

# LANGUAGE, CULTURE, MEANING



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# LANGUAGE, CULTURE, MEANING

edited by  
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## INTRODUCTION

The present volume of *Studies in Logic, Grammar and Rhetoric* entitled *Language, Culture, Meaning* introduces diverse texts and yet all of them perfectly correspond with the formula of the series. The majority of works contained in the volume are dedicated to the issue of language, including its particular variety, the legal language. The main subject of the volume is the problem of meaning, not only of linguistic signs but also of extra-verbal semiotic systems. It is significant and emphasised unanimously by the Authors that the meaning is not of an autonomous character, it is an evolving entity, a resultant of diverse factors, the most important of which are cultural conditionings.

The volume begins by a group of texts the leitmotiv of which is language, its various functions and its role in traditional Aristotelian triad 'language–thought–reality'. The issue of language occupied a significant place in 17<sup>th</sup> century philosophy when a conviction became common that studying the world depends, to a large measure, from an appropriate approach to linguistic questions. The problem of language is taken up from a historical perspective concentrated on the 17<sup>th</sup> century by three Authors of the volume; J. Usakiewicz studies the relationship between the elements of Aristotelian triad in the philosophy of A. Geulincx, while H. Świączkowska analyses the cognitive functions of language in G. W. Leibniz system. R. Piotrowski looking for the foundations of contemporary cybernetics in the 17<sup>th</sup> century, finds them in Leibniz, the creator of the idea of 'the alphabet of human thought'. D. Botting dedicates less space to linguistic questions, he accentuates the primary standing of the mind and reasoning in the process of cognition of the world and also analyses diverse types of reasoning. The formal aspect of reasoning is studied by A. Kozanecka-Dymek in an article devoted to temporal logic.

The second group of texts undertake a wide ethical-legal problematic. The Author of the first article, L. Kopciuch considers the relationship between moral relativism and notions from the field of ethics elaborated by Scheler, Hartmann and von Hildebrand and proves that these notions are still valid nowadays which authorizes criticism of moral relativism. The texts of A. Breczko, L. Rodak and M. Andruszkiewicz concentrate on the issues of legal language as a specific and specialist language distinguished on the

## *Introduction*

basis of characteristic aspects of the law itself. A. Breczko indicates the inadequacy of legal language concerning the regulations of bioethical questions; the fast-changing reality in this sphere makes the legal language lag behind, and as a consequence courts are forced to adopt decisions based on unclear and imprecise regulations. L. Rodak studies legal facts from semiotic perspective, determining conditions in which they obtain the status of objective facts, M. Andruszkiewicz dedicates her text to the analysis of cultural determinants of legal language and legal interpretation. The text by K. Doliwa establishes the relationship 'positive law – natural law' in the system of T. Hobbes reducing the law of nature to the role of a catalyst of state-building attitudes.

The articles by M. Pawlak and A. Dacza-Budzyńska deal with rhetorical questions; the first one, referring to the antique figure of god Kairos, researches cultural conditionings of the communication act, the second one, also with reference to the tradition of classical rhetoric, analyses construction of ad populum arguments in American pre-election debates.

Next text in the volume concentrates on the issue of translation of legal texts – B. Piecychna presents Gadamerian concept of the act of translation in which the translator appears to be an interpreter of texts facing various obstacles and difficulties caused, among other things, by cultural diversity.

Two closing texts refer to non-verbal communication systems. The first one, by Renata and Jakub Botwina describes the process of formation of meanings through creation of space; it presents a scenery being an effect of historical, social and cultural interactions, allowing to interpret diverse meanings, concealed in it, while the last text by J. Auron-Górska is concerned with photography as a carrier of meaning. Both articles treat of cultural conditionings in the sphere of semiotic meanings and accentuate the thesis saying that to make a sign function in culture it is necessary to consolidate it in a code common to the sender and receiver and in a convention connecting them.

The Authors of the texts assembled in the present volume represent various fields of science and the considerations of semiotic character included in the volume emphasise the interdisciplinary status of semiotics. A diversity of topics in the volume allows to notice the fact that the meaning is not stable, universal; it evolves in time and space and is a derivative of cultural conditions. Reading the presented volume provokes reflection that semiotics is continuously broadening its dominium, the systems of sign-function are appearing in different and new fields of reality which confirms the hypothesis of Umberto Eco that, in fact, culture, in all its aspects, is communication.

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## ARNOLD GEULINCX' REMARKS ON VERNACULAR LANGUAGES AND LATIN

Our considerations, as the title of this work suggests, will be dedicated to display and analyze Arnold Geulincx' (1625–1669) speculations on the subject of vernacular languages, in other words, native tongues and Latin. These speculations were meant by their author, generally known as one of creators of the theory of Occasionalism,<sup>1</sup> to present opinions accessible not only to the narrow circle of specialists. They were addressed to a broad public. Still, from the contemporary perspective, his reflections bring the value of “getting to know”. They show us the picture of the Netherlands in the 17<sup>th</sup> century. In this article we would like to go beyond the linguistic matter of the subject and see how Geulincx understood the reciprocal relationship: language – thinking – reality. Trying to reflect on this problem, we are doomed to depend on short references rather than extensive studies. The fact that the author had written so little on the topic of language, one could arbitrarily explain by Cartesian background of his philosophy. It hints that language is always secondary to the act of thinking and even “double secondary” to an entity that is being thought about in this process. The aim of Geulincx (and of Descartes as well) was, after all, to reach the nature of thinking itself, not to contemplate its output. But let's try to inquire further instead of being content with simple explanations...

Geulincx had left an abundant set of works,<sup>2</sup> systematically dealing with logical,<sup>3</sup> physical, metaphysical and ethical problems. Among this creative

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<sup>1</sup> More information about Geulincx and his convictions in: J. Usakiewicz, *Z miłości do rozumu. O etyce Arnalda Geulincxa (1624–1669)*, Wydawnictwo Uniwersytetu w Białymstoku, Białystok 2010.

<sup>2</sup> His works in Latin: A. Geulincx, *Sämtliche Schriften*, ed. J. P. N. Land, Friedrich Frommann Verlag (Günther Holzboog), Stuttgart – Bad Cannstatt 1965–68.

<sup>3</sup> It should be noticed that logic, from Geulincx' point of view, was closely attached to thinking. It was regarded by him as the art of a correct argumentation and deduction, not associating it with means of formulating thoughts.

yield, we will find one writing of quite different character – *Quaestiones quodlibeticae in utramque partem disputatae*.<sup>4</sup> It is a collection of questions-considerations discussing generally interesting topics, in the first place the social matters and lifestyle, often in the context of the academic community. The roots of this work should be traced to the tradition of the University of Louvain (Leuven), where each year of the studies ended with the celebration called the Saturnalia. This was the program of students' deliberations on "not too serious" affairs led by a specially chosen professor of the university. In 1652 Geulincx was elected a master of the celebration. The composition of *Quaestiones quodlibeticae...* indicates that the work could serve as a discussion panel. Each question-consideration provides us with arguments for and against, but they conceal any final judgment of the author. Only a force of an argument leaves us with a clue. We will concentrate on two of the questions-considerations from the collection – the Question XXIV *Which language is more perfect: Belgian or Latin? (Ultra praestantior, Belgica an Latina lingua?)* and the Question XI *Should we praise the desire of conscientious learning of other nations languages? (An laudabile diversarum gentium idiomata perdiscendi studium?)*.<sup>5</sup> Let's, together with Geulincx, study the problem of the relationship between a native language that we speak every day and a language of science, taking Belgian (as it is Geulincx called by) and Latin as the example. During our inquiry it is also worth to ask following question: Is it possible to functionally live in the world speaking only a native tongue?

In the Question XXIV Geulincx is asking which one of the languages should be considered more perfect: Belgian or Latin. He calls Belgian (*lingua Belgica*, sometimes *lingua Flandrica*) his own native language, the tongue of the Southern Netherlands. It is basically Belgian Dutch, today classified as the national variety of the Dutch language spoken in Belgium with dialects that differ regionally. To make things more simple, we will use, as Geulincx did, the term "Belgian language" and refer to the people speaking it as "Belgians".

In this Question, Geulincx doesn't only list arguments for and against each of the two languages, he also wants them to wrestle. He invites readers to be objective referees of this fight, acknowledging that the task of giving the right call will be a tough one. The philosopher has observed many discussions on the same subject. They have always been full of prejudices

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<sup>4</sup> The first edition was published in 1653, the second in 1665 under the more expanded title: *Staurnalia. Quaestiones quodlibeticae in utramque partem disputatae*.

<sup>5</sup> The Latin texts will be cited from: A. Geulincx, *Sämtliche Schriften*, op. cit., v. 1, pp. 130–133 and 96–98.

against one or the other language. Indeed, it is the confrontation of his native tongue with Latin, the language of knowledge, science, universities. It is the struggle between Heracles and Antaeus, a giant and the son of Poseidon and Gaia who regained his full strength each time he was touching the ground – his mother Gaia – Earth. However, Heracles discovered the effective tactics against his opponent: he strangled Antaeus holding him in the air. But which one of the languages plays the role of Heracles? We can't say, because, accordingly to the convention of Geulincx' work, the result of the fight between Latin and Belgian remains inconclusive.

The first argument mentioned in the advantage of Latin, and supposed to be a blow against Belgian, is its range: widespread Latin is spoken by clergy and scientists. In his era, as Geulincx states, people outside Italy – the historical cradle of the language – like to communicate in Latin more than Italians themselves. Moreover, this language is even used by people without any education (he mentions there barber surgeons and harlots). This brings associations of The Polish-Lithuanian Commonwealth in that age. We know an anecdote about Ferdinand II who had a conversation in Latin with a wagon-driver of the Archbishop of Gniezno or another tale by Ulrich von Werdum about his talk in the classical form of this language with a townswoman in Lvov<sup>6</sup>.

Geulincx ornaments his argument of the widespread usage of Latin quoting Ovid: "The land of other nations has a fixed boundary: the circuit of Rome is the circuit of the world".<sup>7</sup> His commentary is brief: the same thing that the poet related to The Roman Empire as a state is now connected with the language of this state – Latin.

In this moment he asks ironically: "Where is then Belgian language?".<sup>8</sup> And he answers: only in this nook, on the small piece of land. Even here, in Belgium, it is spoken by servants, it is heard in taverns. The court, merchants' houses and universities are dominated by other languages. Different groups of society, Geulincx points out, prefer different tongues than Belgian. Universities choose Latin, merchants fancy Portuguese and the court – French. As the philosopher admits in the end of his considerations of this argument, it is a serious blow for his own native language.

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<sup>6</sup> See A. W. Mikołajczak, *Łacina w kulturze polskiej*, Wydawnictwo Dolnośląskie, Wrocław 1998, p. 207.

<sup>7</sup> *Gentibus est aliis tellus data limite certo; Romanae spatium est urbis et orbis idem*; Ovid, *Fasti*, 2, 683–684 (the text from: Ovid, *Fasti*, translated by J. G. Frazer, Harvard University Press – Cambridge, Massachusetts, William Heinemann Ltd., London 1931).

<sup>8</sup> *At Belgica lingua ubi est?*

But Belgian language will not surrender easily, announcing with pride that sometime in the future it will conquer the whole world. Trying to tackle Latin furiously, Geulinx switches to the next argument, this time in favor of Belgian. People speaking it learn other languages, Latin included, easily and quickly – he advocates, pleading his own experience as well as the experience of his compatriots. He argues that Belgians master foreign languages so well that they can even pretend to be other nations’ natives. And speaking about Latin... Wasn’t it restored in the early modern period of history by the people who spoke Belgian as their native language? Geulinx writes: “To whom Belgians give way in speaking the language of Romans? Is there anybody who doesn’t give way to Belgians? Where, after the expulsion of the barbarity of earlier ages, did the ancient light for the Latin world begin to shine if not from the language of Belgians? Erasmus, Lipsius, Grotius, Puteanus – they all belong to us; o Latium, point at any other nobleman that you owe so much”.<sup>9</sup>

The ability of learning languages so easily, which characterizes speakers of Belgian, and the service done by this tongue to the restoration of Latin could be also used to its disadvantage: it is nothing more than a servant language. The other argument against it might be derived from the sound of Belgian. Geulinx stresses the abundance of consonants that can compose not so pleasant melody for ears of foreigners. He draws here a vivid picture: “(...) it unloads in one syllable the whole wagon of aspirations and consonants”.<sup>10</sup> In our fight of languages, Belgian parries the argument with ease: Latin does not tolerate two consonants when one is next to another (he has exaggerated on this point), and its music resembles lisping or stammering. “It (Latin) is a lisping language and it stammers. It often doubles the same syllables, so I heard a stammerer, for example: *Quid de re mererere? Quid da re rare rara? Iactat faber fecisse sese securim* (What will be your merit? What do you think about a rare thing? The artisan boasts about the fact that he has made an ax)”.<sup>11</sup> The lack of the stress on the last

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<sup>9</sup> *In ipsa etami Romana lingua quibus cedunt Belgae? Imo qui non cedunt Belgis? Unde depulsa nuper praecedentium saeculorum barbarie, priscus illuxit Orbi Latio nitor, nisi e nostro hoc Belgio? Erasmi, Lipsii, Grotii, Puteani nostri sunt; da Latium adhuc viros, quibus debes tantum.* On the subject of the studies on the classical heritage in the seventeenth century Netherlands see: L. D. Reynolds, N. G. Wilson, *Scribes and Scholars. A Guide to the Transmission of Greek and Latin Literature*, Oxford University Press, 1991.

<sup>10</sup> (...) *in unam syllabam integrum aliquando plaustrum exonerate aspirationum et consonantum.*

<sup>11</sup> *Blaesa etami est, et balbutit, frequenti eiudem syllabae geminatione; audi balbutientem in exemplo: Quid de re mererere? Quid de re rare rara? Iactat faber fecisse sese securim.*

syllable forms the next allegation. Surely, the last syllable carries the very important information for a statement to be understood well in inflected languages like Latin. This situation is especially inconvenient when we have to grasp the meaning of a statement made from a lectern or a stage of a theater. A speaker must be then well qualified to pronounce everything loudly and audibly. Answering these accusations, Latin strikes back – Belgian does not even have a clear, codified grammar... Suddenly, Geulincx, a presiding referee, gives the sign to stop the skirmish. He doesn't want this sportive fight, simply a game, to turn into a bloody slaughter.

Nonetheless, he writes an additional part to the Question we are dealing with now, pointing out that many contemporary vernacular languages ignore grammatical declension. As the replacement they use prepositions. Geulincx wonders if it would be comfortable to get rid of conjugation also, but he doesn't want to unveil his opinion on this problem. The question remains open.

Geulincx' considerations, as they were described in the beginning of the article, are of the popular character. This is why his argumentation could be sometimes rather funny and not too original, but placed in the historical context, bearing in mind the subject matter – the linguistic problems of the vernacular languages and Latin, it starts to be very interesting. In 17<sup>th</sup> century Latin was spoken only by the social and intellectual elite, in the same time some substantial and outstanding works were created in the vernacular languages. Especially the development of philosophical writings in these tongues seemed to be very symptomatic. One can open the list with Descartes, but Geulincx has also published versions of his works in Belgian. So it is not too difficult to name the main reasons of the diminishing importance of Latin succumbing to the vernacular languages. The first discloses the thirst of spreading ideas to masses. The second is connected with the ease of formulating these ideas, some of them being pretty complicated and abstract, in a native tongue. The third envelopes a notion of a breakthrough: modern philosophers of the era, systematically and with predilection, named their systems and convictions as cutting-edge ones, breaking with scholastic tradition, so also with Latin language that symbolized its heritage.

It is worth of mentioning that the subject chosen by Geulincx has also an ageless, universal dimension. It touches the character of the vernacular languages, especially those spoken by minor nations. These nations, in order to remain in the main stream of culture and to be active on the fields of science, are forced to pick up a non-native tongue to express their ideas, discoveries or reflections, a language having more influ-

ence and being widespread. In Geulincx' times this role was still played by Latin. It served as a universal language in a quite obvious and natural fashion, being closely attached to the main centers of education and development of European thought: monasteries and universities. Nowadays, we sometimes meet the same dilemma, as in modern Europe. We are dealing here with a comparable phenomenon: English is superseding a native languages as a major language of science. The difference between this contemporary example and the situation from Geulincx' era is astonishing: English – not having much in common with the local tradition of universities which were deep rooted in Latin – especially for the humanities, was in fact imposed arbitrary, to some extent by official actions of the state. Moreover, English (not like Latin which has not been favoring any nation using it from Middle Ages) gives an upper hand for its native speakers.

Let's move to the next Question of Geulincx that considers advantages resulting from learning foreign languages. The author begins with regrets: mankind is so divided because of the diversity of languages. He doesn't hesitate to name this situation as the misfortune (*calamitas*) of humanity. It hurts him even deeper because, accordingly to his philosophical convictions, people, as far as the essence of their beings is concerned, don't differ much: "Though they are united by the similarity of mind, they are still divided by the difference of speech; this is a reason why, when we are traveling abroad to the far away countries, we think – among other thousand worries – about our departure not only from home and fatherland but also from a community of people".<sup>12</sup> What a sad, somewhat existentialist, declaration: an alien in a foreign country although a man among people. Disturbing us when traveling abroad without any knowledge of a local language, loneliness, in Geulincx opinion, reveals itself in silence, laugh or puzzlement caused by misunderstanding. Unless one can come up with a right solution: to learn foreign languages. There are some personal benefits for speakers of several vernacular languages. "(Such person) is surrounded by all good friends, every country is familiar then; you will nowhere be a speechless listener with a puckered forehead when others talk unhampered during a feast; asking for directions in an awkward and jumbled way, you will nowhere be laughed at by neighbors; amid laughing people discerning a jest, you will nowhere

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<sup>12</sup> *Nam quos in unum similis ratio conciliat, eosdem inter se dissimilis oratio separate; indeque fit, ut ad dissitas forte regions proficiscentes, videamur nobis inter mille taedia, non a domo et Patria, se ab humana societate discessisse.*

whisper in your interpreter's ear: What do they want?".<sup>13</sup> Summing it up in a little bit effusive fashion, the whole world turns out to be home and fatherland for such person. Citizens who speak foreign languages are also beneficial to their state. Its administration can profit from the information about other countries, foreign customs – all kind of valuable data gathered by its multilingual civilians. Geulincx asserts that a language might disclose individual characteristics of a nation speaking it: toughness or benignancy. However, he doesn't reveal any specific examples to prove his assumptions.

A linguistic fluency allows also to make use of books written in various languages and to transplant the knowledge gathered in them to the ground of a native tongue. Geulincx argues: a person who can read in foreign languages and can absorb wisdom that they carry "(...) is contributing this wealth of science to the fatherland".<sup>14</sup>

One shouldn't underrate social values of commanding foreign languages. By merging concepts from other tongues, statements of a multilingual speaker become more refined, displaying erudition.

The diversity of languages is compared by Geulincx to a performance on a theater stage, where a way of speaking distinguishes all characters taking part in the drama. On the worldwide stage of languages we can observe following scene: "a Frenchman is chatting in French, a Spaniard has license to speak Spanish, a German is whistling, puffing and groaning in his language, still a Turk and an Arab are ready to join the company with sounds of barbaric and exotic [tongues]".<sup>15</sup> In the original Latin version of this sentence, the author uses verbs that imitate characteristic traits of given languages.

Learning languages, nonetheless, has got its drawbacks. It is consuming time, which could be spend to acquire much more valuable knowledge. To strive for perfection in speaking foreign languages endangers a native tongue: it might be neglected and used with linguistic mistakes. So the work that was supposed to enrich us can turn to be quite disadvantageous.

It is not the end of troubles for students of languages. Beginners have to be aware that they only make a first step on a long way, the way without a finishing line. They have to treat their efforts as a constant process where

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<sup>13</sup> *Ubique inter suos est, omne solum ei patria; nusquam familiaribus inter coenam sermonibus accumbit caperata fronte mutus auditor; nusquam viam sciscitaturus, mutilis mixtisque vocabulis cachinnum movet accolae; nusquam inter ridentium sales suspiciosus, quid sibi velint, in aurem insusurrat interpreti.*

<sup>14</sup> (...) *scientiarum divitias profundit in patriam.*

<sup>15</sup> *Sua garrit Gallus, sua lascivit Hispanus, sua sibilat aspiratque et gargarizat Germanus, et subinde etiam barbarum quiddam ac exoticum adiiciunt Turcus et Arabs.*

eventual breaks bear the perilous effect, a loss of the earlier attained skill: “(..) whenever you let it go, though only a bit, soon after you will feel, turned down to the earlier learned basics, like rolling boulders with Sisyphus”.<sup>16</sup> We can assume that, in Geulincx’ opinion, one can never be perfectly fluent in any other language but a native tongue.

But he gives also some compassionate words: apart from speaking a native language, the command of Latin will help, at least in his times. The first tongue will serve us on a day to day basis, Latin will be a language of science: “We don’t have to beg foreign languages for rules of all knowledge; the whole chorus of sciences has gathered in Latium; the whole treasury of doctrines is guarded by Latin; this is the only language that sounds from a teacher’s lectern, it alone moves quill pens of pupils, it alone fills up tones of volumes”.<sup>17</sup> In other words, Latin has united scientists in one community and wherever they go and meet their fellows, they will be still in their “fatherland”.

Yet Geulincx gives us the last argument against learning foreign languages. He suggests that from those languages all human vices come: talkativeness, lust, insobriety, the inclination to exaggerate or to flatter. The author believes that Belgian language is particularly absorptive, so – as he formulates this – a spirit of a Belgian “is blotted (*inquinatur*)”.

So Geulincx didn’t tell us exactly whether it was worth to learn foreign languages, giving only hints to inquire further... What was then his personal experience on the matter? He spoke, as it could be attested by his works, two languages: a native one (Belgian) and Latin.

Let’s move to the philosophical platform of our considerations about language. Before we confront the basic problem of relations between language – thinking – reality (or put differently: a word – a thought – a thing), we shall summarize main assumptions of Geulincx’ metaphysics.

As it was already mentioned before, Geulincx was one of authors of Occasionalism. This theory tries to explain the unresolved by Descartes question of reciprocal actions of two totally different substances: a thinking substance and an extended substance. According to Occasionalism, the phenomenon of interactions between a mind and a body can be explained by the existence of God and God’s actions as the first cause. God created

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<sup>16</sup> (...) *si vel tantillum remittas, mox in antiquum rudimentum devolutus, senties te cum Sisypho lapidem rotare.*

<sup>17</sup> *Non mendicanda nobis a peregrinis linguis artium praecepta; totus in Latium concessit scientiarum chorus; totus illi linguae creditor hodie doctrinae thesaurus; sola haec e magistri cathedra tonat, sola discipulorum calamos exercet, sola replet voluminibus museia.*



the mind and the body in the way that actions of one of the substances give a possibility (*occasio*) for actions of the other substance, but they are never their cause. Geulincx picturesquely clarified this idea by comparing two clocks made by a skillful hand of one craftsman and set up on the same hour. Not this theory, but other assumptions of Geulincx' metaphysics are important for our considerations.

The notion of doubt serves as a starting point for the philosopher (as it does also for Descartes). It is a specific way of thinking that leads towards the discovery of the first, basic and undisputed truth: I think, I am. To think consciously assures the existence of a thinking person. A self consciousness, an awareness of self existence and thinking about it cannot be divided in the same fashion as an consciousness of existence of things and thinking about it might be separated in the process of doubting. So, Geulincx answers the question "Who am I?": "I'm a thinking self – a mind". Reflections on this statement result in the conclusion: imperfect "a thinking self" must have a separated cause. It is the proper mind – God. "A thinking self" in the material reality functions in a human condition, that is, in a body. For that reason, Geulincx defines a human as an incorporated mind (*mens incorporata*). There are two totally different substances (as in the philosophy of Descartes): a thinking substance – a mind (*mens*) and an extended substance – a body (*corpus*). A human is the assembly of these substances existing and acting only by the first cause – God. Presenting his ethical convictions, Geulincx introduces, besides the predicament of mind, the predicament of reason (*ratio*). A reason is described as the ultimate and perfect part of a mind, a God's law and a divine element in a human. A reason is a sphere of innate ideas.

The next part of this article will analyze some, important for the subject, fragments of Geulincx' writings in order to verify the correctness of our earlier thesis about the notion of language being "double secondary".

The statement from the *Ethics* will begin this analysis: "But, Wisdom in the mouth of the wise bringeth forth instruction; and in the case of the virtuous man (*vir bonus*) it comes readily into his mouth. For it is very well known that what we understand rightly, and have weighed very carefully in our mind, we are able successfully to sow in the understanding of others. The Poet evidently also understood this: *And ready words follow a clear perception* [Horace, *Ars Poetica*, 311]"<sup>18</sup> In this fragment, some references

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<sup>18</sup> A. Geulincx, *Ethics. With Samuel Beckett's Notes*, translated by M. Wilson, Brill, Leiden-Boston 2006, p. 134 (the translation into Polish: A. Geulincx, *Etyka*, translated by J. Usakiewicz, Wydawnictwo Marek Derewiecki, Kęty 2007, p. 143).

to the Antiquity capture the reader's attention. Geulincx is not only quoting Horace trying to sustain his argument, he is also using the term: *vir bonus*. This expression had been associated in the Antiquity with a moral, righteous and honest man.<sup>19</sup> It had been used by Quintilian<sup>20</sup> in the context of an author of a statement. However, the essence of Geulincx' assertion lies in the following conviction: a person who got to know and properly understood a question, can clearly express it in words and convey it to others. The conviction, which was affirmed by the quotation from Horace, could be also supported by words of many more philosophers of the Antiquity. Here are some examples.<sup>21</sup> Plato in *The Phaedrus* dialogue made Socrates to say: "If a speech is to be good, must not the mind of the speaker know the truth about the matters of which he is to speak?"<sup>22</sup> Cicero added: "For no one can be an good speaker who is not a sound thinker (...)"<sup>23</sup> Again, Seneca gave Lucilius a piece of advice: "You should seek what to write, rather than how to write (...)"<sup>24</sup>

Summarizing, the classic quotations suggest that a thought comes first, then a word expressing it.

In Geulincx' *Ethics*, we can only read as follows: "This will be the Adminicle of Justice: we keep carefully in mind that things in which a little, no matter how small, is lacking or in excess, are not what they are claimed to be. The vulgar scatter names about lavishly, and extend them to things that do not bear such a meaning. What is almost, they say is: what is only just, they say is not. These verbal abuses would be tolerable if they did not impose them on the things themselves, and fall into the habit of judging the things themselves by their names".<sup>25</sup> The author places these sentences

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<sup>19</sup> For example see in: Cato, *De agri cultura*, praef. 2; Cicero, *Partitiones oratoriae*, 117; Horatio, *Epistulae*, 1, 16, 40.

<sup>20</sup> See: Quintilian, *Institutio oratoria*, 1, 9 and 12, 1.

<sup>21</sup> The examples come from works of the authors who were quoted in different contexts in the writings of Geulincx.

<sup>22</sup> Plato, *The Phaedrus*, 259e; English translation in: *Plato in Twelve Volumes*, Vol. 9, translated by Harold N. Fowler, Harvard University Press – Cambridge, Massachusetts, William Heinemann Ltd., London 1925.

<sup>23</sup> *Dicere enim bene nemo potest nisi qui prudenter intelligit (...)*; Cicero, *Brutus*, 6, 23 (the text from: Cicero, *Brutus. Orator*, With an English translation by G. L. Hendrickson, H. M. Hubbell, "The Loeb Classical Library", Harvard University Press – Cambridge, Massachusetts, William Heinemann Ltd., London 1942).

<sup>24</sup> *Quaere, quid scribas, non quemadmodum*; Seneca, *Ad Lucilium epistulae morales*, 19, 115, 1 (the text from: Seneca, *Ad Lucilium epistulae morales*, With an English translation by R. M. Gummere, "The Loeb Classical Library", Harvard University Press – Cambridge, Massachusetts, William Heinemann Ltd., London 1943–1962, vol. 1–3).

<sup>25</sup> A. Geulincx, *Ethics. With Samuel Beckett's Notes*, op. cit., p. 27 (the translation into Polish: A. Geulincx, *Etyka*, op. cit., p. 48).

in the context of his speculations regarding the virtue of justice. Describing this virtue, he stresses that its role should consist of establishing the right boundaries of actions which emerge from the obedience of reason. In other words – the key point is to separate from actions all things that would be an excess and add to them things that are not in sufficient quantity so far. The quoted words about justice serve in fact as the admonition against the verbal abuses. Some terms, especially in a colloquial speech, embrace things which in fact are somewhat less or more than their names seem to indicate. In Geulincx' statement we should accent the difference between a name and an actual entity that lies behind it. One can suspect that the philosopher treats a name only as a sign pointing at a real thing. Such understanding of this issue is hinted in the words from his another work, the *Metaphysics*. We could read there: “Note that there are words that signify things as they are in themselves, independently of the operation of our mind. Among these is the word Body: it signifies the thing, the extension that we call Body, as it is in itself, apart from the modalities of our consciousness of it. But there are also many other words that signify not only things as they are in themselves, but as the subjects of these modalities”.<sup>26</sup> Geulincx uses this explanation in the part of the work dealing with the extended substance – body. He indicates that words serve to describe things, feelings and mental processes. He uses the Latin word *significare*, that etymologically consists of the noun *signum* – “sign” and the verb *facere* – “to do”, “to make”.

In the end we have to cite a sentence from the *Philosophical Dispute* from May of 1664, leaving it without any commentary: “All languages should be obedient to reason, not reason to languages”.<sup>27</sup>

The not too numerous fragments quoted from Geulincx' writings confirm our argument about a language being secondary to thinking and the reality. These quotations have one more thing in common: they all come from philosophical works, they are the part of a theoretical, purely abstract study. Yet, the theory of the secondary character of language is confronted, in the works of Geulincx, with the reality. When he had moved from Louvain to Leiden, he encountered allegations against Latin, the language of his works. It was regarded as too ornamental, mannerist, being apart from the mainstream style of the Northern Netherlands. Because of this he even

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<sup>26</sup> A. Geulincx, *Metaphysics*, translated by M. Wilson, A Christoffel Press Book, Cambridgeshire 1999, p. 69 (the translation into Polish: A. Geulincx, *Metafizyka prawdziwa*, translated by J. Usakiewicz, Wydawnictwo Marek Derewiecki, Kęty 2009, p. 86).

<sup>27</sup> *Linguae omnes rationi obedire debent, non ratio linguis*; A. Geulincx, *Disputatio philosophica continens Responsonem ad Obiectiones quas non-nemo proposuit. (D. 10 m. Maii a. 1664)*; in: A. Geulincx, *Sämtliche Schriften*, op. cit., v. 2, p. 463.

couldn't lecture for some time at the University of Louvain. Advocating that he had been taught Latin in such form at schools, Geulincx declared in the *Dedication* to his *Logic* that he wasn't interested in the language or words but a meaning, a real thing, the truth. We can notice this in his statement: "Wherever the structure of Latin language abuses a meaning, makes a lecture befogged, binds somebody with the cords of a philosophy, I will truly be more loyal to a sense than to the rules of the language, to real things than to its words, to the truth than to any speech in Latin".<sup>28</sup>

As we have tried to show in this article, Geulincx undertakes the inquiry into the problem of languages only in the popular considerations about vernacular languages and Latin. On the philosophical platform, this question doesn't seem to be important for him. This is why we could find only few remarks on the subject, nonetheless coherent and consistent ones.

Could Geulincx resolve seriously the issue studied only for the intellectual amusement? Could he demonstrate what languages are more important – vernacular tongues or Latin? Could he tell if learning foreign languages was worth any effort? There is an indirect answer to these questions, but let's not forget about the secondary character of languages toward the process of thinking. Remembering Geulincx' words from the *Dedication* to the *Logic*, one should assume that the author cares about what is meant not about a language that renders a true meaning. For him the truth is paramount, more specifically – the truth of thinking. At the same time, we can add that the superiority of a thinking process changes in relation to a native language or an acquired, learned one. For a first language is closer to the essence of thoughts, because a native tongue expresses an earliest idea in one's lifetime.

#### S U M M A R Y

This article analyzes the considerations on the subject of language enclosed in works of A. Geulincx (1625–1669), one of the author of theory of Occasionalism. The presented speculations are of two different types. The first one concerns the relationship between vernacular languages and Latin and it is based on Geulincx' work of more popular character – *Quaestiones quodlibeticae in utramque partem disputatae*. The second one

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<sup>28</sup> *Sed sicubi tenor Latinae linguae vim faceret sensui, tenebras affunderet dictioni, laqueos neceret philosopho; hic vero mihi et sensus moribus, et res verbis, et veritas Latinitate potiora videbantur*; A. Geulincx, *Logica fundamentis suis, a quibus hactenus collapsa fuerat, restituta*, *Dedicatio*; in: A. Geulincx, *Sämtliche Schriften*, op. cit., v. 1, p. 168.

*Arnold Geulincx' Remarks on Vernacular Languages and Latin*

reflects the problem of the relationship: language – thinking – reality and it is based on *stricte* philosophical Geulincx' writings. The most important questions in this article are: 1. Latin and vernacular languages as the languages of social and intellectual elite in 17<sup>th</sup> century Europe; 2. the relationship between native tongues spoken by minor nations and Latin as example of the language of science; 3. benefits and disadvantages of learning foreign languages. On the philosophical level, this article deals with the following thesis: Geulincx thinks that a language is always secondary to thinking and double secondary to a thing being thought about.



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## WELLMAN'S TYPOLOGY OF ARGUMENTS\*

### 1. Deduction, Induction, and Conduction

How many types of argument or reasoning are there? Traditionally the answer has been one or two: deductive and possibly inductive. In (1971) Carl Wellman argued for a kind of reasoning that was neither deductive nor inductive:

How can one make clear the nature of this kind of reasoning? We have discovered its existence by noticing that certain arguments in ethics are left over when all deductive and inductive ethical arguments have been studied. It is tempting, therefore, to define a conductive argument as any argument that is neither deductive nor inductive. ... [T]he sort of argument I have in mind is not the only sort of inference that refuses to fall into the two traditional categories of reasoning. At some point statistical or probability inference will require a kind of reasoning that is neither deductive nor inductive. I also believe that there is something that might be called explanatory reasoning: reasoning from a body of data to a hypothesis that will render them intelligible. And if the argument by analogy cannot be reduced to some sort of statistical inference, it must be admitted as a distinct kind of reasoning. Obviously it is necessary to find some way to characterize the sort of arguments I have in mind from other sorts that are also nondeductive and noninductive as well. (Wellman 1971, 51–52)

From this pivotal passage the following can be established:

a) Wellman's reason for thinking that there are conductive arguments is the existence of particular cases that appear to be good antecedently to being evaluated against a deductive or inductive or even conductive (because it has not yet been formulated) standard and, more importantly, fail

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to comply with deductive and inductive standards, i.e., they are not deductively or inductively valid; for example: “You ought not to have spoken so harshly because your words hurt her deeply,” or “Martin Luther King is a fine man because, in spite of occasional arrogance, he is an unselfish and courageous worker for his fellowman” (Wellman 1971, 53).

It is important to realise (and given that Wellman provides further argumentation he does seem to realise it at least in part) that the ‘failure’ does not automatically follow from the ‘antecedence’; for example, there may be deductively valid arguments whose validity is apparent to us antecedently to any appeal to deductive logic (e.g., the inference from being a bachelor to being unmarried), but this clearly does not make them non-deductive. That there are such cases amounts to a meta-epistemological strategy of *particularism* but Wellman does not seem to realise this and argues instead that the validity in question must be due to a weaker, non-deductive relation between the premises of the argument and its conclusion. Wellman cannot, then, conclude that there are conductive arguments simply because their validity was not established by appeal to deductive or inductive standards, because this is what *particularism* predicts even for some deductively valid arguments; deciding validity antecedently to applying a standard is not the same as failing to comply with the standard, nor does the latter follow from the former. Wellman needs to (and, since he does this in a large part, recognizes the need to) provide further argumentation that the arguments in question do actually fail to comply with deductive and inductive standards, that the validity being decided is distinct from deductive and inductive validity and obeys a different logic. It will be shown later that his argumentation falls back onto antecedence; hence, it is not strong enough to establish conduction as a normatively distinct kind of reasoning.

b) Wellman takes the terms ‘reasoning’, ‘argument’ and ‘inference’ to be interchangeable and the terms ‘deductive’, ‘inductive’ and ‘conductive’ are intended to classify these interchangeably. For example, Wellman will talk indifferently of deductive reasoning, a deductive argument, and a deductive inference, and wherever ‘deductive’ is applicable in one of the three respects it will also be applicable with respect to the other two.<sup>1</sup>

c) Although he doesn’t specifically say so, Wellman intends his typology to be mutually exclusive. For example, if an argument (or reasoning or

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<sup>1</sup> That is to say that it is impossible for a deductive argument to contain an inductive inference. It is possible, however, for the deductive validity of an argument to be established by an inductive inference, namely by virtue of having a form that has been found to be deductively valid in all other instances.



inference) is deductive then it cannot be inductive or any of the other kinds Wellman lists.

d) Wellman is arguing against a traditional typology where all reasoning is deductive or inductive. There are several subtypes of non-deductive non-inductive reasoning. Conductive reasoning is one particular subtype.

Wellman does not succeed in establishing conduction as a distinct type of argument because throughout he makes the mistake of confusing the epistemic issue of how the goodness or validity of an argument is discovered or known with the conceptual issue of what that goodness or validity actually consists of and how it is to be explicated. For instance, we may see the deductive validity of an argument without actually constructing a formal proof, and it is reasonable to suppose this happens frequently; no modern logician believes that reasoners literally follow formal laws of logic when they reason, except when deliberately trying to do so. This does not affect in the slightest what the relation between the premises and conclusion of the argument actually is, and hence it does not affect what type of argument it is.

There may be room for saying that conduction is a distinct kind of reasoning or inference (breaking Wellman's threefold identification of reasoning, inference, and argument). A major desideratum for whether we should say that something is reasoning is the thought that reasoning must obey a logic that can systematically decide whether that reasoning is good or bad. Thus, deduction is reasoning because it obeys the laws of deductive logic and these can be demonstrated always to generate truth from truth. Whether reasoning can be conductive depends on whether there is a conductive logic. If not, conduction is more psychology than reasoning.<sup>2</sup> We will return to this in the next section.

First of all, let us make the best of Wellman's typology that we can, remembering that each argument should belong to one and only one type. However, Wellman's definitions of 'deductive' and 'inductive' do not seem well-suited to bring this about; in fact, Wellman commits a category-mistake. First, Wellman's definitions:

(DEDUCTION): "that form of reasoning in which the claim is made that the conclusion follows necessarily from the premises"<sup>3</sup> (Wellman 1971, 4).

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<sup>2</sup> The situation parallels Popper's discussion of inductive logic. If there is such a thing as inductive logic then we can talk unproblematically about inductive reasoning, if not then induction is just a heuristic, a means of discovery and useful psychological habit. Popper would deny that there is an inductive logic and therefore he removes induction to the realms of psychology; Wellman allows for such a logic and thus allows for genuinely inductive reasoning.

<sup>3</sup> Note that this does not imply that all deductive arguments are deductively valid –

(INDUCTION): “that sort of reasoning by which a hypothesis is confirmed or disconfirmed by establishing the truth or falsity of its implications. To show that the consequences of some hypothesis are true is to provide evidence for its acceptance” (Wellman 1971, 32). It is important to realise that by “the consequences of some hypothesis” is meant its consequences when conjoined with auxiliary hypotheses and not merely substitution-instances (which, strictly speaking, are not consequences anyway, since a universal generalization is not logically guaranteed to have any instances). Induction is thus wider than what Wellman calls ‘extrapolation’, viz., “reasoning from some members of the class to some generalizations about the entire class” (Wellman 1971, 32).<sup>4</sup> This seems to be an argument from the particular to the general.

(CONDUCTION): “that sort of reasoning in which 1) a conclusion about some individual case 2) is drawn non-conclusively 3) from one or more premises about the same case 4) without appeal to other cases.” What Wellman is attempting to describe is a kind of reasoning from particulars to particulars – shown by the fact that the conclusion is drawn about some individual case from premises about the same case – that differs from arguments from analogy (which are ruled out by the “without appeal to other cases” clause). In this reasoning the link between premises and conclusion is established *a priori* by reflection (Wellman 1971, 53).<sup>5</sup>

In a very interesting discussion Nielsen (2000, 78–83) refers to two ways of distinguishing deduction and induction as *forms of inference* and as *modes of inference*. These correspond respectively to drawing the distinction on the claimed necessary connection or in terms of its ‘figure’ (in the Aristotelian sense), viz., from general to particular, from particular to general, from particular to particular, or from general to general. One traditional classification has it that deduction moves from the general to the particular

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deductively invalid arguments still *claim* there to be a necessary connection. Interpreting this notion of claim is problematic. If it means only what the arguer thinks the connection to be then there can be deductively valid arguments that are not deductive because the arguer does not believe the connection to be necessary, among other curious results. Although evaluating how well the argument matches the arguer’s own conception of it is a useful and probably a necessary exercise for determining how well the arguer has argued, classifying arguments on this basis is a mistake.

<sup>4</sup> This seems to be missed by Govier (1987, 66) who identifies induction with extrapolation when she says that a conductive argument “differs from an inductive argument in that it is not a case of confirming or disconfirming hypotheses *by instances*” [my italics].

<sup>5</sup> The *a priori* nature of the inference is never made particularly clear in (1971). Govier picks up on it and calls it variously non-empirical, non-inductive, conceptual, normative, criterial (Finocchiaro 2011, 234), without, unfortunately, making it any clearer. An attempt at clarification based on Wellman’s earlier (1968) paper will be made later in the paper.

and induction from the particular to the general, but this leaves two figures unclassified, and also seems to exclude a number of deductively valid arguments in those figures from being deductive. For the moment, the important point Nielsen argues is that we can use either or both as long as we are consistent. Wellman, however, does not draw the distinction consistently, for his definition of deduction characterizes deduction as a *form* of inference whereas his definition of induction characterizes induction as a *mode* of inference. Although each definition individually is permissible their combination is a category-mistake and it is no surprise that they fail to form mutually exclusive sets. Conduction seems to be characterized in both ways: as non-conclusive (form) and as being from the particular to the particular (mode).

To firstly remove the category mistake from Wellman's account and secondly achieve mutual exclusivity we either have to redefine deduction as characterizing those arguments that do not move from the particular to the general (i.e., those that are not inductive) or redefine induction as characterizing those arguments in which the conclusion is not claimed to follow necessarily from the premises. Redefining deduction (i.e., using the deductive/inductive distinction as a distinction between modes of inference) avoids problematic aspects of what is meant by there being a 'claim' to be a necessary or non-necessary connection and seems to do less violence to what Wellman says, for he does *not* count as inductive "any argument in which the truth of the premises would make the conclusion probable" (Wellman 1971, 32–33).<sup>6</sup> Statistical syllogisms like this count as deductive argu-

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<sup>6</sup> However, he does not seem consistent for earlier (Wellman 1971, 21) he describes the following as inductive: "I have eaten at Barney's ten times and have enjoyed nine delicious meals; therefore, if I eat at Barney's again tonight, I will enjoy another delicious meal." Surely, this is an argument in which the truth of the premises makes the conclusion probable and is therefore not inductive according to his later description.

Govier seems to prefer the opposite course of redefining induction, finding Wellman's definition of induction idiosyncratic. In support of this, she argues that cases of disconfirmation are equivalent to *modus tollens* and hence are deductively valid arguments. However, this is a mistake; the hypothesis involved is really a probabilistic conditional and not a universal material conditional, so a negative instance partly determines this probability rather than falsifying the conditional. After observing  $n$  swans that are white, if the next swan is not white then this 'disconfirmation' amounts only to saying that  $n/n+1$  swans are white. The 'hypothesis' does not actually commit to any probability. Of course, falsity of the universal conditional follows deductively from the disconfirmation, but it is not the disconfirmation itself. Note also that although it follows deductively the conclusion of this argument (being the negation of a universal conditional) is particular, viz.,

$$F(a) \wedge \neg G(a)$$

therefore,  $\neg \forall x F(x) \supset G(x)$

so we have an argument from particular to particular which is not inductive and which preserves truth by the conclusion having less content than the premises.

ments on this redefinition despite the fact that their conclusions only follow with a certain probability and are not detachable. Note that not only arguments from the general to the particular are deductive but also arguments from the general to the general and from the particular to the particular. Conductive and analogical arguments thus come out as deductive.

What of conductive arguments? Note that there is some room for interpretation of Wellman's definition. Wellman says that the conclusion is *drawn* non-conclusively and (though it is not part of the definition) that the link between premises and conclusion is *established* in an *a priori* yet presumably non-conclusive way by reflection. In itself this does not imply that the link between premises and conclusion actually is non-conclusive. You may have a deductively valid argument whose conclusion you would not draw conclusively because, for instance, you were not sure whether your proof is correct. Similarly, you may forego proof-construction altogether and argue for the validity of a certain argument because it is identical in form to other arguments known to be valid, thus establishing its conclusion only non-conclusively; the validity of a deductive argument is then established inductively. Clearly, this does not mean that the argument whose validity and conclusion is in question is a non-conclusive or non-deductive argument.

On this interpretation the definition of conductive arguments does not, then, rule out a deductive premise-conclusion relation or say anything at all about this relation, and since it is the premise-conclusion relation that characterizes arguments, 'conductive' does not describe a type of argument. However, this interpretation is nothing more than a possibility, a logical finesse, and is soon rejected if Wellman is correct and the examples he gives do not actually have deductive premise-conclusion relations, i.e., if he can prove failure along with antecedence. Now, any argument whatsoever can be made deductively valid by being considered as an enthymeme. We must see whether Wellman's conductive arguments can likewise be reconstructed as enthymemes.

Wellman anticipates and responds to this idea. First of all, Wellman denies that validity is a purely formal matter and that by "valid" he does not mean validity in virtue of form but something much broader. He gives examples of arguments, e.g., "you ought not to do that because it causes avoidable pain" that are valid in this broad meaning yet deductively invalid. Adding a 'missing' premise in order to make this deductively valid seems redundant when its validity is already obvious without any such premise. The arguer who identifies validity with deductive validity has to deny that this is a good argument or explain its deductive invalidity away. He then says that there are deductively valid arguments that are yet not formally valid,

e.g., “since this is green, it is extended” (Wellman 1971, 70–71). Later he defines validity as that which is “persuasive *when subjected to an indefinite amount of criticism*” (Wellman 1971, 92 [italics original]).<sup>7</sup> It is this wider concept of validity that we attribute to good and corroborated conductive arguments.

However, Wellman does not seem to be speaking specifically about conduction here, but intends this concept of validity to be attributed to all good arguments, even those that are deductively valid. Because in the end it is an indefinite amount of criticism that constitutes the grounds of our attribution of validity, the rules of deduction do not seem to decide the issue of validity by themselves, and it becomes unclear what their function is. Perhaps it is on their basis that the arguer can make for his argument an initial claim to validity, or perhaps Wellman's definition should be seen as a functional definition that can be realized by deductive validity. The implicit claim to validity to be found in all arguments – the claim to be persuasive after criticism – in some cases at least depends on deduction. What Wellman needs to support his claim that conduction is a distinct type of argument is an argument whose implicit claim to validity cannot, when the argument is not deductively valid as given, be represented as the missing premise of a deductively valid argument, yet it does not seem that he has done this, and it will be shown that the functional role this definition of validity seems to require can always be occupied by the associated conditional of the argument. In other words, even if we concede “since this is green, it is extended” is seen to be valid without the help of the associated conditional “If this is green, then it is extended” it does not follow that the conditional does not represent and lay open to the process of criticism the implicit claim to validity; to claim it does falls back on the claim of antecedence that we have already shown to be insufficient. All that Wellman has done is offer a concept of validity that is not properly speaking an alternative to deductive and inductive validity but only a functional description thereof. It is not another type of validity. But for conduction to be distinct from and belong to the same typological level as deduction and induction, another type of validity is precisely what we need.

To the logical trick of treating all these arguments as enthymemes he comments: “The difficulty is that adding such premises often makes the arguments useless for the purposes of justification. ... [T]o assume that everything coloured is extended seems to beg the question. In other cases, ... the

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<sup>7</sup> When the conductive inference is described it will be seen that this validity corresponds with a kind of corroboration of our non-conclusive inference.

arguer may not be in a position to justify accepting that additional premise” (Wellman 1971, 71). Govier is impressed with this line of thought, arguing that such premises would be unknowable and impossible to formulate in advance. There is also the fact that it is simply absent from the phenomenology of the reasoning. Here she seems to approve of Hitchcock’s phenomenological test for whether a premise is missing. Hitchcock (1985, 94) says that “the most serious objection to regarding an enthymeme’s implicit assumption as a missing premiss is that we are unaware of having omitted a premiss when we advance an enthymeme.”<sup>8</sup> Since we acknowledge the validity of the argument even without the addition of or being aware of any missing premise, Govier concludes that the argument must have a different kind of validity and be a different kind of argument. This seems to be Wellman’s (1971, 32–33) thought too when he says: “In conduction the truth of the premises does not necessitate the conclusion” and earlier (Wellman 1971, 14) when he says: “[T]he way out would seem to be to allow a weaker logical relation between the premises and conclusion in ethical reasoning.” Here he talks of conductive arguments as characterizing a different kind of premise-conclusion relation and clearly means these to be distinct from deductive and inductive arguments.

In response two points should be made. The first is that there is a premise we can add that we can formulate in advance and presents no special problem of knowability, as everybody would agree – this premise is the associated conditional or *logical minimum*, i.e., a material conditional in which the conjunction of premises is the antecedent and the conclusion is the consequent. Now, of course it is true to say that the logical minimum only repeats what the argument said already and has no justificatory role to play, but this does not mean that it is not part of the structure of justification and does not play an inferential role in this structure. What the logician offers is a conceptual analysis of justification, an account of what needs to be the case if some piece of reasoning is to be good. The logical minimum is not meant to justify, it *is* justification, or at least a representation thereof; it expresses the *implicit claim to validity*. If the logical minimum is false

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<sup>8</sup> In (2011, 194) Hitchcock writes:

The difficulty with supposing that arguers routinely suppress a premiss that they conceive their argument as having is that we have no awareness of such a supposedly suppressed premiss, even when we are reasoning things out for ourselves (Hitchcock 1985). Readers can check this phenomenological fact directly by reflecting on inferences they make for themselves, immediately after making them. It will readily be discovered both that the inference is not formally valid and that there is no awareness of having omitted a premiss.

then the reasoning is bad and challenging the claim to validity amounts to challenging the truth of the logical minimum; there can be no instance where the logical minimum is false and the reasoning is good, and Wellman and Govier do not seem to suppose otherwise, for their argument hinges on the goodness of the argument when the missing premise is absent and not when it is false.

The second and more important point is that even if we concede that the validity of certain arguments can be known without reference to their formal features, it would not follow that we have a different kind of validity and a different kind of argument. Hitchcock's phenomenological test turns out to be a rather dubious pretext for deciding whether a premise is missing or not; passing it would just mean that, in some cases at least, validity can be established without following the rules but just by "thinking it through" to use Wellman's phrase. This would be a kind of *particularism* and would have no consequences with regard to the types of argument there actually are; particularism implies antecedence only, not failure, and we have already said and supposed Wellman to have conceded that this is not enough. Wellman's argumentation does not then really advance on his unconsciously particularist claims. All three philosophers seem to want to argue for failure from antecedence alone, and this is a *non sequitur*.

Particularism will be explained in the next section, but first Wellman's definition of conductive argument needs to be discussed. Comparing Wellman's original definition to the way conductive arguments tend to be presented in the modern literature shows two quite striking differences, one concerning what Wellman's definition does say and one concerning what it does not say. As for what it does not say, it does not say that in conductive arguments there are considerations pro and con that have to be weighed. Of course, the third pattern of conduction (Wellman 1971, 57) does have this feature, but Wellman is keen to point out that weighing pros and cons is not definitive of conduction for there are other forms of reasoning in which weighing takes place, including inductive reasoning where positive and negative instances may be weighed against each other (Wellman 1971, 58). Many of the arguments described as conductive in the modern literature – which seems nowadays to include almost any argument that contains pro and contra considerations – are not conductive according to Wellman's original definition. What, then, are they? It will be shown that they inductive.

At least some reasoning on the grounds of pro and contra considerations has the form of a statistical syllogism. Consider the following example from Zenker (2011, 78):

Peter was born in Sweden  
90% of Swedes are Protestants  
Peter's parents emigrated from China 15 years ago  
Therefore, Peter is a Protestant

Peter's being Swedish is a pro consideration for his being rich, whereas his having Chinese ancestry is a contra consideration. By Zenker's lights it is an inductive argument, where by inductive he means only that the conclusion does not follow with necessity from the premises.<sup>9</sup>

Where, then, do conductive arguments come in? Why can't all pro and contra arguments be given this kind of analysis? Zenker (2011, 79–80) says:

Unlike the inductive case, the pro and con premise groups *can*, but they need not be jointly consistent. Moreover, adding or retracting a relevant premise from either the pro or the con group *can*, but need not result in a difference with respect to the support conferred by the premises. ... The distinct support behaviour under premise-change can be explained by the independent relevance of the premises for the conclusion, and by an arguer not only retracting or expanding premises, but also updating the *importance* of premises. ... The odd connection between premise revision and support-strength appears to be the most marked difference between the conductive and the inductive structure.

What Zenker seems to have in mind is that Peter's having Chinese ancestry weakens the strength with which the pro consideration supports the conclusion; in probabilistic terms, the frequency ratio of Swedes with Chinese ancestry who are Protestant is lower than that of Swedes *simpliciter* who are Protestant. All contra considerations function by narrowing the reference class. Only when everything relevant has been considered and you are looking at the narrowest reference class can you say anything unconditionally about the probability of the conclusion; otherwise, all arguments of this type say only that the conclusion is made probable relative to the grounds of the argument.

What Zenker seems to be saying is that in a conductive argument, however, the contra consideration weakens the argument without affecting the strength of the pro consideration or being relevant to it (or at least it can do, some considerations occur in pairs where one member undercuts its partner). This is because the relevance of each premise to the conclusion is potentially independent of the relevance of all the others. This contrasts

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<sup>9</sup> Wellman himself seems to equivocate between calling these inductive and deductive (see note 6). By my lights this is a deductive argument, since although the conclusion does not follow with necessity from the premises, it follows necessarily from the premises by a determined probability and cannot follow by any other. Statistical syllogisms are deductive arguments.



with the case above where the relevance of having Chinese ancestry and of being Swedish are not independent.

The problem then is whether the considerations in the pro group are more important, more relevant, and outweigh those in the con group. This is expressed in an On-Balance Principle (OBP). Zenker's (2011, 80) example of a conductive argument is:

- (CC1) Aircraft travel leaves a large environmental footprint.
- (CC2) Aircraft travel is physically exhausting.
- (CC3) Aircraft travel is comparatively expensive.
- (CC4) Airports do not always route baggage correctly.
- (PR1) Aircraft travel is comparatively fast.
- (PR2) I am overworked and likely able to sleep on the plane.
- (PR3) My department reimburses travel expenses.
- (PR4) Environmental footprint-differences can be compensated by purchase.
- (OBP) (PR1-PR4) outweigh/are on balance more important than (CC1-CC4).
- (C) It is OK to travel to the conference by aircraft (rather than by train).

What is the support given by (PR1-PR4) to (C)? It does not seem to be mere relevance. They are not sufficient conditions, so there does not seem to be deductive support. The indications are that each provides inductive support. Now, it was suggested above that it could not be inductive because (CC1-CC4) can weaken the support for (C) without weakening the support from (PR1-PR4) and this should not be possible in inductive arguments. However, while it is true of *extrapolations* that any contra consideration must function by narrowing the reference class, this is not shown to be true of inductive arguments as such, which it should be remembered is a wider class than that of extrapolations. In some sense, the fact that you might arrive at your destination without your baggage is a disconfirmation of the hypothesis (here a desired state of affairs) that you will arrive together with your baggage, while the fact that it is fast is a confirmation of the hypothesis that you will arrive as quickly as possible. Obviously these two considerations are completely independent; it is not the case that one is less likely to arrive quickly because the airport has incorrectly routed your baggage. The argument is inductive nonetheless, and it should be remembered that Wellman endorses weighing of considerations in inductive arguments.

Another reason that many examples given of conductive arguments given would not be conductive for Wellman is that they are not from the particular to the particular. Despite the fact that Wellman (1971, 52) himself describes the fact that conduction concerns the individual case as conduction's most striking feature it has largely been dropped from later discussions (Blair 2011, 2). According to Govier any set of premises, whether

particular or general, that are each of them positively relevant to the conclusion, whether particular or general, without establishing it conclusively or with some probability, form a conductive argument. She gives an example (Govier 1987, 69): “Blacks are equal to whites because they are as healthy as whites, they are biologically very similar to whites, they are as intelligent as whites, and they share basic needs with whites.” All the premises and conclusion here are general, making it deductive according to the distinction proposed, and the conclusion is not entailed by the premises. Yet surely we cannot simply say that this apparently good argument is bad because deductively invalid. By treating it as conductive, by treating each premise as adding some logical weight to the conclusion, Govier would say that we give the argument a fair hearing.

Note that if “equal” in the demonstrandum simply meant similar in health, in biology, in intelligence, and in needs, then this argument would be deductively valid. Obviously, Govier does not mean this kind of situation. Nor does she mean the kind of situation where although not jointly sufficient each premise is necessary, for necessary conditions are by definition true in the same models that the conclusion is true, so ruling out models where a necessary condition is false *ipso facto* makes it more likely that the conclusion is true. That the conclusion is not established conclusively is beside the point here. There is nothing non-demonstrative in this kind of reasoning or argument.

The situation that seems to be intended is where the predicate involved has conditions that overlap but few or none that are necessary. To give a hackneyed example, it is not a necessary condition of a game that one play against an opponent (think of solitaire) yet playing against an opponent can legitimately be considered a good reason for applying the predicate “game.” Wellman (1971, 54) says:

Wherever some descriptive predicate is ascribed on the basis of a family resemblance conductive reasoning takes place. In all such cases there are several criteria for the application of a term and each of these criteria may be satisfied to a greater or lesser degree and they may vary in importance as well. The fact that one or more of the criteria are satisfied in a particular instance is a reason for applying the term, but the inference is non-conclusive and does not appeal to the fact that the criteria have been found empirically associated with the term in other cases. For example one might give the following arguments: Bees have a language because they can communicate information about the location of flowers to one another. Hunting is a game because it is fun and involves a competition between a hunter and his prey. ... In such examples factual conclusions about some individual case are drawn from information about that case.

Note that “bees have a language” and “bees communicate information about the location of flowers to one another” are general statements, yet it still makes sense to consider bees communicating information as the “particular instance” for which the applicability of the term “language” is being decided. Being particular does not mean that it must concern a particular bee, yet it should be noted that if this inference is made for a particular bee, it follows, because of its *a priori* nature, that it can be made for all bees. This means that we can consider the statements in a particularized form after all and then consider the general forms as universal generalizations of the particularized form, or in other words, as the deductive consequence of the conductive inference. This goes also for Govier’s example. Blacks being as healthy as whites, and the other considerations she brings forwards, can still be considered as a particular instance for which the applicability of the term “equal” in the sense intended is being decided, and it still makes sense to express the conductive inference in purely particular statements and consider its universal generalization as inheriting the goodness or badness of the conductive inference so expressed.

Here we have a clue about what “thinking it through” actually consists of, and perhaps of ‘conductive’ as characterizing a type of inference rather than a type of argument. Conductive inferences might be more widespread than he makes it appear here, since in a paper that seems little-discussed in the literature on conduction but which provides considerable insight on precisely what he takes a conductive inference to be, Wellman (1968, 438) says:

Since there is no sharp line between essential and nonessential characteristics, it is a mistake to look for some essence common to all instances of a term. Instead, a term is usually applied on the basis of many overlapping characteristics which form a family likeness. As a rule there is no such thing as the criterion for the use of a descriptive expression.

This implies that in justifying the use of an expression by giving its criteria one will normally have to give more than one criterion. Whether or not a word correctly applies will usually depend upon several characteristics which may be present or absent in varying degree. Upon occasion these various criteria may even conflict with one another. Which criteria are relevant to the use of a term on any particular occasion will depend primarily upon the circumstances under which it is to be used.

The criteria act as purely linguistic grounds for applying the predicate and ultimately involve an appeal to convention (Wellman 1968, 441):

The use of an expression can be justified by pointing to the presence of its criteria in the object to which it has been applied. In justifying one's use of an expression by pointing to its criteria one is appealing to a linguistic convention. Beyond this appeal no further justification is possible or necessary.

The *a priori* nature of the conductive inference noted by Wellman and Govier, then, seems to reside in its appeal to linguistic convention. A convention is prescriptive rather than descriptive; it is not a generalization from linguistic behaviour and hence giving a criterion “does not appeal to the fact that the criteria have been found empirically associated with the term in other cases.”

