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THE REALITY OF CIVIL SOCIETY: FROM SIXTEENTH-CENTURY ENGLAND TO THE SCOTTISH ENLIGHTENMENT

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Early uses of "civil" in English.

The term "civil society" and its equivalents have passed from one society to another over the course of the centuries. This essay attempts in broad outline to reconstruct the "prehistory" of the concept, referring specifically to Britain (England and Scotland) and to the different meanings that were attached to it from its emergence in the later Middle Ages.

While the lexeme "civil society" as such makes its appearance in print in English in the latter part of the sixteenth century, the concept of "civil", as it began to be used with "society", was, naturally, much older and manuscript documentary evidence of this stretches back to at least a century and a half previously. In this early meaning "civil" is contrasted with either ecclesiastical or with military law and power. The former of these two oppositions is well illustrated in a manuscript regarding James I of Scotland (1394-1437);[1] in the version translated from the Latin by John Shirley (1366?-1456), this reads: "He was … a grete legister of lawe positive, and canone, and

civille bothe" (ca. 1440; see also the printed version under Anon, 1818, p. 26, or the 1837 version of the same with a different title; cfr. also the modern reprint of 1999). And in another manuscript from the same period we read "Of civill Law volumis full mony ["many"] they reuolue [*sc.* study], Contrate, Prostrate arguments they resolue" (*Æsop*, tr. Henryson, ca.1450, p. 71, cited from the *Oxford English Dictionary*). In the next century we read that "the weal publike, as well ciuile, as

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ecclesiasticall maye or ought to be reformed" (Philippson, 1560, p. 180 b, cited from the *Oxford English Dictionary*). Moving on in time for the uses of the word itself "civil", in yet another book, this time written in the first quarter of the seventeenth century, we have "ciuill Lawes" contrasted with "Marshall Lawes" (Markham, 1626: ii, p. 12; cited from the *Oxford English Dictionary* but also available elsewhere). With these meanings the word continues its history and midway through the seventeenth century, in a sonnet that the poet John Milton wrote in honour of his friend, Sir Henry Vane – a leader of the "Independents" in the Anglican Church and for a term Governor of the Massachusetts Bay Colony, then executed after the return of the Stuart monarchy – we read:

> … besides to know Both Spirituall powre & civill, what each meanes, What severs each, thou hast learn'd, which few have done (Milton ca. 1652; reprint in Milton, 1884: see p. 487)

The later uses of "civil" cited above, from the second part of the sixteenth century, overlap in time with the first recorded uses of the full lexeme "civil society". This, as a term and concept was an importation from the classical languages (*koinonia politike* in G*reek and societas civilis* or simply *civitas* in Latin). However, it was only in the eighteenth century that its concept was first fully theorized in the English language by Adam Ferguson, one of the chief representatives of the Scottish Enlightenment. Indeed, it was from Ferguson that the concept passed into the German of Hegel and Marx, under the name "bürgerliche Gesellschaft", with the double meaning of both

"civil" and "bourgeois" society. And one can say that, at that time, the concept emerged from its "prehistorical" phase and became an important part of modern history, usage and development.

The origins of the term "civil society"

The specific term "civil society"[2] was used in English by thinkers of the stature of Thomas Hobbes in seventeenth-century England, a generation and more later by John Locke, and then, as noted above, by Adam Ferguson in eighteenth-century Scotland. The present reconstruction of the use of this term begins with a comment

on the uses of “civil” or “civil society” in English around the beginning of this era. An early recorded use of “civil society” is for example to be found towards the end of the sixteenth century: “Ciuill Society doth more content the nature of man then any priuate kind of solitary liuing; because in society this good of mutual participation is much larger than otherwise” (Hooker, 1594: I, §10; 1821 reprint, p. 165). Here the binary opposition that defines civil society lies in the contrast between collective life in society and the solitary state of nature and there comes to the fore the dichotomy between man in society and man as an isolated individual: “civil” has as its point of reference the community, namely the citizens inhabiting a given State.

