustinian[6] tradition of vanity and rapacity when he wrote about the understanding of human action. The public mind of Hobbes' age was dominated by the theme of vanity, of which the best known commentator was St. Augustine. He wrote about human insatiability in his commentary on Ecclesiastes 1:2 ("Vanity of vanities, says the Preacher, vanity of vanities; all is vanity") lending a moral tone to this element of human nature. The satisfaction of desires, and especially of vanity, is always fleeting and temporary, as indicated by the Hebrew *hevel* (הֶבֶל).

The theme of human insatiability was the basis of practical experience in *Experience and its Modes* (EM), although it did not make any reference to its political or moral consequences. Actually, insatiability is the essential characteristic of practice. That is why, practice cannot be permanently suspended, it inevitably must intrude into whatever flight of fancy or detached contemplation. The world of practice involves actions meant to change things, to achieve a wished state. Practice consists of the continuous and never-ending adjustment of the "here and now" to correspond with the "what ought to be" (EM 256-73). So, people can never be satisfied.

Oakeshott's essay on *Work and Play* expresses insatiableness: "Every success, every want satisfied in this enterprise, must be only a prelude to a new adventure." Moreover, "a creature composed entirely of wants, who understands the world merely as the means of satisfying those wants and whose satisfactions generate new wants endlessly, is a creature of unavoidable anxieties" (Oakeshott 2004b, p. 304). EM emphasizes that frustration, then, is an essential part of human life, and leading a practical life is futile. The eternal dissatisfaction is the core of practice: "The judgments that 'This is valuable' and that 'This is here and now', are never identical" (EM 283, 290-91). "The problem has been postponed, not solved" (EM 266). This frustration is the source of action what is always for change (EM 290). It should be emphasized, however, that insatiability—Augustinian *avaritia*—and, with it, enterprise association became dominant only in the modern era (Oakeshott 2004b, p. 305).

Describing humans, Oakeshott's view is remarkably similar to Schopenhauer's, who concluded, like Hobbes, that *homo homini lupus* (Schopenhauer 2011, p. 642). He expanded on this theme as follows:

> Awakened to life from out of the night of unconsciousness, will finds itself as an individual, in an endless and boundless world, among countless individuals, all striving, suffering, erring, and as if through a troubled dream, it hurries back to its old unconsciousness.—Up to this point, however, its desires are limitless, its demands inexhaustible, and every satisfied desire gives birth to a new one. No possible satisfaction in the world could suffice to still its craving, to set a final goal to its desiring and fill its heart's bottomless abyss (Ibid., p. 637).

Beside continuous frustration, another important element of Oakeshott's implicit anthropology is the presence of individual freedom in intelligent understanding. He set freedom against the managerial type of government or the teleocracy, as well as against scientistic determinism. It may be that he rejected the notion of "human nature" because of his disdain for determinism—whether moral-theological (original sin) or economic, social or biological (OHC 112, 122). The reasons, and not the causes, behind any action are inextricably linked to this free exercise of human intelligence. For Oakeshott, intelligence and freedom are inseparably tangled. Even here, though, he was ambiguous. In part, human actors as actors interpret the world around themselves and permanently make decisions during this interpretation, so freedom seems to be an ahistorical characteristic of humans, while this free and self-creating individual is also partly an historical achievement of post-Renaissance Europe. Although freedom arising from understanding is an inherent element of action, this freedom is cultivated by individualism and civil association, whereas enterprise association diminishes it, or perhaps even extinguishes it. The mass individual of our age, as he described, is far from intelligent freedom. Perhaps it is not ahistorical after all.

NO CONCLUSION

The ideal of the rule of law in the Antiquity was connected to the natural law tradition and its optimistic view of man: human nature contains at least the spark of reason, so human being can realize the benefits of the rule of law. Hobbes connected the ideal of rule of law to the pessimistic anthropology, but he referred to human reason which may lead people to the realization of the utility of authority and the rule of law (date/ref). However, in Oakeshott one cannot find any reference to reason. Instead, he trusted rather civility, a habit which may emerge locally in history.

Even if one cannot find overt reference to the idea of original sin in case of Oakeshott, one can find hints of it in his works. For example, OHC speaks about the piety which kept barbarism at bay (OHC 66). What on earth can be the source of barbarism? The uncivilized people are barbaric?

The problem with this implicit anthropology is that—just like in case of St. Augustine and Hobbes—it may explain the sources of conflicts and prove the necessity of worldly magistrates, but it struggles to confirm the plausibility of the civil association. As I mentioned above, civil association is a moral relationship, and its habitants seem to be rather idealized, virtuous people. It is clear that pious and cooperative

people do not need law and authority, but why do antagonistic people, meanwhile, accept limiting laws and authority, thus increasing their insatiability? St. Augustine's answer is clear: they accept it due to enforcement. But if human nature is a given, could we imagine that humans could be able to liberate themselves from that unpleasant human condition by an intelligent choice as the historical creation of the culture of rule of law? (According to Saint Augustine, human beings are saved from their fissiparous nature by divine grace. According to Oakeshott, it is civilization—formed through a fortunate historical constellation—that can save human beings from their barbaric, conflict-ridden nature.) After all, could it be a safe harbour (even if, the moderns have already lost it)?