Conduction then depends on Wellman's Wittgensteinian conception of a criterion. It is not purely Wittgenstein's because Wellman disagrees with Wittgenstein over one interesting point, namely the application of a predicate on the basis of private sensations. Wittgenstein regards this as futile because you are no more able to tell whether you have applied the predicate correctly to your sensation as you are to the object in question. Wellman agrees with this but says that this is not the real issue. Accepting Wittgenstein's dictum that criteria must be observable, Wellman (1968, 445–46) claims that only private sensations are directly observable, and rather than justification coming to an end here, we can justify this claim by noting that subjective differences in our experiences and illusions are best explained by positing an intermediate private object. Wellman concedes that since the object is private there is no way of establishing the correctness of applying the predicate<sup>10</sup> to it; whereas were the object public, correctness could be corroborated by the fact that more than one person used the predicate in the same way of the same thing. Wellman responds that corroboration is only useful if the predication already has strong claims to be correct; comparison of one person's use of a term and another person's amounts to corroboration only if we already have reason to believe these uses to be the correct ones. Whether we have such reasons depends, irrespective of whether we posit private sensations, on memory for our applications of predicates to be consistent. This point is interesting because Wellman says that we know the validity of conductive arguments simply by “thinking them through” and it does not seem too much of a stretch to take this “thinking through” as a kind of introspection of whether some criteria fit some mental object.

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<sup>10</sup> Not exactly the same predicate; a mental object is not literally “red”. “Red” is predicated of the mind-external object on the basis of ascribing some red\* property to the mental object.

Where have we got to so far? We have defined inductive arguments as those whose premises are all particular and whose conclusion is general (but not, strictly speaking, a universal material conditional). We have defined deductive arguments as all the other possibilities. This is a version of the traditional typology and leaves no room for conductive arguments or arguments by analogy as distinct types of argument that are neither deductive nor inductive, with the result that their goodness must always be reducible to deductive validity when emended with missing premises. There is an option for considering conduction as a type of inference that does seem to take place in certain reasonings, although by no means all reasonings that include the weighing of pro and contra considerations, even when these considerations are independently relevant, for this independence can also occur with those inductive arguments that are not extrapolations.

## **2. Conduction as a type of meta-epistemological strategy**

What kind of thing is conduction as it has been described above? Is it genuinely a type of inference or does it belong more to psychology than to reasoning? This comes down to the question: is there a logic of conduction? Wellman does not absolutely deny the possibility of a logic of conduction but is sceptical of the prospects; it would certainly not be a logic in the usual sense because its validity would depend on the matter of the argument rather than the form, and every change in matter (or at least in the predicates) would require a new rule.

There are two kinds of rules that we would need for such a logic. The first kind is rules of relevance. These rules are sufficient for conductive arguments in the first and probably the second patterns, where there are respectively one or more than one criterion positively and independently relevant (and none that are negatively relevant) to applying the predicate. The complication is when criteria are satisfied that tell against applying a predicate without necessarily making it inapplicable, such as the lack of an opponent in the application of the predicate "game." This situation calls for a second kind of rule called rules of force. Although it may be possible to formulate rules of relevance<sup>11</sup> Wellman doubts whether it is possible to

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<sup>11</sup> For reasons that go far beyond the scope of this paper rules of relevance cannot be formulated; there can be no theory of relevance at all, or at least, we are better off treating relevance as an unanalysable primitive relation. This gives us even less reason to treat conduction as a type of reasoning.

formulate rules of force and it is, besides, useless to do so – one is better off simply ‘weighing’ the pros and cons in the original argument by “thinking it through” rather than by trying to apply a rule (Wellman 1971, 61–70).

Granted these points, let us return to the original question: is conduction a kind of reasoning at all? Wellman takes this question very seriously and provides a fairly lengthy response (Wellman 1971, 70–82) that is based around the fact already discussed that we can tell that some arguments are valid although they are not deductively valid and without making them deductively valid by adding missing premises. It has been counter-argued that being able to tell that some arguments are valid by non-deductive means is precisely what you would expect if you allow *particularism* and does not mean that the concept of validity we are applying in these judgments is not deductive validity.

Conduction, then, is an epiphenomenon of the meta-epistemological strategy of *particularism*.

To explain what is meant by “the meta-epistemological strategy of *particularism*” we need to look at the Problem of the Criterion. This is an old problem that was revived in Chisholm (1973). Chisholm (1973, 14) says:

[1] You cannot answer question A [‘what do we know?’] until you have answered question B [‘how are we to decide whether we know?’]. And [2] you cannot answer question B until you have answered question A. Therefore [3] you cannot answer either question. [3a] You cannot know what, if anything, you know, and [3b] there is no possible way for you to decide in any particular case.

In other words, unless you know some things antecedently there is no way of telling whether the rules correctly capture what we do and don’t know; there is no way of validating the rules. This does not mean that those rules do not apply to those cases but only that the truth in those cases can be established without appeal to or reference to the rules. Conversely, without rules there is no way of telling whether you do know what you think you know. Holding [1] and [2] together, therefore, leads to scepticism. Chisholm calls the alternatives *methodism* and *particularism*. The methodist devises rules and decides to live with the fact that there is no way of justifying or testing these rules further; by applying these rules he determines what we know, letting things fall how they may with regard to what we thought we knew, with the common result that we really know far less than we thought we did.

The particularist assumes that she does know some things (for the common-sense particularist this is more or less what she thinks she knows)

and tries to discover rules to systematize these particular judgments. This has the advantage endorsed by Chisholm of (potentially, at least) preserving the majority of our judgments. The important point for my purposes is this: the particularist may discover in her judgment rules of deductive or inductive logic or even rules of relevance and force that she did not actually use in reaching her judgment. Indeed, that she did not use such rules is precisely the point of her strategy and to be expected. It obviously does not follow that those rules do not apply or that we are attributing in our judgments a different concept of validity. Perhaps it might be possible that we do not know what type of validity we are attributing, but this is a different matter.

Now, we can create a collective noun for all of these particular judgments and call them conductive arguments, but this is not necessarily a different kind of argument in the sense of having a different kind of premise-conclusion relation, and arguing that it must be because we did not use the rules or entertain any missing premise or feel any premise to be missing is beside the point – if the particularist position is the right one this is exactly what we would expect. This means that we should beware of drawing conclusions about logical structure from phenomenological points about our decisions over validity; these are not evidence that our reasoning is not deductive, unless we take an old-fashioned view that logic is actually descriptive of our psychological processes rather than a normative reconstruction thereof. These phenomenological contra considerations become pro considerations with the change to a meta-epistemological perspective.

There are many places where Wellman and Govier seem to be endorsing particularism without apparently realising that this is what they are doing. Here is a list (references are to Wellman 1971):

- i. pg. 7 “[O]ur knowledge of validity, even in deduction, does not depend upon explicit definition.” Granted: but this does not imply that validity itself does not depend upon explicit definition.
- ii. pg. 9 “I doubt whether it can be held that when a speaker advances a valid ethical argument in non-deductive form he *always* has in mind additional premises that make the argument deductive. ... The fact that one can produce an additional premise that will transform the argument into deductive form does not prove that one needs to do so.” Granted: but what the speaker has in mind is not the issue. One does not need to add the premise in the sense that one can see the argument’s validity without such a premise, but this does not mean that the premise is not necessarily true and a part of what makes the argument valid.

- iii. pg. 66 “Such principles [rules of conduction] might be established in the same way that the principles of deductive logic are, by induction from clear cases of valid argument. Once established by appeal to clear cases, these rules of relevance might then be applied to arguments whose validity is in doubt.” This is a meta-epistemological strategy and directly presupposes that there are clear cases that can be seen to be valid (by being thought through) without appealing to rules of any kind, even those of conduction, for these are precisely what we are attempting to establish.
- iv. pg. 80 “Hence, *if* the only way of distinguishing between valid and invalid arguments were to appeal to criteria of validity, then it would follow that conductive arguments are not really reasoning. But there is a way of distinguishing between valid and invalid arguments – thinking through the arguments.” Thinking through the arguments emerges here as the means of establishing validity without appeal to rules, including rules of conduction. However, there is no reason to say that arguments whose validity is established in this way are necessarily conductive.
- v. pg. 132–33 “[J]ustification ... may be observed and described as a psychological struggle in which one person tries to force another to back down ... But it is more than a psychological struggle because at its core are certain critical claims to truth, validity, to be upsetting, to be reassuring, to be adequate. Therefore the actual outcome of any particular psychological struggle never settles once and for all the issues being fought over in the process of justification. It is this peculiar ambivalence of justification that enables what we actually do in discussion and thinking to serve as a test of critical ideals like truth, validity, and being justified.” Here we have the idea of the critical ideals themselves being tested by corroboration of cases.

Govier (1987, 73–74; 1980, 14) makes Descartes an ally to her cause. “I think; therefore, I am” does not, Descartes and Govier agree, require the universal premise “Everything that thinks exists.” This is true in one sense and false in another: it does not need an additional premise epistemically, but it does need it logically. One does not need to have formulated the proposition “Everything that thinks exists” and have an attitude towards it, but this does not necessarily mean that one can believe it to be false. Perhaps one could conceivably believe this to be false, but one could not believe the logical minimum “If I think, then I exist” to be false; this is the advantage of using the logical minimum.

What meta-epistemological strategy is Descartes adopting? DePaul (2011, 297) takes Descartes as a *methodist* – having decided on that which



is clearly and distinctly perceived as his criteria of truth, Descartes goes through what he thinks he knows and rejects anything that does not bear this mark. This does not seem fair: to take as true whatever is perceived clearly and distinctly is not the same as formulating the rule “Whatever is clearly and distinctly perceived is known” and then applying it. Such a rule is only descriptive of epistemic judgments already made, that is to say, what Wellman has called ‘clear cases’. Thus it seems fairer to take Descartes as a particularist.<sup>12</sup> He begins with a particular judgment “I think; therefore, I am” and proceeds therefrom. This seems to be Govier’s view also when transported into the meta-epistemological perspective for she quotes Descartes as saying that the means to discover truth is to start from particular notions and then form general conceptions and rules from these (Govier 1987, 74). This is particularism. Note, however, that Descartes is talking about *knowledge* of particular truths, not their truth itself. That knowledge of the validity of the inference from “I know” to “I exist” may not depend on any additional premise does not mean that the inference’s validity itself does not depend on any additional premise, and it is not clear that Descartes would dispute this or that he makes the mistake that Wellman and Govier do of confusing a meta-epistemological strategy with a non-deductive logical relation.

### **3. Conclusion**

It has not been established that there is such a thing as conductive arguments. The fact that one may decide that a certain argument is valid without appealing to a logic of deduction or induction is precisely what the particularist position predicts, and in the various passages where Wellman suggests that the logical rules themselves and the critical meanings they are meant to capture can be tested firstly against particular, non-formal judgments and secondly by a never-ending process of criticism, he seems

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<sup>12</sup> Arguably, Descartes is not a common-sense particularist because initially he only takes the cogito itself as the extent of his knowledge. However, Descartes knows beforehand what truths he wants to reinstate as known even while accepting that their truth is initially subject to doubt. The inconclusiveness of the conductive inference does not prevent whatever is established by it from being a genuine item of knowledge. The cogito, it might be said, is the only conclusively established and therefore infallible truth, and it is from this that he ‘proves’ that God could not deceive us over what we clearly and distinctly perceive and justifies a rule to that effect describing our judgments. By this means Descartes intends to remove the doubt concerning common-sense truths, but we were acting in accordance with this rule all along.

to endorse the particularist position without realising it. The particularist position does not have the consequence that the arguments Wellman calls conductive are not deductive; the term 'conductive' is not shown to characterise arguments at all but only a kind of reasoning to the extent that thinking an argument through qualifies as reasoning.

'Conductive' arguments are particular to particular and hence deductive arguments with the associated conditional added, the acceptability of which conditional depends on the strength of the conductive inference. Rejection of enthymematic reconstruction on the basis of phenomenological issues such as how one comes to know conclusions or establish principles dissolve if you concede particularism; adding the *logical minimum* to the argument (which does not mean that it plays a role in the conductive inference) is perfectly reasonable because in the end what is needed is a conceptual analysis of the goodness of an argument or piece of reasoning and it is no objection to being part of such an analysis that there may be some kind of epistemic redundancy.<sup>13</sup> As far as the typology of arguments goes conduction is reducible to deduction.

As for the typology of inferences, what the conductive inference seems to consist of (to be found in Wellman's discussion of Wittgenstein's conception of a criterion) is application to some private mental object of some predicate few or none of whose criteria of application are necessary. This does not make the inference irremediably subjective; the weights that result from weighing pros and cons are intersubjective in that they ultimately reflect each speaker's conformity to a linguistic convention and are subject to an indefinite amount of criticism. Conduction is best thought of as a set of cases whose conclusions can be seen to follow from their premises without reference to rules and can (despite being non-conclusive) be used as basic cases of knowledge because their twofold intersubjectivity give them the authority and means to validate the rules we might discover in them. It remains to be seen whether rules of relevance and force can be discovered in them, but Wellman himself is sceptical, and if not then there is no logic of conduction and conductive 'inferences' belong more to psychology than to reasoning.

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<sup>13</sup> Furthermore, it seems to me that it is part of the concept of p's being a reason for q that, in this particular instance, "if p then q" is true. This does not mean that the truth of p guarantees the truth of q – we do not seek to generalize this conditional so as to make it reliable, nor do we say that it is certain. We say only that whenever one thing is taken as a reason for another, even an inconclusive reason, commitment to the logical minimum connecting these two things is implied. This is a conceptual/logical matter and not an epistemic matter; how useful the logical minimum may or may not be epistemically is beside the point.

S U M M A R Y

In this paper Wellman's classification of arguments into deductive, inductive, and conductive and his way of defining these terms is shown to be both internally inconsistent and externally under-motivated; he does not succeed in showing that there are no types of argument that are both deductive and inductive or that there are types of argument that are neither deductive nor inductive, though we may concede that our classifying an argument as valid does not always require appeal or reference to the rules of deduction or induction. This is an epistemological or even meta-epistemological point about how we make certain classifications and implies nothing about the classification itself. Taking this meta-epistemological perspective also affects an entire battery of arguments aimed against the reconstruction of arguments as deductive enthymemes; seeing that an argument is valid without the help of a missing premise does not mean that such a premise is unnecessary or that the argument is non-deductive.



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## COGNITIVE FUNCTIONS OF LANGUAGE ACCORDING TO G. W. LEIBNIZ

The Leibnizian study of language is an unusual phenomenon, not only in comparison with the achievements of the thinkers in the seventeenth century, but also among the issues tackled by the philosopher, as well as in terms of the quality of the results presented by him. This is because Leibniz is a language theorist, showing the fundamental relationship between language and the basics of human thinking in the algebraic form. The Leibnizian algebra of notions was not only a significant step in logic; it was also the first attempt in history to construct the algebraic theory referring neither to numbers nor to space. As a language philosopher and logician Leibniz was discovered only at the beginning of the twentieth century. To some extent, it was caused by E. Husserl, G. Frege and G. Peano. Undoubtedly, the publication of the selection of logical-philosophical writings *Opuscules et Fragmentes Inédits* which constituted an important supplement to the monumental edition of Leibniz's work published by L. Couturat in 1903 consisting of seven volumes of philosophical writings and seven volumes of mathematical works written over nearly forty years of the second half of the nineteenth century contributed to the popularization of the philosopher's legacy. The Leibnizian inspiration underlies the appearance of one of the most important mathematical works of the early twentieth century – *Principia Mathematica*, written by B. Russell and A. Whitehead. One can argue that the Russelian doctrine of logical atomism remains in a strong relation with the solutions provided by Leibniz in *De Arte Combinatoria*. Similar inspirations in the theory of meaning can be found in the writings of G. Frege, where the Leibnizian theory of identity is compared to Frege's contextual theory of meaning (*bedeutung*).<sup>1</sup>

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<sup>1</sup> See H. Ishiguro, *Leibniz's Philosophy of Logic and Language*, second edition, Cambridge University Press 1990, p. 8–16.

Leibniz's achievements in the field of the formal theory of language recognized after centuries are closely related to his position regarding the philosophical status of language which, according to Leibniz, has an innate character similarly to the ability to think under the principle of striving which updates the ability to think and creates language due to external stimuli.<sup>2</sup> This ability has essentially the same character as N. Chomsky's model of universal grammar in conjunction with his theory of linguistic competence although Chomsky's reference to its Cartesian lineage is not quite right. A similar abuse is committed by K. Devlin in his famous book *Goodbye, Descartes: the End of Logic and the Search for a New Cosmology of the mind*. It is necessary to agree with the author's thesis that reflection on language and human thinking played a huge role in the history of philosophy and science. Today, in the age of artificial intelligence research and information technology development, the works of psychologists, philosophers of language, sociologists and linguists are becoming particularly important. Answers to the question: what is the human mind and how we think, are essential to the fundamental problems of computer science. The birth of the new discipline, cognitive science, dealing with the structure of the mind, thought and consciousness, has become a challenge to the tradition of rationalist philosophy, as well as an important factor in the development of computer and communication technologies. Devlin settles accounts with the tradition whose shape, according to him, is defined by the figure of Descartes, his philosophy and, above all, his methodology. Certainly, Descartes can be regarded as a symbol of the rationalism heritage, but it seems that, despite his huge impact on the modern philosophy, it is not Descartes but Leibniz who should become the main hero of the endless goodbye in the issue of the relations between language and cognition for a full consideration of the philosopher's idea can provide inspiration for new solutions in this secret land.

## Functions of the language sign

According to Leibniz, language signs and, more broadly, all symbolic systems, are involved in the thinking processes and have a supporting function in the whole intellectual process. This conclusion is confirmed by the numerous statements of Leibniz, especially where the object of his atten-

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<sup>2</sup> See H. Świączkowska, *O metafizycznym statusie języka w filozofii Leibniza*, in: H. Jakuszko, L. Kopeć (ed.), *W kręgu zagadnień filozofii XVII wieku*, Lublin 2009.

tion is the system of natural language.<sup>3</sup> In *Unvorgreiffliche Gedancken...* the philosopher writes that words are not merely symbols for thoughts but also for things, and that we need symbols not only to transmit our opinion to others but also to support our own thinking.<sup>4</sup>

The idea expressed in *Unvorgreiffliche Gedancken...* is approached by Leibniz precisely in *New Essays...*,<sup>5</sup> but in fact he refers to the general definition of sign presented in the table of definitions prepared around 1672:

A sign is what we see (and understand) at the moment and, in addition to this, what we consider as united with something else under our or someone else's experience.<sup>6</sup>

Leibniz, as Dascal notes,<sup>7</sup> defines here a multiargumental predicate  $x$  being the sign  $y$  for  $z$  in time  $i$  (where  $x$  is a variable for signs or rather medium of signs;  $y$  replaces what is being indicated;  $z$  refers to the users of signs;  $t$  refers to time parameters). To state that something functions as a sign, the definition requires the fulfillment of the following two conditions:

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<sup>3</sup> Let us quote here the fragment of Leibniz's manuscript which remains in Leibniz's Archives in Niedersächsischen Landensbibliothek in Hannover, sign. IV, VII, B, 3,16 r where the author explains what he means by the function of sign: "La plus part de nos raisonnemens, sur tout ceux qui s'entremellent dans les principales veues, se font par un jeu de caractères, comme on joue du clavecin par costume en partie, sans que l'ame en cela s'en apperçoive assez, et forge les raisons avec reflexion. Autrement on parleroit trop lentement. Cela sert a mieux entendre comment (l'ame) le corps exprime par ses propres loix tout ce qui passe dans l'ame. Car ce jeu de caractères peut aller loin et va loin en effect, jusqu'à un point qu'on ne pourrait penser des choses abstraites sans aide de caractères arbitraires". Quoted after M. Dascal, *Leibniz. Language, Signs and Thought*, Foreword, s. VII, John Benjamins Publishing Company, Amsterdam/Philadelphia 1990.

<sup>4</sup> G. W. Leibniz, *Unvorgreiffliche Gedancken betreffend die Ausübung und Verbesserung der Deutschen Sprache*, in: G. W. Leibniz, *Collectanea Etymologica*, Hanoverae 1717, § 5: "Es ist aber bey dem Gebrauch der Sprache, auch dieses sonderlich zu betrachten, dass die Worte nicht nur der Gedancken, sondern auch der Dinge Zeichen seyn, und dass wir Zeichen nöthig haben, nicht nur unsere Meynung andern anzudeuten, sondern auch unsern Gedancken selbst zu helffen. Den gleichwie man in grossen Handels-Städten, auch im Spiel und sonst nicht allezeit Geld zahlet, sondern sich an dessen Statt der Zeddel oder Marcken, biss zur letzten Abrechnung oder Zahlung bedienet; also thut auch der Verstand mit den Bildnissen der Dinge, zumahl wenn er viel zu denken hat, dass er nehmlich Zeichen dafür brauchet, damit er nicht nöthig habe, die Sache edesmal so oft sie vorkomt, von neuen zu bedencken. Daher wenn es sie einmahl wohl gefasset, begnügt er sich hernach oft, nicht nur in äusserlichen Reden, sondern auch in den Gedancken und innerlichen Selbst-Gespräch das Wort and die Stelle der Sache zu setzen".

<sup>5</sup> See G. W. Leibniz, *New Essays Concerning Human Understanding* (Ed. A. G. Langley), The Macmillan Company, London 1896, Book III, Ch. ix, p. 370.

<sup>6</sup> G. W. Leibniz, *Sämtliche Schriften und Briefe* 6 Reihen, Darmstadt 1923, Berlin 1950, Leipzig 1983, later in the text referred to as AA (and quoted as volume, part, page) VI ii, 500: "Signum est quod nunc sentimus et alioquin cum aliquo connexum esse ex priore experientia nostra vel aliena judicamus". See also G. W. Leibniz *Opusculæ et Fragments Inédits de Leibniz*, L. Couturat (ed.) Paris 1903 (later in the text referred to as C), p. 497.

<sup>7</sup> M. Dascal, *Leibniz. Language, Signs and Thought*, op. cit., p. 31.

- $x$  must be seen (experienced) by  $z$ ,
- $x$  must cause  $y$  (in the mind of  $z$ ), under certain existing link between  $x$  and  $y$ , on the part of  $z$ . The whole process is situated in the time  $i$ .

According to this definition, the primary function of each sign is recalling its reference (meaning) in the mind of the interpreter (user) of the sign. Staying within this basic function and taking into account the differences between users of signs and the things to which they refer as well as differences of time parameters, it is possible, however, to distinguish several additional features of the signs. The first distinction introduced by Leibniz immediately after the introduction of the above definition is the difference between “informative” and “mnemonic” function of the sign. Signs that have an informative function are referred to as signs, whereas those with a mnemonic function are called concepts. According to Leibniz, words were invented primarily to support human memory, so they are marks (*notae*) for us on the same terms as they are *sings* for others.<sup>8</sup>

While making this distinction, Leibniz refers directly to Hobbes.<sup>9</sup> Therefore, it is useful to present the source of the difference between the sign and the concept in order to understand their different functions. According to Hobbes, philosophy consists of the knowledge achieved (acquired) by reasoning. Reasoning is a type of account whose basic operations are the sum and difference of ideas, concepts and thoughts. However, human thoughts are fluid and transient. Thus the mind encounters a basic difficulty to collect them in a whole, organize them or compare them. The process of the thought analysis, and thus the acquisition of knowledge, must be accompanied by some tools – meaningful signs allowing us to return to past thoughts, reproduce their order and connections.<sup>10</sup> Hobbes calls such signs concepts. But the use of concepts is highly individualized and private. That is, they support only a memory unit and disappear with the death of their users. A real progress of science is seen as the accumulation of knowledge acquired over generations and it requires a system of signs which are common to many individuals. Such signs are called signs in the strict sense.<sup>11</sup>

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<sup>8</sup> AA VI ii, 500.

<sup>9</sup> AA VI i, 278: “Verba enim non tantum signa sunt cogitationis meae praesentis ad alios, sed et notae cogitationis meae praeteritae ad me ipsum, ut demonstravit Th. Hobbes principio *Elementorum de Corpore*”.

<sup>10</sup> T. Hobbes, *De Corpore*, 1,1,3 – subsequent numbers represent chapter, part and fragment, in: T. Hobbes, *The English works of Thomas Hobbes of Malmesbury*, W. Molesworth (ed.) London 1839–1845, vol. IV. See M. Dascal, *Leibniz. Language, Signs and Thought*, op. cit.

<sup>11</sup> T. Hobbes, *De Corpore*, I, 2, 2. See M. Dascal, *Leibniz. Language, Signs and Thought*, op. cit., p. 32 and following.



For Hobbes, the difference between the signs and concepts comes down to the difference of function.<sup>12</sup> Signs serve to reveal our thoughts to others whereas concepts are to refer to themselves or to recall themselves to ourselves. Although both functions are very clearly distinguished, it appears that they are not independent for Hobbes. The mnemonic-recalling function of the concept is in some sense basic. While we can easily realize the concepts that are not signs, or those we use only for our personal use, without any communicative value, a reverse process is not possible. Therefore, to have a communicative function each sign should be a concept itself or it has to be connected with the concept which “fixes” the thought transmitted by that sign.

Priority or superiority of the mnemonic function over a communicative one is illustrated, according to Hobbes, by natural languages. Words or, precisely, names have a dual function of signs and concepts, but most of all they are concepts, and then signs. He claims that no name taken in isolation can fulfill a communicative function. It is simply lacking. Only when words and names come together in a sentence, they begin to fulfill their sign function, that is, they transmit the thought of its recipient.<sup>13</sup>

It is worth noting here that Hobbes takes a particular point of view. Signs and concepts are treated by him as tools in the development of science and philosophy. In this sense, he concentrates rather on the language of science than on everyday language. Of course, he also indicates the use of language for pleasure and decoration, but it is a marginal use. However, a social function of language, conditioned by the existence of the social consensus as to how to apply signs, is nothing more but a transfer of knowledge necessary for functioning of the society from one generation to another.<sup>14</sup>

According to Hobbes, there is a certain hierarchy of sign functions, subordinated to the development of science. In order to achieve the advancement of knowledge, transmission of information is needed, because only in

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<sup>12</sup> T. Hobbes, *De Corpore*, I, 2, 3.

<sup>13</sup> T. Hobbes, *De Corpore*, I, 2, 3: “[...] nomina per se singula notae sunt, nam cogitata revocant etiam solas, signa vore non sunt, nisi quatenus in oratione disponuntur et partes ejus sunt. Verbi gratia, *vox homo* excitat quidem in audiente ideam hominis, non tamen (nisi quis addat, est animal, vel aliud aliquid aequivalens) significat aliquam ideam fuisse in animo loquentis, sed voluisse eum aliquid dicere, quod potuit quidem incipere a voce *homo*, potuit vero etiam a voce *homogeneum*. Natura itaque nominis consistit primario in eo quod serviat quoque significandis, demonstrandisque ils rebus quas memoria tenemus”. Let us note that Hobbes recognizes the correct unit of communication, which is a sentence, not a name or a word. This discovery could provide a starting point for the semantics of sentences, radically different from the traditional semantics, which focuses mainly on the word. Unfortunately, neither Hobbes nor his successors developed this idea.

<sup>14</sup> T. Hobbes, *Lewiathan*, eBooks@Adelaide 2007, I, 4, 5.

this way the experience of the past eras can be accumulated. But fragments of knowledge are acquired in reasoning. Therefore, it is necessary to be capable of indicating our thoughts and recalling their relationship. A hierarchy of sign functions can be represented as follows:

- advancement of knowledge,
- information, communication,
- discovery by reasoning,
- indication and recalling thoughts.

In accordance with the above-mentioned considerations, concepts, for Hobbes, have only the last function. This mnemonic function is essential for the remaining ones and in this sense all the others, especially reasoning, depend on the use of meaningful concepts. However, concepts, though necessary, serve a supportive role in the very reasoning. Reasoning (conversion) directly affects ideas and thoughts evoked by concepts – (...*animo, sine verbis, tacita cogitationes ratiocinando addere et substrahere solemus*).<sup>15</sup> The use of concepts in reasoning is therefore indispensable in the sense that in the mind they evoke the content that is necessary to start this process and sustain it. The reasoning in itself is a process of thinking in which there is no room for the use of any meaningful signs.<sup>16</sup>

It is only in this context that Hobbes's attack on algebraic symbolism is understood. He writes in *De Corpore*: "The so-called 'symbolics' used by many scholars who believe that it is truly analytical, is neither analytic nor symbolic. It is only a simple shortcut of mathematical accounts, but not geometric, because it does not add anything to the learning or teaching of geometry, and is just a quick and short summary of what has already been discovered by geometricians. Even if the use of symbols can facilitate the discourse of the judgements distant from each other, I am not sure whether this symbolic discourse could be considered as useful if things corresponding to the idea are taken into account".<sup>17</sup> Therefore, Hobbes ar-

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<sup>15</sup> T. Hobbes, *De Corpore*, I, 1, 3.

<sup>16</sup> The interpretation of Hobbes presented here is proposed by M. Dascal (*Leibniz. Language, Signs and Thought*, op. cit., s. 34); it differs from the interpretation presented by W. Kneale and M. Kneale in: *Development of Logic*, The Clarendon Press, Oxford 1962, p. 312 and others assuming that for Hobbes thinking is merely an operation on signs. The reason for these differences is a lack of certainty on this issue on Hobbes's part. In *Leviathan*, op. cit., Part I, Chapter 5, he actually presents thinking as an operation on general names and adds that science is nothing more but the acquisition of knowledge being the consequence derived from names in the subject. Although at the beginning of the same part of *Leviathan* he shows this type of reasoning as a possible rather than necessary characteristic of all types of reasoning. Moreover, he assumes the existence of a purely mental discourse, different and completely independent of verbal discourse.

<sup>17</sup> T. Hobbes, *De Corpore*, III, 20.

gues that algebraic symbols allow only to shorten reasoning; their didactic value is also questionable. A symbolic discourse is secondary to the process of thought whose constitutive elements include ideas or performance, and that, in his opinion, is sufficient to challenge the cognitive usefulness of symbolism itself, its role is purely marginal. A sign does not constitute thinking being only capable of its acceleration; a mnemonic function is its basic function.

There is no doubt that Leibniz's views on the functions of the language sign were shaped by the critical analysis of Hobbes's works. In *Nova Methodus Docendaeque Jurisprudentiae* he lists mnemonics as one of the disciplines treating about human 'habits' which has to do with memory. Analytics and topos respectively deal with judging and discovering. To keep order, he also adds methodology; all these disciplines make didactics.<sup>18</sup> Leibniz accepts the existence of some objects of thought called judgements typical for men which we can recall, judge, discover and organize. Signs are only considered in terms of recalling. Thus, the analysis of signs is treated as part of mnemonics. It is interesting that what was said in the first edition (1667) is repeated by Leibniz in the second edition (1697). The only novelty is the inclusion of natural languages in the semiotic systems assigning them a mnemonic function as their primary function. Hence, linguistics is subordinated to mnemonics.

However, in his studies on mnemonics Leibniz is original and goes beyond his contemporaries. He draws attention to specific techniques of memorizing linking the sign with the sound, encoding information with the use of cryptograms; moreover, he analyzes signs and stylistic figures in terms of their suitability for archiving data. The sign constitutes the basis for mnemonics, being a sensuous object remaining in a definite relation to things.<sup>19</sup>

## **Symbolic thinking**

The basic principle of mnemonics is the principle of economics. Our ability to memorize is limited, so we have to manage memory in the most efficient manner. A proper use of signs is the most important way to achieve this goal. For example, when Leibniz offers a compilation of the *Brewis of*

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<sup>18</sup> *Nova Methodus...*, AA VI i, 277.

<sup>19</sup> *Nova Methodus...*, AA VI i, 277–278.

*discussion*, he recommends the use of special signs that indicate how each argument for and against is part of the law elements and other laws. Thus, if the argument is based on the opposition, the suggested marking looks as follows: )( when it relates to the similarity: ( ), causes: 0-; effects: -0 etc.<sup>20</sup> The function of these signs is to point out the obvious relationship between the premises and the conclusion, the user is experiencing this kind of obvious relationship immediately, and symbolism allows him to capture all the dependencies immediately and without any effort. The word 'intuition' is a key concept here which captures the essence of such an approach. The possibility of obtaining such a result by means of the signs makes symbolism an essential tool of reasoning.

Leibniz explains the essence of this mechanism by referring to arithmetic symbolism: "Suppose someone learns Arithmetic, including, e.g., the pythagorean table. What does he learn? Does he learn something new, except the words? When I learn that two multiplied by two is four, do I learn more than a numeral name, whose use – afterwards – in speaking and calculating is more economical? And Yet, without such words, or any other constant signs in their places, Arithmetic would be completely useless for us Therefore, it is true to say that he who learns only matters of reason, theorems, and definitions, does not in fact learn anything but how to use what is already known. Thus, nobody could calculate, especially with very large numbers, without names or numerical signs, i.e., if he had to imagine distinctly, for each number, all the units comprised in it. Who intended, could imagine distinctly the units contained in 1.000.000.000.000 in a time shorter than the age of Methuselach? And even if he could, he would forget the first units as he progressed towards the end."<sup>21</sup>

Therefore no long argumentation can do without the use of certain names or symbolism. It is thanks to them, according to Leibniz, that a huge number of things can be covered in the way that makes it possible to run through them very quickly, which would be impossible, if their definitions were used instead of the names and symbols. However, it is essential to note that a necessary condition for the correctness of the whole process of reasoning is the knowledge of the meaning of the symbols used, that is the ability to provide their appropriate definitions. The intellectual process, whose integral part is the operation on symbols, is called blind or

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<sup>20</sup> *Nova Methodus...*, AA VI i, 346.

<sup>21</sup> G. W. Leibniz, *On the demonstration of primary propositions*, in: M. Dascal, *Leibniz, Language, Signs and Thought*, op. cit. p. 149.

symbolic thinking by Leibniz. “We use it in algebra and arithmetic, indeed everywhere”.<sup>22</sup> There is nothing, in his opinion, what would be more common and necessary for all people. “If we were simultaneously aware of the arrangement of words clearly and consistently, blind reasoning itself would be sufficient for clear reasoning. That is why modern *Analysis Symbolica*, despite Hobbes’s criticism, is so useful for quick and reliable reasoning”.<sup>23</sup>

Analyzing the mechanism of thought, Leibniz indicates at least two types: idea processing and definition and sign processing: (*Differentur inter processum per ideas ed processum per definitiones vel caracteres*).<sup>24</sup> In his opinion, the use of signs results in the following benefits: by marking ideas signs get rid of the ideas’ liquidity which can make proper reasoning difficult and allow to take one simple look (of the mind) at a whole chain of thoughts (*totus noster cogitandi processus uno obtutu perspicui*).<sup>25</sup> If it is true that the one who speaks, thinks (*qui loquitur cogitat*),<sup>26</sup> it follows that each operation on signs, any use of language is in a certain relationship, or even causes an operation on ideas. Let us recall that in accordance with the Leibnizian theory of representation “speech expresses thoughts and truth [...], provided some analogy of relations has been preserved”.<sup>27</sup> According to Leibniz, the analysis of thoughts itself is sufficient to discover and prove the truth. And if the analysis is consistent with the analysis of signs (characters) which we use to mark thoughts, some thought corresponds to each sign. It is possible, therefore, to provide an analysis of thought in a sensual way, leading it according to some mechanical thread, since the analysis of signs is sensual as well.<sup>28</sup>

That mechanical thread that takes a man through the maze of human thoughts, which Leibniz metaphorically calls Ariadne’s thread, is the only true way, “some sensual and simple tool to manage the mind, as lines

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<sup>22</sup> G. W. Leibniz, *Meditationes de cognitione, veritate et ideis*, in: G. W. Leibniz, *Philosophische Schriften von G. W. Leibniz*, VII vol., C. I. Gerhardt (ed.), Halle 1846 (repr. Hildesheim 1960), assigned as GP, Volume IV, p. 423.

<sup>23</sup> *Demonstratio propositionum primarum*, AA VI ii, 481.

<sup>24</sup> G. W. Leibniz, *Leibnitiana. Elementa philosophicæ arcanae de summa rerum*, ed. I. Jagodinski, Kazań 1904, p. 2.

<sup>25</sup> *Ibid.*, p. 4.

<sup>26</sup> *Ibid.*, p. 4.

<sup>27</sup> *Quid sit idea*, GP VII, 263–264.

<sup>28</sup> *Analysis linguarum*, C, 351: “Ad inventionem ac demonstrationem veitatum opus est analysi cogitationum, quae quia respondet analysi characterum, [...] hinc analysin cogitationum possumus sensibilem reddere, et velut quodam filo mechanico dirigere; quia analysis characterum quiddam sensibile est”.

outlined in geometry and forms of action given to arithmetic learners”.<sup>29</sup> According to Leibniz, syllogisms have such a property. He even considers that “the invention of the form of syllogisms was one of the most beautiful, and also one of the most important products made by human mind. It is a species of universal mathematics (...) and it maybe said that infallible art is therein contained.”<sup>30</sup> For Leibniz, however, algebra is a perfect example of usefulness. In the algebraic reasoning ideas corresponding to symbolism are neither caused nor present to the mind at any stage of arguing for it would make the process of reasoning impossible. The mind would be busy just with the ideas all the time which would block reasoning by being constantly invoked. This means that the mind is focused solely on signs and operations performed on them without directing the attention to what they relate to. In this sense, algebraic reasoning is just a mere transformation of signs. This is possible only when there is a well-defined system of rules, which guarantees the truth of the results of such operations. Analyzing this standard way of thinking, Leibniz highlights several functions of signs. Signs present our thoughts to others having an informative function; they solidify those thoughts in our memory revealing a mnemonic function; they allow to shorten thoughts reducing their number to a few only – so it is possible to say that signs have a “compression” function as well as an arrangement function allowing one to grasp the whole chain of thoughts *uno obtutu*.<sup>31</sup>

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<sup>29</sup> *List Leibniza do Jean'a Gallois z września 1677*, AA II i, 381: “La veritable methode nous doit fournir un *filum Ariadnes*, c'est à dire un certain moyen sensible et grossier, qvi conduise l'esprit comme sont les lignes tracées en geometrie, et les formes des operations qu'on prescrit aux apprentifs en Arithmetique”.

<sup>30</sup> G. W. Leibniz, *New Essays...*, Book IV, Ch. XVI, p. 559.

<sup>31</sup> See *Leibniz's letter to Walter von Tschirnaus written in May 1678*, in: G. W. Leibniz, *Philosophical Papers and Letters*, L. E. Loemker (ed.) D. Reidel Publishing Company, Dordrecht 1965, p. 193. See also H. Świączkowska, *La perspective platonicienne sur la langue chez Descartes et chez Leibniz*, in: “Idea. Studia nad strukturą i rozwojem pojęć filozoficznych” VII, Białystok 1996. To understand why symbolism can play such an important role in reasoning, let us refer to modern psychology and the study of memory. The first model of memory is represented as consisting of two distinct mechanisms of storage. One is short time memory (STM) that captures information from the senses and keeps it for a very short period of time. This ability is limited so that the unit of information is only stored until it is replaced by another information unit. STM capabilities are estimated numerically: approximately it can accommodate seven such units. While stored in STM, such units of information can be encoded and transmitted to another mechanism or tool of memory – *long time memory*, whose possibilities are immeasurably greater. If this process of transfer has been made, units of information are stored long enough. STM is limited to seven units of information, which are stored at the moment, but this restriction does not apply to the amount of information the unit contains. If we refer to the information theory, STM can accommodate not 7 bits, but rather 7 chunks of information. Bits and chunks differ in that the chunk may comprise many bits. For example, the number of six digits – 101101 – contains six bits of information. If each digit is considered as a separate

***Compendia loquendi* and dispute over universals**

Although, according to Leibniz, the usefulness of signs fully reveals itself in mathematics, “blind or symbolic thinking” (*caeca vel symbolica cogitatio*) accompanies all the reasoning processes.<sup>32</sup> An important role of supporting or improving the thought process is assigned to general and abstract. Leibniz even writes that he treats all of them *per modum loquendi compendiosum* for production (fiction) of the mind useful while calculating.<sup>33</sup> For it is “the art of classifying things into genere et species is of no little importance and of much use both to the judgment and memory.”<sup>34</sup> As Benson Mates notes, Leibniz did not believe in the existence of numbers, geometric figures or other mathematical objects; what is more, he did not accept abstract things such as heat, light, justice, goodness, beauty, time and space; he did not allow the existence of metaphysical objects such as concepts, judgments, properties etc. The only units of his ontology were substances and their attributes, but sometimes he doubted even the existence of attributes. Such ontology reinforces a certain perspective on language; Mates claims that, basically, Leibniz was a nominalist.<sup>35</sup> Leibniz himself seemed to confirm that opinion writing that he saw no other way to avoid the difficulty in determining whether the characteristics of the substance should be considered separately as part of a reality rather than the treatment of abstracts not as the real thing (*res*), but as shortcuts of speaking (*compendia loquendi*).<sup>36</sup> However, there are other statements made by Leibniz which contradict his nominalistic declarations. In *New Essays...* he writes that virtues, truth and species should not be dependent on us. “They exist in nature whether we

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bit or chunk, storing the total number covers almost the entire STM. But if you group the numbers in pairs, each chunk now contains two bits, while STM is used only up to some degree. See E. R. Hilgard, R. C. Atkinson, *Introduction to Psychology*, Harcourt, Brace and World, New York 1967, p. 328 and following and G. R. Miller, *The magical number seven, plus or minus two: some limits on our capacity for processing information*, in: *The Psychology of Communication*, Allen Lane, The Penguin Press, London 1967, p. 33 and following. Referring to this data, M. Dascal claims that the Leibnizian *uno obtutu* can be identified with STM. See M. Dascal, *Leibniz. Language, Signs and Thought*, op. cit., p. 38.

<sup>32</sup> *Meditationes de cognitione, veritate et ideis*, GP IV, 423.

<sup>33</sup> *Leibniz's letter to des Bosses March, 1706*, GP II, 305: “Utrasque enim per modum loquendi compendiosum pro mentis fictionibus habeo, ad calculus aptis...”

<sup>34</sup> G. W. Leibniz, *New Essays...*, Book III, Ch. iii, p. 311.

<sup>35</sup> Benson Mates, *The Philosophy of Leibniz. Metaphysic and Language*, Oxford University Press, New York, Oxford 1986, p. 171 and following.

<sup>36</sup> G. W. Leibniz, *De accidentibus*, in: G. W. Leibniz, *Textes inédits d'après les manuscrits de la bibliothèque provinciale de Hanovre*, G. Grua (ed.), II Vol., Presses Universitaires de France, Paris 1948, Volume II, p. 574.

know it and approve or not.”<sup>37</sup> A little earlier he notes that “it is true you do not see justice as you see a horse, but you understand it no less, or rather you understand it better, it is no less in acts than directness or obliqueness is in motion, whether you consider it or not.”<sup>38</sup> For generality depends on the similarity of specific things and this similarity is, according to Leibniz, reality. In similar subjects we detect their mutual feature which is nothing more but an apriori possibility of their existence.<sup>39</sup> Leibniz calls these creatures *real abstracts* and they are *accidens* that is, entities added to the substance.<sup>40</sup>

However, it is difficult to find Leibniz’s clear program declarations. Referring to the medieval dispute over universals, he wrote that realists’ axiom is as good as nominalists’ axiom as long as they are properly understood.<sup>41</sup> It is possible to get the impression that Leibniz deliberately avoids radical decisions in the dispute regarding the ontological status of universals directing his attention rather to purely grammatical or linguistic properties of phrases which mark abstracts or universals. He wrote in *Characteristica verbalis*: “Words are signs either concepts, as in the case of nouns, or of modes of conceiving, as in the case of the other parts of speech. Concepts are viewed either in themselves or by accident”.<sup>42</sup> Those that are taken in themselves, apart from the metaphysical object or subject, as well as the time, place and event are abstract concepts (*formalitates*), such as humanity, beauty and being triplelegged. Concepts taken *per accidens* express the convergence of many ‘forms’ in the same subject when it happens, for example, that the same subject has poetic and juridical abilities. Thus names, depending on the terms they cover, fall into the abstract ones, such as ‘warmth’, ‘humanity’ and precise ones, such as ‘man’, ‘hot’.<sup>43</sup> Therefore one can say that the grammatical division of names into precise and abstract ones corresponds to the semantic division of terms into *per se*

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<sup>37</sup> G. W. Leibniz, *New Essays...*, Book III, Ch. vi, p. 360.

<sup>38</sup> *Ibid.*, Book III, Ch. v, p. 329.

<sup>39</sup> *Ibid.*, Book III, Ch. iii, p. 313.

<sup>40</sup> G. W. Leibniz, *New Essays...*, Book III, Ch. viii, p. 368. Leibniz clearly distinguishes between modifications and attributes. The ability to perceive and act, extent and permanence are, according to him, the attributes of the substance or, in other words, eternal and basic judgments. Thus, modifications of these attributes are: thinking, violence, shapes and movements. See. G. W. Leibniz, *New Essays...*, *Preface*, p. 58.

<sup>41</sup> G. W. Leibniz, This ambiguous position of Leibniz on the issue of universals reveals clearly in *New Essays...*, in Book III, Ch. vi, p. 356.

<sup>42</sup> G. W. Leibniz, *Verbal characteristic*, in: M. Dascal, *Leibniz, Language, Signs and Thought*, op. cit. p. 175.

<sup>43</sup> C, 437.



and *per accidens*. In the table of definitions once again Leibniz defines abstracts as entities (*entia*) which differentiate various predicates within the same subject. *Concretum* is where *entia* are included and what contains no contradiction.<sup>44</sup>

In his division of names into precise and abstract ones, Leibniz noticed some ambiguity accompanying different uses of precise names. Precise names such as ‘man’ or ‘horse’ may have different references. In *Intoduction to Nizolius*, commenting on the position of nominalists on universals who, as for instance Nizolius, claim that universals are nothing more but taking all the entities collectively and at the same time so that they are collective wholes, Leibniz agrees that when we say ‘every man is an animal’ it means that all people are animals. However, in his opinion, it does not mean that universals are collective wholes as Nizolius claims for a whole (*totum*) marked by the phrase ‘every man’ has a distributive sense apart from a collective one. If, as Nizolius wishes, the phrases ‘omnis homo’ or ‘omnes homines’ meant the same thing as the human species, it would lead to absurd substitutions such as ‘The human species is an animal’.<sup>45</sup>

According to Leibniz, this confusion of terms results in more serious consequences. If universals were nothing more but a collection of individuals which, as Nizolius claims, being precise totals are sets in the collective sense, it would be impossible to arrive at any knowledge on the basis of arguments; induction becomes the only possible way to increase knowledge. And on that basis, according to Leibniz, it is impossible to accept any perfect general sentence for it is necessary to stop at the judgment that all investigated cases are such and just such. Leibniz claims that true knowledge can only be achieved through the analysis of general sentences whose truth does not depend on induction, but on a general idea or a definition of terms. As he writes, practical and moral certainty of the sentence ‘fire burns’ is guaranteed by the following principles: 1. If in all cases the cause is the same, or similar, the effect will be similar or the same. 2. The existence of the thing that is not understood is not assumed. 3. Whatever is not assumed should be ignored in practice until you can prove it.<sup>46</sup> Defending the so-called general rhetoric against the Aristotelian logic and Renaissance dialectic, Marius Nizolius sought to exclude arguing as the acknowledged way of the explanation of the nature of things (as it was taught by Aristotle). Nizolius wrote that if universals are false as it was said and proved,

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<sup>44</sup> C. 437.

<sup>45</sup> AA VI ii, 430.

<sup>46</sup> AA VI ii, 431.

one can say that the whole dialectic they support fall down with them.<sup>47</sup> Leibniz's answer to this question is: This is false! Nominalists as well as others used the dialectic of Aristotle and they were right. Although there is seldom some truth in what people attribute to things in their names, the thing itself is always preserved when we use names to explain things.<sup>48</sup> In other words, for arguing it would be enough if universals were pure names of things.<sup>49</sup>

Leibniz agrees, therefore, that the names of universals may not in fact have any relevance, but even as *compendia loquendi* they are helpful in proving and explaining the properties of things. By adopting this solution, Leibniz meant the nominalist definition of truth, especially in the version formulated by Hobbes. Indeed, Hobbes claimed that because truths of the mind result from definition, definitions have a purely arbitrary character; therefore, the same character is revealed by truths. Arbitrary definitions are nominal definitions. According to Leibniz, they refer only to the features necessary to differentiate a given thing from other things and they are not sufficient to obtain certain knowledge unless it is somehow known that the defined thing is possible.<sup>50</sup> But although the definitions of names are dependent on our designation, the use and link of signs, according to Leibniz, is no longer optional. There is a constant correspondence between signs and things, which is the "foundation of truth".<sup>51</sup>

What does it really mean that it would be sufficient for proving if universals were pure names? It seems that Leibniz assumes that proving does not depend on the assumptions of semantic or ontological nature and can be built on the purely syntactic basis. Definitions of names, as nominal definitions, would have to meet only one condition that the defined thing is possible. Leibniz categorically states that we cannot have an idea of the circle. We can imagine it; we can have its definition and the idea of every property that a circle should have. But since we cannot imagine all

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<sup>47</sup> AA VI ii, 451: "Nam Si universalia ista falsa sunt, ut nos dicimus, et probaturi sumus, continuo una cum univesalibus Cadet pene tota Dialectica, quae in illis tanquam columinisd fundata est..."

<sup>48</sup> AA VI ii 451: "Hoc fal sum Est. Neque enim minus Nominales quam caeteri, Dialectica Aristotelis usi sunt, et recte quidem. Nam etsi in nominibus saltem vera sint quae vulgo rebus tribuebantur, salva re est; quando nominibus istis in explicandis rebus utimur."

<sup>49</sup> AA VI ii, 429: "...quod Universalia non sint in rerum natura (cum tamen sufficiat ad demonstrandum:nomina esse universaliala)..."

<sup>50</sup> *Meditationes de cognitione, veritate et ideis*, GP IV, 424.

<sup>51</sup> G. W. Leibniz, *Dialogus*, in: G. W. Leibniz, *Philosophical Papers and Letters* (ed. L. Loemker), D. Reidel Publishing Company, Dordrecht 1969, p. 184.

of them simultaneously, we cannot have the idea of it. Only God has the insight into the complex ideas of things because he can think of everything at the same time. Because of its limitations, the human mind is only capable of recognizing the essence of the circle and other complex things only partly. But how can we be sure of the possibility of such an idea, that is the agreement of all the ingredients present in it, if we take into account our intrinsic limitations? Leibniz explains that “When we do not have an idea, its functions are performed by sensual or by definition that is, a collection of signs. The place of idea is always filled by certain perception (*phantasma*), which is at the same time completely understood”.<sup>52</sup> Therefore, Leibniz assumes that the possession of these sensory perceptions and definitions of the circle has the same value as the statement by experience that a circular object exists. In this sense, the formation and transformation of signs replaces the experience if it is not available. Therefore, signs allow to present our abstract thoughts in a ‘visible’ and ‘static’ way, and their juxtaposition is purely mechanical. Thus, argumentation conducted like this is a kind of calculation where definitions can be treated as syntactic rules allowing for the replacement of one chain of signs by the other. With this method we are able to make decisions about possibilities or, in other words, the consistency of such terms as infinity, perfection or set. Thus, according to Leibniz, to discover and prove the truth the analysis of signs itself is sufficient, provided that the signs express some thoughts.<sup>53</sup>

However, the truth obtained in this way has the status of rational truth which, similarly to the intuitive truth, does not require any proof. It is necessary to remember that, according to Leibniz, all rational truths refer to the sphere of possibility. Hence it means that they are not existential judgments. Rational truths state what would be true in any possible case, whereas true existential judgments depend on God’s choice of some possible world. So when we say that ‘a triangle has three sides’ we do not state that there are triangular bodies, as well as when we predicate that ‘a man is an animal’, we say nothing about the existence of man or animals although surely these statements relate to beings or universals. In fact, by treating them as possibility sentences Leibniz avoids decisions regarding their

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<sup>52</sup> G. W. Leibniz, *Leibnitiana. Elementa...*, op. cit., p. 6: “Ideam defectam in nobis supplet imago aliqua sensibilis, aut definitio, sive aggregatum characterum, in quibus nulla opus est similitudine. Semper ideae locum supplet phantasma aliquod, quod totum simul sentitur”. See M. Dascal, *Leibniz. Langue, Signs and Thought*, op. cit., p. 51.

<sup>53</sup> *Analysis linguarum*, C, 351 and GP VII, 11–15.

existence. Let us recall that professing ontological individualism Leibniz was a nominalist in ontology. If the world is made up, as he claimed, of the substances and their attributes, universals do not exist in nature. But also there are no such objects as bodies, rainbow or sea. These are, according to Leibniz, aggregates which are the accumulation of substances, having the status of well-established phenomena. In fact they are constructions of the mind which attribute their foundation to the coexistence of monads, remaining their aggregates. For Leibniz, time and space are similar mental entities. Consequently, there is no obstacle to say that the same rational character is revealed by sets. In language the attributes of substances and their modifications are corresponded by the predicates: is a man, is an animal, is thinking. Thus, the mind classifies objects according to the criteria whether the object fulfills the propositional function:  $x$  is such and such, dividing the objects into, for example, sets of people or animals. Such classification has its basis in the existence of property, which corresponds to the specified predicate; consequently, although universals do not really exist, they have their foundation in reality, and they are, as Leibniz calls them, *entia rationis*.<sup>54</sup> This interpretation seems to be confirmed by Leibniz's remarks on syntactic functions of general names: *Nomen Universale est vel subjectum, quod dicitur species vel praedicatum*.<sup>55</sup> Commenting on Book IV written by Nizolius, he wrote that when *omnis* is applied to the (specific) name in the singular, the sentence is a figurative sentence, for example *omnis homo est animal* and it is synonymous with the right sentence: *omnes homines sunt animalia*. Therefore, as he writes, "the supposition that universals in combination with singulars are real results from language".<sup>56</sup> One can assume that Leibniz inclined to the contextual analysis in which a sentence is the basic unit of the analysis. It is clear in case of such sentences that a grammatical subject is not a logical subject, and the name *homo* is a predicate, like *animal*.

It seems that in the so-called dispute over universals Leibniz takes a pragmatic stand. In fact, he was concerned about the precise use of language and adapting it to the needs of science. Arguing with Nizolius, he highlighted the ambiguity of terms which, when used inappropriately, may lead to absurd substitutions. To avoid this, he even postulated the elimi-

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<sup>54</sup> See Hans Burkhardt, *Adam's Mind and Body*, in: M. Dascal, E. Yakira (ed.), *Leibniz and Adam*, University Publishing Project Ltd., Tel Aviv 1993, p. 46.

<sup>55</sup> AA VI ii, 453.

<sup>56</sup> AA VI ii, 448: "Universalium igitur imaginaria realitas extra singularia a sermone figura to orta".

nation of abstract terms from the language of science.<sup>57</sup> He did not claim, however, that they are completely useless – abstraction is not a mistake, as long as one knows that it contains what is hidden.<sup>58</sup> In other words, if we use a term, we have to give its definition. Treating general and abstract terms as *compendia loquendi*, Leibniz, however, assigns them a particular function. If they are properly defined, as the signs of concepts present in our minds, they allow us to derive the truth about the nature of things. By “grabbing” the thought, a sign allows us to approach the idea of the thing or even replaces it when that idea is not available. It becomes essential and sometimes even the only tool in the process of cognition.

Signs and operations performed on them have a cognitive value only when they reflect the inner order of the idea or ‘imitate’ it on the basis of the assumption that the thing under consideration is possible. Nonetheless, this condition is not always fulfilled. Indeed, there are signs and actions that have no relation to the perfect order and these, as we know, are the main cause of erroneous thoughts and judgments. How to get certainty that when we make some judgment, it is compatible with any part of this inner structure? Leibniz was aware of this difficulty when he wrote: “When I think of something and I cannot imagine anything bigger than this, what is it I am thinking about apart from separate thoughts about singular ideas (things) contained in the words ‘something’, ‘bigger’, ‘imagine’, ‘no’, ‘can’? Separately, I have an idea of what I call ‘something’, what I call ‘bigger’, what I call ‘thought’ and I can think of them one after the other. But I have no idea of all of these things together. I link only words or signs and I only imagine that I have an idea of something of which nothing bigger can be conceived”.<sup>59</sup> The same problem was tackled by him in *New Essays...* Analyzing the imperfection of words, Leibniz talks “of our uncertainty as to whether ideas are consistent when experience does not provide us with them being linked in the same subject”. In this case it is necessary to recognize

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<sup>57</sup> Leibniz was quite consistent in questioning the usefulness of abstract names, especially in philosophy. This fact could lead to assigning him a nominalistic attitude. L. Couturat in *La Logique de Leibniz*, Presse Universitaires de France, Paris 1901, p. 470 argues against such an interpretation, even when it comes to early ideas of Leibniz. C. S. Peirce shows the evolution of Leibniz’s ideas from nominalism to realism. See M. Fisch, *Peirce and Leibniz*, “Journal of the History of Ideas” 33, 1972, p. 485–496.

<sup>58</sup> G. W. Leibniz, *New Essays...*, Book III, viii.

<sup>59</sup> G. W. Leibniz, *Leibnitiana. Elementa...*, op. cit., p. 4: “Cum cogito aliquid, quo majus cogitare non potest, quid aliud cogito, quam separatim ideas singulorum, quae sub his vobis continentur, ut: aliquid, majus cogitare, non, posse. Separatim habeo ideam eius quod voco cogitationem, itaque unum post alteram cogitans. Non ideas horum inter se, sed postea vocabula tantum seu characteres conjungo et fingo me ideam habere eius, quo majus cogitare non potest”.

the need for “temporary definitions of sensual things when the experience is not sufficient to obtain fuller definitions”.<sup>60</sup>

Leibniz says that in constructing this type of definition we should take into consideration our intrinsic imperfection, but also negligence and laziness, which, in his opinion, is a direct cause of errors.<sup>61</sup> This ‘imperfection’ can be reducible through the analysis and definitions of the terms included in each language. According to Leibniz, “Everything doubtless returns to definitions which may extend even to primitive ideas. One and the same subject may have several definitions, but the knowledge that they agree with themselves must be learned by reason, by demonstrating one definition by another or by experience, by proving that they constantly together”.<sup>62</sup> It can therefore be concluded that the ability to get to know goes hand in hand with the ability to define. Improving cognitive abilities is conditioned by perfect mastery of the language. Bearing this in mind, Leibniz called for the review of the German language dictionary resources, the creation of specialized dictionaries covering the specialist vocabulary, etymological dictionaries, and establishment of the standards of linguistic correctness. He believed that “in time all languages of the World will be recorded and placed in the dictionaries and grammars, and compared together: this will be of very great use both for knowledge of things, (...) and for the knowledge of our mind.”<sup>63</sup>

#### S U M M A R Y

This article is an attempt to critically analyze Leibniz’s views on the cognitive value of natural language and other symbolic systems involved in the processes of thought. Confronting his position regarding the linguistic sign function with the position of Hobbes, Leibniz presents his own solution which is consistent with the results of modern research in the field of cognitive psychology. Analyzing symbolic thinking, Leibniz positions it in the context of the dispute over universals consciously avoiding taking a position for or against. That makes him a precursor to the modern concept in which the ‘realism – nominalism’ dichotomy loses its justification.

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<sup>60</sup> G. W. Leibniz, *New Essays...*, Book III, Ch. ix, p. 373.

<sup>61</sup> *Ibidem*, p. 376–378.

<sup>62</sup> *Ibidem*, p. 392.

<sup>63</sup> *Ibidem*, p. 372.

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**BETWEEN PLATO AND WIENER.  
PHILOSOPHICAL CYBERNETICS  
IN THE 17<sup>th</sup> CENTURY**

The knowledge concerning steering and control has been gathered since the dawn of humanity. Its contemporary name is derived from the Greek expression κυβερνητική τέχνη which means the art of steersmanship. Plato introduced it to philosophy, nevertheless the one-word term ‘cybernetics’ was coined more than two thousands years later by Ampère,<sup>1</sup> who restricted its scope to a mere subfield of political science.<sup>2</sup> Of course, the field of cybernetics is much broader, embracing all steering processes, and its principal aim is to identify general principles of steering and control. As it is well known, scientific cybernetic research begun only in the second part of the 19<sup>th</sup> century, not in the context of political science but in the framework of physiology, psychology and engineering.<sup>3</sup> Most of the main concepts of modern cybernetics emerged in the 1920–1930s due to the development of theories of computing, games, information, and pursuit. The threshold of conceptual ‘critical mass’ was exceeded in the 1940s in France, Germany, and the USA. The birth of cybernetics is often dated to the seminal publication by Wiener (1948).<sup>4</sup> In a sense cybernetics fell victim of its

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<sup>1</sup> André-Marie Ampère *Essai sur la philosophie des sciences ou Exposition analytique d'une classification naturelle de toutes les connaissances humaines*, pt. 2, Bachelier, Paris 1843, p. 140–143. In the same year ‘cybernetics’ appeared in Polish, in a treatise by Bronisław Trentowski *Stosunek filozofii do cybernetyki, czyli sztuki rządzenia narodem. Rzecz treści politycznej* [The relation of philosophy to cybernetics, or the art of governing a nation: a political piece], J. K. Żupański, Poznań 1843.

<sup>2</sup> Cybernetics was classified as a science of the 3<sup>rd</sup> degree, as a part of politics sensu stricto, the latter was a part of politics in general.

<sup>3</sup> Three notable names in this period: Claude Bernard (1813–1878), Eduard Pflüger (1829–1910), Felix Lincke (1840–1917). For history of cybernetics in the 19<sup>th</sup> century see e.g. Volker Henn “Materialien zur Vorgeschichte der Kybernetik”, *Studium Generale*, vol. 22 (1969), no. 2, p. 164–190.

<sup>4</sup> Norbert Wiener *Cybernetics: or Control and Communication in the Animal and the Machine*, John Wiley and Sons, New York 1948.

initial success. The rapid development eventually led to fragmentation, so the most active former branches of the cybernetic movement are now being considered as separate fields, as in the case of Artificial Intelligence. Our considerations are based on the “classical cybernetics” between 1940s and 1970s.