Another use of the term contemporary with that of Hooker is found in the *Sermons* of Archbishop Sandys. In comparing the functions of society to those of the body he observes that “So in this resembled bodie, and civil societie, there must be diuersitie as of members so of functions” (Sandys, 1585, v. 84: 1841 reprint, p. 99). What emerges here is the notion that a civil society must have multiform functions, undoubtedly of a markedly hierarchical form for Sandys, and possibly civil society may here, albeit in an embryonic form, have set off along the path of differentiating itself from the State. That there is a novelty involved here comes from the fact that the State – even and especially slightly later, under the Scottish Stuart monarchy, which began its rule in England, too, at the beginning of the seventeenth century – had great pretensions to absolutism. And again, in a translation from the French published six times between 1586 and 1618, we read of “those first rectors and ordainers of civill societie to whome was committed the jurisdiction of laws or received customs and the disposition of written equitie to rule and governe” (De La Primaudaye, 1586, p. 55; 1971 reprint p. 586). From uses and phrases like the ones quoted here, it may be deduced that the

term “civil society” was common enough among the ruling classes of English society at that time for it not to need any further explanation. Its meaning is however rendered explicit in the *Mirrour of Policie*, a book translated from French (*Miroir Politique*) of Guillaume De La Perrière, where one reads

Policie is deriued from the Greeke word πολιτεία which in our tongue we may tearme Ciuilitie, and that which the Grecians did name Politicke gouernement, the Latines called, the Gouernement of a commonweale, or ciuile societie (De La Perrière, 1598: A).

Half a century after the writings of Hooker and the translation into English of the *Miroir*, Hobbes used the term as a gloss for “country” (“Common-Wealth” in his terminology) in the dedication in his *Leviathan*. Here, Hobbes, in speaking of the brother of the dedicatee, makes the comment:

For there is not any vertue that disposeth a man, either to the service of God, or to the service of his Country, to Civill Society, or private Friendship, that did not manifestly appear in his conversation, […] (Hobbes, 1651a; modern reprint 1968, p. 75).

The equivalence of State and civil society is then made explicitly by Hobbes

through the Latin term "civitas" in an observation that recalls Archbishop Sandys's body-society equivalence:

> by Art is created that great LEVIATHAN called a COMMON-WEALTH, or STATE, (in latine CIVITAS) which is but an Artificiall Man; (Hobbes, 1651a: 1; 1968, p. 81)

In passing, it may be noted that the "State↔civil society" equivalence also at least partially seems to have held for Machiavelli fully a century before Hobbes when he states that Romulus was the "fondatore d'un vivere civile" (*Discourses*, Book 1, chapter 9); this, in a standard English translation, becomes explicitly – and as a term somewhat anachronistically[3] "founder of a civil society" (Machiavelli/Lerner, 1940, p. 138). It may be noted that the *Leviathan* is not the only one of Hobbes's writings where one finds a mention of civil society; indeed in the *De Cive*, published in Latin in 1642andthenpublished I the author's own English version in the same year as *Leviathan*, we read "Union thus made is called a city, or Civill Society, and also, a civill person" (Hobbes 1651b: v. §9). The key to this phrase of Hobbes's and to the understanding of the word *union*, as well as to the explanation of the nature of the translations from the classical languages is given in the introduction to a volume of conference proceedings on the State and civil society. The author, Z. A. Pelczynski observes that the expressions *societas civilis* and *civitas* are synonymous and both, together with *res publica*, a general term to indicate what we call the "State", were used to translate the Greek term *koinonia politike*, a formula used by Aristotle, and often translated into English as *political association* or *political union.* It is hence easier to understand the influence that classical antiquity had on late sixteenth and seventeenth century thinkers and that in that period the concepts *civil* and *political*, exactly as in the ancient world, had the same meaning: the division between the two that has now become so familiar to us had not yet emerged (Pelczynski, 1984, p. 4, citing Riedel, 1969, p. 156).

What we might say is that, at the time of Hobbes – as for Hooker half a century before him – and in the contexts that they both use, "civil" is to be understood as communal human society rather than the raw state of nature. This is confirmed by the word "ciuill" in the definition given in the classic Italian-English bilingual dictionary of the last years of the sixteenth century: "inurbare, *to endenizen, to become or make a citizen, or a ciuill man*" (Florio, 1598). Florio has the use of the word "ciuill" stem directly from *incivilire* and indeed it is well known that at the end of that century

English underwent and even welcomed the influence of the Italian Renaissance with its references to Greek and Roman antiquity.

Hobbes was absolutely clear on the division of civil from ecclesiastical power (a separation that is reflected in the division into books of his *Leviathan*), as it is equally clear that behind the State or "common-wealth" there had to be a long-standing philosophy that was not just a simple duplication of the religion on which ecclesiastical power was based. To this philosophy he gave the name "*civill philosophy*":

From Aristotles Civill Philosophy, they have learned, to call all manner of Common-wealths but the Popular, (such as was at that time the state of Athens,) *Tyranny* (Hobbes, 1651a: Parte IV, xlvi, 377; 1968 reprint, p. 698).