If "civil association is a moral condition, it is not concerned with the satisfaction of wants and with substantive outcomes but with the terms upon which the satisfaction of wants may be sought" (OHC 174). How then can it emerge and exist in the context of the human insatiability? Why would people accept the limits of moral relationship? Is the emergence of moral relationship, i.e., the rule of law, a simple historical accident?

Human insatiability has become a moral and political problem in OHC. Because of this, pious morality, noble pride (magnanimity), and modesty are fragile things, and therefore the rule of law and authority are fragile, too. So, "there is a radical conflict between the nature of man and the natural condition of mankind: what the one urges with hope of achievement, the other makes impossible . . . and it is neither sin nor depravity that creates the predicament; nature itself is the author of his ruin" (OHC 36). Does not this permanent frustration and dissatisfaction always results in rebels, resistance and efforts to demolish or reconstruct laws? Obviously, yes. So, the rule of law can be only an ideal, and it may exist for very short periods. And these periods may be called "historical achievements" which necessarily eventually collapse. The rule of law requires the limitation of substantive aims—interests, effectivity, etc.—, some ascetic moral self-discipline. Ressentiment always has to be dealt with.

Oakeshott's answer is that civil association is a historical result, so we may arrive in Arcadia or into a safe harbour from the impositions of the enterprisers. Civil association presupposes a "system of behaviour, dispositions and beliefs that develops over time". That is, civil association is a mental habit, a type of tacit knowledge, and not a reflective idea. It thus also contains *sui generis* authority, a sense of obligation and the *cives* (somehow ameliorated, not so passionate and wilful, but intelligent and decent actors).[7]

A civil association and civil intercourse are historical practices, produced during the history, its author is the *Volkgeist*, the local human intelligence (OHC 177-80). The rules of civil intercourse arose in practice, they are not universal, at all. In general, it seems that moral or non-instrumental practice—religion, civility and civil association—, is a lucky historical development indeed which is able to liberate humans from the yoke of their insatiable nature and its unpleasant consequences. Or, at least, it may conceal the combative nature of humans.

In the idealized case of the rule of law, people accept laws not because of fear or some hoped gain, but because of the authority of law. But, why do they need laws? Or are the laws are necessary because of those that require force? It is as if Oakeshott supposed tacitly—following St. Augustine—a *civitas permixtae* in which the characters of *universita*s and *civitas* can be found together. The *cives* who accepts authority and the law does not need to be constrained, because they act morally; however, with the support of law and authority, they are able to compel those who act instrumentally to observe the limits of laws.

Human nature needs a ruling authority, but this nature corrodes and destroy authority continuously. Oakeshott writes that "since the need for authority springs from the passions of men, the authority itself must be commensurate with what it has to remedy" (OHC 63-64). Every description of the rule of law involves humans at once being the problem and the solution to the inherent difficulties of the rule of law.

Oakeshott learnt from Plato that even in the ideal state a myth, a white lie (in Plato's republic different metals mixed in blood) is needed to make people accept the world around them. Oakeshott followed this approach by naming the Leviathan a myth. Could this habit, civility, developed over the course of history and tacitly learnt, change or defeat human nature?[8] Is the possibility of overcoming human nature not itself

a part of the modernist myth, a shadow in the cave? The rule of law and the connected habit developed in history seem to be a pleasant myth.

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NOTES

1 "A statesman differs from a professor in an university: the latter has only the general view of society; the former, the statesman, has a number of circumstances to combine with those general ideas, and to take into his consideration. Circumstances are infinite, are infinitely combined, are variable and transient: he who does not take them into consideration is not erroneous, but stark mad; dat operam ut cum ratione insaniat; he is *metaphysically mad*" (Burke 1887, p. 41.).

2 Oakeshott used this phrase in two forms: telocracy and teleocracy.

3 Wolin "should have supposed me here to be constructing "an ideal society," a "heavenly city," so far superior to all other modes of human association that they must be considered of no account beside it, is ridiculous. This was not a "city," there was nothing whatever "heavenly" about it, and it had no inherent superiority to other modes of association."

4 Halifax (1912, p. 48.): "This innocent word Trimmer signifieth no more than this, that if men are together in a boat, and one part of the company would weigh it down on one side, another would make it lean as much to the contrary"; and Burke (1987, p. 218.): "when the equipoise of the vessel in which he sails may be endangered by overloading it upon one side, is desirous of carrying the small weight of his reasons to that which may preserve its equipoise."

5 In spite of his rejection of the notion of "human nature", many commentaries read him this was. See Corey 2006, p. 24 and Wood 1959, p. 654.

6 "pursues one thing after another, and nothing remains permanently with him" (Augustine 1964, p. 37).

7 For Oakeshott as in general in the notion of authority, neither reason, nor reasoning can result in authority.

8 Peter Johnson (2007, p. 313) interpreted Schopenhauer's and Oakeshott's texts as implying the defeat of human nature: "We must be clear that in his re-telling of the story, Oakeshott does not picture porcupine-individuals as discovering a system of manners as Schopenhauer does. What Oakeshott's porcupine-individuals discover is civil association."