It can be easily guessed that a slow gestation spanning over more than two thousand years had several causes. Not only advanced formal methods were needed, and even the emergence of individual scientific and engineering disciplines on which cybernetics had been founded was not enough. Philosophical underpinnings were also needed. In this respect, the 17<sup>th</sup> century was the formative period. We do not claim that all philosophical ideas pertaining to cybernetics emerged in early modernity. Rather, some existing concepts were expressed in modern terms and included in a broader intellectual framework. We shall list the basic assumptions of cybernetics with brief explanations. Then we shall briefly review the contribution of 17<sup>th</sup>-century philosophers to the development of these assumptions.

1. **Systemism.** Reality is to be apprehended in a systemic way. Cybernetics focuses on the structure instead of the matter.
  - 1.a. Sometimes systemism is reduced to generalised behaviourism, i.e. the directive ‘black boxes should not be looked into’. The latter is rather commonsensical.<sup>5</sup>
2. **Analogisation of systems.** There are classes composed of systems which are isomorphic with regard to steering/control relations. An example is the class of autonomous systems (see Item 6. below).

The term ‘isomorphic’ means a kind of similarity, namely ‘sameness’ with regard to cybernetically relevant features.<sup>6</sup>
3. **Energetic and material nature of interactions** (‘energy & matter principle’). All interactions, including the steering/control interactions, are of energetic and/or material nature. Informational interactions are singled out on the basis of negligent ratio between energy-matter ‘expenditure’ of cause and the respective ‘gain’ of effect.

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<sup>5</sup> See e.g. W. Ross Ashby *An Introduction to Cybernetics*, Chapman and Hall, London 1956, item 16/7.

<sup>6</sup> The problem of detecting relevant isomorphisms is also encountered in the general systems theory, see remarks by von Bertalanffy: *General Systems Theory: Foundations, Development, Applications*, G. Braziller, New York 1973, pp. 33–34, 80–86. The following saying is attributed to Stefan Banach: “A mathematician is one who sees analogies between theorems; a better mathematician is one who can see analogies between proofs, and the best mathematician can find analogies between theories. The ultimate mathematician would see analogies between analogies.” In the case of cybernetics one must indeed see analogies between theories.



It is not a *definition* of information. There are several *types* of such definitions, moreover no definition embraces all important intuitions of information, whether commonsensical or scientific.<sup>7</sup>

4. Purposiveness and intentionality. The steering process is aimed at a purpose anticipated by the steering system ('the helmsman knows where he is going').

5. Cybernetic hierarchy of systems. There is a ranking of systems according to their (self-)steering capacities.

No such ranking was ever agreed by cyberneticians.<sup>8</sup> Cybernetic rankings are sometimes mistaken with hierarchies of systems in terms of their 'complexity'.<sup>9</sup>

6. Identification of autonomous systems. In the hierarchy of systems there is a class of systems capable of self-steering and self-control in their own interest (autonomous,<sup>10</sup> self-governing, purposeful<sup>11</sup>). 'Own interest' means maintenance of existence and steering capacities.

6.a. The principle is often limited to the principle of homeostasis: some systems (homeostats) are capable of maintaining the quality of their inner environment, as survival demands that all parameters of the systems stay in a specific, 'normal' range.

7. Characterisation of systems. There are features of systems incapable of being changed by steering or control without disturbing the identity of a given system (or even destroying it). Such features can be termed cybernetic 'characters' or 'natures'.

The term 'rigid steering parameters' is also used<sup>12</sup> – rigidity meaning *independence* of external influences and not *invariability*. If the character of a system changes, it does so spontaneously (e.g. when the system is ageing). Of course, real-life systems display both rigid and flexible features.

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<sup>7</sup> Alfréd Rényi emphasised a historical correlation between the kinds of energy and kinds of information discovered one after another; "Some fundamental questions of information theory", (in:) *Selected Papers of Alfred Rényi*, vol. 2, 1956–1961, Akadémiai Kiadó, Budapest 1976, p. 526.

<sup>8</sup> The most important ones were proposed by de Latil and Mazur. Pierre De Latil: 'degrees of automatism' and 'hierarchy of effectors'; see *Thinking by Machine: A Study of Cybernetics*, transl. Y. M. Golla, Houghton Mifflin, London 1956, pp. 40, 318. Marian Mazur: 'hierarchy of systems according to admissible steering processes'; see *Cybernetyczna teoria układów samodzielnych* [A cybernetic theory of autonomous systems], PWN, Warsaw 1966, pp. 50–57.

<sup>9</sup> Compare the widespread Boulding's typology; Kenneth E. Boulding 'General Systems Theory: The Skeleton of Science', *Management Science*, vol. 2, no. 3 (Apr. 1956), p. 202–205. Boulding was followed e.g. by Ludwig von Bertalanffy (*General Systems Theory*, pp. 28–29).

<sup>10</sup> Mazur's term.

<sup>11</sup> Ackoff's and Emery's term.

<sup>12</sup> Marian Mazur: *Cybernetyka i charakter*, p. 271–272; see also *Cybernetyczna teoria układów samodzielnych*, part IV.

8. Characters are empirical (principle of motivation). A character of a system can be inferred from its actions caused by various stimuli.

From the black-box perspective (Item 1. above) a character is nothing more than a function transforming the set of stimuli (inputs) into a set of possible reactions.

9. The feedback principle. Feedback is the principal type of steering/control interaction.
10. The principle of requisite variety. If a system is to control another one, it must display greater (or at least the same) variety. In other words, the former should have an ‘advantage of possibilities’ as compared with the latter.

Variety is understood as the range of possible (qualitative or quantitative) behaviour or the number of possible states. The principle was formulated by Ashby<sup>13</sup> in 1950s.

11. Probabilism. Neither information needed for steering is known with absolute certainty nor reaching the goal is sure.
12. The evolutionary principle.

Cybernetics employs two main versions of evolutionism: *Darwinian* (selection of the fittest) and *Lamarckian* (inheritance of acquired traits).

There are also three main (and not yet achieved) goals of cybernetics:

1. A general theory of information and steering systems.
2. Optimisation of steering in existing autonomous systems, including an applicable and rational theory of society.
3. Construction of artificial autonomous systems i.e. systems having both ‘intelligence’ and capacity of reproduction.

Systemism, as we have said, neglects the matter emphasising the structure instead. The early modern preoccupation with the problem of substance seems very far removed from ignoring what the ‘world stuff’ would be. However, the Leibnizian hierarchical universe of synchronised monads is quite close to the systemic worldview. Certainly the monads themselves despite their declared simplicity are systems of a kind. Early modern thinkers realised analogies between steering processes in different classes of systems, mainly between mechanical, organic, and social ones. In Hobbes we find an elaborate tripartite analogy of this kind (mechanism-human body-state).<sup>14</sup> Nevertheless, such analogies remained stereotypical for a long time, serving merely as illustrations. A real breakdown happened when systemic analogies

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<sup>13</sup> William Ross Ashby *An Introduction to Cybernetics*, Items 11/6.–11/13.

<sup>14</sup> See ‘Introduction’ to *Leviathan*.

began to be used as a basis for new scientific theorems and this demanded not only analogies but also isomorphisms.

The introduction of the ‘energy & matter principle’ was necessarily postponed to the much later discovery of general principles of conservation of energy and matter. Again, Leibniz was the first to recognise a particular kind of physical energy, namely the kinetic one (*vis viva*) and to notice its conservation.<sup>15</sup> The purposiveness and intentionality principle is very old and could be traced back to the primitive patterns of thinking. Cybernetic hierarchies of systems were certainly predated by ideas of Great Chain of Being. The long history of the notion of autonomous system cannot be treated here. The principle of homeostasis was formulated by Claude Bernard as the principle of fixity of the internal environment (*la fixité du milieu intérieur*).<sup>16</sup> The very word was introduced by Walter Cannon, and aptly termed ‘wisdom of the body’.<sup>17</sup> The intuition is much older, dating back at least to Aristotle<sup>18</sup> in political science, and to the humoral doctrines in medicine. Among economists we find Dudley North (1641–1691) with the concept of economy as a mechanism tending towards equilibrium. Descartes is credited with, however implicit, observation of regulation in the human body<sup>19</sup> which in turn would be the first hint at the feedback principle.

The idea of characterisation of systems has ancient roots, nevertheless it was not until Schopenhauer that philosophy produced an idea of human character compatible with modern cybernetic ideas.<sup>20</sup> Similarly, the principle of requisite variety stems from the old metaphysical principle that a cause is always more perfect than its effect. Historians of mathematics

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<sup>15</sup> See e.g. René Dugas *A History of Mechanics*, tr. J. R. Maddox, Routledge & Kegan Paul, London 1957, pp. 219–221. As it is known from the history of physics, kinetic energy and momentum were initially viewed as competing candidates for the fundamental quantitative notion of mechanics.

<sup>16</sup> Bernard describes three types of life: hidden (*vie latente*), oscillatory (*vie oscillante*), and constant or free (*vie constante ou libre*). He wrote concerning the latter: “*La fixité du milieu intérieur est la condition de la vie libre, indépendante: le mécanisme qui la permet est celui qui assure dans le milieu intérieur le maintien de toutes les conditions nécessaires à la vie des éléments.*” – *Leçons sur les phénomènes de la vie communs aux animaux et aux végétaux*, vol. 1., J.-B. Baillièrre et fils, Paris 1878, p. 113.

<sup>17</sup> Walter Bradford Cannon *The Wisdom of the Body*, W. W. Norton & Company, New York 1932.

<sup>18</sup> *Polit.* 1310a.

<sup>19</sup> Description of extraocular muscles in *L’Homme*, see *Oeuvres de Descartes*, ed. Adam & Tannery, vol. 11, pp. 135–136 and fig. 4.

<sup>20</sup> An interesting account of three ideas of human character in English philosophy: Jamie C. Kassler *Inner Music: Hobbes, Hooke, and North on Internal Character*, Athlone, London 1995.

generally acknowledge that the 17<sup>th</sup> century saw the birth of both probability theory and modern probabilism.<sup>21</sup> Mathematical probability found important application in the domain of games, eventually giving rise to game theory.

The very phrase “game theory” needs a bit of explanation. It has two meanings, one possible and another actual. In the first sense it would cover any mathematical study of games, of course including probabilistic analysis. The latter was rapidly developing in 17<sup>th</sup> and 18<sup>th</sup> centuries, quite advanced problems like the gambler’s ruin being studied for several cases. However, the contemporary usage of the term in question corresponds to a specific understanding of “game” itself. Game is seen as an encounter of at least two agents with differing interests, and the main point is to identify and analyse their strategies. It can be also said that a game is a system influenced by at least two “helmsmen” (players) having possibly contradictory aims.<sup>22</sup> A full-fledged theory of games was developed only in 20<sup>th</sup> century (Steinhaus, von Neumann, Morgenstern), not without earlier predecessors.<sup>23</sup>

The Pascal’s wager<sup>24</sup> is regarded as a milestone in the development of probabilistic argumentation in philosophy. The French thinker was not the first to use that kind of argument for godly life, anyway he is often granted the priority in applying probabilistic ideas to theology, perhaps because the historical context of “new probabilism”, and “new reasonableness”,<sup>25</sup> not to mention the fact that the very formulation of the wager seems tailored for game theoretical analysis. Despite dubious validity of the original conclusion drawn by its author, and obvious problems with mathematical interpretation of infinite gain and loss appearing in the wager, it was the starting point of something we would label “theological cybernetics”,<sup>26</sup> preceding

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<sup>21</sup> See e.g. Ian Hacking *The Emergence of Probability*, Cambridge University Press, Cambridge 1975.

<sup>22</sup> We modified a definition from: Maria Kempisty (ed.) *Mały słownik cybernetyczny* [Little cybernetic dictionary], Wiedza Powszechna, Warsaw 1973; entry “Gra” [Game].

<sup>23</sup> As far as we know, the first modern strategic analysis of a game was carried out in 1713, in the correspondence between Pierre Rémond de Montmort and certain Monsieur de Waldegrave; David Bellhouse “The Problem of Waldegrave”, *Electronic Journal for History of Probability and Statistics*, vol. 3, no. 2 (Dec. 2007).

<sup>24</sup> *Pensées*, 451 (Chevalier’s number). On the wager, see e.g. Ian Hacking *The Emergence of Probability*, chap. 8.

<sup>25</sup> We borrowed terms used by Lorraine Datson to describe early modern recipes for being “both rational *and* less than certain in matters of contemplation, as well as action”; see “Probability and evidence”, (in:) Daniel Garber (ed.), *The Cambridge History of Seventeenth-Century Philosophy*, Cambridge University Press, Cambridge 1998, p. 1108.

<sup>26</sup> Both idea of providence and the doctrine of deism can be included in its pedigree.

contemporary attempts to explore mathematical aspects of encounter between humans and divine entities.<sup>27</sup>

The 17<sup>th</sup> century produced mostly criticisms of ancient evolutionary doctrines.<sup>28</sup> Isolated transformist ideas which emerged at that time<sup>29</sup> certainly do not contradict the claim that only in the next century evolutionism began to gain an upper hand. Even Hobbes, who certainly knew about ancient concepts of Empedocles, was disinterested in them.<sup>30</sup>

Cybernetics needs appropriate formalisation, including suitable mathematical tools. Two names immediately come to mind in this context—again Hobbes and Leibniz. The former equated reasoning with calculation<sup>31</sup>, the latter invented binary system and envisaged a general science (*mathesis universalis*), employing a formalised universal language founded on a one-to-one symbolisation of simple ideas (*characteristica universalis*). Wiener explicitly mentioned<sup>32</sup> a related Leibnizian concept, *calculus ratiocinator* or *calculus univeralis*, being a deductive system embedded in the universal language.

As for goals of cybernetics, the early modern period saw first constructions of computing machines (Wilhelm Schickard, Pascal, Leibniz). These primitive manually operated mechanisms were a far cry from modern computing automata. Contemporary historians locate them at the beginning of the enterprise of mechanisation of mathematical reasoning. It should be emphasised that neither computing mechanisms, neither Artificial Intelligence are the same as autonomous systems. We already noticed that AI (like Ar-

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<sup>27</sup> Steven J. Brams *Superior Beings: If They Exist, How Would We Know? Game-Theoretic Implications of Omniscience, Omnipotence, Immortality, and Incomprehensibility*, wyd. 2., Springer, Nowy Jork 2007. Brams makes explicit references to Pascal, especially in chap. 2. For a shorter account of his approach see: “Belief in a Superior Being: A Game-Theoretic Analysis”, (in:) Charles L. Harper Jr. (ed.) *Spiritual Information: 100 Perspectives on Science and Religion. Essays in Honor of Sir John Templeton’s 90th Birthday*, Templeton Foundation Press, Philadelphia–London 2005, pp. 242–249.

<sup>28</sup> See Matthew Goodrum “Atomism, Atheism, and the Spontaneous Generation of Human Beings: The Debate over a Natural Origin of the First Humans in Seventeenth-Century Britain”, *Journal of the History of Ideas*, vol. 63, no. 2 (Apr. 2002), pp. 207–224.

<sup>29</sup> There is a controversy concerning Leibniz in this respect, given various interpretations of *Protogaea*; see Lloyd Strickland *Leibniz Reinterpreted*, Continuum, London 2006, pp. 125–131.

<sup>30</sup> See *De Homine*, I.1. [*Latin Works*, vol. 2, pp. 1–2].

<sup>31</sup> Again incidentally: *De Corpore*, I.1.2; *Leviathan* I.5 [*English Works*, vol. 1, p. 3; vol. 3, pp. 29–30]. No wonder that Bocheński called it “*jeu d’esprit* of a dilettante” (I. M. Bocheński *A History of Formal Logic*, tr. Ivo Thomas, Chelsea, New York 1970, p. 274).

<sup>32</sup> Norbert Wiener *Cybernetics*, p. 12.

tificial Life) detached itself from the classical cybernetics-and the project of artificial autonomous system needs both AI and AL.

Nothing in the main assumptions of cybernetics implies mechanicism. Generally speaking, a mere analogisation of a mechanism with an organism allow both mechanistic understanding of the organism and organismic treatment of the mechanism. The principle of analogisation does not exclude the possibility that there is a favoured element of a given analogy, i.e. one regarded as more important, central, or simply better known. Cybernetics is mechanistic, and not organismic (and of course not socio-centric). First, a considerable part of its methods are taken from physics which remains mechanical until now, despite the changes of underlying mechanics. Second, mechanicism represented by cybernetics is directly linked with early modern version of this ideology. It has historically developed along two main, often intertwining, lines: explanatory mechanicism and mechanomorphism.<sup>33</sup> The first is essentially epistemological, focusing on physicalist and reductionist explanations. The latter is founded on more or less explicit ontological claims that entities commonly regarded as non-mechanisms (especially living beings) *are* machines. Of course neither Cartesian, nor cybernetic mechanicism excludes methodological self-consciousness and awareness that mechanistic understanding is to some degree conventional. An example can be found in the opening of Descartes' *L'Homme* ("Ces hommes seront composez, comme nous, d'une Ame & d'un Corps..."). Another well-known passage contains the claim "that, were there such machines exactly resembling in organs and outward form an ape or any other irrational animal, we could have no means of knowing that they were in any respect of a different nature from these animals".<sup>34</sup> Descartes of course stopped short of asserting the same possibility in the case of humans. And Wiener wrote in the same respect: "if we could build a machine whose mechanical structure duplicated human physiology, then we could have a machine whose intellectual capacities would duplicate those of human beings."<sup>35</sup>

It should be finally noticed that the early modern philosophy supplied also a powerful argument against both materialisation and mechanisation

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<sup>33</sup> A term rarely used in English, however capturing the essence of the 'ontological' mechanicism. See e.g. Adam Synowiecki "Mechanicyzm" [Mechanicism], (in:) Zdzisław Cackowski et al. (ed.) *Filozofia a nauka. Zarys encyklopedyczny* [Philosophy and science. An encyclopedic outline], Ossolineum, Wrocław 1987, p. 351.

<sup>34</sup> *Discourse on the Method*, V; John Veitch's translation.

<sup>35</sup> Norbert Wiener *The Human Use of Human Beings: Cybernetics and Society*, Houghton and Mifflin, Boston, 1950, p. 57.

of mind, the Leibniz's mill:<sup>36</sup> if "there were a machine, so constructed as to think, feel, and have perception", then a wanderer inside it would "find only parts which work one upon another, and never anything by which to explain a perception".<sup>37</sup> Today we can regard it as targeted both against Descartes and Wiener.

#### S U M M A R Y

Philosophical assumptions of cybernetics are listed and briefly explained. Principal contributions of early modern philosophers to their development are described. It is claimed that 17<sup>th</sup> century was the formative period of philosophical cybernetics.

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<sup>36</sup> Leibniz *Monadology*, § 17.

<sup>37</sup> *Ibid.*, Robert Latta's translation.





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## ON KINDS OF TEMPORAL LOGIC AND SOME OF ITS APPLICATIONS

Temporal Logic belongs to non-classical logics. Its systems started to be constructed at the end of the first half of the previous century. Up to now, a great variety of temporal systems have been constructed. The following systems are referred to as temporal logic systems: tense logic systems (whose precursor is A. N. Prior); logic of empirical time (containing a time variable) initiated by J. Łoś, and developed (as chronological logic) by N. Rescher and A. Urquhart, in particular; G. H. von Wright's temporal logic systems; systems of interval time logic (for instance, J. van Benthem's systems, Y. Venema's systems); temporal logic constructed in various versions of hybrid languages (for example, C. Areces's systems); and, at present, especially temporal systems using the notion of time in computer programmes (from standard systems of Linear Temporal Logic to various systems of Branching Temporal Logic). The enumerated types of temporal logic are independent of each other (what makes them different from each other are specific temporal functors appearing in them); however, they have a mutual property: they formalize (in various ways) some of time expressions.<sup>1</sup>

The diversity of temporal logic systems can lead to certain terminological confusion. More so because, despite the significant formal development of temporal logic as well a number of philosophical analyses devoted to it, an attempt at classifying temporal systems has not been made. Therefore, such classification will be the purpose of this paper. Since the issue of usefulness of such systems is often raised, this paper also aims to show (without analyzing them) their prospective applications.

The paper is divided into four parts. In each of them, there will be a brief outline of one of the four different formalisms referred to as temporal

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<sup>1</sup> Therefore, it is not the question of arithmetic independence because there are several structural analogies between the systems discussed below.

logic. The first three ones could be applied in natural sciences (physics, in particular), the last one was constructed to meet the needs of information science. The paper does not discuss all the kinds of temporal logic, although it depicts the most important ones (non-standard approaches are omitted).

## I

One of the kinds of temporal logic are systems combining research on logical structure of grammatical tenses (tense logic) with logical analysis of temporal relationships undertaken by the philosophy of science (logic of time).

This integration took place because the analysis of grammatical tense entails applying a certain model of physical time.<sup>2</sup> The theses of this kind of temporal logic determine the meaning of various temporal functors appearing in them and these theses describe the properties of time in different ways<sup>3</sup> (in physics time can be treated as set of moments arranged linearly by the relation earlier/later  $<$ ; the theses of tense logic describe a number of properties of this relation).

In the formal sense, tense logic is derived from modal logic, which is why it is often referred to as modal temporal logic. Its originator was A. N. Prior. He interpreted possibility functor and necessity functor temporally, introducing four sentence-forming functors, derived from a sentence argument, to the systems constructed by himself. These functors correspond to different grammatical tenses in natural language:

H<sub>p</sub> – It has always been the case that p,

P<sub>p</sub> – It has at some time been the case that p,

G<sub>p</sub> – It will always be the case that p,

F<sub>p</sub> – It will at some time be the case that p.<sup>4</sup>

The basic, minimal tense logic system is denoted by the symbol  $K_t$ . It was created by E. J. Lemmon. This system describes the basic properties of

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<sup>2</sup> Cf. J. Wajszczyk. *Logika a czas i zmiana*. Olsztyn WSP: 1995. pp. 7–8.

<sup>3</sup> Cf. R. P. McArthur. *Tense Logic*. Synthese Library. Vol. 111. Dordrecht/Boston 1976. pp. 1–51.

<sup>4</sup> Cf. A. N. Prior. *Time and Modality*. Oxford 1957. pp. 9–54. These functors can be interpret in the following way: F (replaced the modal possibility functor) – possible in the future, G (replaced the modal necessity functor) – necessary in the future and P – possible in the past, H – necessary in the past (past equivalents of modal functors). Cf. E. Hajnicz. *Reprezentacja logiczna wiedzy zmieniającej się w czasie*. Warszawa: Akademicka Oficyna Wydawnicza PLJ 1996. p. 152.

the functors introduced by Prior and is independent from any assumptions concerning the properties of time. Every  $K_t$  thesis is basically the shortened notation of the corresponding thesis of classical sentential calculus interpreted temporally. Tense logic systems for the time which exhibits the appropriate properties are extensions of  $K_t$  systems. They include: linear tense logics, circular tense logic and branching tense logics.

The simplest extension of  $K_t$  system is CR system, also referred to as  $K_t4$  system. It was constructed by N. B. Cocchiarella. The theses of this system signify only transitivity of earlier/later  $<$ . Because CR system describes only this property of this relation, it is the base system both for linear tense logic and for circular tense logic and branching tense logic.

Linear tense logic system, in which the relation  $<$  is transitive and bilaterally linear was constructed by Cocchiarella and is denoted by the abbreviation CL. Linear tense logic system, in which the relation  $<$  is transitive, bilaterally linear and lacking the initial moment of time (unfinished in the past) and the final moment of time (unfinished in the future) was constructed by D. Scott. This calculus is denoted by the symbol SL. Prior is the originator of the linear tense logic calculus denoted by the symbol PL. It is a system whose theses describe the transitivity of the relation  $<$ , its bilateral linearity, lack of the initial and final moment of time as well as density. In the linear tense logic, a circular tense logic system has also been constructed, namely, the one in which the relation  $<$  is transitive, reflexive and symmetric. The originator of this calculus denoted by the symbol PCr, is also Prior.<sup>5</sup>

Apart from linear tense logics, branching tense logics systems have also been constructed, whose base system, as already mentioned, is CR system. The originators of the best-known system of these were N. Rescher and A. Urquhart.<sup>6</sup> They constructed the calculus denoted by the symbol  $K_b$ , describing transitivity and backward linearity of the relation  $<$ . Therefore, it is possible for the temporal chain to branch into the future.

In order to develop the formalization of time expressions and to expand the application of functors P, F, G, H, several possibilities have been used. One of these involves connecting temporal functors with metric indexes, that is, the metric logic of time clauses.<sup>7</sup> Metric indexes appearing as superscripts at functors represent specific time intervals which, in turn, indicate

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<sup>5</sup> Cf. A. N. Prior. *Past, Present and Future*. Oxford 1967. pp. 32–76, 176–179.

<sup>6</sup> Cf. N. Rescher, A. Urquhart. *Temporal Logic*. New York 1971. Chapter 4.

<sup>7</sup> Cf. A. N. Prior. *Past, Present and Future*. pp. 95–112.

the time of the utterance (whether the described event took place before uttering the sentence, or whether it will take place after it).<sup>8</sup>

Another possible extension of tense logic is to introduce modal functors into its systems. One of these is, for example, OT system, within which the modal functors: M (it is possible that ...) and L (it is necessary that ...) coexist with temporal functors.<sup>9</sup>

The above mentioned temporal systems were built on top of classical sentence calculus. There exist tense logic systems constructed as the extension of quantifiers' calculus. The minimal time logic of quantifiers is the system denoted by the symbol  $QK_t$  (its variants are  $QK_t^*$ ,  $QK_t^{**}$ ).<sup>10</sup> Other systems are its extension, including QCR, QCL etc.<sup>11</sup>

As already mentioned, tense logic systems are, in a specific way, connected with the physical time model. Therefore, some researchers (e.g. S. Kiczuk) maintain that this kind of temporal systems could find their application in natural sciences (mainly in physics and cosmology). Tense logic systems could be applied in natural sciences (in the philosophy of natural sciences as well) on condition that the properties of physical time are appropriately presented by the theses of these systems. Specific axioms and theorems of tense logic systems would have to be true sentences in the natural model of time. The systems that fulfils the condition is CL system (its theses describe properties of time, currently accepted in physics, namely, transitivity and linearity). Appropriate tense logic systems could provide these sciences (and philosophy of science as well) with the necessary tools, that is, the appropriate language and inference equipment. The elements of scientific language of the well-formed and appropriately used temporal systems could be used for specifying as well as accurately and precisely communicating some of the results of scientific cognition, connected with time. By applying appropriate logic, it could be possible to decide which reasonings expressed in a timed language are correct, depending on appropriate cosmological assumptions.<sup>12</sup>

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<sup>8</sup> In order to, for example, formalize the sentence "It will rain in an hour's time from this moment" (more precisely than  $Fp$ ), we use the following symbols to describe it:  $F^1p$ , assuming that in this example one hour is the basic time interval. Cf. R. P. McArthur. *Tense Logic*. pp. 5–6.

<sup>9</sup> Cf. A. N. Prior. *Past, Present and Future*. pp. 113–136.

<sup>10</sup> Ibid. pp. 137–174.

<sup>11</sup> Cf. R. P. McArthur, H. Leblanc. *A Completeness Result for Quantificational Tense Logic*. "Zeitschrift für Mathematische Logik und Grundlagen der Mathematik" 1975. pp. 89–96.

<sup>12</sup> This kind of logic would be connected not with the mathematical language of physics, but with its notional language (similar to the colloquial one, but enriched with the specialist terminology).

## II

With the use of P, F, G, H functors the main sentences containing verbs of various grammatical tenses are formalized. Whereas, in order to formalize natural language time expressions as well as time expressions derived from numerous sciences, temporal logic systems, containing functors different from those used in tense logic, were constructed. To such systems belong, inter alia, systems with a time variable, containing R functor, interpreted in the following way:

R  $t p$  –  $p$  is realized at the time  $t$  (it is at time  $t$  that  $p$ ).

Temporal logic systems of this kind were initiated by the Polish logician J. Łoś, who made the first attempt (which means earlier than Prior) to construct a formal system of temporal logic, by constructing, in 1947, the first modern (the logic theory of time variable dates back to Aristotle and Megarian-Stoic school, and was also developed in the Middle Ages) logic of empirical time.<sup>13</sup> The next systems containing time variable were constructed and developed, especially by Rescher, and also, to a some extent, by Urquhart and Garson.<sup>14</sup> Temporal systems in which R  $t p$  formula appears were denoted as temporal logic (or chronological logic) by them in order to distinguish of these temporal systems from tense logic systems.

It is worth mentioning that recently a minimal logic of empirical time (ET) was constructed, studied and presented by M. Tkaczyk in his work *Logika czasu empirycznego*. This logic includes the laws of usage of the expression “at the time” within the area of physical discourse. The functor of temporal realization denoted by the symbol R<sup>15</sup> is introduced for it.

Systems of empirical time are at present formally constructed and philosophically significant; they could also find their application in physics. However, logic of empirical time can be used not only in physical theories, but also everywhere where temporal relationships stated empirically are in question.

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<sup>13</sup> Cf. J. Łoś. *Podstawy analizy metodologicznej kanonów Milla*. “Annales Universitatis Mariae Curie-Skłodowska” 2 (1947) z. 5. pp. 269-301.

<sup>14</sup> Cf. N. Rescher, A. Urquhart. *Temporal Logic*. pp. 31–54 and N. Rescher. *Topics in Philosophical Logics*. Dordrecht, Holland: 1968. pp. 196–228.

<sup>15</sup> Cf. M. Tkaczyk. *Logika czasu empirycznego*. Lublin: Wydawnictwo KUL 2009. p. 5.

### III

Apart from the systems given above, there also exist other ones, which are distinct from these systems, also referred to as temporal logic. These are systems which contain temporal functors whose equivalents in colloquial language are the following expressions: *and next*, *and then*. Temporal logic systems, within which such functors appear, were constructed by a Finnish logician G. H. von Wright. These systems are And Next and And Then.<sup>16</sup> The first one was constructed in 1965, and the other one in 1966. In these systems there appear temporal functors (sentence-forming from two sentence arguments) of the so-called timed conjunction (denoted by the symbol T).

Based on the system And Next, T functor is interpreted *and next*. Therefore:

$pTq - p$  *and next* (in the moment directly following)  $q$ .

Based on the And Then, T functor is interpreted *and then*. Therefore:

$pTq - p$  *and then* (sometime then)  $q$ .

The use of *and next* functor in the And Next system presupposes discreteness of the time structure. Whereas, the And Then system presupposes transitivity and linearity of time. Therefore, as can be seen, just as tense logic systems, von Wright's systems in a certain way are connected with the model of physical time. Hence, they also could find their application in natural sciences (mainly, in physics and cosmology). It particularly concerns the And Then system, which appropriately describes the properties of physical time. Its specific theses are sentences which are true in the natural model of time.<sup>17</sup> Therefore, this system could provide natural sciences (and philosophy of science as well) with the necessary tools, that is, the appropriate language (for specifying as well as accurately and precisely communicating some of the results of scientific cognition, connected with time) and inference equipment (for determining which reasonings expressed in a timed language are correct, depending on appropriate cosmological assumptions).

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<sup>16</sup> Cf. G. H. von Wright. *And Next*. "Acta Philosophica Fennica" 18 (1965). pp. 293–304 and *Ibid*. *And Then*. "Commentationes Physico-Mathematicae" 7: 32 (1966). pp. 1–11.

<sup>17</sup> Cf. S. Kiczuk. *Problematyka wartości poznawczej systemów logiki zmiany*. Lublin: Redakcja Wydawnictw KUL 1984. p. 226.

## IV

With the increase in the number of uses of computers in many areas of life, the notion of time started to be used in computer programmes. In the 1970s completely different systems from the ones enumerated above appeared, which were also referred to as temporal logic system and which were used in computing sciences, in particular.

R. M. Burstall and A. Pnueli are considered to be the precursors of this kind of temporal logic, derived from modal logic. In 1974 R. M. Burstall for the first time suggested applying modal logic in computer science, whereas A. Pnueli systematized the logic presented by Burstall as TL (Temporal Logic) and it is the Pnueli's paper titled *The Temporal Logic of Programs* is regarded as a turning point in the use of modal logic in broadly understood reasoning about computer programmes (this kind of temporal logic was also constructed by, inter alia, Z. Manna, E. A. Emerson, A. Galton). In his paper, Pnueli introduced functors referring to the future tense:

- $\Box p - p$  is satisfied in all the states (*always*),
- $\Diamond p - p$  is satisfied in at least one state (*sometime*).

Classic temporal logic in this version also contains the following functors:

- $\circ p - p$  is satisfied in the next state after the reference state (*next*),
- $pUq - p$  is satisfied until  $q$  is not satisfied (*until*).<sup>18</sup>

In the first temporal logic systems of this kind, only the future states were analyzed. However, in the systems that were constructed later the past states started to be taken into consideration, and past functors were introduced to temporal logic (they are a mirror reflection of the future functors):

- $\blacksquare p - p$  has been satisfied in all the states (*has always been*),
- $\blacklozenge p - p$  was satisfied in at least one state (*once*),
- $\bullet p - p$  was satisfied in the preceding state relative to the reference state (*previous*),
- $pSq - p$  has been satisfied since (recently)  $q$  was satisfied (*since*).<sup>19</sup>

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<sup>18</sup> Cf. R. Klimek. *Wprowadzenie do logiki temporalnej*. Kraków: Wydawnictwa AGH 1999. pp. 16, 25.

<sup>19</sup> *Ibid.* pp. 47.

In this kind of temporal logic systems there can exist different modifications of the above-mentioned functors, and they can also differ in the system of written symbols used (notation).

Now the different systems of temporal logic presented in this section will be given; they are divided into different systems depending on the concept of time they assume.

Classic temporal logic was constructed on the basis of linear concept of time, which is why it is called Linear Temporal Logic – LTL. Depending on the assumed concept of time, past tense or future tense functors are introduced (or not) to temporal logic. Linear temporal logic which includes both types of functors is denoted by the symbol  $LTL(B)$ . The logic whose formulae do not include past functors is denoted by the symbol  $LTL(F)$ , and the logic whose formulae do not include future functors is denoted by the symbol –  $LTL(P)$ .

On the basis of the concept of branching time, Branching Temporal Logic – BTL was constructed. There exist many different branching temporal logic systems, e.g. Unified System of Branching Time – UB and its versions:  $UB^+$  and  $UB^-$ . Another branching logic (with a wider range of capabilities than UB) is Computation Tree Logic – CTL and its versions:  $CTL^+$  and  $CTL^*$ . The extension of CTL is Fair Computation Tree Logic – FCTL, and Extended CTL – ECTL as well as Extended  $CTL^+$  –  $ECTL^+$ .

Apart from the above-mentioned systems, there exist many other modifications and extensions of the above discussed temporal logic, including ITL – Interval Temporal Logic, ETL – Extended Temporal Logic, TLA – Temporal Logic of Action as well as different RTTL – Real-Time Temporal Logic systems. First-order temporal logic has also been constructed: First-Order Linear Temporal Logic – FOLTL as well as First-Order Branching Temporal Logic – FOBTL.<sup>20</sup> New temporal logic systems used in computing science are continuously being constructed.

The primary use of temporal logic in computer systems is especially specification and verification of programmes (the language of temporal logic can be applied to specification of the wide range of computer systems, the methods of this logic can be applied for verification), and synthesis of programmes and logic programming. Temporal logic is one of the most important formalisms used for the broadly understood reasoning on concurrent systems, and it also ranks high in all the development forecasts for formal tools used in the analysis of such systems.

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<sup>20</sup> Ibid. pp. 24–99.



It is worth adding that temporal logic systems can also find their application in the so-called artificial intelligence (e.g. formalization of such categories as events, actions, plans in the context of time). Such systems have been constructed by, inter alia, A. L. Lansky, E. Lafon and C. B. Schwind, R. S. Crouch and S. G. Pulman.<sup>21</sup> Among logicians in Poland involved in research into temporal logic and its applications, especially in computing science, are K. Trzęsicki<sup>22</sup> and R. Klimek.

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Rounding up the discussion included in this paper, it is worth noting that apart from the above-mentioned kinds of temporal logic, there exist other formalisms aspiring to be called temporal logic ones, e.g. systems of interval time logic (inter alia systems constructed by J. van Benthem, Y. Venema), or temporal logic constructed in different versions of hybrid languages (e.g. systems constructed by C. Areces); they are not discussed in this paper. Non-standard approaches have been omitted.

Summing up, it is worth noting that in our times temporal logic particularly refers to: tense logic, logic of empirical time (containing a time variable), von Wright's systems of temporal logic, and temporal logic systems that make use of the notion of time in computer programmes. All these systems are independent of each other and can find their application in various sciences. The issue of mutual relationships among the above-mentioned kinds of temporal logic and the analysis of their uses constitute an area of further research.

#### S U M M A R Y

The paper contains short characterization of various kinds of temporal logic. Possible fields of applications of them are also given. Parts I, II and III of the article present systems of temporal logic that may be used in natural sciences (mainly physics and cosmology): tense logic, logic of empirical time (containing a time variable) and von Wright's systems of temporal logic. In Part IV, the last part of the paper, systems of temporal logic that make use of the notion of time in computer programs are presented. Non-standard approaches have been omitted.

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<sup>21</sup> These systems were thoroughly discussed in, e.g., E. Hajnicz. *Reprezentacja logiczna wiedzy zmieniającej się w czasie*.

<sup>22</sup> Cf. K. Trzęsicki. *Logika temporalna. Wybrane zagadnienia*. Białystok: Wydawnictwo Uniwersytetu w Białymstoku 2008.



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**THE ETHICAL NOTIONS AND RELATIVISM IN CULTURE.  
IN THE CONTEXT OF GERMAN MATERIAL ETHICS  
OF VALUES**

A variability of culture and its material components is a general and well-known phenomenon in our history. We all know that moral ideas and ethical convictions change during the history. Their evident expression are concrete moral theories and codices, which ever contained some specified ethical notions and terms. These transformations are treated usually as a basic argument, proving the legitimacy of ethical and moral relativism. The aim of this paper is not to demonstrate the whole problem of the relativism, ethics and its notions. It aims rather at analyzing the comprehension of cultural relativism in context of three central ethical notions (value, validity, ought) formulated in main ideas of German material value-ethics, and particularly in theories formulated by Max Scheler (1874–1928), Nicolai Hartmann (1882–1950) and Dietrich von Hildebrand (1889–1977). In particular, there are three questions which are foreground in the analyzed problem: (1) an understanding of the moral value, moral validity and moral ought; (2) an understanding of the phenomenon of cultural variability within moral ethos; (3) criticism and refutation of the ethical relativism in the context of distinctions and notions used in writings of those authors. I endeavour, then, by referring to the ideas of German value-ethics, to examine whether it is possible to explain moral changes and plurality in culture, without a moral relativism.

By saying “a moral relativism in culture”, I mean the conception stating that a value, firstly, does not exist independently from human valuing and secondly, that this valuing depends on the human’s decision, will or feeling. What is, then, a value? According to relativists, it is a product of human acts (will, decision, feeling, action, individual and social needs, social opinions and conventions). Thus, there are always people which create the axiological

site of the real world. Without human conscience and activity the world will be lost, of course, its axiological attributes.

That question requires, firstly, to be undertaken in the context of material value-ethics, because it offers the solution which consolidates relativism with moral absolutism. Secondly, it is a perspective which allows us, as I hope, to avoid many of absurdities and antinomies appearing in the post-modernist, subjectivistic and emotivistic theories, however not losing the phenomenon of the historical variability of values and changing human valuations. And thirdly that is a phenomenological conception which offers the largest and most precise understanding of the value in the 20<sup>th</sup> century.

The first and main argument, that the German material ethics of values gave against ethical relativism is, in my opinion, an idea of the emotional feeling of values (*Wertfühlen, Wertgefühl*).<sup>1</sup> This value-feeling<sup>2</sup> demonstrates a value primary and indirect. Nobody can create it arbitrarily or eliminate it directly. That is why it is possible to interpret a value-feeling as the first and basic phenomenological argument against relativism. It demonstrates, as “passive” human experience, that value-being and value-hierarchy are objective and independent from the human value-consciousness, will, action or attitudes. There are rather value-feeling and value-preferring, Scheler states in *Formalism in Ethics*, which are always a basis in which the purpose of will is grounded: “Nothing can become a purpose that was not first a goal!”<sup>3</sup> Hartmann formulates in his *Ethics* the same opinion: human will is grounded in the value-consciousness, in that human will a value is always given already.<sup>4</sup>

A value-feeling, however, has an emotional nature which causes, naturally, many critiques and reproaches.<sup>5</sup> Furthermore, a value-feeling is changing in the history and other different cultures or civilisations. Can we, then,

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<sup>1</sup> See also: L. Kopciuch, *Krytyka relatywizmu etycznego u Nicolai Hartmanna* (Critique of Ethical Relativism in Nicolai Hartmann), “Edukacja Filozoficzna” 2006, Vol. 41, pp. 157–163.

<sup>2</sup> About an idea of axiological feeling see e.g.: R. Zaborowski, *Nicolai Hartmann's Approach to Affectivity and Its Relevance for the Current Debate Over Feelings*, in: *The Philosophy of Nicolai Hartmann*, ed. R. Poli, C. Scognamiglio, F. Tremblay, Walter de Gruyter & Co., Berlin–Boston 2011, pp. 159–175.

<sup>3</sup> See: M. Scheler, *Formalism in Ethics and Non-Formal Ethics of Values. A New Attempt Toward the Foundation of an Ethical personalism*, transl. by M. S. Frings and R. L. Funk, Northwestern University Press, Evanston, Illinois 1973, p. 40.

<sup>4</sup> See e.g.: N. Hartmann, *Moral Phenomena. Volume One of Ethics*, transl. by S. Coit, with a new introduction by A. A. M. Kinneging, Transaction Publishers, New Brunswick–London 2007, pp. 192–194.

<sup>5</sup> From a different points of view. See e.g.: V. Kraft, *Foundations for a Scientific Analysis of Value*, red. H. L. Mulder, Vienna Circle Collection, Vol. 15, D. Reidel Publishing Company, Dordrecht–Boston–London 1981.

really found our axiological knowledge on value-emotions? Can we really find some emotions which will have a universal and intersubjective character? And can we really speak about a cognitive role of emotions in general? These questions cause that it becomes necessary, also in material ethics of value, to give some other types of arguments against relativism. And, in my opinion, there are particular notions and distinctions in the structure of values which have this function to realize.

Let us first reconstruct a phenomenological idea of the value in general. There are objectivistic and absolutistic understanding of value which are proposed in the material value-ethics. Scheler notes that moral values are objective and ideal entities and noematas:<sup>6</sup> they are “irreducible, basic phenomena of emotive intuition”<sup>7</sup> existing independently on the real world. In Hartmann a value has an ideal being<sup>8</sup> and is an ideal essence: “The mode of Being peculiar to values is evidently that of an ideal self-existence. The values are originally patterns of an ethical ideal sphere, of a realm with its own structures, its own laws and order. This sphere is connected organically with the theoretical ideal sphere, the logical and the mathematical, as well as with that of pure essences in general”.<sup>9</sup> In Hildebrand the values are founded in God.<sup>10</sup> A different position was represented only by Hans Reiner, who did not make decisions about a metaphysical position of value at all.<sup>11</sup> So if we ignore the differences existing in their ideas, we can say that in Scheler, Hartmann and von Hildebrand a moral value is interpreted as an essence (*Wesenheit*) existing independently from the real

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<sup>6</sup> See also: P. Orlik, *Fenomenologia świadomości aksjologicznej (Max Scheler – Dietrich von Hildebrand)* [The Phenomenology of Axiological Consciousness (Max Scheler – Dietrich von Hildebrand)], Wydawnictwo IF UAM, Poznań 1995, pp. 89–115.

<sup>7</sup> See: M. Scheler, *Formalism in Ethics and Non-Formal Ethics of Values*, p. 265.

<sup>8</sup> How is character of this ideality and objectivity of value, ontological or rather only epistemological, is a question, which in this place we can ignore. I analyzed this problem in the other place already. See: L. Kopciuch, *O dyskusjach na temat statusu wartości (z historii materialnej etyki wartości)* [On the Discussions concerning Status of the Value (of the History of the Material Value Ethics)], “Studia Philosophica Wratislaviensia” 2010, Vol. V, fasc. 2, pp. 153–164. See also: N. Hartmann, *Moral Phenomena. Volume One of Ethics*, pp. 217–219. See also: E. Kelly, *Material Value-Ethics: Max Scheler and Nicolai Hartmann*, “Philosophy Compass” 2008, Nr. 3/1, pp. 5–6; F. Kraenzel, *Nicolai Hartmann’s Doctrine of ideal values*, “Value Inquiry” 1994, Nr. 18, pp. 299–306; A. Kinneging, *Hartmann’s Platonic Ethics*, [in:] *The Philosophy of Nicolai Hartmann*, pp. 195–220.

<sup>9</sup> N. Hartmann, *Moral Phenomena. Volume One of Ethics*, p. 221.

<sup>10</sup> See: D. von Hildebrand, *Ethik*, 2. Aufl., *Gesammelte Werke*, Bd. II, Verlag Kohlhammer, Stuttgart 1973, pp. 169–174.

<sup>11</sup> See: H. Reiner, *Wertethik nicht mehr aktuell?*, “Zeitschrift für philosophische Forschung” 1976, Bd. 30, Heft 1, pp. 93–98; See also: *id.*, *Die Grundlagen der Sittlichkeit. Zweite, durchgesehene und stark erweiterte Auflage von Pflicht und Neigung*, Verlag Anton Hain, Meisenheim am Glan 1974, p. XI.

opinion of real subject. Such general perspective implicates, perforce, a question about the cultural and historical relativism and its legitimacy. To answer this question, it is necessary to give the basic distinction between value itself (*Wert*) and its validity (*Geltung*). It is also necessary to demonstrate, more exactly, a characteristic for phenomenological ethics idea of the human value-feeling.

A distinction between value itself and its validity was clearly formulated by Max Scheler and Nicolai Hartmann. Scheler holds that for being of the value it does not matter whether a man experiences values.<sup>12</sup> He stress also: "For example, the wretchedness of the world of values belonging to the great masses of our culture and times does not rest on general human subjectivity of values. It rests on other ground, which determine in part man's natural view of the world in general and in part the common views of man our civilisation".<sup>13</sup> And Nicolai Hartmann notes, that by saying about the so-called "relativity of values" we mean a dependence their validity on the changing historical and cultural situations.<sup>14</sup>

A validity<sup>15</sup> (*Geltung*) is not an element of value itself. It is only a moment of the real world, i.e. it appears in the real human axiological consciousness (*Wertbewußtsein*). This way it is possible to think that a value itself, by losing its importance and validity, does not lose its ideal being. The value itself takes its actuality in some particular, concrete real situations only. E.g. a value of freedom takes its current events during the war; value of measure takes its importance only in situation of wastefulness. Hartmann holds that a value, and more exactly its content, is ever related to the concrete real situation. In result, a value takes always its current validity only when adequate type of this situation appears. The variability of situations causes the variability of the validity of value. Thus, a historical

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<sup>12</sup> See: M. Scheler, *Formalism in Ethics and Non-Formal Ethics of Values*, p. 266.

<sup>13</sup> *Ibid.*, p. 267.

<sup>14</sup> See: N. Hartmann, *Das Wertproblem in der Philosophie der Gegenwart*, in: *id.*, *Kleinere Schriften*, Bd. III: *Vom Neukantianismus zur Ontologie*, Walter de Gruyter & Co., Berlin 1955, p. 330: Ist also die sog. »Relativität der Werte« vielmehr nur die geschichtliche Unbeständigkeit ihres Aktuellseins und der ihm folgenden »Geltung«, so löst sich das Rätsel, warum sie so hartnäckig den Werten selbst nachgesagt wird: das geschieht deswegen, weil man immer die Geltung für die Seinsweise der Werte selbst hielt. Das hat sich als Irrtum erwiesen, und damit fällt die Relativität des Wertvollseins als solche hin". See also: E. Kelly, *Material Ethics of Value: Max Scheler and Nicolai Hartmann*, "Phenomenologica" 203, Springer, Dordrecht–Heidelberg–London–New York 2011, pp. 125–131; L. Kopciuch, *Krytyka relatywizmu etycznego u Nicolaia Hartmanna*, pp. 157–170.

<sup>15</sup> But it is necessary to accent that a term "validity" (*Geltung*) appears in works of Hartmann in several, different meanings (validity as axiological character of the value itself; validity as term near to actually-ought-to-Be; validity as an element of ethos).

relativism of value is only a relativism of the validity, not of the value itself, because Hartmann believes that value takes its importance only in some kinds of situations and in other their types it lose it.<sup>16</sup>

Therefore, this way interpreted axiological relativism seems to be only some theoretical misinterpretation and its source is a fact that we do not have a clearly distinction between value itself and its validity. This way we have the first insight into relation between ethical notions and relativism already. This insight, however, becomes distinct only after we explained the structure of the value and its relation to the validity.

There is a distinction between two moment of the value itself, which we have to consider now. Scheler and Hartmann both describe a value as a composition of two main moments. The first one is an exact axiological component (an axiological form of value, value character) and the second one is an only ontological factor (a matter of value). Hartmann notes: “The moral value of trust is not trust itself. The latter is only the material – a specific and generally describable relation between person and person. The value character of trust is not this relation – and not only not the real relation between particular persons, but also not the idea of such a relation altogether”.<sup>17</sup> So that is only a matter<sup>18</sup> of value that corresponds relationally with the concrete type of situation in culture. An exact axiological character of the value does not change. A result of this distinction is the thesis stating that it is possible to explain a variability of human valuing by not accepting a relativism.

The main problem in this conception is only that a relativist does not accept that distinction, because usually he identifies a value with its validity. That is why a basic importance has a distinction between two different kinds of the value-feeling as a primary knowledge about the values. As a phenomenological description demonstrates, this real value-feeling is independent from the human will and its intentional wishes.<sup>19</sup> In this primary and receptive value-feeling a value is ever “self-given”. The subject has here

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<sup>16</sup> N. Hartmann, *Vom Wesen sittlicher Forderungen*, in: *id.*, *Kleinere Schriften*, Bd. I: *Abhandlungen zur systematischen Philosophie*, Walter de Gruyter & Co., Berlin 1955, p. 305: “Es folgt darin dem Aristotelischen Gesetz des Lebensgebietes bzw. der jeweilig aktuellen Lebenslage. Und je nachdem, welches Lebensgebiet unter gegebenen Verhältnissen das vordringliche ist, dessen ihm zugehörige Werte sind auch im Wertbewußtsein der Menschen die vordringlichen und bestimmen den Typus der Moral”.

<sup>17</sup> *Id.*, *Moral Phenomena. Volume One of Ethics*, p. 217.

<sup>18</sup> About a phenomenological understanding of term “material” see: E. Kelly, *Material Ethics of Value*, pp. 8–9.

<sup>19</sup> See: N. Hartmann, *Moral Phenomena. Volume One of Ethics*, pp. 189–194; M. Scheler, *Formalism in Ethics and Non-Formal Ethics of Values*, pp. 30–45.

only a receptive character and his primary knowledge about value appears in a such receptive acts of the “*Getroffensein*”. If we have a correct understanding of this situation, we can see, at once, that a main relativistic argument (telling that subject “creates” the values) is mistaken. There are no people which create the values. There are rather the values which create the people as a spiritual persons. Therefore, we may also have an unreal value-consciousness, e.g. a consciousness made by axiological illusion or sensual passions.<sup>20</sup> Hartmann agrees with Scheler and von Hildebrand in this matter. However, he states clearly that axiological illusion proves implicitly that a value has an ideal and objective existence. Paradoxically, an illusion proves that does exist its object, value itself.

An analogical idea was formulated in writings of von Hildebrand. In his *Ethics*, by analyzing a position represented in the “French sociological school”, he demonstrates an error appearing in the identification of the value and social axiological “conventions”. Its representatives state that the notion “moral value” means only the objectification of the social convictions. As Anatol France says, an act is bad because it is socially convicted, and not inversely.<sup>21</sup> If an action or attitude are socially approved, then they have, of course, a positive moral value. And if they are socially criticized, they have a negative value. In such conception, the value is indeed, independent from the opinion of individual person but it is always determined by the opinion of the society. There are two possible interpretations of this situation which are rejected by von Hildebrand: (1) the moral values do not exist at all and they are only some “illusions”; (2) the moral values exist only as some “conventions”. But if we want to interpret the value as some “illusions”, von Hildebrand notes, we have to reject a phenomenology and its “necessary intelligible essences” (*notwendige intelligible Wesenheiten*).<sup>22</sup> And if we want to interpret the value as only some kinds of “conventions”, we do not understand how, at all, we can criticize the moral “conventions” which are accepted in other communities. Such criticism (e.g. criticism of Nazism) implicates impliedly the existence of objective, or at last independent from the social opinion, values which determine and make possible this criticism. And finally, von Hildebrand states: the theory saying that a value is a product of the social conventions do not need to negate the objective existence of value because this theory, precisely, says only what is considered as a value in the given concrete community.

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<sup>20</sup> See: N. Hartmann, *Moral Phenomena. Volume One of Ethics*, pp. 99–104.

<sup>21</sup> See: D. von Hildebrand, *Ethik*, p. 117.

<sup>22</sup> See: *ibid.*, p. 120, 123.



Returning to the general distinction between a value and its validity, we endeavour now to explain what are the reasons causing change the validity of values. There are two main explanations here:<sup>23</sup>

- (1) the objective answer: the objective historical change of the social and political situations which open or close an actuality and validity of the value (that was forth of all the idea of Hartmann);
- (2) the subjective answer: the limitation, errors and illusions appearing in the human value-feeling and value-cognition, e.g. a resentment (Scheler, Hartmann, von Hildebrand), a valuation delusion (Scheler, Hartmann, von Hildebrand), a valuation blindness (Scheler, Hartmann, von Hildebrand), a transference of value attention (Hartmann), a blindness of subsumption (von Hildebrand).<sup>24</sup>

On the one hand, there are only the different kinds of the validity (*Geltung*) which are dependent on the real world and human value-knowledge. And, on the other hand, there are only values as the ideal essences itself which are independent from the real value-consciousness.

We see, therefore, that terminological distinctions (a value and its validity, a matter and axiological form of the value) permit to explain a variability of historical moral ethos without accepting its relativistic interpretation.

The next question is: what is a structure of the moral ought and what is the relation between ought and changing culture? A distinction between a value itself and its ought, so deeply specific for the German material value-ethics, was formulated in the beginning of this school by Max Scheler in clearly opposition to Kant's formalism.<sup>25</sup> This distinction defines, naturally, a main difference between a formal and material ethic in general. In Int

Can we, then, speak about many kind of ought? Rather does only one type of ought exist? It seems, as one can hear usually, that the plurality and

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<sup>23</sup> See also: Z. Zwoliński, *Byt i wartość u Nicolaia Hartmanna* [Being and Value in Nicolai Hartmann], PWN, Warszawa 1974, pp. 298–302.

<sup>24</sup> See: M. Scheler, *Ressentiment*, ed. by L. A. Coser, transl. by W. W. Holdheim, Schocken, New York 1972 [*Das Ressentiment im Aufbau der Moralen*]; N. Hartmann, *Moral Phenomena. Volume One of Ethics*, pp. 226–232; D. von Hildebrand, *Sittlichkeit und ethische Werterkenntnis. Eine Untersuchung über ethische Strukturprobleme*, dritte durchgesehene Ausgabe, Patris Verlag, Vallendar-Schönstatt 1982; D. von Hildebrand, *Substitute für wahre Sittlichkeit*, in: *id.*, *Idolkult und Gotteskult, Gesammelte Werke*, Bd. VII, Verlag Josef Habel, Regensburg 1974; D. von Hildebrand, *Wahre Sittlichkeit und die Situationsethik*, in: *id.*, *Situationsethik und kleinere Schriften, Gesammelte Werke*, Bd. VIII, Verlag W. Kohlhammer, Stuttgart 1973, pp. 17–164. See also: P. Orlik, *Fenomenologia świadomości aksjologicznej (Max Scheler – Dietrich von Hildebrand)*, pp. 143–161.

<sup>25</sup> See: M. Scheler, *Formalism in Ethics and Non-Formal Ethics of Values*, pp. 5–7, 163–239.

historical change of moral ought prove the legitimacy of moral relativism. That is the question which must be explained now.

There are two kinds of the oughtness, Scheler notes, which we have to distinguish: an ideal ought and an normative ought. The ideal ought is invariable and unreal. It is connected with the value itself and founded on it. Its character is independent on the real situation and its concrete matter. Unlike the ideal ought, the normative oughtness assumes a “bad” human nature. It assumes that people are inclined to act inconsistently with the value. So it has a repressive character and, what is most important, it is related to the concrete real situation. Scheler says: “According to the nature of the ideal ought, one can speak of an ought only when a value is given in its non-being; so, according to its nature, an *imperative* pertains to a posited value to which a conation is related, but not in original intention. When, on the other hand, this is a case, it makes no *sense* to speak of »duty«, »norm« or »imperative«. However, on the basis of what we have said, this implies that an (ideal) *ought-not-to-be* of a *conation* is a foundation of every imperative proposition. Throughout history, therefore, prescriptions have always preceded prescriptions (e.g. Decalogue)”.<sup>26</sup>

In Hartmann an oughtness in general divides into three kinds: an ideal ought-to-Be (*ideales Seinsollen*), an actual ought-to-Be (*aktuelles Seinsollen*) and a real ought-to-Do (*reales Tunsollen*).<sup>27</sup> It is necessary to remind here an opinion formulated by Scheler in “Preface” to the third edition of his *Formalism in Ethics*: “I would like to stress here that I consider Hartmann’s new analyses of »ideal« and »normative« oughtness as valuable refinement of the analyses of »value and ought« in my Formalism”.<sup>28</sup>

Therefore, what is a sense of the distinctions proposed by Hartmann which were so good esteemed by Scheler?

Firstly, Hartmann, like Scheler, speaks about the ideal ought-to-Be. But it is now the moment of the value itself: “There is something absurd in the thought that a value is a thing that ought to be only in so far as its matter is unreal. That a man ought to be honest, straightforward, trust worthy, is something which does not cease to be because somebody actually is so. The man ought to be even as he then is”.<sup>29</sup> Secondly, he distinguishes the actual ought-to-Be. It appears only when the real situations do not

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<sup>26</sup> M. Scheler, *Formalism in Ethics and Non-Formal Ethics of Values*, p. 211.

<sup>27</sup> See: N. Hartmann, *Moral Phenomena. Volume One of Ethics*, pp. 247–270.

<sup>28</sup> M. Scheler, *Formalism in Ethics and Non-Formal Ethics of Values*, p. XXVIII (foot-note 10).

<sup>29</sup> N. Hartmann, *Moral Phenomena. Volume One of Ethics*, p. 247.

realize the matter of the value yet. There are two main conditions which it depends on: (1) a value is not realized; (2) there is given a concrete real situation to which this value is related. As we see, this ideal ought-to-Be is most independent from the real world and its variability. But ideal value as an ideal being refers always relationally to reality. Its matter is some model for the real situation and its ought-to-Be is ought to-Be in the real world. Clearly, the dependence on the reality grows larger at the actual ought-to-Be. It presupposes that in reality it does not realize a value which should be realized. Therefore it depends on the existence of the real situation and its matter. Hartmann states that the greatest dependence appears at the real ought-to-Do. There are three conditions on which depends this oughtness: (1) a value is not realized; (2) there is given a concrete real situation to which refers this value; (3) there are some people for whom a realization of value is real possibility in general: "The Ought – and ultimately the value – therefore, of course, determines the real also; not unconditionally, however, and not directly, but only by the roundabout route through the practical subject, through the medium which senses values and is capable of directing events. The real determination, which issues from the moral values, is an indirect, interrupted determination, and on that account is also conditioned by the point of interruption".<sup>30</sup>

Another example of such detailed distinctions, which lead to the refutation of relativism, one can find in the theory formulated by von Hildebrand (especially in *Moralia*). Firstly, like Scheler and Hartmann, Hildebrand speaks about a general ought-to-Be (*Seinsollen*). Secondly, he distinguishes a moral ought-to-Do. It characterizes only these values which realization depends on the human free will and which are realizable in action at all. Thirdly he distinguishes the oughtness which is meaning as a moral duty or obligation.<sup>31</sup>

How is a precise structure of the distinguished kinds of oughtness and how is their relation to human personality and freedom, are the questions, which in this place we can ignore. However, we have now to ask about detailed relation between oughtness and relativism. Is it really a truth that historical variability of ethos proves that relativism is correct? Hartmann demonstrates that three kinds of oughtness depend, in the different way, on the reality, but they do not prove the relativism. An adequate expression

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<sup>30</sup> *Ibid.*, p. 259.

<sup>31</sup> See: D. von Hildebrand, *Moralia. Nachgelassenes Werk, Gesammelte Werke*, Bd. IX, Verlag Josef Habbel, Regensburg 1980, pp. 64–67. See also: Ch. Hillebrand, *Die Wertethik bei Dietrich von Hildebrand*, Dissertation, Zentral-Verlag für Dissertationen Triltsch, Düsseldorf 1959, pp. 9–11.

for this dependence is not “relativism” but “relationism”. There are only ethos, evaluations, actual and real ought, which change in the cultural history of man. In Scheler, only a normative oughtness depends indirectly on the reality and in von Hildebrand, like in Hartmann, only its second and third kind.

Therefore, Scheler and Hartmann von Hildebrand propose the terminological distinctions in ethics, which implicate that ethical relativism is a theoretical fallacy. So it seems to be founded in the incorrect theory and description of value and evaluation because a culture and its historical variability prove the change of valuation only.