The same meanings of the term "civil society" are to be found after the defeat of the Cromwellian Commonwealth and the subsequent Restoration of the monarchy (1660) in the works of the main theorist of the so-called Glorious Revolution that drove out the Stuarts. In John Locke's *Second Treatise on Civil Government* the term is used to denote a state under the "rule of law" rather than a state of nature, where "rule of law" is the English-language equivalent of what – when retranslated into English words from other languages – is the "State of right" or "State of law". The point about the intimate connection between law and civil society is made explicitly in §87 of the *Treatise*, where Locke states that those who are united into one body and have a common established law and judicature to appeal to, with authority to decide controversies between them and punish offenders, are in civil society one with another.

He goes on in the following paragraph to equate civil society and the commonwealth:

[…] though every man who has entered into civil society, and is become a member of any commonwealth[…]while, in paragraphs 94 e 95 of this *Treatise*, for example, among different uses of the term "civil society" the following may be singled out in particular: no man in civil society can be exempt from the laws of it. For if any man do what he thinksfit […] I ask whether he be not perfectly still in the state of nature, and so can be no part or member of that civil society.

[…] The only way by which any one divests himself of his natural liberty and puts on the bonds of civil society is by agreeing with other men to join and unite into a community for their comfortable, safe and peaceable living one amongst another.

(Locke, 1690: 1948 reprint, pp. 43-48).

In stating that as long as there was no legal guarantee of the property right the people "could never [...] think themselves in civil society", Locke makes explicit reference to the above- mentioned section of the book by Richard Hooker, which is ample demonstration – if such were needed – of the continuity both of terminology and of the development of political thought over the course of a century, notwithstanding the Cromwellian revolution in between. In another – earlier – essay of Locke's, this time written in 1673-74 but only published a century and a half afterwards ("On the difference between civil and ecclesiastical power"), J.W. Gough, the editor of the *Second Treatise* cited here above, comments (p. xxxv) that in this essay Locke developed an elaborate analogy between "civil society or the state" and "religious society or the church" each within its own sphere (Locke/King: 1830, vol.ii, pp.108 et seq.).

In the next century Rousseau (1762 [recent edition 1966, p. 55]) was of the opinion that the founder of *société civile* was the person who first instituted private property in land, and thus again typically we see the emphasis placed on the contrast between society and nature in the raw. David Hume instead, like Locke, contrasts the *civil government* of a society, founded on some type of contract between rulers and the ruled with an absolute monarchy deriving its power from the divinity, concluding that "*absolute monarchy is inconsistent with civil society*"(Hume 1748; recent edition 1965, especially pp. 255, 257 and 273). Here, by *civil society* he emphasizes that the preferable form requires the people's consent ("the best and most sacred of any [foundation of government]": Hume: 1965, p. 262). Overall the step forward from Locke is not all that great but Hume here acts as a bridge between Locke and Adam Ferguson, Hume's fellow representative of the Scottish Enlightenment.

Up to now, therefore, we have seen at least three, and possibly four, main lines that define civil society, namely the contrast between civil society and (i) nature, (ii) ecclesiastical power and (iii) the power of the absolute monarchy where this latter also includes military power; another point is at least implicit in point (iii), namely the "legal guarantee" of rights stated by and required in Locke's approach. Depending on the author, civil society acquires its exact nature through a combination of one or more of these factors, and the relative weight given to each. It may further be observed that there is implicitly yet another contrast defining civil society, namely the one that originates from the difference between life in the countryside and in the city,

apparent in the societies of the so-called "West" even as early as the foundation of Rome (cf. the citation from Machiavelli, here above). For this, however, we now turn to the reflections of Adam Ferguson.