So the next general argument against relativism, especially stressed by Hartmann, is a thesis about not-identity between relativism and relationism.<sup>32</sup> A general solution here is the same like in all previous distinctions showing a mistake contained in relativism. The detailed analyze demonstrates that a relational reference between value and real world must not be interpreted like relativism. Some relations, Hartmann notes, have an absolute character.<sup>33</sup> There are three kinds of this *relational* reference between value and real world. Firstly, that is a reference of the matter of value to the real situation (it was analysed already). Secondly, a value is always related to the human person as a subject and object of the moral conduct or action. Thirdly, that is a reference of value of goodness to the person which for a moral value is always some goodness. We find here, naturally, an incorrect identification of the moral value and the value of goodness that, indeed, appears always with the moral values but is not identical to them. There are, then, two different values which we have to distinguish: a moral value itself and a secondary, only co-occurring value of goodness. A friendly action is ever an important goodness for the person that is its object and beneficiary. But a moral value (its existence and its level in the hierarchy) is independent from the value of goodness. However, also this value of goodness refers to the person relational only, not relative. No one, Hartmann states, can arbitrary decide what is good for him. An umbrella is such goodness when it rains and the warm shoes when it is cold. In this context it is also necessary to remind a distinction formulated by D. von Hildebrand. He distinguishes three kinds of motivating objects: (1) the subjective satisfying objects; (2) the objective goodness for the person; (3) the values them-

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<sup>32</sup> The role od this arguments was stressed by Roman Ingarden. See: R. Ingarden, *Uwagi o względności wartości* [Remarks on Relativity of Values], in: id., *Studia z estetyki*, PWN, Warszawa 1970, p. 210.

<sup>33</sup> See: N. Hartmann, *Moral Phenomena. Volume One of Ethics*, pp. 207–210.

selves.<sup>34</sup> I partially agree with Hildebrand because the subjective satisfying objects are given for us in the other experience than objective goodness or moral values. However, as I hold, we should not forget that subjective satisfying objects are usually founded in the objective status of the person and the real world in general.<sup>35</sup>

Let us now remind the main thesis formulated by Scheler, Hartmann and von Hildebrand. Firstly, a main but, unfortunately, connected with the great difficulties argument against relativism is (and, as I think, it should be) an idea of primary and emotional value-feeling. This idea is founded in the general position represented in material value-ethics and its emotionalism. Secondly, there are distinctions between value itself and its validity and, next, between the different kinds of oughtness, which complete this primer argument. However, there is some paradox in the phenomenological ethics of values, that its argument typically phenomenological seems to be less conclusive than other arguments, which, evidently, do not have a typically phenomenological character and appear in other conceptions too.<sup>36</sup> In this context one can understand a historical development of the material value-ethics after Scheler and Hartmann.<sup>37</sup>

A cultural variability and diversity, so stressed in the contemporary theories of civilisation (e.g. by A. Toynbee, F. Koneczny or, contemporarily, by S. Huntington), proves, indeed, that an axiological universum has a plural and complex character, but it does not prove the ethical relativism. A change of situations generates a change in human value-consciousness and its spectrum only.

Finally, we should also ask a question about the legitimacy of described conceptions. There are, as I hold, the solutions which are partially correct. A value and its value-character are given in the emotional acts of value-feeling. It concerns, however, only the axiological side of value, not its matter (or content). A matter of value can be experienced and recognized in the context of concrete, real, cultural and historical situations. Therefore, comprehension proposed by material value-ethics, partially, needs the critical and modified continuation. It is necessary, firstly, to search a solutions uniting emotionalism and rationalism in the ethics (and in the axiology in

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<sup>34</sup> See: D. von Hildebrand, *Ethik*, pp. 39–68.

<sup>35</sup> See: L. Kopciuch, *Wolność a wartości. Max Scheler – Nicolai Hartmann – Dietrich von Hildebrand – Hans Reiner* [Freedom and Values. Max Scheler–Nicolai Hartmann–Dietrich von Hildebrand–Hans Reiner], Wydawnictwo UMCS, Lublin 2010, pp. 94–97.

<sup>36</sup> See e. g.: K. Twardowski, *O tak zwanych prawdach względnych* [On So-called Relative Truths], Lwów 1934.

<sup>37</sup> See e.g. H. Reiner, *Wertethik nicht mehr aktuell?*, pp. 93–98.

general). Secondly, in particular in context of contemporary conflicts and challenges, it is required to look for the value-synthesis which allows to limit the cultural differences in the emotional value-consciousness. But there are only the concrete ethical and axiological investigations in which we can state whether this perspective is realisable at all.

#### S U M M A R Y

In this paper a relation between moral relativism and selected ethical notions formulated in the German material ethics of values is examined. Firstly, I demonstrate the understanding of structure of value in writings of Scheler, Hartmann and von Hildebrand. Secondly, I endeavour to prove that there are notions of value itself and its validity which allows to criticize the legitimacy of the moral relativism. Thirdly, I analyze a different kinds of the oughtness (an ideal ought, a normative ought, an ideal ought-to-Be, an actual ought-to-Be, a real ought-to-Do). The aim of this analysis is to demonstrate that the historical and social relativity of the normative oughtness (also of the actual and real oughtness) does not contradict the invariability of the ideal ought-to-Be.

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## POSITIVE AND NATURAL LAW IN THOMAS HOBBS'S PHILOSOPHY

Thomas Hobbes is one of the philosophers of the law whose concepts are classified differently. He is considered to be a supporter of natural law or a positivistic, depending which of the threads of his work is closely considered or particularly exposed. His name is mentioned in every natural law handbook, where he is presented as a classic of natural laws and, at the same time, regarded by many as forerunner of legal positivism, a doctrine which took its mature shape only in the 19th century. The works of Hobbes do not however 'reconcile' the two mentioned trends, it seems that the 'natural law – positive law' opposition does not have a *raison d'être* according to the philosopher.

The aim of this article is to show that Hobbes might be called, from the today's perspective, a 'super positivistic', and linking him to the natural law trend is only possible within a highly specific understanding of the term 'law' (the law of nature is for the author of *Leviathan* a skill of the mind to recognise the rules which are of crucial importance to the survival of an individual). The philosopher recognises that the basic function of natural law is inventing justification, giving a good reason for building a cohesive system of positive law. Natural law in Hobbes's system has a service function to the state law, it constitutes a peculiar pretext allowing to create an artificial but effective legal order.

Hobbes's considerations concerning the essence of the law occupy a lot of space in his most important works in the sphere of political philosophy *The Elements of Law, Natural and Politic*, *De Cive*, as well as in *Leviathan*, and in *Dialogue between a Philosopher and a Student of the Common Laws of England*, and his other works. According to the author, the starting point of reflection on the issue of the state law is the notion of the laws of nature which he defines as invariable and eternal commands of reason. The path of Hobbes's legal-political considerations is significant: problem of the laws of

nature is always the starting point, and the destination point is the doctrine of absolute sovereignty.

According to the philosopher, humans guided by the laws of nature aim at leaving the innate, primitive state of nature, state of war of everyone against everyone, and passing to an artificial sovereign state which assures peace. The rules of reason, laws of nature are opposed to natural entitlement, human freedom to do everything. To explain the Hobbesian understanding of law of nature it is important to emphasise that the term 'reason' is for him an exclusively formal category, standing for human skill to calculate, to do profit and loss account, and not a habitat of revealed truth and not of substantial dimension.<sup>1</sup> The rules of reason, which Hobbes calls laws, do not contain any reference or metaphysical involvement, according to Frederick Coplestone they are dictates of egoist caution and conditions of national survival, axioms enabling to deduce a society and a government.<sup>2</sup> Hobbes himself calls them *conclusions or theorems what conduceth to the conservation and defence of themselves*.<sup>3</sup>

Striving for peace is the right of nature, and a dictate of reason (in Hobbes's utilitarian hierarchy peace is the chief aim since it leads to good: life preservation) as well as concluding a contract constituting a sovereign state and fulfilling its conditions *that a man be willing, when others are so too, as farre-forth, as for peace, and defence of himselfe he shall think it necessary, to lay down this right to all things; and be contented with so much liberty against other men, as he would allow other men against himselfe*.<sup>4</sup>

Hobbes saw the guarantee of peace in abiding the laws of nature which should be made part of state law and secured by sanction by an efficient legislator. A sovereign, appointed by virtue of a social contract constituting a state – Leviathan, creates a social reality with a common law in force, a reality which is free from countless perils of natural state. The name *Defensor Pacis* coming from the works of Marsilius of Padu is not suitable for him, he is not a defender of peace descending from God, he is the creator of peace on earth, Creator Pacis liberating terrified individuals from the terror of the state of nature, a threat of a sudden death.<sup>5</sup>

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<sup>1</sup> N. Bobbio, *Thomas Hobbes and the Natural Law Tradition*, Chicago 1993, p. 118.

<sup>2</sup> F. Copleston, *Historia filozofii*, vol. 5, Warsaw 2005, p. 36.

<sup>3</sup> T. Hobbes, *Leviathan*, Oxford 1909, p. 122–123.

<sup>4</sup> *Ibidem*, p. 100.

<sup>5</sup> C. Schmitt, *Lewiatan w teorii państwa Thomasa Hobbesa. Sens i niepowodzenie politycznego symbolu*, Warsaw 2008, p. 44.



The laws of nature and the state law are two different kinds of laws distinguished by Hobbes. They are not two distinct or contradictory legal orders<sup>6</sup> in Hobbes's system, therefore classical distinction 'laws of nature – state laws' is inexistent. Laws of nature namely 'laws' dictated by human reason, commands of *natural reason* steaming from a pure calculation, are topical both in the state of nature, previous to sovereign state, as well as in artificially created sovereign state, but they start working after they have been included to the legal order of the state. Only constituting a state and their incorporation into the legal system makes it possible to observe them and allows them to become *sensu stricto* laws.

The law of nature is important, according to Hobbes, only as an impulse leading to formation of a state (state guarantees peace, allowing for a safe existence). When a state is created, natural law is no longer needed – the only functioning law is, as a matter of fact, state law. In Hobbes's system law of nature is not executed, it has only right to potential existence; in the state of nature it does not actually function since it is not secured by sanction, in the sovereign state it becomes part of positive law and functions as one.<sup>7</sup>

Norberto Bobbio, Italian philosopher of the law suggests that referring to natural law while building a doctrine of an absolute state is Hobbes's ingenious contrivance to anticipate future polemics and take away from the followers of natural law their most powerful weapon from the very dawn of the discussion, one of Hobbes's favourite rhetorical tricks was refuting adversaries thesis using their own arguments.<sup>8</sup>

According to Hobbes, a sovereign elected by the will of citizens and acting on their behalf does something more than a simple expression of moral questions. Sovereign decisions, in other words, orders, become a commonly binding law when they are formulated, sovereign shapes and not describes a legal reality. Upon announcement of sovereigns' orders, 'the law comes into being', when by virtue of a social agreement a state comes into existence and a sovereign is chosen, legal order emerges from non-existence – by the power of sovereigns' words.

It seems that Hobbes would be ready to admit that sovereign's orders do not have logical value, sovereign's decisions cannot be false – a sovereign announces only 'the truth', to which he has exclusive right. Sovereign's

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<sup>6</sup> T. Hobbes, *Leviathan*, ed. quoted, p. 236.

<sup>7</sup> See N. Bobbio, *Thomas Hobbes and the Natural Law Tradition*, The University of Chicago 1993, p. 141.

<sup>8</sup> *Ibidem*, pp. 122–123.

decisions are exclusively of creative function. Sentences included in special law registers have descriptive function – they report about facts which exist through sovereigns' will.<sup>9</sup>

By calling certain acts moral a sovereign constitutes a legislative act, a point of reference for evaluation of future behaviour of citizens. This operation is similar to a defining process, which it is in fact. Since the defining process is characterised by arbitrariness, then legislative acts of sovereign are also arbitrary. And if a correctly, even though, arbitrarily formulated definition should not raise controversies or disputes, then legislative acts of sovereign should not become subject of public dispute.<sup>10</sup> Just as correct definitions give birth to reasoning and building of a system of scientific knowledge, legislative acts (laws in which a sovereign says what is good and legal and what is inappropriate and beyond legal order) constitute a foundation of a safe state, create a new social reality. Questioning these acts by citizens is subversive and extremely dangerous for the state order, therefore any critique of the law instituted by a sovereign is excluded in Hobbes's system. There is no room for that also because Hobbes rules out any possibility of an unjust and defective statutory law.<sup>11</sup>

In Hobbes's opinion, creation of law is tightly connected to creation of a state, he looked for the origins of law in inconstant, changing will of sovereign, he deprived them of eternal and invariable character. In the state of nature, *de facto*, law did not exist – at that time there were only natural rights of individuals with any guaranty. On the other hand, in a sovereign state, people renounced lion's share of their entitlements assuming, at the same time, obligations expressed in the form of statutory law, and they did it at the cost of security indispensable for life. The sense of security offered by a state is a *sine qua non* of any human activity, a sudden threat of death is a curse for a human. The power of state protects against domestic war and assures defence in case of an attack from the outside.

The fact that positive law is directly deduced from the first assumption of his philosophy, is the evidence of supremacy of positive law in Hobbes's system. It is the consequence of adopting the same language and entering into a social contract, it is undoubtedly founded on a convention and is of conventional character. For Hobbes a language adopted on the basis of

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<sup>9</sup> T. Hobbes, *Leviathan*, ed. quoted, p. 210.

<sup>10</sup> See *ibidem*, p. 136.

<sup>11</sup> See *ibidem*, p. 163. See also J. W. N. Watkins, *Hobbes's system of ideas*, London 1965, pp. 153–157.

a convention is a factor determining creation of state institutions, law and morals. Invention of language (speech) raised humans over the state of nature and contributed to another invention, a state. Speech invention which fast singled humans out of the animal world allowed for cognition and development of science. Direct outcome of adoption of a language are state and law, artificial creations of humans which contributed to human rationality and morality.<sup>12</sup>

The primacy of positive law may be in the case of the English thinker derived even from formal traits of his works, from his literary mannerism. One of the arguments allowing to describe Hobbes as 'legal positivist' is his loyalty to the rules which nowadays constitute standards of legal positivism methodology. Even though legal positivism is not an action of philosophical positivism (or analytic philosophy) there is much analogy between them, legal positivism refers to methodological rules operating in philosophy of positivism. Zygmunt Ziemiński the author of monograph devoted to understanding of terms *legal positivism and law of nature* emphasises the fact that when describing the first term reference to positivism with all its philosophical senses is useful: *minimalism of ontological assumptions, anti-speculative attitude, empirism, scientism, non-cognitivism in metaethics*.<sup>13</sup> Ziemiński among the traits of philosophical positivism having some common characteristics with legal positivism in some of its versions, mentions also a paradigm based on intersubjectivity or recognising sentences as analytical sentences as well as the tendency to mathematise the obtained results.<sup>14</sup> Comparison of the totality of Hobbes's methodology with the methodology elaborated by positivism shows much similarity which allows to formulate a thesis that attainments of Hobbes's thought in this area were of pioneer character.

The rule of phenomenalism which reduces the difference between 'substance' and 'phenomenon' and eliminates from the field of scientific research every 'hidden existence' and powers like 'matter' or 'spirit' inaccessible to experience, should be included in the most important positivistic doctrines.<sup>15</sup> This rule requires to particularly ardently eradicate from the domain of science all questions which appear as 'metaphysical' and not giving

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<sup>12</sup> See K. Doliwa, *The role of language in the philosophical system of Thomas Hobbes*, in: *Studies in Logic, Grammar and Rhetoric*, 6 (19)/2003, ed. H. Świączkowska.

<sup>13</sup> Z. Ziemiński, *O pojmowaniu pozytywizmu oraz prawa natury*, Poznań 1993, p. 9.

<sup>14</sup> Ibidem, pp. 75–76.

<sup>15</sup> L. Kołakowski, *Filozofia pozytywistyczna. Od Hume'a do Koła Wiedeńskiego*, Warszawa 2008, pp. 10–11.

in to whatever control of experiment. Wittgenstein expressed it in a radical way saying that one should remain silent about what should not be said, this imperative validates in science only the utterances which have function of sentences in a logical sense whereas deprives metaphysics of all values, not only cognitive. Carnap presented this rule in a slightly more gentle version stating that metaphysics should be treated as a kind of poetry. Carnap's interpretation does not deprive metaphysics of all value, it is authorised as the poetry is authorised, as far as it is free from cognitive aspirations.<sup>16</sup>

Another fundamental rule of positivism is nominalism connected to the first rule, which excludes existence of general beings and suggests recognising definite objects as unique equivalents of general terms. Knowledge, which is of general character, comes into existence founded on a number of individual facts, arranges them and may be used in practice. It is a system of 'shortened records' allowing to gather and pass it to descendants (it seems that Hobbes understood knowledge this way). Third rule, related to nominalism, takes away whatever cognitive value from evaluative and normative sentences and places them beyond influence of the criterion of truth and falsity. Next principle concerns the conviction that the method leading to scientific cognition is common to all disciplines, and physics may constitute an example of that being a science which methods of description are most precise.

Leading nominalism<sup>17</sup> is one of the positivistic plots in Hobbes thought. It fulfils an extremely important role, Hobbesian philosophy is especially firmly established in nominalist doctrine. In the writings of the English scientific the consequences of 'thinking according to nominalism' are clearly visible, direct implications of nominalist assumptions in the sphere of social-political phenomena, nominalist ontology traces here the optics of such phenomena like accumulation of knowledge, state and law.

Hobbes's struggle with the term of 'causa finalis' and theological attitude was positivistic by spirit. He would speak out especially ardently against the issues marked by metaphysics and was consequently against treating them as scientific. Even though Hobbes conferred the primacy to reasoning as the method of scientific research, he did not belittle the significance of experience, the method of attaining the truth authorised in science.

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<sup>16</sup> Ibidem, pp. 213–224.

<sup>17</sup> Leibniz called Hobbes a "super-nominalist", see A. Biletzki, *Talking wolves, Thomas Hobbes on the Language of Politics and the Politics of Language*, Kluwer Academic Publishers 1997, p. 5.

Just as the positivists, Hobbes struggles in the spirit of nominalism with utterances of metaphoric character (especially omnipresent in 'scholastic jargon') refusing them any cognitive value. A belief that theology (with all its assertions) should be excluded from the field of true philosophy, namely science, is of positivistic character in Hobbes's thought. Other element which allows to perceive positivistic elements in Hobbes works is the issue of the method authorised on the ground of science, firm belief that there exists one method of scientific cognition, adopted from exact sciences, common to all disciplines.

Assertion that all criteria of later positivists can be found in Hobbes's works would be vastly exaggerated, however certainly one can defend a thesis that he was an early antecessor of some significant points of philosophical positivism and that his doctrine announced modern positivism. We think that a combination of pre-positivistic traits in methodology of English philosopher influences his political-legal system; positivistic attitude affected the final shape of fundamental ideas and terms of this system. Hobbes nearly made the assertion about human egoism, which he formulated owing to positivistic method, observation of reality, and reference to empiricism, a starting point of his deliberations about the state and the law. Firm anti-metaphysical orientation of Hobbes is visible in the way he understood the laws of nature; they are not God's commands, universal ideas, rules, breaking of which would lead to sin. As mentioned above, laws of nature were not actually laws for the philosopher; they were dictates of human reason: *lawes of nature are not properly laws, but qualities that dispose men to peace, and to obedience.*<sup>18</sup> Owing to positivistic optics Hobbes perceived law as a system of orders of definitional character. Such a system was to be, according to Hobbes, coherent and transparent and norms of which it was composed (sovereign orders, specific 'definitions') clear and intelligible (sovereign, in case of doubt, applied statutory interpretation).

Attempts to include Hobbes in the natural law trend seem missed, in the light of the above. The creators of philosophy of law before Hobbes recognised the law of nature as rules of exceptional significance, every conception propagating the primacy of the law of nature over the order of the state law are based on the principle *lex iniusta non est lex*. All recognise the thesis that natural law fulfils a function of validation with relation to state laws, and validity of law is made dependant on them fulfilling basic

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<sup>18</sup> T. Hobbes, *Leviathan*, ed. quoted, p. 205.

moral norms having priority in case of a conflict with the norms of the positive law.

The philosophers of natural law are followers of the opinion that these laws have a more real existence and more objective character than state laws.<sup>19</sup> It seems that in their opinion, laws of nature are generalities, universalia – constant and invariable, eternal and absolute moral rules, a perfect model close to the Platonian ‘idea’, of all state laws.

Hobbes certainly was not a platonist; nominalism, a doctrine constituting one of fundamental determinants of positivistic vision of the world appeared in his thought early and was expressed directly. Hobbesian nominalism determines the totality of his philosophical research; the primacy of this conception placing emphasis on economy of thinking and valuing the role of experiment is visible not only in Hobbes reflection devoted to problematic of language – nominalistic orientation of the writer in the political-legal domain.

Hobbes-nominalist does not recognise the existence of general entities, he could not then recognise the existence of natural laws in the sense proponents of natural law did. As a declared opponent of the existence of ‘general things/objects’ he does not accept that laws of nature (as he defined them) bind a sovereign in an absolute way. They are for a sovereign, whose aim is to establish and maintain the peace, a significant indication when establishing state laws, but they do not have a definitely imperative character; theoretically he could give up including them into legal order. Positive laws being the effect of sovereign’s unrestricted will, are in force since he instituted them and not because they are part of rules of the laws of nature.

Hobbesian sovereign is like Wilhelm Ockham’s God – omnipotent and having an unlimited creative power. Establishing positive law constitutes morality in a given community but it is not necessary to define it in a specific way. It is essential that it is relative, it may be subject to changes; sovereign’s order might modify or even invalidate it at any time.

Hobbes’s nominalist cognitive universalism permits to assume that he accepted multiplicity of possible legal orders, every one of them would be equally right if only it allowed to maintain peace in the state. It implies an assumption that there may exist many definitions of ‘justice’ and a criterion of ‘truthfulness’ of each one of them would only be their conformity with legal order created by a sovereign. Such definitions in Hobbes system are

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<sup>19</sup> A. Kozak, *Trzy modele praktyki prawniczej*, in: *Studia z filozofii prawa*, vol. 2, ed. J. Stelmach, Cracow 2003, p. 150.

not subject, as already mentioned, to the criterion of truthfulness and falsity, as expressions of performative character might be regarded as effective or not.

Finally, the law created only when a state has already been brought into existence comes into being thanks to legislative declarations of sovereign; sovereign's words make the law emerge from non-existence and organise reality of a society. Order of a sovereign is from the point of view of Hobbes, and like later in J. L. Austin, a performative statement of exceptional causative power.

To sum up, we would like to emphasise the presence in Hobbes works of multiple motifs which allow to connect it to the pre-positivistic trend and even though philosophical positivism and legal positivism are two distinct doctrines, they share much, which facilitates presenting Hobbes as a precursor of legal positivism and at the same time constitutes a weighty argument against those who want to see in the figure of the English philosopher a partisan of natural law.

In the present text we repeatedly stress the fact that nominalism is an essential element of Hobbesian philosophical system, it influences his understanding of the nature of a state and of the law. Complete understanding of his political-legal thought has to take into consideration his nominalistic cognitive universalism, and attempts to ignore or neglect this aspect of his methodology (and ontology) may distort interpretation of the texts of the English thinker.

Just as modern positivists, Hobbes notices and emphasises the role of convention in formation of legal phenomena; he states that social facts decide about what is a law. From the totality of his thought it results that he adopts a thesis of the today legal positivists that the law has entirely human provenience; after all it is individuals who decide about its existence and final form. Therefore, conceptions presenting Hobbes as a follower of 'natural law' should be rejected; English philosopher proves that the relationship between the law and morality is not of essential character, immanent – a sovereign incorporates the laws of nature into state law making them state laws motivated by rationality and not necessity, his will, coupled with the power of state has decisive importance.

#### S U M M A R Y

The aim of the present study is to determine the relationship between 'the positive law and natural law' in Thomas Hobbes's doctrine. The article shows that positive law is of primary significance in Hobbesian system and solely service functions are ascribed to natural law, the

law of nature appears here as a specific catalyst fostering constituting of a statehood. The only law in the strictest understanding of the word is the state law, the natural law obtains the status of the law only after its incorporation into positive law system. The above thesis is supported by nominalist orientation of Hobbes's philosophy, consequent nominalism excludes giving the law the importance it has in natural law concepts. The text shows Hobbes as a precursor of positivist method which supports the thesis about decided dominance of positive law in his political-legal ideas.



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## THE INFLUENCE OF CULTURAL CONTEXTS OF BIOETHICS ON THE LEGAL LANGUAGE

### 1. Relations between language and cultural reality

Culture constitutes a set of norms, values and human behaviour established in accepted forms of symbolic expression or in popular consciousness. Within the framework of the broader sense of the notion three categories are distinguished: entity culture (reality), social culture (societal) and symbolic culture (value)<sup>1</sup>.

Legal culture is tightly connected to the culture of a given community. Definite legal solutions adopted by a state are a consequence of legal way of thinking shaped during the centuries under influence of specific philosophical orientations dominating in a given area.<sup>2</sup>

In the last century an increase of interest in linguistic aspects in the domain of philosophy is being noticed. R. Sarkowicz supposes that this is a consequence of a crises of centuries-long philosophical research; it is connected to depreciation of ontological and epistemological studies.<sup>3</sup>

Dynamic development of linguistic studies has lead to popularisation of a hypothesis that language is a mirror image of reality. According to Sarkowicz *'if attempts of philosophers to grasp the reality directly did not succeed during centuries, people started to believe that we could say more about the world studying its mirror image, the language'*<sup>4</sup>. It was interrelated with the

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<sup>1</sup> A. Gryniuk, *Kultura prawna a świadomość prawna*, (in:) "Państwo i Prawo" No 1/2002, pp. 15–20.

<sup>2</sup> A. Breczko, *Wpływ wartości chrześcijańskich na polską kulturę prawną i system prawa*, (in:) S. Wronkowska (ed.), *Polska kultura prawna a proces integracji europejskiej*, Zakamycze 2005, p. 269.

<sup>3</sup> R. Sarkowicz, *Uwagi o współczesnej interpretacji prawniczej*, (in:) S. Wronkowska (ed.), *op. cit.*, p. 13.

<sup>4</sup> *Ibidem*.

conviction that structure of the world and its rules are reflected in the structure of language which accumulated generations of experience. Because of its creative-performative character it is an instrument organising social life.<sup>5</sup> Linguistic breakthrough in human sciences influenced the transformation of understanding and the role of language. There was a turn in direction of pragmatic approach to language and accentuation of its contextual character.

Attainments of legal sciences and linguistics are used by legal linguistics the research subject of which are languages of law (legal and juridical).<sup>6</sup> An outlook is popularised in this field that the source of meaning of notions is not a language itself (as a system in linguistic sense) but a broadly understood cultural context. Notions used to classify important questions from the point of view of philosophy of the law, are shaped under the influence of tendencies taking place in 'culture reality'. This reality should be taken into account while creating and interpreting the law.

## 2. Progress as a source of changes in language

Analysis of reality makes us ascertain that progress in general (evolutionary, scientific etc.) and also progress in the field of medicine contributes to changes in language. In practice, creation of new terms may be observed. It seems justified by the need of national identification of new phenomena and problems. If a language is an instrument used for naming the reality then modifications of reality related to new possibilities of experimenting on human organism force changes in language. Specificity of inter-disciplinary relations of medical issues and philosophy, ethics and the law creates a need for a legal and juridical language equipment in a given state. According to J. Sarkowicz *when adopting, for legal research a 'foreign' apparatus and terminology from other disciplines we have to take into account whether it is explicatively and heuristically effective, namely whether it allows to formulate certain phenomena and indicate new research perspectives and what we want to achieve.*<sup>7</sup>

Frequently the stock of notions in languages of a given country (common, legal, juridical) turns out to be insufficient to name problems induced

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<sup>5</sup> Ibidem, p. 14.

<sup>6</sup> J. Zajadło, *Leksykon współczesnej teorii i filozofii prawa. 100 podstawowych pojęć*, Warsaw 2007, pp. 142–143.

<sup>7</sup> R. Sarkowicz, op. cit., p. 18.

by progress. Existence of appropriate terminology is significant from the legal point of view. It creates a need to look for new notional distinctions which would turn out, fully or to a certain degree, adequate to name these problems. Creation of neologisms and usage of borrowed words from other languages seems to be well-founded in such cases. It mainly concerns issues which have already been studied on the ground of scientific disciplines of other countries (Anglo-Saxon for instance), whereas they do not have native equivalents in Polish.

To sum up, dealing with new problematic within a specific discipline of knowledge implies a need to create an appropriate national apparatus which is created according to changes outside the language itself and appearing in culture.

### **3. Medical progress and new notional distinctions in philosophy of the law**

Biotechnology is nowadays one of the most far-reaching fields of industry (next to IT and telecommunications). It constitutes an integration of natural science and engineering in order to exploit living organisms or their parts to obtain goods and services.<sup>8</sup> Biotechnological progress covers multiple fields, food industry, agriculture, pharmaceutical industry, environmental protection etc. To define progress in the field of medicine it would be relevant to introduce a new, slightly narrower term 'biotechnomedical progress'. This notion includes exclusively biotechnological progress related to medical experiments on human organism. It concerns such techniques as genetic diagnostics, medically assisted procreation, cloning and other experimental medicine procedures.<sup>9</sup>

In the middle of the 20<sup>th</sup> century alongside with biotechnological progress the importance of new scientific discipline, which separated from philosophy of the law and was named 'bioethics', increased. Bioethics originated from a practical need of public debate on accessibility of new and frequently very expensive medical techniques.<sup>10</sup> The name itself was originally an abbreviation of *biomedical ethics*, and with popularisation of the

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<sup>8</sup> T. Twardowski, A. Michalska, *Dylematy współczesnej biotechnologii. Z perspektywy biotechnologa i prawnika*, Toruń 2000, p. 14.

<sup>9</sup> A. Breczko, *Podmiotowość prawna człowieka w warunkach postępu biotechnomedycznej*, Białystok 2011, p. 24.

<sup>10</sup> J. Hartman, Czym jest dzisiaj bioetyka?, (in:) "Archeus. Studia z Bioetyki i Antropologii Filozoficznej", No 3/2002.

term 'biotechnology' it was considered to be an abbreviation of *biotechnological ethics*. It was used for the first time in 1970 by R. Potter, an American scientist, the author of *Bioethics: Bridge to the Future*.<sup>11</sup> Animated scientific activity concerning bioethical problematic did not lead to crystallisation of one commonly accepted way of understanding bioethics. In the literature there are many approaches to bioethics which frequently are very different. It results from the fact that bioethics is actually defining its material and formal subject as well as its methods. In the field of Polish jurisprudence R. Tokarczyk defined bioethics noticing that bioethics describes, analyses and estimates, in the light of moral values, the consequences of artificial interference in natural processes of human birth, life and death and nature as well. It does that for own normative goals showing a need of new ethics adequate to problems resultant from artificial interference in natural processes of birth, life and death.<sup>12</sup> From the above-definition it follows that bioethics becomes a premise for creating legal notions. Therefore its function is to shape the legislation within a specified field.

Due to R. Tokarczyk, in Polish philosophy of law, appeared other terms, significant from the point of view of biotechnological progress: 'biojurisprudence' and 'biolaw'. According to the author they are the most spectacular phenomena of jurisprudence in the sense of legal thought and legal practice, in the sense of creation and application of the law in the last years of the 20<sup>th</sup> century.<sup>13</sup> Tokarczyk predicts that their importance will become fundamental in the 21<sup>st</sup> century.<sup>14</sup>

The notion of biojurisprudence clearly indicates the interrelationship of biology and broadly understood jurisprudence (for instance theory of the law, legal philosophy, legal thought). Biojurisprudence looks for legal methods of solving dilemmas resulting from artificial interference in natural processes of life.<sup>15</sup> The subject of biojurisprudence embraces the fields of human activity related to technical possibilities which concern human life and nature and require legal regulation to protect them from risky experiments and doubtful and yet unpredictable results.<sup>16</sup>

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<sup>11</sup> V. R. Potter, *Bioethics: Bridge to the Future*, New Jersey 1971, pp. 13–23.

<sup>12</sup> R. Tokarczyk, *Biojurysprudencja. Nowy nurt jurysprudencji*, Lublin 1997, pp. 28–29.

<sup>13</sup> R. Tokarczyk, *Prawa narodzin, życia i śmierci*, Cracow 2010, p. 19.

<sup>14</sup> R. Tokarczyk, *Biojurysprudencja. Podstawy prawa dla XXI w.*, Lublin 2008, pp. 101–106.

<sup>15</sup> R. Tokarczyk, *Biojurysprudencja. Nowy...*, op. cit., pp. 11–13.

<sup>16</sup> Ibidem.

## *The Influence of Cultural Contexts of Bioethics on the Legal Language*

R. Tokarczyk creates a basic national network of biojurisprudence isolating within its framework three areas: biojusgenesis, biojustherapy and biojusanatology.

Biojusgenesis englobes the prenatal period of human life considered from normative, religious, moral and, above all, legal points of view, focusing on questions of legal status of human embryo and the right to birth. The principal element of biojusgenesis becomes the issue of abortion and prenatal experiences (e.g. medically assisted procreation in form of *in vitro*, prenatal diagnostics, foetal therapy, etc.).

Biojustherapy focuses on problematic of human life from the moment of birth until death. It is interested in the issue of protection of life and of improvement of its quality. Biojustherapy deals with problems connected to medical treatment of humans with new medication. It is interested in reflection about new methods of treatment which may influence human behaviour and identity (especially psychosurgery, psychopharmacology and *ex vivo* transplantation).

Biojusanatology is concerned with normalising the end of human life. Death becomes the issue of considerations. Different definitions of death are analysed in this domain. Such phenomena like euthanasia, suicide, death penalty, necessity of defence, the right of self-defence or war, how corpses are treated, chronicle, transplantation *ex mortuo* etc.<sup>17</sup>

The notion of 'biolaw' according to R. Tokarczyk is to determine the range of legal profits from biological discoveries by means of technique, medicine, establishing necessary limits of artificial human interference in nature.<sup>18</sup> As a result biolaw should embrace a complex of norms issued or accepted by state and regulating the legal situation of individuals in relation to health protection.<sup>19</sup>

On the basis of jurisprudence, there is an epistemological assumption that human life is, as formulated by R. Tokarczyk, 'a prevalue' and 'a prenorn' of everything which exists especially the law, according to Tokarczyk it '*is a prevalue since it has a self-contained, original and fundamental value in view of any other values as their source. It is a prenorn because it shapes itself, self-regulates and self-arranges and at the same time indicates conditionings and limits of any other regulation.*'<sup>20</sup>

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<sup>17</sup> R. Tokarczyk, *Prawa narodzin...*, op. cit., pp. 21–22.; ibidem, *Biojurysprudencja. Podstawy...*, op. cit., pp. 9–11.

<sup>18</sup> R. Tokarczyk, *Prawa narodzin...*, op. cit., p. 31.

<sup>19</sup> R. Tokarczyk, *Biojurysprudencja. Nowy nurt...*, op. cit., pp. 11–13.

<sup>20</sup> R. Tokarczyk, *Biojurysprudencja. Podstawy...*, op. cit., p. 19.

Cognitive meaning of biojurisprudence depends from cultural context of human life. This life is determined by a defined reality (entity culture), social conditionings (societal culture) and values (symbolic culture). The problematic of the sense of human life which has different dimensions: religious, moral and legal shall also be taken into account. Economic factors are also significant. It is various types of local conditionings that should decide about the ways of solving bioethical dilemmas by courts, as well as about the trends in legislation. The decisions of biojurisprudence impinge on the form of biolaw the foundations of which have already been laid in Poland and which requires new institutions and rules and especially at the beginning, new notions and terms.

#### 4. Linguistic chaos and terminological problems as the source of bioethical dilemmas

Admittedly ethical dilemmas are eternal as if they took '*decidedly new and profound character under the influence of the effects of development of biotechnomedical achievements*'.<sup>21</sup> Biotechnomedical progress contributes to development of legal gaps since the law often does not keep pace to reality. Not only conflicts between the law and other normative systems are particularly distinctive but also substantial inconsistencies within the framework of legal system itself. In practice of application of the law it results with exposure of the so-called hard cases.

Linguistic problems are one of numerous reasons of occurrence of bioethical dilemmas. They are related above all to polysemantic, unclear terms applied often in different fields. People employ various terms to describe same phenomena or understand completely distinct content under the same term.<sup>22</sup>

Linguistic controversies characterise the attempts to define phenomena connected to limit points of human life, its beginning (e.g the problem of abortion, *in vitro*) and end (euthanasia and medical futility care). Lack of unambiguous and commonly accepted definition of criteria of life and death, definition of the man, the essence of humanity, give rise to this dispute.

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<sup>21</sup> R. Tokarczyk, *Czy paradoksy bioetyki prawniczej – uwagi polemiczne*, <http://rtokarcz.nazwa.pl/eseje/paradoks.html>; on 26.06.2012.

<sup>22</sup> A. Latawiec, *W poszukiwaniu istoty dylematów moralnych*, (in:) K. Kalka, A. Papużński (ed.), *Etyka wobec współczesnych dylematów*, Bydgoszcz 2006, pp. 21–23.

In discussions concerning the beginning of life of a man various terms are used coming from biological language 'inseminated cell', 'embryo', 'zygote', 'foetus', 'conceived child' etc. Legal theorists, in general, define foetus in woman's womb with a latin name *nasciturus* (the one who is to be born). This classical notion is related to different phases of human development before birth. Along with biotechnomedical progress doubts appear whether this term should also relate to embryo (foetus in germinal form) or should concern a specific (later) development phases. A separate definition is being created for human embryo which developed outside mother's organism: 'preembryo', *surrnasciturus*, *pronasciturus*.<sup>23</sup> At the same time, in considerations relating to human subjectivity, adequate terminology of the language of philosophy is used: 'human person', 'human being'. Notions used in bioethical discourse have various messages: '*information concerning the state of biological development (biological language) or indicating the phenomenon of being a human. In the second case, reduction to only biological level is avoided. Moreover, in definitions connected to the phenomenon of humanity, emotional nuance is often sensed*'.<sup>24</sup>

Modern medicine reveals an abundance of definitions of human death like 'brain death', 'biological death', 'neocortical death'. From the perspective of social sciences, sociological death is being mentioned. R. Tokarczyk predicts that in the domain of biolaw a few definitions of death will be finally adopted: '*biolaw will be forced to use multiple definitions of death adopted to diverse factual situations. Static definition of death appearing up to now in jurisprudence and the law gives way to dynamic definition of death described by biojustanatology*'.<sup>25</sup> In the opinion of R. Tokarczyk from among definitions of death adopted by the law, only the one which is adequate to a definite factual situation would be chosen in practice e.g. transplantation, procreation *post mortem*, suicidal attempt, euthanasia, inheritance, death penalty.<sup>26</sup>

M. Safjan notices that if it is not possible to clearly describe the concept of death of a physical person in purely physical categories it becomes automatically a legal, ethical, philosophical category. Criteria referring to a specified concept of human life and the notion of a person should decide about the choice of final definition made by the legislator. Medicine may in fact answer the question whether a durable and irreversible brain damage

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<sup>23</sup> A. Brezko, *Podmiotowość...*, op. cit., p. 177.

<sup>24</sup> A. Latawiec, op. cit., p. 22.

<sup>25</sup> R. Tokarczyk, *Biojurysprudencja. Podstawy...*, op. cit., p. 11.

<sup>26</sup> R. Tokarczyk, *Prawa narodziń...*, op. cit., p. 33.

occurred, however, stating the fact does not have to be equivalent to establishing that in a given time the existence of a person as legal subject ended. Safjan claims that attempts to build parallel definitions of death with relation to particular types of relationships (e.g. inheritance, marital status, insurance etc.) are a consequence of the fact that medical arguments appear to be insufficient when it concerns legal definition of death.<sup>27</sup>

The end of human being is connected to multiple controversies concerning the way of understanding the notion 'euthanasia'. Alongside with biotechnomedical progress this notion becomes increasingly polysemantic. Different levels of consideration on this subject may be noticed and that is why such terms as: 'cripthonasia', 'dysthanasia', 'orthothonasia', 'neonatal euthanasia', 'eugenic euthanasia', 'economic euthanasia' appear. There exist also 'active euthanasia', 'passive euthanasia', 'voluntary euthanasia', 'non-voluntary euthanasia', 'legal euthanasia' and 'illegal euthanasia'. Some mention also 'suicidal euthanasia', 'murder euthanasia', 'accompanied suicide', 'assisted suicide', 'death assistance'.<sup>28</sup> In a situation when a patient is deprived of sensual contact with the world such terms as: 'vegetative state', 'terminal state', 'state of unconsciousness' etc. are used. Terminological chaos and important moral controversies related to the problem of euthanasia certainly do not facilitate public debate on this subject.

Together with new biotechnomedical possibilities there is a doubt about what sense to confer nowadays to such terms as: 'motherhood', 'fatherhood'. Such a need is clearly visible with relation to popularisation of in vitro fertilisation and contracts of surrogacy. Until recently these terms did not require to be precisely explained since they were intuitively understood. Practice of medically assisted procreation is connected to erosion of the concept elaborated through centuries of family systems and doubts concerning parenthood. In case of surrogacy contracts, it remains unclear which woman should be recognised as mother. Is it the donor of egg cell or maybe the one who ordered the service (even though she is not a donor) or the one who gives birth to a child? The question of fatherhood complicates the matter especially if there was an anonym sperm donor.<sup>29</sup>

Similar problems are connected to the issues of legal definition of 'human sex'. It is crucial from the point of view of the possibility to change sex

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<sup>27</sup> M. Safjan, *Wyzwania dla państwa prawa*, Warsaw 2007, pp. 166–167.

<sup>28</sup> A. Breczko, *Podmiotowość...*, op. cit, p. 307.

<sup>29</sup> M. Soniewicka, *Prokreacja medycznie wspomagana*, (in:) J. Stelmach, B. Brożek, M. Soniewicka, W. Załuski, *Paradoksy bioetyki prawniczej*, Warsaw 2010, p. 101 and the following pages.



offered by medicine and its possible family-legal consequences. Purely medical criteria appear to be insufficient for legal definition, however, they should not be omitted. Sex constitutes an element of marital status established on the basis of self-determination of each person. Settlement of a dispute demands taking into account diverse arguments relating to the concept of the law and privacy.<sup>30</sup>

It may be noticed that the notion of privacy itself becomes increasingly unclear. It is of semantically open character which makes possible its broad interpretation. Defining the notion 'private life' is actually impossible. That is why courts have to evaluate *ad casum* what falls within its scope. Such flexibility enables to adopt a more or less precise standpoint of the court in view of social, technological and normative changes, on the other hand, however, considerably reduces predictability of judicial decisions.<sup>31</sup>

Terminological chaos together with philosophical controversies concerning fundamental questions of bioethics of life and death causes that in bioethical debate, on the linguistic level, a specific manipulation appears. Rational discourse becomes hampered, simply in connection with the fact that diverse argumentation techniques are applied relating frequently not to rational arguments but to bottom-up social feelings, ludic factors. For instance definition 'crime of assassination' is used with reference to abortion. In discussions on the subject of in vitro in the background of parents' and doctors' efforts for a desired child, an ideological discussion is carried concerning the 'good of embryo'. It is suggested that artificial insemination opens the way to 'civilisation of death' etc. One may get the impression that such a model of public debate is for many politicians a way to get the popular support and to develop a political career. Relating to religious arguments in a catholic country decidedly makes it easier. Religion is therefore used for absolutely individual political purposes.

Irrational character of the debate is connected to visible lack of tolerance for other people's views which are simply rejected since they are not compatible with dogmatically adopted assumptions. T. Pietrzykowski is right when he says that *'the worst method of participation in an ethical discourse is having on one's side the only and imperturbable 'truth' to which appropriate arguments should be matched (rejecting a priori everything which could give evidence against it). If such a strategy is adopted*

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<sup>30</sup> M. Safjan, *Wyzwania...*, op. cit., pp. 167–168.

<sup>31</sup> J. Kapelańska-Pręgowska, *Informacja genetyczna jako kategoria chronionych danych osobowych. Uwagi na tle orzecznictwa Europejskiego Trybunału Praw Człowieka*, (in:) C. Mik, K. Gałka (ed.), *Między wykładnią a tworzeniem prawa*, Toruń 2011, p. 255.

lecture is reduced to 'chasing' in the text for information and views confirming the adopted position and intransigence of own opinion is to be inversely proportional to selectivity and perception of facts and arguments. Intellectual honesty towards oneself and others, whose fate depends from accuracy of courts determining the content of binding legal regulations requires however, criticism and readiness for verification of own beliefs in a rational discourse, open for arguments and open-minded.<sup>32</sup>

## 5. Lawyer confronting bioethical cases

Notion *hard cases* has a broader sense than *bioethical cases*, even though both relate to ambiguous situations for legislators and authorities applying the law.

*Hard cases* are associated to different spheres of social relations and concern various issues. They are the origin of difficulties in acquiring a clear and not controversial decision. They are accompanied by legal gaps or 'bluntness' of terms in legal language and conflict between different normative systems as well as lack of possibility to predict a legal solution. These matters cause a social and moral unrest and provoke the legal order to take a position in the matter of argument.<sup>33</sup>

J. Zajadło emphasises that *hard cases* are characterised by multiple variants of legal solutions. He is convinced that possible solutions are possible to be justified in practical discourse basing on adopted criteria of rationality and rightness. He notices that *hard cases* occur not only in the sphere of application of the law and related interpretation but may also concern the remaining dimensions of the phenomenon of the law namely creation, validity and observance. Sometimes a creator of law has to enter a field which so far was *terra incognita*. Legislator deciding on regulating the sphere of social relations may encounter argumentation problems. Then appears a difficult case on the ground of law creation.<sup>34</sup>

D. Bunikowski identifies *hard cases* with the most controversial cases from the social and moral point of view. Such cases are covered to a different degree and scope by legal arrangements which provoke arguments. They constitute a category relative to time, culture and even social consciousness

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<sup>32</sup> T. Pietrzykowski, *Wyzwania moralne. Etyczne problemy prawa*, Katowice 2010, p. 8.

<sup>33</sup> D. Bunikowski, *Wykładnia i stosowanie prawa a moralność*, (in:) "Jurysta", No 9/2006, p. 12.

<sup>34</sup> J. Zajadło (ed.), *Fascynujące ścieżki filozofii prawa*, Warsaw 2008, p. 13,

and human consciousness. They relate to factual status in a society which can be evaluated differently within different ethical systems and different moralities (as good or bad, correct or incorrect).<sup>35</sup>

A. Kozak thinks that *hard cases* are connected to lack of determinants of rules in 'hard' institutional reality. Only a reality elaborated by a discourse becomes the only and unquestionable. Hard cases when included within the limits of institutional reality determine new rules, which as a consequence of time make them *easy cases* and allow for routine activity.<sup>36</sup>

While recognising situations determined as *hard cases*, the role of philosophy of the law becomes visible. Solving them without philosophical-legal technique appears to be actually impossible. Decisions made in practice of law application have significant influence on legislation. By means of *hard cases* the creator of law may notice discrepancies subsisting in the process of application of law and undertake appropriate legislative activity which would terminate the state of legal uncertainty.

Bioethical context creates a special category of *hard cases*. They are defined as *bioethical cases*. Such cases have specific character as peculiar dilemmas appearing on the interface of law and medicine. These are often dilemmas on the line law-science, law-morality, law-religion, law-customs and law-economy. In legal proceedings bioethical cases are easily distinguishable from classical, typical arguments.<sup>37</sup>

According to J. Zajadło *'it is the most spectacular platform for formation of 'hard cases' which relates to fundamental problems of human life from human conception until death. In this sphere we deal with traditional, eternal and, in a sense, unsolvable arguments (e.g. concerning abortion or euthanasia). However, there are also dilemmas and challenges brought with development of science and technology (e.g. genetic engineering) and in this case we face the necessity to formulate new and so far unknown ethical and legal standards.'*<sup>38</sup>

Among the fundamental groups of morally and socially controversial cases mentioned by D. Bunikowski to *bioethical cases* may be included especially:

- tautological phenomena (e.g. abortion, euthanasia, burdensome medical treatment, suicide, death penalty etc.);

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<sup>35</sup> D. Bunikowski, *Podstawowe kontrowersje dotyczące ingerencji prawa w sferę moralności*, Toruń 2010, p. 65.

<sup>36</sup> A. Kozak, *Granice prawniczej wiedzy dyskrecjonalnej*, Wrocław 2002, p. 142.

<sup>37</sup> M. Safjan, *Wyzwania...*, op. cit., p. 199 and the following pages.

<sup>38</sup> J. Zajadło (ed.), *Fascynujące ścieżki...*, op. cit., p. 132.

- problems of human procreation (genetic engineering, cloning, genetic and prenatal therapy, embryo politics, contraception, human foetus status, *in vitro* fertilisation etc.)
- legal and medical problems connected to therapy and experiments on human body (conscience clause, biotechnology, compulsory medical procedure, refusal of medical treatment based on religious grounds, organ transplantation, gender reassignment etc.).<sup>39</sup>

*Bioethical cases* and vagueness of the law became the subject of the analysis of M. Safjan. In his opinion, for the development of the law in the field of bioethics, the best method is the ‘method of gradual approximation’. It consists in solving new bioethical problems regularly filling the appearing legal gaps and eliminating the bluntness of legal solutions.

In Safjan’s opinion, the most bioethical dilemmas are connected to the situation of ‘legal vacuum’ (*vide juridique*) which takes place when there is no clear legal norm and dominating ethical standards in a given field have not yet been developed.

M. Safjan notices that the burden of deciding the individual cases in bioethical instances is moved on the judge who is to recognise the case by means of interpretation and reference to principles and general values. The specificity of judicial system consists in finding a legal norm *in casu*, that is a norm which does not exist point-blank as a well-defined and unequivocal warrant of a defined behaviour. It is, at most, indirectly coded in normative general clauses and systemic values.<sup>40</sup>

Such situation determines the particularity of methodology adopted by the judge and the type of argumentation. The role of the judge in establishing a norm in force in bioethical matters is decisive. It is the judge who becomes a creator of law and participant of public debate. He translates legal language to language of ethics and philosophy attempting to solve difficult bioethical cases by means of the rules of legal system, non-legal systems and especially moral norms dominating in a given community.<sup>41</sup>

Legislative role of courts became visible in still important problems caused by biotechnomedical progress. It is reflected in most of European countries in multiple national court decisions and also in international and union jurisdiction which set the direction of legislative changes and made creators of the law aware of the necessity to design appropriate regulations.

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<sup>39</sup> D. Bunikowski, *op. cit.*, p. 66.

<sup>40</sup> M. Safjan, *Wyzwania...*, *op. cit.*, p. 199 and the following pages.

<sup>41</sup> M. Safjan, *Prawo wobec wyzwań współczesnej medycyny*, (in:) “Prawo i Medycyna”, No 5/2000; *ibidem*, *Wyzwania...*, *op. cit.*, p. 201 and the following pages.

In Poland biolaw is still fragmentary, with multiple gaps and inconsistencies. O. Nawrot claims that the weak points of the Polish biolaw translate to difficulties connected to its application especially to the possibility of reconstruction of legal norms: *‘a judge who is to decide a difference from the sphere of the so-called bioethical case, faces classical hard case, since he or she does not find an unequivocal legal norm on which their opinion could be based. Moreover, they cannot relate to juridical communis for it does not exist for the signaled problems’*<sup>42</sup> Development of biolaw in accordance with biojurisprudence indications, which demonstrates in creation of new institutions, rules, names and terms, would contribute to reduction of bioethical dilemmas.

## **6. Dispute over definition of a human as the heart of bioethical controversies**

The argument over the essence of humanity inevitably becomes a trouble spot of bioethical debates whereas appearing controversies are generally of axiological dimension. Undoubtedly the way of defining a human conditions the final form of legal solutions.

O. Nawrot is of the opinion that when solving bioethical dilemmas, in the absence of unequivocal legal norms, one should, above all, refer to axiology and also anthropology: *‘Legislator creating definite norms of biolaw adopts at all times a defined model of a man (often in an implied way). Therefore, when anthropology used by a definite legislator is reconstructed, another indication for reconstruction of legal norms functioning in a definite legal system, which are not directly expressed in its regulations, is obtained. Such way in the era of universalisation of ideas of human rights cannot be controversial since the sources of substantive rights are found in human nature, a complex vision of a man.’*<sup>43</sup> Nawrot emphasises that a coherent and complete anthropology may constitute a good hint for interpreter of law especially when conclusions of reconstruction of legal norms by means of traditional methods are equivocal.<sup>44</sup>

Traditional concept of legal personality is related to adoption of complex definition of a human. On the grounds of this concept it appears as

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<sup>42</sup> O. Nawrot, *Wykładnia antropologiczna bioprawa*, (in:) L. Bosek, M. Królikowski (ed.), *Współczesne wyzwania bioetyczne*, Warsaw 2010, p. 47.

<sup>43</sup> Ibidem, p. 49.

<sup>44</sup> Ibidem, p. 50.

a comprehensive psychophysical category subject to protection under the law from the moment of conception until death. Previous understanding of this notion from the point of view of the law was accepted intuitively. Diverse medical actions were undertaken generally on the basis of a principle typical for a democratic state saying that what is not forbidden is permitted. The majority of biotechnomedical interference fell within the field of legal indifference.

In the face of medical development classical legal definition of a man appears to be insufficient. Biotechnomedical progress caused a clear collapse of the traditional principle of legal personality. Alongside with progress the term 'man' requires clarifying. It is particularly visible with relation to appearance of instruments of artificial procreation and life sustaining possibilities.

The answer to the question whether the level of protection of a human should be the same independently of his development phase and how to differentiate the scope of legal protection not destroying the overall perception of a human, becomes necessary.

Diversification of legal personality seems to be nowadays unavoidable. Separation of two fundamental phases of human existence distinguishing two notions 'human person' and 'human being' becomes indispensable for medicine. Together with biotechnomedical progress the above mentioned fundamental doubts concerning the beginning and the end of human life become visible.

The need to build a new unequivocal legal definition of the notion 'human' is increasingly clear. From its shape depends, inter alia, the scope of acceptability of medical experiments on human body and the right to dispose of your own body.

This definition should take into account decisions made in the course of development of European civilisation, resulting from two dominating visions of the essence of humanity which may be schematically classified as religious and secular.

From the point of view of religion a human is a subject of defined genetic and chromosome arrangement. It is an entirety composed of body and soul. The principle of sanctity of every human life is adopted independently of development phase and quality. Thus humanity is ascribed to foetus or neonates with congenital anomalies (e.g. children with anencephaly) as well as to people without consciousness (e.g. in persistent vegetative state).

From the perspective of secular approaches (without reference to religious doctrines), it is assumed, in general, that corporeality coexists with totality of the living organism. It is human mind that is treated as some-

thing which determines human nature. Consent to all medical activity good for health which do not injure cerebral area thus do not lead to personality changes results from this assumption. Here appears the criterion of the quality of life, on the basis of which it is assumed that not every human life is of equal value. A given being is a human exclusively when it functions as a human. Humanity depends from whether a human individual is able to think, whether it is conscious of its own existence etc. Autonomy of a human as far as disposal of one's own body is concerned, becomes a superior value.

In terminology of linguistic philosophy of the law the term 'human person' is referred to an alive human, 'physical person'. From the moment of birth until death it is a legal entity who is entitled to protection of dignity and autonomy. There is however another term 'human being'. It does not refer to 'physical person' which comprises e.g. embryos, human foetus, stem cells and even people in persistent vegetative state.

Philosophical views on the essence of humanity influence approaches to legal personality of the man. On the one hand, it indicates that a human becomes a legal entity from the moment of birth (such thesis is reflected in decisions of the Polish Constitutional Tribunal), however, on the other hand, it is frequently assumed that the principle of subjectivity has to be connected to traits of a given subject as 'person'. In this context human efficiency in making decisions relating to a defined level of his self-consciousness, is especially stressed.

Distinction between 'human person' and 'human being' seems logical and cohesive on the level of philosophical reasoning. Its analysis from legal perspective indicates multiple controversies related to it and which have generally axiological basis (especially philosophical). When drawing legal consequences, cultural code (religion, morality, morals etc.) deeply rooted in a given society should be taken into account. It determines acceptance that human embryo just as a human in a state of irreversible brain damage are subjects which require legal protection even though it could be argued whether they deserve the status of 'a human'. This cultural code comprises tradition which cannot be limited exclusively to the cultural area of the European civilisation, it also embraces North America and Australia. Countries and people living in these areas are connected by commonly perceived world of values and especially Christianity. In new arrangements of legal personality of a human it is unquestionably significant to take into account the cultural conditionings and attainments of philosophical-legal thought in this scope.

It is necessary to emphasise that distinction between 'human person' and 'human being' seems justifiable particularly in the domain of medical

experiments on human body. It is connected to the sphere of the so-called 'biolaw' and as a consequence 'biopolitics' and 'biopower'. In other fields of the law the global notion of humanity defining a human as a psychophysical entirety may still be functioning.

Legal definition of a human should oscillate around the above-mentioned distinction. It is to take into consideration the concept of a human as a certain 'psychological potential' (capable of accumulating experiences, feeling happiness and suffering etc.) and also relate to the theory of a human as a 'body', a specific type of material. It would be good if it constituted an expression of compromise between the concept of quality of life and the concept of life sanctity.

It seems that at the basis of legal decisions taking into account philosophic tradition of European culture area, the concept of homo *bioiusteticus* should be adopted. It combines the approach to a human as a legal entity having regard to medical and ethical factors. This definition may be different depending on conditionings of a given state. However, it has to be based on a common root for all societies. These are superior, the most universal humanistic values obvious for any human with ethical sensitivity and reason. They constitute a 'core' of ethics connecting people in a pluralistic world.

Category of homo *bioiusteticus* accentuates the necessity of a new look on a human being a subject and an object of medical experiments, based on separation of two types of subjectivity, 'subjectivity of human person' and 'subjectivity of human being'.

The necessity of legal regulations in the sphere of limits and trends in biotechnomedical progress is connected to this category; which is indicated by the morpheme *iust*. It seems that appropriate legal norms could not only condition the development of medical sciences but also guarantee its proper use. The need for standardisation of the position of the law in this domain on a European level is clearly visible. However, it should be underlined that excessive tendency to codification of morality may also have negative implications. Difficulties in unequivocal establishing of the rules of action in bioethical questions result from philosophical, religious and cultural diversity typical for democratic states. It is thus necessary to elaborate a minimal consensus only to fundamental values.

Morphemes *bio* and *eticus* suggest the necessity to connect biological and moral criteria. During medical procedures on human body one has to take into consideration the most important civilisation values related to the essence of humanity. These are among other, subjective character of any human person, equality of all people, assumption that the limit of good



## *The Influence of Cultural Contexts of Bioethics on the Legal Language*

of a man is other people's good. The origin of these values is, on the one hand, human dignity and on the other, his autonomy. Medical procedures concerning interference in human organism (of 'a human person' and 'human being') have to be subjected to legal regulations which should be created on the basis of the above-mentioned values.

Fundamental legal principles which have their distinct reference to biomedical sphere are: the principle of protection of human life, the principle of human dignity, the principle of psychological and physical integrity of a human, the principle of freedom and to the right of privacy. The above, fundamental legal rules are supported by recognised principles of biomedical ethics such as the principle of autonomy, justice, patient's good, non violation of freedom of scientific research et.

### S U M M A R Y

In the domain of bioethics we notice an increasing distance between what is offered by the law in its traditional formulas and solutions and the expectations towards the law itself which are originated by a high rate of development of science in the field of modern biotechnologies. Positive law does not keep pace with progress. The language which is used by a legislator to define bioethical phenomena is unclear and polysemic whereas the language of public debate is characterised by emotions. All this contributes to creation of new dilemmas which finish in courts as *bioethical cases*. It seems that unequivocal legal definitions of the key notions from the point of view of biojurisprudence would help to reduce arising doubts. Establishing unequivocally their semantic sense would solve a number of bioethical dilemmas. Therefore, there exists a clear need to create a complex biolaw with a new network of legal notions built on the basis of the chief value of life and adequately to changes brought by medical development.



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## OBJECTIVITY OF LEGAL FACTS FROM SEMANTIC POINT OF VIEW

The main aims of this article is to find out how legal facts can be objective,<sup>1</sup> to determine exactly what it means for legal facts to be objective, and to discover when and under what conditions it is justified to call them “objective”. I shall introduce first the different conceptions of legal facts and then examine the relation between legal facts and statements about legal facts. My enquiry is on two levels: the semantic and the semantic-pragmatic. The first is based on the typology of legal facts by J. Wroblewski, which represents an analytical approach. From this, I will analyze how legal facts (or more strictly the statements identified by legal facts) could be objective on a semantic level. Using Wittgenstein, and Kripke’s interpretation of Wittgenstein’s theory, I will further explore whether the meanings of statements about legal facts could be objective. The semantic-pragmatic approach is based on the conception of institutional legal facts in a narrative and normative context developed by N. MacCormick. I will

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<sup>1</sup> The jurisprudential literature, says about strong, modest and minimal objectivity. Strong objectivity as completely independent from a subject is characterized as pure objective entity. Strong objectivity is the representation of the theory of realism, which rejects the subject’s dependence in regards to existence and perception. For example, a stone which exists completely independently from the subject or any of their activity, no matter whether the subject perceives it or not. The other two approaches of objectivity are connected with the activity of the subject, which is necessary and not possible to eliminate. The modest version of objectivity is characterized in regards to subject, determined by the ideal epistemological conditions. These conditions have to be fulfilled to make it possible to think about objectivity as in some way independent of the subject. In this sense, for example, the activity of measuring could be objective. Effects of measuring would be the same for everybody who is doing it under the same conditions. One can observe that within the same group of notions it is possible to find different extensions of the subject’s indeterminacy. The minimal version of objectivity is based on the acceptance of the majority in a certain group. Take fashion as an example. What is fashionable in a certain society or group is accepted by the majority of that group. See more, Connie S. Rrossati, *Some puzzles about objectivity of law*, In: Law and Philosophy, No. 23, 2004, p. 275.

also question how institutional facts could be objective on the grounds of this theory. Also in this article, I examine examples from Polish courts to illuminate the differences between legal theory and legal practice.

There is a lot written about legal facts in the literature and there have been many attempts to categorize them. To make things clearer, I will very briefly review the different conceptions and definitions of facts and the ways in which they are interpreted. This will help us move further in answering the question about their objectivity.

It is not possible to give one general answer for the question about objectivity of legal statements, mainly because of the diversity of types of statements in law.

Some authors, who consider legal facts to be objective, define them with the following kind of statements: “a true proposition about the law<sup>2</sup>”; “any statement of what the law requires on some point.<sup>3</sup>” The first definition seems to be controversial because of the questionable status of a true statement in law. The second one could be taken as the starting point, but it is necessary to make the meaning of “what the law requires” more precise to avoid potential controversies. Although it’s not possible to give one general answer, mainly because of diversity of types of statement in law, it is meaningful to go deeper into the types of statements that express what the law requires and say which of them could be objective and which could not. So, what should we take into account when interpreting legal facts? What are the necessary elements for the category of legal facts? The answer to these questions depends strongly on whether we consider them on a semantic level, where law is identified as a linguistic phenomenon, or take a broader view, taking law in a semantic-pragmatic context?

## The definitions and various types of legal facts

Taking the first assumption that considerations about facts are made on the level of language, I will carry out further analyses on the semantic level to see if this can yield any answers to the question about the objective meaning of legal facts. Let’s consider a typology of legal facts in relation to the types of statements in which they are represented in order to state which ones could be objective. I will start by presenting the defi-

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<sup>2</sup> See, C. S. Roasati, *Some puzzles about objectivity of law*, In: *Law and Philosophy* 23, 2004, p. 276.

<sup>3</sup> See, Coleman, Leiter, *Determinacy, Objectivity...*, p. 598.

inition of legal facts proposed by J. Wróblewski. He defines a legal fact as a fact worded in legal language; its existence is based on legal norms and it is the subject of argumentation in the process of application of law.<sup>4</sup> This definition leads us to the conclusion that certain types of legal facts are dependent on the richness of the legal language. It is important to mention here that both procedural and substantive norms have an influence on the choice of facts that will be the subject of investigation by the court. The facts have to be important facts appropriate to the nature of the case; that is, facts described by the hypothesis of a norm. The norm then is the basis of the decision in the case. In other words, legal facts are extracted from legal norms, thus being normative facts. It is also possible to say that the way of looking at the facts is through the notions that are contained in legal norms. Legal facts could not exist apart from this relationship because of their connection with legal language. That is why there are such types of facts as follows:<sup>5</sup> facts determined descriptively are designated by terms in the legal language. They are proven in a way that correlates with their description. They are verified like every existential statement in a particular domain. For example, “employer”, “vehicle”, “contract”, “marriage”, “commissioner”, “legal capacity”, and “tree”. The quantity of these facts depends on the vocabulary of legal language.<sup>6</sup> There is also a difference when descriptive legal facts depend on whether they are determined in a simple or in a relational way. A descriptively determined fact is a simple fact when it is simply an existential statement. For a relational fact, it is necessary to assess its consistency with a defined rule, as with “valid act”, “observation of rules”, and “act contrary to the statute”. Relational facts are complex, composed of the conjunction of relational statements, “x is consistent with rule R” and the existential statement “x exists in spatiotemporal dimension.”<sup>7</sup> Another way of classifying descriptive legal facts is as events, processes, and subjects of law. Facts determined by evaluation, extracted by judgments, have their sources in those parts of legal norms which are based on evaluation, For example, statements like “justified interest”, “moral jury”, “right reason,<sup>8</sup> “fair interest of tax-payer”,

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<sup>4</sup> See, J. Wróblewski, *Sądowe stosowanie prawa*, Łódź, p. 172, also J. Wróblewski, *The Judicial Application of Law*, ed. by Z. Bankowski and N. MacCormick, Dordrecht, The Netherlands, Kluwer Academic Publisher, 1992.

<sup>5</sup> See, J. Wróblewski, *The Judicial Application...*, p. 137–149.

<sup>6</sup> See, J. Wróblewski, *The Judicial Application...*, p. 137.

<sup>7</sup> See, J. Wróblewski, *The Judicial Application...*, p. 143.

<sup>8</sup> See, J. Wróblewski, *The Judicial Application...*, p. 138.

“acting in good faith”, and “well-being of the child”. In all these examples, a positive or a negative evaluation has to be made. There is a process of prescribing values to the objects that are not intrinsically good or evil. In order to recognize the point of reference it is useful to distinguish between “simple” and “instrumental” evaluations. The former is based on assigning values on a positive to negative scale. In practice, it is just imposing a set of beliefs about good or evil. This process just refers to “pure” values. This simple kind of evaluation is based just on psychological experience. The instrumental evaluation is subordinate to the aim served by the evaluation as a whole. It doesn’t mean that this process has lost its evaluative character; the evaluation is just moved to the higher level – to the level at which values are realized.

So the evaluation is based on relativization with regard to another hierarchy of values. For example, “fair interest of tax the payer according to a rational legislator” is considered with regard to the rational legislator’s hierarchy of values. So, even when the process of evaluation is based on external criteria, it is still not free of values. They are simply on one level higher, because they refer to the hierarchy of values composed or represented by the rational legislator.<sup>9</sup> The features of facts determined by evaluation are also complicated because of the problematic character of values. It seems to me that it is first necessary to consider whether they are based on assumptions related to either the cognitivist or the non-cognitivist approach to values.

Wroblewski assumes a non-cognitivist position and this influences his consideration about facts.<sup>10</sup> This makes it impossible to consider facts in terms of true and false. Only descriptive facts are proven descriptively; evaluative facts are dependent on defining their values and characteristics. Wroblewski claims that evaluative facts should be treated as highly controversial linguistic statements: one states the existence of the object of evaluation and defines this object as “having a value”. For example: “important reason” and “behavior under strong emotion justified by circumstances.” There are also terms which are not clear and are hard to qualify according to any one criterion because sometimes they are treated as descriptive, sometimes as evaluative. The expression “strong affection<sup>11</sup>” is one such example. Facts

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<sup>9</sup> See, J. Nowacki, *Domniemanie dobrej wiary*, (Presumption of Good Faith), *Studia Iuridica Silesiana*, Ed. M. Pazdan, Katowice 1979, p. 123.

<sup>10</sup> See J. Wroblewski, *Judicial...*, p. 139.

<sup>11</sup> See, J. Wróblewski, *Judicial...*, p. 139.

like ‘right’ have no semantic reference.<sup>12</sup> They are sometimes described in jurisprudential literature as pure institutional facts.<sup>13</sup> Other examples of facts with no semantic.

The term “fact” is troublesome enough in common language but, as the jurisprudential literature shows, getting to grip with facts and legal facts in law is even more problematic and faces many controversies. At one extreme, there is the conception that a “fact is something which goes without saying<sup>14</sup>”. This manifests itself in common language expressions like “everyone knows what a horse is”, “facts need no deliberation”, and “facts say everything about themselves”. At the other extreme, facts are treated as ambiguous expressions of reality that are dependent on the paradigm of interpretation of reality.<sup>15</sup>

The first approach expresses the realists’ vision of reality, albeit in quite a naive version, based on the assumption that what we perceive is “true” reality. In other words, what we observe or perceive is identified with something that is empirically real. However, this in itself is a paradigm of interpretation of reality. It says that we don’t need any special notions to act as intermediaries between perception and reality in order to grasp it, because what we perceive is already true reality. Hence, we could say that there are not two different types of theories that try to explain what facts are, but one single approach based on the assumption that we need a paradigm of interpretation to understand facts.

The theory maintains that the paradigm of interpretation of reality dictates, or is interrelated with, the paradigm of facts. In the legal world, we have legal rules and principles that constitute the paradigm of interpretation, which in turn indicates how to interpret brute facts according to their institutional network or how to create new constitutional facts.

Before going deeper, a general ontological assessment needs to be made. First of all, one could say there are two types of facts that can be distinguished in the world: brute facts and institutional facts. This typology is based on John Searle’s distinction between brute facts and institutional facts in his theory of institutional rules.<sup>16</sup> The next important step is guided by

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<sup>12</sup> See, K. Olivecrona, *Law as fact*, London 1997, p. 246.

<sup>13</sup> See, T. Gizbert-Studnicki, *Przedmiot ustaleń sądu w procesie cywilnym* (Object of court findings in civil procedure), In: *Krakowskie Studia Prawnicze*, VII/1974, p. 154.

<sup>14</sup> See, P. Nerhot, *Introduction*, In: *Law, interpretation, and reality: essays in epistemology, hermeneutics and jurisprudence*, Ed. by P. Nerhot, Dordrecht, The Netherlands, Kluwer Academic Publisher, 1990, p. 2.

<sup>15</sup> See, *Ibidem*, p. 2.

<sup>16</sup> John R. Searle, *Speech Acts*, Cambridge, Cambridge University Press 1969, p. 50–53.

Ascombe's work. She illustrates the distinction between institutional and brute facts with the following example: the event of going to the grocer and buying something implies that the client will be given a bill. "The set of events is the ordering and supplying of potatoes; something is a bill, only in the context of our institutions.<sup>17</sup>" This is the way she explains the core of institutional facts, which exist only in certain contexts. So, the bill, as an institutional fact, would lose its meaning outside the grocery shop. This is the same framework of concepts that make up the foundation of the institutional theory of law by N. MacCormick and Ota Weinberger, which I will adopt in my analysis of objectivity of institutional legal facts.

Reality that exists in time and space is built with empirical facts; we can say these are brute facts or even strong facts. These types of facts are entirely independent from human minds or human activity.

Institutional facts exist but, unlike brute facts, cannot be perceived solely on a physical or psychological dimension. Facts such as contract, marriage, money, culture, knowledge, literature, parliament, sports, and games exist but they need special rules in order to institutionalize them. These rules give the meaning to institutional facts. The existence of institutional facts depends partly on brute facts, empirical events or behaviors, and partly on rules. That is why according to MacCormick such facts are dependent on human activity.<sup>18</sup>

The next important feature of institutional facts is that they cannot be grasped or framed descriptively; they must always have a normative element. From the words alone, we could not understand what it means for people to get married, greet each other, or play chess.<sup>19</sup> We also need to know the normative element to grasp the meaning.

On this basis, it is already possible to indicate two arguments against the claimed objectivity of institutional facts. First of all they are depended on human activity, because people create them, design them and decide about their meaning. Secondly they are not descriptive, because they are mainly composed of normative and ascriptive elements.

This is why two types of statements have to be formulated: descriptive ones, which describe and explain relations; and normative ones, which are formulated on the basis of values, preferences, and aims or goals. The main

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<sup>17</sup> G. E. M. Ascombe, *On Brute Facts*, In: *Ethic, Religion and Politics, The collected Philosophical Papers of G. E. M. Ascombe*, Vol. 13, Oxford, Basil Blackwell, 1981, p. 23.

<sup>18</sup> N. MacCormick, O. Weinberger, *An Institutional Theory of Law. New Approaches to Legal Positivism*, Dordrecht, The Netherlands, Kluwer Academic Publisher, 1986, p. 24.

<sup>19</sup> N. MacCormick, O. Weinberger, *An Institutional Theory...*, p. 24.



difference between these two types of facts is that brute facts are descriptive and exist in a particular space and time, while institutional facts as abstract concepts are potential and not directly related to a particular time and space. Institutional facts are a kind of ideal entity; they exist as abstract notions. To make institutional facts real, institutional rules and brute facts are needed.<sup>20</sup>

### **The relation between facts and the paradigm of interpretation**

What is the relation of dependency between facts and their meaning; between their ontology and epistemology? Or, in other words, between ontology and semantics, because semantics plays the role of epistemology when dealing with facts on the level of language in determining how their meaning or interpretation is fixed. It is possible to assume that, on the level of language, the role of epistemology is to discover and/or establish meaning. Wittgenstein said that there are no facts that determine meaning, so he breaks the relation between ontology and semantics, giving the priority to the process of setting meaning: the epistemology. So, if facts have no influence on the way of setting or establishing meaning, there is no difference between brute, descriptive, and evaluative facts from Wittgenstein's point of view. Does this mean that all facts are created and that we could easily forget about objectivity? Taking the line of thinking offered by Wittgenstein, it could be as follows:

For Wittgenstein, meaning is treated as the core of the notion that could be objective; interpretation is the next level, which is dependent on individual elements and so the product of interpretation could be changeable in different cases. Meaning is a necessary introduction to interpretation and, only in this sense, could facts be objective in a stronger sense. Following this idea, meaning appears as something that has a firm core, which gives the possibility for interpretation, because without understanding there is no place for interpretation at all. The next important question is what makes certain interpretations objective? What kind of justification gives the right to claim that an interpretation is objective?

One answer proposed by the antirealists is that common acceptance of a certain community gives the justification for treating an interpretation as objectively valid.

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<sup>20</sup> N. MacCormick, O. Weinberger, *An Institutional Theory...*, p. 24.

Wittgenstein's thoughts represent the skeptical position, but it is not necessary to reject the possibility of objectivity in a stronger sense. Meanings of terms are not determined by facts, but this does not exclude the possibility of making claims about objectivity or make it necessary to consider it only in a minimal sense (a meaning that is applied and accepted by the majority of an interpreting community).

Considering the problem of dependency between facts and interpretation, one conclusion is that the meaning of facts is determined by a paradigm of interpretation and the conditions that are formulated by this paradigm. So the next problem that has to be considered is how this meaning is determined, and how the meaning of legal facts is settled in the context of normative legal reality, because the theory that determines meaning is also the part of the assumed paradigm.

As argued before, there is only one world that includes both facts and law. Setting legal facts could be a matter of grasping the meaning or the process of interpretation. It could be perceived as looking through the paradigm of interpretation or through the process of institutionalization, which makes legal facts what they are. So, further consideration about legal facts will be on the level of language, the semantic field. This enables us to reformulate the question about objectivity of legal facts into questions about the objectivity of meaning and objectivity of interpretation. Further consideration has to be directed on how the meaning is determined. If the meaning were to be fully determined, we would be able to talk about objectivity of legal facts in a strong sense; this is exactly how strong realists approach the theory of meaning. But this is only one of several possible controversial answers to this question. At the other extreme, the subjectivists challenge the determinacy of linguistic meaning, with the view that meaning is located in the individual subject. I would like to take a middle way and consider to what degree the meaning of words can be determined.

So, what kind of legal facts are determined and to what degree? If there are different kinds of legal facts, do they have different extents of determination in fixing or discovering their meaning? Or maybe, in the sphere of language, the type of legal fact is not important in this respect.

First, it is important to make a distinction between critical semantic theory and interpretative semantic theory. Generally speaking, semantic theories offer an explanation of what links a word with the object to which it applies. Critical semantic theories, as represented by Kripke and Putnam, claim that the basic link is an uncontroversial test of sharing by speakers. Interpretative semantic theories, as represented Roland Dworkin, claim that

the necessary link is a theory or interpretation.<sup>21</sup> The next assumption that needs to be explained is what I mean by meaning.

## Meaning

The key to further explanations is to make clear the difference between meaning and interpretation or application. It is not possible to discuss all the problems within this thesis, so, in what follows, I only aim to show what I understand by meaning and interpretation.

By meaning, I refer to the relation between empirical objects and the sense of words. It is important to stress that “the meaning of words” and “the meaning of words in their correct application” are not equal. The first is what speakers of a language generally share but correct application could be the matter of controversy.<sup>22</sup> This in turn raises the question of what are the sources of interpretative authority<sup>23</sup> that says which interpretation is correct or incorrect? What are the instances that allow decisions to be taken about meanings?

If meaning is what speakers of a certain language generally share, what could be said about the objectivity of meaning of legal facts bearing in mind their diverse character? According to the analytical approach, legal facts have to be at least objective in the minimal sense because they are shared by the majority.

Let’s consider this problem separately in regards to descriptive facts and evaluative facts. It seems to me that the same couldn’t be said about evaluative facts and descriptive facts, because when evaluative ones are treated like an order to make an individual judgment or evaluation, it does not fulfill the test based on shared acceptance by all speakers. This is due to the complicated status of values.<sup>24</sup> In justifications by Polish judges, there are no references to acts of individual moral choice. Nevertheless, judges do make individual moral choices in order to achieve a suitable justification. There

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<sup>21</sup> See, T. O. Endicott, *Review of Objectivity in Law*, N. Stavropoulos, In: *Law Quarterly Review* 113, 1997, p. 508–512.

<sup>22</sup> See, T. O. Endicott, *Review of Objectivity in Law*, N. Stavropoulos, In: *Law Quarterly Review* 113, 1997, p. 510.

<sup>23</sup> See, S. Fish, *Praca w lancuchu*, In: *Interpretacja, Retoryka, Polityka*, Universitas, Kraków, 2002. p. 227, See also: *Working In the Chain Gang, interpretation in the law and in literary criticisms*, *Critical Inquiry* 9, 1982–3.

<sup>24</sup> Only objectivists could claim an objective status for evaluative statements about values.

are fragments of justifications where judges were trying to base their choice of morality on the common acceptance test, like in the case of descriptive facts. Very often this process has just a robe of descriptive morality, because it is one of the most successful ways of argumentation, but the real reason has its source in individual moral choice.<sup>25</sup> They cover an act of individual evaluation. But are evaluative facts really different from descriptive facts on the semantic level?

It seems to me, that from the point of view of Wittgenstein's position on the objectivity of meaning, facts are shaped in the same way, no matter whether they are descriptive or evaluative. Both are subjected to the test of common shared meaning.

## Wittgenstein and Kripke

Now I present the so-called antirealist approach to the theory of meaning, considering mainly Kripke's interpretation of Wittgenstein's philosophy. Then I would like to consider the application of this theory to the legal discourse, especially to legal facts. Kripke's skeptical and non-skeptical analysis of Wittgenstein would give an answer to the question about the level of determination of meaning in regard to different types of legal facts. (Kripke's skeptical interpretation is commonly known as the skeptical approach.<sup>26</sup> A middle position is taken by Friderick Schauer,<sup>27</sup> who claims that formulated rules are not radically indeterminate, but unformulated rules are.<sup>28</sup>)

## Kripke's skeptical position

Kripke was criticized very strongly for his skeptical interpretation of Wittgenstein and it has been the topic of twenty-five years of controversy.<sup>29</sup>

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<sup>25</sup> See, J. Nowacki, *Domniemanie dobrej wiary*, Studia Iuridica Silesiana, Katowice 1979, Ed. by M. Pazdan, p. 123.

<sup>26</sup> See Charles M. Yablon, *Law and Metaphysics*, In: *Law and Legal Interpretation*, Ed. By Fernando Atria and D. Neil MacCormick, ASHGATE, Dartmouth, 2003. p. 371–384.

<sup>27</sup> See, Timothy A. O. Endicott, *Linguistic Indeterminacy*, In: *Law and language*, Ed. by Thomas Morawetz, Ashgate/Dartmouth, 2000, p. 689.

<sup>28</sup> See, F. Schauer, *Playing by the Rules. A Philosophical Examination of Rules-based Decisions-making in Law and in Life*, Clarendon Press, Oxford, 1991, p. 64–68.

<sup>29</sup> See, Martin Kusch, *A Skeptical Guide to Meaning and Rules. Defending Kripke's Wittgenstein*, Acumen, 2006.

After all the many commentaries, today this position is called “Kripkesteinism”, and is taken as new philosophical proposition in the theory of meaning, quite distinct from Wittgenstein’s original position. His approach is quite controversial for many reasons but has been also defended as suitable for law.<sup>30</sup> Developing Kripke’s position could bring us quite far from Wittgenstein to a very controversial point, namely the radical indeterminacy of meaning.

To enter into speculations on Wittgenstein’s skeptical problem<sup>31</sup> one must go through the door of the thesis that there is no fact in the world that constitutes meaning.<sup>32</sup> This is the very basic assumption, which is incompatible with or even contradictory to the realist approach to the theory of meaning. Generally speaking, it means that a particular discourse is not primarily descriptive or fact stating. Such a discourse states no facts but instead gives expressions of certain attitudes. The meaning is derived from these expressions not from truth conditions.<sup>33</sup> Kripke offers the example of “ $57 + 65 = 5$ ” to show that there is no fact determining meanings in this statement. He argues that the statement “ $57 + 65 = 122$ ” is correct, not because there are facts which constitute it, but our community permits us to use certain signs like “+” in certain way; in this case, to mean addition.

Kripke’s second argument is as follows: there is no such a thing as a fixed meaning of an expression because any use in the past does not determine its present or future use. This argument can be developed to say that conventional meaning is also not rigidly binding and could be subject to change. In addition, there is no such thing as a general rule, as Wittgenstein’s infinitive regression argument demonstrates:

“But how can a rule show me what I have to do at this point? Whatever I do is, on some interpretation, in accord with this rule”. That is not what we ought to say, but rather: any interpretation still hangs in the air along with what it interprets, and cannot give any support. Interpretations by themselves do not determine meaning<sup>34</sup>.

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<sup>30</sup> See, Charles M. Yablon, *Law and Metaphysics*, In: *Law and Legal Interpretation*, Ed. By Fernando Atria and D. Neil MacCormick, ASHGATE, Dartmouth, 2003. p. 371–384.

<sup>31</sup> Saul A. Kripke, *Wittgenstein on Rules and Private Language. An elementary Exposition*. Basil Blackwell, Oxford, 1982, p. 145.

<sup>32</sup> See, Saul A. Kripke, *Wittgenstein on Rules and Private Language. An elementary Exposition*. Basil Blackwell, Oxford, 1982, p. 15.

<sup>33</sup> See, J. Coleman, B. Leiter, *Determinacy...*, p. 220.

<sup>34</sup> See, L. Wittgenstein, *Philosophical Investigations*, Wiley Blackwell, 2009, paragraph 198.

The important point is that, if the understanding of an utterance or sign were a matter of advancing interpretation, then the interpretation would require its own interpretation, and so on, indefinitely.<sup>35</sup> So, as one can see, the problem is just moved one level higher – “rules say how to interpret other rules”. It could lead to *regresus ad infinitum*, and be used as criterion for a meaning with no end.<sup>36</sup> The next important point in Wittgenstein’s philosophy is that “for him understanding, not interpretation is primary”.<sup>37</sup> He said also: “there is a way of grasping a rule which is not an interpretation (...)”.<sup>38</sup>

### Kripke’s non-skeptical interpretation of Wittgenstein

Kripke was criticized for omitting the passage from Wittgenstein’s Investigations saying that “there is a way of grasping of rule which is not an interpretation but which is exhibited in what we call ‘obeying the rule’ and ‘going against it’ in actual cases<sup>39</sup>”. Kripke’s so-called misunderstanding was that understanding consists in part of an interpretation, verbal or quasi-verbal, presenting itself to the mind.<sup>40</sup> In other words, Kripke treats interpretation as a part of meaning. It is not clear to me if interpretation was really misunderstood by Kripke or whether he was fully aware of what he was omitting.<sup>41</sup> He said he didn’t find it so important in analyzing the main argument against private language.<sup>42</sup> (Anyway, I will treat Kripke’s interpretation as a separate from Wittgenstein thoughts, although there is no possibility to analyze Kripke without Wittgenstein’s “Investigations” at the readers hands, of course.)

It has to be made clear that this not a problem of description; Kripke is fully aware of differences between justification and description. He is not

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<sup>35</sup> See, D. Patterson, *Normativity and Objectivity in Law*, William and Mary Law Review, 43:1 (October) p. 339.

<sup>36</sup> See, S. Kripke, *Wittgenstein on Rules and Private...*, p. 43.

<sup>37</sup> See, D. Patterson, *Wittgenstein on Understanding and Interpretation*, In: Philosophical Investigation 29: 2, April, p. 9.

<sup>38</sup> See, L. Wittgenstein, *Philosophical Investigations*, par. 201.

<sup>39</sup> See, L. Wittgenstein, *Philosophical Investigations*, par. 203.

<sup>40</sup> See, Jes Bjarup, *Kripke’s Case*, in: Law and Legal Interpretation, Ed. By Fernando Atria and D. Neil MacCormick, ASHGATE, Dartmouth, 2003, p. 380.

<sup>41</sup> See, S. A. Kripke, *Wittgenstein o regulach i języku prywatnym*, Aletheia, Warszawa 2007, p. 6.

<sup>42</sup> See, S. Kripke, *Wittgenstein, O regulach i języku prywatnym*, Aletheia, 2007, Preface to Polish edition.

asking if what he stated is the truth in the statement “ $57 + 65 = 122$ ”, but how it is possible to justify that it is so. The point he is making is that we are not able to justify the use of rules on the basis of facts.

The main difference then between Wittgenstein and Kripke is that Kripke finds interpretation to be a part of meaning. This main difference between the two philosophers has great consequences in semantic theories. This distinction is the most problematic in thinking about meaning, mainly because of the *mixing* of these two approaches. This is exemplified by radical authors, like Stanley Fish,<sup>43</sup> who once advocated interpretative semantic theory,<sup>44</sup> claiming that the meaning of the text is produced through the process of interpretation.

In opposition, Wittgenstein claims that we don't need any semantic theory to decipher reality. Language is a setting of games with loose relations, and meanings appear in the moment of acting. So, Wittgenstein breaks the realism-skepticism debate, arguing that rule following is not a mental phenomenon. He locates everything in action, especially in social action. Kripke's draws our attention to claims in Wittgenstein's *Investigations* that there is no difference between the philosophy of mathematics and the philosophy of mind. So this is another argument for taking away meaning from individual minds, arguing that private language is not possible. Acceptance of community is what gives license in deciding about the rules that give meanings.

## **Objectivity of legal facts**

In order to find out in what sense legal facts could be objective, I sum up the most important points from the Wittgenstein's theory. I will then use them as assumptions to give an answer about the objectivity of legal facts.

1. The meaning of words cannot be found by looking for their associations with particular objects. Instead, the meaning of words should be understood by the way in which they are used within their social context.
2. The distinction between understanding and interpretation is as an elementary key to the conceptualization of meaning.

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<sup>43</sup> This position was represented by S. Fish, until he adopted a less radical stand.

<sup>44</sup> See, S. Fish, *Is There a Text in this Class? The Authority of Interpretive Communities*, Cambridge, MA: Harvard UP, 1980, He has changed his claims a few times, but the above claims are represented in this text.

If the objectivity of legal facts can be regarded as objective on the basis of acceptance by the community, it reflects a way of legal facts becoming objective in a minimal sense, where the majority of the auditorium decides what a certain word means.

The main consequence of this is that the degree of objectivity is not dependent on the type of fact one is dealing with. When facts don't determine meaning, there is no difference between descriptive, evaluative, or any other type of facts. No matter what kind of facts are being settled, they are all constituted on the basis of common acceptance and the direction of determination goes from institutional rules, not from empirical constitution. This also means that all types of facts, including legal facts are objective to the same degree, but only in regard to their meanings, it also infers that there are no differences between them at the semantic level.

The differentiation of types of legal facts and its influence on the extent of their objective status has sense only on a metaphysic level. This obviously begs the question what sense legal facts could be objective on the metaphysical level, but this is outside the scope of my research. However, I would just like to mention briefly that even differentiation on the level of status of values has no meaning according to Wittgenstein's proposition. That is why there is no difference between cognitive and non-cognitive approaches and why this has no influence on the question of the objective status of facts on the semantic level.

On the basis of the above assumptions, I would like to analyze some specific problems with the objectivity of legal facts. First of all, if meaning is something that every speaker of a certain language shares, the implication is that the meaning of legal facts is objective, at least in a minimal sense. But what about interpretation and application, which are not commonly shared? This problem is especially seen in difficult cases, which are difficult exactly because of the lack of a single shared interpretation. In such cases, expressions like "correct application", "correct meaning", and "objective legal fact" are viewed differently by opposing parties.

What follows from this is that the interpretation decides about the application and therefore has a major influence on it. So, what makes certain interpretations valid and what kind of justifications makes certain applications stronger than others? Is common acceptance a strong enough argument in the domain of law?

As indicated by legal practice, common acceptance is only one of several methods of argumentation. It is one of the most successful one, and can be very convincing in certain situations, especially in the context when one



of the key values is common agreement. An example is a society based on democratic agreement.

However, common acceptance is only one of arguments used in the process of legal argumentation. In many of the Polish judge's justifications examined, especially the more difficult cases, arguments based on social acceptance are used, but amongst many other arguments.

To analyze the possibility of objectivity of interpretation, I would like to settle it in the context of the determination of the process of interpretation in law. My position can be summarised by the following quotation:

“If the interpretation is not determined, then there is no true answer to the question of how a certain situation is regulated by the law, therefore in such cases the law is not objective.<sup>45</sup>”

The practical perspective could be delivered by analyzing the judges' justifications. It could give an answer about the factual and postulated ways of following the doctrine of determinacy and objectivity. Very often the legislator takes the decision by means of legal definitions and it is also the task of judges in most cases.<sup>46</sup> But as I have shown, in a number of cases there is a problem with legal definitions. They also have to be interpreted as part of the judge's decision-making process. So, in this sense, judges contribute to determinacy and objectivity of law. In their justifications, lawyers and judges seem to speak about the law in terms that presupposed strongly objective standards, but after looking at what they actually do, the situation appears to be a little bit different. In practice, the sphere of subjectivity is extended, which is indeed necessary for lawyers and judges to do their jobs.

In the next part I would like to make a comparison between the above theories and practice of law. In particular, I would like to analyze the vagueness of language in legal definitions using examples from the Polish judicature.

## **Legal definitions**

Considering the problem of determination in the application of law, a good example could be delivered by the usage of legal definitions. They are perceived as the more determined part of law in the process of its appli-

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<sup>45</sup> See, E. Bulygin, *Objectivity of Law in the View of Legal Positivism*, Online: [http://www.giuri.unige.it/intro/dipist/digita/filo/testi/analisi\\_2004/15bulygin.pdf](http://www.giuri.unige.it/intro/dipist/digita/filo/testi/analisi_2004/15bulygin.pdf), p. 225.

<sup>46</sup> E. Bulygin, *Objectivity of Law...*, p. 225.

cation, because the legislator gives both meaning and interpretation. The main aims of statutory definitions are to increase the certainty of law, improve the clarity of language, and to determine statutory meaning. However, one should check the hypothesis that legal definitions play that the role in the process of their application.

In the Polish legal system,<sup>47</sup> one of the main interpretive directives imposes a duty upon the judge to use statutory definitions (the “legislator’s meaning”) as a first step in the process of interpretation. This is the first and the strongest of all the interpretive directives that have to be fulfilled in the process of the application of law.

Theory of interpretation questions to what extent the meaning is determined by the readers’ understanding, the legislator’s intent, or by other variables. So, even if the legislator defines some legal terms, it still does not guarantee the precision of legal expressions. When we analyze the process of application of legal definitions we can realize how far they are from fulfilling their prescribed functions.

Statutory definitions in the process of application of law are still a source of doubts. Very often they are not ready-made or clear expressions. Legal definitions still need to be interpreted and problems in the process of application remain. I would like to make a short analysis of a working statutory definition in the process of application of Polish law. I will take into account three main spheres to show how complicated the application of legal definitions are:

1. First and the most common is the problem with the interpretation of statutory definitions. Legal definitions are very often just starting point in the process of applying law. But as it is indicated in the jurisprudential literature “a definition, as a legal rule, is interpreted the same as any other legal rule. Opinions that legal definitions shouldn’t be interpreted are limited to the situations when definitions are unequivocal from the point of view of linguistic rules. Their interpretation should be based on the references to other definitions or to dictionaries.<sup>48</sup>

2. The second problem is the extent of applicability of legal definitions. Judges looking for legal definitions have to question whether it’s only pos-

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<sup>47</sup> It is important to stress that legal definitions in the Polish legal system are one of the most important principles in the interpretation process, and they have to be applied first. In other legal systems there is no such obligation. The person making interpretation can take into account the definition by the legislator but is not bound by it. For example, the Belgium legal system works according to such rules. See more, M. Van Hoecke, *Law as Communication*, Hart Publishing, Oxford Portland Oregon, 2002, p. 131–134.

<sup>48</sup> M. Zieliński, *Wykładnia prawa. Zasady. Reguły. Wskazówki*, Warszawa, 2002, p. 205.

sible to apply a certain definition to one statute, many statutes, or whether it's limited to one branch of law or can be applied to others. There are also definitions that give references to other legal acts: for example, tax law has no definition of life annuity and as one may read in one of the court rulings "it should be understood according to the definition given by civil law".<sup>49</sup>

An attempt of answering this question could be done by showing Quine's and Kripke's positions. Quine names this problem the "thesis of indetermination of translation", in other words, there is no fixed meaning of statements no matter what language they are in. It means that its applicability could not be determined in a way that could be accepted as objective. Kripke goes one step further and attacks fixed meaning even within a single language. Law has exactly the kind of "language" that can offer some proof in favor of Quine's and Kripke's theories and the problem of legal definitions illustrates this very clearly. Quine, on the basis of his theory allows us to apply a certain meaning no matter what the context is. Kripke allows for changing meaning in changing contexts. The extent of applicability of legal definitions illustrates the problem exactly.

3. The final problem is with recognizing or distinguishing legal definitions in legal texts.<sup>50</sup> Legal definition is such a definition, which we can find in legal texts and give a meaning to notions in a legal text. As we can learn from legal literature, there are many different types of definitions. They can be reconstructed from different parts of legal texts, from a few articles, from a whole statute, or even constructed using different statutes. Such definitions are described as axiomatic.<sup>51</sup> Exaggerating, one could say that one could find or create a legal definition from almost anywhere in a statute given the many possible ways of constructing definitions.

Analyzing these three problems can show the real role of a definition in the process of interpretation of legal texts. Of course, we can observe many easy cases where the "legal dictionary" fulfills its prescribed function. But, there is a whole group of difficult cases that confirm that legal definitions don't help in more precise communication between legislator and courts. Contrary to a dominant opinion, there are even examples in difficult cases where legal definitions are used to justify interpretations that go in a different direction than the will of the legislator.

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<sup>49</sup> A. Bielska-Brodziak, *Kłopoty z definicjami legalnymi* (Troubles with a legal definitions), In: *System prawny a porządek prawny*, Szczecin, Wydawnictwo Naukowe Uniwersytetu Szczecińskiego, 2008, p. 159–174.

<sup>50</sup> A. Bielska-Brodziak, *Kłopoty z definicjami legalnymi*, In: *System prawny a porządek prawny*, Szczecin, Wydawnictwo Naukowe Uniwersytetu Szczecińskiego, 2008, p. 159–174.

<sup>51</sup> See, J. Wróblewski, *Judicial...*, p. 234.

As one can see, there are some special conditions for setting meanings and it is pretty impossible in the legal domain to make a generalization to embrace the practice of judging in one semantic theory. My observation leads rather in the direction of even more radical indeterminacy of meaning in law's domain. It's my view that judges and lawyers use many different strategies to make their argumentation more successful in order to justify their deep conviction for the position they want to argue for. That is why it is possible to find fragments in case law where the argumentation mixes different semantic interpretations, switching from realist to the antirealist positions to suit their needs.

### The semantic theory of Kripke and Putnam

It is important to stress that there are two levels of consideration, the level of description of what judges are doing and the abstract level of the semantic theory of meaning. I don't question the possibility of application of Wittgenstein's approach to law or the coherence of semantic Kripke-Putnam, but only try to show its inconsistency with some examples from legal practice.

Semantic Kripke – Putnam is quite a controversial theory when applied to law. Authors in the jurisprudential literature write about many different aspects of controversy when applying the new semantic theory.<sup>52</sup> I will analyze only the aspect of common acceptance and common shared meaning in the process of applying law in Polish courts. The first argument says that there is no such thing as a fixed meaning of an expression based on justification by common acceptance. In consequence, there is possibility of changing meaning according to different usage in the past, present or in the future.

The argument against making rule of usages of semantic Kripke – Putnam as a full theory in law is that the common acceptance is not always respectable in the law's domain, especially in hard cases. The practice of law shows many cases where meaning is set in very different ways. Meaning can be set without regard to or against common usage on the basis of the of law's authority. For example, take again the definition of tree, which according to Polish legislature must be "above 1.20 meters", or the attempt to formulate the definition of a human being in order to penalize abortion.

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<sup>52</sup> See, J. Coleman, B. Leiter, *Democracy...*, p. 345,

There are also definitions that have no previous social practice of usage in common language (like a legal person), and are quite different from common understanding. There are a lot of examples that make legal language specific, for example: legal definition of “night time” which is understood as the time between 10.00 p.m. and 6.00 a.m.” From analyzing Polish judiciary, one can draw the conclusion than there is no single strategy in the process of interpretation. Judges very often quote the dictionary to find<sup>53</sup> the so-called linguistic meaning and, in spite of the primacy of using this kind of interpretative direction, they choose different meanings when, for example, considering non-linguistic elements, or interpreting the intention of the legislator.<sup>54</sup> They also justify their choice by arguing that a certain meaning is specific for law or belongs to the language of law and that is why the meaning is different.<sup>55</sup> There are a lot of situations where lawyers have to choose between meanings from common language and legal language and the choice is often done *ad usum*. For example: “tax exemption” has a different meaning in common language and civil law and the courts use both meanings in their rulings. This specific feature of legal language, the creative power of legal language, makes common acceptance a secondary argument.

It is not very risky to claim that even semantic Kripke-Putnam is not suitable to apply fully in law. The theory does not cover all existing practices in law’s domain. Maybe it works at the level of declaration of what judges are going to do, but on the level of action, it seems to be quite incoherent.

There are some legal philosophers who claim that interpretation is always indeterminate and law is never objective. The main representative of this style of thinking is the Skeptical School of Genoa.<sup>56</sup> However, this approach is criticized on the grounds that “all normative formulations can be

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<sup>53</sup> See more, L. Solan, *When Judges use the Dictionary*, In: *American Speech* 86.1993, p. 50–57, A. Bielska-Brodziak, Zygmunt Tobor, Piotr Żmigrodzki, *Co każdy prawnik o słownikach wiedzieć powinien* (What every lawyer should know about the Dictionaries), Przegąd Sądowy 2008, No 7–8, p. 79–95.

<sup>54</sup> See example, Uchwała SN z dn 16.01. 2004, sygn. III CZP 101/03, OSNC 2005/4/58.

<sup>55</sup> See, wyrok NSA z dnia 13 kwietnia 2005 r., sygn. FSK 1652/04, LEX nr 166048. wyrok NSA z dnia 4 listopada 2005 r., sygn. FSK 2423/04, LEX nr 187977. uchwałę NSA z dnia 29 listopada 1999 r., sygn. FPK 4/99, Pr. Gosp. 2000/2/27.

<sup>56</sup> Skeptical School of Genoa: Giovanni Tarello, *Dottrine giuridiche e ideologie sindacali*, 1973, Riccardo Guastini, *Rules, Validity and Statutory Construction*, in: *Italian studies in law: a review of legal problems*, Ed A. Pizzorusso, Dordrecht, The Netherlands, Kluwer Academic Publisher 1992, Paolo Comanducci, Tecla Mazzarese, *Grounds of Liability. An Introduction to the Philosophy of Law*, Philosophia 18, 1988, Pierluigi Chiassoni.

ambiguous<sup>57</sup>”, and that it is an essential feature of language that at least some expressions have to be univocal. The skeptical approach about radical indeterminacy seems to be the consequence of identifying meaning with interpretation, as Kripke did.

Considerations about objectivity in terms of the determinacy and indeterminacy of law should also be done in the context of judicial discretion (decisions made on moral or political criteria), the normative gap, and inconsistencies in the legal system, and the problem of judicial activism versus formalism. It’s not sufficient to consider them just under the penumbra of vagueness on the linguistic level. The problem of objectivity may go according to the schema of three pairs of notions:

- determination/indetermination,
- formalism/judicial activism,
- objectivity/subjectivity.

The above consideration may find its source in the problem of judicial activism and formalism. In the Polish judicature, the doctrine of formalism is very strongly represented, but theoretically almost impossible to defend.<sup>58</sup> Maybe this phenomenon explains some of the curiosities drawn from legal practice.

Summing up, the possible objective status of legal facts is a controversial thesis. Even when considered only at the semantic level, the justification for claiming that legal facts are objective is limited as to its meaning. The necessity for interpretation and its application make the dream of objectivity unreal. Legal facts also need to be conceived in a broader context on normative and narrative coherence of institutional facts. Physical facts from human reality are dependent on interpretation with reference to their normative and narrative frameworks.<sup>59</sup> So, institutional facts consist of brute facts and an institutional framework and they are perceived according to legal narrative rules. This kind of paradigm of interpretation, which is used to set or grasp the sense of legal facts, allows only a weak assumption of objectivity.

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<sup>57</sup> See, E. Bulygin, *Objectivity...*, p. 228.

<sup>58</sup> It is impossible to defend from the point of view of the character of judging. It is postulated by the division of power principle that judges should only apply law and not make it (through interpreting).

<sup>59</sup> See, N. MacCormick, *Institutions...*, p. 34.

S U M M A R Y

The article examines objectivity of legal facts in order to determine what it means for legal facts to be objective, and to discover when and under what conditions it is justified to call them “objective”. This enquiry is on two levels: the semantic and the semantic-pragmatic. That is why I introduce first the different conceptions of legal facts and then the relation between legal facts and statements about legal facts. From this, I analyze how the statements identified by legal facts could be objective on a semantic level and under what conditions. Using Wittgenstein, and Kripke’s interpretation of Wittgenstein’s theory, I will further explore whether the meanings of statements about legal facts could be objective and in what sense. The semantic-pragmatic approach is based on the conception of institutional legal facts in a narrative and normative context illustrated by the examples from Polish courts.





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## CULTURAL CONDITIONING OF LEGAL LANGUAGE AND LEGAL INTERPRETATION

### Introduction

Both the law and the language are elements of culture, a set of facts of social character.<sup>1</sup> Language, as one of the structures serving human existence in public reality, is rooted in culture.<sup>2</sup> Legal language is a manifestation of institutional reality in which certain fixed semantic codes, relative to explaining legal terms and their interpretation are adopted. Understanding the law as a cultural fact and a way of participation in culture<sup>3</sup> assumes comprehension of legal language as a culture construct. It influences the notion of interpretation. Conviction about ontological dependence of language from culture, in which various interpretation objects coexist, causes that human interpretational activity is strongly conditioned by culture.

From the scientific perspective, related to the relationship of language and culture, there is a division into two fundamental trends of adopted ontology. The first one of them supposes the primordality of language over culture, the second, on the other hand, refers to the conviction that language is a product of culture. Correlation between relationship of language

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<sup>1</sup> The fact that the genesis of the law is connected to consequences of appearance of literate culture in human development manifests about relationship between language and law, and law and culture. According to Claude Lévi-Strauss, observation of first usage of writing convinces that it concerned above all the authorities and its examples are inventories, catalogues, censuses, laws and decrees. See G. Charbonnier, *Entretiens Avec Claude Lévi-Strauss*, Plon 1961.

<sup>2</sup> Cultural rooting of language understood as one of the ways of human existence in the world is defined as 'anthropological perspective'. See more B. Sierocka, *Jedność performatywno-propozycyjnalna a perspektywa antropologiczna*, in: *Przełom komunikacyjny a filozoficzna idea konsensu*, ed. B. Sierocka, Wrocław 2003, pp. 181–182.

<sup>3</sup> See M. Zirk-Sadowski, *Prawo a uczestniczenie w kulturze*, Łódź 1998.

and culture and the way of understanding the language is noticeable. The way to describe the relationship language-culture is determined by the way language is defined. Language can be understood as a creation of culture or as a factor creating it. It is reflected in approach to linguistic analysis in jurisprudence. On the other hand, the way of understanding the law itself may depend from what type of object is legal language recognised as. It causes consequences in adopting a specific understanding of interpretation, essence of the law or a conception of legal norm. The aim of this text is to show that relationship between language and culture influence various levels of legal language analysis (specificity of legal language, interpretation, criteria of establishing the meaning and the role of context and culture).

### From culture to language and from language to culture

Dependences and relationship between legal language and culture may be observed through analysis of key tendencies in linguistic sciences. Concepts of general theory of language are reflected in linguistic research done in the theory of law. Evolution of these tendencies progressed through such trends as structuralism, pragmatolinguistics and scientific concepts based on postmodernist post-Cartesian turning points which can be situated between structuralism and post-structuralism<sup>4</sup> or between such theoretic traditions as Cartesianism and interpretationism.<sup>5</sup> They propose different approaches to language, which may be simply presented as systemic-structural approach, approach accentuating performative character of utterance and finally approach of language as communication and cultural creation.

Contemporary jurisprudential studies in legal language research generally applied the method of systemic study of language of structuralist provenience and communication method which originated from sociolinguistics. Concepts being under influence of structuralist method studied language as a systemic structure composed of signs – elements of this structure and relationship between these elements. Structuralist research approach assumed a possibility to reach the essence of the analysed object through analysis

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<sup>4</sup> On this subject see A. Szahaj, *Teksty na wolności (strukturalizm – poststrukturalizm – postmodernizm)*, „Kultura Współczesna. Teoria. Interpretacje. Krytyka” 1993, No. 2, pp. 5–13, L. Rasiński, „Reguly” i „gry” świata społecznego – Wittgenstein, de Saussure i zwrot lingwistyczny w filozofii społecznej, in: *Język, dyskurs, społeczeństwo*, ed. L. Rasiński, Warsaw 2009, pp. 7–27.

<sup>5</sup> A. Kozak, *Trzy modele praktyki prawniczej*, in: *Studia z filozofii prawa 2*, ed. J. Stelmach, Cracow 2003, pp. 143–148.

of the structure which is the system of which this object is constituted (element). Structuralism understood language as an abstract system of rules and signs. Through analysis of language production (*parole*) we learn, reconstruct the properties of the system (*langue*). From such a perspective, language understood as a potential, abstract system of signs reflects then the state of culture and society. On the other hand, speech acts theory provoked drawing special attention to communication. It is done through linguistic utterances with regard to their force (locutionary, illocutionary, perlocutionary). From the perspective of speech acts theory, language is a substance which constitutes a source shaping public relationship. Legal language utterances fulfilling a performative (causative) function change the reality creating new legal states. Not a language understood as a structure but language production became the subject of the study. Language understood this way, becomes a tool used by a subject creating reality. It is not a subject (like in structuralism) situated in a network of relationship and a systemic structure accepting imposed conditions, cultural schemes and rituals. Language does not symbolise social phenomena but creates them, modifies and cancels. It is an object which influences the society. Language may be therefore understood as a created product (creation) reflecting reality and culture (structuralism) as well as a productive creation, designing the reality (pragmalinguistics) *ergo* created or creating, determined or determining, in relation to reality and culture. On the other hand, postmodernist tendencies in opposition to structuralism brought about an approach to analyse language not as a closed structure but as a part of a larger entity, context. Noticing this fact allows to perceive language as a communications object, differently than shown by the research on language as a structure out of context done by Ferdinand de Saussure or Noam Chomsky who comprehended language as a generative system.

Therefore, there are two directions in which the relationship between language and culture may proceed. Structuralist point of view of a studied object (language) can be described as directed from culture (also social reality and context) towards language. Taking into account the pragmalinguistic perspective allows for presentation of a direction of analysis of reverse order than in structuralism. It goes from language to social reality (culture, context). Third possibility is justified in poststructuralist trends, what was particularly exposed in the philosophy of pragmatism. We deal here with a turning-point in the situation of subject-sender (author). He becomes an administer of a text (work) creating sense and determining interpretation. There are changes that appear in understanding interpretation which consist in passing to interpretation determined not by the originator, creator of

the text but by context of its creation. Language is entangled into context and culture.

Evolution of concepts which allowed for observation of problems of legal language show that each one of them was marked by influence of culture on language, but oriented in a different way (from culture towards language, from language to culture, entanglement of the language into culture). In view of the presented concepts, the role of subject being a creator of the text is modified. It may be rooted in cultural conditioning, taking up a passive position regarding semantic relationship in a language as a system (structuralism). In the second case (speech acts theory) it is the subject formulating utterances, speech acts who decides about their sense and consequences. On the other hand, context is created by cultural conditionings 'external' to language or conventions fixed by the users of language. It refers to two dimensions of functioning of language emphasised both by structuralists and pragmalinguists, treating language as a universal and individual creation. Indicated tendencies are inscribed in the trend which abandons in linguistic research the Cartesian method of subject study from a dualist position, in favour of taking into account the context of the analysed object.<sup>6</sup> It is a consequence of a typical conviction of post-structuralism that a legal text constitutes an element of culture just as other creations of human thought. Turns which took place in human sciences (linguistic, cultural) showed that different texts may be studied in a similar way. The most influential trends of linguistic and literary science are also reflected in theory and philosophy of law noticing the role of 'cultural foundations of language'.<sup>7</sup> Moving these concepts to the area of jurisprudence convinces that there are two different approaches to the language of law and consequently two different outlooks on legal interpretation.

### **From language to culture and from culture to language**

Normative references of the law, in case of utterances of legal language, their causative, persuasive character cause that language influences the reality. Speech acts theory allows to look at the law and legal language as

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<sup>6</sup> It significantly influences the modern humanities. As Keith Devlin claims, researches of the context are symptomatic of modern analysis of language, communication and reasoning, *idem*, *Goodbye Descartes. The End of Logic and the Search for a New Cosmology of the Mind*, John Wiley 1997, p. 359.

<sup>7</sup> Compare A. Kozak, *Myślenie analityczne w nauce prawa i praktyce prawniczej*, Wrocław 2010, p. 104 and the following pages.

a discursive formation revealing itself through linguistic creations (texts) of legislator. The language of legal texts is a specific instrument influencing the receivers, and a peculiar type of linguistic message. In the context of linguistic pragmatics the key aspect of legal language is its 'causative' character achieved through performative function by means of which language modifies reality by developing potential effects (defined by conventional rules). Legal language utterances (as well as religious language) in fact, belong to most distinct examples of performative speech acts. Performative function of these utterances causes that differences between language and social occurrences fade away, since its application brings about constitution of various social institutions through the law.<sup>8</sup> Linguistic context which determines such use of language is defined by social conventions (legal, religious, moral), situation of use of a speech act from which depends the effectiveness of this act (L. Austin's *happy utterance*) as a performative utterance. Performative utterances defined by conventional legal rules elicit changes in legal situation of subjects by legally substantial conventional action. This specific modification of reality stems not only from such a use of language but also from the impact of paralinguistic factors. It is about external (objective) motivation of speech act. It is a paralinguistic and institutional context constituted by fixed conventions. Essential role is fulfilled here by a competence which is vested in the subject to be a sender of performative utterance and to make the utterance binding and effective (*happy utterance*). The conviction is in accordance with the opinion of Leszek Nowak according to whom it is the cultural context that decides about the performative character of an utterance.<sup>9</sup> In legal language, persuasive load of an utterance and illocutive and perlocutive intention of the sender accentuated within the speech acts theory of John L. Austin is particularly noticeable. Crucial determinant of legal language is a persuasive intention expressing the purpose of the sender to influence the behaviour of receivers through a model of conduct expressed in a legal norm inscribed in an utterance. Formulation of utterances fulfilling a creative function in a legal text is to cause a change in situation of legal subjects and achievement of a specific aim desired by a legislator. This fact allows to take into account the aspect of compulsion and authority of the legislator. From the legislative perspective both social conventions conditioning defined functions of an utterance as well as the cultural context fulfil an important role in researching the linguistic aspect of the law.

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<sup>8</sup> M. Zirk-Sadowski, *Wprowadzenie do filozofii prawa*, Cracow 2000, pp. 102, 105.

<sup>9</sup> L. Nowak, *Performatywy a język prawny i etyczny*, „Etyka” 1968, No. 3, p. 149.

Accepting the assumption that the law and legal language are culture objects, brings about definite consequences concerning the ontological status of this language. It concerns the conviction about institutional-normative character of legal language.<sup>10</sup> Reality presented in legal texts consists of institutional facts as understood by John Searle.<sup>11</sup> Dissimilarity of such utterances consists in a specific causative power as well as in employment of fixed methods of their interpretation. It is not non-structural (linguistic) criteria but conventional or paralinguistic, such as concept of origins of the law or the question of validity of the law, that decide about normative value of utterances. It is obviously necessary to agree with the concept of defining the legal language as a register of common language formulated from the perspective of sociolinguistic classifications. Its functions, aims which it is to serve and the range of users decide about the distinctiveness of this language. Persuasive character of an utterance does not directly result from the way the utterance is designed but from fulfilling conventional conditions of its use (among others who, to whom, in what circumstances and with fulfilment of which competences it is formulated). The specificity of legal language causes that interaction occurs on the level of *parole* and not *langue*. It is shown by performative function of an utterance and also textual character of legal language. Reaching for cultural conditioning creates a need to pronounce for conclusions of ontological nature when it comes to the question whether legal language is constructed with real or nominal elements with reference to the classical universalia controversy. In legal language, we deal with utterances of normative character, terms, not real existing entities (reality of institutional facts) which, what is symptomatic, shape subjects' behaviour. It creates a status of legal language composed of notions of which models of behaviour are implied. As Artur Kozak writes, the law works through socially formed institutional structure which generates a particular, professional semantics. Through this semantics it can attribute a specific cultural sense to other elements of social world, and consequently generate inter-institutional reality. According to Kozak, the point of support of reality of the law is thus reality of culture generated by society.<sup>12</sup> On the other hand, on the interpretation level, it is the reality (culture) that influences the language. Conventionality of rules relates to the influence on

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<sup>10</sup> M. Smolak, *Presupozycje ontologiczne tekstu prawnego*, „Ruch Prawniczy, Ekonomiczny i Socjologiczny” 2011, f. 4, 41–51.

<sup>11</sup> J. Searle, *The Construction of Social Reality*, London–New York 1995.

<sup>12</sup> A. Kozak, *Myślenie analityczne...*, *op. cit.*, pp. 103–104.

subjects but also interpretation of legal language utterances. Application of legal norm in a definite case is an operation preceded by reconstruction<sup>13</sup> which requires interpretation. Arrangement of the sense of a norm depends on its interpretation. The proof of that is the specificity of situation in which interpretation decision is done, as well as the character of interpretive community. Fixed rules and directives indicating the method and the result of interpretation which we shall describe hereinafter are decisive.

### **From language and culture to interpretation**

Interpretation of the law is rooted on two research areas. The first one of them is a positivistically oriented method of interpretation based on understanding the law as situated on the outside of cognising subject (Cartesian tradition). Notional structure of the law is discovered through induction, just as the structure of natural world is.<sup>14</sup> The content of the law is established on the basis of textual determinants, assuming that it is desirable to aim at synonymy. Analytically oriented methodology employs acceptance of some fictional constructions such as rational legislator as the sender of legal text or presumption of general knowledge of the law. These are ‘kind of’<sup>15</sup> assumptions characteristic of legal practice. The consequence of positivistic thinking based on Cartesian dualism of the subject and object is a conviction about unequivocal predetermining of the decision of a judge and exclusion of creative role of the lawyer.<sup>16</sup> Another tradition is a non-positivist approach which allows to adopt a conviction that the law is not a ready-made object and its interpretation is creative.<sup>17</sup> Necessity to interpret may be part of a phenomenon of open texture.<sup>18</sup> In case of semantic ambiguity of notions, the role of the judge who makes a decision is to ‘close’ the meaning by taking into account the fact that the meaning may depend on the context.<sup>19</sup> The sense of expressions may be decided by factors other than linguistic.

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<sup>13</sup> If we really assume a concept of legal norm as reconstructed from the legal rules.

<sup>14</sup> M. Zirk-Sadowski, *Pozytywizm prawniczy a filozoficzna opozycja podmiotu i przedmiotu poznania*, in: *Studia z filozofii prawa* 1, ed. J. Stelmach, Cracow 2001, p. 85.

<sup>15</sup> A. Kozak, *Myślenie analityczne...*, *op. cit.*, pp. 99–101.

<sup>16</sup> M. Zirk-Sadowski, *Pozytywizm prawniczy...*, *op. cit.*, p. 88.

<sup>17</sup> *Ibidem*, p. 92.

<sup>18</sup> See more B. Bix, *H. L. A. Hart and the „Open Texture” of Language*, „Law and Philosophy” 10 (1991), pp. 51–72.

<sup>19</sup> M. Zirk-Sadowski, *Pozytywizm prawniczy...*, *op. cit.*, p. 87.

The understanding of a meaning is influenced by paralinguistic factors, particularly contextual, which justifies the need to look for other method than analytic. The influence of culture on interpretation practices is taken here into consideration. The presented approaches turned up in different conceptions of understanding the law. Attachment to unambiguity and systemic treatment of language are embedded in intuitions of legal positivism, formalism, analytical trends and formal-dogmatic method. However, accentuating a creative character of interpretation and its situational conditionings corresponds to non-positivistic concepts of the law, hermeneutic methods or neo-pragmatist interpretationism.

The concept of Stanley Fish is an example of an approach to legal interpretation based on contextual and situational criteria. According to Fish, interpretation is contingent upon culture. Legal *interpretive community* is entrenched in the sphere of cultural traditions of interpretation. It is built upon accepted vision of the world, established in tradition, and rules which govern it with fixed repertoire of interpretation and inference rules.<sup>20</sup> It employs its own, distinct interpretation code. The specificity of this community constitutes, at the same time, a limitation of interpretational discretion. One of limitations of interpretation is cultural context and institutional nature of interpretation procedures. Communication is possible by participating in the same institutional structure. Such a community is of institutional character *since every interpretation is greatly dependant on institutional environment, instruments of understanding provided by our culture.*<sup>21</sup> Specificity of legal interpretation is determined by specificity of cultural codes which build the context in which it is made. It is in accordance with Fish's view that it is not the text that limits interpretation but it is interpretation that limits the text.<sup>22</sup>

## Context and the problem of meaning

Fish's approach to the issue of meaning is inspiring from the point of view of the relationship of language and culture. It may be placed on

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<sup>20</sup> About the characteristic of interpretive community see e.g. R. Sarkowicz, *Poziomowa interpretacja tekstu prawnego*, Cracow 1995, p. 45.

<sup>21</sup> A. Szahaj, *Zniewalająca moc kultury. Przedmowa*, in: S. Fish, *Interpretacja, retoryka, polityka. Eseje wybrane*, ed. A. Szahaj, various translators, Cracow 2002, pp. 14–15.

<sup>22</sup> P. Wójtowicz, *Wprowadzenie. Postmodernizm w obronie tradycyjnego literaturoznawstwa*, in: S. Fish, *Profesjonalna poprawność. Badania literackie a polityczna zmiana*, transl. P. Wójtowicz, Poznań 2012, p. 9.



the background of two traditions in the theory of law. With regard to the above-mentioned directions in current language-culture relationship research, the subject of interest of which are meaning and interpretation, there are two fundamental trends. The first one, inspired by analytic philosophy (and structuralist methodology) is based on the conviction that there is a possibility to reach the objective sense of the text and on attachment to unambiguity. The second one, emphasising discursive and creative nature of language, assumes that meaning is being discovered by an interpreter through creative interpretation. It is based on the assumption that we cannot attribute a unique defined meaning or even none to a text. On the one hand, in positivist tradition of interpretation accepted methods of establishing the meaning of a legal text are functioning, binding on interpreter and limiting his creativity in explaining the sense of the text. On the other hand, concepts which refer to post-structuralism and deconstructionism fall within this tradition. A special place among these extreme approaches is held by hermeneutic trends which assume that an important role in discovering the meaning is fulfilled by context and every interpretation is related to previous interpretations according to the concept of hermeneutic circle.<sup>23</sup>

Fish's views on the meaning are applicable in the analysis of law interpretation based on paralinguistic (or not only linguistic) criteria. According to Fish, it is not possible to reduce any sense or meaning only to a theoretic construction.<sup>24</sup> It is not however, a semantic nihilism or deconstruction of the sense since there exist two different ways to read the sense of a text, literal sense and functionally justified sense; literal sense and the sense revealing the intention of the sender. It allows to read differently one determined literal meaning with regard to different goals. Thus, one may say that there is no literal sense but literal sense understood as the only sense. Different literal senses of the same text in different situations may be literal.<sup>25</sup> As Fish would say, sense may be literal but for a purpose *ergo* situationally literal. As Fish writes, every reading of a text may be literal in the light of the assumed goal but no reading is literal in the sense that

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<sup>23</sup> Indicated national oppositions in the sphere of the theory of law may be referred to analytical, hermeneutical, discursive and communicative trend.

<sup>24</sup> S. Fish, *Almost Pragmatism: The Jurisprudence of Richard Posner, Richard Rorty and Ronald Dworkin*, in: *idem, There's No Such Things as Free Speech and It's a Good Thing Too*, New York–Oxford 1994, p. 225.