The contribution of the Scottish Enlightenment

After this long evolution of society – here using the term in a broad sense to encompass everything the first great modern theorist of civil society was Adam Ferguson, whose 1767 *Essay on the History of Civil Society* is a landmark in the development of the concept.[4] First of all, in the chapter headed "The History of Subordination" (a heading that underwent a significant change of name and perspective in the 1773 edition, where it appears as "The History of Political Establishments"), Ferguson seems in agreement with Rousseau: He who first said, 'I will appropriate this field: I will leave it to my heirs;' did not perceive, that he was laying the foundation of civil laws and political establishment (Ferguson, 1995, p. 119). For Ferguson, the notion of civilization seems bound up with the extension of property rights. He contraposes the state of barbarism with the civilized state he was a member of, and both of which he knew well. Indeed, as a fluent Gaelic speaker he had been chaplain to the renowned Black Watch Highland Regiment, and probably in his writings he bore in mind the contrast between life in the great post-feudal cities of Glasgow and Edinburgh and the feudal, Gaelic-speaking clan society of the Highlands he had come into contact with, a society which, like others of the past, he adjudged to be "rude" (meaning rough and, in some important ways, primitive): "The most remarkable races of men, it is true, have been rude before they were polished" (Ferguson, 1995, p. 107).

A point of linguistic interest here is that "*polished*" which, in contemporary speech, seems to us to have more the meaning of elegant or refined, has acquired this meaning figuratively and that Ferguson is explicitly conscious that the word, exactly like the word "political", comes from the Greek "polis":

The term polished, if we may judge from its etymology, originally referred to the state of nations in respect to their laws and government (Ferguson, 1995, p. 195).

And, naturally, "polite" for Ferguson has the same origins: "We are ourselves the supposed standards of politeness and civilization" (op.cit., p. 75). In this reflection on the city as contrasted with the countryside, a parallel that springs to mind is the approach of the great fourteenth century (C.E.) thinker of Arabic-Islamic civilization, Ibn-Khaldûn who – analogously to Ferguson's city/highland distinction – contraposed

the sedentary/city environment to nomad/Bedouin tribal life. It may be noted in passing that, in Franz Rosenthal's standard English translation, there is no appearance of the term "civil society", whereas in a modern Italian translation of Ibn-Khaldûn's Muqaddima, we do see the syntagm "società civile" used to translate "al-mujtama' al-madani".

Ferguson himself seems not to have attempted an explicit definition of "civil society"; the closest resemblance to such would appear to be: If we mean to pursue the history of civil society, our attention must be directed to such examples, and we must here bid farewel to those regions of the earth, on which our species, by the effects of situation or climate, appear to be restrained in their national pursuits, or inferior in the powers of mind (op. cit., p. 118).

Here by "*such examples*" Ferguson is referring to historical examples most of all from classical antiquity such as, for instance, "thriving and independent nations, often on the shore of a sea", thus well positioned to make the best use of the possibilities offered for economic development, and consequently for the growth of a *civil society*.[5] And Ferguson might have added that, as well as the sea, rivers may also play a major role in the growth of an economy and therefore of a nation, here bearing in mind examples from the ancient Middle East, such as the Tigris and Euphrates that defined Mesopotamia, or the Nile in Egypt.

Before Ferguson very few links are established between civil life or civil society and economic activity, as if this latter was a matter of some disdain. Indeed, in the massive *Oxford English Dictionary* (which was a fundamental initial reference point for this essay), the sole quotation that seems explicitly to take account of the economic factor as part of civil life is one due to Francis Bacon (1605, Book 2, section 7: 2011 edition, p. 77): "When Schollars come to the practises of professions, or other actions of ciuill life …", and even here the discourse is oriented towards the "higher " professions and "higher learning" (law, the universities, the Church etc.) but not towards that of manufacturing, which, after a purely artisan stage, began to typify later societies, such as that of the early industrial capitalism of the two Adams (Ferguson and Smith). In their Scotland, of the century after Bacon, the cultural innovation due to industry had been brought about. Like Smith, although not in the same detail, Ferguson describes the break-down of the labour process into its different stages thus implicitly theorising the economy as belonging part and parcel to civil life and civil society, a theme it may be added that underlies the whole of his

book (cf. Ferguson, op.cit.: "Part Fourth. Of Consequences that result from the Advancement of Civil and Commercial Arts", especially Section One). Ferguson was writing at a time when previous notions of civil society, as outlined above, were beginning to be no longer relevant. As seen from the writings of his contemporary, Adam Smith, nations and societies were in flux. Smith gave the famous example of pin-making, in which, instead of a single artisan producing a pin, through the division of labour into different processes, as many as nineteen labourers, working together in what was a modern factory, could increase many-fold the production of the object – or indeed any object in question. This was leading to two types of competition – what in his *Essay* Ferguson calls commercial competition, but also competition among workers in the cities, perhaps somewhat analogous again to Ibn Khaldûn's assessment of the aspects of city life, in which social atomization took the place of the social cohesion that was a necessary feature of life among the Bedouin.