<sup>25</sup> S. Fish, *Normal Circumstances, Literal Language, Direct Speech Acts, the Ordinary, the Everyday, the Obvious, What Goes without Saying, and Other Special Cases*, in: *idem, Interpretacja...*, *op. cit.*, p. 39.

it is attainable in isolation from a goal.<sup>26</sup> Meanings seem to be literal since it stems from effective acts of interpretation and not from the characteristics of a language.<sup>27</sup> According to Fish, meanings are subject to different kinds of limitations to which belongs also 'the letter of the law' as well as characteristics of an interpretive community. He claims that meaning and some interpretative assumptions are always inscribed in the text, they do not have to always be the same. They do not result however, from the traits of the language but from discourse situation.<sup>28</sup> The sense of the text is arranged for a given situation of its reading. Fish writes that *a horizon of understanding is not a monolithic unity*.<sup>29</sup> The law is a continuously read interpretation object with the result that in a number of situations of interpretation, the sense of a given text is continuously revealed (even if literal reading does not apparently meet desired requirements). Therefore, reading of a text is carried out through context. The higher the frequency of a context accompanying a given content the less it is noticeable, which may cause an illusion of obvious or literal meaning. In the light of Fish's claims, assumptions adopted during interpretation which concern the method of reading the intentions in the text understood as added, may constitute a context, the text is read as their justification (confirmation) and extraction.<sup>30</sup> It may be reduced to a conviction that interpreters of legal texts referring to other previous solutions and taking into account the entirety of jurisprudence are inscribed in the mechanism of constant 'reinterpretation' of a legal text.

A subject studying a legal text (as well as the law itself) is always situated in a given social practice. Various types of practices and convictions fall within its scope. Such a perspective is defined by some determinants, fixed by a set of convictions creating an 'interpretation position'. The fact that interpretation and application of the law increasingly demand making axiological choices is a sign of such situation in a system of interpretation convictions. Interpretation practice is based on values accepted in a given culture and as such becomes *an axiological activity having the task to confirm/question a defined set of convictions of ethical or even political charac-*

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<sup>26</sup> S. Fish, *Normal Circumstances ...*, in: *idem, Interpretacja...*, *op. cit.*, p. 43.

<sup>27</sup> S. Fish, *Introduction: Going Down the Anti-Formalist Road*, in: *idem, Doing What Comes Naturally. Change, Rhetoric and the Practice of Theory in Literary and Legal Studies*, Dyrham-London 1989, p. 150.

<sup>28</sup> S. Fish, *Normal Circumstances...*, in: *idem, Interpretacja...*, *op. cit.*, p. 57.

<sup>29</sup> S. Fish, *Play of Surfaces: Theory and the Law*, w: *idem, There's No Such Things...*, *op. cit.*, p. 190 and the following pages.

<sup>30</sup> S. Fish, *Normal Circumstances...*, in: *idem, Interpretacja...*, *op. cit.*, pp. 31-37.

ter.<sup>31</sup> In many cases interpretation problems coincide with questions going beyond the positive law. It is the case of interpreter facing ethical or moral issues (settlement of cases relating to artificial reproductive techniques, euthanasia, cremation etc.). Making decisions related to the meaning of utterances of a legislator is not only referring to systemic criteria of language but also to the sphere of paralinguistic and even extralegal and cultural justification, as well as accuracy or goal which justifies the interpretation decision in hard cases. On the other hand, it is in controversial questions from the axiological point of view, that open texture notions appear more frequently and clarity is difficult to reach. Reaching clarity as Herbert L. A. Hart emphasizes, is equally hard for a judge as realisation of the *Noble Dream*.<sup>32</sup> According to Hart, clarity may be understood solely as a regulative idea, point of reference in interpretation in the form of a common rule of a justified and sensible decision. Observation of the decision-making practice of courts convinces that in many cases a judge adopts such an understanding of the meaning which he finds the most appropriate for a given decision. This operation may be preceded by disclosure of rules or methods of interpretation leading to the decision. In such cases an interpreter creates and not discovers the meaning of a legal text. Such interpretation of the law finds its application more and more frequently with regard to the tendency of approaching different legal systems due to integration process. The specificity of application of law and interpretation of the European Union law convinces about this fact. Jurisdiction of the Court of Justice of the European Union which applies mostly purposeful directives in interpretation of the law is an example of such interpretation. The European Union law order which is a compound, multilingual creation demands a creative approach to interpretation the aim of which is not only seizing the literal text readings but realisation of the postulate of a homogenous interpretation of the law as well as effective law application. It is clear that the reason for such a decision-making practice is the diversity of legal cultures and legal systems of particular Member States. The phenomenon of progressing convergence of genetically and historically distant legal orders like Anglo-Saxon

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<sup>31</sup> A. Szahaj, *Zwrot antypozytywistyczny dopełniony (zamiast wstępu)*, in: *Filozofia i etyka interpretacji*, eds. A. F. Kola, A. Szahaj, Cracow 2007, *op. cit.*, p. 9.

<sup>32</sup> H. L. A. Hart, *Essays in Jurisprudence and Philosophy*, Oxford 1983, p. 123–144. Referring to the conviction of this author about the impossibility to reach clarity it may be stated that Fish's concept may constitute an explication of Hart's theory on open texture of notions and legal rules. See M. Andruszkiewicz, *O związkach teorii prawa i teorii literatury (refleksje w kontekście tendencji ponowoczesnych)*, in: *Teoria prawa między nowoczesnością a ponowoczesnością*, ed. A. Samonek, Cracow, Jagiellonian University Press, at the printer's.

and Continental legal systems should also be noticed. Formation of multicentricity of the law is the evidence of that.<sup>33</sup> The above show that the answer to complications consisting in diversification of settlement of proceedings or multiplicity of possible literal interpretations is application of criteria referring to a wider context than only linguistic or functional.

A contemporary lawyer who interprets the law reaches not only for linguistic rules in which do not give all the answers but also to contextual, functional rules for justification of the goal of the interpreted text. Not only language but also the context may be the source of meaning. Therefore, the interpretation context consists of a formal and institutional structure as well as cultural background. The proof of that is also the fact that a given concept of interpretation of the law is a consequence of its author's self-determination with relation to the concept of the essence and function of the law, its meaning, aim etc. Different approaches of law interpretation were motivated by differences in their representatives' views on notions fundamental for jurisprudence as e.g. legal norm. The followers of linguistic concept of a norm referred to achievements of analytical philosophy oriented around logical traditions. Taking into account the importance of the influence of cultural context of the language influenced shaping of non-linguistic concept of a legal norm and departing from methods of analytical philosophy to methods of socially oriented philosophy. The requirements to achieve a precise effect of interpretation determine the way of determining and explaining the sense of legal language notions. Adoption of defined interpretative directives (allowing for an interpretation of the law, homogeneous to some measure) causes a number of consequences in social effect of the law, the sense of legal security of subjects, fulfilment of principles of legal certainty, social acceptance for legal practice and consequently implementation of fundamental aims and functions of the law which language is to serve.

Usage of other directives than linguistic in interpretation persuades that the meaning may be influenced not only by the properties of linguistic system and its lexis but also other factors, especially when we deal with a case difficult to interpret. Therefore, it shows that strict acceptance of the priority of rules of linguistic interpretation may be questioned for other determinants of interpretation especially when clarity based on linguistic rules

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<sup>33</sup> See *Multicentrism as an Emerging Paradigm in Legal Theory*, eds. M. Zirk-Sadowski, M. Golecki, B. Wojciechowski, "DIA-LOGOS. Schriften zu Philosophie und Sozialwissenschaften-Studies in Philosophy and Social Sciences", Vol. 11, Frankfurt am Main, 2009.

is difficult to achieve. In such cases, typical positivist axiology recognising certainty of the law as fundamental value which is attainable by means of clarity may provide insufficient instruments for an interpreter. The way of reading a text depends on adopted directives of interpretation, the choice of which is imposed by the goal of the legislator and by conditions in which the decision is made, as well as by contextual conditioning. To the determinants of understanding of a defined expression belong: goal, intention and specificity of interpretative situation. In a situation when an interpreter takes also into account the influence of the context on the meaning and understanding of expressions, he goes beyond *stricte* linguistic criteria. Establishing the meaning may be based on other determinants than linguistic rules. It corresponds to Fish's views: *meanings that seem perspicuous and literal are rendered so by forceful interpretive acts and not by the properties of language.*<sup>34</sup> The influence of cultural factors on the law causes that establishing the meaning does not only consist in applying linguistic criteria or textual determinants. Cultural context becomes the point of reference in interpretation, going beyond the linguistic determinants and going in the direction of non-linguistic justifications (ethical, political, theological etc.) It fulfils a crucial role in legal interpretation, especially while using functional and purposeful directives of interpretation of the law and particularly when we deal with unclear, ambiguous or axiologically marked notions. In such cases isolation of the text from its context may turn out complicated, since not only linguistic but also paralinguistic criteria decide about its meaning. The dispute over meaning is not then reduced to linguistic criteria but consists in referring to contextual or even cultural determinants. It is in accordance with Fish's intuition according to whom the meaning is hidden not in the text but between the text and the context and interpretation is culturally conditioned. The assertion corresponding to this concept saying that 'there is nothing beyond interpretation'<sup>35</sup> shows that language texts are not ready-made, finished but demand explanation through reference to their cultural, social and political context.<sup>36</sup>

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<sup>34</sup> S. Fish, *Introduction: Going Down the Anti-Formalist Road...*, *op. cit.*, p. 9.

<sup>35</sup> A. Szahaj, „*Nie ma niczego poza interpretacją*”, *tako rzecze Stanley Fish*” (*There is Nothing Beyond Interpretation*”, *Thus Spoke Stanley Fish*), „Er(r)go” 2001, No 2, pp. 79–83.

<sup>36</sup> Compare A. Szahaj, *Zniewalająca moc kultury...*, *op. cit.*, pp. 14–15.

## Conclusions

Cultural conditioning of legal language and the context created by semantic codes has impact on the way the legal language and legal interpretation are understood. Analysis of the relationship between culture, language and the law allows for some remarks. It is a fact that the way we understand the relationship culture-law and culture-language affect the definition of the notion of legal language. It also affects the views on interpretation. It might be understood as reaching the unequivocal objective meaning of the text (by using linguistic directives) or establishing the meaning according to the aim of interpretation, taking into consideration the contextual and situational determinants (purposeful directives). There is a change in approach to interpretation which consists in passing from linguistic to non-linguistic interpretation. It should be added that revision of thinking about interpretation and its broad understanding (contextual and extratextual) opens the possibility to 'reactivate' the hermeneutic methods<sup>37</sup> or to look for other oppositional concepts of interpretation being a response to a crisis of analytical methods. From the definition of the relationship language-culture may depend the fact of being in favour of the concept of static or dynamic interpretation of the law. It also concerns the construction of legislator as a sender of legal text who may be understood as subject which gives the text a meaning, whereas the role of an interpreter is to decode the actual meaning on the basis of presumption of sender's rationality. Legislator may be defined as the one who forms the content of the law, interpreted in a creative way with regard to the goal of interpretation.

Opting for a given concept of legal language is productive as far as it concerns adopting ontological decisions in the concept of the law<sup>38</sup> understood from the positivist or non-positivist point of view. It is a consequence of accepting determined assumptions related to language and culture. A dispute whether the language is a product of culture or culture a creation of language is of course not easy to decide (similarly to the example of thought

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<sup>37</sup> On the practical application of hermeneutic methods see T. Stawecki, *O praktycznym zastosowaniu hermeneutyki w wykładni prawa*, in: *Teoria i praktyka wykładni prawa*, ed. P. Winczorek, Warsaw 2005. Turning to the methods of hermeneutic interpretation may signify adoption of analysis of a text as rooted in the tradition of humanistic interpretation.

<sup>38</sup> Changes in understanding the law influence the evolution of integration tendencies between jurisprudence and the disciplines interested in language. As a consequence of changes influenced by postmodernism interpretation is the key issue. With regard to this, the theory of literature and especially the research focused on the trend defined as *law and literature*, among which interpretation problems are situated, should also be included in the external integration range of jurisprudence.

and being). Let us return to Fish who thinks that interpretation is not a theoretical problem but an empirical one.<sup>39</sup> A conviction that any programmed way of perception exist and cannot exist in a text show that interpretative practice is entangled in reality (existence) and culture. Fundamental problems decided by interpreter often go beyond the field of positive law. It corresponds with the fact that notions which are to influence the reality (influence on entities by nominal objects) are constituents of a legal text. Meaning of these notions and their interpretation are rooted in cultural context. Coming back to the above-mentioned oppositions structuralism-poststructuralism, cartesianism-interpretationism in the evolution of language-culture-law relationships one may become convinced about changes in this evolution. As a consequence of post-Cartesian turn connected to revision of views on primary character of thinking about entity as well as conviction that interpretative problems embedded in social-cultural sphere (and not exclusively systemic, linguistic), maybe Cartesianism is being reformulated into specifically understood existentialism.

#### S U M M A R Y

The aim of the present article is to determine the relationship between language and culture at different levels of analysis of legal language. Elements of a legal text are notions which are to influence the reality. It is the influence on entities by nominal objects. Meanings of these notions and their interpretation are embedded in cultural context. Cultural conditioning of legal language and context created by semantic codes influence legal interpretation. There is a shift in the approach to interpretation which consists in passing from linguistic interpretation to considering non-linguistic factors (from text to context). The dispute about meaning is not reduced to linguistic criteria but consists in reference to extralegal contextual determinants. Cultural context going beyond linguistic determinants in the direction of ethical, political, theological justifications etc. becomes the point of reference in interpretation. It fulfils the key role in legal interpretation especially during functional and purposeful directives of interpretation of the law, particularly when we deal with ambiguous, polysemantic or axiologically marked notions. Therefore culture determines the way of defining the legal language and influences its understanding and interpretation.

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<sup>39</sup> S. Fish, *Stanowisko tekstualne nie istnieje*, transl. L. Drong, „Er(r)go” 2006, No 12, p. 121. According to Fish, the meaning cannot be established without interpretation. This approach is conditioned by anti-essentialist attitude of the author. It seems that Fish's anti-essentialism, his conviction about inveteracy of interpretation in context, reality is a turn in the direction of existentialism.





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**THE ACT OF TRANSLATION IN HANS GEORG  
GADAMER'S HERMENEUTIC PHILOSOPHY  
OF LANGUAGE**

**Introduction**

The development of the field concerned with the study of the phenomenon of translation was strongly influenced by philosophical hermeneutics. This should be of no surprise as hermeneutics, in all its forms and configurations, revolves around such topics as language, understanding, meaning, text, interpretation, and, consequently, translation. Also, hermeneutics, just like translation studies, is concerned with overcoming barriers in order to come to a specific understanding. As Gadamer put it, the translator's task of recreation is different only in degree from the general task presented for hermeneutics by all texts.<sup>1</sup> The chief thinkers who in their hermeneutical considerations took up the analysis of the process of translation and the role of the translator include Rolf Klopfer, Friedmar Apel, Frits Pæpcke, George Steiner, Douglas Robinson, Lawrence Venuti, and precisely Hans Georg Gadamer.<sup>2</sup> Here we can refer to the words of Palmer, who stated that contemporary hermeneutics finds in translation and its theory a specific "reservoir" for exploring certain hermeneutical issues and problems, and that the phenomenon of translation is in a way a key matter of hermeneutical studies.<sup>3</sup> And it was Gadamer who influenced the theoreticians and critics of translation studies more than any other hermeneuticist.<sup>4</sup>

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<sup>1</sup> H.-G. Gadamer, *Truth and Method*, London–New York 2004, p. 389.

<sup>2</sup> H. Kittel, J. House, B. Schultze, *Übersetzung: Ein international es Handbuch zur Übersetzungsforschung*, Berlin 2004, p. 191–194.

<sup>3</sup> R. E. Palmer, *Hermeneutics: Interpretation Theory in Schleiermacher, Dilthey, Heidegger*, Evanston 1969, p. 33.

<sup>4</sup> *Routledge Encyclopaedia of Translation Studies*, ed. M. Baker, G. Saldanha, London–New York 2008, p. 132.

Therefore, this article aims at presenting the act of translation as a specific hermeneutical experience in the light of Gadamer's philosophy of language and his comments on translation and the role of the translator. The discussion of these issues starts with reflections on language and man's relationship with the world, as translation, a process totally "immersed" in language, is closely related with this relationship and man's image of the world as expressed in a given language. Moreover, due to the fact that Gadamer's views on the process of translation are presented in the framework of his philosophy of language and remain in a close connection to it, and that the translation process itself is a linguistic act, the discussion of translation must start with an overview of the relationship shared by language, man, and the world. The following parts of the article look at the act of translation in the context of hermeneutic concepts of understanding and dialogue, interpretation, and text.

### Language and man's relationship with the world

Gadamer's philosophy of language is described as hermeneutical, belonging to the continental, transcendental and fundamental tradition of language studies. Bronk characterizes it also as romantic, or humanistic.<sup>5</sup> However, we must ask here about the essence of this hermeneutic philosophy of language. It seems that Bronk has prepared an accurate description for it by saying that the hermeneutic approach means looking at language holistically – analysing it with due respect to the totality of the linguistic and extra-linguistic context. Thus language is perceived in the light of human existence, the functioning of the world, or everyday activities. It is a universal medium through which (and in which) the process of understanding takes place. The emphasis is put on the relationship that language has with cognition and the world.<sup>6</sup> On the other hand, Pawliszyn, in her synthesis of the hermeneutical concept of language, highlights the importance of living speech as the fundamental basis for the occurrence of this phenomenon. Also, she adds that the meaning of an utterance is to a great extent formed by certain subjective contents provided by the speaker. This subjective state

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<sup>5</sup> A. Bronk, *Rozumienie, dzieje, język. Filozoficzna hermeneutyka H.-G. Gadamera*, Lublin 1998, p. 278–279. Bronk states there that Gadamer's philosophy of language is characterised by a "mythical and magical" approach, and the act of using language itself equals to a "creation" of a world. Also, language, thought, and world are closely connected to each other.

<sup>6</sup> *Ibid*, p. 291–294.

of the person uttering specific words significantly influences the understanding of the content he is trying to convey. Moreover, the proper reading of his message is only possible when the subjective state of the speaker is taken into account. This also emphasizes the importance of the relationship between language and the world, and other man.<sup>7</sup> In short, hermeneutical philosophy of language consists mainly of a total analysis of language, particularly its relation with human existence, the world, and other man. Nothing here is said once and for all: the meaning of a statement appears only in concrete situations, in the context of other words or expressions – only then is understanding possible. Truly, Gadamer's philosophy of language is, to quote Baran, "[...] a specific sameness of the counter-members [...] of world and language."<sup>8</sup> Let us have a closer look at this sameness.

Referring to Aristotle's thoughts on the differences between man and animals in terms of language, Gadamer points to the human-specific ability to convey their thoughts to others, which, consequently, enables the process of forming human communities and social life in general. Interestingly, Gadamer does not describe language as a tool used for communicating with the surrounding world. Due to the fact that language precedes the thought process and man's knowledge of the world and of himself is in a way immersed in it, language and thought cannot be separated. The two are inseparable and, what is more, thinking is only possible in a given language. Therefore, according to Gadamer, it is impossible to think without being "at home" in language. This settling at home determines man's acquisition of knowledge about the world and himself. It is through speaking that we learn about the surrounding reality, which we familiarize in the act of speech. Language (or, to quote Gadamer: "our linguistic interpretation of the world") is unchangeably something primal in relation to thought and cognition. "[...] Language is the real mark of our finitude."<sup>9</sup> This is very similar to Wittgenstein's statement about the limits of our language. At a different occasion, Gadamer claims that in shaping language (as we are able to do so) we are still enclosed within the boundaries of this ability.<sup>10</sup> Therefore it seems that language, which determines our world-view, influ-

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<sup>7</sup> A. Pawliszyn, *Skryte podstawy rozumienia. Hermeneutyka a psychoanaliza*, Gdańsk 1993, p. 29–30.

<sup>8</sup> B. Baran, *Spekulacja hermeneutyczna*, [in:] H.-G. Gadamer, *Prawda i metoda*, Kraków 1993, p. 14.

<sup>9</sup> H.-G. Gadamer, *Man and Language*, [in:] *Philosophical Hermeneutics*, Los Angeles 2008, p. 59–69.

<sup>10</sup> H.-G. Gadamer, *The Boundaries of Language*, [in:] *Language and Linguisticality in Gadamer's Hermeneutics*, ed. Lawrence K. Schmidt, Lanham 2000, p. 12.

ences human experience and the knowledge acquired by men. Here it is worth to quote Rosen who analysed Gadamer's philosophy of language and said that there is no "prelinguistic consciousness of oneself or the world"<sup>11</sup> as it is language that forms consciousness.

This relates to the significant issues of consciousness and language. According to Gadamer, language is not contained in any individual consciousness or in any group of consciousnesses. Also, he characterizes three aspects of the being of language. Starting from the statement saying that language is a living process, Gadamer claims that whenever something is expressed, language disappears along with its consciousness. Therefore, to quote Gadamer: "[the] real being [of language] consists in what is said in it. What is said in it constitutes the common world in which we live and to which belongs also the whole great chain of tradition [...]" The second aspect of the being of language is that speech is present only in the sphere of a community, and the third is its universality – in which it resembles reason: "[...] "the full potential that lies in language [...] enables [it] to keep up with reason."<sup>12</sup> Thus language is in a way an inseparable thread connecting all men and their relationship with the surrounding reality, which is the basis of understanding.

Language according to Gadamer – as was said at the beginning of this article – is inextricably bound with man's being in the world. Gadamer went as far as to claim that "language is the real medium of human being."<sup>13</sup> Man was somewhat equipped in language, which, at the same time, is evidence of the fact that humans "have a world", or, in other words, they relate to it. This means that man possesses both world and language. World and language are two members that intertwine each other and in a way determine their existence. Can we say that language and the world are two separate entities? Well, Gadamer claims that it is impossible: the world is itself only when expressed in language; language exists only when it presents the world. Therefore we can say that there is no world without language, and no language without the world. People, possessing language, relate to the world and the environment they inhabit. What is relevant here is the fact that they are free from their environment – as expressed in their possession of language and the world. Therefore man can freely express anything that happens to him in the world through speech. Man, moving away from his

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<sup>11</sup> K. Rosner, *Gadamerowskie rozumienie języka*, [in:] eadem, *Hermeneutyka jako krytyka kultury*, Warszawa 1991, p. 175.

<sup>12</sup> H.-G. Gadamer, *The Boundaries of Language*, op. cit., p. 10.

<sup>13</sup> H.-G. Gadamer, *Man and Language*, op. cit., p. 68.

environment, assumes a different attitude towards that which is reflected in the language he uses. In Gadamer's words, we can say that man "is, from the beginning, free for variety in exercising his capacity for language."<sup>14</sup> Man is able to use language freely, and therefore he is capable of expressing the same thing in many various ways. Language is, as Gadamer rightfully pointed out, in its essence changeable: "In language there is an unlimited openness for further expansion. No language is just the system of rules that the language teacher has in mind or that the grammarian abstracts. Every language is constantly changing."<sup>15</sup> Here rises a rather interesting issue: since it is possible to express things in various ways, and language also has the capacity to change, is man therefore capable of changing the world? Apparently it is so, especially if we relate this world to human behaviour and his relation to his surrounding reality.

The world is a specific foundation upon which human understanding is built in some language. The world is the medium through which understanding can be reached. It is realised via dialogue, because only through it men can give meaning to the world. This dialogue, however, can be understood in two ways: as an actual act of communication between two partners of a conversation, or as a hermeneutical conversation, whose partners are text and the person who interprets it.

These considerations acquire a specific meaning when we take into account the relationship between a foreign language and its user, meaning here also the translator. Gadamer rightly points out that "a foreign language remains a specific limit experience," and that actually we are never convinced that the words in a foreign language are simply other names of the same things which we have in our native language.<sup>16</sup> As previously mentioned, language determines our experience of the world and, at the same time, allows us to enter a different linguistic world. When we hear or read an expression in a foreign language, we enter a different linguistic world. Yet we do not negate our own world – we enhance it with new experiences. A foreign language opens new possibilities of perception of the same reality; as Gadamer puts it: "[...] what really opens up the whole of our world orientation is language."<sup>17</sup> Let us once again refer to Gadamer's concept of man's having the world and language. Now, learning a foreign language does not mean that man changes his relation to the world. On the contrary, his relationship

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<sup>14</sup> H.-G. Gadamer, *Truth and Method*, op. cit., p. 442.

<sup>15</sup> H.-G. Gadamer, *The Boundaries of Language*, op. cit., p. 14.

<sup>16</sup> H.-G. Gadamer, *The Boundaries of Language*, op. cit., p. 14–15.

<sup>17</sup> H.-G. Gadamer, *Truth and Method*, op. cit., p. 446.

with the world is retained, but is also extended and enriched.<sup>18</sup> This is of particular relevance to the situations faced by translators (both written and oral) who, being in contact with a foreign language, enter a specific relation with the world – the world enhanced with a different cognitive horizon, but also with some unchangeable difficulties, mainly in understanding.

### **Translation as a situation of obstructed understanding**

As was said previously, understanding is reached through language. However, this understanding is often interrupted or obstructed. An example of such situation is – according to Gadamer – oral translation, which allows for a conversation in two different languages. The task of the translator is of course to convey the meaning of the message, but this meaning must at the same time explicitly refer to the context in which the speaker is functioning at the moment of speaking. The translator, who renders the message in a different language, must also provide it with a new expression. Therefore Gadamer rightly highlights the fact that each translation is interpretation, since the translator, when hearing the words said to him, provides these words with a specific and unique meaning; the meaning is unique because it is closely related with the concrete situation in which the translator finds himself.<sup>19</sup>

Let us return to the central issue of this part of the article, that is, the obstructed understanding as manifested by oral translation. At this point it is worth asking how much – in the light of Gadamerian hermeneutics – of the process of oral translation is conversation, and, more importantly, how much of it is understanding, and whether it is even possible to call it that. Therefore in this respect, what remains essential is the following issue: between whom does the understanding take place in this type of translation? According to Gadamer, in such situations, understanding does not occur between the partners of the conversation, but between the translators of the particular languages. Because what is oral translation if not depriving the partners of a conversation of their possibility to express themselves and their ideas?<sup>20</sup> While it is true that it seems that in such translation, the persons participating in the conversation (excluding the translators) reach a certain understanding and, to some extent, they can finalise their

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<sup>18</sup> Ibid, p. 449.

<sup>19</sup> H.-G. Gadamer, *Truth and Method*, op. cit., p. 387.

<sup>20</sup> Ibid.

business, but can we honestly say that there is an exchange of ideas between them? Apparently there is none. Since the presupposition of understanding is dialogue, and such dialogue can take place only between partners who understand each other, in the case of a translated conversation there can be no talk of understanding, much less of exchange of ideas.

Gadamer rightly notices that every conversation assumes that its participants use the same language. Only then does understanding take place; it cannot occur during translated conversations – in a situation where the participants (if we can call them that) use different languages. Since a given person uses the services of a translator, it means that he or she does not understand a given foreign language. In consequence, this indicates the impossibility of understanding, whose basic requirement is proficiency in and comprehension of language. Gadamer describes translation from a foreign language as an extreme case that doubles the hermeneutical process: the process takes place between the translator and the one partner, and between the other partner and the translator.<sup>21</sup> This also relates to the situation of translating texts. In this case, the partners of a conversation consist of, on the one hand, the author of the source text, and on the other, the reader of the target text. If the latter uses a prepared translation, and not the original text written in a foreign language, it mainly suggests that he has not mastered that language well enough to use it freely and without any obstruction in understanding. Therefore, reaching an agreement is in such a case impossible. We must also mention here the specific doubling of the hermeneutical situation. The reader, although not of the target text, but of the source text, is the translator himself, who – at least presumably – has mastered the foreign language in a way that allows him to understand the text and render it in a source language. The translator and the author of the source text are also partners in a conversation; although here it seems that reaching an understanding is easier and achieved more freely than in the other case. Whether the translator reaches an understanding with the author of the original determines – if only we can call it that<sup>22</sup> – the understanding taking place between the author of the original and the reader of the translation. If the translator has not mastered the foreign language well enough – and there can be no understanding in such case – he is not able to ensure the understanding between the two partners of the hermeneutical conversation in form of written translation.

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<sup>21</sup> Ibid.

<sup>22</sup> Maybe such situation should be defined as a secondary understanding, assuming of course that such understanding is, generally speaking, possible.

The oral translator, on his side, also faces great barriers in achieving understanding. First of all, we must again take note of the language competence of the translator, along with his mastery of the given foreign language. We cannot ignore the fact that the lack of proficiency in the foreign language disrupts the understanding in the conversation, or makes it virtually impossible. Reaching an agreement is often problematic even if the partners of the conversation share a common native language, so the problems are much greater if they are using a foreign language, albeit fluently.

Gadamer rightly notices that in every conversation we open ourselves up to the other, we consider his point of view and opinions, and, in a way, we accept them and we identify with the other person, but only in terms of his message. Therefore, in such case we do not try to understand our partner in conversation in terms of individuality, but we try to understand his point of view in terms of content. As Gadamer emphasizes, we cannot talk about understanding when the focus of our interest are not person's ideas, but rather the person itself.<sup>23</sup>

Even in the case of perfect mastery of a foreign language, the oral translator feels a distance between him and the person he is speaking to in a foreign language – a distance that cannot be covered even though maximum effort was made to understand the situation of the speaker and the situation of the person to whom he translates. In trying to reach an understanding the translator comes to the conclusion that he must finally settle for a compromise expressed in him using certain lexical means, grammatical structures, modifications in the length of the message, and so on. In order to properly recreate the message the translator must transpose it into the speaker. However, it is also impossible to fully realize this aspect. To come to an understanding, both the translator as well as the partners of the conversation must acknowledge their opinions and points of view, and accept the fact that there is a distance between them that is impossible to be breached. Gadamer notices that thanks to acknowledging the other's point of view and recognizing the reasons of the other party, the partners can draw some common conclusions.<sup>24</sup> If we compare this to the situation of the oral translator we can say that this person must acknowledge the foreignness and distance of the other language and, at the same time, convey the message given to him in his native language. On the shoulder of the translator rests the composition of a potential agreement on a given matter, and it is he who is responsible for the establishment of a common language of a given

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<sup>23</sup> H.-G. Gadamer, *Truth and Method*, op. cit., p. 387.

<sup>24</sup> *Ibid*, p. 389.



conversation. Following Gadamer's idea, the translator can be described as a negotiator who uses the medium of language to achieve a compromise and convey a message in such a meaning that expresses that which was said to him. Yet this is only possible when the situation of the speaker of the foreign language is related to the situation of the speaker of the native language. Without a doubt, this is the most difficult task. Especially when we consider that, according to Gadamer, conversation is far from being an exchange of arguments or simply adding one opinion to another, but is rather a starting point in the search for a common denominator of a given matter.

The true reality of human communication is such that a conversation does not simply carry one person's opinion through against another's in argument, or even simply add one opinion to another. Genuine conversation transforms the viewpoint of both. A conversation that is truly successful is such that one cannot fall back into the disagreement that touched it off. The commonality between the partners is so very strong that the point is no longer the fact that I think this and you think that, but rather it involves the shared interpretation of the world which makes a moral and social solidarity possible.<sup>25</sup>

However, assuming such point of view brings yet another difficulty for the oral translator to face. Now, if we assume that the agreement that is supposed to take place between the partners of a conversation consists in such transformation of their ideas so that a compromise can be worked out, then the translator, assuming he wants to make a reliable translation, must assume a totally neutral attitude towards that which he is witnessing. He must not permit to disclose his own personal views, which would influence the final understanding. The question is, however, if such a neutral approach is actually possible. If it is not, it means that the understanding building up between the partners of a conversation is always incomplete, stained by the point of view of the translator, not necessarily giving truth to the original message.

The difficulty with breaching the distance and foreignness in translation is also experienced by translators of texts. Similarly as with oral translation, the written translator also must make certain compromises connected with the lexical, grammatical, stylistic, or cultural sphere of the text he is translating. Undoubtedly, never will there be one and correct solution to the problem, and the one used will always be only partial and, precisely, a compromise. The task of the written translation is the recreation of a text, and to do this he must empathise with the author. However, such approach still

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<sup>25</sup> H.-G. Gadamer, *The Gadamer Reader. A Bouquet of the Later Writings*, Evanston 2007, ed. R. Palmer, p. 96.

does not guarantee the translator's success. In the process of translation, he must accept the foreignness and distance between him and the author of the source text, assume the author's view-point and assume a potential situation in which something cannot be expressed or rendered in a different language. The translator must, when translating something into his native language, stick to his language, but at the same time he must be in contact with the language that remains foreign to him, despite his perfect mastery of it. As Gadamer accurately emphasizes, the translator will be genuinely recreating a text only when he brings the subject matter of the text into language, that is, only when he finds the appropriate language for the target, as well as the source text.<sup>26</sup>

Another difficulty in achieving understanding in a conversation – to which Gadamer points in his deliberations on language and understanding – is the fact that expressions never have full meaning:

“Occasional” expressions, which occur in every language, are characterized by the fact that unlike other expressions, they do not contain their meaning fully in themselves. For example, when I say “here.” That which is “here” is not understandable to everyone through the fact that it was uttered aloud or written down; rather, one must know where this “here” was or is. For its meaning, the “here” requires to be filled in by the occasion, the *occasio*, in which it is said. [...] [Expressions of this type] contain the situation and the occasion in the content of their meaning.<sup>27</sup>

This is of great significance in the case of oral translation. Depending on the proper grasp of the meaning of not only particular word but also of whole statements, a conversation can begin to move in a specific direction. Now, this influences its final quality and determines the reaching of an agreement between the partners. What remains extremely complicated in this respect is grasping the appropriate meaning of words, since, as Gadamer puts it: “Language is such that, whatever particular meaning a word may possess, words do not have a single unchanging meaning; rather, they possess a fluctuating range of meanings.”<sup>28</sup> This is of particular relevance to understanding, because if the range of meanings does change, and the meanings of particular words or expressions are settled only in concrete context, during the speech act, the translator may be destined to fail *a priori*, especially in the case of simultaneous translation. Whereas in the case of consecutive translation

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<sup>26</sup> H.-G. Gadamer, *Truth and Method*, op. cit., p. 389.

<sup>27</sup> Ibid, p. 104.

<sup>28</sup> Ibid, p. 106.

the interpreter, after hearing a specific fragment, has the time to make the decisions determining the future understanding of his translation, there is no such time in the case of simultaneous translation. The issue of ambiguity of words and statements is also faced by translators of texts, especially when they work with a text written very long time ago. Gadamer goes as far as to suggest that based on the analysis of the vocabulary of such text we can find former values and traditions:

In the German language-world, for example, the word *Tugend* (“virtue”) now nearly always has an ironic significance. If we use other words instead to discreetly express the continuance of moral norms in a world that has turned away from established conventions, then such a process is a mirror of what is real.<sup>29</sup>

This proves that language and the world penetrate each other, that they share their being and that they influence the matters of interpersonal understanding. The meaning of particular words is a reflection of the current situation of the persons using them in concrete situations. Therefore, the task of the translator who wants to make a reliable translation of any text includes investigating its context (also, historical context) and rendering of particular words and expressions in relation to their current usage.

Let us return to the topic of oral translation. Gadamer claims that the system and context are not the only ones to influence the meaning of an expression:

[...] this “standing-in-a-context” means at the same time that the word is never completely separated from the multiple meanings it has in itself, even when the context has made clear the meaning it possesses in this particular context. Evidently, then, the meaning that a word acquires in the speaking where one encounters it is not the only thing that is present there. Other things are co-present, and it is the presence of all that is co-present there that comes together to make up the evocative power of living speech. For this reason, I think one can say that every speaking points into the Open of further speaking. More and more is going to be said in the direction that the speaking has taken. This shows the truth of my thesis that speaking takes place in the process of a “conversation” [Gespräch].<sup>30</sup>

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<sup>29</sup> H.-G. Gadamer, *Truth and Method*, op. cit., p. 446.

<sup>30</sup> Ibid, p. 106–107. Gadamer explains the nature of a statement and its boundaries in a similar fashion: “It can never say all that there is to say. We could formulate this so: everything that constitutes for us a context for a thought initiates fundamentally an unending process.” (H.-G. Gadamer, *The Boundaries of Language*, op. cit., p. 16.)

The quotation on previous page points to an even more significant difficulty in the process of oral translation. When stepping up to his task, the translator, in a way, opens himself to all possible meanings of words and statements, and since a conversation is an endless process (including the conversation of the translator with himself) the real issue here is the answer to the question whether the meaning of a statement in translation can be determined once and for all; looking at the issue from the perspective of Gadamerian philosophy, it turns out that it is impossible. And all indicates we should agree. Language is a specific living process which undergoes constant changes and the meaning of statements is formed not only on the basis of context, but also by a significantly broader situational environment, which includes mainly the partners of a conversation who use different languages and are of various cultural backgrounds, the translators themselves, as well as the place and the time of translation. All of these factors influence the quality of securing the translated statement to the specific foundations of potential understanding, although it is far more difficult in the process of simultaneous or consecutive translation. Here we face the Gadamer's hermeneutical problem of application, namely, the adjustment of the translated statement to the situation in which the interpreter currently is. It is he who makes the decisions about the translation of the given statement, but he bases it on the current situation of the conversation in which only he speaks both of the languages of the dialogue.<sup>31</sup> At this point it is worth referring to Gadamer's words on the difficulty of rendering a text in one language in another: "Translators usually come to stand, exhausted only halfway done, [...]. It is just an infinite process to succeed in rebuilding the feeling and content of the foreign speaker into the feeling and content of one's own language. It is a never completed self-conversation of the translator with himself."<sup>32</sup> It is difficult to disagree with Gadamer on this one. The translator, apart from translating the original statement, "must gain for himself the infinite space of the saying that corresponds to what is said in the foreign language."<sup>33</sup> He must come to terms with the fact that, in reality, every translation, even the best one, will never fully convey the spirit of the original, but rather, as Gadamer puts it, will always make the original idea sound flat.<sup>34</sup> Here we should return to the issue concerning the lack of explicitness of meaning of a statement. Since a conversation is

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<sup>31</sup> H.-G. Gadamer, *Truth and Method*, op. cit., p. 307.

<sup>32</sup> H.-G. Gadamer, *The Boundaries of Language*, op. cit., p. 16.

<sup>33</sup> H.-G. Gadamer, *Man and Language*, op. cit., p. 67.

<sup>34</sup> Ibid.

something endless, and language realizes itself in it basing not only on the context, but also on the given situation of the speakers, the same idea can be expressed in various ways, and, consequently, every translation would be different from each other. Translation is a living process which is subject to constant changes; it is an unending conversation, open to the multiplicity of meanings contained in the original statement. Simultaneously, however, the oral translator must be aware of the fact that those multiple meanings are only possible in the original, and the translation – as we said previously – occurs only as repetition and shallowing. Yet to ensure that the conversation is understood at least partially, the translator must avoid any explicitness, and focus rather on finding that internal endlessness we discussed above. Only then can understanding be achieved.<sup>35</sup>

The case is similar in translating written texts. The task of the translator is not only to recreate the original statement, since, as we said earlier, expressing its multitude of meanings is impossible in translation. This multiplicity is only repeated and shallowed, and in such case there can be no talk of multiple meanings. The issue of untranslatability is closely related – there are, of course, such words in the language of the original for which it is extremely difficult, and sometimes impossible, to find equivalents in the native language. Words expressing emotions constitute good examples of such difficulties. According to Gadamer, translation makes the original sound flat, it recreates it somewhat superficially, which results in the translated text's lack of space, a third dimension that provides the original with depth and multitude of meanings. Gadamer also claims that the belief that the translation is easier in reception is an illusion – rather, it is to the contrary, exactly because of the shallowness of the target text. If the translator only repeats the statement – whether it is written or spoken – he loses meaning. Therefore, instead of recreating the message word by word, sentence by sentence – in other words, instead of recreating only the formal, or superficial, structure of the text – the translator must penetrate deeper into the meaning of the text, and then relate this meaning to himself, to the situation he is in, to find a space for expression, one suitable for the original statement. Only then is there a change for a proper understanding with the reader of the target text, for a proper rendering of the original idea.<sup>36</sup> Rosner has accurately addressed this issue in her analysis of Gadamer's philosophy of language. She stated that the translator must, in a way, fuse his own horizon with the horizon of the text he is translating – then this text can actually tell some-

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<sup>35</sup> Ibid, p. 67–68.

<sup>36</sup> H.-G. Gadamer, *Man and Language*, op. cit., p. 67.

thing to the translator, as well as to the recipient of the target text.<sup>37</sup> Still it seems that there is another difficulty implicated in this – since the space of speaking, for which the translator searches, is in its essence endless and, surely, ambiguous, this must also indicate the multitude of approaches the translator may have to the target text. The translator can always improve the message, make it more explicit or profound. At each reading of a ready translation the translator tends to enhance its various spheres, even to the extent of complete change of his understanding of the original – sometimes only upon completion of the translation he sees a proper reading of the original. This relates closely to the way of understanding the original, that is, its interpretation, which is dealt with in the following part of the article.

### Translation as interpretation

As we concluded earlier, understanding takes place in language. We must also add that it is realised through interpretation. It is good to return at this point to Gadamer's words from the previous part of this article, saying that every translation is interpretation.<sup>38</sup> This concerns both oral translation (which, in English, is called *interpreting*<sup>39</sup>) and – maybe even to a greater extent – written translation. Therefore, this part of the article is devoted mainly to the translation of texts and its relationship with the process of interpretation.<sup>40</sup>

Referring to the issue of written translation, Gadamer invokes the aspect of understanding of texts. He points to the fact that the translator, irrespective of how he empathizes with the author of the original, must recreate the texts appropriately, and not limit himself solely to repeating the psychical process of writing the original. At the same time he highlights the necessity of interpretation on the translator's side.<sup>41</sup> Without it, the text cannot constitute itself in the structure of linguisticity; in other

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<sup>37</sup> K. Rosner, *Gadamerowskie rozumienie...*, op. cit., p. 177.

<sup>38</sup> In his article entitled *Text and Interpretation*, Gadamer states that even literal translation is interpretation (H.-G. Gadamer, *Text and Interpretation*, [in:] *The Gadamer Reader...*, op. cit., p. 170).

<sup>39</sup> However, in this article it was decided to use the expression *oral translation* so as not to mistake it for interpreting and interpretation as questions described in a different meaning and context.

<sup>40</sup> This article focuses mainly on written translation in the general meaning of the term, without separating it between literary or functional texts. Cf. H.-G. Gadamer, *Text...*, op. cit., where the author analyses literary texts separately.

<sup>41</sup> H.-G. Gadamer, *Truth and Method*, op. cit., p. 387.

words, “the concept of text presents itself only in the context of interpretation, and only from the point of view of interpretation is there an authentic given to be understood.”<sup>42</sup> It seems then that it is in fact interpretation which gives the text the property of being, its originality and capacity for understanding – without it, the text is only a string of words and expressions, an artificial creation with no opportunity of finding understanding. Text – which Gadamer sees as a hermeneutical concept, as a phase in the event of understanding<sup>43</sup> – and interpretation are inextricably bound. This is of utmost importance in the context of written translation, because even the first contact between the translator and the text determines the quality of the translation. We must also remember about the mastery of the foreign language by the translator – undoubtedly, the process of translation is also determined by the way the content is understood. Therefore, translation is interpretation. Gadamer specifies the meaning of the term by saying that interpretation takes place when the translator wants to bring out from the original text some extremely important element, and, at the same time, it comes down to concealing or ignoring other elements contained in the text. Therefore, he must come to a compromise – the translator, as an interpreter, focuses on those features of the text which in his opinion are decisive of the final understanding of the message. Hence there is some highlighting in the process of translation. Some elements are drawn to the foreground, while some are completely eliminated. As we said before, every translation makes the original sound flat; a translation can never fully express the full spectrum of colours of the source text, and similarly to the process of interpretation, the translator must present his stance, how he understands the source text, even if the target text contains some elements that are totally unclear:

A translator must understand that highlighting is part of his task. Obviously he must not leave open whatever is not clear to him. He must show his colors. Yet there are borderline cases in the original (and for the “original reader”) where something is in fact unclear. But precisely there hermeneutical borderline cases show the straits in which the translator constantly finds himself. Here he must resign himself. He must state clearly how he understands. But since he is always in the position of not really being able to express all the dimensions of his text, he must make a constant renunciation.<sup>44</sup>

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<sup>42</sup> H.-G. Gadamer, *Text and Interpretation*, op. cit., p. 168.

<sup>43</sup> *Ibid*, p. 169.

<sup>44</sup> H.-G. Gadamer, *Truth and Method*, op. cit., p. 388.

Every translator, then, is an interpreter. The interpretation of a translated text is a specific hermeneutical task – giving meaning to the written signs. It is the translator – as an interpreter – who brings the matter of the text to life. Gadamer compares this to oral translation, which facilitates reaching an agreement precisely because the translation is present at the conversation. In the case of written translation, the interpreter must take part in the meaning of the text; therefore he must also take part in a specific conversation, but here – according to Gadamer – it is a hermeneutical conversation. In many respects it resembles an ordinary conversation between two people, because here also we must agree to one common language, understood by both parties, and the process of working out this common language overlaps the process of reaching an understanding and getting to an agreement. The interpreter communicates with the text in a similar fashion to the partners in a conversation – his task is to work out a common language, and this is done by means of understanding the message, and, in a way, reaching an agreement in terms of the content and the subject described in this message.<sup>45</sup> Gadamer compares interpretation to conversation by saying that it is “a circle closed by the dialectic of question and answer.”<sup>46</sup> If we relate this idea to the process of translation, it means the the source text presents some questions for the translator. If he understands these questions, it means that he understands the text as well. If the translator reaches this specific horizon of questions, he will also understand the text itself, which also contains the questions to the said questions. However, what is important here is reaching the so-called hermeneutical horizon.

As we said before, the interpreter, or, in our case, the translator, takes part in the meaning of a text. This means that the ideas and views of the translator, that is, the so-called horizon of the interpreter, also have a say in the process of translation. Gadamer goes as far as to claim that in the process of interpretation, we cannot avoid interference from our own thoughts or concepts, because without it the meaning of the text becomes completely unclear.<sup>47</sup> Gadamer highlights, however, that although this horizon is significant, it is only important when it presents an opportunity, or a view, which can facilitate in understanding a text.<sup>48</sup> It seems that interpretation and understanding are two aspects of the same process, and we can say

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<sup>45</sup> *Ibid*, p. 389–390.

<sup>46</sup> *Ibid*, p. 391.

<sup>47</sup> *Ibid*, p. 397.

<sup>48</sup> *Ibid*, p. 390.



that the two intertwine each other. Interpretation is in fact, according to Gadamer, a means of realizing understanding,<sup>49</sup> although it does not lead to coming to an understanding, but is rather its constituting element. Understanding determines interpretation, and interpretation determines further understanding. How a translator interprets the contents influences how the recipients of the target text understand it. Interpretation is, in a way, bringing life to the text and allowing its being – thanks to it a text can actually say anything, especially in reference to the readers of a translation. Without a doubt, however, since the process of interpretation involves the interpretation horizon, it must remain unusually subjective. There is no proper and established interpretation. We can see this clearly in the case of translation: firstly, it is reflected in the degree of difference between the translation of the same original text; secondly, every recipient of a translation reads it differently and colours it with his interpretation, which creates, in a way, an infinite circle of interpretation – a circle of endless questions and answers. One text (in this case, the source text) becomes an infinite spectrum of possibilities of expressing a statement. This is of particular relevance to written translation – a translator can ask the source text numerous questions, and receive equally numerous answers. The recipients of the target text, the translation, share a similar situation as the translator. Each of them approaches the translation in his own specific fashion, burdened by his own life experiences, including those of a sociological, psychological, or cultural nature. They also interpret the text they are given. They understand the ideas contained in the text precisely because they can supplement them with their own views and opinions. When we approach a text too literally and we do not enhance its message with our own thoughts, the text becomes something really unintelligible, its sense washes away and cannot be specified.

This process of interpretation is significantly more complex than in the case of a conversation between two people. While in a conversation or oral translation we can use gestures, repeat, or, simply, explain certain phrases, in the case of written translation the translator cannot communicate with the original author when reading the source text (although there are some exceptions to it). Gadamer points here to the fact that the text itself must open a horizon for interpretation and understanding. Writing is not only recording that which had been said, but it also takes into account what happens outside it – it considers its reader and wants to know how he

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<sup>49</sup> Ibid.

understands the text he reads. The author always looks for an understanding with his reader.<sup>50</sup> Following Gadamer's thoughts we can come to a conclusion that in the case of translation, the written translator seeks an understanding with the author of the source text. Due to the fact that the translator can be described as a secondary author, he strives also to establish an understanding with the readers of the target text, but he does so by making a specific contact with the primary author. The translator tries then to grasp the primary meaning of the message, or, using Gadamer's terminology, the original message. Both the author and the reader, and therefore, also the interpreter (here: translator) must make the text speak again, to make it be heard. The person who reads and understands the text restores its original authenticity. The interpreter always appears when the contents of the message are disputable and when its understanding is extremely important. According to Gadamer, "a text is not an object but a phase in the fulfillment of an event of understanding."<sup>51</sup> The meaning of a message comes down therefore not to that which the author would say, but rather to that which a partner in a conversation would say, if he was a real person. This is especially relevant in the process of written translation. If we assume that a text is a phase in coming to an understanding, the role of the translator is surely not the recreation of this text, but rather creating it anew, after agreeing to its meaning.<sup>52</sup> The translator creates a new quality of the text – it is both something secondary to the original, but also something primary to the readers, and to the translator. Since, as we said before, the translator, as an interpreter, enhances the text with his own experiences, thoughts, and ideas, we must also highlight the fact that in his interpretation he is already creating a text specific only to himself. Therefore we can conclude that no text is a being established once and for all, no text is a being-in-itself, but is rather a starting point for the creation of a multitude of meanings, a starting point of an endless hermeneutical conversation composing of questions and answers.

We have concluded that understanding and interpretation remain inseparable. What remains to be added to the hermeneutical process is, as mentioned above, application. Gadamer claims that a text is understood

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<sup>50</sup> H.-G. Gadamer, *Text and Interpretation*, op. cit., p. 172–173.

<sup>51</sup> Ibid, p. 173.

<sup>52</sup> This meaning is essential in the process of translation. Gadamer goes as far as to claim that the translator should recognize and eliminate the so-called filling material (rhetoric) which does not have any influence on the meaning of the message. However, the case is completely different in literary works. (H.-G. Gadamer, *Text and Interpretation*, op. cit., p. 177.)

only when we look at it differently every time, always from a different perspective.<sup>53</sup> Every translator, when reading a source text, understands it in his specific fashion – as we cannot establish one universal mode of understanding. At the same time, it does not mean that every translator who translates the same message, is conveying a different message. The meaning is usually the same, but each rendition of a text is characterized by its unique features determining its reception among readers in the target language. The role of the translator – to emphasize once again – is not to recreate it, but rather to place it in the situation the text is currently in, and the situation the translator is currently in. Here is where that hermeneutical process fulfils, the process whose elements are understanding, interpretation, and consequently, understanding.

Finally, let us briefly discuss the role of the translator as the interpreter. To invoke Gadamer once again, the role of the interpreter, and therefore, of the translator, is to eliminate from a text the element of the specific foreignness, an element which obstructs the proper understanding of a message. The interpreter is an individual who acts as a proxy between, firstly, the author of the source text and the readers of the target text; secondly, between the source text and the target text; thirdly, between the target text and its readers. Gadamer also highlights the fact that upon achieving understanding, the interpreter is no longer needed and completely disappears. This does not mean that his contribution to the text ceases to be visible – the interpreter disappears in the text, but not as the text itself.<sup>54</sup> And indeed, when we read a translated text in a target language we are usually unaware of the the translator's (acting as the interpreter) contribution to the final, translated product – with the exception being, of course, the situation when the translation is confronted by a translation scholar or linguist, who evaluates the text from a completely different perspective than the so-called ordinary reader. Let us once again quote Gadamer, who says that if the interpreter manages to overcome the said element of foreignness in the text and contributes to a better understanding of the message by the reader, then, in such case, the interpreter disappears; yet it “is not a disappearance in any negative sense; rather, it is an entering into the communication in such a way that the tension between the horizon of the text and the horizon of the reader is resolved.”<sup>55</sup> When translating a text, the translator will for-

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<sup>53</sup> H.-G. Gadamer, *Truth and Method*, op. cit., p. 320.

<sup>54</sup> H.-G. Gadamer, *Text and Interpretation*, op. cit., p. 168.

<sup>55</sup> Ibid.

ever remain in it, but not in a visible manner,<sup>56</sup> but rather as a fixed element of the process of reaching an understanding which penetrated the structure of the text and enabled further understanding, interpretation, and application, and, therefore, further hermeneutical conversation. To quote Gadamer, thanks to the interpreter “the tension between the horizon of the text and the horizon of the reader is resolved. I have called this a «fusion of horizons».”<sup>57</sup> We can also add that in the prepared translation the horizon of the translator also disappears. Because of the fusion of all of the possible horizons, a new quality is born – that of understanding.

## **Conclusion**

The article presents the specificity of the act of translation, both oral and written, in the light of Gadamer’s hermeneutical philosophy of language. According to the philosopher, translation is a specific hermeneutical experience, and as such is as multidimensional as hermeneutical conversation. Translation is, first of all, a linguistic act involving individuals who, in most cases, communicate in two different languages. Therefore, their communication is obstructed. Translation doubles the hermeneutical process and is a situation of a specific distance between the translator and the other party of the conversation – no matter if the message was uttered by a person, in the case of oral translation, or if the message is a source text written by a concrete author, in the case of written translation. This distance poses a significant barrier for the translator to overcome. Yet there are also other obstacles in achieving an understanding, such as insufficient language proficiency of the translator, setting the message in an incorrect context, assuming a stance which is far from being neutral to the ideas or views of the participants of the conversation, multitude of meanings contained in the source message, lack of compromise against aspects of untranslatability, or difficulties stemming from the possibility of translating the source message in multiple ways.

The understanding of the source and target text is closely connected with its interpretation, an issue intrinsic to the process of translation. Translation, seen as interpretation, causes the text to appear in somewhat exaggerated or discoloured or, in some cases, to be significantly downgraded.

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<sup>56</sup> Here we do not take into account the concept of translator’s visibility, manifested, for example, in explanatory footnotes.

<sup>57</sup> H.-G. Gadamer, *Text and Interpretation*, op. cit., p. 168–169.

These issues are, however, unavoidable in translation. The translator, acting as the interpreter, faces a specific hermeneutical task – he enables an understanding which would otherwise be only partial, or totally impossible, at that. The translator is a part of the meaning of a message – a specific hermeneutical conversation comprising in an exchange of questions and answers. Interpretation, which always is a strictly subjective process, is immediately connected with understanding, and consequently, with reaching an understanding. The translator, in his labours, aims at developing an understanding between the author of the source message and the recipients of the target text, which also illustrates the specific doubling of the hermeneutical process. Therefore, the translator creates a completely new text, a new message. Translation cannot be reduced to simple recreation, and should rather be regarded as an original text developed on the basis of a separate message, spoken or written. The translator, according to Gadamer, should be seen as a negotiator – a person who mediates in the process of understanding. In a way, the translator is always present in a text, not as a concrete person, but as one of the elements of the process of achieving an understanding between the two parties.

Gadamer's remarks and comments remain astonishingly valid in contemporary translation theory. They present a wide spectrum of possible interpretations and original thoughts on the process of translation and the translator's role in it. They also prove to be great nourishment for critical thought on the specificity of the phenomenon of translation and can allow for the development of new solutions that would improve the quality of new translations.

#### S U M M A R Y

The aim of this paper is to present H. G. Gadamer's point of view in relation to the process of translation and the role of translator. The ideas come from the following sources: *Truth and Method*, *Philosophical Hermeneutics*, *The Gadamer Reader. A Bouquet of the Later Writings*. In this article the act of translation is seen as a specific hermeneutical experience and described in terms of obstructed understanding and interpretation. The translator, according to Gadamer, faces many difficulties and barriers that are closely linked to insufficient language proficiency, setting the message in an incorrect context, not being neutral to the ideas or views of the participants of the conversation, multitude of meanings in the source message, lack of compromise against aspects of untranslatability, or difficulties arising from the possibility of translating the source message in many different ways. What is more, it turns out that the translator is an interpreter and a negotiator, and its role is to allow for an understanding

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between two parties of conversation, including hermeneutical conversation. Gadamer's views on the process of translation are still applied today in modern translation theory and can inspire many translators to look at the phenomenon of translation from a completely different perspective.

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## ON KAIROS IN INTERCULTURAL COMMUNICATION: APPLICATION OF THE IDEA IN MULTINATIONAL ENCOUNTERS

### 1. Introduction

The present paper explores one of the rhetorical issues derived from antiquity, which is the idea of Kairos (*καιρός*), and its impact on the modern intercultural communication. This issue seems to be intriguing and worth analyzing due to the interdisciplinary features of the notion of Kairos itself and its possible usefulness in improving and understanding of the act of intercultural communication.

A wide range of meanings attributed to *καιρός* made its idea to appear in many aspects of the ancient culture. Developed for the first time in Greece, afterwards it was recognized and adopted by the Romans, who called it *occasio*. The importance of *καιρός* arose from multiplicity of its concept, which made *καιρός* useful and applicable not only to theoretical considerations, but, what is more significant and what decided about its long lasting character, to practical human activities. In this way the problem of *καιρός*, besides naturally the terms of classical Greek rhetoric and literature, where it held a position of “a dominant issue” (Kinneavy, 2002: 58), was discussed on many different levels by various ancient authors. But, beyond the fact that *καιρός* was implemented by ancient writers to other fields of interests than just the art of rhetoric, the aforementioned remark is the most important for our research. Considering that the theory of modern rhetoric owe its basis to antiquity, any kind of verbal intercultural communication should also refer to some of the ancient ideas of speech.

This paper deals with the problem of *καιρός* from the intercultural communication perspective with its pragmatic aspects and explores the following problems: can the rules of ancient *καιρός* be applied to intercultural communication and if so, to what extent? Is there any existing model of

καιρός created for the needs of verbal intercultural communication? If so, what are its main features and can it be taught in order to make the act of intercultural communication more effective? What profits can intercultural communication obtain after the καιρός theory is applied to it? If there is no already existing concept of καιρός for intercultural communication, how can such καιρός rules be created in order to exploit the advantages of καιρός for the purpose of intercultural communication? And finally, does καιρός have any disadvantages and whether these weak points, provided they exist, can refrain one from using the καιρός concept within intercultural communication?

The above stated research questions reveal complexity of this specific problem. However, before proceeding into their examination, we shall consider what the ancient concept of καιρός exactly was, what its main features were and how they might comply with pragmatic aspect of modern intercultural communication. Finding a link between καιρός and intercultural communication would be of utmost importance for finding an answer to the questions this paper poses. Another crucial issue refers to the fact that every kind of successful verbal intercultural communication is based on an ability of interlocutors to communicate efficaciously by using the same language which nowadays tends to be English. Setting a paneuropean communicative standard which, considering the present linguistic knowledge of EU citizens, would be a code based on English, would surely facilitate the communication process between speakers of different L1s (first languages). Establishing such unified English code would naturally involve creating its structural pattern and pragmatic rules. It should be considered how Kairos would apply especially to that second field which is directly connected with the efficacy of communication, also in its intercultural context.

Assuming that Kairos may be seen as a component of the three ancient speech theories (naturally to various extent in each of them), which are: dialectics (the art of discussion and reasoning dedicated to revealing a false argumentation and to getting as close as possible to the truth), rhetoric (the art of using the language to persuade the audience to one's point of view), and at last eristic (an artificial rivalry; the art of conducting a dialogue in a competitive way), therefore multinational conversation in its general and specialized form as well (e.g. multinational business communication), while deriving its basic rules as any modern kind of conversation from the antiquity, should possess also some characteristics typical for καιρός. However, before investigating what kind of characteristics these may be, we must refer to the ancient idea of Kairos and define its main attributes.



## **2. The ancient idea of Kairos: the art of not missing the right time and what does it mean to be appropriate?**

The ancient idea of Kairos was strictly associated with passing of time (Χρόνος). The existence of Kairos depended on time; without time, there would be no Kairos at all. However, while χρόνος designated for the Greeks many and various aspects of elapsing time, in some cases in a very general manner, καιρός was much more specific and underlined an effective value of time and its qualitative nature (Smith, 2002: 46–57). The ancient concepts of Kairos' time described Kairos as “an individual time having a critical ordinal position set apart from its predecessors and successors” (Smith, 2002: 52). Kairos was regarded as a very important feature of time, because according to the Greeks it indicated a suitable moment, a most favorable one for something to be done. As time cannot be reversed in order to change our bad choices into advantageous ones, learning how not to miss once and for all those right moments and how to profit from them by following the indications given by καιρός became of great interest to the Greeks. However, apart from being applied to the specific measure of time, καιρός also pointed quality and conformity of many other elements, some of them connected e.g. with a human body, whereas other ones used in reasoning on such issues as rhetoric, literature, aesthetics and ethics, to which fields the idea of καιρός became a strategic one (Sipiora, 2002: 1).

The practical aspect of καιρός was one of its most distinguished characteristics. The Greek-English Lexicon of Liddell-Scott provides us with definitions and uses of καιρός, its adjective form καιρίος (καίριμος) and their derivants, that have been preserved in the works of different ancient authors (Liddell-Scott, 1897: 727–728). I have classified those examples into three main thematic groups:

### I. Time.

#### A. Positive meaning of time.

##### 1. General expressions of time.

- a) Those that identify καιρός simply with χρόνος and apply to common understanding of time as some particular moment or season, e.g. καιρός χειμῶνος.

##### 2. Accurate estimations of positive time.

- a) Those that apply to “the exact or critical time”, “to the proper time or season of action”, to something which is suitable or proper for particular moment of time and should be done and benefited within that time, e.g. καιρικός, καιρῶ χρεῖσθαι or καιρός ἐστί, and those related to something which

is situated “in” or “at the right time”, “in season” or can be called “seasonable” or done “timely” (προς καιριον, ἐπὶ καιροῦ, κατὰ καιρόν, συν καιρῷ) and is seen as “opportune” as τὰ καιρία “timely circumstances and opportunities”, with special reference to verbal communication and perfect timing (τὸ ἀεὶ καιριον or the expression καιριος σπουδῆ that can be translated as a proper haste), with possibility of using to such actions as: to come and arrive (προς τὸ καιριον), to speak and to say something suitable and reasonable (χρῆ λέγειν τὰ καιρία; εἴ τι καιριον λέγεις), to make one’s mind up reasonably or to decide reasonably (δρᾶν, φρονεῖν τὰ καιρία; καιριωτέρα βουλή).

b) Those that designate time suitable for particular activities (e.g. καιρολυσία – “fit time for bathing”; καιροσκοπέω, καιροτηρέω, καιροφυλακέω – which all mean, in general, waiting for opportunity or profits; also expressions connected with verbal communication such as: καιριολεκτέω – “to use a word appropriately”).

## B. Negative meaning of time.

### 1. General expressions of time.

a) Οἱ καιροί = “the state of affairs, mostly in bad sense”.

### 2. Accurate estimations of negative time.

a) Those that apply to not suitable or proper moment for doing something, with such phrases as: ἀπο καιροῦ, ἄνευ καιροῦ, παρὰ καιρόν, πρὸ καιροῦ also in reference to verbal communication ἐπὶ καιροῦ λέγειν.

b) Those that apply to a dangerous moment: ὁ ἔσχατος καιρός (“extreme danger”).

## II. Place (context) and form.

### A. Positive meaning of space.

#### 1. Accurate estimations of space.

a) Those that apply to dimension of space, to something which is situated “in” or “at the right place”, with phrases such as: ἐν καιρίῳ or κατὰ καιριον.

#### 2. Shape of a human body.

a) Those that apply to something very important and vital, that cannot be replaced and that needs a special attention because of its susceptibility to harm, in reference to parts of the body (τὸ καιριον) and also to something very serious such as wounds.

### III. Qualities.

#### A. Positive qualities.

1. Being in proportion and being advantageous.
  - a) Those that apply to positive qualities described by *καιρός* such as: “due measure”, “proportion”, “fitness” or to *καιρός* as “someone’s advantage, profit, fruit of or from something”: e.g. *τίνα καιρόν με διδάσχεις; ἐπὶ σὸν καιρῷ.*
2. Being most important.
  - a) Those that apply to something chief or principal (*κυριώτατα*), *καιρόν ἔχειν τοῦ εἶναί*: “to be the chief cause of something”.

Taking into account the aforementioned applications of *καιρός*, one can reach the following conclusions. Firstly and most obviously, the various definitions of *καιρός* can be divided into three primary categories. Two of them, time and place, can be seen as being among the most important and universal problems that not only the ancient Greek culture greatly considered. The third category shows the qualities of the idea itself, qualities which pertain to adored by ancient culture, both Greek and Latin, issues of proportion, balance and accuracy. This feature makes *καιρός* adjustable to theoretical considerations on such issues as rhetorics or ethics and to their practical dimension as well. In most of the cases *καιρός* and its derivants define positive meaning of time in a particular moment. For the most part, *καιρός* does not respect general expressions of time and its “quantity of duration” (Sipiora, 2002: 2), although they may occur. However such expressions do not consist of its main interest. As far as time is concerned, *καιρός* exposes and underlines a particular and exact moment which is suitable and opportune, or in some cases is not, for doing something or having something to be done in order to obtain one’s goals or gain profits from doing something in a propitious nick of time. Hence, the connection between time, represented by the specific, opportune and reasonable, that is carefully chosen, moment and benefit, that is generated by exploiting such proper moment, seems to be the most distinctive and crucial characteristic of *καιρός*.

The efficacy of *καιρός* depends on perfect timing i.e. the ability of making a right decision instantly by using an appropriate medium (Heinrichs, 2007: 295). It is extremely difficult, if not impossible, to learn how to discern, if some moment is right for taking actions, because direct hints cannot be indicated due to the unpredictability and uniqueness of only once-existing moments and opportunities. Therefore, it is easy to misinterpret such a moment and become misled by its sham advantages. The effective use of *καιρός*, apart from being determined by time factors, is also influenced by charac-

teristics belonging to a person or persons taking part in an activity. Most of them are non-assessable, such as intuition, fast processing of incoming information or any useful personal skills, but the other ones such as e.g. knowledge of the problem that applies to a particular action or proficiency in undertaking of an action can be undoubtedly judged. However, awareness of specific conditions how *καιρός* functions, does not ensure success and reaching its main goal which is a benefit or superiority over an opponent or interlocutor in an opportune nick of time. The final result of trying to obtain *καιρός* is hard to predict, because it depends on many factors and on a favorable set of circumstances that refer to “setting” a speech act in a specific time and place. If *καιρός* really “happened”, the outcome of the undertaken action would be positive. For this reason, risk and the problem of its recognition and assessment have been tightly linked with *Kairos* and play a very important role in profiting from it. A well undergone process of risk management enables one to justly evaluate his chances of success and increases the possibility of taking the right moment and not losing the potential of *Kairos*.

As it follows from the above presented definitions, *καιρός* has no negative features or weak points at all. It seems that if *Kairos* is used properly i.e. at the suitable instant, the success is then secured, because *καιρός* provides superiority which is difficult to overcome. But besides the crucial for *καιρός* relation between time-risk and profit, the other two categories, place and qualities, show their great importance too. The first of them indicate that *Kairos* can be considered not only in terms of time location, but also in reference to dimension of space as designation for particular and proper position, for example within a specific cultural-linguistic context. If something has a certain and right placement, it keeps its form and remains in harmony with its surroundings, and is necessary for proper functioning of the whole entity. In this way *καιρός* started to be applicable to parts of a human body, especially those vital ones. Furthermore, being harmonious and being in proportion are the qualities of *καιρός* which represent not only its relation to the categories of time and place, but also its self-nature. If one was supposed to describe *καιρός* itself and features that he attributes to other things, one would use such adjectives like: well measured, fit, advantageous, fruitful, proportional, principal. In this way, something that seems to be fit or advantageous can be seen as *Kairos*. But still, according to the ancient point of view, the necessary condition for *καιρός* to exist was to appear in a proper moment of time or in a proper position of space, or in proper points of both dimensions simultaneously.

Finally, the boundaries between the categories are not strict and changes among them are possible. Some of the uses of *καιρός* may apply to more than one category as it is with types of activities e.g. *καιριολεκτέω* which is connected with verbal communication and means “to use a word appropriately”. It may lend itself not only to time category (time suitable for particular behavior or action; in this case propriety of saying something), but to space category (something situated at the right place that for verbal communication denotes putting words into the right context) and qualitative category as well (being advantageous and effective in communication process by using an advantageous and effective mean of communication). Thus, all the meanings and uses of *καιρός* analyzed so far has proven its complexity. It was rhetoric that became one of the most important fields, where the concept of *καιρός* was strongly present. It is then an essential matter to see in what way the idea of *καιρός* affected the ancient theory of rhetoric.

### **3. Suspended time and persuasive medium: the main features of rhetoric?**

A statement that the ancient theory of rhetoric was based on *καιρός* is much more than just a hypothesis. Such observation can be confirmed in two ways.

Firstly, by the nature of rhetoric itself. Its main goal is to gain advantage over an interlocutor or interlocutors, or over an audience and profit from such advantage by persuading them to one’s own point of view. The success is firmly connected with being active and taking the chances of exploiting the opportune circumstances. A fear of failure has to be overcome, otherwise the proper time for achieving one’s goal, that is anyway difficult to discern, will disappear. The risk of action in the wrong moment and losing everything that has been achieved so far or some part of it remains very high, but it is condition *sine qua non* of Kairos. The particular time, that has been chosen for an action, can be called a suspended one, because when it occurs, a linear, non purpose circulation of time in rhetoric has been stopped. Since that moment, time in rhetoric acquires new value and new meaning. We keep waiting for the positive results of our performance and we are prepared for receiving some tentative profit. If it does not happen, it means that the persuasive medium that we have used, was unsuitable, but it does not necessarily mean that we have lost our chances completely. If the circumstances allow for this, we

may wait until another suspended time and try then to take advantage of another medium. Unfortunately, the favorable results of Kairos cannot be seen at instant, but only from retrospection, when all we can do, is only to examine them.

However, it has been only rhetoric that provides us with the possibility of using Kairos. In dialectics or eristic we do not have *καιρός* at our disposal (at least not to such extent as in rhetoric). It is so, because neither dialectics or eristic aims at effective communication. The purpose of dialectics, starting from the Socratic tradition, is to reveal the false point of view and get as close as possible to the truth by refuting the reasoning of one of the interlocutors. It is done by the other interlocutor who takes a position of being closer to the truth. He stays active and questions the one that is passive in order to guide him to truth and to the negation of his point of view. There were two methods of doing this according to the Socratic tradition. First of them is known as maieutics (this term is connected with verb *μαieύομαι* – to serve as a midwife or the adjective *μαieυτικός* – practiced in midwifery). In accordance to this technique, the passive interlocutor was supposed to reach truth on his own by way of contradicting his own point of view, while answering the questions asked by the active interlocutor. The second method called elenctic (*ἐλεγκτικός* – of a person fond of cross-questioning or examining; *ἐλεγχος* – an argument of disproof or refutation) was much more aggressive and assumed that it was the role of the active interlocutor to prove ostensibly fallacies in his interlocutor's reasoning. Considering both these methods, it seems that none of them really needed *καιρός* to function well. They did, however, include the act of gaining the advantage and superiority over an opponent during the discourse by using the appropriate means for it, but already at the beginning of the dialectic discourse one of the interlocutors was favored and put in the superior position. The roles were assigned and one of the interlocutors had to lose. The results were set and it was only the active interlocutor's choice which method he would decide to use. There was hardly any risk of failure and there was nothing unexpected that could have happened. The similar situation was with eristic. Also here *καιρός* did not apply fully. Eristic was an artificial state designed for the purpose of training. The interlocutors were competitors, who were trying to test in practice their speech abilities and figures of speech they have learned so far. Their aim was not to persuade each other, so there was no risk of losing the right time for it.

Rhetoric, however, was not the sole discipline, where the idea of *καιρός* was used. In Pythagorean ethics *καιρός* stood for justice “defined as giving to each *according to merit*” (Kinneavy, 2002: 61), whereas in Platonic

ethics and aesthetics it meant the right measure and described the relation of the beautiful to the good (Kinneavy, 2002: 64). The traces of the notion of *καίρος* can be also found within the ancient Greek concept of education (Kinneavy, 2002: 65), which aimed at providing the society with the members prepared for public affairs and for this purpose trained in art of eloquence and persuasion, both indispensable for political career.

Thus *καίρος* played a significant role in the rhetoric which taught how to be persuasive in speech. The character of *καίρος* can be seen after examining the relations between the rhetorical means of persuasion and reliability as they were described by Aristotle who dedicated to rhetorical issues his one, entire work (*Ἡ Τέχνη Ῥητορική*). His main source of inspiration for dealing with the rhetorical studies was the discussion on rhetoric held by Plato in two of his dialogues, “Gorgias” and “The Phaedrus” (Aristotle, 1988: 26). Aristotle followed Plato’s guidelines in his idea of rhetoric. He based his rhetoric on dialectics, on the profound knowledge of hearer’s mental features and on the character of the speaker (Aristotle, 1988: 26). Aristotle distinguished three groups of the means of persuasion, respectively to these three foundations of his rhetoric: the logical means (*λόγος*) that came to rhetoric from dialectics, the ones related to an emotional condition of the audience (*πάθος*) and the ones connected with the character of the speaker (*ἥθος*). So how did Aristotle manage to apply *καίρος* to these elements?

The Kairos factor appears implicitly in Aristotle’s definition of rhetoric. According to the English quotation of this passage cited by Kinneavy, the function of rhetoric “is not so much to persuade as to find out in each case the existing means of persuasion” (Kinneavy, 2002: 66). Aristotle’s second definition of rhetoric quoted also by Kinneavy emphasizes the individuality of each situation in which the art of rhetoric is used (Kinneavy, 2002: 66–67). The individual and different character of each such case calls for an appropriate mean of persuasion. As Kinneavy pointed out: “Thus, the rhetorical act is situationally determined in both Plato and Aristotle. And both distinguish the general rules of the art of rhetoric from their situational application” (Kinneavy, 2002: 67). Besides using the idea of *καίρος* in reference to his own remarks as an indication that something should be discussed at further point or at the another and more suitable time later (Kinneavy, 2002: 67–68), Aristotle also presented *καίρος* in particular types of rhetoric, such as legal or political rhetoric. In Aristotle’s legal rhetoric the idea of *καίρος* was related to the notion of equity. The situational aspect of *καίρος* in issues connected with law and justice was distinct in Aristotle’s rhetoric and was expressed in “a kind of *kairic* law. It is law when it is ap-

plied in particular circumstances, at specific times, to specific situations not foreseen by the legislators” (Kinneavy, 2002: 68). Kinneavy further aptly stated that: “It is only in a particular case toward a particular individual at a particular time that true legal justice can be found-when *kairos* can truly occur” (Kinneavy, 2002: 68). Similarly, the *καιρός* idea in political rhetoric was defined as “related closely to the situational concept as applied to individual governments” (Kinneavy, 2002: 68).

The kinds of rhetoric art in reference to which Aristotle described the use of *καιρός* were based on the interaction between *λόγος*, *πάθος* and *ἦθος*. *Kairos* then seemed to be the most important feature for each and all of these types of argumentation. It was *καιρός* that linked them and enabled their proper exploit. In terms of *πάθος*, *Kairos* underlined the great value of emotions in rhetoric and showed how to detect, understand and take advantage of the emotional state of hearer or audience and use the right emotions at the right time. For *ἦθος* Aristotle stated that persuasion appears if orator’s speech is done in a manner that makes him worthy of confidence (Aristotle, 1925: 1356a5). For Aristotle this confidence depended on the orator’s speech directly, and so indirectly from the orator’s character. The Aristotle’s opinion on this matter revealed the significance of *καιρός* within the *ἦθος* argumentation: “(...) Aristotle’s idea that the confidence must be due to the speech itself is clearly an affirmation of the importance of the individual situation; that is, the *kairos* of the case” (Kinneavy, 2002: 71). Finally, for creating *λόγος*, which embraces the use of the maxims, the organization and style of the speech, Aristotle stressed the importance of timing and propriety, i.e. the knowing when for whom and in what situation is the right moment for using a particular expression (Kinneavy, 2002: 72).

For all described situations, in which different means of argumentation are involved, the notion of *καιρός* remains the most important. It is so, because following the principles of *καιρός* makes the speaker able to generate the most persuasive medium of communication in a particular set of time and spatial circumstances. Despite what kind of argumentation was used, an appropriate time, i.e. a suspended qualitative moment of time, that breaks the linear duration of time, and from which the advantage is taken by the speaker, was regarded by Aristotle’s rhetoric as a co-existing element of a persuasive medium and a preliminary condition for persuasive medium to happen. But an appropriate time could happen only if the right situational context had appeared. This relation determined the efficacy of the each used medium.



#### **4. Kairos (= effective communication) in Intercultural Communication: Theory and Practice**

Knowing the main attributes of the concept of *καιρός* and its use in the ancient rhetorical theory, in the following section we are going to consider how *καιρός* applies to specific conditions of intercultural communication regarded as one of the modern types of rhetoric. The issue to be examined is whether the basic features of Kairos' ancient rhetorical theory, still remain decisive for intercultural communication.

##### **4.1. Theory of Kairos from a tautological point of view**

In this section the logical relations between the features of *καιρός* are going to be investigated. Drawing such outline seems to be important for further considerations. It may provide us with solution to the problem what configuration of *καιρός* attributes gives us greater chances for effective communication. The obtained results will be afterwards interpreted in terms of intercultural communication.

As it has been already stated, there are three major attributes of the *καιρός* concept: time (T), place (P) and qualities (Q). Time (T) stands for an appropriate time for using an appropriate medium, place (P) stands for an appropriate context for using an appropriate medium in an appropriate time and qualities (Q) denote the positive value of *καιρός* that is an appropriate medium: it may be a single word or phrase, or a gesture suitable for reaching one's goals in communication. Before presenting propositional logic formulas for *καιρός* and verifying them, whether they are tautologies, so in other words whether they are true, we have to define the variables and determine what exactly is going to be measured.

To this particular case belong three above mentioned variables: T, P and Q. We are not going to consider other probable variables such as: personal abilities and skills (e.g. language ones), disposition for taking risk, stress resistance. T, P and Q variables are going to be connected with each other by the logical connectives in order to create propositional logic formulas. It is crucial to prepare such connections of variables after having carefully considered their character and their position within the problem of *καιρός*. Otherwise, the meanings that are going to be attached to them and to their connections may not be right and the evaluation of the whole formula may not be reliable.

It has been assumed for the purpose of the present study, that Q must exist, if effective communication is supposed to take place. So the cases where Q is marked as T (Truth) in a table of valuations for variables of

T, P and Q are the only ones that are considered. The situations, where Q is marked as F (False), will be the ones, which we are not especially interested in, because they indicate that there is no effective communication. The both other variables, T and P, do not have to appear necessarily for effective communication to take place. Thus, the author of the current paper claims that an appropriate set of time and spatial circumstances are not a basic features for effective communication. The character of the ancient art of rhetoric was adjusted to the specific needs of the Greek poleis. It were Athens with their direct- and micro-democracy as a political system, to profit greatly from their citizens being educated and trained according among others to the Aristotle's principles of rhetoric. These rules met the expectations and special requirements of the ancient societies, where the use of rhetoric was restricted by customs and procedures that would not be completely accepted nowadays. In this way the indications of Aristotle on rhetoric and Kairos that applied to the tradition of Greek private and public discourses can not be easily and fully transmitted to the modern theory and practice of communication, including intercultural communication. The proper use of different ways of argumentation, of course in a set of favorable circumstances, was prescribed by Aristotle as crucial for a medium to appear persuasive. However, such configuration, with an appropriate time or context, that was to obtain during the ancient Greek verbal communication, is difficult to be reached in the modern verbal communication. The regulations due to which modern conversations are held are not that predictable and much more susceptible to change than they were in formalized ancient Athenian society. The factor that the modern speaker can work on, dominate or rely on, is a chosen medium. So in other words, it is Q that plays the decisive role in modern communication.

One more remark should be made before going into the logical investigation. The abbreviation EC which stands for "Effective Communication" is always designated as T (Truth). Otherwise it would not exist. The positive result of communication means that EC occurs, so  $EC \Leftrightarrow \text{True} \Leftrightarrow T1$ . Four possible variations of T, P and Q, which are being put into examination, have been collected in the Table 1.

*First condition of Kairos.* This principle shows  $\kappa\alpha\iota\rho\acute{o}\varsigma$  in its absolute form, when all elements unconditionally occur as true. This condition is the strongest one, because the situation of such kind is very difficult to achieve. The ideal conjunction of all true elements (T, P and Q) must take place if the effective communication is to happen. So: If T and P and Q are all true then EC is also true ( $T \wedge P \wedge Q \Rightarrow EC$ ). So: If T and P and Q are all true then EC is true if and only T and P and Q are all true ( $T \wedge P \wedge Q \Leftrightarrow EC$ ).

**Table 1**

Q (appropriate medium)	P (appropriate context)	T (appropriate time)
T	T	T
T	F	F
T	F	T
T	T	F

*Second condition of Kairos.* This principle is the second strongest condition to be fulfilled if *καιρός* is supposed to appear. There is a greater possibility that *καιρός* will take place if this condition is preserved than if the first condition of Kairos would be maintained. As it has been just mentioned, the configuration for the first condition of Kairos is extremely difficult to obtain, because it happens only in one case out of four, whereas the second condition is obtainable in all four cases. It is based on disjunction of T, P and Q, of course with Q marked as True, since this has been pointed as an indispensable factor of effective communication. In this case, effective communication is obtainable even if Q is True, P and T are False. So: If Q is True, P and T are True or False then EC is always True ( $T \vee P \vee Q \Rightarrow EC$ ). In our set of objects, this condition is maintained for all four cases. So it is a tautology. The second condition of Kairos works also for other configurations such as for example:  $[(Q \vee T) \vee (Q \vee P)] \Rightarrow EC$  or  $[(Q \vee T) \wedge (Q \vee P)] \Rightarrow EC$ .

*Third condition of Kairos: Q-True Obligation.* It says that *καιρός* occurs (= is True) only if Q, which is an appropriate medium for reaching one's goals, occurs (= is True). This rule results from pragmatics of language usage. Without Q, effective communication does not exist, because there is no appropriate medium, that would lead to communication success. Hence, in terms of logical evaluation process and creating propositional formulas, a variable  $\sim Q$  (a negation of Q) does not exist, because if it does, it means that there is a failure in communication.

*Fourth condition of Kairos:* This principle also refers to Q as an essential condition for *καιρός* to occur (see: *Third condition of Kairos*). It says that if an effective communication is supposed to be involved, all three components do not have to appear necessarily, but at least two of them. Among these two elements, there must be Q which is obligatory in every case of *καιρός*. So the second element can be either T or P. So Q is True and from T and P one element is True and the other one False.

Let us now consider the following propositional logic formula  $Q \wedge (P \vee T)$ . This formula is equivalent to  $[(Q \wedge P) \vee (Q \wedge T)]$ , because the sentence  $Q \wedge (P \vee T) \Leftrightarrow [(Q \wedge P) \vee (Q \wedge T)]$  is tautology (= is True). Now we have to prove whether these both equivalent formulas, based on disjunction of two conjunctions of  $Q$  with  $P$  and  $Q$  with  $T$ , lead to effective communication. For our examination we are going to use the left-side formula  $Q \wedge (P \vee T)$ .

So  $Q \wedge (P \vee T) \Rightarrow EC$  formula is going to be examined. The results of this verification have been inserted into the table below, where all the possible valuations have been shown (Table 2). Only True valuations for variable  $Q$  have been analyzed, because only if  $Q$  exists (= is True), EC may occur. If EC exists, it is always true:  $EC = True = 1$ . We examine the situation where there is a success in communication, so the right side of the formula is  $\Rightarrow True=1$ , so we are verifying if  $Q \wedge (P \vee T) \Rightarrow True$ .

**Table 2**

Q	P	T	$P \vee T$	$Q \wedge (P \vee T)$	$Q \wedge (P \vee T) \Rightarrow EC$	$Q \wedge (P \vee T) \Leftrightarrow EC$
T	T	T	T	T	T	T
T	F	F	F	F	T	F
T	F	T	T	T	T	T
T	T	F	T	T	T	T

It has already been proven that formula  $Q \wedge (P \vee T) \Rightarrow EC$  is a tautology. So also the formula  $[(Q \wedge P) \vee (Q \wedge T)] \Rightarrow EC$  is a tautology, because  $Q \wedge (P \vee T) \Leftrightarrow [(Q \wedge P) \vee (Q \wedge T)]$ . It has been also verified that formula  $Q \wedge (P \vee T)$  is not equivalent to EC, so  $Q \wedge (P \vee T) \Leftrightarrow EC$  is not a tautology: the  $Q \wedge (P \vee T)$  sentence is not the only possibility to reach communication success. But the  $Q \wedge (P \vee T)$  sentence leads to EC in every of the examined cases:

1) If  $Q$ ,  $P$  and  $T$  are True then  $Q \wedge (P \vee T) \Rightarrow EC$  and  $Q \wedge (P \vee T) \Leftrightarrow EC$ .  $Q \wedge (P \vee T) \Leftrightarrow EC$  is not a tautology, because the results are positive in three out of four cases.

2) If  $Q$  is True,  $P$  and  $T$  are False then  $Q \wedge (P \vee T) \Rightarrow EC$ , but  $Q \wedge (P \vee T)$  is not equivalent to EC. This particular case shows significance of  $Q$  within  $\kappa\alpha\rho\acute{o}\varsigma$ .  $Q$  is the only attribute of  $\kappa\alpha\rho\acute{o}\varsigma$  that is completely dependent from the person who is performing the action. It is only  $Q$  that can be carefully chosen in order to receive a proper goal. The other two factors,  $P$  and  $T$ , are not completely dependent from the person who is

making the action. They are always fluent and subjected to changes. It is very often impossible to control them directly. But the importance of Q consists of its ability to become superior and influential over P and T and overcome their non-existence so that this negative value of P and T does not interfere with the outcome of communication. Instead of this, Q alone, with no proper time and no proper context, leads to success in communication. This rule may be called *Q-Along Paradox*.

3) If Q is True, P is False and T is True then  $Q \wedge (P \vee T) \Rightarrow EC$  and  $Q \wedge (P \vee T) \Leftrightarrow EC$ . The combination of two true elements, from which one is Q and the other one is T, even if P is False, leads to effective communication.

4) If Q is True, P is True and T is False then  $Q \wedge (P \vee T) \Rightarrow EC$  and  $Q \wedge (P \vee T) \Leftrightarrow EC$ . The combination of two true elements, from which one is Q and the other one is P, even if T is false, leads to effective communication.

The example above has proven the *Fourth condition of Kairos* and superior position of Q in a successful communication act.

#### 4.1.1. Results

The obtained results can be summarized as follows:

1) The most difficult situation for effective communication to appear is when all three elements, which are appropriate medium, appropriate context and appropriate time, take place. This is the most complete and ideal example of effective communication. But reaching success in communication by co-existence of all these elements is the hardest configuration to achieve (First condition of Kairos).

2) Q-Factor means that an appropriate medium is the essential factor for effective communication. Appropriate medium must appear if effective communication is to happen (Third condition of Kairos: Q-True Obligation).

3) If an appropriate medium appears, appropriate time or context may also appear, but they do not have to (Second condition of Kairos).

4) If an effective communication is supposed to be involved, all three components do not have to appear necessarily, but at least two of them. Among those two elements, there must be Q which is obligatory in every case of *καιρός*. So the second element can be either T or P. So Q is True and from T and P one element is True and the other one is False (Fourth condition of Kairos).

5) Q-Along Paradox shows the importance of Q that consists of its ability to become superior and influential over P and T, and to overcome their non-existence so that this negative value of P and T does not interfere

with the outcome of communication (it is also confirmed by the Second condition of Kairos).

The above stated conclusions show that the most important feature of effective communication is Q=appropriate medium. Q is involved in all of the configurations that lead to achieving success. Its occurrence ensures the positive outcome of communication process. If an appropriate medium is used, there can be no failure. Relying on an appropriate medium, if the appropriate time and context are not provided, means taking one's chances. However it rewards us with success. Examination of other factors that can have impact on communication has not been a part of this discussion. However, verifying the relations between medium, time and place (which are the attributes of effective communication itself) resulted in information which one of these factors has the decisive influence on communication and whose choice and application we should have in regard. Now we are going to investigate what the effect of these results on the practical aspect of the intercultural communication may be.

#### **4.2. Practical aspect of Kairos in Intercultural Communication (IC)**

The primary goal of any kind of communication, including IC, has been always efficacy in transmitting of thoughts, ideas or emotions. In most of the cases the communication process is based on verbal interaction, that of course does not exclude body language or proper intonation. However, non-verbal factors belong to the secondary supportive means, whereas a verbal medium is the most important and conclusive one. The efficacy of communication process, either intercultural or other kind, assumes that information will be transferred or agreement will be concluded in the shortest possible time, without any loss to the integrity of information conveyed in the right context and through the appropriate words. As it has been verified above, an appropriate medium plays the most important role in the act of communication. So how does it apply to particular conditions of IC?

Before investigating this matter, two remarks of crucial importance should be made. Both of them refer to the specific character of IC. First of all, IC assumes that verbal interaction takes place between the interlocutors of different national origins: a native speaker vs. a non-native speaker (foreigner) and a non-native speaker from country X vs. a non-native speaker from country Y (or in some cases between two non-native speakers of different origins living in country X). It may cause certain problems connected with distinct standards of behavior or problems related to different socio-cultural background and its relationship with a specific language, i.e. the ethnography of speaking (Duranti, 2005: 17). Although the different na-

tional status of interlocutors may vary, the biggest problem of IC remains identical: using the same language standard. It is not a case of having any knowledge of a certain language, but being able to use the same language correctly on a appropriate level of proficiency. This “communicative competence” as described by Hymes (Hymes, 1972: 277–278): “(...) is integral with attitudes, values, and motivations concerning language, its features and uses, and integral with competence for, and attitudes toward, the interrelation of language, with the other codes of communicative conduct”. If one’s “communicative competence” is high, the efficacy in communication, which consists not only of success in verbal understanding, but also enables social accommodation and proper functioning within a definite group, is more probable. According to Hymes: “participation, performance, and intersubjective knowledge are all essential features of the ability to ‘know a language’” (Duranti, 2005: 20). It is also worth mentioning that the relationship between culture and communication is mutual, because they both influence each other (Martin & Nakayama, 1997: 52–56).

The most popular global modern language, which is the most common medium for IC (both in private and official settings, e.g. political and business), is English denoted sometimes as “Lingua Franca” (Kowner & Rosenhouse, 2008: 5). According to Giles and Noels, the problems such as: negotiating how the participants of the conversation are willing to communicate, what language is going to be used or which linguistic code is the most preferable one, have strong behavioral background and pertain to the notion called Communication Accommodation Theory (Giles & Noels, 1998: 139). However, stereotypes, the problems “how individuals and social or cultural groups define themselves and others” (Yläne, 2008: 181), and “beliefs about the appropriate norms regarding language use” (Giles & Noels, 1998: 144) influence strategies of accommodation (“convergence” and “divergence”) and may have impact on different levels of accommodation, the use of particular language should be based on estimation of personal level of its knowledge. This knowledge ought to be as proficient as possible and can be exclusively obtained after some period of thorough learning, not only of the language structures, but also after becoming familiar with its *imponderabilia*, such as pragmatics or culture to which a specific language belongs. The version of language adjusted for learning should be a standardized form in all of its aspects, the same for everyone, for a native and for a non-native speaker as well.<sup>1</sup> It should be prepared af-

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<sup>1</sup> For the discussion of the problem of accommodation between a native and a non-native speaker see: Janicki, 1986: 169.

ter considering all of the cultural discrepancies between the native territory and the territory to which learning of the specific language is going to be implemented. Only in this way, the probability of achieving communication success, whether one-sided or mutual, will be greater than ever due to the relevant cultural schemata that would be presumably shared (Žegarac, 2008: 65).

We are going to examine now in what way the conditions of effective communication derived from the tautological analysis of *καιρός* may be matched to the multinational aspect and one language standard of intercultural communication.

#### **4.2.1. Time (T) and Context (P)**

From the speaker's point of view, both of these features (T and P) are irrelevant for the effect of the communication process. "Being irrelevant" means in this case that the speaker is not able to influence them in order to exploit them for his own purpose. They are beyond his direct influence.

As it results from the practical aspects of communication examined in the tautological analysis of *καιρός*, an appropriate time is a feature which is very difficult to obtain. Success in communication cannot be based on T-existence, because it is almost impossible to say or predict with complete certainty when the right time is or when the right time for doing something will be. Expressions such as "taking the right time" are the perfect examples of wishful thinking. In a set of the three attributes of *καιρός*, T (time) and P (context) are the ones completely independent from the will of the speaker. All that one can do in order to reduce the possibility of occurrence of "a wrong time" is to search for premises, that would indicate the coming of "the right time". The results of this kind of action are very unstable, since discerning the premises of "the right time" raises many obstacles and even the general premises of "the right time" are hard to be pointed clearly. The probability of not taking the right time and being punished with failure in communication is very high and this risk cannot be eliminated.

The same situation is present in intercultural communication. If there is a native speaker and a non-native speaker, the first one has a sense of time (appropriateness of time) that is proper for culture and for language which currently is being used during the conversation, whereas the second one has the sense of time (appropriateness of time) that is proper for his native culture and language. In most of the cases non-native speakers are not trained how to profit "from time" within the frames of the specific foreign language and culture. Such inadequacy may cause many problems during the com-



munication process and prevents reaching successful communication. Misunderstanding is caused by different mental settings, “determined by culture specific knowledge” (Žegarac & Pennington, 2008: 142). As Žegarac & Pennington assume: “Misunderstandings of this sort involve the carryover of culture-specific knowledge from a situation of intracultural communication to a situation of intercultural communication” (Žegarac & Pennington, 2008: 142–143). The identical difficulty is when a non-native speaker is confronted with the other non-native speaker. This case is even worse, because neither of the speakers is provided with the suitable sense of time (appropriateness of time) for the specific foreign language. Intuition or time conviction, when exactly something should be done or said, developed for the purpose of the proper native language is not enough, if it comes to seizing the right moment within the foreign language discussion. Hence, focusing on time as on a decisive factor for reaching success in intercultural communication is pointless, if we are not able to determine clearly what moment of time is the right one for the effective action to be taken.

Everything that has been stated above applies not only to T, but to P as well. Putting words into the right context cannot be seen as an ultimately determining success in IC. Similarly to T, also P is a very unstable and prone to changes attribute of IC. The variety of elements, that have their influence on P, makes it difficult to estimate when the right context is going to happen. If the right context appears, it may lead to success in IC, but only within the special circumstances which are hard to be satisfied. For a specific culture and a specific language, which grants access to culture and its meanings, the appropriateness of context and the linkage of time and context differ from the ones typical for the other culture and language. Learning how to achieve the right context is almost impossible and sometimes even the native speakers have problems with doing it. It is so, because the moral and social conventions, motivation to use particular ways of speaking which result from the communicative behavior within a community (Hymes, 2005: 9) or the general standards of behavior typical for the cultural heritage,<sup>2</sup> whose reflection is language, generate the mixture that is full of nuances. These nuances are completely readable and under-

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<sup>2</sup> This idea is included in Grice’s Co-operative Principle. As Žegarac described it: “Grice argued that human communication should be explained as a form of social interaction whose success depends on the interactants’ presumption that communicative behavior is driven by certain norms and rules” (Žegarac, 2008: 55). For discussion of other approaches to culture and communication see: Žegarac, V. (2008). *Culture and Communication*. In H. Spencer-Oatey (Ed.), *Culturally Speaking. Culture, Communication and Politeness Theory* (48–70). Continuum International Publishing Group.

standable only for a select group, and only for those non-native speakers who have the most proficient and sophisticated knowledge of a given language within a given culture. For all the others, the risk of communication failure by choosing an inappropriate context remains at a very high level. That is why, the success in international communication cannot be based on the right context, i.e. “the relation between patterns of behavior, speech included, to their immediate as well as broader sociocultural context” (Duranti, 2005: 20), just as it cannot be dependent from the right time.

#### **4.2.2. Medium (Q)**

The only factor that can influence the other two elements, T (time) and P (context), and create the positive outcome of intercultural communication is an appropriate medium (Q). The choice of the most suitable Q is completely under the responsibility of the speaker. It is the speaker who decides what kind of medium seems to be the most suitable for him to obtain his goals. This practical aspect of Q makes this feature adjusted in the best possible way to the needs of the particular moment. As far as time is concerned, and to lesser degree also context, both these elements rely mostly on the propitious coincidence, which may or may not happen. Only using an appropriate medium provides one with the possibility of reaching success, as it has been shown in the results of the tautological analysis of *καιρός*.

Unfortunately, we are not able to see, whether the medium taken by us was a suitable one or not if only from the retrospection. Only then the outcome of the medium is clear. But still the choice belongs to the speaker. If the problem that is going to be solved has been well stated and the medium has been well selected, the chances of reaching success are very high. However the risk of making a bad decision remains and cannot be totally eliminated. But it should be underlined once again, that if the situation has been in advance carefully investigated and choosing an appropriate medium has been done with full recognition of the nature of the problem and the goals that a speaker is keen to obtain, communication profit, including the one in intercultural communication, is going to be reached.

In all the configurations of T, P and Q, Q is the last feature that remains the crucial one. Even if there is no right moment or context for a particular action, selecting the right medium is the key to success. An appropriate medium has an ability to overcome the obstacles, such as wrong time or context, because differently from these last two it refers directly to the problem itself. Whereas the appropriateness of time (opportunity to make an action) and appropriateness of place (understanding the problem from

the specific context) arise not from the nature of the discussed problem, but from their own cultural background. However, the perception of time and context during the discussion must be prone to some variations which are caused by the accommodation of interlocutors to each other. In this way, both time and context are seen in the specific currently given configuration. But the primary pattern of time and context remains always the same, closely connected with the specific culture. The only thing subject to changes is the problem itself and the selection of an appropriate medium.

What does it mean for intercultural communication? The conviction what should be done or said in the specific situation is developed throughout the years of the specific cultural education. But this cultural background loses its significance if it comes to intercultural communication and to choosing an appropriate medium (yet, the cultural background stays conclusive for time and context within intercultural communication). In terms of intercultural communication, choosing a solution (a word, or a phrase, or a gesture) is an issue related to comprehensive knowledge of the problem or goals to achieve, and to the ability to define and clearly express one's thoughts or ideas. The second condition may only be sustained if a specific language is being used on a proficient level. Therefore, deciding to use an appropriate medium is completely dependent from the speaker and almost irrespective of time and context. In the situation when the act of intercultural communication takes place between a non-native speaker and a native speaker, the second one is generally privileged due to his language skills. If two non-native speakers are involved, the greater chances to be successful has the one with greater language skills.

## **5. Conclusions**

The multidimensional idea of ancient *καιρός* can be applied to intercultural communication. There are three main attributes of *καιρός*: appropriate time (T), appropriate context (P) and appropriate medium (Q). There is no model that would indicate how *καιρός* should be used for the purpose of intercultural communication. But creating such formula would enable us to be more effective in communication process. The analysis of the relations between T, P and Q has shown that the last feature has been the most decisive one for reaching successful communication. If communication process is supposed to be a successful one, Q must unconditionally appear. An appropriate medium is the only feature that is completely dependent on the speaker, which means that it can be formulated to fit his needs and

goals. The other two factors, appropriate time or context, are beyond the direct impact of the speaker and cannot be relied on when trying to obtain communication goals. They are not predictable and thus impossible to be controlled. Hence, the ancient rhetorical idea of *καιρός* that considered an appropriate time as its primary feature cannot be fully transferred to modern intercultural communication.

The model of *καιρός* adapted for intercultural communication must satisfy its two basic features: one language standard and multinational character. Effective communication as a positive outcome of intercultural communication must be also involved. The practical aspect of intercultural communication and tautological analysis of the whole problem has shown that the use of Q (appropriate medium) is crucial if the result of intercultural communication is supposed to be effective. In specific configurations of elements, T or P (T and P) occur or not, but being able to exploit the right medium remains decisive. The ability of selecting an appropriate medium requires thorough knowledge of the discussed matter, awareness of why this issue was raised as a problem in intercultural communication, i.e. a mediated discourse approach to intercultural communication (Scollon & Wong Scollon, 2006: 545), and clear identification of the communication goals. The proficiency in using a particular language is also demanded. These qualifications are necessary to be fulfilled if we wish to take advantage of *καιρός* and gain efficacy within intercultural communication. Besides language skills, the other ones are rather impossible to be taught.

The most important profit for intercultural communication from using an appropriate medium is the considerable reduction of risk of making a bad decision. The reduction of risk means that one has greater opportunity for being successful and therefore for being superior over his interlocutor. In every kind of communication, including intercultural communication, knowing how to conduct a discussion and what means of persuasion should be used in order to accomplish one's plans, is of paramount importance. What is more, the rules of effective communication derived from *καιρός* seem not to have any weak points. It is impossible to eliminate the risk of failure from intercultural communication. However, the probability of taking an inappropriate medium, completely dependent on the choice of the speaker, is still much smaller than the probability of relying on an opportune time or context, both unpredictable and not under the control of the speaker. Investigating a particular problem and then taking a risk, and making a right decision leads to success, while not being able to take such responsibility results in failure.

S U M M A R Y

The paper focuses on the idea of Kairos, which is one of the most important features of ancient rhetoric, and applies it to modern intercultural communication. The author's main concern lies within the question whether the act of intercultural communication could be more effective if the rules of Kairos would be applied to it. The research on the possible implementation of the rules of Kairos into the act of intercultural communication begins with pointing out the main characteristics of the ancient idea of Kairos and their division into three categories of time (T), place (P) and qualities (Q) which, in terms of the act of communication, stand respectively for an appropriate time, an appropriate context and an appropriate medium. Then, the relations between these categories are examined by means of a tautological analysis. The obtained results, that indicate the significant position of Q (an appropriate medium) in the process of the effective communication, are furtherly investigated in the subsequent section concerning the practical aspect of Kairos in intercultural communication. In the final conclusions it has been stated that the ancient idea of Kairos must be reformulated for the specific needs of intercultural communication before being applied to it.



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## RHETORIC PROOF IN THE PATHOS SPHERE IN THE GREAT PRE-ELECTION TV DEBATES

*For every speech is composed of three parts: the speaker, the subject of which he treats, and the person to whom it is addressed, I mean the hearer, to whom the end or object of the speech refers. Now the hearer must necessarily be either a mere spectator or a judge, and a judge either of things past or of things to come. For instance, a member of the general assembly is a judge of things to come; the dicast, of things past; the mere spectator, of the ability of the speaker.*

(Aristotle, *The Art of Rhetoric*, 1358b)

### Introduction

The purpose of this article is to consider the location and role of a particular type of argument involving emotions and attention of large audiences in the discourse of the great television election debates.<sup>1</sup> The analysis is based on three cycles of debates: American,<sup>2</sup> British<sup>3</sup> and Polish ones.<sup>4</sup> The focus is put on how politicians behave in a situation of the pre-election dispute where the aim is to win the debate and get closer to winning the election (the primary goal). The article is not going to focus on the full range of argumentative means. It is going to analyse only the elements that affect the movement of the audience in the debate (the *movere* function). The

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<sup>1</sup> The adjective “great”, which plays here a role of subdistinction, requires an additional explanation. The concept of the “great debate” is accepted on the basis of the nomenclature used by the researchers to isolate the final American debates finishing the election campaign of the major candidates one of whom is to be elected President.

<sup>2</sup> Barack Obama versus John McCain, the presidential election in 2008 (a cycle of three debates).

<sup>3</sup> Gordon Brown versus David Cameron versus Nick Clegg, parliamentary elections, 2010 (a cycle of three debates).

<sup>4</sup> Jarosław Kaczyński versus Bronisław Komorowski, presidential elections, 2010 (a cycle of two debates).

Aristotelian tridivision of proof – ethos, logos and pathos – is going to be accepted. The author of this paper is interested in the level of differentiation of emotional arguments and the factors affecting it.

For Aristotle, pathos is one of the types of proof, in addition to ethos and logos, which a speaker uses in the process of persuasion.

Now the proofs furnished by the speech are of three kinds. The first depends upon the moral character of the speaker, the second upon putting the hearer into a certain frame of mind, the third upon the speech itself, in so far as it proves or seems to prove.<sup>5</sup>

In the ethos sphere he distinguishes three qualities associated with the nature of the speaker: good sense (phronesis), virtue (arete), and goodwill (eunoia) addressed to the audience. The latter property refers to the problem of moving the audience and raising their kindness, which remains in the sphere of pathos.<sup>6</sup> Aristotle considers the problem of emotions as a motive for judgement.<sup>7</sup> Under the influence of affect people seem to give a different judgment than they do normally, depending on whether they feel pleasure or pain. The speaker, in turn, in order to arouse the feelings that motivate the audience to arrive at a desired judgment, should be able to recognize three aspects: first, human nature driven by affection; second, to whom the speech is addressed; and lastly, for what reasons it is given.<sup>8</sup> The knowledge of affects (Aristotle distinguishes sixteen affects grouped in opposite pairs) and the ability to recognize them in social situations allow a speaker to build a suitable topos support for proof in every case. The relationship between proof in the pathos and ethos spheres in Aristotle's concept includes the role of the speaker and the appropriateness of his nature that allows him to win the favor of the audience. Constructing his ethos in the speech, the speaker bases it on the knowledge of the affects that he potentially identifies in the audience. These two types of proof are interwoven in this aspect, that is in the identification of the two parties of rhetorical communication.<sup>9</sup> The speaker seeks for the audience to identify with him and the issue which is

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<sup>5</sup> Aristotle, *The Art of Rhetoric* 1356a (1–4).

<sup>6</sup> Aristotle, *The Art of Rhetoric* (1378a18).

<sup>7</sup> G. A. Kennedy, *Classical Rhetoric & Its Christian & Secular Tradition from Ancient to Modern Times*, University of North Carolina Press, Chapel Hill, NC, 1999, p. 82.

<sup>8</sup> Aristotle, *The Art of Rhetoric* Rhet. 1378a.

<sup>9</sup> K. Burke, *A Rhetoric of Motives*, Berkeley, University of California Press, 1969, p. 20–29, 55–59.



the subject of persuasion. The audience will be likely to identify with the problem if the speaker creates the kind of ethos that is attractive for the audience by arousing affects.

However, Cicero looks at the relations between ethos and pathos in a different way. According to him, persuasion is differentiated as the one which exposes soft emotions (ethos) and strong emotions (pathos). These two dimensions make a speech attractive:

One of which is, that which the Greeks call ῥηθικόν, adapted to men's natures, and manners, and to all their habits of life; the other is, that which they call παθητικόν, by which men's minds are agitated and excited, which is the especial province of oratory. The former one is courteous, agreeable, suited to conciliate good-will; the latter is violent, energetic, impetuous, by which causes are snatched out of the fire, and when it is hurried on rapidly it cannot by any means be withstood. (*Orator* XXXVII, 128)

He does not attribute them to a specific place in the structure of speech. He states that ethos and pathos penetrate speech as blood penetrates the body. The Ciceronian analogy perfectly illustrates the structure of proof in a pre-election debate which comprises penetration of ethos elements into other structures of proof. Regardless compositional aspects and format conditioning, each pre-election debate is based on the same construction which fundamentally shapes the typology of proof. The construction axis of a pre-election TV debate is a comparative question: Who (X or Y) is going to be prime minister or president? Each media event (a single TV debate) is subordinated to this primary comparison issue. If a topic range of the debate is specified, eg foreign affairs, or state security, a problematic issue (or the issue the debate is to settle) will be:<sup>10</sup> Which candidate (X or Y) offers a better program in the field of foreign politics? Different thematic sequences that are determined by the person asking the question in the debate will be specific issues: who (X or Y) has a better idea to fix taxes/health care? (This is the argumentative path according to which debates are conducted in the U.S.A). Finally, specific issues uttered by a moderator/journalist/participant audience make important part of the debate. At this stage comparative issues are rare but frequent are questions such as: Is it necessary to raise taxes? Is it beneficial to privatize the health care system? Is the current course of foreign politics to be continued?

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<sup>10</sup> Rhetoric is called problematology. See M. Meyer, M. M. Carrilho, B. Timmermans, *Historia retoryki od Greków do dziś*, ed. M. Meyer, transl. Z. Baran, Warszawa, Wydawnictwo Aletheia, p. 293–332.

A pre-election debate situation considered in terms of the proof division into logos, ethos and pathos can be relatively easy to partition into topos areas. Logos includes problematic issues related to politics and election program. The topos map will therefore cover matters of economics, taxes, foreign policy, or social issues that are relevant to specific groups of voters. Its domain will therefore be based on the questions regarding the program proposals of politicians. Voters' replies will deal with issues whose program is better or whose solution is more favorable to the interests of voters. Proof in the ethos sphere will be related to image issues.<sup>11</sup> Questions to be answered by the voters judging the debate will relate to the issue of politicians' personalities: which of them is capable of convincing me, which one would be a better leader (Prime Minister/President/Chancellor)? The range of topos will relate to three properties of the speaker: good sense, virtue, and good will and their adaptation to the audience's expectations. And here a range of topos related to the addressees' likes and feelings appears, that is pathos. Not only can an efficient speaker adapt his persuasion to the nature of audience, but he can also inspire and evoke emotions affecting the judgment of the audience in a controversial case. The speaker must be aware of different attitudes and values of the public and use it as a basis for his arguments.<sup>12</sup>

Ethos will be the main argumentative platform in a pre-election debate.<sup>13</sup> This is connected with the construction of the issue organizing the debate based on the question: Which candidate (X or Y) is to win the election? Within this area there appear specific questions and a set of micro-disputes forming the skeleton of the compositional debate. Since the primary issue relies on the settlement of the dispute "who is the best", a clash of ethos, in each micro-dispute resulting from a question asked by a moderator/journalist/viewer and leading towards the evaluation of the politician will appear. Each thematic sequence (logos) will carry an evaluative supposition in the sphere of ethos. Tackling both the political (logos) and image (ethos) issues takes place in front of the audience and because of the audience in order to win as much as possible at the cost of dimin-

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<sup>11</sup> Friedenberg R. V. 1997, *Patterns and Trends in National Political Debates: 1960–1996*, in: *Rhetorical Studies of National Political Debates – – 1996*, ed. Robert V. Friedenberg, Praeger, Westport, CT, p. 61–91.

<sup>12</sup> D. Walton, *Appeal to Popular Opinion*, Pennsylvania State University Press, University Park, PA, 1999, p. 190.

<sup>13</sup> A. Budzyńska-Daca, R. Botwina, *Ethos, pathos and logos in pre-electoral TV debates*, a conference paper, "Ethos/Pathos/Logos. The Sense and Place of Persuasiveness in Linguistic, Literary and Philosophical Discourse (18–20 October 2012).

ishing the number of the opponent's supporters. Therefore, two types of arguments whose function is to refer to the audience are going to be considered now.

### *Ad populum and ad auditores*

Both ways of arguing, *ad populum* and *ad auditores*, are based on a separate group of topoi. The first type covers an area of people's preference, stereotypes, sympathy, and universal desires that a politician is going to tackle during the debate to win the audience over. The *ad populum* argumentation in its major aspects overlaps with the *ad passiones* argumentation. Some researchers agree that these types of argumentation should be treated as similar.<sup>14</sup> Walton points out 11 subtypes of the *ad populum* arguments. His division is based on the distinction in the premises sphere. Gaining the favour of the audience depends on moving the public and referring to the common points adequate in the given place and audience: values (the moral-justification *ad populum*, the snob-appeal *ad populum*), authorities (the position-to-know *ad populum*), the expert-opinion *ad populum*, the deliberation *ad populum*, emotions (the mob-appeal *ad populum*), the common-folks *ad populum* needs (the rhetoric-of-belonging *ad populum*, the appeal-to-vanity *ad populum*).<sup>15</sup> *Ad populum* understood in this way also comprises different types of arguments and annexes them as secondary. Thus, in this argumentative sphere there will appear flattering persuasion, simplified valuation, and enhancing ethos based on the audience's needs as well as devaluation of the opponent's ethos.

*Ad auditores* argumentation, which seems to be popularized along with Schopenhauer's catalogue of eristic ways, is similar to *ad populum* in many aspects. In *Eristische Dialektik* Schopenhauer characterizes it in the following way:

This is chiefly practicable in a dispute between scholars in the presence of the unlearned. If you have no argument *ad rem*, and none either *ad hominem*, you can make one *ad auditores*; that is to say, you can start some invalid objection, which, however, only an expert sees to be invalid. Now your opponent is an expert, but those who form your audience are not, and accordingly in their eyes he is defeated; particularly if the objection which you make places him

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<sup>14</sup> D. Walton, *ibidem*, p. 68.

<sup>15</sup> *Ibidem*, 195–227.

in any ridiculous light. People are ready to laugh, and you have the laughers on your side. To show that your objection is an idle one, would require a long explanation on the part of your opponent, and a reference to the principles of the branch of knowledge in question, or to the elements of the matter which you are discussing; and people are not disposed to listen to it.<sup>16</sup>

Schopenhauer adopts the Aristotelian proof division into ethos, pathos and logos in the field of eristic dialectics. However, he locates it in the situation of dispute, conflict, and rivalry between the parties in their attempt to get the audience's favour. *Ad auditores* is a technical procedure which ignores the complexity of the case and the burden of proof in a dispute with the counterparty and refers to the judgment of the audience, giving them an appropriately simplified explication. A vast new area for the application of different subtypes of the *ad populum* argumentation opens up. In my opinion, the scheme indicated by Schopenhauer does not fully surrender to the multiple *ad populum* argumentation. Both types aim at gaining the favor of the audience. But the latter has a specific feature. It refers to the situation when the parties of the dispute are listened to by the audience, who are a judge in the matters determining their future,<sup>17</sup> a situation in which the debate is conducted. A speaker dealing with a controversial issue refers to the audience waiting for their approval and exerting pressure on his rival instead of referring to his opponent and moving to the logos sphere. *Ad auditores* has a special eristic feature – defeating an opponent, overtaking him in the fight for shortening the distance<sup>18</sup> towards the audience in the substance and image matters. Meanwhile, *ad populum* can also be used in non-conflict situations in different types of the rhetorical discourse, where the audience can be a critical witness<sup>19</sup> rather than a judge.

The scheme presented below illustrates the dependency between the above mentioned types of arguments. A distinctive feature is a primary aim of the ways to present proof. *Ad populum* comprises a multitude of ways to influence the audience in order to identify with the speaker and/or speech problems; on the other hand, *ad auditores* (according to Schopenhauer) is a movement against one's opponent to get his supporters who have already

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<sup>16</sup> A. Schopenhauer, *The Art of Controversy*, Translated by T. Bailey Saunders, M.A., eBooks@Adelaide, 2009, XXVIII.

<sup>17</sup> Aristotle, *The Art of Rhetoric* 1358b.

<sup>18</sup> See M. Meyer, M. M. Carrilho, B. Timmermans, *Historia retoryki...* Rhetoric is defined as a negotiation of distance between individuals in a given issue, p. 297.

<sup>19</sup> Aristotle, *The Art of Rhetoric*.

chosen the opposite side – the ones the opponent relies on. It is therefore a strategy resulting from a dispute situation which is typical for the adversarial discourse.



A common topos dimension being the source of premises is comprised by the area of the audience's preferences and emotional potential which can be used. However, there are different primary aims: building one's ethos (*ad populum*) and destructing the opponent's ethos (*ad auditores*).

Here are some examples of **the *ad auditores* arguments**.

Example one: a politician puts the competitor under the audience's judgement

I just think it is disgraceful to try and frighten people in an election campaign, as Gordon Brown has just done, and as the Labour Party are doing up and down the country. I would like to take this opportunity to say very clearly to any pensioner in the audience, anyone listening at home, that we will keep the free television license, we will keep the pension credit, we'll keep the winter fuel allowance, we'll keep the free bus pass. Those leaflets you have been getting from Labour, the letters you have been getting from Labour are pure and simple lies. A politician shouldn't say lies very often, I say it because I have seen the leaflets and they make me really very, very angry. You should not be frightening people in an election campaign, it is just not right. (David Cameron, *Second debate*)

Example two: a politician refers to a competitor asking him not to mislead the audience. In fact, such a statement diminishes the opponent's ethos.

I really urge you not to benefit from the fact that perhaps some of those who are watching us today simply do not know the reality, they have no precise information about how much Greece and Poland are indebted. (Jaroslaw Kaczynski, the first debate)

Example three: firstly, a politician refers to his competitor, and later to the audience suggesting how to judge the actions of his rival:

Here I would like to ask you (I know you're going to the UK) not to commit the error mentioned by the Polish Press Agency that you announce the resignation of direct payments per hectare in the name of the dream of the European army. Ladies and gentlemen, this is the superpowership. (Bronislaw Komorowski, the first debate)

Example four: a politician addresses the audience ascribing them some attributes of power:

It's the voters to decide. You're the boss, it's your decisions that will count. You have the votes to make a difference. (Gordon Brown, *Second debate*)

In the above mentioned *ad auditores* statements politicians redefine the status of the audience from the position of the recipients (viewers watching a television media event in a passive way) to the position of judges (active voters) subjecting them to judge the devalued ethos of the opponent.

### ***Ad populum* arguments**

For example, a politician stirs positive emotions praising the audience:

The point is -- the point is that we can fix our economy. Americans' workers are the best in the world. They're the fundamental aspect of America's economy. They're the most innovative. They're the best -- they're most -- have best -- we're the best exporters. We're the best importers. They're most effective. They are the best workers in the world.

And we've got to give them a chance. They've got -- we've got to give them a chance to do their best again. And they are the innocent bystanders here in what is the biggest financial crisis and challenge of our time. We can do it. (McCain, *Second debate*)

In this statement a politician by referring to the the audience's affirmation (eunoia) develops his own ethos (arete). Flattering voters evokes emotions which create a positive attitude towards the politician as the leader.

### **Figures in the pathos sphere**

The exact analysis of the debate text with regard to common rhetorical figures would be extremely difficult. From the point of view of the observation of persuasion trends occurring in the political discourse, the analysis

of single figures contained in the text seems to be very useful, both when it comes to the dimension of propositional and declarative knowledge. In this approach there appears a distinction between the rhetoric analysis of a literary text with the dominant aesthetic features and a rhetoric study of the text with a persuasive function which is located in the public discourse. We study the texts of public debates not for their beauty, but to show the individualized (the language of politicians) or institutionalized (language policy in the species and forms of public transport) mechanisms of the persuasive process of public communication.

Analysing the discourse of pre-election television debates it is necessary to point out those solutions that seem essential for the creation of beliefs on the part of the recipients (here voters) or those which are frequently used. A figure of contact belongs to such a rhetoric trick in the *elocutio* sphere. This type of figures supports or just accompanies the *ad auditores* and *ad populum* argumentation.<sup>20</sup> The figures indicate interaction returns or imitate the expansion of interaction at the speaker-speaker level towards the speaker-listeners-speaker level. Therefore, it is possible to specify two types of interaction in the debate: the real one and the apparent one.

The actual interaction takes place in the debate microsituation between the parties (a politician – a moderator, a politician – a person from the audience, a politician – a journalist, a politician – a politician). Its manifestation is the existence of conversational exchanges within the thematic sequence when partners affect each other's actions and remain in the immediate physical presence.<sup>21</sup> An apparent (figurative) interaction exists between politicians (broadly speaking, participants of the microsituation when journalists asking questions as well as a moderator may direct their statements to the audience) and the audience in the macrosituation. This interaction is initiated both by figures of turn (*obserctratio*, *licentia*, *apostrophe*) and figures of questions (*interrogatio*, *subiectio*, *dubitatio*, *communicatio*).<sup>22</sup> The sidedness of figurative interaction manifests itself in the fact that the speaker leading it does not expect a reply at the same time and place. However, he expects that this reply will take the form of approval towards his standpoint which, in case of elections, would be expressed by the declaration to vote, or to support.

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<sup>20</sup> A. Budzyńska-Daca, J. Kwosek, *Erystyka czyli o sztuce prowadzenia sporów. Komentarze do Schopenhauera*, Warszawa 2009.

<sup>21</sup> M. Kita, *Wywiad prasowy. Język – gatunek – interakcja*, Wydawnictwo UŚ, Katowice 1998, p. 45.

<sup>22</sup> H. Lausberg, *Retoryka literacka. Podstawy wiedzy o literaturze*, trans. And introduction by A. Gorzkowski, Bydgoszcz 2002; J. Ziomek, *Retoryka opisowa*, Wrocław 1990.

The analysis of the three cycles of debate shows that most of the turn figures appeared in the British debate, the Polish debates used them to a small extent. The statistics could be explained by organizational conditioning. The town hall meeting format allowed for a bigger contact between politicians and the voters who asked questions in the course of the debate. Politicians took a chance to express praise, approval and enthusiasm for the person inquiring and the problem that was raised. A similar situation occurred in one of the American debates which was held according to the same format. The press conference format, adopted in a series of Polish debates, introduced constraints for politicians to interact with voters through the figure of contact due to the presence of journalists who were the third party to the dispute in the adopted format of the debate. This resulted in a proof reduction in the area of pathos with the use of figures of contact.

The group of phenomena from the elocutio sphere includes emotive figures which greatly move the attention and audience: *exclamatio*, *evidentia*, *sermocinatio*, *fictio personae*, *expolitio*, *similitudo*, *aversio*.<sup>23</sup> *Sermocinatio* and *evidentia* deserve a special attention due to their ability to build narration in the debate discourse.

*Sermocinatio* is a fabrication of statements, interviews, or reflection (not expressed loudly) of the persons (historical or fictional), who are the subject of speech, to give them a better characterization<sup>24</sup>

Quintilianus characterizes the status of this figure in this way:

By this means we display the inner thoughts of our adversaries as though they were talking with themselves (but we shall only carry conviction if we represent them as uttering what they may reasonably be supposed to have had in their minds); or without sacrifice of credibility we may introduce conversations between ourselves and others, or of others among themselves, and put words of advice, reproach, complaint, praise or pity into the mouths of appropriate persons.

Nay, we are even allowed in this form of speech to bring down the gods from heaven and raise the dead, while cities also and peoples may find a voice. There are some authorities who restrict the term *impepersonation* to cases where

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<sup>23</sup> Also *adhortatio* (admonition, precept, promise, call) *deesis*, *adynaton* (expressing the inability to express something), *aganactesis* (expression of deep resentment), *aposiopesis* (sudden silence), *cataplexis* (threat, a prophetic expression), *epiPLEXIS* (asking questions to devaluate and express application), *epimone* (persistent repetition of the same accusation using the same words) H. Lausberg, *ibidem*, p. 441–464.