Feudal, or semi-feudal, life had bonds – or, indeed, chains – that held it together in some way: and, with the coming of the Industrial Revolution, the loss of these bonds of cohesion was lamented by some of the social theorists of that time, but also sometimes recognized as a necessary development and consequence, notably in some of the most eloquent and often most overlooked passages of Marx and Engels's *Communist Manifesto*.

But eighty years before this joint work of 1848, one sees even from the title – *Abhandlung über die Geschichte der bürgerliche Gesellschaft* – of the German translation of Ferguson's *Essay* (a translation published 1768, i.e. the year after the first Scottish edition), that the term "civil" was rendered by "bürgerliche". In other words, the inhabitant of Ferguson's "town/city" becomes the German "Bürger" along with its double meaning in the context of German society ("Gesellschaft") of both "civil" and "bourgeois". "Bürgerliche" in the German culture of the first part of the nineteenth century takes on a different meaning from the purely "civil" met with up to now in this essay. As in the uses to which Ferguson put this adjective, the reference point is certainly that of a form of early industrial capitalist society but, for Hegel in particular, one part of this society acquires an ever greater importance. This is the space occupied between the family, as a fundamental unit coming down to us from the previous phase of society, and the State in the sense of the full participation of the citizen in public life.

The end of the prehistory of civil society

These connotations mark a watershed, caused by the developments that were emerging in society. Thus, with these changes, the “prehistory” of the term comes to an end; analyses of subsequent modifications of the term (notably Marx, Gramsci, and then on to the post-modern school) is outside the scope of this essay.

However, in conclusion and as a comment at the theoretical level, it may be useful to quote the views of the influential Russian philosopher of language, Valentin Nikolaevič Vološinov, pupil and collaborator of Mikhail Bakhtin. For Vološinov, within a “linguistic sign”, such as in our case “civil society” is – i.e. within a term that bears a social motif and is not just a means of designating some concrete object (called instead by Vološinov a “signal”) – the various uses to which the term either has been or is being put means that the term itself contains different ideological filiations. If, then, as Vološinov maintains, a linguistic sign is a construct between people organized socially, in consequence the forms of these signs are conditioned by the social organization of the participants in a dialogue, and the sign reflects and refracts their different social interests, both diachronically and synchronically. Here suffice it to think of the changes in social organization from the time of the classical world, through the European Middle Ages, thence to the first modern industrial societies and on to the last examples coming from what has in Europe and North America been

called a “post-industrial society” (which of course as a social form depends on the creation of new industrial societies in other nations and continents). Social multi-accentuality is, for Vološinov, what maintains a linguistic sign alive and determines its capacity for future development. His warning is however that the conservative tendency within a society always attempts to stabilise society’s *preceding* ideology, which then becomes incorporated in a sign, the aim being that of accentuating yesterday’s truth in order to make it appear today’s. There is therefore within the linguistic-ideological sign a definite effect of refraction and distortion, not simply the mechanical reflection of the state of affairs in society (V. N. Vološinov, 1973, pp. 19-24). It should hence come as no surprise if the same term is first used with one meaning and then another. At the same time the message is nevertheless clear: one must be aware and be careful to analyse the reasons why a term is first used in one way then in another. This warning is today valid for “civil society”, with all its

variations and subtleties of meaning, as well as for other terms linked to it in different ideological discourses.

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[1] The fullest bibliographical references that the author has been able to find are listed at the end of this essay. In some
instances of "civil" cited by the *Oxford English Dictionary* [CD-ROM version], it has not always been possible to give all details of publication; modern editions are quoted where possible.
[2] It is to be remembered that in these old texts, "v" is often printed as "u", and a number of elements of spelling had not then been standardized so that in these sixteenth and seventeenth century texts "civil" often appears "civill" or "ciuill". [3] The term "civil society" that is here used seems perhaps more a translator's interpretational gloss than a translation in any strict sense.
[4] If not otherwise stated, we here use Fania Oz-Salzberger's 1995 edition of the 1767 work, as listed in the Bibliography.
[5] A striking illustration of this comes from the great ancient historian A.H.M. Jones (Jones, 1964: Vol.II, pp. 841-2) who notes that in the era of Diocletian, it was cheaper to ship grain from Syria to Spain than to carry it 120 kilometres overland.