<sup>24</sup> Lausberg, pp. 450.



both persons and words are fictitious, and prefer to call imaginary conversations between men by the Greek name of dialogue, which some1 translate [p. 393] by the Latin *sermocinatio*.<sup>25</sup>

We have traced the frequency of *sermocinatio* and *evidentia* figures usage in particular debates. The reference to the persons acting in the statements of politicians can be associated only with the characteristics of these characters which is more or less extensive (in this case we are talking about *evidentia* figures) or quoting their statements (*sermocinatio*):

I met X; I talked to X; X did (*evidentia*) or X said (*sermocinatio*):

The referred figures support the process of identifying with the audience (*pathos*), and with the problem (*logos*) and the speaker (*ethos*). The speaker characterizes himself indirectly through the characters he refers to. Within the collection of characters there are two orders: firstly, there are the so-called **sample characters** who are anonymous (a nurse, teacher, emigrant, firefighter, war veteran, etc.); secondly, there are famous characters who can be recognized by the audience – **public figures**. These, in turn, are divided into **authorities** whom the speaker appreciates, recalls their opinions, views, statements and those who are portrayed as **supporters of the candidate** (here politicians’ family members also appear). Often a figure in the debate appears in two roles: authority (here, the *ad reverentiam* argument is sometimes used) and a supporter of the candidate. Then the argumentative force of this submission is frequently much higher.

The table shows how many times each politician referred to an active person (famous or unknown) during the debate.

Debates	Politician	Debate	Unknown persons	Famous persons
A cycle of pre-election debates (2008)	McCain	I	1	<b>13</b>
		II	0	<b>6</b>
		III	1	<b>8</b>
	Obama	I	1	<b>8</b>
		II	0	<b>6</b>
		III	2	<b>4</b>

<sup>25</sup> Quintilian, *Institutio Oratoria* IX, 2, 30.

Debates	Politician	Debate	Unknown persons	Famous persons
A cycle of pre-election debates in Great Britain (2010)	Brown	I	2	0
		II	1	0
		III	2	2
	Cameron	I	8	1
		II	2	2
		III	1	1
	Clegg	I	4	0
		II	2	3
		III	2	2
A cycle of pre-election debates in Poland (2010)	Kaczyński	I	0	1
		II	0	4
	Komorowski	I	0	0
		II	0	3

The juxtaposition was worked out by the author.

The analysis of three cycles of debate shows the differences in the frequency of referring to characters in the debate (unknown, the so-called sample, and well-known characters: authorities, supporters, opponents, family members), as well as trends differentiating the political discourse. In the American debates politicians frequently mentioned, quoted, and exemplified issues referring to the characters familiar to the audience (especially McCain). British politicians often used the examples in the form of unknown persons (especially Cameron in the first debate), invoked their statements, or presented situations in which they live. Polish debates are characterized by the absence of exemplifying characters. However, rare references to public figures were made.

The above mentioned differences result certainly from different cultural factors that shape political discourses (a greater degree of approximation to the voters, manifesting itself in addressive forms), the differences in the way the election campaign itself was designed (the so-called politicians' exterior visits which result in the gathering useful experience for further stages of the election campaign), and also differences in the formats (the town hall meeting format, characteristic for major British debates and one American debate) allowed politicians to gain a greater identification with the audience; the press conference format in the Polish debate made such identification difficult.

The indication of these few aspects of the rhetorical proof from the pathos sphere is not exhaustive either in the argumentation range or figurative specifics of the debates. Selected elements that build relationships between the speakers and the audience skillfully create a positive climate (from the politicians' point of view) for electoral decisions. Complex factors in the pathos sphere help to build the image of the leader (ethos), which in case of pre-election debates is the most important pillar of proof. A politician does not only argue that his election program (logos) is better, but that he, as a person and as a political leader, is more reliable than his opponent for he understands the needs and preferences of the voters. The presented analysis shows which factors specifically facilitate this process of identification.

#### S U M M A R Y

This article analyses rhetorical means of proof according to Aristotle's distinction into ethos, logos and pathos in pre-election television debates. The author focuses mainly on the study of the level of emotional argumentation differentiation and factors that influence it, that is persuasion in the pathos sphere. Two types of argumentation that move the audience's will, imagination and emotions – *ad auditores* and *ad populum* – have been discussed. The article elaborates on their importance in the debate, as well as differences in their functioning in this type of political discourse. Typical rhetorical figures shaping the argument of the movere function have been presented and analysed.



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## LOOKING FOR MEANING IN ARCHITECTURE: GETTING CLOSER TO LANDSCAPE SEMANTICS

*Architecture derives its meaning  
from the circumstances of its creation;  
and this implies that what is external to architecture –  
what can broadly be called its set of functions –  
is of vital importance.*

Alan Colquhoun, "Postmodernism and structuralism"

Ferdinand de Saussure, the acknowledged father of structural linguistics, laid solid foundations for the study of language. By approaching language scientifically as a formal sign system, he introduced the dimension of structure (syntax) and the dimension of meaning (semantics), binding signs and their components together by rigid structural connections and proving semantic relations between signs and the objects they denote.<sup>1</sup> His huge contributions to the field have been summarized as follows: "Language is no longer regarded as peripheral to our grasp of the world we live in, but as central to it. Words are not mere vocal labels or communicational adjuncts superimposed on an already given order of things. They are collective products of social interaction, essential instruments through which human beings constitute and articulate their world."<sup>2</sup> Ferdinand de Saussure is also regarded as one of the founding fathers of structuralism and semiotics, the science which is based on the concept of the *sign/signifier/signified/referent*. Moreover, his ideas are still crucial shaping not only the contemporary linguistic thought but also influencing many other fields such as psychology,

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<sup>1</sup> Ferdinand de Saussure's ideas were collected in the famous book *Cours de linguistique générale* published posthumously in 1916 by Saussure's former students Charles Bally and Albert Sechhay on the basis of the notes taken during lectures in Geneva.

<sup>2</sup> R. Harris, *Language, Saussure and Wittgenstein*, Routledge, California, 1988, p. ix.

sociology, or anthropology. Since 1960s the semiotic theory has been applied successfully in the field of architecture, especially in North and South America, France, and Italy.<sup>3</sup>

Indeed, the 1960s indicated a turning point in the field of architecture challenging architects to re-define the notion of function and opening a new paradigm in the perception of meaning in architecture and landscape. Structuralism with its primary assumption that “phenomena of human life are not intelligible except through their interrelations” and a deep conviction that “relations constitute a structure, and behind local variations in the surface phenomena there are constant laws of abstract culture” provided a new framework in search for meaning.<sup>4</sup> Indeed, the application of structuralism in the study of architecture seems to be perfectly justified for it has always been created at the crossroads of different disciplines of arts. Being a complex product of history, culture, and traditions, the analysis of architecture relies on a multi-layered and comprehensive approach to grasp the meaning it conveys. Structuralism emphasizing that “there are no independent meanings” but rather “many meanings produced by their difference from other elements in the system” refers to semiotics to a great extent.<sup>5</sup> As Philip Rayner observes: “semiotics and structuralism are so closely related that they are said to overlap – semiotics being a field of study in itself, whereas structuralism is a method of analysis often used in semiotics.”<sup>6</sup> Consequently, when in the 1960s architects resorted to semiotics – “a study of everything that can be used for communication: words, images, traffic signs, flowers, music, medical symptoms, and much more”<sup>7</sup> – it was with a view to getting to the “sphere of meaning of architecture” through the exploration of its “semantic layer”<sup>8</sup>.

In his famous essay *Function and Sign: Semiotics of Architecture* Umberto Eco, an Italian semiotician, proves that architecture is a “particular challenge to semiotics” arguing that if “semiotics, beyond being the science

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<sup>3</sup> See K. Nezbit (ed.), *Theorizing a new agenda for architecture: an anthropology of architectural theory 1965–1995*, Princeton Architectural Press, New York, 1996, pp. 32–33.

<sup>4</sup> S. Blackburn, *Oxford Dictionary of Philosophy*, 2<sup>nd</sup> edition revised, Oxford: Oxford University Press, 2008, <http://www.pdfbook.co.ke/details>.

<sup>5</sup> E. Seiter, “Semiotics, Structuralism and Television”, in R. C. Allen (ed.), *Channels of Discourse: Television and Contemporary Criticism*, University of California; USA, 1992, p. 22. <http://books.google.pl/books> assessed 30.10.2012.

<sup>6</sup> P. Rayner et al, *Media Studies – The Essential Resources*, Routledge, New York, 2004, <http://books.google.pl/books> assessed 30.10.2012.

<sup>7</sup> E. Seiter, op. cit., p. 22.

<sup>8</sup> J. Krenz, *Ideograms of Architecture between Sign and Meaning*, Bernardinum, Pelpin, 2010, p. 17.

of recognised systems of signs, is really to be a science studying all cultural phenomena as if they were all systems of signs – on the hypothesis that all cultural phenomena are, in reality, systems of signs, or that culture can be understood as communication – then one of the fields in which it will undoubtedly find itself a challenge is that of architecture.”<sup>9</sup> According to Eco, the link between architecture and semiotics is obvious because “most architectural objects do not communicate, but function.”<sup>10</sup> Consequently, since one of the basic questions for semiotics to face is whether “it is possible to interpret functions as having to do something with communication”, the perception of architecture relies profoundly on the semiotic point of view for only through semiotics it is possible “to describe other types of functionality, which are as essential but which a straight functionalist interpretation keeps one from perceiving.”<sup>11</sup>

Emphasizing the role of function in architecture, Eco distinguishes between *primary functions* (which are denoted) and *secondary functions* (which are connotative).<sup>12</sup> To illustrate the logical connection between function and codes in architecture, the author employs the term “architectural codes and subcodes” which are further explained as follows: “architectural signs as denotive or connotative according to codes, the codes and subcodes as making different readings possible in the course of history, the architect’s operation as possibly a matter of ‘facing’ the likelihood of his work being subject to a variety of readings, to the vicissitudes of communication, by designing for variable primary functions and open secondary functions (open in the sense that they may be determined by unforeseeable future codes) – everything that has been said so far might suggest that there is little question about what is meant by code.”<sup>13</sup>

Therefore, functions rely on the codes which are organized according to their types. Eco distinguishes between different types of codes in architecture: 1) *technical codes* (dealing strictly with the art of engineering); 2) *syntactic codes* (typological codes concerning articulation into spatial types); and 3) *semantic codes* (relations established between individual architectural sign vehicles and their denotative and connotative meanings).<sup>14</sup> These

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<sup>9</sup> U. Eco, “Function and Sign: the Semiotics of architecture”, in N. Linch (ed.), *Rethinking Architecture a reader in Cultural theory*, Routledge, London, 1997, p. 182. available online: <http://books.google.pl/books> and <http://kotarox.com/547/Eco.pdf>.

<sup>10</sup> *Ibid.*, p. 182.

<sup>11</sup> *Ibid.*, p. 190–195.

<sup>12</sup> *Ibid.*, pp. 190–195.

<sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid.*

codes make a *communicative system* which conveys meaning (or rather meanings) after being subjected to a *variety of readings*. The author deliberately employs the plural form (*readings*) for it indicates both a multi-levelness and complexity of the system made by codes and their meaning the addresses are to discover.

Although this might suggest an open character of the architectural discourse and its capability to generate different interpretations, Eco concludes that the codes “would amount to little more than lexicons on the model of those of iconographic, stylistic and other specialized systems, or limited repertoires of set constructions.<sup>15</sup>” Hence, the role they have is strictly defined: “they establish not generative possibilities but ready-made solutions, not open forms for extemporaneous ‘speech’ but fossilized forms – at best, ‘figures of speech or schemes providing for formulaic presentation of the unexpected (as a complement of the system of established, identified and never really disturbed expectations), rather than relationships from which communication varying in information content as determined by the ‘speaker’ could be improvised.”<sup>16</sup> This leads Eco towards the assumption that “the code of architecture would then constitute a rhetoric in the narrow sense” whose interpretation reveals the hidden semantic potential.<sup>17</sup>

Eco’s conviction as to the importance of semiotics in interpreting the meaning in architecture has largely been shared by a group of leading architects representing the Cracow University of Technology. Professor Krystyna Dąbrowska-Budziło elaborates on Eco’s concept of architecture seen as a sum of codes stating that the primary task of the architect is not only to read and decode the structure of the environment (that is, to analyse the architectural discourse), but also to encode the landscape with the help of semiotics (to create the architectural discourse). She maintains that the meaning of spacial systems and buildings becomes visible especially while referring to certain historical periods.<sup>18</sup> Highlighting a complex character of architecture, Dąbrowska-Budziło claims that meaning (symbols) in architecture developed as a result of religious, philosophical, literary or cultural trends which shaped the ideas beyond the formation of landscape and led towards the appearance of objects with certain features: totally different cultures are rooted in certain archetypes comprised by common elements

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<sup>15</sup> Ibid.

<sup>16</sup> Ibid. p. 195.

<sup>17</sup> Ibid.

<sup>18</sup> K. Dąbrowska-Budziło, “Zapis krajobrazu i sposób jego oceny” in B. Szulczewska & M. Szumański (eds.), *Horyzonty architektury krajobrazu. Język architektury krajobrazu*, Wieś Jutra, Warszawa 2010, pp. 39–50.



(signs) revealed by the architectural objects, e.g. gates being a boundary, patio being a central point, or a road being an axis. These forms refer to landscape of a multiple scale: the city, sacred place, apartment, house, etc. Especially elaborate are signs connected with the place of worshipping the dead which are ubiquitous in all cultures. Similarly, the symbol of power is profoundly exhibited in architecture revealed by a certain type of construction reflecting the economic and social status of the place.<sup>19</sup>

Professor Dąbrowska-Budziło states that the application of the methods from the field of semiotics in the perceptions of landscape allows for a comprehensive and complex recording of its features. Referring to the language of signs, one can notice that it serves to establish the codes of landscape perception and landscape encoding.<sup>20</sup> However, the author highlights that these codes are not universal being directed to addressees of different professions, interests, likes or even psychological profiles.<sup>21</sup> What is more, signs that are used in landscape architecture to record the information regarding a given area could be misunderstood by a recipient who has no architectural background. To avoid this misinterpretation pictograms<sup>22</sup> are used. Being universal, that is legible and easy to acquire, they perfectly express landscape features, forms and content.

To arrive at universal pictograms, it is necessary to generalize the landscape features, which is realized through simplification and identification, the principle conditions for making logical associations. By using this method, through a variable combination of pictograms referring to different features a synthetic way of landscape recording becomes possible. Putting theory in practice, Dąbrowska-Budziło suggests the method of landscape recordings and their analysis to help the addressee easily decode the environment by making associations. The author introduces the landscape model which is a kind of landscape image composed of the physiognomic features of landscape. Such a model is defined by the determination of form – signs, presented by pictograms, connected with natural and cultural topography, as well as the type of the building, the character of composition, etc.<sup>23</sup>

Hence, pictograms record the form of landscape on the basis of their

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<sup>19</sup> Ibid.

<sup>20</sup> Ibid.

<sup>21</sup> Ibid.

<sup>22</sup> Jacek Kranz in his book *Ideograms of Architecture between Sign and meaning* (2010) elaborates the idea of ideograms seen as the medium on the way towards revealing the meaning in architecture.

<sup>23</sup> K. Dąbrowska-Budziło, *Treść krajobrazu kulturowego w jego kształtowaniu i ochronie*, Politechnika Krakowska, Kraków, 2002, p. 116.

ability to transmit the form and present the landscape features making the recorded information legible and easily absorbed. Thus, each of the signs making a pictogram can be compared to a language sentence making a symbol. Each sign corresponds to certain landscape features and, when combined with other signs, it makes a complete landscape picture – a syntymatic chain. In this way various types of landscape can be presented as a special combination of symbols, reflecting a legible image of the given area. However, they do not make a sum of the individual content elements but their synergistic effect.<sup>24</sup> A different selection of features is presented in a different combination of pictograms resulting in different types of landscape or, in other words, landscape models.<sup>25</sup>

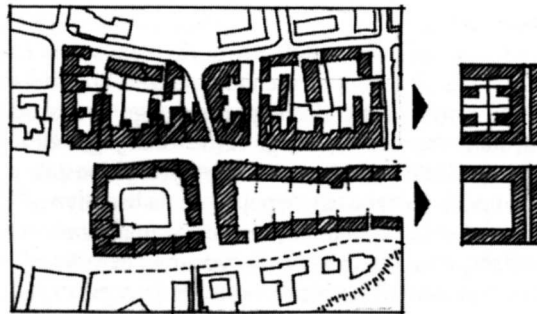


Figure. 1. An example recording of the city structure. A detailed plan of the building quarters is presented through pictograms to symbolize the type of urban layout<sup>26</sup>

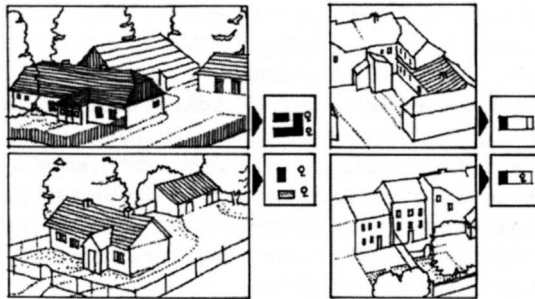


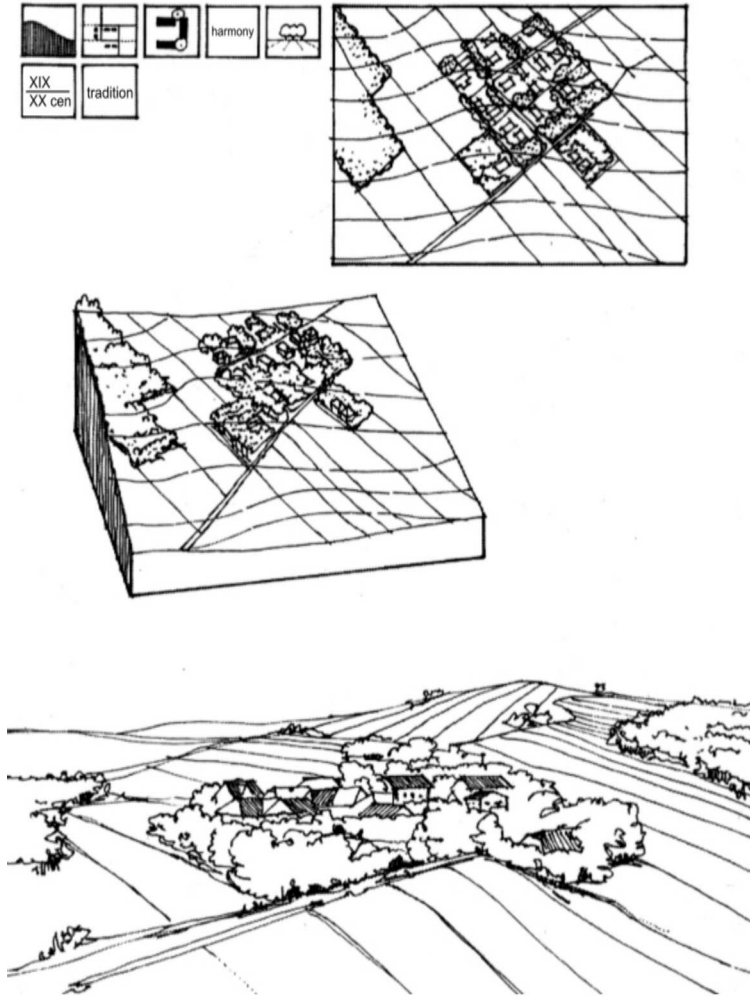
Figure. 2. An example recording of the types of building. Perspective views and pictograms symbolize the type of building and surrounding countryside<sup>27</sup>

<sup>24</sup> Ibid.

<sup>25</sup> Ibid., p. 41.

<sup>26</sup> K. Dąbrowska-Budziło, *Treść krajobrazu kulturowego w jego kształtowaniu i ochronie*, Politechnika Krakowska, op. cit., p. 116.

<sup>27</sup> K. Dąbrowska-Budziło, op. cit., p. 116.



**Figure. 3.** An example of a graphical recording of the landscape features with the use of codes (pictograms) reflecting the characteristics of the individual landscape components<sup>28</sup>

A multi-layered character of urbanism was highlighted by Kevin Lynch, another famous urban planner, whose revolutionary *Image of the City* (1960) brought a new dimension in the perception of the city. In the book, which was a result of a five-year study on how urban users perceive and organize information as they navigate through cities, Lynch describes how city users orient themselves in the environment. Using three American cities as

<sup>28</sup> K. Dąbrowska-Budzilo, op. cit., p. 371.

examples (Boston, Jersey City and Los Angeles), Lynch reports that users understand their surroundings in consistent and predictable ways, forming mental maps with five distinctive elements: *paths* (the streets, sidewalks, trails, and other channels in which people travel); *edges* (perceived boundaries such as walls, buildings, and shorelines); *districts* (relatively large sections of the city distinguished by some identity or character); *nodes* (focal points, intersections or loci); *landmarks* (readily identifiable objects which serve as external reference points).<sup>29</sup> He defined these as follows:

**PATHS** (familiar routes followed) – *are the channels along which the observer customarily, occasionally, or potentially moves.*

E.g. – streets, walkways, transit lines, canals, railroads

**EDGES** (dividing lines between districts) – *are the linear elements not used or considered as paths by the observer. They are boundaries between two phases, linear breaks in continuity.*

E.g. – shores, railroad cuts, edges of development, walls

**DISTRICTS** (areas with perceived internal homogeneity) – *are medium-to-large sections of the city, conceived of as having two-dimensional extent, which the observer mentally enters ‘inside of,’ and which are recognizable as having some common identifying character.*

E.g. – center, midtown, its in-town residential areas, organized industrial areas, trainyards, suburbs, college campuses etc.

**LANDMARKS** (point of reference) – *are another type of point-reference, but in this case the observer does not enter within them, they are external. They are usually a rather simply defined physical object which makes one orient oneself.*

E.g. – building, sign, store, or mountain

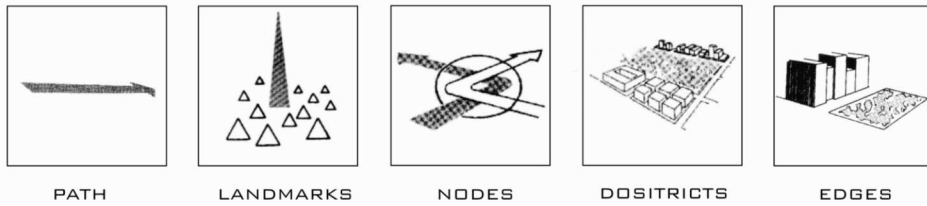
**NODES** (Center of attraction that you can enter) – *are points, the strategic spots in a city into which an observer can enter. The nodes may be simply concentrations, which gain their importance from being the condensation of some use or physical character, as a street-corner hangout or an enclosed square.*

E.g. – primary junctions, places of a break in transportation, a crossing or convergence of paths, moments of shift from one structure to another.<sup>30</sup>

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<sup>29</sup> K. Lynch, *The Image of the City*, The MIT Press, Massachusetts, 1960, pp. 36–90. pdfbook [http://interactive.usc.edu/blog-old/wp-content/uploads/2010/08/Image\\_of\\_the\\_City.pdf](http://interactive.usc.edu/blog-old/wp-content/uploads/2010/08/Image_of_the_City.pdf) assessed 30.10.2012.

<sup>30</sup> Ibid.



**Figure 4. Pictograms indicating individual elements of the city space<sup>31</sup>**

Lynch's investigation into the principles of navigating in the city led him to believe that citizens (consciously and subconsciously) search for a clear structure, that is the necessity of a memorable and logical visual order in man's surroundings. *Imageability* and *legibility of form* become important attributes sought not only by urban designers and architects concerned with the issue of meaningful communication but also by citizens, the users of the city. Thus meaning of the city is located in the distinctiveness of paths, edge, district, landmark and nodes.<sup>32</sup> Urban designers as well as city dwellers are to discover the meaning of the environment they create and they are part of. What is more, the communication of meaning consciously or unconsciously relates to one's history; meaning creates a link with history, which gives "intelligibility to buildings and cities within a culture".<sup>33</sup> Lynch underlines a complex character of the city where each element corresponds to another one making a total. He also highlights the deep meaning each city conveys with its past memories and experiences: "Looking at cities can give a special pleasure, however the commonplace the sight may be. Like a piece of architecture, the city is a construction in space, but of a vast scale, ... perceived only in the long spans of time... At every instance, there is more that the eye can see, more that the ear can hear, a setting of view to be explored. Nothing is experienced by itself, but always in relation to its surroundings, the sequences of the events leading up to it, the memory of its past experiences..."<sup>34</sup>

In his search for meaning in the city Lynch, however, does not make clear references to language and semiotics. According to him, meaning is created by the users and results from the complex outcome of history, culture, traditions and surroundings. For him, the city communicates the meaning without speaking the language for language is becomes either insufficient or unnecessary. The city is fully capable of serving representation and making

<sup>31</sup> K. Lynch, op. cit., pp. 46–90.

<sup>32</sup> Ibid.

<sup>33</sup> K. Nezhbit, op. cit., p. 44.

<sup>34</sup> K. Lynch, op. cit., pp. 40–90.

communication through other means. Language with its boundaries is just a step towards a clear perception of the city: “Indeed, language, whether as speech or as writing, may now often be seen as ancillary to other semi-otic modes: to the visual for instance. Language may now be ‘extravisual’.”<sup>35</sup> Nonetheless, the location of meaning remains a core element of Lynch’s vision of the city.

The role of semiology in the perception of the city was highlighted in the post-modern period through such works as Roland Barthes’s *Semiology and Urbanism* (1967) who suggests reading the city as a text. Barthes, a devoted semiotician, lists complex requirements for a contemporary architect to “sketch a semiotics of the city”: the architect “must be at once a semi-ologist (a specialist in signs), a geographer, an historian, an urbanist, an architect, and probably a psychoanalyst.”<sup>36</sup> This wide range of disciplinary qualities places the city as an object of a multidisciplinary study. In his article Barthes seeks to apply semiology to urban landscapes and even find the possibility of “urban semiology.” He introduces the term “urban semiology” to remind the reader of historical relativism in the conception of signifying space. He argues that we need “to understand the play of signs, understand that any city is a structure, but that we must never try and we must never want to fill in this structure.”<sup>37</sup> Barthes discusses Tokyo as an exceptional example of urban semiology. Finally, the author suggests the application of a linguistic model of meaning derived from structured relationships between objects in the city: “a city is a fabric... of strong elements and neutral (nonmarked) elements, ... (we know that the opposition of the sign and the absence of sign, between full degree and zero degree, is one of the major processes in the elaboration of meaning).”<sup>38</sup> Once again, semiology meets landscape and urban architecture allowing us to get closer to its complex semantics and Barthes remains confident that these systems are strongly interwoven.

Driven by the necessity of a multidisciplinary and complex encounter, the post-modern period was rich in the attempts to rediscover the potential of architecture through semiology. Contemporary architecture in its search for meaning refers to the laws of language, looking for the analogies between the structure of language and the structures of landscape. Hence,

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<sup>35</sup> G. Kress and T. van Leeuwen, *Multimodal Discourse: The Modes and Media of Contemporary Communication*. Arnold, Ronald, 2001, p. 46.

<sup>36</sup> R. Barthes, “Semiology and Urbanism” in *Structures Implicit and Explicit*, VIA 2, 1973, p. 155.

<sup>37</sup> Ibid.

<sup>38</sup> Ibid.

landscape can be recorded and read out through signs which, being collective products of historical, social and cultural interaction, communicate how human beings constitute and articulate their world. The essence of architectural forms derives from its multi-layered character in which a semantic layer remains one of the most essential levels and the meaning in architecture can only be reached through the multiple modes of communication as well as through language. As Kate Nezbitt has put it, “semiology [...] offers architects a glimpse of the full semantic potential of architecture.”<sup>39</sup> Consequently, semiotic decoding of architectural forms fulfils many roles. Umberto Eco proves that it facilitates the reading and interpretation of the hidden meaning. Krystyna Dąbrowska-Budziło underlines the role of pictograms to make the landscape models legible and universal, whereas David Lynch shows that meaning in landscape enhances our movement within a space and enables citizens to make use of its numerous functions in a more comprehensive manner. Thus, a semantic analysis becomes an essential element in the communication process between landscape architects and the addresses they are designing for. For, as Michael Foucault has rightly grasped it, “the essence of knowledge is not to see, but to interpret.”<sup>40</sup>

#### S U M M A R Y

The post-modern period with its negation of absolute truths and a necessity to search for the very essence of existence introduced numerous attempts to get to the “sphere of meaning” through the exploration of the “semantic layer” in the field of architecture. Indeed, semiotics, a study of signs, seemed to offer ready-made tools in that bold pursuit to “read” architecture and get to the meaning it conveys. This paper presents how semiology has been used in architecture to record and encode landscape forms and content. Landscape can be recorded and read out through signs which, being collective products of historical, social and cultural interaction, communicate how human beings constitute and articulate their world. Semiotic decoding of architectural forms fulfils many roles: firstly, it facilitates the reading and interpretation of the meaning hidden in landscape; secondly, through the use of pictograms landscape models become legible and universal, and lastly, the application of semiology in architecture enhances our movement within a space and enables citizens to make use of its facilities.

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<sup>39</sup> K. Nezbitt, op. cit., p. 164.

<sup>40</sup> M. Foucault in M. Dvorak, *Ernest Buckler: Rediscovery and Reassessment*, Wilfrid Laurier University Press, Canada, 2001, p. 9. <http://books.google.pl/books>.





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**JEWISH PHOTOGRAPHERS, CONTEMPORARY POLAND,  
AND REPRESENTATIONS OF NAZI DEATH CAMPS:  
PARADIGMS AND MEANINGS**

To analyze the role contemporary Poland plays in Jewish constructs of memory and, therefore, in Jewish imagination,<sup>1</sup> one must first establish what Poles and Jews hold as their respective self-images and what they assume to be the Other's perceptions of themselves. The attitude each takes towards the Other right now is largely rooted in common history. Although Nazi death camps of WW2 were established by Germany within Germany-governed territory, the historical fact of their location within the borders of pre-war and now post-war Poland influences Jewish attitudes towards contemporary Poland. Most literary representations of the remains of Nazi camps show the existence of a cognitive and symbolic fusion between those camps and contemporary Poland. As written by Jerome Ostrov: "Poland was the monster nation of World War II, perhaps, even more so than Germany. Why? Poland was where the extermination camps were located. Poland once proudly boasted the largest population in Jewish Europe and its loss still remains unbearable in the Jewish psyche. Finally, Poland had a history of pogroms and of segregating its Jews, and, as I saw it, the Nazi atrocities perpetrated on Polish soil would have been impossible without Polish complicity."<sup>2</sup> However, since the fusion of Polishness and German genocide is absent from images executed in the camps by professional for-

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<sup>1</sup> See S. Ronen, *Polin. A Land of Forests and Rivers. Images of Poland and Poles in Contemporary Hebrew Literature*, UW, Warszawa 2007, p. 15: "Poland is not a normal place for Jews and Israelis; they cannot be indifferent to it, they come to the place loaded with knowledge and emotional burdens"; R. E. Gruber, *Virtually Jewish: Reinventing Jewish Culture in Europe*, University of California Press, California 2002, p. 56: "the country, its landscape, its people, and its anti-Semitism, loom large in Jewish myth and memory".

<sup>2</sup> J. Ostrov, *After a trip to Poland*, "The Canadian Foundation of Polish-Jewish Heritage," January 28, 2005, ([http://polish-jewish-heritage.org/eng/06-02\\_Jerome\\_Ostrov-After\\_a\\_trip\\_to\\_Poland.html](http://polish-jewish-heritage.org/eng/06-02_Jerome_Ostrov-After_a_trip_to_Poland.html); accessed: 13.06.2012).

eign Jewish photographers, I postulate that the meaning of the objects and spaces represented in photographic images as *death camps* falls outside what Jewish visual imagination constructs as contemporary Poland.

Images created in former death camps in Poland by Jewish professionals fall into two categories: they are either culturally-constructed meta-images (and, as such, are independent from contemporary Polish realities) or constitute (equally autonomous) landscapes of memory. I employ photographic material created by the American photographer Jeff Gusky in his 2003 album *Silent Places*<sup>3</sup> and an Israeli professional journalist Micha Bar-Am in his 1989 set of pictures entitled “Auschwitz camp ‘victims’ visit camp”<sup>4</sup> published online by *Magnum* agency, to analyze the meaning of photographic images representing (museums of) death camps in Poland in the context of perceptions of Poland.

My methodology is based on Lotman and Uspienski’s<sup>5</sup> hypothesis of the existence of a certain symbolic “machine” that maintains social status quo by organizing and controlling cultural phenomena, including representation. The said machine works by upholding existing meanings and reconstructing or deleting the meanings of the phenomena which cannot be accommodated into the existing matrix of cultural perceptions.

When the 20<sup>th</sup> century developed meta-subjects (e.g. meta-painting: painting *about* painting),<sup>6</sup> contemporary photographers began taking meta-photographs. Most images taken in contemporary museums of former German death camps are frontal shots of entrance gates, convergent train tracks, towering guard towers, bare autopsy tables, showerheads in death chambers,<sup>7</sup> and camp ovens.<sup>8</sup> Mediated by earlier visual and literary rep-

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<sup>3</sup> J. Gusky, *Silent Places*, Overlook Duckworth, Woodstock, New York, London 2003.

<sup>4</sup> M. Bar-Am, “Auschwitz camp ‘victims’ visit camp”, 1989, *Magnum* (<http://www.magnumphotos.com/C.aspx?VP3=SearchResult&STID=2S5RYDOPEF27>; accessed: 13.10.2012).

<sup>5</sup> J. Lotman, P. Uspienski, *Semiotyka kultury*, PIW, Warszawa 1997.

<sup>6</sup> J. Lotman, P. Uspienski, “O semiotycznym mechanizmie kultury”, in: *Semiotyka kultury*, PIW, Warszawa 1997, p. 170.

<sup>7</sup> J. Gusky, op. cit., “Guard Tower” Majdanek, (n.p.); J. Gusky: “Autopsy Table” Majdanek, (n.p.); J. Gusky: “Shower Head in Gas Chamber Complex”, (n.p.)

<sup>8</sup> Such motifs appear in Gusky’s photographs, but also those by Jason Francisco (“Remains, death camp...”) and “Railway tracks leading to the Birkenau death camp, partially grown over, Brzezinka, Poland” in: *Far from Zion...*; Patrick Zachmann (Im.Ref. PAR188431 (ZAC2000014D07042/03); Elliott Erwit (NYC103850 (ERE2002001W00038/03 – interestingly, the caption for Erwit’s image from Auschwitz is: “GERMANY. Auschwitz-Birkenau”), Raymond Depardon (PAR189640 (DER2000012W00008/26A-27), and Gentile photographers such as Josef Koudelka (PAR86146 (KOJ1992017W00363/11A), Steve McCurry (NYC62880 (MCS2005006K002) and Bruno Barbey (PAR45766 (BAB1976 009K134) (all images besides Francisco *Magnum Photos*, [magnumphotos.com](http://magnumphotos.com), accessed 12.02.2010).

representations, such images belong to the category of meta-photography. As such, these photographs “are situated on a different hierarchic level than respective primary phenomena and have different goals.”<sup>9</sup> Their *primary images*, such as Margaret Bourke-White’s and Lee Miller’s photographs from Buchenwald, constitute documents: they serve as sources of information and proof of the veracity of photographed events.<sup>10</sup> Contemporary photographs from former death camps, although documentary in character, serve neither as source of information nor as document: there is nothing here to prove because *we know it all*. Such photographs denote a particular place and time but, also, other, similar, places, and a different time. They are also twofold in the sphere of references, as they refer the viewer both to the repository of classical journalist photography, and to similar contemporary images taken by amateurs.<sup>11</sup>

The recurrence of motifs reveals not a weakness in the photographer’s eye, but the functioning of memory. When photographers recapitulate earlier images, they refer the recipient to the signs constructed previously on the basis of Nazi death camp landscape and etched in the visual repository of collective consciousness. Such images participate, therefore, in the self-perpetuation of extant perceptions and representations in the Lotmanian “cultural machine”. By constructing the past in a certain way, it constructs the present.<sup>12</sup>

Reading “history as the objective account, myth as a dubious fable, and memory its fallible recollection” is wrong: it is history, myth and memory *together* that enable a search for the past.<sup>13</sup> Memory enters journalistic photography when photographs are taken in symbolic places whose topog-

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<sup>9</sup> J. Lotman, B. Uspienski, op. cit., p. 170.

<sup>10</sup> A detailed analysis of the role of journalist photography in creating memory is presented by B. Zelizer in *Remembering to Forget. Holocaust Memory through the Camera’s Eye*, University of Chicago Press, Chicago and London 1998, as well as in *Reading the Past against the Grain: The Shape of Memory Studies*, “Critical Studies in Mass Communication” (Vol. 12/2), June 1995, pp. 214–239.

<sup>11</sup> The spaces photographed nowadays by professionals are unlike the images of human degradation that documented the liberation of camps in that they are emptied of people. A separate question is what motivation induces amateurs visiting the camps to photograph themselves, each other, and their children in the barracks, in gas chambers and next to open camp oven doors. The experiences provided visitors by Holocaust museums are scrutinized by P. Gourevitch in *God, Genocide and the Fashions of Popular History*, “International Herald Tribune” 1995 (4 Feb.), p. 2. Another kind of image is the photograph taken by a survivor on his/her visit to the camp.

<sup>12</sup> J. Lotman, B. Uspienski, op. cit., p. 170.

<sup>13</sup> P. Basu, *Narratives in a Landscape: a Journey Among Monuments*, Department of Anthropology, University College, London 1997, (<http://www.btinternet.com/~paulbasu/narratives/nl-frame.html?http://www.btinternet.com/~paulbasu/narratives/nl-text04.html~Display>, accessed: 12.12.1009).

raphy and the presence of historical objects or ceremonies refer the viewer to particular historically-significant events.<sup>14</sup> Images of desecrated Polish synagogues, ruined cemeteries, and gates to former death camps easily unlock repositories of memory. Therefore, while photographs taken by Gusky in Nazi death camps translate into visual language an element of Polish reality, at the moment of its creation the said element is already its own sign: its image had already been “introduced into the sphere of culture” where it has “the character of a sign.”<sup>15</sup>

Gusky’s camp photographs do not constitute a subjective and direct reworking of the subject; each is, instead, a public and multi-photographic construct. Since the construct did not originate with Gusky, the photographic image is not *his* but, rather, reflects a pattern of representation proscribed for his subject by the cultural machine. His photography is, therefore, a “sign of a sign”, constituting, simultaneously, “from a social standpoint (...) an unquestionable reality.”<sup>16</sup> Consequently, the notion of “Poland” in relation to the camps as photographed by Gusky is activated only indirectly, by the caption that triggers in the viewer the idea of Poland as the *land of the Shoah*. In other words, the fusion between Polishness and the camps does not reside in images but in accompanying “literature”.

Photographs taken by Micha Bar-Am in his series “Auschwitz camp ‘victims’ visit camp” are not meta-images; they are, rather, a visual meditation on the vicissitudes of memory. Bar-Am portrays the 1989 visit in Poland of a group of Jewish twins who survived the cruelty of the Auschwitz doctor Mengele. In three of those images, Bar-Am takes advantage of meta-photography by employing archival images as “photographs within photographs”. By “doubling” the faces of the portrayed within fragmentary mirror reflections, he creates portraits which evidence the frailty and imperfection of both collective and individual memory. Bar-Am’s images only marginally involve the workings of the Lotmanian “machine”: rather than reiterate existing cultural patterns of representing the camps, they focus on visualising the Shoah narrative.

The set “Auschwitz camp ‘victims’ visit camp” comprises four photographs, three of which were taken inside the museum, while one shows women praying outside camp buildings. The image entitled “Groups of Jewish ‘twins’ treated by the dreaded camp Doctor Mengele, revisiting the

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<sup>14</sup> B. Zelizer, *Why memory’s work on journalism does not reflect journalism’s work on memory*, “Memory Studies” (Vol. 1) 2008, LA, New Delhi, Singapore, pp. 79–87.

<sup>15</sup> J. Lotman, B. Uspienski, op. cit., p. 170.

<sup>16</sup> Ibidem.

Auschwitz camp” shows the survivors’ reflections in a glass pane under which there is a photograph documenting the functioning of the camp. The superimposition of images transmits the meaning of the photograph beyond portrayal; Bar-Am’s photograph shows the inability of language (including the language of photography) to represent the emotional, intellectual and ethical implications of a survivor’s return to Auschwitz. Following authors of Shoah testimonies (forced to narrate their experience within the framework of an “outside” language which, as they repeatedly attested, could not describe it) Bar-Am tries to translate the survivor’s return to the camp into the language at his disposal as a photographer (the existing visual matrix). He undertakes to incorporate the extraordinary into the ordinary, and fails: the reflections of survivors’ faces bleed into the archival photograph, merge with objects behind glass, and conflate with reflections of light on glass panes. Bar-Am’s photograph is a visual rendering of the survivors’ words: “[b]etween our memory and its reflection there stands a wall that cannot be pierced.”<sup>17</sup> The photographed come to signify a reality which can only be expressed in a – non-existent – language of “brutality” or a “new counter-language of anguish and despair.”<sup>18</sup>

Barbie Zelizer claims that the fact that in 1980 American soldiers refused to narrate their own memories of the liberation of death camps (and, instead, showed the interviewers archival photographs) proves that collective memory replaces individual accounts.<sup>19</sup> Bar-Am’s photography however, is an expression of a narrative that resides in collective memory, and, also, an elucidation of the survivors’ personal experience. Merging photographs and images of artefacts from museum archives with contemporary portrayal enables Bar-Am to confate the past and the present.

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<sup>17</sup> E. Wiesel, “The Holocaust as Literary Inspiration”, in: E. Lefkowitz (ed.), *Dimensions of the Holocaust*, Evanston, Illinois: Northwestern University Press. 1977, pp. 7–8.

<sup>18</sup> J. Kosiński, *The Painted Bird*, Houghton, Boston 1976, p. 256.

<sup>19</sup> B. Zelizer, *Reading the Past...*, “Critical Studies in Mass Communication” June 1995 (Vol 12/2), p. 234. Zelizer discounts the inability of words to describe the scenes witnessed in camps by the liberating troops. However, as written by Elie Wiesel in “The Holocaust as Literary Inspiration”, in: E. Lefkowitz (ed.), *Dimensions of the Holocaust*, Northwestern University Press, Evanston, Illinois 1977, pp. 4–19: Holocaust was “a situation which goes beyond its very description”: the words (thin, dirty, scared, numb) did not reflect what the soldiers saw, because they referred to sensory, emotional, and ethical concepts known from the world before/outside the camp. Perhaps, therefore, the soldiers preferred visual evidence to the evidence of a language whose vocabulary could not recount their experience.

The photographic image from the Auschwitz archive used by Bar-Am shows the selection ramp: train tracks converge in the distance while, in the grayish triangle of snow between them, the Nazis march along the ramp. The visual “stitches” which connect Bar-Am’s photograph with the image reproduced on the museum wall are nearly invisible. It would appear that, since the two images comprising Bar-Am’s photograph are both documentary, they should combine to create an image governed by rules identical to those that govern each of them separately.<sup>20</sup> What happens, however, is that the superimposition of the reflection in the glass of the silhouette of the survivor over the photograph taken at the time of the camp’s functioning enables Bar-Am’s photograph to show a “freezing” of time which characterizes trauma. As a voice in the discussion on the attributes and role of archives and artifacts, buildings, and documents vis-à-vis individual human memory, does Bar-Am’s representation involve Poland?

Bar-Am’s photographs are concerned with Poland only in as much as their captions inform the viewer that the images were taken in Poland. Therefore, they contain no evidence of the influence of the Lotmanian cultural “machine” which would highlight the connection between the twins’ visit in the camp and the idea of Poland. The photographer does not focus on the material space photographed – not even on the space of the camp – but on the emotional and philosophical space of trauma. And it is not the image, but the viewer’s knowledge (i.e. information which does not belong to the sphere of the visual, predates his/her reaction to the photograph, and comes into play only upon reading the caption) that infuses the photograph with horror.

The structure of Bar-Am’s photographs differs from the clearly constructed images by Gusky. Bar-Am’s spaces comprise of overlapping subspaces, which resembles the workings of memory. In “Auschwitz K.2 Camp, a display of remnants of victims of the Holocaust, thousands of spectacles that were recuperated from the victims” (constructed according to the same visual pattern as “Groups of Jewish ‘twins’”), the outlines of survivors’ faces and silhouettes are concealed (and revealed) within the mass of Auschwitz artefacts. The resulting image is (again, like “Groups of Jewish ‘twins’”) indivisible. Obviously, not even when regarded in the context of Poland as a country where the Germans built death camps or a country whose decimated Jewish population was exiled from the country after the Shoah does Bar-Am’s image focus on the Auschwitz museum. Where Bar-Am directs

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<sup>20</sup> See B. Uspienski, “Strukturalna wspólnota różnych rodzajów sztuki”, in: *Semiotyka kultury*, PIW, Warszawa 1997, pp. 192 and 202.

his viewers is towards the space brought to the camp museum by survivors, while his photographs are, simultaneously, images of memory revealed and revealing, and a confession of ignorance.<sup>21</sup>

Photographic images reflect solely the external manifestations of things. Analyzing feelings or motivations as represented in photographs involves an assumption that the behaviors and/or phenomena shown can be accurately deciphered as “symptoms of hidden subjective states.”<sup>22</sup> Bar-Am’s task was to photograph the twins’ return to the space of trauma: to use his camera to register the bodies that Mengele had used as objects of torture.<sup>23</sup> Consequently, Bar-Am need not be interested in Poland.

According to Uspienski, the position of a viewer/recipient has, out of necessity, a character which is external to the narrative, while the position of the hero/subject is internal. The position of the narrator fluctuates depending on the narrative tool chosen. The shifting of perspective can take place many times within one story. The photographer changes his point of view in relation to the subject described in an image. Frontal, paradigmatic framing of Gusky’s “Auschwitz in Winter #1” (showing the entrance to Auschwitz camp and the sign reading “Arbeit macht Frei”) belongs wholly to the public sphere – and, therefore, not to Gusky. However, the photographer introduces a change into the proscribed visual form: the words over the gate are shown from the inside, as they would have been seen by the prisoners leaving the camp for work. The photographer’s perspective of regarding Auschwitz is “inverted”, internal; he produces an image which shows this shift of perspective.

Gusky’s “Auschwitz in Winter #1” is a play of meanings between the message over the gate, the sign’s location over the entrance to Auschwitz, and the presence in front of it of a Jew with his camera. The photographic image *as such*, however, does not contain the above interplay. It is the caption and the reader’s general knowledge that enable this multiplicity of

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<sup>21</sup> M. Hirsch and L. Spitzer note the fact that a photographic image, recounting the past, reveals and conceals the photographed moment. They describe the photographer’s reaction to prints of his own pictures as “the enormous disjunction between the effect of the scene of witness and of Helmut’s [i.e. the photographer’s] encounter with his photographs”. M. Hirsch, L. Spitzer, *What’s wrong with this picture? Archival photographs in contemporary narratives*, “Journal of Modern Jewish Studies” 2006 (Vol. 5, no. 2), p. 239.

<sup>22</sup> P. Sztompka, *Socjologia wizualna: fotografia jako metoda badawcza*, Wyd. Naukowe PWN, Warszawa 2005, p. 80.

<sup>23</sup> A discussion of the implications of experiments undertaken in Auschwitz and Dachau for contemporary ethics is taken up by John J. Michalczyk in “The Ethics of Nazi Human Experimentation: Contemporary Concerns” in: J. H. Banki, J. T. Pawlikowski (eds.), *Ethics in the Shadow of the Holocaust. Christian and Jewish Perspectives*, Sheed & Ward, Chicago 2001, pp. 291–303.

readings. One such reading focuses on the words written over the gate and what these words become when located there; another analyzes the photographed words from the perspective of the fact that the sign was made by camp prisoners; the third, most perilous, attempts to scrutinize the possible image of self that the photographer may find in front of the gate.

In the 1930s German propaganda employed the motto of “Arbeit macht Frei” to fight unemployment; the words were adopted over the gates to the camps in Auschwitz, Dachau, Sachsenhausen, and Gross-Rosen. These words do not inform; they jeer. Read in the context of leaving the camps and returning there, they nullify the image of which they are a part. The photographic landscape thus becomes an element of the words: its meaning (that is, how the viewer perceives the photographed trees, fences and buildings) is determined by the words.

Gusky’s “Auschwitz in Winter #1” constitutes an inversion of the meta-image, suggesting, therefore, an inversion of meaning. Regarding this photograph from the perspective of the fact that the words over the gate paraphrase the words in the Gospel of John (J 8, 32, “Truth will set you free”) allows an introduction into the image of the question whether and, if so, to what degree, the ideas contained in the New Testament are responsible for, first, anti-Judaism, and then, anti-Semitism.<sup>24</sup> The 2000 Jewish statement *Dabru Emet*, which reads that “Nazism was not a Christian phenomenon,”<sup>25</sup> seemed to some<sup>26</sup> to too easily absolve Christianity of responsibility, and caused understandable controversy. Simultaneously, *Dabru Emet* confirms that, “[w]ithout the long history of Christian anti-Judaism and Christian violence against Jews, Nazi ideology could not have taken hold nor could it have been carried out.”<sup>27</sup> Establishing the role of Christianity and the history of its churches in creating negative images of Judaism and the Jews is, however, the work of theologians and historians; from my perspective, what

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<sup>24</sup> See R. Radford Ruether, *Faith and Fratricide. The Theological Roots of Anti-Semitism*, Seabury Press, New York 1974. Ruether claims that anti-Jewish reading of New Testament are not a travesty of the original text, but, rather, excerpts inimical to the Jews were introduced into it in the process of developing christology; in M. Czajkowski, *Lud przymierza*, the author analyses and interprets passages from the NT, locating them in their historical context, and postulates the necessity of reinterpretation.

<sup>25</sup> *DABRU EMET*, Institute for Christian & Jewish Studies (ICJS) (<http://www.icjs.org/programs/ongoing/njsp/dabruemet>, accessed: 2.10.2012).

<sup>26</sup> See A.-J. Levine, *Amy-Jill Levine: Reassessing Jewish-Christian Relations*, “Burke Lectureship on Religion & Society” 2001 (6) [Humanities] [Show ID: 5577] (<http://www.youtube.com/watch?v=WGOobQiRAa8>, accessed: 12.01.2010).

<sup>27</sup> *DABRU EMET*, op. cit.



matters is the fact that reading the sign in Gusky's photograph as a distortion of a New Testament idea opens up yet another inversion: besides a jeer on the reality imprisoning inmates of Auschwitz, the photograph comments on the totalitarian system's mockery of humanistic ideals.

Another reading focuses on the sign in Auschwitz in the context of the fact it was made by the Polish prisoners working in the camp smithy. The letter "B" in the word "Arbeit" is placed upside-down. It is not necessary for the analysis of the photograph to know whether the prisoners purposefully reversed the letter B. The fact that the photograph made by Gusky contains this double inversion: of the entire sign from left to right and of its internal element (the "B") upside down imbues the image with an ambivalence absent from the many other photographs of the same gate. Its reversed perspective makes of "Arbeit macht Frei" a game within a game: a doubled symbol of protest and an expression of solidarity with the imprisoned.

Finally, one can read "Auschwitz in Winter #1" through Gusky's introduction to *Silent Places*, as the photographer's personal statement. He defines Jewishness through family ethics and an ability to "survive against ... adversity."<sup>28</sup> The reversal of the direction of the words over the gate can be read as a negation of the mode of looking designed by the oppressors and, therefore, as symbolic for the Jewish ability to refuse to comply. The paradigm needs no reference to Poland or to Poles; although the testimony concerning Auschwitz (in Poland) is instrumental for the self-description of Jews and for the Jewish image of Poles, the camp's geographical location is irrelevant for its representations.

Gusky's "Auschwitz in Winter #1" and Bar-Am's Auschwitz photographs are visually encoded paradigms of contemporary interpretation of a past experience. As shown by dates, atmospheric conditions, and architectural details, Gusky's images were created one after the other (i.e. in a syntagmatic relation). In *Silent Places*, there is no causal relation and no development in time, nor do the images follow an "irreversible, linear, directional sequence."<sup>29</sup> The inter-relation of Bar-Am's photographs is also paradigmatic: although each image contains a narrative which can be read to represent the relation of the survivors to the (archival photograph from the) camp (in the past and the present), considered together, these photographs neither enter a causal relation nor relate to each other as consecutive in

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<sup>28</sup> J. Gusky, op. cit. (n.p.)

<sup>29</sup> P. Sztompka, op. cit., p. 85.

time. Instead, they invert internal structures of space and time, evoking the sensation that Lifton refers to as “This world is not this world.”<sup>30</sup>

In the centre of Bar-Am’s “Groups of Jewish ‘twins’ treated by the dreaded camp Doctor Mengele, revisiting the Auschwitz camp” there is a reflection of a woman demonstrating, as if to the photographed Nazis, the camp number on her forearm. Her reflection stands framed by two diagonal lines of trains that diverge on her left and right. Her outstretched arm leads the viewer’s eye towards the figures of the Germans within the darkened triangle formed by the train tracks. If one would search this photograph for Barthes’s *punctum*, it is not in the number on the survivor’s forearm, which the woman seems to be brandishing in front of the image, but in the large white bag that she is carrying. Losing families and homes, personal objects, and treasured mementos, prisoners lost their sense of security, their personal inviolability and self-worth. In Levi’s words: a “man who is deprived of everything he loves ... will be a hollow man, reduced to suffering ... for he who loses all often easily loses himself.”<sup>31</sup> Against all odds, the bright spot in the centre of the frame – the survivor’s bag – is full.

Although from a literary standpoint juxtaposing bodies with mirror reflections may be considered cliché, the surrealism of Bar-Am’s Polish photographs makes out of them visual representations of a moral and structural inversion characteristic for Shoah narratives. Looking at photographs gives structure and sense to the past (demanding that we choose what to show out of what we see and thus simplify the memory so that we can tell a story<sup>32</sup>), Auschwitz testimony can – and often must, as said by Elie Wiesel – be neither coherent nor logical. Hence Bar-Am’s surrealism: the poetics of exploded frames, blurred, unfocused shapes, deformed details of face and clothing against dark backgrounds, and brutal cropping of body outlines with frame edges. The image takes its impact from the viewer’s query into *What is it, this enormity?* whose fragmentary reflection s/he sees.

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<sup>30</sup> R. J. Lifton, “This World Is Not This World”, in: H. Fry (ed.), *Christian-Jewish Dialogue: A Reader*, University of Exeter Press, Exeter 1997, p. 191.

<sup>31</sup> P. Levi, *If This is a Man* and *The Truce*, Penguin, New York 1987, p. 33.

<sup>32</sup> See R. Samuel, P. Thompson, (eds.), *The Myths We Live By*, Routledge, London 1990; A. Liss, *Trespassing Through Shadows: Memory, Photography, and the Holocaust*. Visible Evidence Series (Vol. 3), University of Minnesota Press, Minneapolis 1998; B. Newhall, “A Backward Glance at Documentary”, in: D. Featherstone (ed.), *Observations. Essays on Documentary Photography: Untitled 35*, The Friends of Photography, Carmel, California 1984.

The archival photograph quoted by Bar-Am in his image is over a meter long. Its orderly background is contrasted with the broken-up reflection of the silhouettes of former prisoners. Its size allows the viewer to perceive details that show the barbarity of Auschwitz. Scattered suitcases and personal objects attest to the victims' physical and emotional deprivation. Familiar objects outside their usual context acquire new meanings. Luggage, which should await unpacking, is shown to be a tool used by murderers to invalidate victims' lives. The perpetrator and the victim are outside the frame; but the viewer, who sees the photograph within the contextual frame of reference to which it belongs, can identify the centers of power that fuel the events photographed, and make possible the image.<sup>33</sup>

Since the life of professional photography depends largely on market forces, the images it propagates exemplify the meanings the media prepare potential recipients for. "Mistakes" in captioning documentary photographs<sup>34</sup> indicate that collective consciousness connects death camps with Auschwitz<sup>35</sup> and Auschwitz with Poland. Shoshana Ronen claims that "it is impossible to find" in contemporary Israeli literature texts which would relate to Poland "without having the Holocaust at least in the background."<sup>36</sup> Ronen's observation proves that representations of Poland are, in the Jewish cultural machine, controlled by the cultural maintenance of the memory of Auschwitz. The photographs by Bar-Am and Gusky, however, show that Lotman's "cultural machine" allows a change in the matrix: there exists imagery which deals directly with the Holocaust and *does not* have Poland as its background. The lack of references to Poland in Bar-Am's and Gusky's Auschwitz photographs may reflect the fact that, unlike literature (which, capable of including representations of *inherited* memories, is more directly influenced by the Lotmanian "cultural matrix" of representation), documentary photography does not show the remains of German death camps as *Poland*; these spaces are not even – despite the frequency of semantic

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<sup>33</sup> See J. Spence, P. Holland (ed.), *Family Snaps: The Meaning of Domestic Photography*, Virago, London 1991, p. 52.

<sup>34</sup> B. Zelizer, *Remembering to Forget...*, pp. 162–166. Zelizer notes also the silence concerning the camps on German territory (p. 165). I believe that, as Dachau and Buchenwald disappear from the "memory map" of the Shoah, the significance and symbolic weight of other camps (such as Auschwitz or Treblinka) increases.

<sup>35</sup> As explained by Urszula Czartoryska in: *Fotografia – mowa ludzka. Perspektywy teoretyczne*. Tom 2. Słowo Obraz Terytoria, Gdańsk 2005, a picture of a salesperson signifies "all the 'salespeople'", an image showing a moment in the life of a factory is "generalized in the minds of the readers into hundreds of factories and their ceaseless production" [*trans mine*], pp. 80–81.

<sup>36</sup> S. Ronen, *op. cit.*, p. 183.

slips in the western world – “Polish.”<sup>37</sup> However, Jewish visual imagination constructing contemporary Poland *outside* the framework of the concept of Nazi death camps may pose an unexpected challenge to Polish-Jewish relations: when the concepts of Polishness and the camps become separated, the idea of Polish complicity in the Shoah becomes independent, and lodges itself within the concept of Polishness.

Images from Auschwitz exemplify the fact that the preconceptions held by the perceiver are a prism through which s/he represents what s/he perceives. The complexity of interpretation indicates the vicissitudes of analyzing representation and perception of Poland by foreign Jews, especially so when the analysis is conducted by a Pole and/or a Jew. It is, however, possible to say that the primacy among representations of Poland of meta-images of disintegrating synagogues, desecrated cemeteries, empty streets and death camps suggests the dominance of memories of Polish-Jewish past over actual encounters with Poland. The fact that photography does not allow a confrontation between the ready-made image and reality shows that, in Polish-Jewish dialogue, attention must be paid to a virtual inaccessibility for the Poles and the Jews of each other’s images. Simultaneously, if and when Auschwitz functions as the unique or the main point of reference, one must bear in mind the fact that interpretations will reflect not so much what is interpreted, but the convictions entered into interpretations. While photography indicates the existence of a certain Jewish perception that conceives of Poland as *a space of memory*, it reveals, also, a challenge facing the Poles who must strive to teach themselves and aid their dialogic partners learn to turn to such perceptions of Polish-Jewish conversation that will relocate the speakers forward, into the context of the actual place and time in which the conversation is taking place.

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<sup>37</sup> An example of one such “mistake” can be found in Margaret Olin’s article recounting the story of a boy who “survived a Polish death camp” (in: M. Olin, *Lanzmann’s Shoah, and the Topography of the Holocaust Film*, “Representations” (57) 1997, p. 11). The fact that Olin uses the expression “Polish death camp” cannot be explained by ignorance or linguistic carelessness, since her article deals with the visual and verbal representations of the Holocaust in its *topography*. The importance of such utterances is noted by the spokesman for American Jewish Committee, reminding “those who are either unaware of the facts or careless in their choice of words” that “[t]his is not a mere semantic matter. Historical integrity and accuracy hang in the balance” (in: *Statement on Poland and the Auschwitz Commemoration*, American Jewish Committee, January 30, 2005, (<http://www.ajc.org/site/apps/nl/content2.asp?c=ijIT12PHKoG&b=1531911&ct=873437>, accessed: 15.10.2011). See also (n.a.) *Yad Vashem for renaming Auschwitz*, “The Jerusalem Post”, May 11, 2006, [online] <http://www.jpost.com/JewishWorld/JewishNews/Article.aspx?id=21552>, accessed: 15.09.2012).

S U M M A R Y

The article presents the rhetorics of visual imagery made in former German Nazi death camps in Poland by non-Polish Jewish professional photographers in the context of perceptions of Poland. The findings are presented in the form of a case study of Jeff Gusky's 2003 album *Silent Places* and Micha Bar-Am's 1989 collection of images entitled "Auschwitz camp 'victims' visit camp" published online by the *Magnum* agency. The methodology used takes advantage of Lotman and Uspieski's concept of the self-perpetuating and self-modifying "cultural machine". Most photographic representations of (museums of) Nazi death camps available in the media are culturally-constructed meta-images; others constitute attempts at creating visual accounts of individual and collective memories. The material analyzed reveals an absence of direct connection between the notion of the Shoah as present in photographic images of former death camps and the location of the camps in contemporary Poland. A tentative diagnosis of the relation between the meaning of "Poland" and "Polishness" in (the so-called Western) Jewish imagination and the concept of Nazi death camps is, thus, that Jewish visual imagination defines contemporary Poland outside the rhetorical framework of death camps. The idea of Polish complicity in the Shoah, however, is independent from the imagery of former death camps, and lodged in the concept of "Polishness" itself.



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